

Completion of Inheritance for Chinese Communities in the City of Medan

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Abstract

Every human being strives for his life and his offspring to be in harmony and peace and to be able to maintain the life that has been obtained from the results of the struggle of his parents during his life, especially in maintaining the material and moral assets left by his parents during his lifetime. Marriage for the diverse Indonesian community results in the form and method of inheriting and the form of the system of inheritance differing from one another, in Chinese society the validity of marriage is in accordance with Article 1 paragraph 1 of the Marriage Law No. 1 of 1974, which is carried out based on religion and each other's beliefs, this is done by holding a paisin at the Temple and giving drinks to both parents and photos. This research is a sociological juridical research, namely how the implementation of legal regulations is applied in Chinese society, the data sources are primary and secondary obtained by means of interviews and observations. The results of the study that the heirs are sons, because sons have greater responsibility in the family while daughters do not become heirs and are only entitled to assets in the form of jewelery from their mothers, even if a family consists of several daughters then a daughter is chosen who is deemed capable of guarding the property until her granddaughter can inherit it again, if a dispute occurs it will be resolved by deliberation from the family with mediation carried out by the person who is considered the oldest in the family, if this is not successful then ask for help from the traditional elder. For Chinese people it is taboo and very embarrassing if there is a dispute over inheritance. Even then, if a family consists of several daughters, then the daughter is chosen who is considered capable of guarding the property, that is, until her granddaughter can be inherited again, if there is a dispute, it will be resolved by deliberation from the family with mediation carried out by the person who is considered the oldest in the family.

Keywords

Settlement; inheritance; community; Chinese



I. Introduction

In Chinese custom, marriage is legal by performing paisin at the temple because there is a belief that the marriage will receive blessings from the Almighty, followed by the ceremony of giving drinks to the bride and groom's parents along with giving gifts to the bride and groom, which are usually gold necklaces or rings. along with angpau and continued with a photo2 event with the family.

If it rains at the time the wedding ceremony takes place, the bride and groom may not eat rice and must eat porridge, based on the above event, whoever the person in Indonesian society cannot deny that the marriage is invalid, because the marriage is legal because it is carried out based on their respective religions and beliefs.

The form of marriage from the Chinese community is exogamous, marrying outside their own tribe, although at the present time with the development of culture, society and science, the Chinese community is a very advanced society, especially in the development of culture because there are already many Chinese people who married to the Batak, Minang, Karo and so on.

Marriage in Chinese society consists of several events, namely:

- a. Traditional ceremony: before the wedding ceremony takes place, the male family comes to visit the female family with traditional food and cakes consisting of several types in one box and this is an invitation for the closest relatives for the woman's family, as a sign that her daughter will carry out a marriage, so the amount depends on what the woman's family recommends.
So for the Chinese community an invitation to the closest relative from the woman's side is a set of cakes packed in one box, but an invitation to male relatives, as is customary in society, is in the form of an invitation.
- b. Wedding ceremony.
Which is usually in the form of a reception where the groom's family visits the bride's family here there is a door opening ceremony carried out by the woman's relatives who must give angpau.
- c. The religious way that is believed by the bride and groom is by visiting monasteries and paisin hoping that the marriage of both parties will receive blessings and peace and get offspring.

In Chinese society, it is also known that there is a prohibition against marrying with the same clan, this is also found in the Toba Batak community, but with the development of the era, knowledge and ways of thinking of society are also getting more advanced, the principle arises that it is enough not to have very close kinship relations.

The existence of marriage expects the birth of a child to continue the lineage and heirs, for the Chinese community which gives a special position to sons because it is sons who are crowned as heirs and continuers of the lineage of one family. Therefore, it is important for the next generation of one family to adopt sons in one family so that the family chain does not break.

