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The Relationship between Substitution and the Establishment of Guardianship as the Legal Basis for Inherited Land Grants

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Article

Article History

Received: Dec 11, 2025;
Reviewed: Jan 2, 2026;
Jan 2, 2026;
Accepted: Feb 17, 2026;
Published: Feb 28, 2026:

DOI:

10.33474/yur.v9i1.24694

Abstrak

Penelitian ini menganalisis penerapan asas plaatsvervulling dan penetapan perwalian bagi ahli waris di bawah umur dalam perkara warisan almarhum Taslim. Fokusnya pada legitimasi hukum perwalian sebagai syarat pelaksanaan hibah keluarga yang melibatkan anak di bawah umur. Metode penelitian yang digunakan ialah hukum normatif dengan pendekatan perundang-undangan, kasus, dan konseptual. Hasilnya menunjukkan bahwa Pengadilan Negeri Semarang melalui Penetapan No. 197/Pdt.P/2025/PN Smg dan No. 394/Pdt.P/2025/PN Smg menerapkan asas best interest of the child serta Pasal 842–848 KUHPerdara tentang plaatsvervulling. Kedua penetapan tersebut saling melengkapi: yang pertama menetapkan dasar hak, dan yang kedua memberikan kapasitas hukum untuk pelaksanaannya. Sinergi ini menciptakan kepastian hukum dan perlindungan bagi anak di bawah umur dalam pelaksanaan hibah tanah warisan.

Kata Kunci: *Plaatsvervulling; Perwalian; Ahli Waris di Bawah Umur; Hibah Tanah*

Abstract

This study analyzes the application of the principle of plaatsvervulling and the appointment of guardianship for underage heirs in the inheritance case of the late Taslim. The focus is on the legal legitimacy of guardianship as a condition for the execution of family grants involving minors. The research method used is normative law with a legislative, case, and conceptual approach. The results show that the Semarang District Court, through Decrees No. 197/Pdt.P/2025/PN Smg and No. 394/Pdt.P/2025/PN Smg, applied the principle of the best interests of the child and Articles 842–848 of the Civil Code concerning plaatsvervulling. The two decrees complement each other: the first establishes the basis of rights, and the second

provides the legal capacity for their implementation. This synergy creates legal certainty and protection for minors in the implementation of inheritance land grants.

Keywords: Plaatsvervulling; Guardianship; Underage Heirs; Land Grants

INTRODUCTION

Indonesian civil inheritance law recognizes the principle of *plaatsvervulling* as a mechanism for replacing an heir who dies prematurely with their descendants in order to ensure the continuity of inheritance rights.¹ Legal problems arise when the substitute heir is still a minor and therefore legally incompetent,² which requires the establishment of guardianship as a form of protection for the interests of children. This study highlights the transfer of rights to Taslim's inherited land involving underage substitute heirs and requiring legal legitimacy through a court ruling. The Semarang District Court issued Decree Number 394/Pdt.P/2025 on the appointment of heirs and Decree Number 197/Pdt.P/2025 on the appointment of guardians as the legal basis for the transfer of inheritance rights. Both rulings demonstrate the normative

relationship between the recognition of the subject of inheritance and legal representation for minors in ensuring legal certainty in land administration.

Previous studies on the principle of *plaatsvervulling* generally focus on the aspects of inheritance distribution and continuity of lineage. The principle of *plaatsvervulling* serves to ensure that inheritance rights are not lost simply because the heir dies before the testator. First, research written by Lucky Putri Selomitha, et.al entitled “Kajian Yuridis Peralihan Hak Atas Tanah Milik Anak yang Masih di Bawah Umur.”³ Second, research written by Saumita Ngesti Rahmadanti et.al entitled “The Guarantee of Children’s Right in Determinating Guardian ad Litem on Sale and Purchase of Inherited Property.”⁴ Third, research written by Dewi Sulistianingsih,

¹ Eko Budiono et al., “Analyzing the Legal Framework of Substitute Heirs in Islamic Inheritance Cases: DKI Jakarta High Religious Courts Perspective,” *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (2023): 282, <https://doi.org/10.18592/sjhp.v23i2.12545>.

² Esra Basaulina Sitorus et al., “Juridical Analysis of a District Court Decision in a Case of Persecution Precipitated by Verbal Provocation in Palangka Raya City (No.109/Pid.B/2024/Pn.Plk),” *Journal of Law, Politic and Humanities* 5, no. 6 (2025): 5078, <https://doi.org/10.38035/jlph.v5i6.1557>.

³ Lucky Putri Selomitha and Andria Luhur Prakoso, “Kajian Yuridis Peralihan Hak Atas Tanah Milik Anak Yang Masih Di Bawah Umur,” *Mimbar Keadilan* 15, no. 2 (2022): 256–68, <https://doi.org/10.30996/mk.v15i2.6761>.

⁴ Saumita Ngesti Rahmadanti et al., “The Guarantee of Children’s Right in Determinating Guardian ad Litem on Sale and Purchase of Inherited Property,” *JUSTISI* 10, no. 3 (2024): 598–610, <https://doi.org/10.33506/js.v10i3.3236>.

et.al entitled “Legal Consequences of Transferring Children’s Assets in Trusteeship Without Involving The Heritage Trease Hall As Trustee”.⁵ These studies generally discuss regulations to protect the inheritance rights of minors and the state's responsibility to provide care and legal protection to children in care. Therefore, this study is novel in that it considers guardianship as a complementary normative prerequisite for the appointment of heirs in ensuring the legality of the transfer of inheritance rights, and there is a ruling that is analyzed.

