

## Effect Inheritance Land Has Not Been Certified Based On Article 96 Of Government Regulation Number 18 Of 2021

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### Abstract

Inherited land without certification often leads to legal disputes due to weak legal certainty and a high potential for conflict. Article 96 of Government Regulation Number 18 of 2021 requires the use of old evidence, such as girik, petok, or letter C, to be registered no later than February 2, 2026. After this deadline, old evidence will only serve as an administrative reference and will no longer carry full evidentiary force. This research employs a normative juridical method supported by empirical data from the Complete Systematic Land Registration (PTSL) program and is analyzed through the theory of justice and progressive law. The findings indicate that failure to register land results in the loss of formal evidentiary strength and limits heirs in conducting legal acts related to land ownership. Nevertheless, legal protection remains available for heirs acting in good faith, whether through litigation or non-litigation mechanisms, supported by the state's affirmative policies. Thus, the implementation of Article 96 of Government Regulation Number 18 of 2021 should be directed at balancing formal legal certainty with substantive justice, ensuring that the community's land rights are fairly and proportionally protected.

**Keywords:** inherited land, land certificate, Government Regulation Number 18 of 2021, legal certainty, legal protection.

### A. Introduction

Land in the context of Indonesian people's lives has a very fundamental position, not only as an economic resource, but also as an inseparable part of social, cultural, and spiritual identity.<sup>1</sup> For the community, land is seen as a source of livelihood, a place to stand on, and a symbol of continuity between generations. This close relationship makes the land issue have a complex dimension, because it involves economic interests, social aspects, and also legal legitimacy. In the context of inheritance, land is often the main heritage property that is inherited across generations, so legal certainty over its ownership is important so as not

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<sup>1</sup> Harahap, R. (2023). Compensation Policy For Land Acquisition For The Public Interest With The Enactment Of The Job Creation Law. *Al-Qisth Law Review*, 7(1), 88-131.

to cause uncertainty or conflict in the future.<sup>2</sup>

However, in practice, not all inheritance land is administratively recorded through the issuance of a land rights certificate.<sup>3</sup> This condition results in potential legal problems, because without a certificate, proof of ownership only depends on old documents such as girik, tax pegs, or village certificates. The document, although of historical value, does not provide the same strong legal certainty as a land certificate. Thus, many inherited lands are situated in a gray space between customary recognition, social legitimacy, and the need for formal legal certainty.

Historically, before the birth of Law Number 5 of 1960 concerning the Basic Regulations on Agrarian Principles (UUPA), Indonesia still inherited the dualism of land law. Western civil law applies to European and Oriental Foreigners, while customary law applies to indigenous peoples.<sup>4</sup> In this system, documents such as verponding, girik, or sale and purchase letters ratified by the village head only serve as initial proof of ownership, but are not absolute proof of land rights. After the enactment of the UUPA in 1960, the land system in Indonesia underwent a process of systematization. Land rights that were previously sourced from Western customary and civil law are converted into rights recognized in the national legal system, such as property rights, business use rights, use rights, and others.

As a follow-up, the government issued Government Regulation Number 24 of 1997 concerning Land Registration which requires the registration of land rights as a means to ensure legal certainty. Land certificate based on Article 19 of the UUPA jo. Article 32 of GR 24/1997 is stipulated as strong evidence regarding ownership. However, this transition process does not run evenly at all levels of society. Many communities, especially those in rural or customary areas, still rely on traditional documents that are passed down from generation to generation. Limited access, lack of legal understanding, and hard-to-reach geographical conditions also slow down the process of certifying heritage land.

In order to strengthen land legality, the government issued Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Flats Units, and Land Registration. This regulation is a derivative of Law Number 11 of 2020 concerning Job Creation. Article 96 of the regulation emphasizes that all old evidence such as girik, letter C, tax peg, or village letter must be formally registered no later than five years after the regulation takes effect, namely until February 2, 2026. If registration is not made, Article 97 states that the old document can only be used as administrative instructions, not as valid legal evidence.

This provision reflects the government's efforts to strengthen the certainty of land law and integrate all forms of proof of ownership into the national legal system. However,

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<sup>2</sup> Dhani, R. R. (2025). Legal Certainty In Certificates Of Inheritance Rights That Have Not Been Named In The Name Of Property Rights. *Journal Of Innovative Research*, 5(1), 169-176.

