

Inheritance Distribution in The Javanese Tondano Community

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Abstract:

The purpose of this study was to analyze the inheritance distribution system of the Tondano Javanese people in the village of Tondano Reksonegoro and the settlement of inheritance disputes that occurred through the Alternative Dispute Resolution (ADR) for the Tondano Javanese community in Reksonegoro village, Tibawa district, Gorontalo regency. The nature of this research is descriptive qualitative with a socio-legal approach method—data obtained through direct interviews with subjects or informants. The data analysis technique consists of 4 steps: data collection, data reduction, data entry, and conclusion drawing or verification. The division of inheritance with a will is practiced by the Tondano Javanese people in Reksonegoro Village, Tibawa District because there is a high possibility of disputes between the heirs. The division of inheritance with a will is also based on the suitability of the following three things, namely personal experience, seeing the surroundings/surroundings, and messages from parents. Results analysis of property dispute resolution through Alternative Dispute Resolution (ADR) in the Tondano community in Reksonegoro village, namely consultation, negotiation, and mediation. The three forms are widely used sequentially according to stages. The reasons for resolving property disputes through the Alternative Dispute Resolution (ADR) route are (1) upholding the principles of Ampit Watu Esa Pelayas, (2) Cultivating the cultural value of deliberation for consensus, (3) Upholding the value of gotong royong, (4) Reluctance towards settlement through court institutions, (5) Maintaining the pam or the good name and honor of the family, and (6) Preventing disputes from getting bigger and too long.

Keywords: *Distribution of Inheritance; Will; Civil Law*

How to cite (Chicago Manual Style):

Bempa, S.W.P., and Puluhulawa, F.U. 2021. " Inheritance Distribution in The Java Tondano Community " Damhil Law Journal 1 (1): 53-83

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Introduction

The inheritance problem is related to the rules governing passing on and passing property and intangible goods from a human being to his descendants. It is closely related to the issue of property. This follows the opinion of Wiyarti (2000:4) that the fair distribution of inheritance following applicable legal rules is the main thing in the inheritance process (Wiyarti, 2000). Harmony, harmony, and Peace are the most important things that must be carried out. Agreement in deliberation is a fundamental value of togetherness in family life that must be put forward. Togetherness without having to have a dispute or dispute in dividing the inheritance is the most important thing. In this case, the value of togetherness and kinship should become a foothold without prioritizing the ego interests of each party. According to Elmiyah and Ahlan (2005:11), heirs are family members of the deceased who replaces the position of the heir in the field of wealth law due to the death of the heir (Elmiyah & Ahlan, 2005). Warin (2010: 3) that inheritance law is a law that regulates the transfer of assets left by someone who dies and the consequences for the heirs. The existence of inheritance law is fundamental in inheritance distribution because it can create a legal order in people's lives (Warin, 2010).

The provisions and the existence of customary inheritance law have regulated the distribution of inheritance, in which the arrangement has accommodated the rights and obligations between the heirs and heirs. In applying inheritance law, if an heir with a religion other than Islam dies, the inheritance system is based on inheritance law following the law of inheritance. Code of Civil law (Civil Code)". According to the Civil Code, the principle of inheritance is (1) New inheritance is open (can be inherited to other parties) when a death occurs. (Article 830 of the Civil Code); (2) There is a blood relationship between the testator and the heir, except for the

husband or wife of the heir. (Article 832 of the Civil Code), provided that they are still bound in marriage when the testator dies. If they are divorced when the testator dies, then the husband/wife is not the testator's heir.

Based on this principle, those who have the right to inherit are only related by blood to the heir, whether direct descendants or parents, relatives, grandmothers/grandparents, or descendants of relatives. Considering this description, according to Alting (2010: 3) those who have the right to inherit are four major groups, namely: (1) Group I: husband/wife who has lived the longest and their children/descendants (Article 852 of the Civil Code). (2) Group II: parents and siblings of the inheritor, (3) Group III: Family in a straight line upward after the father and mother of the inheritor, (4) Group IV: Uncle and aunt of the inheritor, both from the father and from the mother, the descendants of uncles and aunts up to the sixth degree are counted from the heirs, brothers from grandparents and their descendants, up to the sixth degree are counted from the heirs (Alting, 2020).

Islamic law as a source of Muslim law in the field of *muamalah* also regulates *wirrasah* (which regulates all matters relating to heirs, heirs, inheritance, and distribution of inheritance). This inheritance law is known as *faraid* science; according to Thalib (2002: 1), Islamic inheritance law applies to Muslims anywhere in the world, whether those in an area influence inheritance law in the area itself. Inheritance issues are closely related to kinship issues adopted and in the context of inheritance law in Indonesia or national inheritance law (Thalib, 2002). According to Saebani (2009: 17) that there are four differences regarding the practice of inheritance in Indonesia, namely: (1) For native Indonesians, in principle, customary law applies, which varies from region to region. Some refer to the patrilineal, matrilineal, or parental system. (2) For the surrounding Arabs in general, all laws

are inherited from the Islamic religion. (3) For native Indonesians who are Muslims in various regions, there is a real influence from the Inheritance Regulations and Islamic Religious Law. (4) For Chinese and European people, the inheritance law from *Burgerlijk Wetboek* applies (Book II title 12/ 18, chapters 830-1130). Thus, there are three kinds of inheritance laws in Indonesia: customary, Islamic inheritance, and inheritance law from *Burgerlijk Wetboek* (BW) (Saebani, 2009).

