



Legal Implementation of the Cancellation of Grants to Adoptive Children who Neglect the Grantor Based on the Civil Code

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Abstract: The judge granted the plaintiff's claim to cancel the grant deed, returning the grant object to the grantor. The decision was based on the judge's consideration that the adopted child, as the grantee, had neglected the adoptive parents. However, this decision contradicts the Civil Code, which states that adopted children are not heirs and therefore are not obliged to provide alimony to their adoptive parents. This research addresses the legal gap regarding the obligation of alimony from adopted children to adoptive parents, which causes legal uncertainty. The study uses normative legal methods, focusing on primary and secondary legal materials, and examines the norms within the legislation. The Civil Code defines a grant as a free gift made by a person to another while still alive. However, the alimony obligation in the Civil Code only applies to biological children, not adopted children. This legal vacuum complicates the application of the principle of grant cancellation in the context of adopted children, even though there is a legal basis for canceling a grant if the recipient fails to provide alimony to the grantor. This research highlights the need for legal clarity to address this issue.

Keywords: *Adopted Child; Grant; Cancellation of Grant; Alimony Obligation*

595



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INTRODUCTION

The precept of social justice in Indonesia mandates that every individual has the same rights and opportunities to benefit from land for themselves and their families.¹ This principle is particularly aimed at ensuring that those who cannot obtain land rights are still provided with equitable opportunities. According to Nugroho, land for Indonesians holds multi-dimensional significance: economically, it is a means of production that can bring welfare; politically, it determines one's position in community decision-making; culturally, it signifies social status; and spiritually, it is sacred, involving inheritance and religious beliefs.²

The transfer of land rights is a legal act aimed at transferring ownership from one party to another, with grants being a common method. Grants are made voluntarily by capable grantors without expecting anything in return. According to Article 1676 of the Civil Code, everyone is permitted to give or receive grants, except those legally deemed incapable. Parents often grant land to adopted children for their welfare. However, the Civil Code does not recognize adopted children as heirs, creating a gap in inheritance rights, which traditionally arise from blood relations or marital ties.

A grant is an obligation arising from an agreement, necessitating the creation of an authentic grant deed before a notary, as mandated by Article 1682 of the Civil Code for immovable objects. Land issues in Indonesia frequently cause disputes and uncertainty regarding legal land rights. The object of land grants often becomes a source of conflict, leading to retraction due to various factors. Article 1688 of the Civil Code states that grants cannot be withdrawn, except under certain conditions, such as the grantee's refusal to provide maintenance to the grantor. Because a grant is an obligation born from an agreement, it is necessary to make a grant deed authentically or before a notary. As stated in Article 1682 of the Civil Code, grants of immovable objects

¹ Iwan Permadi, *Hak Atas Tanah Bagi Warga Negara Asing* (Malang: Gunung Samudra, 2014), 20.

² Iwan Permadi, "Perlindungan Hukum Terhadap Petani Penggarap Tanah Negara Milik Perum Perhutani," *Arena Hukum* 9, no. 2 (August 1, 2016): 140, <https://doi.org/10.21776/ub.arenahukum.2016.00902.5>.



are made using notarial deeds/authentic deeds. The aspect of land in Indonesia always causes problems that have a negative impact and cause doubts for people who want legal certainty of land rights in their control.³

This issue was highlighted in a case between Mrs. Suparmi (Plaintiff) and her adopted son, Herry Teguh Listiawan (Defendant), regarding the cancellation of a grant deed issued in 2012 (Grant Deed Number: 228/TJN/2012). The defendant neglected his adoptive parents for approximately eight years after leaving with his family in 2013, failing to provide any maintenance. The plaintiff, facing economic hardship and poor health, sought to retract the grant. In decision No.38/Pdt.G/2021/PN. Bla, the judge ruled in favor of the plaintiff, cancelling the grant deed and returning the grant object to the grantor. The decision was based on the grantee's neglect of the adoptive parents, despite the contradiction in the Civil Code, which does not obligate adopted children to provide alimony to adoptive parents.

In decision No.38/Pdt.G/2021/PN. Bla. The judge granted the plaintiff's claim to cancel the grant deed and the grant object returned to the rights of the grantor. With the judge's consideration that the adopted child, in this case the grantee, has neglected the adoptive parents as the grantor, as evidenced by the arguments presented at the trial. This contradiction highlights a significant legal gap and uncertainty regarding the obligations of adopted children towards adoptive parents. The existing legal framework fails to address the welfare interests of adoptive parents adequately, necessitating a reevaluation of the relevant laws to ensure fairness and justice.

