



Juridical Analysis Of Court Decision Number 542/Pdt.P/2023/Pn.Smg Concerning Guardianship Of Minors For Inheritance Of Shares

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Abstract. *This research examined the rationale behind guardianship stipulations for minors and aspects of inheritance law in Indonesia, particularly concerning the inheritance of shares to children. Through an analysis of the Semarang District Court Decree Number 542/PDT.P/2023/PN.SMG, which stipulates that the petitioner, as the biological father of his children, must still obtain a legally valid and legitimate guardianship stipulation from the court. This study used a normative juridical method with a descriptive-analytical approach, aimed at understanding the legal considerations of judges in determining guardianship and its juridical implications on children's rights. The research findings indicate that court-determined guardianship is a crucial step in providing legal certainty and protecting children's rights in shared inheritance. The juridical implications of such stipulations include legitimizing the guardian's actions, oversight against abuse of power, protection of the child's assets, and management of shareholder rights in companies. This study concludes that court-determined guardianship is a critical instrument in ensuring legal protection for minors in the context of shared inheritance.*

Keywords: *Juridical Analysis, Guardianship Decree, Share Inheritance.*

1. INTRODUCTION

Inheritance law is an important element in the Indonesian legal system which contains the rules related to the transfer of property ownership from the inheritor to his heirs. According to Pitlo, inheritance is the rules on treasure objects inherited by someone who died and the impact of this transfer of wealth on the recipient. The complexity of inheritance law increases when it involves minors as heirs, particularly in the context of inheriting assets in the form of company shares. This raises legal issues related to child guardianship in the management of inherited assets, particularly shares, which require certain legal actions. The Decision Number 542/PDT.P/2023/PN.SMG is a real example of this complexity. This stipulation highlights the importance of legal analysis on the stipulation of child guardianship for the benefit of share inheritance, as well as its implications for children's rights in the inheritance. This case began with the death of Stephanus on December 16, 2019, who during his lifetime owned 18,200 shares in PT Bank Perekonomian Rakyat Mekar Nugraha. After his death, the shares were inherited by his heirs consisting of his wife and three children.

The complexity of this case emerged when one of Stephanus' children, Noorendah, died on November 11, 2023. Noorendah left her husband (Hary) and two minor children (Domenico and Elisabeth) as her heirs. This situation raised legal issues related to the management of inheritance rights to shares for the two minor children. In accordance with Article 330 of the Civil Code, guardianship is needed to provide protection for the interests of the children in

legal matters related to the management of shares they inherit. Therefore, it is necessary to establish a legal guardianship to represent the interests of the children in the management of inheritance in the form of shares. Stipulation of guardianship through a court decision is important to provide legal legitimacy for guardians in taking legal action against children. This provision is in accordance with Article 33 paragraph (5) of Law Number 35 of 2014 which states that "The appointment of a guardian as regulated in paragraph (4) must be made through a court decision. " This court decision provides a solid legal basis for a guardian to represent the interests of the child. This authority includes the management of inherited assets, particularly in the form of shares. With this stipulation, a guardian has clear legal authority to take action on behalf of children in matters relating to the inheritance of shares.

In the case decided by the Semarang District Court, the guardianship application was filed by Hary as the biological father of Domenico and Elisabeth. This application was based on the need to take legal action related to the management of shares inherited by his children.

The legal analysis of this stipulation needs to consider various legal aspects. The principles of child protection and the best interests of the child are also regulated in the Child Protection Law. Article 2 of Law Number 35 of 2014 emphasizes that the implementation of child protection is based on Pancasila and is guided by the 1945 Constitution of the Republic of Indonesia and the main principles in the Convention on the Rights of the Child. These principles include: (a) non-discrimination; (b) the best interests of the child; (c) the right to life, survival, and development; and (d) respect for the child's opinion. Stipulation of guardianship in the context of share inheritance must take into account the aspects of protecting the child's assets.

