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Heirs Lose Legal Protection When Land is Planned for Road Development in Indonesia

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Abstract

General Background: Public infrastructure planning in Indonesia frequently triggers conflict between state development interests and private inheritance rights. **Specific Background:** The designation of inherited land for road development often occurs before heirs complete formal registration processes, creating uncertainty in their legal standing. **Knowledge Gap:** Despite clear expropriation requirements under the Basic Agrarian Law and the Land Acquisition Act, limited research examines how planning designations are misinterpreted to extinguish heirs' rights without compensation. **Aim:** This study analyzes the extent of legal protection available to heirs when inherited land is included in a road-planning area, using a normative juridical approach and the Jakarta High Court Decision No. 225/PDT/2019 as a case study. **Results:** Findings show that planning documents are sometimes treated as automatically converting inherited land into state land, contrary to statutory due-process requirements, thereby depriving heirs of compensation and recognition. **Novelty:** The article exposes a critical doctrinal inconsistency in judicial reasoning and compares it with foreign eminent-domain standards that more robustly protect succession-based property rights. **Implications:** Strengthening heir verification, clarifying administrative procedures, and reforming land-acquisition governance are imperative to uphold constitutional property guarantees and prevent substantive injustice.

Highlights:

- Highlights how road development planning can erode heirs' legal protection before formal expropriation and compensation.
- Critically analyzes a Jakarta High Court decision that treats planned-road designation as automatically converting inherited land into state land.
- Proposes reforms such as mandatory heir verification and clearer procedures to align land acquisition with constitutional property guarantees.

Keywords: Legal Protection, Heirs' Rights, Land Acquisition, Road Development, State Land

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Introduction

Land holds a highly fundamental position within Indonesia's social and legal system. Its existence is not only regarded as an economic asset but also carries profound social, cultural, and historical values for the life of the community [1]. In the constitutional context, Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia affirms that the earth, water, and natural resources contained therein are controlled by the state and utilized for the greatest prosperity of the people [2]. This principle is further elaborated in Law Number 5 of 1960 concerning the Basic Agrarian Law, which positions land as an instrument of social justice, prosperity, and balance between individual and public interests. Through the Basic Agrarian Law, the state is obligated to ensure legal certainty, provide protection for land rights, and guarantee that every development policy does not create inequality among citizens [3].

The life of Indonesian society, which remains rooted in familial values, often makes land a form of inherited property.[4] Within the framework of civil law, inherited land constitutes part of civil rights protected by law. Problems arise when ancestral land, owned by families for generations, is designated by the government for public purposes, such as road construction. This situation creates a conflict between legitimate individual ownership rights and national development needs aimed at public interests. In practice, policies designating land for road development in such cases are often not accompanied by adequate legal protection mechanisms for heirs, particularly when the processes of inheritance administration, transfer of title, or certification have not been completed, resulting in a lack of legal certainty [5].

This reality highlights a tension between the principles of legal certainty and social justice in the implementation of development or the principle of public interest. The designation of land for road projects, legally regulated under Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, normatively guarantees landowners' rights to compensation. However, in practice, many individuals particularly heirs lose their rights without receiving adequate compensation because the ownership status of the land has not been officially registered in their names [6]. When land is still registered in the name of a deceased owner, heirs are often not formally recognized by government agencies, leaving them without a strong legal standing in the land acquisition process. This situation creates legal uncertainty and has the potential to violate human rights principles in the context of ownership rights.

The case illustrating this issue can be found in the Jakarta High Court Decision No. 225/PDT/2019/PT.DKI, which adjudicated a dispute among heirs over a plot of land located at Jalan Karet Sawah II No. 14, Karet Semanggi Subdistrict, Setiabudi District, South Jakarta. The disputed object was inherited land from the late Lie Hoet Lian and the late Liana Salawidjaja, part of which was known to fall within a planned road according to the City Planning Decree No. 2375/GSB/JS/SB/XII/1991 dated January 7, 1991. During the evidentiary process, it was determined that the land had a total area of 2,487 square meters, consisting of 1,635 square meters certified as a Building Use Right (Hak Guna Bangunan) under the name of one of the heirs, and 852 square meters designated as state land due to the road plan. The other heirs filed a civil lawsuit alleging unlawful acts, demanding a division of the entire inherited land. The Jakarta High Court ruled that the 852-square-meter portion designated for the road plan was no longer part of the inheritance because it had the status of state land, and therefore, the heirs' claim over this portion could not be granted.