One of the ethnic groups who inhabit the Gorontalo area is the Tondano Javanese. Due to the growing population, the Tondano Javanese entered Gorontalo in the early 1900s as migration from Tondano, Minahasa Regency. The village occupied by the Javanese Tondano is Reksonegoro Village, Tibawa District. The Javanese Tondano almost entirely inhabits this village. According to the data obtained, all the people in Reksonegoro Village are Muslims, so that all aspects of people's lives are reflected in their daily life patterns.

The Tondano Javanese community in Reksonegoro Village, Tibawa District, Gorontalo Regency, as followers of Islam, the inheritance distribution system has not fully used Islamic law as a basis for footing. The Tondano Javanese community in Reksonegoro Village has its way of resolving legal relationships that arise relating to the property of someone who dies with family members left behind. The results of an interview with one of the community leaders illustrate that they even used to divide the property before the heir died. When one of the family members is married, they will immediately get a share. The male parents directly distribute the inheritance to the heirs. Suppose the heir does not have time to distribute this inheritance during his lifetime. It can be done by family members by deliberation and consensus and is usually led by a son. The eldest son in the Tondano Javanese community in Reksonegoro Village, Tibawa District, was used as a substitute for parents who had

died who were not the owners of the inheritance individually. Boys are holders of parental mandates who should take care of other family members left behind, including taking care of the mother if the father dies and vice versa, is obliged to take care of the father if the mother dies. The process of distributing inheritance to siblings does not depend on the boy's policy. Still, it uses the results of consensus agreement with an equal distribution system for all family members who are blood relatives of the male parents. The results of an interview with a community leader in Reksonegoro Village that the inheritance distribution system by dividing each family member equally has several problems, namely that some family members who are heirs do not all accept it so that after some time after the parents die there are family members who raise objections or do not accept other family members.

Problem Statement

The rapid development of the Tondano Javanese community in Reksonegoro Village resulted in unavoidable conflicts or disputes arising in the distribution of assets, both at closer families (relatives) and more distant families. This condition requires the settlement of property disputes to be carried out with speed, confidentiality, efficiency, and effectiveness and to maintain the continuity of existing relationships. So far, according to the results of several interviews, every time there is a problem related to the distribution of assets, it tends to be resolved through kinship through deliberation and consensus. Some of the Tondano Javanese people in Reksonegoro Village think that resolving the problem of distributing property through court or litigation is considered slow, expensive, waste energy, time and money and is open and cannot provide a win-win solution. For this reason, they tend to settle disputes over the distribution of assets through alternative routes that are

offered which are more efficient and confidential, maintain kinship sustainability and are not formalistic and require a settlement that emphasizes justice. The path they have taken so far is Alternative Dispute Resolution (ADR). Alternative Dispute Resolution (ADR) is a concept for resolving conflicts or disputes outside the court cooperatively directed at an agreement or solution to a conflict or dispute that is "win-win" (win-win). What is meant by a "win-win" solution here is a solution or agreement that can reflect the interests or needs of all parties involved in the conflict (shared interest).

This study aimed to analyze the inheritance distribution system of the Tondano Javanese people in the village of Tondano Reksonegoro, Tibawa District, Gorontalo Regency. In addition, it is also to analyze the settlement of inheritance disputes that occur through the Alternative Dispute Resolution (ADR) route.

Method

This type of field research directly examines social phenomena about a social phenomenon that is the object of research. The nature of this research is descriptive qualitative with a socio-legal approach, namely a sociological approach to understanding law. Primary data were obtained through direct interviews with subjects or informants or by filling out a questionnaire given by the researcher. Secondary data is obtained indirectly, namely through literature books and other supporting materials. The data analysis technique used in this study is the analysis technique by Miller & Huberman, which consists of 4 steps, namely data collection, data reduction, data input, and drawing conclusions or verification.

Discussion

1. Analysis of the suitability of the distribution of assets of the Javanese Tondano community in Reksonegoro Village, Tibawa District, Gorontalo Regency

The results of the analysis of the suitability of the distribution of the assets of the Javanese Tondano community in Reksonegoro Village, Tibawa District, Gorontalo Regency can be seen in Table 1. Based on table 4.1, it can be understood that there are 3 (three) categorizations of reasons for parents to divide property with a will, including (1) Personal experience, as happened in the families of HE informants, HU informants, and DI informants. The three families of the informants made the distribution by will because of the experience of their parents who did not have time to share their assets with their children. This condition resulted in disputes between heirs regarding the location and number of parts. Besides that, certain heirs controlled and manipulated the property. (2) Paying attention to or looking at the surroundings/around, seeing that there are many fights between brothers and sisters because of fighting over property, makes informants HU and Informants NA decide to distribute assets to children immediately so that the same thing does not happen to the children in the future. (3) The distribution of assets follows the message from the parents. Apart from personal experience and the circumstances surrounding the distribution of inheritance with grants and wills, it is also due to a will from parents to immediately divide property among children after they are married so that there will be no disputes. As happened in the families of informants AL and BA informants.