<sup>3</sup> Erwin, F. Q., Purba, H., & Sembiring, R. (2025). Legal Implications Of The Negative Land Registration Publication System With A Positive Tendency In The Case Of The Issuance Of A Certificate Of Title From The Heir To One Of The Heirs Without The Consent Of The Other Heirs. *Lex Generalis Law Journal*, 6(6).

<sup>4</sup> Darmayanti, K. N. (2020). The Role Of Customary Law In The Development Of Agrarian Law In Indonesia. *Journal Of Civic Education Undiksha*, 8(3), 230-238.

on the other hand, this regulation raises its own concerns, especially for people who have only relied on traditional documents. For them, this administrative obligation can present additional burdens, both in terms of cost, time, and accessibility. Concerns are even greater for indigenous peoples whose ownership system is still based on unwritten laws. The formalization of ownership in the form of certificates often clashes with the principle of communality in customary law. Thus, the implementation of Articles 96 and 97 of PP 18/2021 poses a dilemma: on the one hand it promises legal certainty, but on the other hand it has the potential to cause marginalization of certain groups of people.

The government seeks to close this gap through the Complete Systematic Land Registration (PTSL) program, which is aimed at speeding up the land certification process. Data from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency shows that until April 2025 there are 121.64 million land plots in Indonesia that have been mapped. However, only 94.1 million land plots have been certified.<sup>5</sup> This figure shows a significant achievement, but still leaves problems because there are still a number of land plots that have not been certified. These remaining plots of land are the most vulnerable to becoming the object of dispute, considering that the absence of certificates makes their legal position weak.

This condition shows the existence of a dichotomy between formal legal certainty and substantive justice. Formal legal certainty emphasizes the importance of certificates as strong evidence of ownership, while substantive justice emphasizes recognition of historical and social rights of communities that may be hampered in formal processes. If the legal provisions only focus on the formality aspect without considering social reality, then what happens is a reduction in the legitimacy of people's rights that are actually legally valid in terms of customs and morals. Therefore, the issue of inherited land without a certificate is not only an administrative problem, but also concerns social legitimacy and justice for the heirs.

The problem is increasingly complex when it is associated with the dynamics of national development. Land is a major factor in economic activities, investment, and infrastructure development. Unclear status of inherited land ownership can be an obstacle to sustainable development, as it creates legal uncertainty for interested parties. In this context, land registration policies should be understood not only as an administrative instrument, but also as a means to provide fair legal protection, while ensuring that people's rights are respected.

The urgency of this research lies in the need to understand more deeply the legal consequences of not registering inheritance land within the deadline determined by Article 96 of GR 18/2021. The main question that arises is whether the legitimacy of land rights really vanishes when old documents are no longer recognized as valid evidence, or whether

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<sup>5</sup> Almadinah Putri Brilian, "121 Million Land Plots In Indonesia Have Been Mapped, But Only 94 Million Are Certified," *Detikproperti*, April 21, 2025, Accessed September 1, 2025, At 04.54 WIB, <https://www.detik.com/properti/berita/d-7878171/121-juta-bidang-tanah-di-ri-sudah-dipetakan-tapi-baru-94-juta-bersertifikat>.

there is still room for recognition through moral, historical, and substantive justice approaches. In addition, it is important to examine how the national legal system can provide proportionate protection for heirs who are in good faith but face procedural obstacles.

Thus, this study seeks to highlight the balance between formal legal certainty and substantive justice in the context of inherited land. Through normative juridical analysis supported by empirical data from the implementation of the PTSL program, this research is expected to be able to contribute to the development of a more inclusive land policy. The ultimate goal is for people's rights to land not only to be formally recognized, but also to be substantively protected, so as to create a land law system that is fair, proportionate, and responsive to the needs of the community.

## B. Research Method

This research is a legal research that aims to analyze the legal consequences of inherited land that has not been certified based on Article 96 of Government Regulation Number 18 of 2021. The method used is normative juridical with limited empirical approach support. Normative legal research was chosen because the main focus lies in the study of positive legal norms that govern land registration, especially related to inherited land that has not been certified. The legal norms studied include Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA), Civil Code, Government Regulation Number 24 of 1997 concerning Land Registration, and related implementing regulations. The data were analyzed using a descriptive qualitative analysis method with a deductive pattern, which is to draw conclusions from general provisions towards answers to problem formulations. With this method, the research seeks to understand the consequences of inherited land law that has not been certified in a normative perspective while considering the social reality in the field.