THEORETICAL BASIS

The theory used as an analytical knife to answer and analyze existing problems, as well as the basis for the foundation, is the theory of legal certainty and legal justice as follows:

1. Legal Certainty Theory

The theory of legal certainty contains 2 meanings, namely first, the existence of general rules that make individuals know what actions can or cannot be done, and second, in the form of legal security for individuals from

³ Iwan Permadi, "Potensi Sengketa Hak Atas Tanah Di Indonesia," *JUSTISI* 9, no. 2 (May 24, 2023): 201–16, <https://doi.org/10.33506/jurnaljustisi.v9i2.2345>.



government arbitrariness because of the general rule of law that individuals can know what the state can impose or do to individuals. Legal certainty is not only in the form of articles in the law but also the consistency in the judge's decision between one judge's decision and another judge's decision for a similar case that has been decided⁴.

The word "certainty" is closely related to the principle of truth, which is something that can be strictly syllogized legally. Through deductive logic, positive legal rules are placed as major premises, while concrete events become minor premises. Through a closed system of logic, the conclusions will immediately be obtained. The conclusion must be something predictable, so that everyone is obliged to adhere to it. It is with this guidance that society becomes orderly. Therefore, certainty will lead society to order⁵.

According to Gustav Radbruch in another source, there are two kinds of understanding of legal certainty, namely legal certainty by law and legal certainty in or from law. Law that successfully guarantees a lot of legal certainty in society is a useful law. Legal certainty by law gives another legal duty, namely legal justice and the law must remain useful. While legal certainty in law is achieved if the law is as much as possible in the law⁶.

The theory of legal certainty in this research is used as the basis for analyzing the annulment of grant deeds, meaning that with the existence of law everyone knows what their rights and obligations are in law.

2. Theory of Justice

Theo Huijbers explains justice according to Aristotle in addition to general virtues, also justice as a special moral virtue, which relates to human attitudes in a particular field, namely determining good relations between people, and balance between two parties, the measure of this balance is

⁴ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum, Kencana Pranada* (Jakarta: Kencana Prenada Media Group, 2008), 158.

⁵ Arief Sidharta, *Meuwissen Tentang Pengembangan Hukum, Ilmu Hukum, Teori Hukum Dan Filsafat Hukum*, Cet. 4 (Bandung: PT Refika Aditama, 2013), 8.

⁶ Esmi Warassih Pujirahayu, "Implementasi Kebijakan Pemerintah Melalui Peraturan Perundang-Undangan Dalam Perspektif Sosiologi: Studi Kebijakan Pemeringah Dalam Kaitannya Dengan Pencemaran Limbah Industri" (PhD Thesis, Universitas Airlangga, 1991), 85, <https://repository.unair.ac.id/119178/>.



numerical and proportional equality⁷. This is because Aristotle understood justice in terms of equality. In numerical equality, every human being is equalized in one unit. For example, all people are equal before the law. Then proportional equality is giving each person what he is entitled to, according to his abilities and achievements⁸.

According to Thomas Hobbes, justice is an act that can be said to be fair if it is based on an agreed agreement⁹. From this statement, it can be concluded that justice or a sense of fairness can only be achieved when there is an agreement between two parties who promise. Agreement here is interpreted in a broad form not only limited to the agreement of two parties who are entering into a business contract, lease, and others. But the agreement here is also an agreement on the verdict between the judge and the defendant, laws and regulations that do not favor one party but prioritize the interests and welfare of the public.

So, in the problem that the author discusses, the author uses the theory of justice, and legal justice means that it should not take sides and sympathize with others subjectively. The law should be a judge who is not neutral, but always takes sides, namely partiality to the truth and justice is used to examine the justice caused by the grant annulment case to be fair to the disputing parties, especially to protect their respective rights.

RESEARCH METHODS

This research employs normative legal research, where law is conceptualized as what is written in legislation (law in books) and as rules or norms that serve as benchmarks for appropriate human behavior. The study is grounded in both primary and secondary legal materials, focusing on the

⁷ Syaharie Jaang, "Analisis Perlindungan Hukum Terhadap Konsumen Berdasarkan Prinsip Keadilan," *Jurnal Hukum Dan HAM Wara Sains* 2, no. 05 (May 31, 2023): 349–57, <https://doi.org/10.58812/jhhws.v2i05.303>.

⁸ Rudri Musdianto Saputro, "Penegakan Hukum Lingkungan Di Indonesia Ditinjau Dari Teori Keadilan Aristoteles," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 7, no. 1 (January 3, 2023), <https://doi.org/10.58258/jisip.v7i1.3970>.

⁹ Daya Negri Wijaya, "Kontrak Sosial Menurut Thomas Hobbes Dan John Locke," *Jurnal Sosiologi Pendidikan Humanis* 1, no. 2 (December 1, 2016): 183–93, <https://doi.org/10.17977/um021v1i22016p183>.



norms contained within the legislation.¹⁰ Primary legal materials include the relevant statutes and regulations that directly pertain to the issues under investigation. Secondary legal materials consist of legal commentaries, case law, and academic articles that provide context and interpretation of the primary sources.