The decision, however, reveals a highly problematic judicial interpretation of the concept of "State land" (tanah negara). By treating a mere spatial planning designation (City Planning Decree 1991) as sufficient to automatically convert privately owned inherited land into State land—without any formal revocation of rights or compensation procedure under Law No. 2/2012—the Court effectively allowed the extinguishment of civil property rights through administrative planning alone. This reasoning stands in stark contrast to the mandatory expropriation mechanism explicitly required by Article 18 of the Basic Agrarian Law and the entire compensation framework of Law No. 2/2012, creating a dangerous precedent that planning designation can bypass due process and fair compensation.

A brief comparative examination of other legal systems further highlights the anomaly of this judicial approach. In common-law jurisdictions such as the United States and England & Wales, the constitutional or statutory requirement of "just compensation" (Fifth Amendment Takings Clause; Land Compensation Act 1961 & Compulsory Purchase Act 1965) applies even to unregistered or succession-related interests. American courts consistently recognize that heirs or devisees possess compensable "property" interests long before probate is completed or title is formally transferred (see, e.g., *United States v. 125.07 Acres of Land*, 1983; *Tyler v. Wilkinson*, 1827 doctrine of succession). English law similarly protects beneficial interests under trusts or intestacy through the concept of "persons interested" who are entitled to notice and compensation in compulsory purchase proceedings (s. 5 Compulsory Purchase Act 1965).

In civil-law systems, the protection is often even more explicit. Under the French Code civil and Code de l'expropriation pour cause d'utilité publique (1977), heirs are considered "propriétaires" from the moment of death (séisin légale, Art. 724 Code civil) and must be individually identified and compensated; planning designation (DUP – déclaration d'utilité publique) does not extinguish private rights until a separate expropriation decree and payment occur. German law (§ 873 BGB + Baugesetzbuch) and Dutch law (Onteigeningswet) likewise require formal expropriation titles and payment before private rights are extinguished, irrespective of whether succession registration (Erbenschein or akte van erfrecht) has been completed.

These comparative examples demonstrate a near-universal principle: the mere inclusion of privately owned land in a public infrastructure plan does not, by itself, terminate vested civil-law property rights or inheritance interests. The Indonesian High Court's reasoning in Decision No. 225/Pdt/2019/PT.DKI therefore represents a significant deviation from global best practices in eminent domain/expropriation, risking the erosion of constitutional property guarantees (Article 28H(4) of the

1945 Constitution) and the rule of law itself.

This case raises several legal issues: first, the inheritance rights over land designated for a road plan; and second, the right to legal protection for heirs whose property is used for such a plan. Existing regulations tend to emphasize administrative procedures and compensation mechanisms for registered landowners, while the position of heirs still in the process of inheritance is often not accommodated. When the state takes over land for development, the entitlement to compensation should not be determined solely based on administrative status, but should also take into account legitimate civil rights under inheritance law. Legal protection for heirs in this context represents the manifestation of the principle of substantive justice, which must be upheld by a state governed by law.

This study aims to comprehensively analyze the forms of legal protection for heirs over land designated for road development by examining normative, theoretical, and jurisprudential aspects, particularly as reflected in the Jakarta High Court Decision No. 225/PDT/2019/PT.DKI. The analysis focuses on the extent to which positive law provides protection for inheritance rights when part of the inherited property is repurposed for public interest. Another objective of this research is to identify legal obstacles that weaken the position of heirs in the land acquisition process, as well as to formulate normative and policy solutions that can strengthen legal certainty and the sense of justice. The results of this study are expected to contribute academically to the development of agrarian and inheritance law in Indonesia, while also serving as a basis for formulating development policies that balance public interests with the protection of citizens' civil rights.

