



JURIDICAL REVIEW OF ARTICLE 112 OF THE REGULATION OF THE MINISTER OF AGRARIAN AFFAIRS/HEAD OF THE NATIONAL LAND AGENCY NUMBER 3 OF 1997 REGARDING THE LEGAL CONSEQUENCES OF THE POSITION OF THE EXECUTOR OF A WILL IN A DEED OF GRANT DUE TO A WILL IF THE EXECUTOR OF THE WILL DIES

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Abstract :

A testamentary gift is a special testamentary stipulation, whereby the person who bequeaths to one or more persons gives certain items from their inherited assets or provides items of a certain type, such as, for example, all their movable or immovable items, or grants rights use the proceeds from all or part of his inheritance. According to the provisions of Article 112 paragraph (1) a point 3 letter b Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration (PMNA/KBPN No.3/1997), states that "PPAT Deed regarding a gift made by the Executor of the Will on behalf of the grantor of the will as the implementation of the will whose execution is authorized by the Executor of the Will." This research aims to examine the position of the executor of the will in the deed of gift by will if the grantor of the will dies, as well as to analyze the legal consequences of the position of the executor of the will in the deed of

gift by will if the executor of the will dies. The research method is normative juridical. The type of data used is secondary data. Data analysis techniques using deductive reasoning presented descriptively. The results of this research are: The position of executor of the will in the deed of gift because the will if the grantor of the will dies based on Article 112 paragraph (1) a point 3 letter b (PMNA/KBPN No.3/1997) its implementation will not end with the death of one of the parties (heir). Meanwhile, the legal consequences that arise if the executor of the will dies, namely the executor of the will (executor-testamentair) who dies will be replaced by another executor of the will, because the giver of the will (the heir) has the right to appoint one or more executors-testamentair with The goal is that if one is absent or dies, another will be replaced.

Keywords: Deed of Grant, Executor of Will, Grant of Will.

INTRODUCTION

Registration of the transfer of land rights due to inheritance is carried out so that heirs obtain legal certainty regarding control of land rights (Idham, 2019). The position of Notary is required by legal regulations with the aim of helping and serving people who need authentic written evidence regarding events, circumstances or legal acts. (Adjic, 2009). Deeds made by or before a Notary are authentic and have perfect evidentiary power for the parties and their heirs or people who obtain rights therefrom. The evidentiary power of authentic deeds, as well as Notarial deeds, is a direct consequence of the statutory provisions, that there must be authentic deeds as a means of proof and of the duties imposed by law on certain officials. According to the generally accepted opinion, every authentic deed, as well as Notarial deeds, has 3 (three) types of evidentiary strength, including: External evidentiary strength (Uitwendige Bewijskracht, Formal evidentiary strength (Formele Bewijskracht), Material evidentiary strength (Materiele Bewijskracht) (Tobing, 1980).

The deeds made by notaries concern various fields, one of which is in the field of engagements, where one type of deed that can be made by a notary is a gift deed. A gift deed made by a notary can be used as proof that a transfer of rights has indeed occurred, namely by means of a legal act of gift. The legal strength of the deed of gift lies in its authentic function, namely as a valid means of evidence



according to the law (Articles 1682, 1867, and Article 1868 of the Civil Code) so that this is a direct result which is a necessity of the statutory provisions, that there must be a deed -Authentic deed as a means of proof. The legal basis for grants is regulated in the Civil Code, Chapter A grant is a legal act of intentionally transferring ownership rights to another party. In addition to the legal act of transferring rights, there are other forms of transfer of rights, such as exchange, sale and purchase, gift according to custom, income from the company (inbreg) and testamentary gift (legaat). In a grant, the transfer of rights is carried out while the right holder is still alive, which is a legal act in cash, but this is excluded from testamentary grants (Harsono B. , 2003).

Notaries as public officials have the authority to make Deeds of Grant as confirmed in the provisions of Article 1682 of the Civil Code which states that gifts of immovable objects are made using a Notarial Deed. If the grant is made without using a Notarial deed, the implementation of the grant can be declared null and void. However, the provision of Article 1682 of the Civil Code does not apply to the granting of grants whose object is land (Subekti, 1995).