The research approach involves a detailed examination of the Civil Code and other pertinent legal documents to identify gaps and inconsistencies in the legal treatment of grants to adopted children. Data collection involves a systematic review of legal texts, judicial decisions, and scholarly works to ensure a comprehensive understanding of the subject matter. Data analysis is conducted through qualitative methods, interpreting the legal provisions and their application in real-world scenarios. The reliability and validity of the results are ensured by cross-referencing multiple legal sources and interpretations. This methodology enables a thorough evaluation of the appropriateness of the legal provisions and the practical implications of their application. By clearly outlining the research approach, subjects of the study, and data analysis techniques, this section provides sufficient detail for replication and further research. Ethical considerations are observed in the use of legal texts and case studies, ensuring that all sources are appropriately cited and interpreted within the legal and ethical frameworks.

RESULT AND DISCUSSION

Regulation of Grant Annulment Against Adopted Children Who Neglect the Grantor in The Civil Code

Grants are meticulously regulated in the Civil Code, specifically in Articles 1666-1693, which are divided into four sections. Article 1667 of the Civil Code defines a grant as a gift made by one person to another while still alive, with the distribution typically occurring during the lifetime of the grantor. According to Article 1882, grants involving immovable goods must be made by notarial deed, whereas grants of movable goods can be made without such formalities. A notarial deed is an absolute requirement for the

¹⁰ Amiruddin and Zainal Asikin, *Pengantar Metode Penelitian Hukum* (Depok: PT RajaGrafindo Persada, 2016), 118.



validity of a grant involving immovable property; any grant made outside of these formalities is considered void.¹¹

Grants are characterized by their unilateral nature, where the obligation is solely on the grantor, and the grantee has no reciprocal obligation. The essential elements of a grant include the unilateral agreement and the assets as the object of the agreement. The grant involves the free transfer of property by the grantor, who includes movable or immovable property with a nominal value.¹² The intention is to benefit the grantee, who receives the grant object without any financial obligation, except to maintain the grant object. The objects of the grant can be movable or immovable assets, such as land, buildings, money, cars, or other goods. Once the grant is made and the object received, it cannot be revoked unless otherwise regulated by law.

According to Article 1667, grants must involve existing objects. If a grant includes objects that will exist in the future, such grants are null and void. The granting process must involve a notarial deed, with the original deed kept by the relevant land deed official. A grant becomes legally binding and effective on the day it is explicitly stated and accepted by the grantee or authorized by an authentic deed. This requirement ensures the legal certainty and validity of the grant, protecting the interests of both the grantor and the grantee.

Grant Arrangements in the Civil Code

Grants are regulated in the Civil Code, divided into 4 parts and contain Articles 1666-1693, in Article 1667 of the Civil Code it is explained that a grant is a gift made by someone to another party made while still alive and the distribution is usually carried out when the grantee is still alive. Grants must be made by notarial deed in accordance with Article 1882 of the Civil Code, especially for immovable goods, while for movable goods can be granted just like that, so that grants made outside of that are void. This notarial

¹¹ Karleen Gribble et al., "Enduring Familial Relationships and Identity Preservation Make Simple Adoption the Preferred Permanency Option for Children in Out-of-Home Care," *Australian Social Work* 77, no. 2 (April 2, 2024): 296–310, <https://doi.org/10.1080/0312407X.2022.2105163>.

¹² Elizabeth Lyttle, Paul McCafferty, and Brian J. Taylor, "Experiences of Adoption Disruption: Parents' Perspectives," *Child Care in Practice* 30, no. 3 (July 2, 2024): 333–52, <https://doi.org/10.1080/13575279.2021.1941767>.



deed is an absolute requirement for the validity of a grant, so if the grant is made under the hand, it is void.¹³

Grants in it have a one-sided character, because the burden of obligation is only burdened by the grantor, while the grantee has no obligation, The elements of the grant include:

1. In the form of a unilateral agreement with the free transfer of property, it is only the grantor who makes the agreement by including property that will be movable / immovable which has a nominal value. There is an intention to benefit the grantee, profitable in terms of receiving the grant object that will be received free of charge, receiving by not paying a penny, only obliged to maintain the grant object.
2. Assets as the object of the agreement, are movable or immovable assets, such as land and buildings, a sum of money, cars or other movable / immovable goods. What is granted cannot be taken back, what has been received based on the grant agreement cannot be taken back, unless other laws regulate it.

Based on Article 1667 of the Civil Code, grants can only be in the form of objects that already exist. If the grant includes objects that will exist in the future, then just about it his grant is canceled. Then, based on the Civil Code, the granting process must be through a notarial deed, the original of which is kept by the relevant land deed official. A grant is binding and has legal effect if on the day of the grant it is expressly stated and accepted by the grantee or by an authentic deed has been authorized to another person.