The urgency of this research is evident due to the lack of clarity in regulations between the application of *plaatsvervulling* and the requirement to establish guardianship, which has the potential to lead to the invalidity of legal actions and disputes in the future. Certainly, with the above explanation, legal certainty in the transfer of inheritance rights involving underage heirs is greatly needed. In practice, law enforcement officials and relevant officials need a clear normative basis to ensure the protection of children's rights and the validity of land administration. Therefore, this study is relevant to address these needs.

The focus of this study is the legal vacuum regarding the appointment of representatives, thus requiring research to analyze the application of the principle of *plaatsvervulling* and the appointment of guardians for underage heirs in the inheritance case of the late Taslim. The inheritance case was filed with the Semarang District Court through Decisions No. 197/Pdt.P/2025/PN Smg and No. 394/Pdt.P/2025/PN Smg. Although underage heirs normatively have inheritance rights, their inability to act means that these rights cannot be exercised without a guardian appointed by the court. The court must also consider the application of the principle of *plaatsvervulling*, the status of children as heirs, and the principle of child protection in relation to the legitimacy of guardianship.⁶

This research is normative legal research⁷ used to analyze the application of the principles of *plaatsvervulling*, guardianship of minors, and gifting in two decisions of the Semarang District Court using a legislative approach, a case approach, and a conceptual approach. The legislative approach was used to examine the provisions in the Civil Code regarding *plaatsvervulling*

⁵ Dewi Sulistianingsih et al., “Legal Consequences of Transferring Children’s Assets in Trusteeship Without Involving The Heritage Treasure Hall As Trustee,” *Perspektif Hukum*, November 27, 2023, 48–70, <https://doi.org/10.30649/ph.v23i2.233>.

⁶ Fathul Mu’in et al., “The Practice of Substitute Heirs in Indonesian Religious Court: Restricted Interpretation,” *Al-Ahwal: Jurnal Hukum Keluarga Islam* 16, no. 1 (2023): 148, <https://doi.org/10.14421/ahwal.2023.16107>.

⁷ Wani Wani et al., “Yurisprudensi Hukum Penentuan Pembagian Ahli Waris Pengganti (Studi Putusan Nomor 128/Pdt.P/2024/Pa.Sry),” *Innovative: Journal Of Social Science Research* 5, no. 4 (2025): 17–18, <https://doi.org/10.31004/innovative.v5i4.20071>.

in Articles 842 to 848, guardianship and the legal capacity of children in Article 330, and provisions on grants in Articles 1666 to 1693 and Law No. 35 of 2014 on Child Protection as the basis for the principle of the best interests of the child or the best interests of the child in laws relating to minors. The case method was used to study Regulation No. 197/Pdt.P/2025/PN Semarang and Regulation No. 394/Pdt.P/2025/PN Semarang, which were the main subjects of the study and were used to gain an understanding of judges' practices in applying legal principles in the context of inheritance, guardianship, and grants. Meanwhile, legal concepts such as the position of substitute heirs, the authority of guardians to perform legal actions, and legal certainty in civil decisions are discussed through a conceptual approach. The technique of collecting legal materials was carried out through library research, namely by searching for, reading, and processing relevant literature.

This study aims to provide new insights into the relationship between

plaatsvervulling and guardianship, and the application of plaatsvervulling in Taslim's inheritance. In addition, this study provides legal implications for general inheritance and the need for guardianship, as well as an explanation and analysis of the Semarang District Court's decision through Decree No. 197/Pdt.P/2025/PN Smg and No. 394/Pdt.P/2025/PN Smg, which provide a legal basis for the implementation of family land grants.

RESULT AND DISCUSSION

Analysis Related to Plaatsvervulling and Guardianship

In Indonesian civil inheritance law, plaatsvervulling is a mechanism for replacing an heir who has passed away with their descendants,⁸⁹ so that inheritance rights are not interrupted, as explained in the provisions of the Civil Code and developed in Indonesian legal practice.¹⁰ Consequently, when these substitute heirs are still minors, the law also requires the establishment of guardianship to ensure legal competence over the inheritance rights concerned.¹¹

⁸ Tauratiya Tauratiya and Lailasari Eka Ningsih, "Plaatsvervulling Dalam Hukum Waris Indonesia: Mengungkap Kedudukan Ahli Waris Pengganti," *Islamitsch Familierecht Journal* 5, no. 2 (2024): 111, <https://doi.org/10.32923/ifj.v5i2.5035>.

⁹ Intan Whetaning Mentari and Zainal Arifin, "Distribution of Inheritance based on Inheritance Laws that Apply in Indonesia a Study of the Existence of a Substitute Inheritance (Plaatsvervulling)," *Dinamika Hukum & Masyarakat* 5, no. 1 (2022): 3, <https://doi.org/10.30737/dhm.v5i1.3858>.

¹⁰ Asyifa Salsabilla et al., "Urgensi Penetapan Perwalian dalam Menjamin Hak-Hak Anak Pasca Kematian Orang Tua," *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 399, <https://doi.org/10.61104/alz.v4i1.3028>.