Based on the provisions of Article 1 number 1 of Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Making Officials (PPAT), it explains that what is meant by PPAT is "a public official who is given the authority to make authentic deeds regarding certain legal acts regarding rights to land or ownership rights to apartment units". In the provisions of Article 2 of Government Regulation Number 37 of 1998, the authority possessed by PPAT is to carry out some land registration activities by making authentic deeds. This authentic deed will later be used as proof that certain legal acts have been carried out. The legal acts in question are buying and selling, exchanging, grants, income into the company (Inbreg), sharing of joint rights, granting Building Use Rights/Use Rights over Ownership Land, granting Mortgage Rights, and granting authority to impose Mortgage Rights.

In the provisions of Article 5 of Government Regulation Number 37 of 1998, it is stated that land registration is carried out by the National Land Agency and the implementation is carried out by the Head of the Land Office assisted by PPAT. Wills are regulated in the provisions of Article 957 of the Civil Code, namely: "Wills are a special will, whereby the

person who bequeaths to one or more people gives certain items from their inheritance or gives items of a certain type, such as, for example, all of his movable or immovable property, or give him usufructuary rights over all or part of his inherited assets." A will (testament) can also contain gifts in the form of one or several specific items, for example a car and so on. This gift through a testament is called a testamentary gift (legaat). (Satrio, 1992).

A testamentary gift can be made by the testator himself or made by a Notary. In the case of making a testamentary gift deed, a Notary can provide advice or input to the heir, so that the testamentary deed that is made does not deviate from the established rules, which could have consequences. legal defects in the deed. This is a testamentary provision taken by the heir based on special rights. A bequest requires a special stipulation and what is meant by a special stipulation is that the items donated in a will must be stated expressly and clearly, because it requires the designation of certain items or a particular item or all items of a certain type.

Notaries and PPATs have different authorities from each other. The authority of a Notary is different from the authority of the PPAT in terms of making deeds involving the transfer of land rights by means of a "testament gift". The provisions of Article 1682 of the Civil Code state that the authority of a notary is only to make a will deed which contains a gift made by the testator while the testator is still alive. Meanwhile, according to the provisions of Article 112 paragraph (1) a point 3 letter b Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration (PMNA/KBPN No.3/1997), states that "the PPAT Deed regarding a gift made by the Executor of the Will on behalf of the grantor of the will as the implementation of the will whose execution is authorized by the Executor of the Will." PPATs who do not include heirs in making the sale and purchase deed can be held administratively and civilly responsible for unlawful acts in Article 1366 of the Civil Code (Ulin Nuha, 2021)

If you pay attention to the provisions of Article 112 paragraph (1) a point 3 letter b (PMNA/KBPN No.3/1997) above, it can be concluded that the PPAT makes a Deed of Grant which is made after the testator dies based on the will deed of gift made by the



executor a will in the name of the grantor of the will as the executor of the will whose execution is authorized by the executor of the will, it is impossible if someone who has died makes a power of attorney to another person, in this case the executor of the will to carry out a legal action.

If a Notary/PPAT continues to make a will grant deed based on the provisions of Article 112 paragraph (1) a point 3 letter b (PMNA/KBPN No.3/1997), then it is certain that it will cause several problems related to the validity of the will grant deed made and risks arise which will later be borne by the Notary/PPAT and the parties as well as legal consequences will arise for the making of the testamentary gift deed based on Article 112 paragraph (1) a point 3 letter b (PMNA/KBPN No.3/1997) the. Therefore, the author is interested in conducting research with the title "Judicial Review of Article 112 of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on the Legal Consequences of the Position of the Executor of a Will in a Deed of Grant Due to a Will If the Executor of the Will Dies".

In this research, the author uses a normative juridical legal approach which is often called doctrinal research. Normative legal research is legal research carried out by examining library materials. Normative legal research or literature includes research on legal principles, legal systematics, levels of vertical and horizontal synchronization, legal comparisons, and legal history (Soekanto & Sri Mamudji, 2013). The approaches used are the statutory approach and the conceptual approach. The type of data used is secondary data which includes primary, secondary and tertiary legal materials. The data collection method uses library research. The data analysis used is a data interpretation method with deductive reasoning presented descriptively. Analysis is carried out to build knowledge through understanding a phenomenon and discovering elements that do not yet exist in the applicable theory. The focus of qualitative analysis is a phenomenon that shows a gap between what should be and what is actually from a scientific perspective, so it requires photography, mapping and in-depth understanding that can be used to solve problems based on reliable and reliable data (Danim, 2002). Legal regulations are needed as the main premise. This must be linked to the related legal facts used as minor premises.

