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Practices of Buying and Selling Land Involved in Inheritance Disputes: A Case Study in Padang Kelapo Village, Batanghari Regency

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Abstract

The sale and purchase of land subject to inheritance disputes remains a persistent legal issue in Padang Kelapo Village, Batanghari Regency, particularly when inherited property is transferred before formal inheritance distribution and without the consent of all heirs. Such transactions may generate uncertainty regarding ownership status and contribute to conflicts among family members. This study aims to analyze the practice of selling disputed inherited land, identify the factors underlying such transactions, examine their consequences, and assess their legality from the perspectives of positive law and Islamic law. The study employed a qualitative approach with an empirical juridical perspective. Data were collected through observation, semi-structured interviews, and documentation and were analyzed descriptively through data classification and interpretation. The findings indicate that disputed inherited land is generally sold by one heir before the inheritance has been legally distributed. The principal factors underlying this practice include urgent economic needs, limited legal knowledge and awareness, and customary community practices of conducting land transactions privately. These practices result in inheritance disputes, uncertainty of ownership, and deterioration of family relationships. From the perspective of positive law, such transactions are not legally justified when ownership remains unresolved and the consent of all entitled heirs has not been obtained. From the perspective of Islamic law, the practice is likewise impermissible because it involves *gharar* (uncertainty), conflicts with the principle of justice (*'adl*), and violates the principle of property protection (*ḥifẓ al-māl*). The study concludes that the lawful transfer of inherited land requires prior

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completion of inheritance distribution and the consent of all heirs. These findings contribute to the understanding of inheritance-related land transactions from both positive and Islamic legal perspectives and imply the need to strengthen legal education, ensure proper inheritance settlement procedures, and enhance supervision by village authorities and community leaders.

Keywords: Heirs; Inheritance Disputes; Islamic Law; Land Transactions; Legal Certainty

INTRODUCTION

Land is one of the resources that plays a highly important role in human life, encompassing social, economic, and legal dimensions. In the context of Indonesian society, land does not merely serve as a means of fulfilling basic necessities but also functions as a symbol of social status, a source of welfare, and an inheritance passed down across generations. Therefore, issues related to land ownership and control often become highly complex and sensitive, particularly when they involve ownership and the exercise of rights over land (Harsono, 2021).

In practice, land-related problems in Indonesia remain a relatively prevalent issue, particularly those concerning inherited land. Inheritance land disputes frequently arise because they involve multiple parties, namely heirs who have interests in the same property. Unclear distribution of inheritance, the absence of agreement among heirs, and limited public understanding of the law are the primary factors contributing to the emergence of such conflicts (Suwito, 2023; et al., 2024; Utama et al., 2025).

One form of problem that frequently occurs is the practice of buying and selling land that remains subject to an inheritance dispute. Under such circumstances, land that has not been legally distributed among all heirs is sold by one party without the consent of the other parties. From a legal perspective, such practices raise serious concerns because the property being sold does not yet have legal certainty regarding its ownership rights (Santoso, 2023; Ramadhana et al., 2025; Hikmawati et al., 2024).

Land constitutes an asset with both economic and social value and often forms an important part of a family's inherited property. Therefore, clarity regarding the parties holding rights to the land is essential, particularly when inherited land is to be transferred through a sale and purchase transaction. Problems arise when inherited land has not yet been

legally distributed, but one of the heirs sells it to another party. This condition was identified in Padang Kelapo Village, Batanghari Regency, based on a preliminary study of seven land sale and purchase transactions conducted through private deeds (*akta di bawah tangan*), of which four transactions involved land that remained subject to inheritance disputes and had not yet been subject to a legally valid distribution of rights.

Such practices not only create problems concerning land administration but also involve the civil rights of the other heirs. The sale of land without the knowledge or consent of all heirs may give rise to objections and disputes because the object of the transaction has not yet been subject to a legally valid distribution of inheritance rights. The problem is further complicated by the fact that members of the Padang Kelapo community continue to conduct land transactions through simple means, such as using written sale and purchase statements or receipts. This condition demonstrates a gap between land sale and purchase practices within the community and the requirement of legal certainty in the transfer of land rights.