## C. Results and Discussion

### 1. Legal Consequences of Not Registering Inheritance Land within the Deadline of Article 96 PP No. 18 of 2021

Changes to land registration rules introduced through Government Regulation Number 18 of 2021 (*PP 18/2021*) have significant consequences for traditional documents that have been used as proof of land ownership.<sup>6</sup> Documents such as girik, tax tap, Letter C, pipil, verponding, or local inheritance documents, which previously had a strong position in proving rights, are now placed in a new status. According to Article 96 of PP 18/2021, written evidence of used customary land owned by individuals must be registered no later than five years from the enactment of this regulation, namely February 2, 2021. If the period of time has passed, the document no longer has formal evidentiary power over the land, but can only be used as an administrative guide in the registration process. Article 97 emphasizes that land

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<sup>6</sup> Ratrisnanti, L. (2025). Juridical Implications Of Ownership Of Letter C, Patuk D, And Landrente After The Enactment Of PP 18 2021. *Prosecutor: Journal Of Legal And Political Studies*, 3(1), 19-30.

certificates, compensation certificates, village certificates, and the like issued by the village head, village head, or sub-district head can only be used as administrative instructions, not as evidence of binding rights.

Systematically, this provision has two main functions. First, Article 96 functions as an obligation *to register* norm accompanied by proof sanctions in the form of degradation of the power of traditional documents. Second, Article 97 establishes probationary classifications for local administrative documents. These norms clearly close the space for reasoning that previously allowed old evidence such as girik or Letter C to be used as the basis for civil disputes. In other words, traditional documents are transferred from the main role to a purely administrative support function. This legal policy is intended to accelerate the legalization of land plots that still use old evidence, while increasing legal certainty in national land administration.

This condition poses a practical dilemma. On the one hand, the state demands administrative order to ensure the certainty of data and rights; On the other hand, social and economic realities, including customary inheritance practices, geographical barriers, registration fees, bureaucracy, and limited access to information make many heirs still rely on traditional documents. In the context of inheritance, the transfer of land can only be done after registration is made in the name of the heirs. This means, as long as the inherited land has not been certified, the heirs cannot carry out legal acts such as buying and selling, grants, or other transfer of rights. Thus, the enactment of Article 96 PP 18/2021 provides legal limitations intended to protect the rights of heirs, but at the same time limits the economic use of land.

GR 18/2021 also regulates the status of land used to be western rights (*eigendom*), land formerly owned by customs, and land swapraja or former swapraja. Western rights land that was not converted into a right of use before September 24, 1980 became state land again. Article 95 paragraph (1) of GR 18/2021 states that written evidence of land used by western rights is not valid, and registration can only be done through a statement of physical possession known by two witnesses who meet certain criteria, such as not having a family relationship with the applicant up to the second degree and being a long-time resident or local customary elder. Land used to be owned by customary property is proven through girik, petuk, pipil, kekitir, verponding, or other legal written evidence before the enactment of this PP, including a deed of transfer of rights under the hands witnessed by the customary head or village/village official.<sup>7</sup> If these lands are not registered within five years, the written evidence is no longer valid and can only be used as an administrative guide. This shows that GR 18/2021 expressly forces an administrative transition from the traditional evidence regime to the modern evidence regime in the form of certificates or land books.

On the other hand, swapraja land or former swapraja land is regulated in Article 98 PP 18/2021 as land that is directly controlled by the state, unless it has been

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<sup>7</sup> Winata, M. N. (2021). Analysis Of Evidence Of Old Rights As An Indication Of Ownership Of Land Rights According To Government Regulation Number 18 Of 2021. *Indonesian Notary*, 3(3), 44.

specifically regulated in the law, such as swapraja land in Yogyakarta which is regulated by Law Number 13 of 2012 concerning DIY Privileges. Swapraja land that is still controlled by other parties can be given to those who cultivate in good faith, affirming the principle *of possession in good faith*.<sup>8</sup> This provision also provides an administrative basis for land control and registration that was previously informal, and emphasizes the need to legalize land status through official mechanisms.