Referring to the provisions of article 49 of the Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of

Indonesia No. 7 of 1989 concerning Religious Justice and last amended by Law of the Republic of Indonesia Number 50 of 2009 it is seen that the authority to adjudicate on cases in the field of Sharia economy is the authority of the Court of Religion. Thus, it can be interpreted that the whole series of litigation settlements in the field of Sharia economy from the registration of the case until the reading of the verdict and execution is the absolute authority (absolute) of the Court of Religion.

Table 1. Analysis of the Conformity of the Distribution of Assets to the Tondano Javanese Community in Reksonegoro Village, Tibawa District, Gorontalo Regency

| No. | Informant Code | Reasons for Sharing Inheritance with Wills | Categorization |
|-----|----------------|---|---------------------|
| 1 | HE | His parents did not divide the property when he was still alive, so the heirs had a dispute about the share and location of the property. | Experience Personal |
| 2 | HU | Parents died and did not have time to divide the property, so the eldest son took over the property and divided it according to his wishes. | Experience Personal |
| 3 | BA | Parents ordered that the treasure be divided when all the children are married, in addition to the experience of other families whose parents did not divide the property first, so many heirs were at war. | Message People Old |
| 4 | UN | Seeing around many families who do not get along with each other because of fighting over property | Experience Around |
| 5 | IN | The experience of the wife's parents whose property was not shared by their parents, so certain heirs manipulate the property. | Experience Personal |
| 6 | NA | A lot is going on around family members who do not get along because of fighting over property. | Experience Around |
| 7 | AL | Message parents to immediately divide the property to the children so that there are no disputes. | Message People Old |

Some things that parent consider before distributing inheritance with a will are as follows:

1. Educational responsibilities. Educational dependents here mean that before dividing the inheritance with the will, the children have finished in terms of education / have not attended education. This is done to anticipate if at any time there is an urgent need. Because if one or several children are still studying and need more money to pay for their education, while the available money is not sufficient, then most of the farmers' parents will usually sell their assets such as rice fields/gardens. However, if the property has been distributed and then resold for educational needs, it will cause problems in the future.
2. Marriage Dependents. Dependent marriage here is usually more emphasis on the marriage of sons. This is because, in Sumbawa marriages, the costs for marriage are borne mainly by the boys. The cost of the wedding will be determined at the time *beketoan* (application). In this case, it is still possible to bargain between families until both parties agree on the amount to be paid by the men. Most of the parents of the men who are getting married will share the costs of the children's marriage, especially for men who are not yet well-established; usually, most of the wedding costs will be borne by their parents.
3. Debt Repayment. Before dividing with a will, the parents have also made sure that there are no remaining debts. Because if there are debts that have not been repaid while the assets have been distributed by will, then new problems will arise in the future regarding who is responsible for paying off the debts left by the parents.

2. Analysis of property dispute resolution through Alternative Dispute

Resolution (ADR)

Results of interviews about the analysis of the settlement of property disputes through the Alternative Dispute Resolution (ADR) route for the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, is presented in Table 2.

Table 2. Analysis of Asset Dispute Resolution through Alternative Dispute Resolution (ADR)

| No. | Finding | Category |
|-----|---|---|
| 1 | Case Description dispute over testamentary property | Alternative Dispute Resolution (ADR) settlement, namely consultation, negotiation, mediation, and conciliation |
| 2 | Alternative Dispute Resolution (ADR) | Reasons for resolving property disputes through the Alternative Dispute Resolution (ADR) route <ol style="list-style-type: none"> 1. Holding Firmly the Principle of <i>Ampit Watu Esa Pelayas</i> 2. Cultivating the Cultural Values of Deliberation for Consensus 3. Upholding the Value of Gotong Royong 4. Reluctance towards Settlement through Court Institutions 5. Keeping Pam or the Good Name and Honor of the Family 6. Preventing Disputes from Getting Bigger and Protracted |

3. Analysis of the suitability of the distribution of assets of the Javanese Tondano community in Reksonegoro Village, Tibawa District, Gorontalo Regency

1) Property division method

In the inheritance distribution with wills practiced by the Javanese Tondano community in Reksonegoro village, there are two interrelated laws, namely

inheritance law and will law. The division of inheritance with a will which is practiced by the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, is divided into two ways of distribution, namely: First, testamentary grants, meaning that part of the assets that will become assets are distributed and handed over to children while the parents are still alive. Moreover, part of the property is left for the needs of the parent's life, and the remaining property will then be distributed by will and handed over after the parent dies. Second, the division is carried out by will only.

If observed, the distribution of the will has fulfilled the pillars of the will as contained in Islamic law. As contained in the KHI, they have divided into 4, namely: (a) People who make a will. (b) The person who receives the will. (c) wills. d) Editorial (Sight) Will. Explaining the pillars and conditions in the Compilation of Islamic Law (KHI) is regulated in Article 194 and Article 195. Based on these two articles, it can be concluded that: The condition for the person who will make a will is at least 21 years old, there is no coercion from any party or under guardianship, and the property to be willed is the full right of the testator. As for the implementation, the will is carried out in two witnesses or a notary, orally or in writing. They will still do not exceed one-third of the inheritance. Concerning the will to the heirs, it is considered valid if all the heirs have approved it.