¹¹ Muhammad Imam Drajat and Tamaulina Br. Sembiring, "Analisis KUHPerduta Pasal 345 Terhadap Permohonan Perwalian Atas Anak Dari Saudara Kandung: Studi Putusan Nomor 375/PDT.P/2023/PA.SGM," *Terang: Jurnal Kajian Ilmu Sosial, Politik dan Hukum* 1, no. 2 (2024): 57–58, <https://doi.org/10.62383/terang.v1i2.201>.

The appointment of a guardian is necessary so that minors can be legally represented in legal actions involving the transfer and management of their inheritance, including administrative requirements at the land registry office,¹² However, in practice, problems arise when the substitute heir is not yet legally competent. This is evident in the Semarang District Court Decision Number 197/Pdt.P/2025/PN Smg, which appointed a guardian for substitute heirs who were still minors, after previously issuing Decision Number 394/Pdt.P/2025/PN Smg regarding the appointment of heirs. This series of decrees shows that inheritance rights arising from *plaatsvervulling* cannot be implemented administratively and juridically without first being supported by a guardianship decree. Thus, *plaatsvervulling* and guardianship form a complementary

relationship that supports each other in ensuring legal certainty and protection for children as subjects of inheritance.¹³

To clarify the relationship between these two concepts, this study compiles and analyzes a number of legal variables that influence the application of the principles of *plaatsvervulling* and guardianship in judicial practice. These variables not only reflect normative aspects as stipulated in the Civil Code and Law Number 35 of 2014 concerning Child Protection, but also reflect practical dimensions in law enforcement, such as the role of the court, the legal status of children, and the administrative implications of the transfer of inheritance rights to land. Thus, the following table is compiled as a form of conceptual mapping that connects legal norms, jurisprudential practices, and child protection principles in the context of inheritance in Indonesia.

Table of Legal Variables Related to *Plaatsvervulling* and Guardianship

Legal Component	Regulation/Source	Relevant cases
<i>Plaatsvervulling</i>	Articles 842–848 of the Civil Code	Determining the position of grandchildren as substitutes for heirs who died earlier.
Legal Competence of Children	Articles 330 of the Civil Code	Minors cannot give consent to a grant, so a guardian is required

¹² Irselin Tasik Lino, “Permohonan Perwalian Anak Di Bawah Umur Oleh Ibu Kandung Dalam Pengelolaan Harta Warisan,” *Jurnal Ilmu Hukum: ALETHEA* 4, no. 2 (2021): 144, <https://doi.org/10.24246/alethea.vol4.no2.p131-146>.

¹³ Wani et al., “Yurisprudensi Hukum Penentuan Pembagian Ahli Waris Pengganti (Studi Putusan Nomor 128/Pdt.P/2024/Pa.Sry),” 19.

Child Protection	Law Number 35 of 2014 concerning Child Protection	Affirming the principle of the best interests of the child in legal proceedings
Appointment of Guardian	Determination of Court Decision No. 197/2025 and Court Decision 394/2025	Serving as the legal basis for minors to be represented in land grants
Legal Certainty	Hans Kelsen's Theory	Providing a normative basis for the validity of guardianship and inheritance actions
Grant Actions	Articles 1666–1693 of the Civil Code	Regulating the validity requirements for grants, including the consent of heirs.

The Application of Plaatsvervulling in the Taslim Inheritance

Substitution or replacement of heirs is a mechanism in accordance with Indonesian civil inheritance law, which stipulates that the descendants of an heir who has died first are entitled to “replace” their parents in receiving their share of the inheritance.¹⁴ This mechanism is justified by Articles 842–848 of the Civil Code, as the existence of these articles indicates that the Civil Code recognizes and acknowledges the existence of substitute heirs.¹⁵ The mechanisms of substitution and guardianship ultimately became two complementary legal instruments, namely: first, establishing inheritance relationships, and second, ensuring that inheritance rights can be exercised legally.

In this case, Taslim passed away, leaving behind an inheritance in the form of a

plot of land. In the line of succession, one of the parties entitled to be a substitute heir is still a minor. For the purpose of transferring the rights to the inherited land, the Semarang District Court issued two decrees, namely Decree Number 394/Pdt.P/2025 concerning the determination of heirs and Decree Number 197/Pdt.P/2025 concerning the determination of guardianship. These two decrees form the administrative basis for the process of transferring the rights to the inherited land.

In the Taslim case, the application of *plaatsvervulling* became the basis for determining heirs in the District Court, because one of the heirs had died prematurely, thus transferring the right to receive a share to his underage descendants. Heirs who are minors cannot act on their own behalf, as they are not yet legally competent, and therefore

¹⁴ Dwi Naili Hidayah et al., “Perbandingan Pengaturan Ahli Waris Pengganti dan Harta Gono-Gini Dalam Hukum Islam dan Perdata Di Indonesia,” *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 4, no. 1 (2026): 1326, <https://doi.org/10.61104/alz.v4i1.3232>.

¹⁵ Sekar Dita Utari et al., “Ahli Waris Pengganti Di Tinjau Dari Kuhperdata dan Kompilasi Hukum Islam,” *Private Law* 3, no. 2 (2023): 433, <https://doi.org/10.29303/prlw.v3i2.2605>.

require guardianship as stipulated in the Civil Code and modern judicial practice.