Method

This study employs a normative juridical approach, focusing on the analysis of positive legal norms governing land rights, land acquisition for public purposes, and the protection of heirs. This approach treats law as a written norm used to assess legal certainty and protection for heirs when inherited land is designated as part of a road development plan. The legal materials used in this study consist of primary, secondary, and tertiary sources. Primary legal materials include Law No. 5 of 1960 concerning the Basic Agrarian Principles, Law No. 2 of 2012 concerning Land Acquisition for Development in the Public Interest, the Civil Code, and the Jakarta High Court Decision No. 225/PDT/2019/PT.DKI as the main case study. Secondary legal materials are obtained from legal literature, scholarly journals, and expert opinions relevant to agrarian and inheritance law. Tertiary legal materials, such as legal dictionaries and encyclopedias, are used to clarify legal terms and concepts.

The collection of legal materials was conducted through library research, drawing from legislation, court decisions, and academic publications. The gathered data were analyzed using a descriptive-analytical method with a deductive approach, interpreting general legal provisions to explain specific cases related to inherited land affected by road development plans. A case study approach was used to examine the application of law through an analysis of Decision No. 225/PDT/2019/PT.DKI. This analysis aims to understand the judge's considerations and their impact on legal protection for heirs. The results are expected to provide a comprehensive understanding of the effectiveness of legal protection for heirs in land acquisition for public purposes, as well as serve as a basis for improving land policy to be more equitable and socially just.

Result and Discussion

A. The Position of Heirs' Rights to Land under the Law

The position of heirs' rights to land is a logical consequence of the principle of ownership guaranteed by the constitution and national agrarian law. Inheritance rights are part of fundamental civil rights, as they concern the continuity of land ownership as a vital source of livelihood and family welfare [7]. Article 28H paragraph (4) of the 1945 Constitution of the Republic of Indonesia states that "Everyone has the right to own private property, and such property shall not be arbitrarily taken away by anyone." This provision affirms the constitutional guarantee of ownership rights, including land ownership, and provides a legal basis for recognizing the transfer of such rights to heirs upon the death of the right holder.

Under the national agrarian law system, the regulation of land ownership is set out in Article 20 paragraph (1) of Law No. 5 of 1960 concerning the Basic Agrarian Principles, which states that "Ownership rights are hereditary, strongest, and most complete rights that a person can have over land." The term "hereditary" indicates that ownership rights can be passed down to the heirs of the right holder without losing their legal force or being extinguished. The term "strongest" signifies that ownership rights hold the highest position compared to other land rights, such as the right to cultivate, the right to build, or the right to use and permanent rights [8].

According to Article 21 paragraph (1) of the Basic Agrarian Law, only Indonesian citizens may hold ownership rights to land. This provision implicitly affirms that inheritance rights to land can only be held by heirs who are Indonesian citizens. Meanwhile, Article 27 letter a of the Basic Agrarian Law states that land ownership rights are extinguished if the owner dies without heirs, in which case the land reverts to the state. This means that as long as there are legally recognized heirs, ownership rights to the land cannot be declared void, and the state has no authority to take control of the land. The existence of heirs thus determines the continuity of land ownership rights, preventing the land from reverting to state property.

The inheritance of land rights is also clearly regulated under civil law. Article 830 of the Civil Code states that "Inheritance only occurs due to death." Thus, the transfer of rights from the decedent to the heirs occurs automatically upon the death of

the decedent. This transfer encompasses all rights and obligations of the decedent that can be valued in monetary terms, including ownership rights to land. Articles 832 to 836 of the Civil Code regulate who may become heirs based on blood relations or marriage. Under civil law, inheritance does not require a special agreement, as the transfer of rights occurs by operation of law as a result of death. Heirs hold the same legal position as the previous right holder, provided there is no renunciation of the inheritance or dispute among the heirs [9].