2) Stages of the division of property with a will

a. Gather the whole family

The gathering of all family members is usually done in the house where the parents live. The parties involved in the distribution of inheritance by testament include: (1) A will, which is meant here is a parent who will inherit his property by way of a will to a prospective heir. Parents do this division at their own will without any coercion from any party. (2) The beneficiary is a person who is entitled to receive

an inheritance, usually only children who are potential heirs, both boys and girls. (3) Other relatives, relatives serve as witnesses. Witnesses can also come from the son-in-law (husband/wife of potential heirs) and community leaders, such as religious leaders, village heads, hamlet heads, and others.

b. Conveying the purpose of the association and determining the section

When all parties have gathered, the parents will convey the purpose of the association, which is to distribute inheritance through a will. The will is delivered in front of the beneficiary and witnesses. After that, the testator will notify the share of each prospective heir and why it was decided so. The items in the will can be rice fields, garden land, yardland, houses occupied by the testator, and other assets that have value.

c. Asking for opinions from potential heirs

After notification of the intent and part of each beneficiary, the testator will then ask the opinion of each regarding the part that has been determined earlier. If someone disagrees, it will be discussed again until there is an agreement from all parties.

d. Deal

If all families have agreed with the parts, then according to Mighniyah (1996: 240), the testator will clarify the part of each beneficiary following the results of the previous agreement. If we refer to will law in KHI and *fiqh*, some problems are still a question in the distribution of inheritance with wills. (1) The person entitled to receive a will. (2) The value of the property in the will. (a) For People who are entitled to receive a will, there is a difference of opinion as to whether the heirs can receive a will or not. According to the *Imamiyah* group, a will may be for heirs or non-heirs and does not depend on the approval of other heirs, as long as it does not exceed one-third

of the property. Some of the *Malikiyah* and *Zahiriyah* circles (in Zein, 2004: 380) states that the prohibition of wills to heirs does not become invalid with the permission of the other heirs. According to them, such a prohibition is a right of Allah SWT, which cannot be waived by the willingness of humans, who in this case are the heirs. The heirs have no right to justify something that Allah SWT forbids. If the heirs also agree, as this school explains, then the status is no longer a will but a grant (gift) from the heirs themselves, which must meet certain conditions as is customary in the practice of grants. The heirs have no right to justify something that Allah SWT forbids. If the heirs agree, as this school explains, the status is no longer a will but a grant (gift) from the heirs themselves, which must meet certain conditions as is usually the practice of grants. The heirs have no right to justify something that Allah SWT forbids. If the heirs also agree, as this school explains, then the status is no longer a will but a grant (gift) from the heirs themselves, which must meet certain conditions as is customary in the practice of grants.

Determination and distribution of inheritance with testamentary grants and wills that parents practice in the Tondano Javanese Community in Reksonegoro village are carried out because the determination and distribution of assets made after the parents die by the community can no longer be trusted, considering the distribution in this way will be significant the possibility of a dispute between the heirs. Such as the seizure of the position/location of the property, and it is also possible the possession of property by certain heirs. So many of the parents decided to divide the property with a will to protect the rights of the heirs themselves.

The author analyzes no significant difference between the distribution of inheritance and wills that occurred in the Tondano Javanese community in

Reksonegoro Village, Tibawa District, and the inheritance law itself. This can be seen from several things as follows:

a. Beneficiary

The beneficiary who is entitled to receive the will is the person who has the right to be the heir (prospective heir). Article 174 verse 1 The Compilation of Islamic Law (KHI) states that the groups of heirs according to consist of: (1) According to blood relations: which includes (a) The male group consists of father, son, brother, uncle and grandfather (b) The women group consists of mother, daughter, sister and grandmother.

b. According to the marital relationship consists of a widower or widow.

If all the heirs are present, only children, father, mother, widow or widower are entitled to inherit. The beneficiary in the distribution of inheritance with a will here is a person who has the right to be a prospective heir. In this case, it is a child because only parents and children still exist when the inheritance is divided into a will. So only children are entitled to inherit with a will because the inheritance cannot be distributed when one of the parents is still alive. In other words, the inheritance will only be valid/distributed when both parents have died.

3) Determination of the amount of the willed property and the share of each

According to article 174 verse 2 Compilation of Islamic Law (KHI) that the amount of property that is willed and its respective share (a) The amount of property that is willed the amount of property that will be passed on to the prospective heirs depends on the method of distribution as applied in the distribution. First, they will grant. Suppose the distribution is done with a testamentary grant. In that case, part of the property will be distributed to the prospective heirs as long as the parents are still alive, and part of it will be left for the parents' livelihood. The property will be

distributed in a will, and the delivery will be made after the parents die. Second, the will. If the distribution is done by will only, then the assets that will be passed on are all the assets that will later become assets. (b) The size of each portion. An explanation of the amount of share received by the heirs (children and widows/widowers) in the KHI is regulated in articles 176, 179, and 180. The explanation regarding this is described as follows (a) The child's share. According to Article 176 of the Compilation of Islamic Law (KHI) that if there is only one girl, she gets half of the share, if two or more people together, they get two-thirds of the share, and if the daughter is together with the son, then the child's share boys are two to one with girls. (b) Widow and widower share: According to articles 179-180 of the Compilation of Islamic Law (KHI) that if the wife dies, the widower gets half of the share, if the heir does not leave children, and if the heir leaves children, the widower gets a quarter of the share. However, If the deceased is sumani, the widow gets a quarter of the heir's share does not leave the child, and if the heir leaves the child, the widow gets the eighth share. The heirs in inheritance by will are only children. In the distribution of inheritance in general, what applies to the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, boys get two parts, and girls get one part, known as 2:1. However, due to other considerations, the large share obtained by the prospective heirs has changed. In the distribution of inheritance in general, what applies in the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, is that boys get two parts and girls get one part, known as 2:1. However, due to other considerations, the large share obtained by the prospective heirs has changed. In the distribution of inheritance in general, what applies in the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, is that

boys get two parts and girls get one part, known as 2:1. However, due to other considerations, the large share obtained by the prospective heirs has changed.