In this case, the principle of plaatsvervulling indicates that the judge considers the status of underage heirs to remain legally valid even though they do not yet have the capacity to act. In civil inheritance law doctrine, the right of inheritance for substitute heirs arises directly from the moment the inheritance is opened based on the principle of plaatsvervulling, as constructed in Articles 841–848 of the Civil Code¹⁶ which places the descendants of the deceased heir as direct successors to his position. This inheritance right remains attached even if the substitute heir is still a minor, because normatively he has been recognized as the subject of the inheritance right since the opening of the inheritance. Therefore, the position of the minor heir remains legally valid, while his inheritance rights require further recognition through the establishment of guardianship.

Legal Implications of Underage Heirs and the Need for Guardianship

In the Indonesian civil law system, the existence of underage heirs has significant legal implications because children do not yet

have legal capacity¹⁷ (*handelingsbekwaamheid*) as stipulated in Article 1330 of the Civil Code. This incompetence means that any legal action related to inheritance cannot be carried out by the child alone, but must be represented by a guardian appointed through the judicial mechanism. This position is in line with the principle of the best interests of the child, which requires the state to provide maximum legal protection to children in all civil cases.¹⁸

The position of underage heirs in the exercise of inheritance rights is essentially limited by legal provisions stating that children under the age of 21 do not yet have legal capacity as stipulated in Article 330 of the Civil Code. The exercise of these rights must be carried out through a guardian who is legally appointed by the court based on the provisions of guardianship in Articles 345 to 355 of the Civil Code. In addition, the mechanism of plaatsvervulling itself is regulated in Articles 842 to 848 of the Civil Code, which provides a legal basis for grandchildren to replace the position of their parents who have died earlier. This provision is reinforced by the principle of child protection in Law No. 35 of 2014 on Child Protection, which requires the state to ensure

¹⁶ Suryati et al., “Kajian Yuridis Terhadap Ahli Waris Pengganti dalam Perspektif Kitab Undang-Undang Hukum Perdata,” *Cakrawala Hukum: Majalah Ilmiah Fakultas Hukum Universitas Wijayakusuma* 27, no. 1 (2025): 26, <https://doi.org/10.51921/chk.c2y4ts87>.

¹⁷ I. Gusti Ayu Vhira Indra Sasmita and Putu Devi Yustisia Utami, “Kewenangan Pelaku Usaha Dibawah Umur Dalam Pendaftaran Nomor Induk Berusaha: Kajian Kecakapan Perspektif Hukum Perdata,” *Jurnal Media Akademik (JMA)* 3, no. 10 (2025): 6, <https://doi.org/10.62281/0kbr8d20>.

¹⁸ Klamajaya K and Luqman Hakim, “Perlindungan Hukum Ahli Waris Dibawah Umur Terhadap Penjualan Tanah Harta Waris Yang Dilakukan Oleh Wali (Studi Kasus Putusan Nomor: 313/Pdt.P/2023/PN Dps),” *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial* 1, no. 9 (2024): 137, <https://doi.org/10.5281/zenodo.11077315>.

that the best interests of the child are upheld in all legal proceedings. Therefore, the establishment of guardianship is an absolute requirement for the child's inheritance rights to be exercised legally in accordance with applicable regulations.

In addition, inheritance rights arising through the mechanism of *plaatsvervulling* further reinforce the urgency of appointing a guardian. When a grandchild replaces the position of a parent who has died earlier, the grandchild not only acquires rights, but also bears legal consequences in the form of the need for legal representation through a guardian. In every *plaatsvervulling* case involving underage heirs, the appointment of a guardian is a normative requirement so that the execution of inheritance rights can proceed in accordance with the law.¹⁹

From a legal protection perspective, the appointment of a guardian ensures that the child's inheritance is not misused or transferred without the child's best interests in mind. Actions by family members who control or sell a child's inheritance without official guardianship constitute a violation of the law that may give rise to civil disputes in the future. Thus, the appointment of a guardian is

not merely an administrative formality, but an integral part of the legal protection mechanism for underage heirs.

In addition, the appointment of a guardian serves as a legal instrument that enables legal actions on inherited property to be carried out legally, including grants, transfers of ownership, and registration of rights. In every modern inheritance case, namely inheritance involving the land administration system and the transfer of rights to certified land, the involvement of underage heirs requires two legal instruments, namely the appointment of heirs and the appointment of guardianship as a series of legalities for the transfer of rights.²⁰ This pattern reflects the understanding that rights and capacity are two inseparable legal aspects.²¹

Based on the results of a normative analysis of land regulations and civil law doctrine, the establishment of guardianship has significant legal implications for underage heirs, including:

1. Legal legitimacy of inheritance rights and the ability to act on behalf of children

¹⁹ Nurul Hidayati and Santi Rima Melati, "Penyelesaian Permohonan Penetapan Perwalian Ahli Waris Di Pengadilan Agama Kabupaten Bangkalan: Studi Kasus Pada Penetapan Nomor 630/PDT.P/2025/PA.BKL," *Jurnal Media Akademik (JMA)* 4, no. 1 (2026): 4, <https://doi.org/10.62281/1knbjc66>.

²⁰ Desi Redhawati and Darmini Roza, "Pendaftaran Peralihan Hak Milik Atas Tanah Karena Pewarisan Dalam Rangka Menjamin Kepastian Hukum," *Ekasakti Legal Science Journal* 2, no. 2 (2025): 154, <https://doi.org/10.60034/qc446855>.