Based on the fact that everyone tries so that there are no problems in his life until he returns to the bosom of the Almighty, the Chinese community is known to adhere to a patrilineal system where a son is considered the heir and continuation of the lineage so that if one family does not have a son then it will hold an adoption. children with the aim of continuing offspring and heirs

Every human being also always tries to be sure, where is the wealth he earned with difficulty during his life, and always hopes and tries so that everything he has during his life goes to the right person in accordance with the ideals and hopes of the heir.

The Chinese community based on applicable law is subject to BW both regarding inheritance left by the heir, in Article 830 BW it is stated that inheritance only takes place with death in the sense that all the rights and obligations of the heir are transferred to the heir.

So that by itself based on the law all heirs acquire ownership of the debt and receivables carried out by the heir which is called *le mort saisit le vif* while the transfer obtained by the heir from the rights and obligations of the heir is called *saisine*

In BW, it does not recognize original assets or assets acquired before marriage and assets obtained after marriage based on Article 849, all of these assets merge into assets that will be inherited by the heirs as a whole.

An heir can determine some of his attitudes towards the heir whether he accepts or rejects the position as heir with the following provisions:

- a. The heir receives the inheritance in full, meaning that the heir is responsible for all obligations attached to the inheritance, meaning that the heir is fully responsible for the debts and receivables of the heir.
- b. The heir accepts his position as heir on condition that the heir only covers all debts from the heir according to how many portions he has from the heir.
- c. Reject inheritance altogether.

The three attitudes of the heirs have different consequences from each other.

Article 830 BW says that inheritance is open if the heir dies, but this is not the case for the Chinese community who are subject to BW, the Chinese community has divided their inheritance while the heir is still alive.

II. Review of Literature

This research is a juridical sociological research whose research location is the city of Medan, where the object of the research area consists of several regions, namely: Sukaramai Asia, Brayan Island, Helvetia Vegetable Garden which was taken as a respondent as many as 10 people consisting of: 2 people from the Sukaramai Tegal area Sari I, 2 people from the Asian region, and 2 respondents who are domiciled on Brayan Island and 2 respondents from the Helvetia Vegetable Garden and 2 spokespersons for Chinese customs, the data were obtained by conducting field observations and open interviews for the respondents and after the data collected has just been analyzed so as to be able to provide an actual picture of how to settle the inheritance of the heir to the Chinese community in Medan, is it based on the provisions of the applicable law or implemented more dominantly based on customary law that lives and is inherited by the Chinese community.

III. Results and Discussion

In Indonesia, according to the legal provisions in force during the colonial period, there were several population groups, namely based on Article 131 IS, there were three population groups;

- a. European group
- b. Foreign Eastern Group which is divided into 2 parts, namely:
Chinese Foreign Eastern Group: for those who apply is European law (BW)
Foreign Easterners who are not Chinese, their respective customary laws apply as long as they do not conflict with European law
- c. For the Bumiputra group, customary law applies.
Each population group applies its own laws, whether European groups apply European law, if there is a legal relationship between goals. European law with the Bumiputra group then what applies is European law.

Based on field research that the Chinese community consists of several tribes and clans (she) consisting of full-blooded and peranakan Chinese, what is said totok Chinese are Chinese people who do not mix and are still attached to the Chinese state, born in their country of origin and still speak Chinese. in daily communication and it is difficult to speak Indonesian and still adheres to the belief in their ancestors. However, the mixed Chinese are Chinese who have blended in with the surrounding community and some have

even held interethnic marriages and their religions are different, some are Christians and some are Muslims. The Chinese community consists of several clans (she), namely:

- a. surname Li
- b. clan chang
- c. clan oei
- d. surname Yap
- e. surnamed Huang
- f. surname Tan
- g. surnamed Lim Cheng
- h. the Theng clan

And consists of four tribes, namely: a. Hokkien b. Tio Chiu c. Konghu and Khek tribes, the Chinese community is also almost similar to the Toba Batak community because the Chinese are also prohibited from marrying in the same clan, but nowadays there have been many marriages with only the same clan within the limits of close family ties and there is an expectation that marriages from one family are continuous in the sense that don't let younger sisters or brothers get ahead of older sisters, even if that has to happen then you have to give food and gifts to your older siblings.