a. Men two parts, women one part (2:1)

The family of the NA informant carries out this kind of distribution. According to him, a fair distribution is a distribution that has been determined in Islamic law, namely one part of a boy is equal to two parts of a girl, according to, everything that has been determined by religion cannot be changed or is absolute. . But according to articles 179-180 of the Compilation of Islamic Law (KHI) does not deny that there is an equal distribution between men and women if there is an agreement or agreement from each heir.

b. Equally between men and women (1:1)

The reasons for the equal distribution of sons and daughters in each family are different. Informant BA's family divides wealth equally among children, boys and girls, because it is a request from their only son because his son feels he has spent much money both for college and his wedding expenses. In addition to the family of the BA informant, the family of the UN informant also divides their wealth equally between their two children. This distribution was carried out as a thank you from UN informants to their eldest daughter, who had been taking care of and caring for them.

c. The child who has lived the longest with his parents or the youngest child will become the house owner.

Giving a house to the child who has lived the longest with parents or the youngest child means that here they are those who get the house in addition to what they should get, so the house is not counted as part of the assets that should be obtained but is calculated as an addition because of the existence of specific considerations, such as gratitude from parents because the child has looked after and

took care of it very well, or it could be because it is considered an additional treasure. After all, they feel there is a shortage in terms of parts.

d. The eldest son gets the most share.

This kind of distribution is similar to what happened in the Navy informant's family, and his eldest son inherits more than his other siblings because he has spent quite a lot of money to send his younger brother to school, as a thank you, his parents give him a more significant share. The difference in the method of distribution above is based on the circumstances and needs of the beneficiary, and this is also with the approval of all prospective heirs. Thus, although the distribution of inheritance in general in the Tondano Javanese community in Reksonegoro village, boys get two parts and girls get one share or known as 2:1. However, due to consideration of the circumstances and needs of the beneficiary, the division of each family is different. Wadud (2001:156) argues that the 2:1 division of inheritance is not a final provision but only a variation of the division. The distribution of inheritance should be carried out with various considerations, including the condition of the family left behind, the principle of benefit and the needs of the heirs and the benefits of the property itself. Thus, according to the distribution of inheritance, it can be very flexible and has many possible distributions, depending on the benefits of property for each heir. If so, then the division reflects the nature of justice. Article 183 of the KHI states that the heirs can agree to make Peace in the distribution of property after each is aware of his share.

Obligations and responsibilities before the distribution of the will, if in the distribution of inheritance there are several obligations and responsibilities of the heirs before the distribution of inheritance is carried out, then in the distribution of inheritance with a will, there are also obligations and responsibilities of the parents

before making the distribution. Before the distribution of assets, there are several obligations and responsibilities that must be carried out by the heirs to the heirs, including: (1) the obligations of the heirs to the heirs are: (a) take care of and finish until the funeral of the corpse is completed; (b) settle both debts in the form of treatment, care, including the obligations of the testator and the debt collector; (c) finalize the testator's will; (d) dividing the property among the entitled heirs. The obligations and responsibilities of the testator before distributing the inheritance with a will include:

a. Educational dependents

Dependent education here means that before dividing the inheritance with the will, the children have completed in terms of education / have not attended education. This is done to anticipate if at any time there is an urgent need. Because if one or several children are still studying and need more money to pay for their education, while the available money is not sufficient, then most of the farmers' parents will usually sell their assets such as rice fields/gardens. However, if the property has been distributed and then resold for educational needs, it will cause problems in the future.

b. Marriage dependents

Marital responsibilities here are usually more emphasized on the marriage of sons. This is because, in Sumbawa marriages, the costs for marriage are borne mainly by the boys. The cost of the wedding will be determined at the *tama beketoan* (application). In this case, it is still possible to bargain between families until both parties agree on the amount to be paid by the men. Most of the parents of the men who are getting married will share the costs of the children's marriage, especially for men who are not yet well-established; usually, most of the wedding costs will be borne by their parents.

c. Debt repayment

Before dividing with a will, the parents have also made sure that there are no remaining debts. Because if there are debts that have not been repaid while the assets have been distributed by will, then new problems will arise in the future regarding who is responsible for paying off the debts left by the parents. The relationship between the obligations and responsibilities of the heir in the inheritance with the distribution of inheritance with a will in Reksonegoro Village are: first, the management and completion of the funeral of the corpse in the family who divides the inheritance with a will are usually shared by the prospective heirs. As well as medical expenses, treatment if the testator is sick. Second, accounts receivable.

4. The reason for the distribution of the assets of the Tondano Javanese community in Reksonegoro Village, Tibawa District

Reksonegoro village, Tibawa sub-district, is divided into three ways of distribution, namely: First, the distribution is carried out after the parents die. Second, the distribution is carried out through a testamentary grant. Third, the division is done by will. The distribution in a first way is a joint distribution in inheritance distribution, where the deceased parent's property will be determined and distributed to the children after the parents die. The distribution in this way is usually carried out by deliberation between families. The element here is the inheritance distribution through a will, be it a testamentary grant or a will only. When referring to the progressive legal theory of Rahardjo (2004: 17), according to the researcher.