²¹ Safira Rahmanda et al., "Perlindungan Hukum Terhadap Penguasaan Harta Waris Anak Yatim Oleh Wali: Legal Protection Against the Control of the Inherited Property of an Orphan Child by the Guardian," *Bustanul Fuqaha: Jurnal Bidang Hukum Islam* 6, no. 2 (2025): 244, <https://doi.org/10.36701/bustanul.v6i2.2025>.

- (e.g., registration of land rights, grants, sales and purchases).
2. Legal protection against misuse of assets, as inherited assets are managed under the supervision of a guardian and/or court.
 3. Ensuring certainty in land administration because land registration regulations require a legally competent party in every transfer of rights, so that the existence of a guardian is a prerequisite for the legality of legal actions involving underage heirs.
 4. Long-term legal certainty for minors and beneficiaries of inheritance because their rights are legally legitimized from the outset.

From a practical perspective, the appointment of a guardian is an absolute prerequisite before taking legal action on inherited property involving children. The sale of land belonging to minors shows that even if parents want to sell these assets, the court will often refuse if a guardian has not been appointed, as stipulated in Article 1330 of the Civil Code.²²

Guardianship is not merely a formality, but a substantive legal instrument that ensures that the rights and obligations regarding inherited property are managed legally,

proportionally, and fairly, especially for minors. For adult heirs or beneficiaries, the existence of guardianship implies a responsibility to the guardian to ensure that the management of the property takes into account the best interests of the child.

Judicial Considerations in Two Court Orders

Judicial considerations in cases involving the determination of heirs and guardianship demonstrate how judges apply the principle of judicial prudence²³ in ensuring the fulfillment of legal aspects and protection for parties who are incapable of acting, especially minors. Two court orders in the Taslim inheritance case demonstrate the functional relationship between the appointment of heirs and the appointment of guardians, which are two complementary legal instruments. In Indonesian judicial practice, judges not only assess the formal elements of the petition, but also the substantive impact on the interests of underage heirs, so that judicial considerations play a major role in upholding the principle of the best interests of the child in accordance with the Convention on the Rights of the Child.²⁴

²² Zahra Apritania Jati, "Peralihan Hak Atas Tanah Yang Dimiliki Anak Oleh Orang Yang Bertindak Sebagai Wali," *Jurnal Ilmu Hukum: Alethea* 4, no. 2 (2022): 116, <https://doi.org/10.24246/alethea.vol4.no2.p115-130>.

²³ M. Mahmud Nahya Mustofa and Muhammad Dzikirullah H. Noho, "Kedudukan Precautionary Principle (Kehati-Hatian) Hakim Melalui Scientific Evidence (Bukti Ilmiah) Dalam Menetapkan Asal Usul Anak Di Luar Kawin: Studi Putusan Pengadilan Agama No.214/PDT.P/2021/PA.," *Cessie : Jurnal Ilmiah Hukum* 4, no. 2 (2025): 3, <https://doi.org/10.55904/cessie.v4i2.1587>.

²⁴ Kathleen C. Pontoh et al., "Penerapan Prinsip The Best Interest Of Child Pada Hak Waris Anak Angkat Dibawah Umur Dalam Hukum Perdata Di Indonesia," *Jurnal Tana Mana* 4, no. 2 (2023): 83, <https://doi.org/10.33648/jtm.v4i2.384>.

Legal research on guardianship decisions shows that judges usually consider three main things: (1) the legal status of family relationships; (2) the urgency of protecting the child's assets; and (3) legal certainty in the administrative actions to be taken after the decision is enforced.²⁵ An analytical review of Decision No. 542/Pdt.P/2023/PN Smg confirms that the judge assessed the objective condition of the minor and ensured that a guardian was appointed to avoid the risk of asset misuse or flawed legal actions. This consideration is in line with judicial practice that emphasizes the importance of guardians as legal subjects who can act on behalf of children in all legal actions, including the transfer of land rights.

In the Taslim case, the first judicial consideration relates to proving inheritance relationships, which is based on authentic evidence such as death certificates, family relationships, and *plaatsvervulling* provisions when the direct heir has died first. Jurisprudence shows that judges must ensure genealogical accuracy before determining heirs, so that disputes do not arise in the future. At this stage, judges not only assess the

sufficiency of evidence, but also consider whether there are any heirs who are still minors, which would have further legal implications.

The second judicial consideration relates to the appointment of a guardian. Once the inheritance relationship has been legally established, the judge must assess whether the minor child requires a guardian for certain legal actions. The appointment of a representative is reviewed with reference to the theory of legal certainty, as the law must be implemented with reference to the substance that applies in a particular community.²⁶

In addition, the judge also considered the aspect of administrative certainty. Institutions such as the Land Deed Official and the National Land Agency require an explicit guardianship appointment when the transfer of land rights involves minors.²⁷ Empirical studies show that without a guardianship order, Land Deed Officials cannot process deeds of gift or transfer of land ownership involving minors.²⁸ Therefore, judicial considerations are not only doctrinal in nature,

²⁵ Erlina Bachri Erlina Bachri et al., "Pertimbangan Hakim Dalam Mengabulkan Permohonan Penetapan Wali Pengampu Anak Dalam Keadaan Autisme (Studi Putusan Nomor: 284/Pdt.P/2023/PN TJK)," *Maleo Law Journal* 8, no. 2 (2024): 122, <https://doi.org/10.56338/mlj.v8i2.5943>.