The phenomenon of buying and selling land subject to inheritance disputes not only affects legal aspects but also entails broad social and economic consequences. From a legal perspective, such transactions create uncertainty and may potentially lead to disputes before the courts. From a social perspective, conflicts among heirs may damage family relationships and cause disharmony within the community (Ikhwan & Widjaja, 2025; Rahman & Winanti, 2025). Meanwhile, from an economic perspective, land disputes may hinder the productive utilization of assets and result in losses for both buyers and sellers (Lestari, 2024).

In an agrarian country such as Indonesia, land plays an important role in the lives of communities as a place of residence, a source of livelihood, and an integral part of social and cultural life. McAuslan emphasizes that the relationship between humans and land not only supports economic life but also shapes awareness through productive work, arts, and culture (Home, 2020; McAuslan, 2019). From the perspective of agrarian law, Law No. 5 of 1960 concerning Basic Agrarian Principles, particularly Article 4, stipulates that land constitutes the surface of the earth that may be granted and owned on the basis of land rights, namely rights over a portion of the earth's surface that is defined according to its length and width (Salim, 2016; Sembiring, 2017).

The sale and purchase of land constitutes a reciprocal agreement in which the seller is obliged to transfer ownership rights over the land, while the buyer is obliged to pay a certain amount of money in accordance with the agreed terms. From a juridical perspective,

the transfer of ownership rights takes place after delivery has been completed in accordance with the provisions of Article 1459 of the Indonesian Civil Code (KUHPerdata). In determining land ownership, the position of the first holder constitutes an important factor and is legally recognized when the land has never previously been occupied, has been controlled for the purpose of fulfilling basic livelihood needs rather than as a commodity, and its ownership is supported by strong evidence and respected by other parties. The regulation of land sale and purchase is also provided for in Article 26 paragraph (1) of Law No. 5 of 1960 concerning Basic Agrarian Principles, which regulates the sale and purchase, exchange, donation, testamentary transfer, and other legal acts intended to transfer ownership rights over land (Fildzah & Wirdyaningsih, 2024; Rahmawati & Islahuddin, 2026).

Based on the *Grand Theory* of Islamic law, individual ownership of land within the context of social relations is juridically recognized. Landowners have the authority to exercise *tasarruf* over their property in accordance with their wishes. Human authority over property ownership (*property rights*) is protected under the principles of Islamic law within the framework of *hifz al-mal*, which constitutes one of the principles of *al-kulliyat al-khams* (Sufriadi, 2021; Razif et al., 2024).

In general, the causes of ownership under Islamic law can be acquired through two main avenues, namely ownership through the possession of *mubah* property and ownership through contracts. Ownership through the possession of *mubah* property can be obtained through several means, including *ihya' al-mawat*, the possession of minerals and objects buried or stored within the earth, and the acquisition of permissible (*mubah*) property. Meanwhile, ownership through contracts may be acquired through contracts of sale and purchase, *hibah*, *sadaqah*, inheritance, and other forms of contractual or legal transfer (Munif, 2018; Jamaludin et al., 2025).

In this regard, the present study focuses on the transfer of land ownership through sale and purchase, particularly the sale and purchase of land that remains subject to an inheritance dispute. Under Islamic law, sale and purchase refers to the mutual exchange of property for property in the form of a transfer of ownership and possession. Meanwhile, Law No. 5 of 1960 concerning Basic Agrarian Principles does not explicitly define the term sale and purchase. However, considering that Indonesian agrarian law is based on customary law, a sale and purchase transaction constitutes an act of transferring rights that is *cash-based*, *real*, and *open* (*tunai, riil, dan terang*) (Soebowo et al., 2020; Nulhakim et al., 2024).

In practice, however, land sale and purchase transactions cannot always proceed smoothly. At times, circumstances arise that are beyond the parties' expectations, and such problems may emerge at a later stage in the form of *wanprestasi* or breach of contract. Regardless of how carefully an agreement is formulated, it cannot be denied that there may be weaknesses or loopholes within the agreement. If a dispute subsequently arises, such weaknesses may be used as grounds for arguments and self-defense, or even as a means of seeking personal advantage from the agreement. This is reflected in the case examined in the present study, namely a dispute involving the sale and purchase of land that remains subject to an inheritance dispute.