The distribution of inheritance with a will which is practiced by the parents of the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, is carried out because the determination and distribution of property, which was

initially carried out after the parents died by the community, is no longer reliable, considering that the distribution in this way will most likely the occurrence of disputes between the heirs, such as the seizure of the position/location of the property and it is also possible for the possession of property by certain heirs. The division of inheritance with a will is also based on the following:

a. Personal experience

Families who share an inheritance with a will based on personal experience include; the family of the informant HE, the family of the informant HU, and the family of the informant DI. The informant HE decided to divide the assets with the will because his parents did not share the property. A struggle for property occurred, which led to a fight between brothers because there was no agreement on the share and location of the assets of each heir. Hermansya hopes that the same thing will not happen to the children in the future.

A similar incident also occurred in the family of the informant HU, who decided to share the property with a will because his parents had not had time to share the property with a will before his death. Hence, the eldest son divided the property at will. HU informants and other siblings felt that the distribution of their eldest brother was unfair because it was more profitable for him (the eldest son). In addition, HU informants also said that most boys do not want to share (wealth) with girls because they think girls will eventually live with their husbands.

b. Seeing the surroundings/surroundings

Two families decided to share their assets with a will because of this: the UN informant and the NA informant's family. The UN informant shared the property with a will because he saw many family members fighting over the seizing of property. If the property is not distributed from the start, he is afraid that the

children will do the same thing. Although he was sure that the two children were doubtful to do so, still he shared it first because, according to him, no one knew what would happen in the future. For example, he gets negative influences from outside and so on, so according to him, if the property has been divided first, then when he dies, the children will live to take their share.

Like the UN informant, the NA informant also decided to divide the property with a will because he saw many other families fighting to seize the property; the NA informant claimed that the family's property was fighting because the parents of the family had not had time to share their property with the will before they died. So that the children fight over the location and amount of property that should be obtained. The NA informant also gave another example, a family who earns a living outside Gorontalo, such as in Manado and is educated and then does not go home and get married there, so most people here are not given a share of the inheritance. Thus, the distribution of inheritance by testament by NA informants is considered very important to maintain the rights of the heirs.

c. Message from parents

Apart from personal experience and the circumstances surrounding the distribution of inheritance with grants and wills, it is also due to a will from parents to immediately divide property among children after they are married so that there will be no disputes. As happened in the families of informants AL and BA informants. The family of the Navy informant stated that the reason for dividing the property with a will was because of a message from his parents. The Navy informant's parents advised that when the children were married, the Navy informant had to divide the assets with a will as his parents do now. According to the parents of the Navy informant, the distribution of inheritance by will is essential. That way, when he dies,

there is no possibility of a seizure of property because each child already knows his share. Like the family of the informant AL, the family of the informant BA also divides the property with a will based on the will of the parents; the parents of the informant BA advised that if one day all children (grandchildren) are married, the property must be immediately notified of their respective shares so that later there will be no disputes regarding part of each. Apart from messages from parents, BA informants also said that another reason was that there were many disputes between family members regarding their parents' assets.

2. Analysis of property dispute resolution through Alternative Dispute Resolution (ADR)

1. Description of the settlement of property dispute cases

a. Consultation

Consultation has a basic understanding or principle as a personal action between a particular party called the client and another party who is the consultant, who gives his opinion to the client to meet the needs and needs of the client. Based on the above understanding, it can be understood that this consultation is a free action on the part of the client as a person who needs advice, opinion, or just advice from a competent person (expert) called a consultant for the client to be able to handle the problems or conflicts he is facing.

Free action here means that the consultant does not hold the client accountable to carry out what the consultant has suggested. The consultant only plays a role in providing advice, opinions, or advice as long as it is related to the field he is engaged in, both formally and informally. This condition makes the consultant and client does not have full responsibility formally and materially for the relationship formed by the two of the problems or conflicts experienced by the parties, and efforts to resolve

disputes experienced by the parties also remain the full responsibility of the client without any power. The consultant meddles in the dispute too much. This means that in consultation.

The first step after the person concerned has consulted with the older person, in general, the disputing parties first conduct internal negotiations only between the disputing parties. There is no need to summon outside parties and publish it. Internal parties mean the three supporters of the principle of *ampit watu esa pelayas*, namely from the disputing parties, and they discuss as much as possible. However, often, at this stage, the talks reach a dead end, and a solution is not reached because each party maintains its ego, opinion and stance that is the right one.

The hard-heartedness of the parties then closed the way of thinking and the purpose of the original discussion, which was to seek Peace, so that no results were obtained from the discussion. The atmosphere then became tense and became no longer conducive, and this condition was often the result of the deadlocked talks; the three clans supporting the principle of *ampit watu esa Pelayas* then became hostile and no longer respected each other according to their respective positions, both in daily life and in life. In a traditional procession or event.

b. Negotiation

Negotiation is a way to find a solution to a problem through direct discussion (deliberation) between the disputing parties whose results are accepted by the parties. Observing this negotiation appears as art to reach an agreement and not a science that can be agreed upon. The legal basis for holding these negotiations is the formulation outlined in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (ADR) article 6 paragraph (2) which contains "the resolution of disputes or differences of opinion through Alternative Dispute

Resolution (ADR) as referred to in paragraph (1). in paragraph (1) is resolved in a direct meeting by the parties within a maximum period of 14 (fourteen) days and the results are stated in a written agreement. among them. The agreement regarding the settlement must then be stated in a written form agreed to by the parties.