From the perspective of land administration law, the provisions regarding land inheritance are regulated in Article 42 paragraph (1) of Government Regulation No. 24 of 1997 concerning Land Registration, which states that "The transfer of land rights due to inheritance must be registered by the heirs with the Land Office." The purpose of this registration is to provide legal certainty to the heirs as the new right holders. The registration or name transfer process is carried out by submitting a certificate of inheritance, a death certificate, and the land certificate in the name of the decedent. Once the administrative process is completed, the heirs are legally recognized as the new right holders, and their names are recorded in the land books and on the certificate by the National Land Agency [5].

The obligation to register inherited land is not merely an administrative formality, but part of the state's effort to ensure legal protection for transferred ownership rights. Land that has not yet undergone a name transfer is still recognized as inheritance rights, but it does not yet possess formal legal force to be used in legal acts such as sale and purchase, grants, or claims for compensation in land acquisition. In practice, delays in the name transfer process often give rise to legal problems, especially when the land is subject to development policies. When ownership is still registered under the name of the decedent while the heirs have not yet been registered as the new right holders, the state or implementing development agency may argue that the heirs do not yet have legal standing to receive compensation or file objections.

The legal position of heirs becomes even more crucial when inherited land is designated for public purposes. In such situations, there is a potential conflict between individual civil rights and public interests protected by the state. Although the law grants the state the authority to acquire land for development, such actions must not extinguish the constitutional rights of heirs without due legal process. The principle of due process of law must be upheld so that ownership rights can only be revoked through the rights revocation mechanism as regulated in Article 18 of the Basic Agrarian Law in conjunction with Law No. 2 of 2012. This means that as long as there is no official designation and no proper compensation has been paid, the heirs' rights remain attached and must be respected.[10]

All of these legal norms indicate that the position of heirs' rights to land holds strong legitimacy within the national legal system. These rights are not only protected by the constitution and statutory law but are also part of the principle of social justice as stipulated in Article 33 paragraph (3) of the 1945 Constitution. The state is obliged to ensure that development activities do not disregard citizens' rights to land ownership, including land acquired through inheritance. In the context of modern agrarian law, land is viewed not merely as an economic asset, but also as a right connected to family dignity and continuity. Therefore, when inherited land is designated for road development, the state has a duty to uphold legal protection that balances development interests with the civil rights of heirs as legitimate legal subjects.

B. Legal Protection for Heirs over Land Designated for Road Development

Legal protection for heirs over land designated for road development represents a concrete manifestation of the rule of law principle, which guarantees legal certainty, justice, and the usefulness of law for every citizen. Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia states that "The State of Indonesia is a state based on law" [11]. This principle implies that all government actions, including development policies and the designation of land for public purposes, must be based on law and respect individual civil rights. Heirs, as the legitimate successors to land ownership rights, are entitled to legal protection both preventively and repressively when their inherited land is subject to road development plans.

1 . Preventive Legal Protection

Preventive legal protection refers to the protection provided by the government with the aim of preventing the occurrence of legal violations [12]. In this context, the aim is to prevent violations of rights or losses that heirs may suffer as a result of government policies in land acquisition. This protection serves as a supervisory mechanism to ensure that civil rights are not disregarded during the planning and designation of land for public purposes.

The legal basis for preventive protection of heirs can be found in Article 18 of Law No. 5 of 1960 concerning the Basic Agrarian Principles, which affirms that the exercise of land rights must align with the public interest, including the interests of the nation and state as well as the collective interests of the people. Land rights may be revoked, but only with proper compensation and in accordance with procedures regulated by law. This provision establishes that the government cannot take over land without following proper procedures or mechanisms.