Thus, the legal basis of PP 18/2021 establishes a new framework that emphasizes formal registration as a prerequisite for the recognition of rights to inherited or customary land. Traditional documents that have been used as proof of ownership are no longer enough to legally transfer rights, and the five-year registration requirement is a tipping point for inheritance owners. Consequently, not registering inheritance land in a timely manner has direct implications for the loss of formal evidentiary power.

The consequences of not registering inheritance land within the deadline of Article 96 GR 18/2021 are very real for the heirs, both practically and juridically. From a legal perspective, traditional documents such as girik, petuk pajak, or Letter C which have been the basis for rights claims no longer have formal evidentiary force. This means that if the heirs want to perform a legal act—for example, selling, granting, or pledging inherited land—they face serious obstacles because they do not have a legally recognized certificate or proof of registration. This creates high legal uncertainty, especially in buying and selling transactions with third parties or when facing disputes. The buyer or bank creditor requires formal proof of ownership (certificate) as a prerequisite, so that inherited land that is only supported by old evidence becomes difficult to use economically.

In judicial practice, this provision affects the burden of proof (*bewijslast*). Supreme Court decisions, such as Supreme Court No. 273 K/Pdt/2018, show that inherited land that is only supported by girik or Letter C is often not accepted as the main evidence.<sup>9</sup> The judge requires additional evidence in the form of credible witnesses, evidence of continuity of control, or other documents that show good faith and physical control. Consequently, heirs who fail to register their land on time will have to fight harder in court to prove ownership. This process is not only time-consuming and costly, but it also risks giving rise to varied decisions because judges interpret them differently.

The socio-economic impact is also significant. Inherited land that has not been certified often causes stagnation in utilization. Heirs are reluctant to manage or cultivate the land because of the unclear legal status, so the land can be left abandoned. This is contrary to Article 6 of the UUPA which affirms the social function of land rights, land

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<sup>8</sup> Sartika, Dwi. "THE TRANSFER OF LAND RIGHTS BY SALE AND PURCHASE ACT CARRIED OUT IN BAD FAITH." *GOVERNANCE: Scientific Journal Of Local Political And Development Studies* 10.2 (2023).

<sup>9</sup> Pantjo'u, A. B., & Thalib, P. (2022). The Distribution Of Productive Inheritance Is Reviewed Based On The Burgerlijk Wetboek Inheritance Law. *Notary*, 5(1).

must provide benefits for the welfare of the community. Unmanaged heritage land also increases the risk of conflict with third parties who want to control or utilize the land, including the practice of land grabbing or mafia. Field studies in areas such as Jepara and Demaan show that inheritance land disputes with Letter C as the main evidence are still very high because heirs have difficulty completing registration due to costs, distance to BPN offices, or internal family disputes.

The perspective of legal theory reinforces this analysis. Ter Haar emphasized that customary law or *levend recht* is only formally recognized when it is outlined in a binding official decree, for example by the village head or administrative official.<sup>10</sup> Inherited land that has not been formally registered is in liminal legal status: recognized by the community customarily, but not fully recognized in the national legal system. Radbruch added that formal legal certainty must be balanced with substantive justice.<sup>11</sup> If the rigid application of Article 96 PP 18/2021 results in a well-meaning heir losing his rights because he is unable to register on time, this can be considered a violation of the principle of justice (*summum ius, summa iniuria*). Satjipto Rahardjo also emphasized the importance of progressive law that favors the weak, so that special protection for poor heirs or indigenous groups is very relevant.<sup>12</sup>

The government's Complete Systematic Land Registration Program (PTSL) aims to answer this problem by targeting the registration of all land plots until 2025. BPN data shows that until 2024, 95.9% of land plots have been registered, but there is still a significant gap in several regions, for example Jepara where only 64.34% of land plots are certified.<sup>13</sup> This data shows that despite the PTSL program, many inheritance lands are still uncertified, so heirs face the risk of losing formal evidentiary power after the February 2, 2026 deadline. Logistical barriers, costs, and internal family conflicts are the main factors in late enrollment.