Guardianship in the context of share inheritance is also closely related to the legal aspects of the company, considering that shares are proof of ownership of Limited Liability Company. Law Number 40 of 2007 concerning Limited Liability Companies regulates various aspects regarding share ownership and shareholder rights. Article 52 paragraph (1) of the law states that "Shares give their owners the right to: a. attend and vote at the GMS; b. receive dividends and a portion of the remaining assets from the results of liquidation; c. exercise other rights regulated in this law."

Children as shareholders to the implementation of these rights must be carried out through a legal guardian. Therefore, the stipulation of guardianship is crucial to ensure that the rights of children as shareholders can be protected and implemented properly. A legal analysis of the court's decision in this case must consider how the stipulation of guardianship can guarantee the implementation of the rights of children as shareholders, while ensuring the

management of the shares in the best interests of the child. Based on the background explanation, the author was interested in examining the basis for the judge's considerations in determining the guardianship stipulation and the impact of the judge's stipulation in the form of a guardianship stipulation, as well as explaining more about the validity period of the guardianship stipulation or the reasons for the termination of the guardianship stipulation.

2. RESEARCH METHODS

The type of research used in compiling this publication was a normative legal research, also known as a normative legal research method. The location of the research, based on the case examined by the author, was in Semarang City. In relation to this, this study focused on written studies using primary and secondary data. The secondary data was Library Research data obtained by searching for various literatures and legal products related to the Legal Analysis of the Court Decision Number 542/Pdt.P/2023/Pn.Smg concerning Child Guardianship for Share Inheritance. To obtain accurate data, the author utilized various legal materials, including primary, secondary, and tertiary legal materials. The data obtained were then analyzed using a qualitative analysis approach. This process involved observing the collected data and connecting it with the provisions and legal principles relevant to the problem studied, using inductive logic. The approach used in this research involved a reasoning process that moved from observing specific examples to formulating broader principles.

3. RESULTS AND DISCUSSION

Legal Considerations of the Judge in the Decision of the Semarang District Court Number 542/PDT.P/2023/PN.SMG Concerning the Stipulation of Guardianship of Minors for the Interests of Share Inheritance

The application for the stipulation of guardianship is something frequently performed by applicants in order to obtain legal and legitimate guardianship rights. In the Decision number 542/PDT.P/2023/PN.SMG, there are several legal considerations taken by the judge regarding Hary's application as a guardian. This application is related to the interests of the shares inheritance of his late wife, Noorendah, which were inherited by his two children named Domenico and Elisabeth. In this case, the guardianship becomes a central issue considering that the children who inherit shares from their mother have not had the legal capacity to take legal action, including in managing shares. Article 345 of the Civil Code states:

" If one of the two parents dies, the guardianship of the minor children, by law, is assumed by the parent who has lived the longest, unless this parent has been released or dismissed from the authority of the other person".

In line with this, Article 47 paragraph (1) of Law No. 1 of 1974 concerning Marriage states:

"Children who have not reached the age of 18 (eighteen) years or have never been married are in under the authority of their parents as long as they are not removed from their authority."

The legal statement above describes that it is automatically possible for a biological father and mother function as guardians for their children. However, the practice in the field, particularly in the jurisdiction of the Semarang District Court, shows differences. When parents need to act on behalf of their children in legal transactions such as buying and selling before authorized officials, inheritance matters, or activities related to business and companies, they are still required to include a guardianship stipulation letter from the Court. This shows a gap between legal provisions and their implementation in society.

Further analysis of the guardianship issue in this case reveals an interesting complexity between legal provisions and practice in practice. Although the Civil Code and the Marriage Law explicitly provide for automatic guardianship of the surviving parent, the reality at the Semarang District Court shows a more cautious and formal approach. This gap can be understood as an effort to provide stronger legal protection for children's interests, particularly in the context of transactions involving high-value assets such as company shares. Stipulation of guardianship through the court provides stronger and more transparent legitimacy, which can protect children's interests from potential abuse of authority or conflicts of interest.