Inherited property, whether movable or immovable, such as land and houses, frequently gives rise to disputes when the distribution of the inheritance and the parties entitled to inherit as heirs are unclear, particularly when inherited land is intended to be sold. When all heirs have been identified, but one of the heirs sells the entire inherited land without the consent of the other heirs, such an act may be considered unlawful. Article 1471 of the Indonesian Civil Code (KUHPerdata) stipulates that a sale and purchase involving property belonging to another person is void and may give rise to an obligation to compensate for costs, losses, and interest if the buyer was unaware that the property belonged to another party. Accordingly, the sale and purchase of inherited land conducted without the consent of all heirs may be declared invalid, requiring the land or the proceeds from its sale to be returned to the parties legally entitled to them. If the return of the land is no longer possible, the heirs may claim compensation equivalent to the value of the property (Article 1471; Wijaya et al., 2025).

Based on the researcher's initial *grand tour* conducted in Padang Kelapo Village, Maro Sebo Ulu District, land sale and purchase is a common transaction conducted by members of the community. However, behind these transactions, numerous obstacles may arise, including cases involving sale and purchase agreements executed through private deeds (*akta di bawah tangan*). The results of the author's preliminary research indicate that most members of the community in Padang Kelapo Village, Maro Sebo Ulu District, conduct land sale and purchase transactions using private deeds (*akta di bawah tangan*). Based on observations conducted by the author, of the seven individuals who carried out land sale and purchase transactions using private deeds, four of them conducted transactions involving land that remained subject to inheritance disputes.

The problem identified by the researcher is that members of the community engage in the practice of buying and selling land without obtaining the consent of the other heirs. Such transactions are carried out using a sale and purchase agreement in the form of a written statement of sale and purchase (*surat pernyataan jual beli*) signed by both parties, while some transactions are conducted solely using a receipt (*kwitansi*). The following are the key informants who carried out the sale and purchase of land that remains subject to inheritance disputes: 1) Mr. Bahman sold land that was still part of an undivided inheritance to Mr. Martado, on the grounds that he needed money to cover his child's university tuition expenses. 2) Mr. Joni sold land that was still part of an undivided inheritance to Mr. Maskuri, on the grounds that he needed money to cover his child's surgical expenses. 3) Mr. Supri sold land that was still part of an undivided inheritance to Mr. Bowo, on the grounds that he needed money to cover the expenses of his child's wedding.

Such conditions can also be found in the community of Padang Kelapo Village, Batanghari Regency. Based on the empirical phenomena observed, there are still practices of buying and selling land even though the ownership status remains unclear because the inheritance has not yet been distributed. This situation is influenced by various factors, including urgent economic needs, low levels of legal awareness among community members, and customary practices that have developed within the community but are not entirely consistent with the applicable legal provisions.

Several previous studies have examined issues concerning land sale and purchase and inheritance law from various perspectives. The study by Susianawati, (2016), entitled "*Analisa hukum Islam terhadap jual beli material tanah di Desa Gelangkulon Kecamatan Sampung Kabupaten Ponorogo*," examines land sale and purchase practices from the perspective of Islamic law. Furthermore, Pota et al., (2022), through a study entitled "Legal certainty on the claimed land as a forest area in the neighborhood of the Batulapisi district of Gowa," examines the sale and purchase of land ownership rights based on land law provisions. Meanwhile, Zulhadji, (2016) discusses the transfer of land rights through sale and purchase based on Law No. 5 of 1960.

These studies demonstrate that issues concerning land sale and purchase have been examined from the perspectives of both Islamic law and land law. However, studies specifically examining the practice of buying and selling land that remains part of an inherited estate and has not yet been distributed among all heirs, particularly within the context of the

community of Padang Kelapo Village, Batanghari Regency, remain limited. This study seeks to address this research gap by empirically examining the transaction practices, the factors underlying such practices, the resulting impacts, and their assessment from the perspectives of positive law and Islamic law.

The novelty of this study lies in the integration of empirical, positive legal, and Islamic legal perspectives in analyzing the practice of buying and selling land that remains subject to inheritance disputes. The study does not merely assess the validity of the transactions but also examines the status of the transaction objects, the seller's authority, the consent of the heirs, and the implications of such transactions for family relationships and legal certainty.

Empirically, the study examines cases in Padang Kelapo Village, namely the transactions involving Bahman–Martado, Joni–Maskuri, Supri–Bowo, and Joko–Adi, in which inherited land was transacted through private agreements (*di bawah tangan*). Another aspect of the study's novelty is its analysis of the relationship between the community's economic needs and the protection of heirs' rights. Although economic needs constitute one of the reasons underlying such transactions, these circumstances do not eliminate the obligation to protect the rights of all heirs.