Juridically, heirs who do not register the land are at risk of facing disputes in court. Several district court decisions, such as the Atambua District Court (2019) and the Bangli District Court (2019), affirm that land possession by unauthorized parties is an unlawful act. However, when traditional evidence becomes the only means of proof, judges face a dilemma between legal formality and recognition of customary rights or continuity of control. These variations in the verdict led to legal uncertainty, which ultimately emphasized the need for additional evidence in the form of credible witnesses, supporting documents, or evidence of physical possession to assert the right.

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<sup>10</sup> Alfariel, E. A., Abidin, F. A., Wardana, M. K., & Alfatoni, M. A. (2025). Basic Understanding In Customary Law. *Taruna Law: Journal Of Law And Sharia*, 3(02), 142-159.

<sup>11</sup> Anisyaniawati, A., & Alyanti Chandra, H. (2024). The Concept Of Law And Justice In The Thought Of Gustav Radbruch. *Praxis: Journal Of Applied Philosophy*, 2(01).

<sup>12</sup> Hazmi, R., & M.H. SH. (2024). Theory And Concept. *Introduction To Progressive Law*, Gita Lentera: West Sumatra. P. 20

<sup>13</sup> Wandu, "ATR/BPN Records 95.9 Percent Of Registered Land Through PTSL, Target To Complete 5.1 Million Fields In 2025," *Infopublik*, January 7, 2025, Accessed August 25, 2025, At 05.13 WIB, <https://infopublik.id/kategori/nasional-ekonomi-bisnis/897147/atr-bpn-catat-95-9-persen-tanah-terdaftar-lewat-ptsl-target-tuntaskan-5-1-juta-bidang-di-2025>.

Thus, not registering inheritance land within the deadline of Article 96 GR 18/2021 results in double consequences. Formally legal, traditional documents lose their probative power. Socially and economically, land becomes less productive and prone to disputes. From a substantive justice perspective, vulnerable groups, including poor heirs or indigenous peoples, are at risk of being harmed. Therefore, the implementation of PP 18/2021 must be accompanied by affirmative policies, such as subsidies for registration fees, administrative counseling, and special legal protection so that the goal of accelerating land registration does not sacrifice good-faith inheritance rights.

A critical analysis of Article 96 of GR 18/2021 confirms that the inheritance land registration policy has a clear goal: to accelerate the legalization of land plots, increase legal certainty, and support agrarian reform through the PTSL program. However, the application of this rule raises a dilemma between legal formality and substantive justice. Heirs who fail to register the land within the deadline face the consequences of losing the power of formal proof, even though in fact the land is still controlled and customarily recognized. In the perspective of legal theory, this phenomenon can be analyzed through several approaches.

First, the legal positivism approach emphasizes certainty and formality. In a positive legal framework, GR 18/2021 emphasizes that old documents can only be used as administrative instructions after the deadline has expired. From the positivist side, there is no loophole for traditional evidence to assert property rights; All evidence must be registered and formally recorded. This reflects the principles of legality and legal certainty which are the pillars of the national agrarian legal system.

Second, the progressive legal perspective emphasizes the protection of the weak and the value of substantive justice. Satjipto Rahardjo emphasized that the law must be on the side of vulnerable groups. In the context of inherited land, poor heirs, indigenous peoples, or parties with administrative difficulties are at risk of being harmed due to cost, distance, and bureaucratic constraints. If the application of Article 96 is carried out rigidly without special compensation or protection, extreme injustice can occur, which according to Radbruch's theory (*summum ius, summa iniuria*) confirms that the supreme law actually causes injustice.

Third, the perspective of customary law (Ter Haar) shows that the recognition of inherited land remains alive in society through *levend recht*, even though it is not formally recognized. Customarily inherited land is recognized by the local community through a system of kinship and physical control. However, without administrative conversion to formal registration, these rights are not recognized in civil disputes in court. Thus, Article 96 functions as a form of *receptio a contrario*, which is to force customary law to be concretized within the framework of state administration.

From a practical perspective, the consequences of not registering inherited land include: (1) loss of formal evidentiary status making it difficult to conduct economic transactions, (2) increased risk of dispute because third parties or land mafias can claim

land rights, and (3) reduced land productivity because heirs are reluctant to manage land without legal certainty. BPN data and field studies show that the inequality of land registration is quite large, especially in rural areas and customary areas. For example, in Jepara, 35.66% of land plots are still uncertified as of February 2024, so heirs face the risk of losing their formal evidentiary power.