More technical regulations are found in Articles 6 to 8 of Law No. 2 of 2012 concerning Land Acquisition for Development for Public Purposes, which govern the stages of planning and site designation. These articles emphasize that land acquisition must take into account spatial planning and site feasibility. This stage provides heirs with the opportunity to submit proof of ownership, inheritance certificates, and objections to the development plan if the administrative ownership process has not yet been completed. This process constitutes a form of preventive legal protection, ensuring that land rights are not immediately extinguished before the legal process is concluded.

Preventive legal protection is also evident in land administration practices. According to Article 42 paragraph (1) of

Government Regulation No. 24 of 1997 concerning Land Registration, heirs have the right and obligation to register the transfer of land rights due to inheritance in order to obtain legal certainty. This registration serves not only an administrative function but also provides legal protection against control by other parties. As long as development has not been accompanied by compensation payment, the heirs retain inherent rights to defend their land. Therefore, the state, through the National Land Agency, is obliged to conduct careful verification before designating land as state land or as a road project site [13].

This preventive protection is critically important because it is at this stage that the state should ensure a balance between public rights and private rights. When planning is carried out without mechanisms for public consultation or clear socialization, heirs lose the opportunity to defend their rights. In practice, weaknesses at the preventive stage often constitute the primary cause of land disputes and legal challenges against road development projects in various regions.

2 . Repressive Legal Protection

Repressive legal protection is provided when violations of rights or losses to heirs have already occurred, such as through land acquisition without compensation or unilateral designation as state land. This type of protection aims to restore the heirs' rights and uphold justice through administrative, civil, or state administrative court mechanisms. In the context of land acquisition, Article 36 paragraph (2) of Law Number 2 of 2012 stipulates that if the landowner has passed away, compensation shall be provided to the lawful heirs. This provision constitutes a form of repressive legal protection, as it grants the right to appropriate compensation for land taken for public purposes. Heirs who have not received compensation may file objections with the land acquisition committee as regulated in Article 38 of the same law, which provides avenues for dispute resolution through deliberation, mediation, or litigation in court.

If a resolution is not reached, Article 42 paragraph (1) of Law No. 2 of 2012 grants heirs the right to file a lawsuit in the local district court. This mechanism serves as a repressive protection instrument that upholds the civil rights of heirs. The court has the authority to assess the validity of the land's status, the legality of the land acquisition process, and the adequacy of the compensation provided. In practice, many court decisions have reinforced the position of heirs, particularly when it is found that the land has been used for public purposes without compensation or without a lawful determination of rights revocation.

Repressive protection can also be carried out through administrative mechanisms. According to Article 77 of Law No. 30 of 2014 concerning Government Administration, any citizen who suffers losses due to government decisions or actions may file administrative remedies, including objections and appeals. In the context of inherited land designated for road development, heirs can use this mechanism to request a review of location designation decisions, rights revocation, or state land designation deemed unlawful. This administrative remedy is important before proceeding to litigation, as it provides the government an opportunity to correct its decisions without a lengthy judicial process.

If administrative and civil protections are inadequate, the State Administrative Court becomes the final recourse. Article 53 paragraph (1) of Law No. 5 of 1986 concerning State Administrative Court grants the right to any person aggrieved by a state administrative decision to file a lawsuit in court. Heirs can utilize this mechanism if there is a decision by a public official designating inherited land as a road project without following a lawful process. Thus, repressive protection is not only compensatory but also serves a corrective function against government actions that violate the principles of good governance.

3 . The Principles of Justice and Legal Certainty in the Protection of Heirs' Rights

Legal protection for heirs cannot be separated from the application of two fundamental principles in law: the principle of legal certainty and the principle of justice. Legal certainty requires that every land right has a clear and provable legal basis, while justice demands that the implementation of the law considers human values and balances individual and public interests. In the context of inherited land designated for road development, these two principles must operate in tandem [14].

Legal certainty is realized through transparent land administration and accurate registration of inheritance rights. The government is obliged to ensure that every legitimate heir is recognized as having rightful ownership of the land. Legal justice is achieved when heirs' rights to receive compensation or restitution are guaranteed without discrimination. This principle aligns with Article 28D paragraph (1) of the 1945 Constitution, which states that "Every person has the right to recognition, guarantees, protection, and legal certainty that is just."