Cancellation of Grant in Civil Code

Regarding the reasons for canceling a grant, the cancellation of a grant is regulated in Article 1668 of the Civil Code, which states that a grant cannot be revoked or abolished by itself, except in the following cases:

1. Due to the non-fulfillment of the conditions with the name of the grantor that has been done;

¹³ Robyn M. Powell et al., "Child Welfare System Inequities Experienced by Disabled Parents: Towards a Conceptual Framework," *Disability & Society* 39, no. 2 (February 7, 2024): 291-318, <https://doi.org/10.1080/09687599.2022.2071675>.



2. If the grantee has been guilty of committing or assisting in the commission of a crime aimed at taking the life of the grantor or a grant of another crime against the grantor;
3. If he refuses to give alimony to the donor after he has fallen into poverty.

According to the provisions of Civil Code Article 1688, the reasons that can cancel a grant that has been given by the grantor to the grantee are clearly seen. Withdrawal of the grant is done by stating his will to the grantee. Accompanied by the prosecution of goods that have been granted Where the withdrawal of this grant one party must defend its rights from the other party burdened to perform an obligation¹⁴

In the Civil Code, grant cancellation is generally regulated in Articles 1686-1706. These articles outline the legal basis for filing a lawsuit for the annulment of a grant with the various reasons stated therein. The articles cover various aspects of grant cancellation, including the requirements, procedures for filing a lawsuit, and the consequences of grant cancellation.

A grant can be withdrawn or deleted by expressing the wish to the grantor accompanied by a demand to the court. If the grantee does not fulfill this obligation in good faith, the court becomes the avenue to take back the goods that are the object of the grant. However, if the goods to be granted are still with the grantor and have not been handed over, then the grantee can no longer demand the goods.

Cancellation of Grant Deed Made before Land Deed Official (PPAT)

Based on the applicable legal rules, the process of canceling a grant deed that has been made before a Land Deed Official follows the provisions regarding the cancellation of PPAT deeds contained in Article 46 paragraph (1) letter g of Government Regulation Number 24 of 1997 concerning Land Registration: "The head of the land office refuses to register the transfer of rights or encumbrance of rights if the legal action as referred to in Article 37 paragraph (1) of Government Regulation Number 24 of 1997 is canceled by the parties before it is registered by the land office."

¹⁴ Siah Khosyi'ah and Ayi Yunus Rusyana, "Inheritance Settlement of Descendants of Children and Siblings in Islamic Law with Local Wisdom in Indonesia," *Cogent Social Sciences* 8, no. 1 (December 31, 2022): 2126615, <https://doi.org/10.1080/23311886.2022.2126615>.



A PPAT deed is a means of proof that a legal act has been performed, as stated in the explanation of Article 45 of Government Regulation No. 24 of 1997. Therefore, the applicable PPAT deed will no longer be evidence of the legal act if the legal act is void or canceled. In this case, the registration cannot be canceled even if the parties involved decide to cancel a legal act after the legal act has been registered at the land office. According to the law, changes to land registration information must be supported by additional evidence, such as a PPAT deed relating to the new legal act or a court decision.

When viewed based on Article 45 of PP No. 24/1997 above, there are two provisions regarding the cancellation of PPAT deeds, namely:

1. Cancellation is done before registration with the land office.
2. Cancellation after or in the process of registration at the land office.

As the deed described in the PPAT deed is a civil act of the parties, cancellation made prior to registration with the land office can be done using a notarial deed, also known as a party deed. Meanwhile, in accordance with the provisions of Article 45 of Government Regulation No. 24/1997, annulments made during the registration process at the land office require court approval. The concept of civil law states that if a deed is canceled and no legal action is taken in connection with the cancellation, then all circumstances must be restored to their original state.

The deed made by the parties is a deed of legal action included in the PPAT deed. The parties go to a notary to make a deed of annulment if they agree or have no objection. They then submit an application for annulment by attaching the annulment deed, even though the deed is still in the process of being registered at the land office and there is no dispute. However, if there is disagreement between the parties, one of them can apply to the district court or general court for annulment. This procedure can be used to cancel a PPAT deed that is being registered at the land office. In accordance with Government Regulation No. 24/1997, in article 45, a court decision is required for this process as annulment requires a thorough examination.

Analysis of the Cancellation of Grants to Adopted Children in the Civil Code

In cases where a marriage is not blessed with a child, adopting an adopted child is one way to continue the lineage. With the hope that in old age



there will be someone to take care of and inherit all the wealth. One of the legal consequences of adopting a child is the status of the adopted child as an heir of the adoptive parents, and this status often causes problems in the family. The issue that often arises in the event of a lawsuit is usually whether or not the adoption of the child is valid, as well as the status of the adopted child as the heir of the adoptive parents¹⁵.