In conclusion, Article 96 of GR 18/2021 carries clear legal consequences: if inherited land is not registered within five years, the traditional document loses its formal evidentiary force. This impact affects the ability of heirs to conduct legal transactions, increases the risk of disputes, and raises potential social injustice. Analysis of legal theory shows the need for a balance between formal legal certainty (positivism) and substantive justice (progressive law). Affirmative policies, subsidies, administrative assistance, and recognition of historical evidence can be solutions to ensure that the acceleration of land registration does not sacrifice the right of inheritance in good faith. Careful implementation of PP 18/2021, accompanied by social risk mitigation, will ensure that agrarian reform and legal certainty can be achieved fairly and equitably for all communities.

## 2. Fair Legal Protection for Heirs in Good Faith

In Indonesian land practice, the concept of *good faith* is often key in cases of transfer and proof of rights, especially when formal documents are incomplete.<sup>14</sup> Good faith is measured by the objective behavior of the landowner, reasonable efforts to check the status of rights, and the absence of elements of fraud/concealment of facts. Courts and the practice literature indicate that legal protection is provided when there is strong evidence of good faith but this measure is not standard and depends on the context in which the dispute is made.

In the context of inheritance, the heirs' good faith includes: (1) actual hereditary dominance; (2) there is no indication of fraudulent acts; (3) reasonable administrative efforts (e.g., attempting to register or following registration directions where available). When these elements can be proved, courts tend to give lenient consideration even if the formal evidence is not perfect. However, post-PP 18/2021 the standard of proof has changed: old evidence becomes a clue so that the burden of empirical proof on the heirs increases.

Good faith in the context of land and inheritance means a sincere belief that a person is entitled to the land. Although the Civil Code does not explicitly define "heirs in good faith", in practice it means an heir who occupies, cultivates and pays inheritance land taxes in good faith without the intention of deceiving or concealing claims from other parties.<sup>15</sup> According to the legal explanation (HQnasi), the landholder has not been certified but controls and uses the land in good faith has the right to obtain

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<sup>14</sup> Sartika, D. (2023). THE TRANSFER OF LAND RIGHTS BY SALE AND PURCHASE DEED CARRIED OUT IN BAD FAITH. *GOVERNANCE: Scientific Journal Of Local Political And Development Studies*, 10(2).

<sup>15</sup> Askar, A. (2022). Legal Protection For Buyers In Good Faith In Land Rights Dispute Resolution. *Journal Of Lex Theory (JLT)*, 3(1), 16-32.

the right to the land. Government Regulation No. 24/1997 Articles 32(2) and 27 concerning Land Registration provides a way for people who claim to be heirs to file objections, complaints, and lawsuits to the court to prove their legal ownership.<sup>16</sup> In other words, as long as the heirs act honestly and have a status quo of control, agrarian law recognizes legal protection in line with the principle of the girik holder in the UUPA so that he is not harmed just because the old deed has not become a certificate.

Heirs protection is not enough just with the formal rhetoric of registration; It requires responsive administrative mechanisms, legal assistance support, and consistent judicial standards to assess historical mastery. A combination of affirmative policies, clearer BPN technical guidelines, and access to legal aid can mitigate the most detrimental impact of the PP 18/2021 deadline on vulnerable groups.

Legal protection strategies for heirs in good faith can be pursued through litigation and non-litigation. In litigation, the heirs can file a civil lawsuit in the district court or religious court if the party is Muslim. For example, a lawsuit for an unlawful act (*onrechtmatige daad*) against the party who occupies the land without an inheritance permit, or a lawsuit for the cancellation of the inheritance sale and purchase deed by another heir<sup>17</sup>. Law 5/1960 Article 832 of the Civil Code states that the right of inheritance directly passes to the heirs when the heir dies, so that inheritance disputes become ordinary civil cases.<sup>18</sup> The judge will then weigh the evidence of inheritance, legal division, and good faith of the parties. In practice, an inheritance committee is also formed to certify inherited land; However, in the event of a dispute between the heirs, the court option must be used to determine rights.