In fact, Chinese customs have a lot in common with the customs of the Toba Batak people. If a daughter precedes her brother to get married, it is not a problem, but if the younger sister precedes her older sister, here is given a grace period for the older sister to find her life partner first.

Based on the legal provisions in force, the Chinese community is subject to the Civil Code (BW), there are several principles known in BW regarding inheritance, namely:

- a. In BW Article 830 that inheritance will take place because death means there will be no process of transferring assets if the heir is still alive, as well as in Islamic inheritance law the transfer of assets occurs due to death.
- b. The existence of blood relations and marriage in Article 832 (1) is appropriate because blood relations and marriage determine the closeness of the heir to the heir which causes a person to become an heir. Even though there is a good practice according to BW and customary law that is seen in society, even though there is a marriage but for one reason or another, it cannot be accepted as a result of the form of marriage as the heir of the heir.
- c. The bilateral principle, a person inherits from the father and mother which gives equal status to sons and daughters and consequently the husband and wife inherit from each other. This applies to society based on the parental kinship system, Islamic law and customary law.
- d. Individual principle: inheritance can be divided among the heirs individually.

However, the Chinese community based on Article 131 IS will be subject to BW but in terms of reality in practice the Chinese community in the city of Medan is subject to customary law, namely: only male children become heirs because they continue the lineage or continue the clan or clan of the heir. while daughters are not heirs because they cannot continue the lineage of heirs, it is sons who become heirs who have the right to continue the business of their parents because it is known in Indonesian society that the Chinese community is a tribe whose basis of life is doing business.

Based on observations in the field, the principle of death contained in BW does not apply to Chinese society, especially regarding an inheritance that is open because of death because from a practical point of view the heir has divided the inheritance during his lifetime to the heirs by way of buying and selling for free or by grants made by the heir, so that the heirs can enjoy the inheritance from the heir even though the heir is still alive.

So for the Chinese community in Medan, the division of inheritance was done according to custom.

The results of the researcher's interview with Ahiong show that the division of the Chinese community's inheritance in Medan consists of two forms, namely:

- a. During the life of the heir: where the heir has divided his inheritance to the heirs during his lifetime by making a grant or making a sale and purchase agreement for free with the hope that the heir can enjoy the inheritance during the life of the heir
- b. The heir dies: for example B has 8 children, 5 boys and 3 girls, the heir does not share the inheritance during his lifetime, but after the heir dies the inheritance is shared only with 5 sons, for example, the total assets are sold for 18 billion, the son gets 3 billion per person and another billion is given to the daughter with the stipulation that the daughter is not the heir of the heir but only because of pity from her brother and also the result of an agreement from her brother, this is also known in Karo custom called Keleng ate.

In Chinese customary law, actually women are not the heirs of their parents, because women are not the continuation of their lineage, daughters only inherit jewelery from their mothers. However, at this time the female child has received a portion of the inheritance from her parents but not the same portion as the son, what the female child receives depends on the agreement of the heirs (sons of the heir).

In reality, the Chinese community often adopts children, if the family does not have sons for the purpose of continuing the lineage or as mere inducements to get offspring. Adoption of children for the Chinese community is regulated in STB 1917 No 129 with several conditions, namely:

- a. The adopted child must be a Chinese son who has never been adopted by anyone and has never married or had children
- b. 18 years younger than husband and 15 years younger than wife (widow).

In customary law it is known that adoption is considered valid if it is done in a clear and cash manner, meaning it is done before the customary elders and there is a magical payment for the adopted child's family as a substitute for the child for his biological family (his parents).

Thus, adoption for the Chinese indigenous people results in the breaking of the biological relationship between the adopted child and his biological parents so that the adopted child gets a new legal position, namely as the heir and continuation of the offspring of his adopted parents.

There are several alternatives for adopted children for the Chinese community, namely: the first priority is for children to be adopted from blood relatives, if not sons from male cousins.