The Civil Code does not explicitly contain provisions for adopted children or foster children, except for the stipulations found in Staatsblad No. 129 of 1917, which applies specifically to the Chinese community and only to the adoption of boys. According to Article 12 in conjunction with Article 14 of Staatsblad 1917:129, adopted children within the Chinese community have the same legal status as biological children.¹⁶ This means they are considered as having been born from the marriage of the adopting parents, and their civil relationship with their biological parents is entirely severed. This legal arrangement originally applied only to the Chinese population based on special rules established for that community.¹⁷ Child adoption for foreign Eastern groups, especially the Chinese community. Based on Article 12 jo Article 14 Staatsblad 1917: 129, adopted children have the same legal position as biological children, namely children who are considered to have been born from the marriage of those who have adopted the child and the civil relationship of the adopted child with his biological parents is completely broken. The adoption of children through formal channels (Court) was originally only known in the Chinese population based on special rules for that¹⁸.

¹⁵ Ahmad Kamil and M. Fauzan, *Hukum Perlindungan Dan Pengangkatan Anak Di Indonesia* (Jakarta: Rajawali Pers, RajaGrafindo Persada, 2008), 53.

¹⁶ Sabine Little, "Whose Heritage? What Inheritance?: Conceptualising Family Language Identities," *International Journal of Bilingual Education and Bilingualism* 23, no. 2 (February 7, 2020): 198–212, <https://doi.org/10.1080/13670050.2017.1348463>.

¹⁷ Amran Suadi and Muchammad Taufiq Affandi, "Best Practices in Interconnecting Sharia Arbitration Norms: A Comparative Analysis of Indonesia and Europe," *Indonesian Journal of Islamic Economic Law* 1, no. 1 (December 7, 2023): 23–38, <https://doi.org/10.23917/ijoe.v1i1.3435>.

¹⁸ Zeila Mochtar, "Hak Anak Angkat Atas Harta Warisan Dalam Hukum Perdata," *Lex et Societatis* 1, no. 3 (2013), <https://doi.org/10.35796/les.v1i3.2459>.



In the Civil Code (KUHPer) or BW, there is no provision regulating the conditions for child adoption, so the Dutch East Indies government made a separate regulation on child adoption by issuing staatsblad in 1917 number: 129. Regarding the conditions of child adoption, Staatsblad 1917 No: 129 Article 8 states that there are 4 conditions, namely:

1. Consent of the person who adopted the child.
2. If the adopted child is the legitimate child of the parents, the consent of the parents is required, if the father has died and the mother has remarried, the consent of the guardian and the Wees Kamer as supervisor of the guardian is required.
3. If the adopted child has reached the age of 15, the consent of the child is also required.
4. If the adopter is a widowed woman, the consent of her deceased husband's brother and father, or if no brother or father is living or if they are not resident in Indonesia, the consent of a male member of her deceased husband's family in the male line up to the fourth degree.

An obligation based on Article 1233 of the Civil Code is born due to an agreement or by law. The obligation is intended to give something, to do something, or not to do something. As for grants, it is an obligation born from an agreement, even though it is a free agreement, because there is only an achievement from one party (the grantor), while the grantee has no obligation to provide contra achievements to the grantor.

Through grants from parents to adopted children, it is implemented as an effort to fulfill the welfare rights of children and provide ongoing support and hope that in old age they will still be given the obligation of maintenance. A child born from a legally recognized marriage can create a legal bond with both parents. relationship between the child's parents and the law. Not only do parents have obligations towards their children, but children also have obligations towards their parents. The obligation of children and their offspring to provide for each other is known as the obligation of maintenance or alimony.

Article 298 of the Civil Code stipulates that every child of any age has the obligation to show respect and honor to their parents. So that carrying out their obligations is a mandatory obligation for every child. Furthermore,



Article 321 of the Civil Code stipulates that, "Every child is obliged to provide maintenance to both parents and members of the blood family in the line up if they are poor." Article 323 of the Civil Code emphasizes that the obligations that arise and the provisions regarding alimony relations are reciprocal, which means that in providing for and maintaining the family is not only an obligation from parents to children but also an obligation from children to their parents¹⁹.

Every right of the child must be sought to be fulfilled by the parents as part of the reciprocity of the obligation of maintenance or alimony, and vice versa. Parents will be the ones who are severely disadvantaged when they grow old and find that their children do not provide affection as part of the alimony obligation.

Alimony is an obligation, namely in providing material support, as stated in the Civil Code. Alimony also includes maintenance as well as helping parents when they need help from their children²⁰. Article 321 of the Civil Code states that every child is obliged to provide for his parents and his blood relatives in the upward line, if they are poor. However, this provision applies as an alimony obligation between children to their biological parents, not also intended in this case adopted children.