Accordingly, this study not only determines the validity of the transactions but also identifies the factors underlying the practice of buying and selling inherited land and examines its consequences for the protection of rights and legal certainty.

Based on the foregoing discussion, the practice of buying and selling land that remains subject to inheritance disputes in Padang Kelapo Village is an issue that concerns not only transactions between sellers and buyers but also the protection of heirs' rights, legal certainty regarding land ownership, and the harmony of family relationships. The existence of transactions conducted before the inheritance has been legally distributed, without the consent of all heirs, demonstrates a gap between community practices and the applicable legal provisions.

Therefore, this study is important to obtain a deeper understanding of the practice of buying and selling land subject to inheritance disputes, the factors underlying such practices, the legal and social impacts arising from them, and their conformity with positive law and Islamic law. This focus is consistent with the research questions, which encompass transaction practices, causal factors, legal and social impacts, as well as reviews from the perspectives of positive law and Islamic law.

METHODS

This study employs a qualitative approach using a descriptive research design and an empirical juridical perspective. This approach is employed to examine the practice of buying and selling land that remains subject to inheritance disputes in Padang Kelapo Village, Batanghari Regency, both in terms of community practices and the provisions of positive law and Islamic law. The research design adopts a case study approach, focusing on transactions involving inherited land that has not been legally distributed among all heirs. Informants were selected purposively based on their involvement in and knowledge of the cases under investigation, including sellers, buyers, heirs or family members, the village head, and religious figures. Primary data were obtained through observation and semi-structured interviews, while secondary data were obtained through documentation, legislation, the Compilation of Islamic Law, books, journals, and village documents. Data collection techniques included observation, interviews, and documentation. The data were analyzed using thematic analysis through the stages of transcription, data organization, coding, theme grouping, interpretation, and conclusion drawing. The analytical themes included transaction practices, causal factors, legal and social impacts, as well as reviews from the perspectives of positive law and Islamic law. The study was conducted in Padang Kelapo Village, with the research period planned for 12 months, from June 2025 to May 2026.

RESULTS

1. The Practice of Land Sale and Purchase Agreements Involving Land Subject to Inheritance Disputes in Padang Kelapo Village, Batanghari Regency

Based on the research findings in Padang Kelapo Village, Maro Sebo Ulu District, the community continues to apply customary law in land sale and purchase practices, which are generally conducted through private agreements (*di bawah tangan*) while fulfilling the elements of *terang*, *tunai*, and *riil* (open, cash-based, and actual). Such transactions are conducted in the presence of the Village Head, with evidence in the form of a written statement, receipt, or, in some cases, merely based on mutual trust, particularly among family members. According to the Head of Padang Kelapo Village, approximately 70% of land sale and purchase transactions are still conducted through private agreements (*di bawah tangan*), while the services of a notary or Land Deed Official (PPAT) are generally used for land that has already been certified and requires a transfer of ownership registration. The community chooses this method because the costs and procedures involved in obtaining a deed through

a PPAT are considered relatively expensive, time-consuming, and more complicated than transactions conducted before the Village Head.

In practice, the seller and buyer come to the village office, conduct a measurement of the land, record the relevant data in the village administrative records, make the payment, and subsequently sign the sale and purchase statement in the presence of witnesses. From the perspective of Islamic law, a sale and purchase conducted through a private agreement remains valid as long as it fulfills the essential pillars and requirements of a valid sale and purchase. However, from the perspective of positive law, such transactions have weaknesses in terms of providing legal certainty.

One of the problems identified occurred in the transaction between Mr. Bahman and Mr. Martado in 2020, when Bahman sold 1,500 m² of inherited land measuring approximately 8,000 m² without a legally valid distribution of the inheritance having been carried out. Martado was aware that the land was inherited property but nevertheless proceeded with the transaction based on a written sale and purchase statement. When Martado sought to register the land in 2022 through the Complete Systematic Land Registration (*Pendaftaran Tanah Sistematis Lengkap* or PTSL) program and process the sale and purchase deed through a PPAT, it was discovered that ownership of the land remained unclear because some of the heirs were unaware of the transaction and considered the land to remain jointly owned. Bahman acknowledged that the sale was made because he needed funds for his child's education and stated that he had sold only the portion he considered to be his rightful share.

