



Cancellation of Deed of Grant of Parents to Adopted Children due to Refusal to Provide a Living (Case Study of Decision Number 38/Pdt.G/2021/PN Bla)

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Abstract. A grant is interpreted as a gift for free and cannot be canceled unless the recipient of the grant fulfills certain conditions. This research aims to analyze the Blora District Court Decision No. 38/Pdt.G/2021/PN Bla which cancels grants given by parents to their adopted children. The method used in this research is normative juridical in a case study of the Blora District Court Decision Number 38/Pdt.G/2021/PN Bla. The judge decided to annul the Deed of Grant Number 228/TJN/2012 based on Article 1688 letter c of the Civil Code and ordered the Blora District Land Office to record the transfer of rights to Certificate Number 532 from on behalf of the grantee to on behalf of the grantor because of Grantee refuses to provide a living for the Grantor.

Keywords: Grants, Deed of Grants, Cancellation

1 Introduction

Grant is the process of giving property or assets to the recipient as a gift or voluntary transfer of ownership. In the legal context, grants are considered as transfers of property rights made while grantor and grantee are alive. This means that the owner of the asset or property gives full ownership of the property to the recipient as a gift or gratuitous gift. No payment or exchange of value takes place in a grant, thus distinguishing it from a sale and purchase transaction.

The Civil Code defines a grant as a gratuitous gift in Article 1666. According to Article 1688 of the Civil Code, grants are unilateral agreements that do not impose conditions on the grantee and cannot be revoked unless the recipient satisfies specific requirements. A person with legal capacity, or one who is "legally competent," makes grants (Yuvita, 2018). That is, the person giving the grant must have the legal ability to take legal action, such as being of sufficient age or not affected by a mental disability that affects his ability to make decisions. Grants must also be made voluntarily and without coercion from other parties. This means that a person must

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make a grant voluntarily and without external pressure or influence to force or influence their decision (Azni, 2015).

Article 1667 of the Civil Code states that grants can only be made for things that are already in existence; grants that include things that will exist in the future will be revoked.

Parental grants to children can be made when the child is an adult. When a child is an adult, a gift can serve a number of different purposes. Some parents may choose to give grants to their children as a form of financial support, assistance in starting a business, or to help them achieve certain financial goals. These grants may be cash, property, investments or other assets.

The purpose of this study is to evaluate the Blora District Court No. 38/Pdt.G/2021/PN Bla decision, which revokes grants made by biological parents to their adopted children.

2 Method

The method used in this research is normative juridical through a case study of the Blora District Court Decision Number 38/Pdt.G/2021/PN Bla. Normative juridical refers to legal aspects that focus on existing legal norms, including analysis, interpretation, and application of law based on existing legal texts and legal principles. Normative juridical involves research on legal regulations, including statutes, government regulations, court decisions, and other legal documents. The main objective is to understand and explain the meaning and legal implications of these norms.

In this case study, normative legal research was conducted to analyze the validity of the law and the suitability of the law against the Blora District Court Decision Number 38/Pdt.G/2021/PN Bla which annulled grants given by parents to their adopted children. The analysis was carried out using secondary and qualitative data obtained through a literature study.

3 Result and Discussion

The Blora District Court judge through Decision Number 38/Pdt.G/2021/PN Bla determined the cancellation of the grant given by parents to their adopted children. The verdict was given on the lawsuit by Suparmi, a resident of Dusun Sembung RT 004 RW 002 Arirejo Village, Tunjungan District, Blora Regency as the Plaintiff who took back or canceled her grant to Hery Teguh Listiawan bin Suparmin as the Defendant. Besides Hery Teguh Listiawan bin Suparmin, the Notary Office and Land Deed Making Officer (PPAT) Niken Sukmawati and the Agrarian and Spatial Planning/Land Office of Blora Regency were Co-Defendant I and Co-Defendant II.

Basically, the Plaintiff filed the suit as follows:

1. The plaintiff was a housewife who married Damin (deceased) in 1979 but had no children.

2. In 1995, the Plaintiff cared for, educated, and educated his nephew, Hery Teguh Listiawan bin Suparmin (Defendant), who was 12 years old boy at that time, was the son of the Plaintiff's younger brother.
3. In accordance with the Deed of Grant Number 228/TJN/2012 issued by Notary and PPAT Niken Sukmawati on August 9, 2012, the Plaintiff and her husband gave the Defendant a plot of land with the house on it in Certificate Number 532 in the name of Suparmi. The plot of land is located in Adirejo Village, Tunjungan District, Blora Regency, and measures 885 square meters. The Plaintiff, along with the Defendant and his spouse, occupied the house. The grant that the Plaintiff gave to the Defendant was intended to enable the Defendant to care for the Plaintiff as he aged..
4. In 2012 based on the Deed of Grant Number 228/TJN/2012, Certificate Number 532 in the name of Suparmi was changed to the name of the Defendant.
5. In 2013, the Defendant left without saying goodbye with his wife and children and left the Plaintiff and never provided alimony to the Plaintiff until the lawsuit was filed for approximately 8 years.
6. On September 5, 2018, the Plaintiff's husband died due to illness which caused the Plaintiff to live alone. As a result of the death of the Plaintiff's husband, the Plaintiff was often sick and poor.
7. According to Article 1688 of the Civil Code, letter c, which states that "If the Grantor falls into poverty while the Grantee refuses to provide a living for the Grantor, then the Grantor can revoke or cancel the Grant," the Plaintiff intends to cancel the grant to the Defendant (the recipient of the grant) based on the previously mentioned factors".

The plaintiff asks the Blora District Court Chairperson to render the following decision in light of the panel of judges' examination, decision, and trial of the case:

- Cancel the grant given to the Defendant as stated in the Deed of Grant Number 228/TJN/2012.
- Ordered Co-Defendant II Blora District Land Office to record the transfer of rights (reverse of original name) Certificate Number 532 with an area of 855 m² from the name Hery Teguh Listiawan to the original name, namely Suparmi.

The Panel of Judges decided in essence:

- As specified in Grant Deed Number 228/TJN/2012, declare the grant awarded to the Defendant (Grant recipient Hery Teguh Listiawan) to be canceled.
- Apply penalties to Co-Defendants I and II for failing to submit to and abide by the decision.

In their decision, the Panel of Judges gave their main considerations as follows:

- According to Article 1666 of the Civil Code, a grant is an agreement made by the grantor at the time of the grantor's life, free of charge and irrevocably, handing over an object for the recipient to receive the handover. Article 1667 of the Civil

Code states that if the grant includes objects that will only be available at a later time, the grant will be cancelled.

- Withdrawals and write-offs of grants are prohibited except in situations covered by Civil Code Article 1688, specifically:

The conditions for grants that have been made are not met, for example without an authentic deed;

If the recipient of the gift has committed or is involved in a murderous attempt or other offense against the giver;

Should the grantor become impoverished and the grantee declines to support the grantor.

- Based on witness testimony, the Plaintiff lived alone after her husband died and lived below the poverty line, had no one to take care of her and had difficulty making ends meet on her own and had to be assisted by other relatives. The Plaintiff's house has walls made of wooden planks, the floor is still dirt, the furniture is there but not luxurious. The electricity bill fee is waived by the Government because she includes poor families/recipients of government assistance. The Panel of Judges then argued that the Plaintiff was categorized as a poor person.
- Based on the evidence in the form of a Ghoib Statement made by the Head of Adirejo Village, it is known that since 2013 the Defendant has never returned home, has not received any news, and his address is not clearly and definitely known in the territory of the Republic of Indonesia.
- Based on witness testimony, the Plaintiff and her husband had no children, the Defendant adopted as a child by the Plaintiff when he was still in elementary school until he graduated from high school so that the Defendant could live together and later be able to care for the Plaintiff when she was old. The Defendant went to Kalimantan for approximately 8 years and had not returned to the Plaintiff's house and lost communication.
- The phrase "refuses" (Article 1688 letter c) is very unfair to the Plaintiff if it is interpreted as a direct rejection from the Defendant. Due to the Defendant's actions since 2013 (approximately one year after the Deed of Grant was issued), the Plaintiff has become the grantor. The Plaintiff's daily survival costs demonstrate what would happen if the Defendant, as the grant recipient, refused to give the Plaintiff, in grantor status, a place to live.

A judge's primary responsibilities are to hear, consider, rule on, and resolve each case that is presented to them. They also have an obligation to support those seeking justice and work toward removing any barriers that may stand in the way of a straightforward, efficient, and inexpensive trial. By Kamalia (2021). As a result, the judge in this case has performed his or her duties in line with those assigned to him or her, which include receiving, reviewing, ruling, and concluding until the lawsuit case Number 38/Pdt.G/2021/PN Bla is decided.

In theory, if certain requirements are satisfied, a grant will take place between the Plaintiff, acting as the grantor, and the Defendant, acting as the grantee:

- Only items that were already in production at the time of the gift may be the recipient of a gift. The grant is null and void if it contains items that do not yet exist (Article 1667 of the Civil Code);
- Grants must be implemented with an authentic deed of notary/PPAT (Article 1682 of the Civil Code/Article 37 PP Number 24 of 1997);
- Grants are made when the grantor and grant recipient are alive (Article 1666 of the Civil Code);
- Grants are made by people who are adults or legally competent according to law (Articles 1329 and 1330 of the Civil Code).