Legal obligations are present when the governing laws have been enacted, one of which is the Civil Code and the Marriage Law which has a discussion about alimony. The existence of cases of non-fulfillment of children's alimony rights towards parents shows moral obligations, now it has become a problem that has an attachment to the law. This means that anything done by a legal subject can be subject to sanctions as a form of legal consequences if it has violated it.

The Civil Code only recognizes biological children, extra-marital children, and adopted children specifically for Indonesian citizens of Chinese

¹⁹ Jesslyn, "Kewajiban Alimentasi Anak Terhadap Orang Tua: Studi Perbandingan Hukum Positif Di Indonesia Dan Amerika Serikat," *Jurnal Kertha Wicara* 11, no. 9 (2022): 1570–80.

²⁰ Rahdinal Fathanah and Rachmi Sulistyarini, "Tanggung Jawab Anak Dalam Memelihara Orang Tua Terkait Ketentuan Pasal 46 Ayat (2) Undang-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Jurnal Ilmiah Pendidikan Pancasila Dan Kewarganegaraan* 5, no. 2 (2020): 228.



descent, so in relation to the child's alimony obligations towards their parents, in this case, adoptees who are not fully regulated in the Civil Code basically do not have the legal obligation to provide maintenance obligations.

Due to the legal vacuum related to the regulation of adopted children, adopted children are not obliged to provide maintenance to their adoptive parents, and cannot be counterclaimed as a basis for canceling grants when looking at the provisions of the Civil Code²¹.

As a result of the existence of a legal vacuum, for matters or circumstances that are not or have not been regulated, there can be legal uncertainty (*rechtsonzekerheid*) or uncertainty of laws and regulations in society, which will further result in legal chaos (*rechtsverwarring*). In the sense that as long as it is not regulated, it means that it is permissible, as long as there are clear and regulated procedures, it does not mean that it is not permissible. This is what causes confusion (chaos) in society regarding what rules should be used and applied. In society, there is no certainty of the rules applied to regulate the circumstances that occur²².

Unlike biological children and children outside of marriage who are recognized basically have a legal relationship with the obligation of alimony to their parents, so that if the adopted child refuses to provide for the parents, then because it is not regulated in full this is not a necessity and obligation for the adopted child.²³

The lack of regulation regarding adopted children creates a legal vacuum, leading to uncertainty and potential legal chaos (*rechtsverwarring*) in society. This absence of clear rules leaves room for confusion about which regulations to follow, exacerbating societal uncertainty regarding the applicable laws. While biological and recognized extramarital children have

²¹ Akhmad Khisni, "Hukum Waris Islam," *Semarang: Perpustakaan Nasional Katalog Dalam Terbitan (KDT)*, 2017, [http:// research. unissula.ac.id/file /publikasi/210389017/2844Isi_hukum_waris .pdf](http://research.unissula.ac.id/file/publikasi/210389017/2844Isi_hukum_waris.pdf).

²² Gamal Abdul Nasir, "Kekosongan Hukum & Percepatan Perkembangan Masyarakat," *Jurnal Hukum Replik* 5, no. 2 (September 1, 2017): 172, <https://doi.org/10.31000/jhr.v5i2.925>.

²³ Muhammad Ridwansyah, "Nafkah Anak Luar Kawin Menurut Konsep Hifzhu Al-Nafs," *Jurnal Yudisial* 8, no. 1 (2015): 65–83, <https://doi.org/10.29123/jy.v8i1.44>.



clear alimony obligations, adopted children do not, creating a gap in legal responsibilities.

Further, this legal uncertainty can have wide-reaching implications for justice and legal certainty for all parties involved. In situations where the law does not provide clear guidance, various parties may experience injustice due to the legal system's inability to offer decisive and fair solutions. Society requires legal certainty to function effectively; without it, trust in the legal system can erode, and individuals may struggle to navigate their legal obligations.

This legal vacuum also opens the door for abuse or varied interpretations by interested parties. For example, in cases where adopted children are not required to provide alimony to their adoptive parents, this can be exploited by irresponsible parties, leaving adoptive parents without support in their old age. Therefore, it is crucial to reform and clarify laws related to adopted children to ensure justice and welfare for all involved parties. Thus, it is essential for lawmakers to address and close these legal gaps through comprehensive regulatory revisions, ensuring that every individual, including adopted children, has clear and definitive legal guidance regarding their rights and obligations. Only by doing so can society achieve the legal certainty and justice expected in a modern and fair legal system.

As a result, when adopted children refuse to provide for their adoptive parents, there is no legal basis to enforce this obligation due to the incomplete regulation in the Civil Code. This situation highlights the need for legal reforms to address the obligations of adopted children, ensuring fair and consistent treatment within the legal framework.