A similar dispute occurred in the transaction between Mr. Maskuri and Mr. Joni, when Joni sold 1,000 m² of inherited land measuring 7,000 m² that had not yet been distributed among four heirs. The transaction was subsequently challenged because the portion of the land sold by Joni was considered to constitute the share belonging to the other heirs. These findings demonstrate that the practice of buying and selling inherited land that has not yet been legally distributed has the potential to give rise to disputes due to unclear ownership status and the limited strength of the available legal evidence.

2. An Islamic Law Review of the Practice of Buying and Selling Land Subject to Inheritance Disputes in Padang Kelapo Village, Batanghari Regency

Based on the research findings in Padang Kelapo Village, Maro Sebo Ulu District, the village government prioritizes legal protection for the community, particularly because land sale and purchase transactions conducted through private agreements (*di bawah tangan*)

have the potential to give rise to problems such as *wanprestasi* (breach of contract). According to Mr. Budiyanto, the Head of Padang Kelapo Village, efforts are made to resolve such problems amicably through a family-based approach so that they do not proceed to court. From an Islamic perspective, *wanprestasi* or failure to fulfill a promise is contrary to the command of Allah in QS. An-Nahl verses 91–92, which emphasizes the obligation to fulfill agreements.

أَوۡفُوا بِعَهۡدِ ٱللَّهِ إِذَا عَٰهَدتُّمۡ وَلَّ تَنقُضُوا ٱلۡيَٰمَنَ بَعۡدَ تَوۡكِيدِهَا وَقَدۡ جَعَلۡتُمُ ٱللَّ
لَيۡكُمۡ كَفِيلًاۚ إِنَّ ٱللَّهَ يَعۡلَمُ مَا تَفۡعَلُونَ ٩١ وَلَّ تَكُونُوا كَٱلَّتِي نَقَضَتۡ غَزۡلَهَا مِ ن
بَعۡدِ قُوَّةٍ أَنَٰكَثٗا تَتَّخِذُونَ أَيۡمَٰنَكُمۡ دَ خَلَۢ بَيۡنَكُمۡ أَن تَكُونَ أُمَّةٌ هِيَ أَرۡبَىٰ مِنۡ أُمَّةٍۚ
إِنَّمَا يَبۡلُوكُمُ ٱللَّهُ بِهِۦۚ وَلَيُبَيِّنَنَّ لَكُمۡ يَوۡمَ ٱلۡقِيَٰمَةِ مَا كُنتُمۡ فِيهِ تَخۡتَلِفُونَ ٩

Meaning:

"And fulfill the covenant of Allah when you have made a covenant, and do not break your oaths after having firmly confirmed them, while you have made Allah your witness over your oaths. Indeed, Allah knows what you do. And do not be like a woman who untwists the thread she has firmly spun, making your oaths a means of deception among yourselves because one group is more numerous than another group. Indeed, Allah only tests you through this. And on the Day of Resurrection, He will certainly make clear to you what you used to dispute about."

In principle, sale and purchase are permissible in Islam, as stated in QS. Al-Baqarah verse 275, provided that the transaction fulfills the pillars and conditions prescribed by Islamic law. Sale and purchase constitutes an exchange of property based on mutual consent, with the essential pillars consisting of the *'aqid* (contracting parties), the object of the sale and purchase, and the *sighat* in the form of *ijab* and *qabul*.

ع وَحَرَّمَ ٱل ِٰربَٰواْۚ ...

Meaning:

"And Allah has permitted trade and forbidden riba."

From the aspect of the *'aqid*, the sellers and buyers involved in private land sale and purchase transactions in Padang Kelapo Village generally fulfill the requirements, as they are adults, possess sound reasoning, are not acting under coercion, and conduct the transactions based on mutual consent.

From the perspective of the object of the transaction, the land being sold and purchased generally exists physically, can be utilized, has a known size and area, and can be

delivered or transferred. However, problems arise when the land being sold remains part of an inheritance and has not yet been legally distributed, such that the seller does not yet have full authority over the object of the transaction.

From the aspect of the *sighat*, *ijab* and *qabul* are performed directly through oral declarations based on the agreement and mutual consent of both parties. Some transactions are accompanied by a written sale and purchase statement as documentary evidence, although there are also transactions based solely on mutual trust without witnesses or written documentation.