The purpose in the need for the stipulation of guardianship as carried out by the applicant is to ensure legal certainty for Hary as guardian and his two children. In addition, because a number of shares are embedded in a Limited Liability Company, the act of applying for the stipulation of guardianship is also a valid and final legitimacy to strengthen and ensure that Hary is the only guardian legally appointed through the stipulation. Thus, the need for the Stipulation of Guardianship in inheritance cases even though the Marriage Law has provided automatic rights for parents in situations in which the stipulation of guardianship by the court is still necessary. One of the main reasons is to ensure that guardianship is carried out in accordance with applicable legal provisions and laws, particularly when the management of a child's inheritance involves third parties or assets that require special legal action, such as company shares.

This court decision reflects the principle of the Child Protection Law in protecting children's rights regarding inheritance. The law emphasizes every decision that affects children. This stipulation does not only regulate the technical aspects of guardianship, but also ensures that the interests of the child are guaranteed. and the welfare of children becomes a primary focus on the management of their inheritance. Based on the legal considerations that have been explained, the judge's decision in this case provides legal certainty for Hary to act as the legal guardian of his two children.

The Juridical Review Based on Relevant Legislations:

1. The 1945 Constitution of the Republic of Indonesia

The 1945 Constitution is the main legal framework that protects the rights of all citizens, including children, to receive legal protection. Article (2) Paragraph B of Article 28 of the 1945 Constitution clearly states that "every child has the right to life, growth and development and has the right to protection from acts of violence and discrimination". The judge prioritizes the principle of interest for child, which is in line with the mandate of the 1945 Constitution which pays special attention to the protection of children's rights, including in terms of inheritance and guardianship. By determining the applicant, namely Harry, as the guardian of his children, this decision shows its commitment to protecting children's rights, and the judge guarantees that children's rights, as guaranteed by the 1945 Constitution, are fully protected in the process of inheritance of shares.

2. Civil Code (*KUHPerdata*)

The Civil Code, particularly Article 330, stipulates that child under 21 years of age are considered minors and under supervision or guardianship. This article is in line with the stipulation of guardianship by the judge in which Domenico and Elisabeth who were still minors had to be represented by a guardian to exercise their rights as heirs. Article 345 of the Civil Code states that a guardian is appointed by the court through a stipulation based on an application. Therefore, in this stipulation, the judge carried out the function of the court in accordance with the provisions of the Civil Code to ensure that the children were represented by a legal guardian in managing the inheritance in the form of shares.

3. Law Number 1 of 1974 concerning Marriage (and its amendments in Law No. 16 of 2019)

The Law on Marriage, which had been amended by Law No. 16 of 2019, regulates the rights and obligations of parents to children, including guardianship. Then, in Article 50 of Law Number 1 of 1974, it states that children under 18 years old or not married, who are not under the care of their parents, must be under the supervision of a legal guardian. This stipulation refers to the law by which Hary filed a guardianship application to represent his two underage children. This measure also strengthened the legal policy implemented by the judge providing legal protection to children who are not legally adults through supervision and guidance from a legal guardian.

4. Law Number 23 of 2014 concerning “Child Protection”

Child protection is a very important thing to guarantee the rights of children, so the presence of the Child Law is one of the main legal frameworks in ensuring the protection of children rights, particularly minors. Article 26 of the law stipulates that parents are responsible for caring for, protecting, and fulfilling the rights of their children. Article 33 paragraph (5) of the same Law stipulates that the appointment of a guardian must be made through a court decision. The judge determined Hary to be the legal guardian based on an application that had been submitted in accordance with applicable legal provisions. This stipulation takes into account the principle of the best interest of the child, which is one of the main bases in the Child Protection Law.