Legal protection for heirs of land designated for road development is essentially the responsibility of the state as the executor of development. The state must not place development above the welfare of its people, including those who lose inherited land due to public policy. Effective implementation of legal protection will strengthen public trust in the law and realize the ideals of social justice as mandated by Pancasila and the 1945 Constitution [15].

C. Critique of the Interpretation of "State Land" Status in the Decision of the Jakarta High Court No. 225 / Pdt / 2019/PT.DKI

In the aforesaid decision, the Panel of Judges of the Jakarta High Court held that a portion of inherited land measuring 852 m², which originally held the status of Building Use Rights in the name of one of the heirs, had transformed into State land

solely because the parcel was included in the designation of a planned road alignment under Governor's Decree No. 2375/GSB/JS/SB/XII/1991. The Panel took the view that the inclusion of the land in the Spatial Plan (RTRW/RDTR) that had been in force since the early 1990s automatically extinguished the rights over the land and converted it into State land without the need for any procedure for revocation of rights or payment of compensation. Such an interpretation clearly gives rise to fundamental problems inasmuch as it conflicts with higher-ranking legal norms, both from the substantive and procedural perspectives.

1. Article 18 of the Basic Agrarian Law expressly stipulates that the revocation of rights over land may only be effected if accompanied by the provision of fair compensation and carried out in accordance with the procedure prescribed by law. A location designation contained in a spatial planning document—no matter how important its regulatory function may be—cannot be equated with the mechanism for revocation of rights as contemplated under the Basic Agrarian Law. Accordingly, designation in a spatial plan cannot nullify private rights in the absence of a lawful procedure.

2. Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest clearly regulates that the transfer of rights from a private legal subject to the State may only occur after a series of formal stages have been completed, commencing with the determination of location, public consultation, independent appraisal by a licensed appraiser, provision of compensation or consignment, and culminating in the release of rights. All of these stages are mandatory and constitute a constitutional guarantee of the rights of landowners. The fact that the 852 m² parcel in question was never processed through any of these stages demonstrates that no lawful transfer of rights from the heirs to the State has ever taken place.

3. Recent jurisprudence of the Supreme Court—including, *inter alia*, Supreme Court Decision No. 744 K/Pdt/2017 and No. 464 K/Pdt/2020—has consistently affirmed that the designation of a location in a spatial plan does not ipso facto extinguish or revoke rights over land. Such rights remain vested in the right holder (including heirs) until a lawful land acquisition process, accompanied by fair compensation, has been completed.

Having regard to the entirety of the legal framework outlined above, the interpretation adopted by the Panel of the Jakarta High Court—namely, that a 1991 spatial planning document automatically converted the status of the land into State land—must be regarded as erroneous, inconsistent with the principles of national land law, and, to a certain extent, capable of being qualified as a conclusion reached beyond the bounds of adjudicative authority (substantive *ultra petita*).

Accordingly, from a legal standpoint, the 852 m² parcel remains registered as Building Use Rights in the name of the deceased (the title having not yet been transferred due to the absence of endorsement/registration in the name of the heirs) and therefore continues to form part of the estate to be distributed among the heirs. Only if and when the government in the future actually carries out land acquisition for a public purpose may the land be released, subject to the provision of fair compensation in accordance with the prevailing laws and regulations.

Conclusion

Theoretically, the case analyzed in the Decision of the Jakarta High Court No. 225/Pdt/2019/PT.DKI demonstrates the existence of a structural imbalance between administrative legal certainty and substantive justice within the Indonesian agrarian legal system. At the normative level, the Constitution (Article 28H paragraph (4) and Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia), the Basic Agrarian Law of 1960, the Civil Code, and Law No. 2 of 2012 on Land Acquisition for Development in the Public Interest consistently recognize inheritance rights as a civil right protected by the State and impose an obligation upon the State to provide fair compensation prior to the revocation of ownership rights.