In the case of adopted children, the Chinese community rarely adopts children from hospitals as is often found in society with the hope that the adopted child does not need to know who the parents are as well as the adopter who also does not care about the biological parents of the adopted child and the background of the adopted child's parents, but for the Chinese community, it is very necessary to have a background from the relatives of the adopted child.

In Chinese custom, there are 3 statuses for children because this is closely related to who has the right to inherit and as heirs, namely:

- a. Legitimate children: children who are born as long as both parents are still in a marriage bond.
- b. Children out of wedlock: in Chinese custom there is a high tolerance for children out of wedlock, because after all the child is flesh and blood from the father, the child out of

wedlock gets a portion of the inheritance based on compassion even though his position is not the heir of the heir.

- c. Adopted child: is a child who is adopted in a clear and cash manner which gives a legal consequence that the relationship between the adopted child and his two biological parents is severed, because usually an adopted child is carried out with a court order

Based on field observations, the adoption of children in the Chinese community in Medan was because the family did not have sons as heirs and heirs.

Sons are heirs whose distribution depends on the consensus of the family, which sometimes an heir gets more happiness than his siblings because he takes care of his parents and looks after the ashes of his ancestors.

However, because the besik of the Chinese community is doing business, there may be a family business, so the daughter gets 25% of all inheritance from the family business and the rest is passed on to younger brothers and sisters and cousins of the heir so that the heirs of the heir who only have one daughter only get much less than the other heirs consisting of Mr. Heir.

In Chinese society, even though BW applies, they are not subject to inheritance distribution because the Chinese inheritance distribution system is individual patrilineal based on customary law. Because in custom men are the heirs and successors of the lineage, therefore, the eldest son plays a very important role when the heir dies to take care of all the heir's assets, but women do not become heirs. There are strong gender differences in the happiness of Chinese heirs.

Based on interviews with the traditional leader of Ationg, he said that the things inherited by the heir to the heirs were:

- a. The ashes of the ancestors, this is still preserved because of the tradition of burning the bodies and the worship of ancestors at certain times and months and certain days can be placed on a long table with incense and angpau on the table, a place of worship for all family members led by the father.
- b. The house left by the heir which is usually called the big house, is used when carrying out Chinese New Year events, paisin eats bak cang, paisin moon cake, paisin ceng beng which is done once a year. This big house is a meeting place for all heirs to pray together and usually this is occupied by the eldest child.
- c. Jewelry from the mother, usually in the form of valuable items both in terms of economics and religious magic, namely in the form of gold rings, gold necklaces, gold teeth, gold belts and gold-filled hair buns, this will be an inheritance for her children and grandchildren from generation to generation. This inheritance is only given to daughters who are deemed worthy of being able to maintain their security so that they can be passed on to the children and grandchildren of the heirs of the daughter's offspring in the next generation.

If there is a dispute over the division of inheritance, which is usually based on interviews with a respondent named Akok, it occurs due to the selfish nature of the eldest son who always gives the inheritance improperly. If this happens, it is resolved by way of family deliberation by bringing in respected customary leaders because this is very taboo if family disputes are motivated by inheritance, if there is no agreement then it will be resolved through the Court.

IV. Conclusion

- a. The inheritance system for the Chinese community is patrilineal, meaning that men are the heirs and successors of the lineage but always give a special position to the eldest son to take care of the heir's inheritance so that there are problems in the happiness of Chinese customs in the city of Medan because there is no tolerance for the eldest son who tends to be more selfish.
- b. Daughters only inherit jewelery from the mother, and even then they only have the right to genot (wear) and not own it because of the hope contained in it that the inheritance will be inherited by their children and grandchildren in the future. Therefore, it is only possible for girls to be able to maintain the existence of these jewelery treasures.
- c. If there is a dispute over the division of inheritance, it will be resolved by deliberation for a family consensus accompanied by the traditional elders, if there is no settlement then by filing a lawsuit to the court.

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