²⁶ Faqih Thariqu Billah, "Analisis Pertimbangan Putusan Hakim Pengadilan Agama Wonosari Tentang Penetapan Perwalian Orang Tua Kandung," *As-Syar i: Jurnal Bimbingan & Konseling Keluarga* 6, no. 2 (2024): 1139, <https://doi.org/10.47467/as.v6i2.1347>.

²⁷ Yuda Oktavianus Ginting, "Pendaftaran Tanah terhadap Hak Milik dan Peralihannya oleh Anak," *Notary Law Journal* 2, no. 2 (2023): 150, <https://doi.org/10.32801/nolaj.v2i2.43>.

²⁸ Kartika Gusmawati et al., "Pertanggungjawaban Wali Dalam Menjalankan Kekuasaan Terhadap Harta Anak Di Bawah Umur Setelah Berakhirnya Perwalian," *Jurnal Hukum Sasana* 9, no. 1 (2023): 11, <https://doi.org/10.31599/sasana.v9i1.1354>.

but also take into account administrative practices and the applicability of positive law.

Thus, the two court orders in the Taslim case constitute a series of interconnected judicial decisions: the first decision determined who was entitled to be the heir, while the second decision ensured that this right could be legally exercised by the underage heir through a legal guardian. This is in line with the modern approach of the Indonesian judiciary, which emphasizes the harmonization of legality, child protection, and legal certainty in every action related to family inheritance.

In the Taslim inheritance case, the two District Court decisions on the determination of heirs and the determination of guardianship do not stand alone, but form a series of interdependent laws. In Indonesian civil inheritance law, one of the functions of the heir determination process is to determine who is legally entitled to the estate. However, in cases where one of the heirs is a minor, the determination cannot be enforced without a follow-up decision appointing a guardian authorized to act on behalf of the child. This interdependence is both structural and substantive,²⁹ because without a legal guardian, underage heirs cannot take legal action regarding inherited property..

Research on Decision Number 542/Pdt.P/2023/PN Smg confirms that the court can only legalize legal actions on a child's inheritance after a guardian has been legally appointed. Thus, the legal system automatically makes the determination of heirs a “prerequisite for legal identity,” while the determination of guardianship serves as a “prerequisite for legal capacity.” The two decisions work like two keys that must be used together in order for underage heirs to exercise their rights.

In the Taslim case, the interdependence between the two decisions is also related to the application of *plaatsvervulling*. If one of the children of the deceased dies first, the grandchild becomes the substitute heir. However, grandchildren who are still minors not only obtain inheritance rights, but also bear legal consequences in the form of the need for a guardian to manage their inheritance. *Plaatsvervulling* always gives rise to additional administrative implications when the substitute heir is still a minor. Therefore, the decision to appoint an heir is never final in such cases without a guardianship decision.

This dependency is also reinforced by land practices in Indonesia. Land Deed Officials and the National Land Agency always require official guardianship documents when there is a transfer of land

²⁹ Fani Aditia et al., “Perlindungan Hukum Terhadap Hak Waris Anak Dibawah Umur Dalam Penyelesaian Sengketa Utang Piutang Ayahnya Yang Telah Meninggal Dunia (Study Kasus Putusan PN Makasar No.273/Pdt.P/2025),” *Jurnal Ilmu Hukum, Humaniora dan Politik* 6, no. 1 (2025): 626, <https://doi.org/10.38035/jihhp.v6i1.6366>.

rights involving minors. Without a guardianship decision, deeds of gift, sale and purchase, or inheritance transfers cannot be processed. Thus, even though the appointment of heirs is legally valid, administrative actions cannot be carried out until the judge issues a second decision. This makes the two decisions a single functional unit in the process of distributing inherited assets.

The court not only considers evidence and inheritance relationships, but also assesses the family's legal readiness to manage the inheritance responsibly. Therefore, the court often issues two interrelated decisions in a single series of proceedings. Thus, the two rulings in the Taslim case demonstrate how the Indonesian judicial system applies a “layered decision” model to ensure child protection, legal certainty, and the validity of administrative actions. The two rulings form an inseparable interdependent relationship: without the appointment of heirs, there is no basis for rights; without the appointment of guardians, those rights cannot be exercised.

Functional Complementarity between Two Court Orders

Two court orders in the Taslim inheritance case demonstrate the existence of a complementary relationship (functional complementarity) that forms an integrated legal structure. The determination of heirs and

the determination of guardianship are not two separate decisions, but rather two legal instruments that complement each other's institutional functions. In the Indonesian civil law system, the determination of heirs serves to establish the legal basis of the subject of rights, while the determination of guardianship serves to establish the subject who has the legal capacity to act. Without one of these, the inheritance mechanism cannot function fully. This is in line with the principle that minors are not legally competent to act, so that any rights attached to them cannot be exercised without a legal guardian.³⁰

Functional complementarity is evident in the relationship between the appointment of heirs and the appointment of guardians. A review of Decision 542/Pdt.P/2023/PN Smg confirms that judges recognize the importance of ensuring that inheritance assets that fall to minors are not only legally determined, but also managed by someone who has legal legitimacy to act on behalf of the child. This shows that the judge views the two decisions as “two inseparable legal stages.” Without the appointment of heirs, the appointment of guardians has no clear object; without the appointment of guardians, the appointment of heirs cannot be carried out.