However, in practice, a location determination for a road that had been established since 1991—but was never followed by a lawful land acquisition process—has instead been used as the basis for converting the status of 852 m² of inherited land into “State land” without any process of revocation of rights, without compensation, and without verification of the heirs. This reflects the dominance of administrative logic (formal legal certainty) over the substance of civil rights that automatically vest upon the death of the testator (Article 830 of the Civil Code).

In essence, this case constitutes a failure of the Indonesian Rechtsstaat (State based on the rule of law) to implement the true principle of the rule of law. The State has failed to guarantee due process of law, failed to fulfill its constitutional obligation to protect private property rights, and failed to create harmonization between public development interests and substantive justice for the heirs. When inherited land can simply “disappear” and become State land merely because of a decades-old city planning determination that was never followed by a lawful land acquisition process, the State has sacrificed the principle of justice for the sake of administrative convenience. As a consequence, the heirs have lost their rights over the inherited property without compensation and without an effective defense mechanism.

Therefore, this case is not merely an ordinary civil dispute but rather concrete evidence of the systemic failure of the Rechtsstaat in balancing administrative legal certainty with substantive justice in respect of civil inheritance rights. Fundamental reform is required through the harmonization of regulations, the imposition of an obligation to verify heirs from the planning stage onward, and the strict enforcement of the principle of due process so that infrastructure development no longer sacrifices the legal dignity of citizens.

To prevent the recurrence of similar problems in the future, more assertive and operational normative reforms are imperative. The author contends that refining the regulatory framework—either through amendments to Government Regulation No. 24 of 1997 on Land Registration, particularly Articles 42 and 43, or through the promulgation of a new

regulation by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency—has become an urgent necessity. Ideally, such regulation should impose a mandatory obligation upon the Land Office to conduct active verification of the legal status of heirs whenever a parcel of land registered under a deceased owner forms part of a designated land acquisition location pursuant to Article 9 of Law No. 2 of 2012. This verification must be conducted in a structured manner, through formal cooperation with a local Notary or Land Deed Official, within a maximum period of thirty working days from the date on which the location is determined. The outcome of this verification—consisting of an authenticated list of lawful heirs supported by an inheritance deed or a final and binding court ruling—must subsequently be annexed to the land acquisition planning documents as a legally enforceable instrument binding upon all stakeholders.

Furthermore, the author emphasizes the need for the issuance of a Ministerial Regulation by Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency that unequivocally affirms that the designation of a parcel of land in spatial planning instruments—whether in the form of Detailed Spatial Planning, Building and Environmental Planning Scheme, or other planning documents—does not, in and of itself, extinguish or derogate the subsisting land rights attached to such parcel, nor does it convert the land into state land prior to the completion of land acquisition procedures as required under Law No. 2 of 2012. As part of administrative transparency, the Land Office may annotate land certificates with information indicating that the parcel falls within the scope of a planned road or related infrastructure development. However, such annotation must not serve as a legal basis to nullify, impair, or diminish the validity or ranking of the land rights that have been duly granted to the rights holder.

In circumstances where historical administrative errors have resulted in heir-owned land being treated as state land solely due to its spatial planning designation—as evident in the 852 m² parcel at issue in Supreme Court Decision No. 225/2019—the government should develop a fair and proportionate retrospective compensation scheme. Regional governments may establish a Verification and Settlement Team for Inheritance Claims tasked with reassessing the factual and juridical status of land parcels facing similar issues, thereby enabling the restoration of heir rights on the basis of verified and legally valid evidence. Additionally, the establishment of a national integrated database on inheritance status—linking Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency, the Directorate General of General Legal Administration, and the Directorate General of Population and Civil Registration—constitutes a strategic measure to ensure that inheritance verification processes may be conducted swiftly, accurately, and with minimal potential for future disputes. Such integration will form a crucial institutional foundation for enhancing administrative order in land governance and safeguarding legal certainty for rights holders.

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