Consideration of Judges in Deciding Cases of Cancellation of Grants to Adopted Children Who Neglect the Grantors Number 38. Pdt.G/2021.Pn. Bla

Grants made by parents to adopted children are based on a sense of affection with the hope that one day when they are old, the adopted child will take care of and maintain them properly. However, problems arise when the adopted child does not fulfill the obligation to provide for the parents who have given the grant. As a result, the grant can be canceled in accordance with applicable legal provisions. Cancellation of grants here is an action taken by parents as grantors to uphold justice.



Although there are out-of-court dispute resolution channels, some people resort to dispute resolution in court because it is considered the most effective method to resolve disputes. The court is a trustworthy institution that can produce legally binding solutions for justice seekers regarding the problems they face.

Grant cases are often handled by the district court, in accordance with its authority in Article 50 of Law Number 2 Year 1986, the District Court has the duty and authority to examine, hear, decide and settle criminal and civil cases at the first instance.

District Court judges have the main task of receiving, examining and resolving cases by conducting trials. The settlement of the case is achieved by a decision from the judge. In making a decision, the judge must rely on the results of the examination at trial which are recorded in full in the Minutes of the Trial (BAP). The decision must contain legal considerations that describe the main thoughts of the judge in qualifying the facts that have been proven at trial and finding the law. facts that have been proven at trial and finding the law on the event. the event. Here the judge must formulate in detail, chronologically the relationship between one another based on the applicable laws or regulations.

This is based on Article 25 paragraph (1) of Law Number 4 of 2004 concerning Judicial Power. In this legal consideration, the judge will consider the arguments of the lawsuit regarding matters recognized and denied by the parties. This description shows that the judge's consideration is the most important factor in a decision. The judge's consideration in the decision includes legal considerations, or about the law, which includes the basis for the decision, the reasons, and several articles. Include certain articles of laws, regulations, or related legal sources, as well as the reasons and basis for the decision.

The judge will consider the following in legal considerations, the arguments of the lawsuit on issues that have been recognized and disputed by the parties. In other words, the legal considerations that can be applied in such cases are considerations that are subject to problem solving, juridical analysis of all the facts that occurred at trial regarding evidence, and the application of legal provisions to events that have been stated by the parties in a rational



(objective), methodical, and interrelated manner in each component in order for the judge to determine whether the case is proven or not, the claim and petitum must be reviewed in sequence. This is where the main task, and the main responsibility of the judge is to record all the events of the trial. The rationale and justification for the verdict, articles and laws must also be contained and the reasons for the verdict, articles and laws not written in the subject matter of the case and obliges the judge by virtue of his/her office to complete all legal reasons that are not presented by the parties. Judges are prohibited from rendering a decision on a case that is not prosecuted or granting more than what is prosecuted.

In accordance with the Civil Code, the grantor can only request the revocation and cancellation of this grant through the Court to revoke the grant. Such action cannot be taken by the grantor after 1 (one) year has passed since the event giving rise to the claim occurred, since the grantor became aware of it.

In this case, the agreement in this grant is that the grant is given to the adopted child and the grantee is the adopted child. However, after the grant occurred. The adopted child as the grantee was proven to have neglected his adoptive parents. For 8 years until the lawsuit was filed, the Defendant (Hery) was completely unavailable and never provided alimony to the Plaintiff. In 2018 the plaintiff's husband passed away due to illness. As a result, the plaintiff suffered economic hardship, became sickly, and fell into poverty. During his lifetime her husband had a business selling fried foods and coffee shops and now it has stopped, the peak was in 2021 when the plaintiff fell ill for 15 days and was hospitalized, and it was someone else who took care of her. Based on this, the Plaintiff wanted to cancel the grant to the Grantee (Hery) as stated in the Grant Deed No.228/TJN/2012.

In decision No.38/Pdt.G/2021/PN. Bla the judge ruled in favor of the plaintiff, with the basis of the judge's consideration referring to article 1688 of the Civil Code in connection with the reasons put forward by the Plaintiff to cancel the grant that had been given, namely:

1. The plaintiff has been categorized as poor since her husband died;
2. A year after the deed was issued, the respondent left the plaintiff in a condition where the plaintiff needed to pay for her living



expenses, and in this situation the respondent refused to provide for the plaintiff as the grantor.

Based on the aforementioned matters, the Panel of Judges concluded that the Defendant was a child who was not dutiful to his parents, did not fulfill his obligations as a parent to provide for and love the Plaintiff in old age, as had been done by the Plaintiff to the Defendant from childhood until marriage, and the Defendant should have provided for the Plaintiff both materially and morally, instead of allowing or not showing concern for the plaintiff, the Defendant's actions further left the plaintiff neglected, from these actions the Defendant could be classified as actions that caused the grant that had been given by the plaintiff to be withdrawn.

