A grant is a free agreement in the form of giving part of the property to another person which cannot be withdrawn. Irrevocability is not an absolute provision because Article 1688 of the Civil Code regulates the conditions for withdrawing grants. However, the fact is that the withdrawal of the grant was given without heeding the provisions of the article. As a result, the withdrawal of grants that does not heed Article 1688 of the Civil Code will result in losses for the grantee and fall into the category of unlawful acts. The purpose of this study was to examine the cancellation of the grant granted by the judge in the decision no. 156/Pdt.G/2017/PN.Tjk with the Civil Code and analyze unlawful acts originating from the cancellation of grants that harm the grantee. To achieve this goal, the author uses a juridical-normative research method based on secondary data. Based on the research results the authors conclude that the cancellation of the grant in decision no. 156/Pdt.G/2017/PN.Tjk did not heed the provisions of Article 1688 of the Civil Code and as a result of the cancellation of the grant which harmed the grantee as compensation for fulfilling elements of an unlawful act in Article 1365 of the Civil Code.

Keywords: Grants; Cancellation of Grants; Unlawful Acts.

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I. INTRODUCTION

The agreement is regulated in Article 1313 of the Civil Code which reads the article is "An agreement is an act by which one or more people bind themselves to one or more other people". Agreements have various types which are distinguished according to their classification, such as according to Volmar, one type of agreement which is classified based on the obligations of the parties, there are 2 types, namely reciprocal agreements, imperfect reciprocal agreements, and unilateral agreements.

Arrangements regarding grants in Civil Law are contained in Book III of the Civil Code, where the Book III system of the Civil Code adheres to an open system which means that everyone may enter into any agreement even though it has not been or is not regulated by law, which also means that the law of agreement provides the broadest freedom for the community to enter into agreements containing anything, as long as it does not conflict with the law, public order and morality. This
The grant arrangement in the Civil Code starts from Article 1666 to Article 1693. A grant according to Article 1666 of the Civil Code is an agreement whereby the donor, during his lifetime, free of charge and irrevocably surrenders an object for the purposes of the grantee who accept the submission. In this case, Robiah and Nadjematul argue that a grant is a voluntary gift of wealth from a person, both in the form of material and objects, which is given on the basis of goodness alone and without conditions while he is still alive without any reward. (Robiah and Nadjmatul, 2017) In paragraph 2 of the article it is stated that the grant must be made while the grantor and grantee are still alive. (Ibn, 2016) Grants may not be given with the intention of harming the grantee as stated in Article 1670 of the Civil Code, namely the grant is void if the grantee is given a burden on the debts owned by the grantor. From the articles above, several elements of grant giving can be drawn, namely:

- Grants are given while the giver and recipient are still alive
- Profitable given a grant
- Free
- Cannot be withdrawn
- Those items must exist
- Must be accepted by the grantee

Grants for immovable property must use a Notary Deed which is affirmed in Article 1682 of the Civil Code. If the grant is not made with a Notary Deed, then the grant is declared void. (Suisno, 2018) Specifically for grants whose object is land, the Land Deed Making Officer based on Article 1 point 1 Government Regulation no. 37 of 1998 was given the authority to make authentic deeds regarding legal actions against Land Rights or Property Rights to Flat Units. (Goddess. 2016)

In the sense of a grant according to Article 1666 there are the words "irrevocable" this does not mean that the grant cannot be withdrawn by the donor without the permission of the other party, because each agreement can only be withdrawn with the will of both parties (Article 1666). 1338 paragraph 2 of the Civil Code). (Niia and Yunanto, 2018) Grants can be canceled unilaterally or through the agreement of both parties. Article 1688 of the Civil Code regulates the conditions for unilaterally canceling a grant, namely:

- Non-fulfillment of the terms of the grant
- If the grantee is involved in helping or committing a crime with the aim of killing the donor or other crimes against the donor
- Refuse to provide grant allowances to the donor if the donor falls into poverty.

Based on the provisions of the article above, the grant can be canceled if the above exceptions are met. The withdrawal of the grant is carried out by giving a statement of the will of the giver to the
recipient of the grant, accompanied by prosecution of the goods that have been granted, where each party must pay attention to the rights and obligations of the other. (Duma, 2012)

In fact, there are grants that can be canceled without regard to the conditions for canceling the grant as regulated in Article 1688 of the Civil Code as happened in the case of District Court Decision No. No. 156/Pdt.G/2017/PN.Tjk. The author is of the opinion that the grantor who cancels the deed of grant without heeding the conditions contained in Article 1688 of the Civil Code and if the cancellation causes harm to the recipient, the act of the grantor can be categorized as an unlawful act.