DISCUSSION

The position of the Executor of the Will in the Deed of Gift of Will if the Grantor of the Will Dies Based on Article 112 of the Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997

A gift means gift or alms, with the meaning of an agreement to give goods based on a sense of responsibility to others and carried out with complete sincerity without any strings attached. Because basically someone who owns assets has the right and freedom to give their assets to anyone. In the Civil Code, grants are regulated in Chapter X of Book III concerning Engagements, starting from Article 1666 to Article 1693 of the Civil Code. According to Article 1666 of the Civil Code, a gift is formulated as follows: "A gift is an agreement whereby the donor, during his lifetime, free of charge and irrevocably, hands over an object for the needs of the recipient of the gift who accepts the gift."

According to the provisions of Article 1682 of the Civil Code, it is stated that the gift must be made by a notarial deed, otherwise the threat is void. Every deed of gift must be made by a Notary, because the definition of a Notary in the provisions of Article 1 letter 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary is "a public official who has the authority to make authentic deeds and has other authorities as intended in this Law or based on other Laws." Every gift made before a Notary is in the form of a Deed. What is referred to as a Notarial Deed in Article 1 number 7 of the Notarial Position Law is "Notarial Deed, hereinafter referred to as Deed, is an authentic deed made by or before a Notary in accordance with the form and procedures stipulated in this Law." Apart from the Notary, the grant deed can be made by a Land Deed Making Officer (PPAT). This PPAT is more focused on carrying out some land registration activities by making deeds as proof that legal acts have been carried out.

Basically there are 2 (two) types of grants, namely ordinary grants which are divided into 2 (two) types, namely: formal grants and material grants, and grants due to a will. A gift by will is a way for the owner of assets during his lifetime to express his final wishes regarding the distribution of his inheritance to heirs which will only come into effect after the testator dies.



Gifts made by will can be made by the testator himself or made notarially. Where the Notary listens to the last words witnessed by two witnesses, in this way the gift of will takes the form of a notarial deed and is called a will or testament. In terms of making this deed, the Notary can provide advice to the testator so that the deed of will that is made does not deviate from the established rules which could cause the deed to be legally defective.

If a person who dies does not determine everything regarding his inheritance, then the assets left behind will be distributed according to the law (*ab intestato*), whereas if the person before he dies has written down his will in a deed, then his inheritance will be divided based on a will. (testament) (Aprilianti, 2021). Inheritance law according to the Civil Code recognizes the rules for granting wills under the name of testaments which are regulated in Book II Chapter XIII. Regarding the general provisions of a will, a person's ability to make a will or to enjoy the benefits of a will, the form of a will, inheritance, appointment of heirs, gift of a will, revocation and invalidation of a will. This is confirmed in Article 875 of the Civil Code which states the definition of a will, namely: "A will or testament is a deed that contains a person's statement about what he wishes would happen after he dies and can be revoked."

Wills are regulated in the provisions of Article 957 of the Civil Code, namely "Wills is a special will, whereby the person who bequeaths to one or more people gives certain items from their inheritance or gives items of a certain type, such as, for example, everything movable or immovable goods or give us usufructuary rights over all or part of the inherited assets."

According to Article 931 of the Civil Code, there are 3 (three) ways to make a will or gift as a will, namely a secret testament (*geheim*), an unconfidential testament (*openbaar*) and a written testament itself (*olographic*), which is usually confidential or non-confidential. . In these three testaments, the intervention of a notary is required. The Secret Testament (*geheim*) stipulates that the testator must write it himself or can also ask someone else to write the last wish. After that he must sign the writing, Next, the writing can be put in a closed envelope, sealed and then handed over to the Notary (Article 940 and Article 941 of the Civil Code). This closing and sealing can also be carried out in the presence of a

Notary and four witnesses. Next, the testator must make a statement in front of the Notary and witnesses, that what is inside the envelope is his testament, and state that it is true that he himself wrote and signed it or that someone else wrote it and he signed it. In Article 944 paragraph (2) of the Civil Code concerning the making of open testaments (*openbaar*), it explains that people who cannot be witnesses are heirs or people who have been given gifts or their relatives up to four generations; Children, grandchildren and children-in-law or grandchildren-in-law of the Notary; Notary Assistants.