This principle of complementarity is also related to the application of

³⁰ Mohamad Mirzalino Safryan Dilapanga et al., “Kedudukan Ahli Waris Pengganti (Plaatsvervulling) Dalam Memperoleh Harta Waris Menurut Hukum Islam,” *Jurnal Komunikasi Hukum (JKH)* 7, no. 1 (2021): 105, <https://doi.org/10.23887/jkh.v7i1.31460>.

plaatsvervulling. When a grandchild replaces the position of a parent who has died earlier, the grandchild acquires the legal position as a substitute heir. The two court decisions must work in parallel to fill the legal gap that arises due to differences in age and legal capacity.

In judicial practice, this functional relationship is not new. In cases involving minors, courts tend to issue multiple, mutually supportive rulings to ensure long-term legal protection. Courts not only establish rights, but also ensure that those rights can be legally enforced. Two rulings in the Taslim inheritance case reflect the principle of legal certainty regarding rights.

Thus, the functional complementarity between the appointment of heirs and the appointment of guardians reflects the Indonesian judiciary's emphasis on harmony between legal status and legal capacity. The Taslim case shows that the two decisions work synergistically, rather than separately, with one producing legitimacy of rights and the other producing enforceability. Without this complementarity, the inheritance mechanism cannot function legally or effectively.

Harmonization of Judicial Reasoning in Both Court Decisions

The harmonization of judicial reasoning is an important concept in the settlement of civil cases involving more than one judicial

decision. In the context of Taslim's inheritance, the consistency between the decision on heirs and the decision on guardianship is an indication that the judge used an integrated framework of considerations to achieve substantive justice. The two rulings do not indicate a conflict of authority or differences in legal construction, but rather speak the same legal language: protection of the interests of children and safeguarding of inherited assets. The synchronization of reasoning between rulings is an indicator of the quality of the judiciary because it avoids inconsistencies in the application of norms.³¹

This harmonization can be seen in how the judge, in determining the heirs, first established the basis of the inheritance relationship, including the application of plaatsvervulling as legitimization for Taslim's grandson to replace his father's position. This basic framework was then used as the basis for the second decision regarding the appointment of a guardian, in which the judge placed legal protection for minors as beneficiaries of inheritance above all else. The legal protection of orphans as heirs is a normative objective that requires additional measures in the form of legally valid guardianship appointments. Thus, the reasoning in the second decision

³¹ Susi Eoudia and Andryawan Andryawan, "Konsistensi Hakim Dalam Menerapkan Yurisprudensi Sebagai Sumber Hukum Di Indonesia," *NUSANTARA: Jurnal Ilmu Pengetahuan Sosial* 12, no. 9 (2025): 4033, <https://doi.org/10.31604/jips.v12i9.2025.3864-3700>.

departs from the structure of argumentation that was established in the first decision.

This harmonization of reasoning is also supported by judicial analysis in decision 542/Pdt.P/2023/PN Smg, which emphasizes the best interests of the child. The judge emphasized that inheritance assets that fall to minors cannot be transferred, managed, or encumbered without a legally responsible guardian. Using the same framework, the two decisions converge in a consistent legal approach: ensuring not only the certainty of the subject of rights, but also the certainty of the subject who has the capacity to act.

On the other hand, the consistency of judicial reasoning is also reflected in the synchronization between regulatory law and practical law. Provisions regarding the legal capacity of minors in the Civil Code are combined with land provisions that require guardians to act as legal representatives in the drafting of deeds. This is in line with research showing that the transfer of land rights involving minors cannot be carried out without authentic proof of the appointment of a guardian. Thus, judges not only consider formal legal aspects, but also the administrative implications inherent in the execution of inheritance.

The consistency of legal logic is also evident in the consistent method of reasoning. In inheritance cases involving children, judges often use a tiered reasoning pattern, namely the determination of heirs as the establishment

of rights and the determination of guardians as the establishment of capacity. Two decisions in the Taslim case reflect this pattern. There are no contradictions between the decisions, and all arguments lead to one goal: to ensure that inheritance rights are exercised legally, safely, and in accordance with the principles of child protection.

Thus, the harmonization of judicial reasoning between the determination of heirs and the determination of guardianship in the Taslim case not only demonstrates the consistency of legal logic, but also reflects the judges' understanding that inheritance cases involving minors require an integrated approach. The two decisions function as a logical sequence that embodies substantive justice and legal certainty in the management of inherited property.

In addition, both rulings show that the judges' legal considerations are similar. First, in both cases, the judges emphasized that *plaatsvervulling* depends on Articles 842–848 of the Civil Code. Second, the judges emphasized that the child's legal capacity is necessary for the appointment of guardianship, as stipulated in Article 330 paragraphs (1) and (2) of the Civil Code. Third, the principle of the best interests of the child as stipulated in Article 2 of Law No. 35 of 2014. These three legal bases form the normative basis for judges to place guardianship as an instrument of legal protection in the transfer of inheritance rights.