5. Law Number 40 of 2007 concerning Limited Liability Companies (PT Law)

The Limited Liability Company Law grants shareholders the right to attend the General Meeting of Shareholders (GMS), receive dividends, and exercise other rights inherent in share ownership . Since Domenico and Elisabeth are still minors, their rights as shareholders cannot be exercised by them. Hence, a legal guardian is needed to represent them.

The judge in this stipulation ensured that Hary had the authority to exercise all the rights of his children as shareholders. With this stipulation, Hary or his attorney could attend the GMS, received dividends, and exercised other rights related to share ownership, in accordance with the provisions stipulated in the Limited Liability Company Law.

6. Government Regulation Number 29 of 2019 concerning the Requirements and Procedures for Appointing a Guardian

The Government Regulation Number 29 of 2019 provides technical guidance on the requirements and procedures for appointing a guardian for a minor. This regulation stipulates that a guardian must be appointed through a court order and must meet certain requirements, such as having a blood relationship with the child they represent or having the appropriate qualifications to protect the child's rights.

Parents act as guardians as long as they are able to carry out the duties properly. However, if they are unable or die, minor children will be under the guardianship of other party appointed by the court. In cases of inheritance, as stated in the Decision Number 542/PDT.P/2023/PN.SMG, even though the parents are still alive, the court still needs to officially determine guardianship. The main reason why the establishment of a guardianship is necessary in this case was to “ensure legal certainty”. Legal certainty is very important, particularly in terms of managing company shares, in which every legal action related to shares must be carried out by legitimate shareholder or his/her legitimate representative. Hary’s children had not reached mature age in law, so they do not have legal capacity for doing legal action law independently. Considering the condition in this case, Hary needed a court ruling that gave him full legal authority to represent his children in all legal actions related to the shares.

This stipulation did not only provide legal legitimacy for Hary, but it also protected the rights of the children as legal heirs. With the stipulation of guardianship, other parties, including PT Bank Perekonomian Rakyat Mekar Nugraha as a company issuing shares, have legal certainty that Hary had the right to represent his children in exercising their rights as shareholders. Without this guardianship stipulation, there was a potential risk that Hary's actions could be legally questioned, particularly if a dispute arises in the future regarding the management of shares. The following is an analysis of other guardianship stipulations:

7. Principles of Child Protection and Best Interests of the Child

Legal policy in Indonesia places great emphasis on child protection and the best interests of children in every legal decision involving them. Law Number 23 of 2014 concerning Child Protection firmly states that every child has the right to receive legal protection, particularly in relation to the management of inheritance which is their right. Article 33 paragraph (1) of this law stipulates that if parents are unable to carry out their obligations, a person or legal entity that meets the requirements can be appointed as guardian through a

court decision. In the Decision Number 542/PDT.P/2023/PN.SMG, the judge considered that the stipulation of this guardianship was important to ensure that Hary could carry out his duties as a guardian legally and in accordance with the law. In addition, this stipulation also provided additional protection for Hary's children so that their rights as shareholders were not violated or misused by other parties.

8. Legal Certainty and Protection of Children's Rights

The stipulation of guardianship through the court is not just a formality, but it is also an important step to ensure "legal certainty" and to protect children's rights in every aspect of the law, including inheritance. With this stipulation, the judge considered protection on children's interests in the inheritance of shares involving third parties. The legal certainty resulting from this stipulation ensured that no party can question the legitimacy of Hary's actions as a legal guardian. This also provided a strong legal basis for other parties, such as PT Bank Perekonomian Rakyat Mekar Nugraha, in interacting with Hary regarding the rights of his children as shareholders.