Thus, in general, the practice of land sale and purchase through private agreements in Padang Kelapo Village fulfills the pillars and conditions of sale and purchase in terms of the parties, the object, and *ijab-qabul*. Nevertheless, the validity of the transaction remains dependent on the fulfillment of all applicable requirements, particularly the certainty of ownership of the object being transacted. The majority of Islamic scholars (*jumhur ulama*) classify sale and purchase into valid and invalid categories. A sale and purchase is considered valid when it fulfills all the prescribed pillars and conditions under *sharia*, whereas a sale and purchase that fails to fulfill one of the essential pillars or conditions may be classified as *fasid* (defective) or *batil* (void).

The practice of buying and selling land in Padang Kelapo Village, Maro Sebo Ulu District, indicates that some of the objects of sale and purchase remain inherited land jointly owned by the heirs. Under Islamic law, individual ownership of land is recognized, and the owner has the authority to exercise *tasarruf* over their property within the framework of *hifz al-mal*, which constitutes one of the principles of *al-kulliyat al-khams*. Ownership under Islamic law may be acquired through the possession of *mubah* property or through contracts, such as sale and purchase, *hibah* (gift), *sadaqah* (charity), and inheritance.

In several cases, including those involving Mr. Joni, Mr. Diki, and Mr. Bahman, inherited land was sold without the consent of all heirs due to urgent needs, such as expenses for surgery, medical treatment, and education. From the perspective of *ma'qud 'alaih* (the object of the contract), the land being sold and purchased physically exists, can be utilized, has economic value, and is under the control of the seller. However, legally, the land does not yet entirely belong to the seller because it remains jointly owned as inherited property.

Although the size, location, type, and price of the land can be identified, and the land can be delivered to the buyer for management and utilization, the requirement of full ownership over the object of the contract has not been fulfilled. Under Islamic law, *ma'qud*

'alaih must be fully owned by the seller or be under the authority of a party who has been legally authorized to sell it. In addition, an object of a contract involving the rights of another person must obtain the permission of the party holding those rights.

Because undivided inherited land remains jointly owned by all heirs, its sale without their consent does not fulfill the requirements concerning the object of the contract and the execution of the contract. Islamic inheritance law regulates the transfer of the deceased's property to the heirs in detail in order to prevent disputes. Therefore, the distribution of inheritance should be carried out promptly to prevent one of the heirs from transferring the inherited property before the respective rights of each heir have been determined. As long as the inheritance has not been distributed, each heir essentially retains rights over the inherited property.

When there is more than one heir, inherited property becomes jointly owned property (*mede eigendom*). Therefore, the sale of inherited property that has not yet been distributed must obtain the consent of all heirs, which may be set forth in a written consent letter legalized by a notary or embodied in a formal deed. If one of the heirs sells inherited property without the knowledge and consent of the other heirs, the aggrieved party may file a lawsuit. Article 188 of the Compilation of Islamic Law (KHI) grants heirs, either jointly or individually, the right to request the distribution of inherited property. In the event of disagreement, the distribution may be brought before the competent Religious Court, which has jurisdiction to resolve inheritance cases involving Muslims based on Islamic inheritance law.

يَٰٓأَيُّهَا ٱلَّذِينَ ءَامَنُوا۟ لَا تَأْكُلُوٓا۟ أَمْوَٰلَكُم بَيْنَكُم بِٱلْبَٰطِلِ إِلَّآ أَن تَكُونَ تِجَٰرَةً

تَرَاضٍ مِّنكُمْ ۚ وَلَا تَقْتُلُوٓا۟ أَنفُسَكُمْ ۚ إِنَّ ٱللَّهَ كَانَ بِكُمْ رَحِيمًا ٢٩

Meaning:

"O you who have believed, do not consume one another's wealth unjustly, except through lawful trade conducted by mutual consent among you. And do not kill yourselves. Indeed, Allah is Most Merciful to you." (Q.S An-Nisa : 29).

In principle, the sale and purchase of inherited property is valid if it fulfills the pillars and conditions of a sale and purchase transaction and the status and respective shares of each heir have been clearly determined, including after the settlement of expenses for the deceased's care, debts, zakat, funeral arrangements, and the deceased's will. Once each heir's

share has been determined, each heir has full rights to manage or sell their respective share. Conversely, inherited property that has not yet been distributed cannot validly be sold unilaterally because the rights of other heirs remain attached to the property and its ownership status has not yet been clearly determined. However, if all heirs consent to the sale, the transaction may be carried out. Accordingly, the sale and purchase of inherited property without the consent of the other heirs is invalid because it involves the rights of other parties that have not yet been relinquished.