In the olographic testament (Article 932 of the Civil Code) it is stipulated that this testament must be written and signed by the testator and then archived by a Notary where this filing must be witnessed by two witnesses. In the event that inheritance is accompanied by a gift as a will according to the provisions of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration Article 112 paragraph (1) a point 3 letter b, namely : "(1) If the inheritance is accompanied by a will, then: a. If the rights to the land or ownership rights to the condominium unit being gifted are certain, then registration of the transfer of rights is carried out at the request of the recipient of the gift by attaching: 3) b) PPAT Deed regarding the gift made by the Executor of the Will on behalf of the grantor of the will as implementation of the will whose execution is authorized by the Executor of the Will."

The Land Deed Making Official (PPAT) is a public official who is given the authority to make authentic deeds regarding certain legal acts regarding land rights or ownership rights over condominium units. In the implementation of land administration, land registration data recorded at the Land Office must always be in accordance with the actual situation or status regarding the plot of land in question, both regarding physical data regarding the plot of land, as well as regarding legal relations involving the plot of land, or its juridical data. . In relation to recording juridical data, especially recording changes to previously recorded juridical data, the role of PPAT is very important. According to the provisions in Government Regulation Number 24 of 1997 concerning Land Registration, the transfer and



encumbrance of land rights can only be registered if proven by a PPAT deed. (Nasional, 1998).

A PPAT Deed is a deed made by the PPAT as proof that certain legal acts have been carried out regarding land rights or ownership rights to apartment units. Therefore it is canceled or annulled, the relevant PPAT deed no longer functions as evidence of the legal action. Meanwhile, if a legal act is canceled by the parties concerned themselves, even though the legal act has been registered at the Land Office, then the registration cannot be cancelled. Changes to land registration data according to the cancellation of the legal act must be based on other evidence, for example a court decision or PPAT deed regarding the new legal act.

In carrying out various legal acts in accordance with current developments in life which are becoming more advanced, a person's busyness is increasing. It is not uncommon to find people who are unable to attend a business physically, so they delegate to someone else to take care of certain interests. So that the person entrusted with the task of completing his interests can act on his behalf, by means of an agreement, he hands over his power or authority.

The definition of granting power in Article 1792 of the Civil Code is an agreement by which a person gives power to another person who receives it for and on his behalf to carry out an affair. Because the granting of a power of attorney is an agreement, the power of attorney and the recipient of the power of attorney can make a power of attorney in accordance with an agreement other than that specified by law. In other words, an agreement granting power of attorney must fulfill these three main elements. If even one of the three main elements is missing, then the agreement entered into is not an agreement granting power of attorney as intended by Article 1792 of the Civil Code. The person who will leave an inheritance or gift by will, has the right to appoint one or several people as executor-testamentair or executor of the will, so that if one is unable to do so, another can be replaced, this is in accordance with the provisions of Article 1005 of the Civil Code which states that the executor-testamentair or executor The testator is tasked with ensuring that the will is truly carried out according to the wishes of the deceased. However, this can happen to the executor of the will as well as the beneficiary of the will (heir). This appointment can be made in the will itself.

The executor of a will (executeur-testamentair) can be fired for the reasons used for dismissing a minor's guardian, namely: a. If you don't give an answer. b. When you behave badly. c. If they indicate that they are unable to carry out their obligations properly or ignore their obligations. d. If you go bankrupt. e. If they and their descendants or ancestors or their husbands and wives have a case before a judge which involves wealth from the inheritance they manage. f. If they are sentenced to prison for two years or more.

In the author's opinion, following what is explained in the explanation above, based on the provisions of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land and Registration Article 112 paragraph (1) a point 3 letter b, namely: "(1) If the inheritance is accompanied by a will, then: a. If the rights to the land or ownership rights to the donated apartment unit are certain, then registration of the transfer of rights is carried out at the request of the recipient of the gift by attaching: 3) b) PPAT Deed regarding the gift made by the Executor of the Will on behalf of the donor of the will as implementation of the will whose execution is authorized by the Executor of the Will." Execution of a will or executortestamentair will not end with the death of the person who bequeathed (heir) or who made a will where he has appointed one or several people as executors of the will of the deed of gift because of his will.