9. The Role of the Supreme Court and Decisions Relating to Guardianship

The Supreme Court had issued various decisions related to guardianship that serve as references for lower courts. In several guardianship cases, the Supreme Court's decisions also emphasized that the stipulation of guardianship must be carried out through a court mechanism to ensure that the child's rights were represented legally and in accordance with the law. For example, in a Supreme Court ruling on a guardianship case involving children who inherited property from their parents, the Supreme Court emphasized that without a court order, the guardian's actions in managing the children's property could be considered illegal and had a potential to cause legal disputes in the future. The previous decisions of the Supreme Court can be made as one of the considerations; one of which is the the Bangkalan Religious Court Decision Number 0344/ Pdt.P /2011/ PA.Bkl with the decision that the judge granted the application of the applicant to become a guardian from children under age. The next was the Decision of the Madiun District Court Number 17/ Pdt.P /2010/ PN.Kb.Mn dated September 21, 2010 regarding stipulation guardianship which also granted the application of the applicant to become the guardian for the applied child. In a number of cases on the guardianship stipulation, the general consideration of the judge was related to child's interest, ability of guardian, protection law for children, age and children's will. The Supreme Court put forward

the principle that the child entitled on supportive parenting that support physical, mental, and emotional developments, as well as can become protection for the child.

10. Court Stipulation as a Preventive Measure Against Future Disputes

The stipulation of guardianship through the court also serves as a preventive measure against potential disputes in the future. In the management of inheritance involving minors, disputes often arise between family members or other parties who feel they have an interest in the property. With the stipulation of a valid guardianship, the court provides a clear legal basis for the guardian to carry out his duties without having to face the risk of legal disputes from other parties.

11. Court Supervision of the Implementation of Guardianship

In addition to providing legal certainty, the stipulation of guardianship through the court also allows “court supervision” for the implementation of guardianship. This supervision is very important to prevent abuse of power by the guardian, particularly in the management of the child's high-value assets, such as shares. The stipulation made by the Semarang District Court legitimized Hary as a guardian, but remained under legal supervision. If it is later proven that Hary has not carried out his duties in accordance with the law or violates the best interests of his children, the court has the authority to take required actions, including revoking the guardianship rights and appointing a new, more capable guardian.

12. Legal Implications of Semarang District Court Decision Number 542/PDT.P/2023/PN.SMG on Children's Rights in Share Inheritance

The Decision Number 542/PDT.P/2023/PN.SMG is an example of a guardianship case related to children's rights in the inheritance of company shares. This case involved an applicant named Hary who filed a request to the court to be a guardian for his children who were under age, Domenico and Elisabeth, in the context of managing the shares inherited to them by their late mother, Noorendah. The shares were parts of the family assets inherited including to minors after the death of the testator. The establishment of this guardianship had an important function in the context of the company concerning the interests of other shareholders and also created trust in which, in the future, Hary as the guardian of his two children can carry out legal acts which of course determine the continuity of the company's shares in the future. The implications of the stipulation of guardianship can be used as a legal basis. The legal basis according to Tini Prihatini as a Notary in Semarang states that: The stipulation of guardianship

from the court can be used as a strong legal basis for the preparation of various notarial deeds, such as granting power of attorney and implementing the General Meeting of Shareholders (GMS). Court stipulation is very important because it relates to the management and running of a company based on the ownership of shares.

PT. Bank Perekonomian Rakyat as a financial institution of banking plays an important role in improving the welfare of society as a borrower of capital and a collector of funds. For this reason, Tini Prihatini as a Notary in Semarang provided the information that: The company is a financial institution that acts as a driver of the people's economy. Therefore, its management must be in accordance with banking principles. In addition, banking is also strictly supervised by the Financial Services Authority (OJK). This means that the validity of the company's operations must be ensured. Referring to the provisions contained in Law Number 40 of 2007 concerning Limited Liability Companies, individuals who hold shares are granted a series of rights. Among them are the authority to attend and voice opinions in the General Meeting of Shareholders (GMS), the right to receive a share of the company's profits in the form of dividends, and claims on remaining assets if the company is dissolved. However, it should be noted that all of these rights cannot be exercised directly by heirs who are still under the legal age without valid legal representation. Therefore, in the case of inheritance of shares, the role of the guardian becomes very crucial to ensure that these rights can still be exercised even though the children are not legally competent.