Based on an Islamic law perspective, the practice of buying and selling land that remains subject to an inheritance dispute in Padang Kelapo Village, Maro Sebo Ulu District, is invalid because the object of the sale and purchase does not yet fully belong to the seller due to the absence of a legally valid distribution of the inheritance. Without the consent of all or some of the heirs who hold rights over the land, the seller does not have the authority to sell it. This is consistent with Article 1471 of the Indonesian Civil Code (KUHPerdata), which stipulates that the sale and purchase of property belonging to another person is void and may provide grounds for the buyer to claim reimbursement for costs, losses, and interest if the buyer was unaware of the ownership status of the property.

As a consequence of the transaction being void, the parties are restored to the position they occupied prior to the sale and purchase, while the rights to the land remain vested in the heirs. An aggrieved heir may also file a civil lawsuit based on Article 1365 of the Indonesian Civil Code concerning unlawful acts (*perbuatan melawan hukum*). An act may be categorized as an unlawful act when it involves an act or omission, unlawfulness, loss, a causal relationship between the act and the loss, and fault (*schuld*). Accordingly, the sale of inherited land without the consent of the other heirs may give rise to legal consequences in the form of the invalidity of the transaction and an obligation to compensate the injured party for the losses incurred.

DISCUSSION

The research findings indicate that the practice of buying and selling land that remains subject to inheritance disputes in Padang Kelapo Village occurs due to a gap between legal provisions and practices that have developed within the community. Community members tend to consider physical control over the land and their status as one of the heirs to be sufficient grounds for conducting a transaction. In practice, undivided inherited land continues to be sold by one of the heirs, even though, legally, the rights to such land remain

vested in all heirs. This condition demonstrates that the community's understanding of the distinction between physical possession and legal ownership of inherited land remains inadequate.

The findings also reveal that economic factors constitute one of the main drivers of such transactions. Several parties sell inherited land because they face urgent needs, such as educational expenses, surgical or medical expenses for family members, and other family necessities. Thus, the decision to sell the land is not solely based on legal considerations but also constitutes a response to the economic pressures faced by the family. Although such reasons may be socially understandable, economic circumstances do not extinguish the rights of other heirs to the inherited property. Therefore, economic needs should be addressed through mechanisms that continue to respect the rights of all heirs.

From a legal perspective, the primary issue lies not merely in the form of the transaction being conducted through a private agreement (*di bawah tangan*), but rather in the ownership status of the object being sold and purchased. The research findings demonstrate that the land constituting the object of the transaction remains inherited property that has not yet been distributed. Physically, the land may be possessed by one of the heirs; however, legally, its ownership remains associated with the other heirs. The research findings further emphasize that the object of the contract does not yet constitute the seller's exclusive personal property and remains connected to the rights of the other heirs.

From the perspective of Islamic law, this condition constitutes a legal issue because one of the requirements for the object of a sale and purchase is that it must be owned by the party selling it or that the seller must possess the legal authority to sell it. If inherited land has not yet been distributed, each heir continues to hold rights over the property. Therefore, a unilateral sale conducted without the consent of the other heirs does not fulfill the principle of complete ownership. The research findings conclude that the sale and purchase of undivided inherited property is not permissible when conducted without the knowledge or consent of the other heirs.

These findings demonstrate that the pillars of sale and purchase and the issue of the validity of the object of sale and purchase are two matters that need to be distinguished. In general, the parties involved in the transactions have fulfilled the requirements for acting as contracting parties, and *ijab-qabul* has also been conducted on the basis of mutual agreement. However, the fulfillment of the requirements concerning the parties and *ijab-qabul* does not

automatically render a transaction valid when the object being sold remains subject to the rights of another party. Accordingly, the primary issue concerns the seller's authority over the land that has not yet been distributed as inherited property.

From the perspective of positive law, this condition also demonstrates a problem concerning legal certainty. Land transactions that are not supported by a clear ownership status have the potential to give rise to objections from heirs who were not involved in the transaction. The research findings state that when inherited land is sold without the consent of the other heirs, the transaction may give rise to legal issues and may constitute grounds for the injured party to bring a legal claim.

Accordingly, the research findings demonstrate that the issue of buying and selling land subject to inheritance disputes is not merely a matter of transactional formalities, but primarily concerns certainty regarding the status of rights, the seller's authority, the protection of heirs' rights, and the prevention of disputes.