There are several conditions under which a grant can be canceled under Article 1688 of the Civil Code, which are alternative in nature, namely:

1. Due to the non-fulfillment of the conditions with the name of the grantor that has been done;
2. b.If the grantee has been guilty of committing or assisting in the commission of a crime aimed at taking the life of the grantor or a grant of another crime against the grantor.
3. If he refuses to give alimony to the donor after he has fallen into poverty.

The judge is of the opinion that after the parties prove the argument, the trial that the situation of the adoptive parents of the grantee has fallen into poverty is proven by being supported by witnesses presented at the trial and in this situation the adopted child in this case the grantee does not go to his adoptive parents and then leaves him neglected, based on article 1688 of the Civil Code that the grant can be withdrawn if there is a condition that the grantee refuses to provide alimony to the grantor who has fallen into poverty.

Basically, the purpose of litigating in court is to obtain justice and resolve it peacefully in accordance with applicable legal provisions. The rights and obligations of the parties to the disputed object will be taken into consideration by the court in the grant annulment case during the dispute resolution process through the judicial institution (litigation)²⁴. After the case is decided, the judge will determine who is most entitled to what is in dispute,

²⁴ H. Zainal Asikin, *Hukum Acara Perdata Di Indonesia* (Jakarta: Prenada Media, 2019).



create a new legal relationship between the parties, and cause legal consequences for the grant property requested to be canceled. The disputed object granted in the grant will return to the grantee in its entirety when the court renders a decision that has permanent legal force, making the grant void.

The judge in this case did not see the legal relationship between the adoptive parents and the adopted child based on the law, but saw the legal relationship underlying the parties related to this grant was an agreement as a binder, therefore canceling the grant the judge put aside the aspect of legal certainty without questioning the adopted child who was basically not charged with alimony obligations because of the incomplete arrangements in the Civil Code.

The judge's decision here has fulfilled the aspects of legal justice for the attitude of one party that is detrimental to one party, so it is appropriate for the judge to give a decision to cancel the grant which ultimately returns the object of the grant back to the grantor. In the case of grant annulment, the judge's judgment is based on the rights of the parties involved in the grant dispute, taking into account the evidence presented at trial, so that the decision can be fair and balanced. From the judge's decision in this case, it appears that the judge tends to prioritize aspects of justice rather than paying attention to aspects of legal certainty when examining the regulation of adopted children in the Civil Code which is not regulated in full.²⁵ Even though it is not clearly regulated in the Civil Code, with the conditions where the judge is faced with the humanitarian problems of a parent who has been neglected by his child whom he has raised since childhood and wants to return to withdraw the grant or demand what was originally his right, the judge prioritizes a sense of justice.²⁶

When examined based on the principle of justice, it will be very fair if after the parents are no longer able to support themselves and maintain themselves when they are old, the children are obliged to provide what is

²⁵ Linda Rae Bennett, "Infertility, Adoption, and Family Formation in Indonesia," *Medical Anthropology* 37, no. 2 (February 17, 2018): 101–16, <https://doi.org/10.1080/01459740.2017.1407931>.

²⁶ Peter Selman, "Intercountry Adoption of Children from Asia in the Twenty-First Century," *Children's Geographies* 13, no. 3 (May 4, 2015): 312–27, <https://doi.org/10.1080/14733285.2015.972657>.



needed by their parents until the end of their lives remain devoted and dedicate themselves to continue to look after them. However, if the opposite situation occurs where the child does not provide this obligation, then this attitude will be very contrary to justice according to Theo Huijbers that there must be a balanced relationship between the two parties.

CONCLUSION

The community's preference in resolving disputes through the courts is because they are considered more effective and provide legally binding solutions. The District Court has the authority in accordance with Article 50 of Law Number 2 of 1986 to handle criminal and civil cases, including grant cases. Judges are tasked with assessing and deciding based on the facts proven at trial and in accordance with applicable law.

The grant case discussed involved the annulment of a grant by the court because the grantee (adopted child) was found to have neglected the grantor (adoptive parent). The court's decision was based on Article 1688 of the Civil Code, which allows for the annulment of a grant if the grantee does not fulfill the obligation to provide maintenance to the grantor who has fallen into poverty.

The judge decided to annul the grant on the basis that the grantee had failed to provide maintenance to his poor adoptive parents. This decision prioritizes aspects of justice, even though the adopted child is not legally obliged to provide maintenance under the Civil Code. This shows that in the context of humanity and justice, judges can override the incompleteness of existing legal rules. In conclusion, dispute resolution in court is expected to provide balanced justice by considering the evidence and facts at trial and considering the principles of humanity and justice, as shown in this grant annulment case.

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