The elements of an unlawful act based on its understanding are:

a. There is an action
b. This act is against the law
c. There is an error
d. There is a loss
e. There is a causal relationship between losses and actions

Based on the background described above, the authors formulate the problem as follows:

a. How to cancel the grant in Decision No. 156/Pdt.G/2017/PN.Tjk) in terms of grant cancellation requirements?
b. What are the consequences of canceling a grant that harm the recipient of the grant?

Based on the problems mentioned above, the authors formulate the objectives of this study, including:

a. To find out the cancellation of the grant in Decision No. 156/Pdt.G/2017/PN.Tjk) in terms of grant cancellation terms
b. To find out the consequences of canceling a grant that are detrimental to the recipient of the grant

II. RESEARCH METHOD

In making legal writing, a research is needed, which with this research is expected to obtain accurate data as a solution to problems or answers to certain questions. Research is a scientific activity related to analysis and construction which is carried out methodologically, systematically and consistently. Methodology means according to a certain method or method, systematic means based on a system, while consistent means the absence of things that are contrary to a framework.

The research approach used in writing this law is normative juridical. Soerjono Soekanto and Sri Mamuji present the notion of normative legal research with the notion of normative legal research or also called library law research is legal research carried out by examining library materials or secondary data. This understanding is focused on the materials used in the research. (Salim and Erlies, 2013) The type of data used in this study is secondary data. Secondary data is data obtained from library materials in general. (Soerjono and Sri, 2014) Based on the type of data needed in this study, the data collected are as follows:
1. Primary Legal Material

Primary legal materials, namely binding legal materials. In this case the materials used by the author are:
- Code of Civil law.
- Decision No. 156/Pdt.G/2017/PN.Tjk

2. Secondary Legal Material

Secondary legal materials that provide an explanation of primary legal materials, such as research results, works from legal circles, and so on that can support the discussion of the research that the author is doing.

3. Tertiary Law Material

Tertiary legal materials are materials that provide instructions and explanations of primary and secondary legal materials; examples are dictionaries, encyclopedias, cumulative indexes, and the internet.

All data that has been collected is then processed and analyzed using qualitative methods, namely methods that analyze data consisting of sentences, or in this case intangible numbers. After the data is processed, the writer conveys the author's evaluation of the conclusions obtained, therefore the typology of this research is descriptive evaluative.

III. RESULTS AND DISCUSSION

3.1. Position Case

This writing is an analysis of Decision No. 156/Pdt.G/2017/PN.Tjk. In order to understand the chronology and legal facts that occurred in the decision, the author in this section will describe the position of the case that occurred, namely:

Plaintiff 1 donated a land and building that was his property as evidenced by SHM No. 749/GR Gotong Royong Village, Tanjung Karang District, Bandar Lampung City Center, Lampung Province to the husbands of Defendant 1, Defendant 2, Defendant 3, and Defendant 4 (the recipients of the grant are the younger siblings of Plaintiff 1). Plaintiff 1 gave the grant with the intention of seeing his younger siblings live in harmony and be able to serve their parents. The grant was made by Plaintiff 1 giving power of attorney to Plaintiff 2 which was then made a Deed of Grant No. 167/26/Tk.P/1993 on November 16, 1993 by Co-Defendant 2. After the donation was made on October 8, 2010, Defendant 1's husband (Plaintiff's sister 1) died and left a wife, Defendant 1. After the death of Defendant 1's husband, Co-Defendant 2 issued a transfer of rights to the Object of the Dispute on 19 October 2016 on behalf of Defendant 1, Defendant 2, Defendant 3, Defendant 4 and Jennifer Lawrence (recognized by Defendant 1 as his son). Knowing this, Plaintiff 1 felt that the Defendants did not heed the conditions contained in the granting of the grant and Plaintiff 1 realized that the attitude and behavior of Defendant 1 towards Plaintiff 1 and Plaintiff 2 were disrespectful and that the
grant was more than 1/3 of the property of Plaintiff 1 so that Plaintiff 1 filed a lawsuit to the Tanjung Karang District Court to cancel the Deed of Grant made by Co-Defendant 2, requested that the Object of the Dispute (SHM No. 749/GR) be returned on behalf of Plaintiff 1 and stated that the defendants had committed an unlawful act. Defendant 4 and Jennifer Lawrence (recognized by Defendant 1 as his son). Knowing this, Plaintiff 1 felt that the Defendants did not heed the conditions contained in the granting of the grant and Plaintiff 1 realized that the attitude and behavior of Defendant 1 towards Plaintiff 1 and Plaintiff 2 were disrespectful and that the grant was more than 1/3 of the property of Plaintiff 1 so that Plaintiff 1 filed a lawsuit to the Tanjung Karang District Court to cancel the Deed of Grant made by Co-Defendant 2, requested that the Object of the Dispute (SHM No. 749/GR) be returned on behalf of Plaintiff 1 and stated that the defendants had committed an unlawful act. Defendant 4 and Jennifer Lawrence (recognized by Defendant 1 as his son). Knowing this, Plaintiff 1 felt that the Defendants did not heed the conditions contained in the granting of the grant and Plaintiff 1 realized that the attitude and behavior of Defendant 1 towards Plaintiff 1 and Plaintiff 2 were disrespectful and that the grant was more than 1/3 of the property of Plaintiff 1 so that Plaintiff 1 filed a lawsuit to the Tanjung Karang District Court to cancel the Deed of Grant made by Co-Defendant 2, requested that the Object of the Dispute (SHM No. 749/GR) be returned on behalf of Plaintiff 1 and stated that the defendants had committed an unlawful act.