The findings of this study are consistent with several previous studies concerning land sale and purchase and inheritance disputes. The research conducted by Rahmatul Khasanah, Besse Elfi Yuwinda, M. Syarifudin, and Herdiansyah demonstrates that the low level of community understanding of Islamic inheritance law remains one of the issues in the management of inherited property. This condition is relevant to the findings of the present study in Padang Kelapo Village, where limited legal understanding among community members also contributes to the occurrence of land sale and purchase transactions involving property that remains part of an undivided inheritance.

In addition, Tumardi's research on the sale and purchase of land leasehold rights demonstrates that a transaction is inconsistent with Islamic law when the object being transacted is not fully owned by the selling party. This finding is consistent with the present study because the land being sold and purchased in Padang Kelapo Village remains inherited land whose ownership rights are vested in the heirs. Therefore, one heir does not have full authority to sell the land without the consent of the other heirs.

The research conducted by Andi Nurfajri Mansyur also demonstrates that the practice of buying and selling land without a deed executed before a Land Deed Official (PPAT) continues to be influenced by community practices, limited legal knowledge, and economic factors. This finding reinforces the present study's finding that land sale and purchase practices in Padang Kelapo Village are still frequently conducted through private

agreements (*di bawah tangan*) and are influenced by customary practices as well as limited community understanding of land-related legal procedures.

Meanwhile, the studies conducted by Siti Maysaroh et al., (2023), Ayu Sulistyowati, and Anjani Putri Yasnu in Hatta, (2022), emphasize the importance of the village government's role in resolving inheritance disputes through mediation, deliberation, family-based approaches, and legal education. These findings are relevant to the conditions in Padang Kelapo Village, which demonstrate the need for village government involvement in providing legal education and facilitating dispute resolution so that transactions involving inherited land do not result in conflicts among heirs.

Accordingly, this study reinforces the findings of previous research while providing a more specific focus on the practice of buying and selling land that remains subject to inheritance disputes, particularly concerning the relationship between ownership status, low levels of legal awareness, economic factors, and the potential emergence of disputes among heirs.

This study has several limitations. First, the study was conducted only in Padang Kelapo Village, Batanghari Regency; therefore, the findings cannot be directly generalized to communities in other areas. Second, the study focuses on land sale and purchase practices related to inheritance disputes and does not yet encompass other forms of land disputes, such as those involving grants, waqf, land boundaries, and other forms of rights transfer. Third, the data were obtained through interviews, observations, and documentation, which depended on the openness of the informants and the availability of relevant documents, while transactions conducted through private agreements (*di bawah tangan*) do not always have complete written evidence. Fourth, the study places greater emphasis on legal aspects and empirical conditions and therefore has not quantitatively measured the influence of economic factors, education, and legal understanding on the practice of buying and selling inherited land. Fifth, limited access to all relevant parties, particularly heirs residing outside the area or not directly involved in the transactions, means that the perspectives obtained are not yet fully comprehensive. Therefore, future research is recommended to involve a greater number of research sites and informants, including heirs, buyers, village officials, Land Deed Officials (PPAT), legal practitioners, and judicial institutions.

CONCLUSION

This study demonstrates that the practice of buying and selling land subject to inheritance disputes in Padang Kelapo Village continues to occur before the inheritance distribution process has been legally completed and, in some cases, without the consent of all heirs. Such practices are generally conducted through private agreements (*di bawah tangan*) and are driven by urgent economic needs, limited legal understanding and awareness, and established community practices. These conditions create uncertainty regarding ownership status and have the potential to give rise to disputes among heirs as well as between heirs and buyers. From the perspective of positive law, such practices are inconsistent with the principles of legal certainty and the protection of rights when ownership status has not been clearly established and the parties legally entitled to the property have not provided their consent. From the perspective of Islamic law, such practices are not permissible because they contain an element of *gharar*, contradict the principle of justice (*'adl*), and are inconsistent with the principle of *ḥifẓ al-māl*.

This study contributes to the development of research in agrarian law, inheritance law, and Islamic family law by demonstrating the importance of the interrelationship between clarity of ownership status, the protection of heirs' rights, and legal certainty in transactions involving inherited land.

Future research is recommended to expand the research locations and objects of study and to examine dispute resolution mechanisms involving village governments, customary institutions, mediation, and judicial institutions in order to develop more effective dispute resolution models.

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