

ABSTRACT

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JURIDICAL REVIEW ON TORTS IN THE CASE OF EXTENSION OF THE RIGHT OF BUILDING FOR THE INHERITANCE (VERDICT STUDY MA NUMBER 547 K/Pdt/2017)

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The case of extension of the right of building (“HGB”) which is a part of inheritance inherits by Alm. Mr. Soeharso Kartodipoero has been infringed Article 1365 KUHPdata, or known as torts. Hesti Kartika Nindiah, Gatri Lunarindiah, and Raden Susapto are children who are born from Alm. Mr. Soeharso Kartodipoero and his wife Mrs. Siti Aminah. Meanwhile, this couple is also taking care of 3 (three) children out of their own as their foster children, those are Satrio Lelono, Agus Prakoso, and Lies Triantini. When Mr. Soeharso Kartodipoero has been passed out, He inherits his wealth which will be given to their children in the form of land and building that has HGB certified. In this case, 3 (three) of their foster children insist that they have portions of the inheritance by inhibiting all of the processes or the extension of the HGB and transfer of title, they also made a false birth certificate to make certificates of inheritance so they can get the same rights as if they are biological children from Mr. and Mrs. Kartodipoero. The problem that will be analyzed by this research are: 1) How the fulfillment of the elements of torts in the case of extension of HGB Number 734/Gondangdia based on Decision of the Supreme Court Number 547 K/Pdt/2017? 2) How is the status of all of the parties who have a legal dispute among them in the law of inheritance regulated in KUHPdata? This research using the normative research method with the statutory approach and case approach. The data type which is used in this research is secondary data which consists of primary legal materials, secondary legal materials, and tertiary legal materials, also the data that is obtained from documents study are analyzed descriptively qualitative. The result of this research shows that all the elements of the torts have been fulfilled, which has proved by Article 1365 KUHPdata. Then, the status of all the parties which has the legal dispute in this case to have the rights of the inheritance left by Mr. Soeharso Kartodipoero are his heirs based on the statutory or called ab intestato which regulated under Article 832 KUHPdata, which state that people who have rights on the inheritance must be they are who have biological relationship. Therefore, if they aren’t the heirs based on the statutory or has another way like trough testament, so they won’t be considered as heirs.

Keywords: torts, the right of building, inheritance

References: 38 (1982 - 2019)