3.2. Judges' Considerations and Decisions

Based on all the arguments of the plaintiff and defendant as well as all the evidence that has been submitted, the judge in his decision considers the following:

a. The Defendants II, III and IV expressed no objection and even agreed that the Deed of Grant be canceled because its designation and purpose had been misused, and the object of the dispute was returned in all condition to the grantor. The acknowledgments of Defendants II, III, and IV became perfect evidence for the plaintiffs’ claims (Article 1925 of the Civil Code).

b. The Defendants have been proven to have committed acts that deviate from the intent and purpose of the grant by the Plaintiff, then the Defendants I, II, III and IV as well as the Co-Defendants I and II are declared to have been proven to have committed an unlawful act.

Based on these considerations, the judge decided:

Judge

In Concession:

1. Granted the Plaintiff's claim in its entirety;
2. Declaring the deed of grant no. 167/26/Tk.P/1993 issued by Co-Defendant I;
3. Ordering Defendants I, II, III, and IV to return the object of the dispute which was granted to the grantor on behalf of Plaintiff II;
4. To declare that Defendants I, II, III, IV, Co-Defendants I and Co-Defendants II have committed acts against the law;
5. Punish Co-Defendant I and Co-Defendant II to comply with this decision.

3.3. Analysis

3.3.1. Cancellation of Grant Decision No. 156/Pdt.G/2017/PN.Tjk in terms of the terms of grant cancellation

Article 1666 of the Civil Code states that a grant is an agreement in which the donor, during his lifetime, freely and irrevocably submits an object for the purposes of the recipient of the grant who receives the delivery. Based on the provisions of Article 1666 of the Civil Code, it explains that what is called "schenking" is an agreement (obligator), in which one party undertakes for free (omniet) by absolutely (onherrop elijk) giving an object to the party who On the other hand, which party accepts the gift as an agreement, the gift (schenking) is immediately binding and cannot be withdrawn at once according to the will of one party. (Asriadi, 2017) Grants can be classified into 2, namely:

1. A grant in a narrow sense which is also often called a normal grant, is a grant that is only based on what is desired by one-sided or one-sided parties.

2. A grant in a broad sense is meant as a gift that occurs outside of what is real, that is, it must be seen from the contents of the grant or see the nature or intent contained in the meaning of a surrender. (Jinner and Leny, 2011)

In principle, grants cannot be withdrawn/revoked or abolished except for reasons regulated in Article 1688 of the Civil Code. Article 1688 stipulates:

A grant cannot be withdrawn or forfeited. Except in cases like the following:
1. Because the conditions under which the grant is not fulfilled.
2. If the grantee has been guilty of committing or helping to commit a crime aimed at taking the soul of the donor or some other crime against the donor.
3. If he refuses to provide a living allowance to the donor, after this person falls into poverty.

Wibowo Reksopradoto gave his opinion regarding the consequences of revocation or abolition of grants as follows:

1. As a result of the cancellation of the first reason, it is regulated in Article 1689 of the Civil Code, which states that if the goods that are donated must be withdrawn, and free from all burdens that may be burdened by the recipient of the grant. Likewise, the results must be resubmitted, since the recipient of the grant is negligent in fulfilling the conditions of the grant.