Legal Consequences Of The Position Of The Executor Of The Will In The Deed Of Gift Of Will If The Executor Of The Will Dies Based On Article 112 Of The Regulation Of The Minister Of Agrarian Affairs / Head Of The National Land Agency Number 3 Of 1997

Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration (PMNA/KBPN No. 3/1997) in Article 112 paragraph (1) a point 3 letter b and letter c jo. Article 111 requires an application for registration of the transfer of land rights or ownership rights to an apartment unit in the event that the inheritance is accompanied by a testamentary gift: "(1) If the inheritance is accompanied by a



testamentary gift, then a. If the rights to the land or ownership rights to the condominium unit being gifted are certain, then registration of the transfer of rights is carried out at the request of the recipient of the gift by attaching: 3) b) PPAT Deed regarding the gift made by the Executor of the Will on behalf of the grantor of the will as implementation of the will whose execution is authorized by the Executor of the Will. c) Deed of distribution of inheritance as intended in Article 111 paragraph (2) which contains the designation of land rights or ownership rights to the apartment unit concerned as having been assigned to the applicant." In testamentary gifts, the legal consequences only come into effect after the grantor of the testamentary gift dies and the bequeathed object is handed over by the executor-testamentair with bezit rights or by all the heirs of the gift made by testament to the legacy (Budiono, 2012).

If an heir has made a gift to the recipient of the gift by will (legatary), there may be circumstances: a. The recipient of a gift by will is not always an heir, but may also be an heir, but rejects the inheritance of the gift giver by will. b. The recipient of a gift by will before the transfer of the gift by will is not yet the owner. Therefore, the legal action for a gift by will is not the termination of joint ownership, but rather transferring ownership of the bequeathed object to the recipient of the gift by will and not a gift.

Article 112 paragraph (1) a point 3 letter b Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 1 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration (PMNA/KBPN No. 3/1997) states that "Deed PPAT regarding gifts made by the Executor of the Will in the name of the grantor of the will as the implementation of the will whose execution is authorized by the Executor of the Will," the provisions of the article state that the grantor by means of a will gives power to the executor of the will (executeur-testamentair) to carry out affairs from the donor in a will. However, if we pay attention to the issue regarding gifts by will, where the contents of the deed of gift by will only come into effect if the person giving the gift by will has died, then if a power of attorney is granted, the grant of power ends in accordance with the provisions of Article 1813 of the Civil Code.

Power of attorney occurs because of *machtiging* which is a (unilateral) statement of will from the power of attorney which contains the desire that he or she be represented by the power of attorney to take legal action in the interests and on behalf of the power of attorney. Power of attorney or *volmacht* is a unilateral legal action, meaning a legal action that arises, changes and ends as a result of only one party. To know that we are dealing with an agreement, we need to pay attention to the elements of the agreement, namely: a. There is an agreement between two or more parties; b. The agreement reached depends on the parties; c. The parties' willingness for legal consequences to arise; d. Legal consequences for the interests of one party at the expense of another party or reciprocity; and e. By observing statutory requirements.

In addition to fulfilling the elements of the agreement, the conditions for the validity of the agreement must also be fulfilled (Article 1320 of the Civil Code), namely: a. Those who bind themselves agree; b. Ability to create an engagement; c. A certain thing; and D. A legitimate cause. It is necessary to pay attention to the general provisions, a power of attorney is private, which means that the existence of a power of attorney does not mean that the person giving the power of attorney himself cannot carry out the legal actions that he has authorized. A power of attorney is not a transfer of rights. Article 1792 of the Civil Code states "Giving power of attorney is an agreement by which a person gives power to another person, who receives it to carry out an affair on his behalf." From Article 1792 of the Civil Code we can see that there are elements of granting power of attorney: a. agreement, b. Giving authority to the recipient of the power of attorney; and c. In the name of the power of attorney, carrying out an affair. "Carrying out an affair" as stated in Article 1792 of the Civil Code is to carry out a legal act, while the legal act referred to in this article is an act carried out by the recipient of the power of attorney, namely carrying out an affair, which is expected to produce a legal consequence in the interests of the person giving the power of attorney (Subekti, 1982).

In order for the beneficiary to be able to perform the intended legal act, he is given power or authority by the grantor. It is with the power or authority that the grantee has, that makes him authorized to perform legal acts for the benefit and in the name of the grantor. So that what is done by the beneficiary is the



responsibility of the grantor, as long as the actions performed by the beneficiary are in accordance with the authority given. Therefore, all the rights and obligations that arise from the acts done by the recipient of power, will become the rights and obligations of the grantor (Harahap, 1982).