In practice, negotiations are carried out for 2 (two) reasons, namely to look for something that cannot be done alone, for example negotiation or agreement in determining the price or other matters for both parties, in the event that there is no dispute and to resolve the dispute between the parties in the event of a dispute. In this way they do not involve anyone as an intermediary. The people who gather are only the disputing parties (internal and closed to third parties) sitting together, deliberating in reaching an agreement on the dispute they are experiencing.

c. Mediation

Mediation is an effort to resolve disputes by involving a neutral third party (as a mediator or mediator) who does not have the authority to make decisions, helping the disputing parties reach a settlement (solution) accepted by both parties. Mediation process: (a) Premeditation stage. In this premeditation stage, the mediator and the parties must follow all dispute resolution procedures, as regulated in Supreme Court Regulation Number: 02/2003. (b) Mediation Stage. In this stage, the mediator and the parties can sit together at one big table to reach an agreement to find the best solution for the dispute they are experiencing. They have full freedom to express their opinion about the problems or disputes they experience.

After the agreement by the parties has been successfully realized, then the results of the mediation must then be stated in written form, becoming a dispute resolution agreement whose contents must be obeyed by the parties, because this is stated in the Supreme Court Regulation Number 02/2003 article 11 paragraph (1)

and (2), which contains: "If mediation results in an agreement, the parties with the assistance of the mediator are obligated to formulate in writing the agreement reached and signed by the parties. It is also emphasized in Law Number 30/1999 concerning Arbitration and Alternative Dispute Resolution (ADR) article 6, which contains: "Efforts to settle disputes or differences of opinion through a mediator ..., within a maximum of 30 (thirty) days an agreement must be reached in the form of in writing signed by all parties concerned".

The only solution that must and must be given by the mediator is the Peace of the parties until throughout the discussion process, both when the mediator is still discussing it separately with each party or after they all sit down together to discuss the problem again, the mediator must be neutral, fair and impartial to anyone in dispute. Peace must be the sole goal of the deliberation, so that the mediator must make every effort to make it happen. If not, then the mediator can be firm with the party who does not want to budge and still does not want to forgive the opposing party and remains adamant even though his position is not appropriate to be maintained under these conditions and situations.

d. Conciliation

Conciliation is the initial step of Peace that is subject to the provisions or legal basis of the Civil Code, including articles 1851 to 1864, and Law No. 30 of 1999 article 6 paragraph (7) in conjunction with paragraph (8), whose contents are as follows: The following: (1) The results of the agreement of the parties must be made in written form (2) The agreement must be jointly signed by the parties to the dispute, (3) The results of the written agreement that the parties have signed to the dispute must then be registered with the court country no later than 30 (thirty) days from the date of signature. (4) The execution of the decision must be carried out no later than 30

(thirty) days from the date of registration with the district court. Article 1851 of the Civil Code also states that "Peace is an agreement in which both parties, by surrendering, promising, or withholding an item, end a case that is currently dependent, or prevent a case from arising. This agreement is not valid, unless it is made in writing." The implementation of this conciliation is carried out before a court hearing (litigation) so that it can be carried out to prevent a trial (litigation) from being held at any level by the parties to the dispute.

2. The reason for the Tondano Javanese community in Reksonegoro Village, Tibawa District, to resolve property disputes through the Alternative Dispute Resolution (ADR) route

a. Holding firmly to the principle of *Ampit Watu Esa Pelayas*

Taking into account the position of the *dingkel watu telu*, it is hoped that the existence of the *dingkel watu* well as a mediator or peacemaker using the parties and the *dingkel watu telu* sitting together and discussing or agreeing to find a way out of the problems they are experiencing. The parties then raise their concerns about releasing all tensions between them and discussing them with cool heads and wisdom, not with anger. The principle of *dingkel watu telu* existed throughout the meeting to bring together and provide a neutral middle point for the parties to find bright spots or solutions. The principle of *dingkel watu telu* then also reappeared at the end of the meeting to agree with the disputing parties on the solution taken as a settlement of their dispute. In front of *dingkel watu telu*, the disputing parties make Peace and promise to each other to carry out joint decisions with total commitment and promise that if the agreement is violated, then the parties concerned are willing to be subject to sanctions as punishment for their negligence.

b. Cultivation of cultural values deliberation for consensus

The culture of deliberation to reach consensus has existed in the Indonesian people for a long time, including the Tondano Javanese community in Reksonegoro village, Tibawa district, as part of the Indonesian nation. This is evidenced in the fourth principle of Pancasila as the basis of the Indonesian state, which contains "People led by Wisdom in deliberation/representation". Implementing the culture of deliberation has existed since time immemorial, including the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, where the community in facing any event, always overcomes it by gathering, then deliberation to find the best solution. This philosophy of life originated from the life of the Tondano Javanese people in the village of Reksonegoro, Tibawa District, anciently who came from their hometown. However, even though they have migrated to Reksonegoro village, Tibawa sub-district and have formed a new social life with the existing systematics, they still use it today. This philosophy of life is used in my hometown and everywhere, including in Reksonegoro village, Tibawa sub-district. This is under Wignjodipoero (2004; 73) statement that legal regulations (favourable) are strong, but an agreement is even stronger than legal regulations.