The establishment of a guardianship is crucial to ensure the validity of the company's operations, particularly in the context of making important decisions that require shareholder approval. With a legal guardian, the company's strategic decisions can be taken without raising legal doubts. Law Number 40 of 2007 provides a series of rights to shareholders, including the right to participate in the GMS, to receive dividends, and to claim on liquidation assets. The establishment of a guardianship ensures that these rights can still be exercised even though the shareholders (children) are not legally competent. This maintains a balance between protecting the interests of children and the smooth operation of the company. In the context of financial institutions that play an important role in the people's economy, the stability of share ownership is very important. The establishment of a guardianship helps maintain business continuity by ensuring that there is no gap in decision-making regarding the share ownership of minors.

After the issuance of the stipulation, the notary who was given the authority to take care of all interests related to the inheritance of these shares took several legal steps to complete the inheritance process, including:

1. Notary Public changed the deed of inheritance (inheritance information letter) of the grandfather, made by the heirs (doing changes) based on the death certificate of the mother of the children;
2. BPR held a GMS regarding the changes in the shareholders who had obtained decisions and permits from the OJK;
3. The notary prepared a deed of PKR/GMS of the results of the GMS of shareholders;
4. The notary registered with the Ministry of Law and Human Rights regarding the changes in shareholders to obtain a ratification decree."

The first step taken was to renew the inheritance certificate based on the grandfather's inheritance certificate, followed by a death certificate for the children's mother.

The Inheritance Information Letter (SKW) has valid and strong evidentiary power. This SKW can be used as a reference by heirs and related officials in implementing inheritance law. This shows the importance of updating relevant legal documents to reflect changes in family structure and heir status. Furthermore, BPR (Bank Perkreditan Rakyat) held a General Meeting of Shareholders (GMS) regarding changes in shareholders. This GMS was held after obtaining a decision and permission from the Financial Services Authority (OJK). This shows that in the case of inheritance of shares in financial institutions such as BPR, it is necessary to ensure compliance with applicable regulations and maintain the stability of the financial institution. After the GMS was held, the Notary was tasked with making a deed of statement of Meeting Decisions (PKR) or a GMS deed that reflects a results of the shareholders' meeting. Finally, the Notary registered the change in shareholders with the Ministry of Law and Human Rights to obtain a Decree (SK) for ratification. This step was the final formalization of the share inheritance process, which provided legal legitimacy to the change in ownership occurred. The process explained by Notary Tini Prihatini illustrates the complexity and thoroughness required in handling share inheritance cases, particularly when involving financial institutions regulated by the OJK. This procedure does not only ensure the compliance with inheritance laws and corporate regulations, but it also maintains the integrity of the financial system by involving the competent authorities in the process.

The legal implications of the Semarang District Court's decision Number 542/PDT.P/2023/PN.SMG have a significant impact on children's rights in the inheritance of shares and management of inherited assets. Article 52 paragraphs 4 and 5 of Law Number 40 of 2007 concerning Limited Liability Companies states that:

(4) Each share gives its owner indivisible rights.

(5) In the case of 1 (one) share owned by more than 1 (one) person, the rights arising from the shares are used by appointing 1 (one) person as a joint representative.

The provisions of the article above confirms that the rights to shares are non-transferable or not divided. If the shares owned by several people, there must be a representative appointed to exercise these rights. Then, the juridical implication of the court's decision is that the granting of power of attorney was proven based on a notarial deed made before a notary domiciled in Semarang, namely the heirs of Veronika, Albertus, Hary (guardians of their two children) granting power of attorney to Murdani or referred to as the "Authorized Person" who was authorized to act on behalf of the Principal of the Power of Attorney as a shareholder. These authorities include purchasing or taking over all shares of PT. Bank Perekonomian Rakyat Pratama Dana Abadi, withdrawing and/or receiving funds from dividends in the form of retained earnings which are part of the distribution of share ownership profits, appearing before a notary and other authorized officials, and signing deeds, documents, and agreements relating to share ownership in PT. Bank Perekonomian Rakyat Pratama Dana Abadi. Furthermore, the power of attorney can carry out various legal actions as necessary, including setting prices, terms, and conditions deemed appropriate by the power of attorney. Some important implications that need to be underlined are:

1. Legitimacy of Legal Action of Guardian

This stipulation provides strong legal legitimacy for every action taken by Hary as a guardian on behalf of his children in his capacity as a shareholder. These actions are considered legally valid, which provides legal certainty for all parties involved, including the stock issuing company and the children as heirs. This validity is based on a court decision that has permanent legal force.

2. Legal Certainty for Companies and Heirs

With this stipulation, the company issuing the shares has a clear legal basis to accept and recognize the actions taken by the guardian on behalf of the children as shareholders. This reduces the legal risk for the company and provides clarity in the management of share ownership. For children as heirs, this stipulation ensures that their rights to inherited shares remain protected and legally managed by a guardian appointed by the court.

3. Supervision Mechanism for Guardians

The stipulation of guardianship through the court does not only give legal authority to the guardian, but it also creates an important oversight mechanism. The court plays a crucial role in overseeing the implementation of guardianship to ensure that the guardian carries out his duties properly, in accordance with the law, and in the best interests of the children. This is in line with the opinion of Z. Idami (2012) who emphasized the importance of the guardian's responsibility towards the child under his guardianship .

4. Guardian's Responsibility

The appointed guardian, Hary, in this case had a legal obligation to be accountable for every action taken regarding the management of the child's inheritance, including shares. It included the obligation to make regular reports to the court regarding the management of assets, use of funds, and important decisions made on behalf of the children.

5. Protection from Third Party Claims

This court order provides strong legal protection against potential claims from other parties, such as relatives or other family members, who possibly want to claim rights to the shares or take over the management of the child's assets without valid consent. This order confirms that only a legally appointed guardian has the authority to manage the inheritance on behalf of the child.

6. Balance between Authority and Responsibility

This arrangement creates a balance between the authority given to the guardian and the responsibility he must bear. The guardian has the authority to make decisions regarding the management of shares and also responsible for ensuring that these decisions are made in the best interests of the children and in accordance with the principles of good governance.

7. Protection of Children's Economic Interests

This arrangement ensures that the economic interests of the children as heirs remain protected. The guardian has a fiduciary duty to manage the shares and other inherited assets carefully and wisely with the aim of maximizing the value and benefit to the children in the future.

8. Flexibility in Asset Management

While this designation gives the guardian authority, it also provides the necessary flexibility in managing the assets. The guardian can make strategic decisions regarding the shares, such as selling, buying, or restructuring, as long as such actions are justified and in the best interests of the children.

9. Guarantee of Continuity of Management

This arrangement ensures continuity in the management of the shares and other inherited assets. This is particularly important since the children are not adults and not able to manage their own assets. This continuity helps ensure that the value of the assets can be maintained or even increased during the term of the trust.

10. Basis for Dispute Resolution

If a dispute arises in the future regarding the management of shares or other inherited assets, this court ruling can be a strong legal basis for resolving the dispute. This provides a clear legal framework for assessing whether the actions taken by the guardian are in accordance with his authority and responsibility.

With the stipulation of guardianship carried out by the Semarang District Court, the management of inherited shares is in the hands of a guardian who is appointed and supervised by law. Hary, as a guardian, is obliged to manage the shares wisely and responsibly and to consider the impact on the welfare of his children in the future. The judge who decided this case ensured that the interests of the children were guaranteed through good management of their inherited assets. The theory of legal protection is a concept that aims to provide assurance that citizens' rights, including in the ownership of property, are respected and carried out fairly. The implications of this stipulation are very significant for notaries. All documents made by notaries related to share inheritance become legally stronger. They no longer need to worry about problems arising in the future because there is a strong legal basis through court decisions. This aspect is very crucial considering that this case is related to share inheritance in financial companies, particularly BPRs, which have strict regulations and supervision. With this stipulation, notaries have a solid legal basis in processing all documents related to share inheritance and management, so as to minimize legal risks in the future and ensure that every legal action taken is in line with the best interests of all parties involved, particularly children as heirs.