The grant process from the Plaintiff (grantor) to the Defendant (grant recipient) has fulfilled the legal requirements of the grant, which is carried out by an adult, giving goods already exist in the form of land certificate No. PPAT Number 228/TJN/2012, and carried out when the grantor and grantee are alive. These matters have been taken into consideration by the Panel of Judges in deciding case Number 38/Pdt.G/2021/PN Bla.

Grants include unilateral agreements, in which the grantor is the only party bound by the terms of the agreement and the grantee is under no duty at all. Grants comprise "for free" (om nict) agreements in which the term "for free" refers only to one party's accomplishments and does not require the other party to provide counterachievements (Subekti, 2015). Thus, in grants, the Plaintiff, the grantor, receives no payment or counterperformance from the Defendant, the grantee.

Grants cannot, in theory, be revoked or written off. However, under certain conditions and for specific reasons, the grantor may be able to revoke the grant that has been awarded to someone (Pasaribu & Lubis, 2014). This is in line with Article 1688 of the Civil Code, which states that grants cannot be canceled or revoked unless specific conditions are met.

The arguments used by the Plaintiff as the grantor to cancel the grant given to the Defendant as the beneficiary of the grant are:

- The Defendant left the Plaintiff without saying goodbye and gave no news so that he cut off communication and the Defendant's whereabouts were not known for approximately 8 years. After the Defendant left, the Plaintiff lived below the poverty line;
- The Plaintiff gave a grant to the Defendant in the hope that the Defendant would take care of the Plaintiff and because the Defendant's whereabouts were not known, this hope was not fulfilled;
- In light of the aforementioned circumstances, the Plaintiff believes that the Defendant fails to live up to the expectations of the grantor, causing the grantor to become impoverished in line with Article 1688 letter c of the Civil Code. As a result, the Plaintiff believes that the grant should be revoked and the land certificate, Certificate Number 532, should be returned to the Plaintiff.

The Panel of Judges in deciding the case interpreted the phrase "refused" in Article 1688 letter c of the Civil Code is not a direct rejection by the Defendant to the Plaintiff. The departure of the Defendant one year after the Deed of Grant Number

228/TJN/2012 is sufficient evidence that the Defendant refused to provide maintenance to the grantor when the grantor fell into poverty. The Panel of Judges then decided to cancel the grant given to the Defendant as stated in the Deed of Grant Number 228/TJN/2012 and ordered Co-Defendant II the Land Office to record the transfer of rights (reverse of original name) Certificate Number 532 with an area of 855 m² in the name of Hery Teguh Listiawan (Defendant as recipient of the grant) to the original name, namely Suparmi (Plaintiff as grantor).

The Panel of Judges' ruling can be read as satisfying Article 5 of Law Number 48 of 2009 concerning Judicial Power, which mandates that judges investigate, uphold, and comprehend social justice principles and legal values. Given that the Defendant's whereabouts are unknown, it is not necessary to ask the Defendant directly in order to give the Plaintiff a sense of justice. Therefore, the interpretation of the phrase "refuses" does not need to be communicated directly. The fact that the Defendant left has turned into proof that it did not want to pay the Plaintiff's maintenance.

The decision that revoked the grant had an impact on the decision that issued commands to Co-Defendant I and Co-Defendant II. Co-Defendant I and Co-Defendant II must file a lawsuit in order to make amends for the grant's cancellation..

4 Conclusion

In principle, grants cannot be canceled or revoked except under certain conditions according to Article 1688 of the Civil Code. In the case of lawsuit No38/Pdt.G/2021/PN Bla Suparmi (Plaintiff as grantor) against his adopted son named Hery Teguh Listiawan (Defendant as recipient of the grant), the Panel of Judges decided to cancel the grant of land Certificate Number 532 in the name of Suparmi covering an area of 885 m² along with the building on it which located in Adirejo Village, Tunjungan District, Blora Regency which was made with the Deed of Grant Number 228/TJN/2012 to Hery Teguh Listiawan. Co-Defendant II District Land Office to record the transfer of certificate number 532 from the name Hery Teguh Listiawan to the original name, namely Suparmi.

In reaching their decision, the panel of judges cited Article 1688 of the Civil Code, letter c, which states that grants cannot be revoked or canceled unless the grantor becomes impoverished and the recipient refuses to give the grantor a means of subsistence. The phrase "refused" was interpreted by the panel of judges as not being directly communicated. Article 1688 of the Civil Code, letter c, has been fulfilled, as evidenced by the defendant's eight-year absence without news and his or her unknown whereabouts. This further demonstrates how judges execute Article 5 of Law Number 48 of 2009 concerning Judicial Power, which requires judges to investigate, uphold, and comprehend legal principles and a sense of justice that permeates society.

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