c. Upholding the value of gotong royong

Gotong royong is the embodiment of one of the proverbs of the Indonesian nation itself, namely "Heavy is the same, light is also carried." This proverb means that if anything is sad or happy, it must be felt together. Together, they feel the same fate, share the joy and sorrow. This condition means that in dealing with property disputes, the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, adheres to traditional values and chooses to resolve property disputes through a mediation process with the services of a mediator as a liaison so that they

can negotiate to reach consensus in resolving the disputes they experience. The role of this mediator, they can sit quietly together at a table peacefully and then discuss the problems they are experiencing together. The role of the mediator is also to create Peace between them can be realized. As a result, the opportunity to produce a good solution for all parties (a win-win solution) can be more excellent than a win or lose solution so that the results of the Peace can be felt by all parties involved in it. As well as their subsequent descendants. This illustrates that eastern culture has the characteristics of concern, tolerance, solidarity, a high sense of social and togetherness, and sharing the same fate; indeed, not all nations have it. So that the results of the Peace can be felt by all parties involved in it, as well as their following descendants, this illustrates that eastern culture has the characteristics of concern, tolerance, solidarity, a high sense of social and togetherness, and sharing the same fate; indeed, not all nations have it. So that the results of the Peace can be felt by all parties involved in it, as well as their following descendants, this illustrates that eastern culture is a culture with characteristics of concern, tolerance, solidarity and a high sense of social and togetherness, as well as sharing the same fate, certainly not all nations have it.

d. Reluctance to settle through court institutions

The Tondano Javanese community in Reksonegoro village, Tibawa sub-district, is reluctant to settle through a court institution. This condition results when they experience a property dispute, and they prefer to settle not through a court institution but mediation using a mediator of their choosing. Another reason is that the Tondano Javanese people in Reksonegoro village, Tibawa sub-district, are reluctant to resolve disputes through court institutions. The resolution of the dispute through the court is, in their view, the breakup of a large family as a result of the

court's decision because the court's decision is synonymous with winning or losing. For the losing side they cannot accept defeat sincerely and gracefully until they become enemies. Even hostility usually continues to the next generation.

e. Keeping Pam or the good name and honour of the family

According to the interview results, if their family has a property dispute, one of the principles of life, namely maintaining the pam or the good name and honour of the family, will be damaged. The honour of the family pam was tarnished because, as a result of the dispute, the family and their parents were no longer respectable in social interactions, and their relationships with many people in the association were disrupted. The name for the Tondano Javanese community in Reksonegoro village, Tibawa subdistrict, is a hereditary family name, namely pam and is closely related to self-esteem so that if the pam or clan has been damaged due to the conflict or dispute, they have experienced, their entire extended family will also have their names damaged. They will be humiliated, their entire extended family will also be ashamed and disheartened, and their self-esteem will be destroyed in their social circle. In other words, due to the principles of wealth, lineage, and honour, it has a psychological impact if a property dispute occurs. The extended family is dishonourable, not only the disputing party but the entire extended family. Conditions like this indirectly, as a result of the principle of life, there is a strong determination and intention in the hearts of every Tondano Javanese community in Reksonegoro village, Tibawa district to always maintain the good name of their pam or clan or their extended family name from generation to generation so that the name remains Dear. They have the principle that the family's good name should not be tarnished, and the family's self-esteem will fall.

f. Prevent property disputes from getting bigger and protracted

The family in the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, is not enough to only include the nuclear family, namely a husband and wife and children. This happens because the kinship structure is based on the principle of *ampit watu esa pelayas*, which means three stoves, so the family in society includes the three elements of *ampit watu esa pelayas*. The family element, according to the principle of *ampit watu esa pelayas*, is the three clans that support *ampit watu esa pelayas* itself, namely the clan of the wife's family, the clan of the husband's family and the clan of the husband with his extended family with the same surname as himself. This condition causes the family in the Tondano Javanese community in Reksonegoro village, Tibawa sub-district, to be a big family and must fulfil the three elements of *ampit watu esa pelayas*. The driving factor is *pam* or *amrga*.

Conclusion

The division of inheritance by will practiced by the Tondano Javanese people in Reksonegoro Village, Tibawa District, because the determination and distribution of property in general are no longer reliable because there is a high possibility of disputes between the heirs. The division of inheritance with a will is also based on the suitability of the following three things, namely personal experience, seeing the surroundings/surroundings, and messages from parents. Results analysis of property dispute resolution through Alternative Dispute Resolution (ADR) for the Tondano community in Reksonegoro Village, District through consultation, negotiation, and mediation. These three forms are widely used sequentially according to stages and are always preceded by a consultation stage. If the second stage does not produce

results, the parties negotiate and proceed to the third stage, namely the mediation stage, which prioritizes deliberation for consensus and upholds family values. The reasons for resolving property disputes through the Alternative Dispute Resolution (ADR) route are (1) upholding the principles of *Ampit Watu Esa Pelayas*, (2) Cultivating the cultural value of deliberation for consensus, (3) Upholding the value of gotong royong, (4) Reluctance towards settlement through court institutions.

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