The available legal protection mechanisms are:

1. Civil lawsuits accompanied by a evidentiary strategy. The heirs can file a civil lawsuit to assert inheritance/possession rights. Effective strategies include:
  - a. Combining old written evidence (girik, petuk), fiscal proof (SPPT/PBB), family certificates, birth/death certificates, and neighbors/traditional chiefs' witnesses;
  - b. Showing continuity of control and the absence of objections of the other party over a long period;
  - c. Using relevant judicial decisions as an argumentative precedent.

This process has constraints in terms of litigation costs and length of process; Therefore, it is also important to take advantage of the non-litigation route.

2. Mediation and Alternative Resolution

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<sup>16</sup> Kaligis, C. C., Mawuntu, J. R., & Goni, C. J. (2025). LEGAL PROTECTION OF LAND TITLE HOLDERS THROUGH THE SALE AND PURCHASE PROCESS IN THE TRANSFER OF LAND RIGHTS. *LEX ADMINISTRATUM*, 13(1).

<sup>17</sup> Soraya, M., & SH, M. K. (2023). Legal Protection For Buyers Against Lawsuits For Cancellation Of Land Sale And Purchase By The Seller's Heirs. *Lex Patrimonium*, 2(2), 8.

<sup>18</sup> Erlina, B., Ainita, O., & Aini, N. (2023). The Judge's Consideration In The Dispute Over The Transfer Of Ownership Of Inherited Land Controlled By The Ex-Wife Of One Of The Heirs (Study Of Decision No. 41/Pdt. G/2021/PN Bta). *MAQASID*, 12(1).

Mediation provides real benefits because in addition to a faster process, the cost is also relatively lower. This makes it possible to maintain family/communal relationships. Mediation institutions such as courts, BPN, LBH, or customary organizations can accommodate historical evidence and make a joint registration agreement. For example, joint recognition and then registration submission. The PTSL program itself in several regions uses local facilitation mechanisms; Maximizing mediation is expected to reduce the litigation process.

### 3. Non-litigation pathway

This approach utilizes mediation and legal assistance. In the judiciary, Perma No. 1/2016 and the Supreme Court Circular Letter encourage mediation as a quick solution (*win-win solution*). LBH and civil society organizations play a vital role in providing advocacy assistance, administrative assistance with registration, and mediation. The cases LBH handles often show that legal assistance lowers the risk of registration failure and helps prepare strong evidence for the court. For poor or underprivileged heirs, the LBH network is a practical path to access justice.

Many inheritance disputes can be resolved by mediation between families assisted by a neutral mediator. Legal Aid Institutions (LBH) also often play an active role, assisting poor heirs to fight for their legal rights. For example, in the inheritance land dispute in Kediri, LBH Disgram accompanied the heirs to affirm that the mutation of the inheritance certificate must involve all heirs as stipulated in PP 24/1997 Article 42 and that unilateral management of inheritance assets without full consent is a violation of the law. As a result, the parties entered the mediation process to seek a mutual agreement. In addition, villages/sub-districts can also be facilitated by customary forums or inheritance committees for family mediation. However, the barriers to access to justice are still large for heirs in good faith. The cost of court cases, the cost of advocates, and the distance of the law office make it difficult for the underprivileged. A study highlights that dispute resolution through customary courts is much cheaper and more affordable than formal procedures that require high costs and difficult access. Low legal awareness and agrarian literacy also make many heirs not understand their rights; Some are even trapped by the seduction of developers or land mafias who promise to accelerate certificates.

GR 18/2021 provides space for a registration mechanism based on a declaration of tenure (for example for land former Western rights), as well as an implementing regulation that explains the procedures for recognizing customary rights and registration for the first time. However, the effectiveness of this mechanism depends on socialization, the availability of BPN services in the regions, and financing policies (e.g., BPHTB exemption for the poor). Therefore, the active role of the Ministry of ATR/BPN is important both through PTSL, affirmative programs, and cooperation with local governments. Government data shows that despite the massive PTSL, the remaining 5.1 million fields (4.1%) have not been completed until 2025, mainly spread

across suburban areas and remote customary areas.

The government through ATR/BPN has recorded a major achievement in the PTSL program: millions of fields have been registered and certified, but there are still gaps (mapped vs certified fields) as well as challenges in registering customary lands and remote areas. This means that despite the administrative infrastructure, implementation on the ground has not fully reached the most vulnerable beneficiaries. For this reason, the following recommendations are worth considering, namely by providing a subsidy for registration fees for poor groups, a mobilization program for registration of villages, and a special mechanism for customary land registration involving indigenous leaders. This means that there are still millions of families, including heirs in good faith, who are waiting for access to registration.