The assumption that there is an error in this consideration essentially stems from the incorrect separation of the two court rulings, even though normatively both have the same legal objective, namely to protect the rights of children as heirs and to form a valid legal basis for the implementation of the grant. Hans Kelsen's theory of legal certainty (1961), which argues that legal norms must be interpreted systematically to produce consistent and non-contradictory decisions, is in line with this harmony.³²

Substantive Impact of the Second Court Decision on the Legality of Granting Ownership Certificate No. 1377

Two court decisions in the Taslim inheritance case regarding the determination of heirs and guardianship have a substantive impact that directly affects the legality of the grant of Ownership Certificate No. 1377. Under Indonesian positive law, a grant of land involving underage heirs requires two things: (1) certainty of the status of the heir and (2) legal capacity to act. The two court decisions sequentially fulfill these two requirements. Without both, the grant of Ownership Certificate No. 1377 could potentially be declared legally flawed or null and void because it was carried out by a party that did not have legal authority.

The appointment of heirs provides a legal basis that Taslim's underage

grandchildren are legally entitled to receive their inheritance through the mechanism of *plaatsvervulling*. This means that the rights to Certificate of Ownership No. 1377 are legally attached to the children. However, the nature of the attachment of rights does not automatically confer the authority to act. The second decision regarding guardianship is a legal instrument that determines who has the legitimacy to represent the child in the transfer, management, or encumbrance of land rights. Any legal action on land involving a minor without a court-appointed guardian is a defective action and cannot be registered with the National Land Agency.

Thus, the first substantive impact of the two decisions is to establish a full legal basis for the grant of Certificate of Ownership No. 1377. Without the appointment of heirs, the children's ownership status over the land has no legal basis; without the appointment of a guardian, there is no legal representation to sign the deed of grant. The two rulings form a series that makes the grant not only valid in civil law, but also administratively processable. This is referred to as layered judicial validity, which is when a civil action obtains validity through two complementary judicial instruments.

The second substantive impact is legal protection for the assets of minors. Orphans as heirs must be placed in a position where they

³² Hans Kelsen, "General Theory of Law and State," *Cambridge: Harvard University Press*, 1961, 5–6.

are protected from potential abuse of rights by family members or third parties. In the context of the grant of Ownership Certificate No. 1377, the presence of a court-appointed guardian ensures that the grant is not made solely in the interests of the family, but through a state-supervised mechanism. This prevents grants that are detrimental to children, such as grants without fair compensation or grants that are contrary to the principle of propriety.

The third substantive impact is administrative legal certainty. In the land registration process at the National Land Agency, two documents must be attached when the heirs are minors: (1) Heir Determination and (2) Guardian Determination.³³ Without these two documents, the Land Deed Official is not authorized to issue a deed of gift, and the National Land Agency cannot process the transfer of ownership on the Certificate of Ownership.³⁴ This means that even if the family has internally agreed to the gift, the gift cannot be declared legally valid by the state without these two decisions.

CONCLUSION

This study found that the principle of *plaatsvervulling* was used in Court Decision No. 197/Pdt.P/2025/PN Smg and Court Decision No. 394/Pdt.P/2025/PN Smg, which

is in accordance with Articles 842–848 of the Civil Code, which states that the children of deceased heirs legally act as substitute heirs for their parents. To ensure that minors are legally represented in inheritance-related legal actions, the harmonization of legal reasoning in these decisions provides a solid normative framework. In addition, both court decisions serve as additional legal tools necessary to fulfill the formal and material requirements of family grants involving inherited land registered as Certificate of Ownership No. 1377. The grant would not have unanimous approval from all heirs if there were no court decisions. This study provides significant doctrinal clarification by showing that court decisions in guardianship cases can form a substantive legal unity in inheritance transactions involving minors. This strengthens legal certainty, protects assets, and prevents future disputes. This new development demonstrates the importance of *plaatsvervulling* and guardianship as dual mechanisms that work together to protect the rights of heirs in the Indonesian civil inheritance system.

SUGGESTION

This study recommends strengthening the judicial approach in inheritance cases involving children. Specifically, judicial institutions need to apply a more standardized

³³ Muhammad Ali et al., “The Ideal Construction of Legal Ownership of Land Rights in the Administrative System of the National Land Agency,” *International Journal of Science and Society* 4, no. 4 (2022): 376, <https://doi.org/10.54783/ijssoc.v4i4.583>.

formulation of guardianship in inheritance cases, so that court orders issued separately but interrelated can explicitly demonstrate their substantive integration as a single unit of legal protection for underage heirs. This concept is important to maintain the legal certainty necessary for transactions such as family grants and to avoid interpretative ambiguity.

In addition, legislative reform is needed to explicitly regulate the relationship between different guardianships in inheritance cases, especially in cases where substitute heirs come from different branches of the family, in order to ensure legal certainty and protect children's rights. Such regulations will reduce procedural fragmentation and help courts make decisions that are consistent with legal objectives. Third, notaries and land officials should be encouraged to require complete guardianship documentation when handling grants involving minors. This ensures that every legal action prioritizes the best interests of the child and prevents future disputes between heirs. Finally, future academic research could investigate comparative models of substitute heir designation and guardianship in other civil law jurisdictions. The aim of this research is to enhance doctrinal development in Indonesian inheritance law and improve the conceptual clarity of plaatsvervulling in modern civil law practice.

AUTHOR CONTRIBUTIONS

Naura Alya Saniyah: Conceptualization, Methodology, Investigation, Writing-Original Draft Preparation. **Nur Hidayati:** Data Curation, Formal Analysis, Visualization, Writing-Review, and Editing. **M. Khoirul Rofiq:** Supervision, Validation, Resources, Writing, Review and Editing.

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