The end of guardianship can be seen from two different perspectives. First, it is a review from the condition of the children who are under guardianship. Guardianship can end when child reach adults age who are in the term of Dutch law is called *meerderjaring*. Besides, child death (*minderjarige*) also ends guardianship. Guardianship can also end if parents authority (*outerlijkemacht*) is active again or with the validation on the child born out of marriage that has been acknowledged. The second perspective is related to duties and responsibilities of guardian. Guardianship can end if guardian dismisses or releases from his duties, in which in the term of the Dutch law is called *ontzetting of ontheffing*. There is a number of reasons that can cause liberation or dismissal of guardian as set up in Article 380 of the Civil Code. The main conditions of dismissal (*ontzet*) of a guardian are based on the considerations of best interest for the children under guardianship (*minderjarige*).

4. CONCLUSION

Based on the results of the research and discussion above, it can be concluded that:

1. The consideration of the judges in the Semarang District Court Decision Number 542/PDT.P/2023/PN.SMG, regarding the stipulation of guardianship of minors for the purposes of share inheritance that is the Stipulation of guardianship through the court, as in the case of the Semarang District Court Decision Number 542/PDT.P/2023/PN.SMG, is an important step to provide legal certainty and protect children's rights in the inheritance of shares. Although legally the living parent has the authority as a guardian, a court decision is still needed to guarantee the legitimacy of the guardian's actions, particularly in the management of high-value assets such as company shares. This stipulation is in line with the principles of child protection and the best interests of children as regulated in various laws in Indonesia.
2. The implication of the Semarang District Court Decision Number 542/PDT.P/2023/PN.SMG on children's rights in share inheritance is that any legal action taken by Hary on behalf of his children in his capacity as a shareholder is considered legally valid. This provides legal certainty for both the company issuing the shares and the guardian, and then there is supervision of the possibility of abuse of the Guardian's power as a guarantee of protection for the child's assets in the future. The implication for the management of shares in the company, as regulated in Law Number 40 of 2007 concerning Limited Liability Companies, is that the rights of shareholders in the company include the right to attend the General Meeting of Shareholders (GMS), to vote, to receive dividends, and to the remaining liquidation proceeds, which is the basis for granting

power of attorney to Murdani who was authorized to act on behalf of the principal, namely the heirs as shareholders.

SUGGESTION

Based on these conclusions, the following suggestions can be given:

1. The consideration of the judge in the Semarang District Court Decision Number 542/PDT.P/2023/PN.SMG related to the stipulation of guardianship of minors for the purposes of share inheritance.
 - a. It is recommended that the government and relevant legal institutions can develop more detailed and comprehensive guidelines regarding the procedures for determining guardianship of minors, particularly in the cases involving high-value assets such as company shares.
 - b. There is a need for wider outreach to the public, particularly parents and legal professionals, regarding the importance of establishing guardianship through the courts in inheritance cases involving minors.
2. The implication of Semarang District Court Decision Number 542/PDT.P/2023/PN.SMG on children's rights in share inheritance
 - a. For the companies that have underage shareholders, it is recommended to develop clear and structured internal procedures to handle stock trust situations. These procedures should include a mechanism for verifying the court's trusteeship stipulation and a protocol for involving the trustee in company activities such as the General Meeting of Shareholders (GMS).
 - b. It is recommended that the parties involved in the stock trust, including guardians and attorneys, get specific training or guidance on their responsibilities in managing the assets of minors. This training may cover the aspects of limited liability company law, ethics in managing children's assets, and best practices in decision-making that prioritize the welfare of children.

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