Regulatory reforms are needed, for example clarifying the procedures for the distribution of collective inheritance or providing financing assistance. The state has also affirmed its responsibility. Law No. 16/2011 on Legal Aid guarantees the provision of free legal aid for the poor as a form of access to justice. With the support of LBH and the government's legal aid program, underprivileged heirs can be accompanied to file lawsuits or objections. In a normative and juridical-sociological perspective, the protection of good-faith heirs must balance formal procedural and substantive justice values.

Cases that successfully defend the rights of the heirs usually have a combination of physical evidence (continuous possession), supporting documentation (SPPT/PBB, old receipts), credible witnesses, and good legal advocacy. Favorable rulings often affirm the principle of good faith protection when the evidence shows that there is no element of fraud. Meanwhile, failure occurs when the heirs are unable to present evidence of continuity or are faced with false documents and the opposing party who has the certificate in another name. These cases illustrate how administrative incompetence and cost are determinants of disenfranchisement. Case studies and theses illustrate repeated examples of failure in remote areas.

Radbruch's approach demands that the law uphold not only certainty, but also justice.<sup>19</sup> Progressive legal theorist Satjipto Rahardjo teaches that the judiciary must be pro-justice and take sides with the weak.<sup>20</sup> This means that the court or mediator must consider the socio-economic conditions of the heirs, for example, tolerating administrative shortcomings as long as the good faith is clear. Similar cases in Indonesia show that when heirs in good faith publicly corroborate their claims, they generally obtain a fair verdict. On the other hand, the party who deceives or violates the law will be held accountable. Thus, the conclusion is: legal protection for heirs in good faith should be proactive. The state must provide preventive (mediation) and

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<sup>19</sup> Anisyaniawati, A., & Alyanti Chandra, H. (2024). The Concept Of Law And Justice In The Thought Of Gustav Radbruch. *Praxis: Journal Of Applied Philosophy*, 2(01).

<sup>20</sup> Nusantara, R. H. G., & Harahap, N. T. H. (2025). PHILOSOPHY OF LAW AND SOCIAL JUSTICE: A THEORETICAL ANALYSIS OF THE ROLE OF LAW IN REALIZING THE WELFARE OF THE COMMUNITY. *Nusantara: Journal Of Education, Arts, Science And Social Humanities*, 3(01).

repressive efforts (through the courts) so that its inheritance rights are enforced. Reform of inheritance and land rules needs to be strengthened so that the process of distributing inheritance does not become a social disaster. Thus, sincere heirs do not lose their ancestral homes solely because of bureaucratic constraints.

#### **D. Conclusion and Recommendations**

Based on the discussion of the legal consequences of not registering inheritance land within the deadline of Article 96 Government Regulation No. 18 of 2021, it can be concluded that non-compliance with the registration obligation results in the loss of formal evidentiary power for traditional documents such as girik, tax picking, or Letter C, which after the deadline can only be used as an administrative guide. Losing this formal status poses significant legal and economic risks for the heirs, as they have difficulty performing legal acts on inherited land, including buying and selling, grants, or transfer of rights, as well as opening up opportunities for third-party disputes or claims, including land mafia practices. From a positive legal perspective, this regulation emphasizes the importance of legal certainty and administrative formalities in order to accelerate land registration, but from the perspective of progressive law and customary law, these provisions have the potential to cause injustice for vulnerable groups or indigenous peoples who have good faith but are constrained by administrative factors, costs, or access. Therefore, affirmative policies from the government are needed, such as subsidizing registration fees, administrative assistance, intensive socialization, extension of deadlines for heirs in good faith, and recognition of historical evidence and continuity of physical possession. The proper and balanced implementation of Article 96 of GR 18/2021 is very important to ensure that the acceleration of agrarian reform and national legal certainty do not sacrifice social justice and legitimate inheritance rights. Thus, non-compliance with the obligation to register inherited land puts the rights of heirs in a formally vulnerable position, while at the same time demanding the existence of a legal mechanism that balances legal certainty and substantive justice.

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