There is a representative, namely someone on behalf of another person carrying out an affair. At the end of Article 1792 of the Civil Code it is stated that "in his name" to carry out an affair. The meaning of the words on behalf of in this article is to represent, which means that the power of attorney delegates to the power of attorney to manage and carry out the interests of the power of attorney and then the power of attorney acts/acts as a representative or represents the power of attorney for and on behalf of the power of attorney. Executor of the will (executeur-testamentair), where to the executors of the will, the giver of the will (the heir) can give control over all items of the inherited assets, both fixed and movable items, or certain parts thereof. According to the law, such control cannot exceed one year, starting from the day when the executors gain control of the goods. If the heirs agree, they can stop the control, provided they allow the executors to pay or hand over the gifts due to a pure and unconditional will, or show that the handover of the gifts has been carried out. The executor of the will must ensure that the last will of the gift giver because of the will (the testator) is carried out, and if a dispute occurs, the executor submits a claim to the Court to maintain the validity of the deed of gift because of the will of the testator.

The executors of the will (executeur-testamentair) who control the inherited assets, even before the court, have the authority to collect receivables that are due and can be collected during control. They are not authorized to sell inherited assets with the intention of dividing them. At the end of the administration, the executors of the will are obliged to provide calculations and accountability to the people concerned, by handing over all goods and including inherited assets, along with the closing of the calculations, so that distribution can be made between the heirs. The end of the duties of executor-testamentair, namely a. If all tasks have been completed. b. The executor of the will (executeur-testamentair) dies, Article 1015 of the Civil Code states that the power of a will executor does not transfer to his heirs. c. Dismissed, dismissal occurs if the executor of the will is negligent in fulfilling his

obligations. Article 1022 of the Civil Code states that executors of wills, as well as administrators of inheritance, as mentioned in Article 1019, can be dismissed for the same reasons as those that apply to a guardian.

According to the author, in the provisions of the Regulation of the Minister of State for Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration (PMNA/KBPN No. 3/1997) Article 112 paragraph (1) a point 3 letter b, the legal consequences of the position of executor of a will if based on Article 112 paragraph (1) a point 3 letter b (PMNA/KBPN No. 3/1997) then the death of the person giving the power of attorney (heir) does not result in it ending or being invalidated or null and void by law. This also applies if the situation is the opposite, namely the executor of the will (executor-testamentair) who dies and will be replaced by another executor of the will, because the giver of the will (the heir) has the right to appoint one or several people as executor-testamentair with the aim of if one is absent or dies, another will be replaced. In general, in a gift because of a will, the grantor of the will appoints the person who receives the gift because of the will and is also appointed as the executor of the will (executeur-testamentair), but it could happen that the person appointed as the executor of the will is someone else, not the recipient of the gift because of the will. In this case, if the recipient of a gift from a will is also appointed as the executor of the will, the power of attorney does not expire. On the other hand, if the executor of the will is someone else (not the beneficiary of the will) then the power of attorney will be invalidated.

CONCLUSION

The position of executor of a will in a testamentary gift deed if the grantor of the will dies based on Article 112 paragraph (1) a point 3 letter b (PMNA/KBPN No. 3/1997). heir) or who makes a will where he has appointed one or several people as executors of the deed of gift because of his will.

The legal consequences for the position of the executor of the will in the deed of gift by will if the executor of the will dies based on Article 112 paragraph (1) a point 3 letter b (PMNA/KBPN No. 3/1997) the executor of the will (executeur-



testamentair) who dies will be replaced by another executor of the will, because the giver of the will (the heir) has the right to appoint one or more executors-testamentair with the aim that if one is absent or dies, another will be replaced. In general, in a gift because of a will, the grantor of the will appoints the person who receives the gift because of the will and is also appointed as the executor of the will (executeur-testamentair), but it could happen that the person appointed as the executor of the will is someone else, not the recipient of the gift because of the will. In this case, if the recipient of a gift from a will is also appointed as the executor of the will, the power of attorney does not expire. On the other hand, if the executor of the will is someone else (not the beneficiary of the will) then the power of attorney will be invalidated.

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