2. As a result, the cancellation of the second and third reasons in Article 1688 of the Civil Code is different from the first reason. In canceling a grant, the grantee is obliged to return the goods that were donated, with the results calculated, starting the filing of a lawsuit. If the goods have been sold, the price of the goods and the proceeds will be refunded at the time the lawsuit is filed.
3. Apart from that, the grantee is obliged to provide compensation to the donor for the mortgage and the burdens placed on the fixed object before the lawsuit is filed (Article 1691 of the Civil Code)

4. This second and third claim can only be filed within one year after the recipient of the grant commits an act whose cause has been known to the donor.

5. The claim may not be submitted to the heirs of the grantee, by the donor or vice versa, the heirs of the donor to the recipient, except if the donor within one year has filed a claim, or if he or she has died within one year's grace period, after the occurrence of the alleged incident. (Article 1692 of the Civil Code)

In the case of decision No. 156/Pdt.G/2017/PN.Tjk The author did not find any of the arguments included in the terms of the cancellation of the grant. The conditions for cancellation of grants consist of:

1. Non-fulfillment of the terms of the grant.

   In his statement on the main answer to the case submitted by Defendant 1 in point 7 it is said that the existing grant process has been carried out by the Grant Giver and Grant Recipient in accordance with applicable legal provisions and has legal force.

2. If the grantee is guilty of committing or helping to take the soul of the donor or some other crime against the donor

   Juridical understanding of crime according to R. Soesilo is an act of behavior that is contrary to the law and from a sociological perspective, what is meant by crime is an act or behavior that in addition to harming the sufferer, is also very detrimental to society, namely in the form of loss of balance, peace and order. According to this understanding, the disrespectful behavior of Defendant 1 is not included in the category of crime because it does not cause material or immaterial harm.

3. Not willing to provide a living when the donor falls into poverty

   In this case the grantor does not postulate about his economic situation so that the author cannot argue whether this condition is fulfilled or not.

   In his consideration the judge said that with the recognition of Plaintiffs II, III and IV and they agreed to return the object of dispute to the donor so that it would be perfect evidence. The author is of the opinion that in this case the judge did not consider that there could be a conspiracy between the Plaintiffs and Defendants II, III and IV due to blood and family relations to weaken the position of Defendant 1. The judge also did not consider that this grant could help the survival of the Defendant 1 who has to bear the burden of being a widow without a husband with children 1. So according to the author, the judge's decision is unfounded, so this decision deserves to be re-examined.
3.3.2. Consequences of Cancellation of Grants that are detrimental to the Grantee

Cancellation of the grant in the case of decision no. 156/Pdt.G/2017/PN.Tjk does not follow the terms of grant cancellation stated in Article 1688 of the Civil Code. The cancellation of the grant is not legally valid and therefore the cancellation of the grant should not be granted by the judge because apart from being invalid, it also has the potential to harm the grantee.

Article 1365 of the Civil Code says that "Every unlawful act that causes harm to another person, obliges the person who because of his fault published the loss, compensates for the loss". The elements of this unlawful act consist of:

1. There is an action

   The actions referred to here are active actions (doing something) and passive actions (not doing something) even though he has a legal obligation to make it, the obligation arises because of the applicable law.

   In this case, the act of the donor is to cancel the grant that has been given to the recipient in which all kinds of procedures have been completed according to the applicable regulations.

2. The act is against the law

   Since 1919, the element of being against the law has been defined in the broadest sense, which includes the following:
   a. Acts that violate applicable laws
   b. That violates the rights of others guaranteed by law, or
   c. Acts that are contrary to the legal obligations of the perpetrator, or
   d. Acts that are contrary to decency (goedezeden), or
   e. Actions that are contrary to good attitudes in society to pay attention to the interests of others.

   The cancellation of the grant is regulated in Article 1688 of the Civil Code, if the cancellation of the grant cannot meet the elements contained in the article, the act can be categorized as against the law.

3. There is an error

   An action is considered by law to contain an element of error so that it can be held legally responsible if it meets the following elements:
   a. There is an element of intentionality;
   b. There is an element of negligence;
   c. There are no justifications or excuses for forgiveness such as overmacht conditions, self-defense, insanity, and others.

   Deliberate cancellation of grants without heeding applicable regulations and resulting in losses can be categorized as errors.
IV. CONCLUSION

A grant is an act of the grantor to give part of his wealth to the grantee free of charge and cannot be withdrawn unilaterally. Basically, grants cannot be withdrawn, but Article 1688 of the Civil Code regulates the conditions that must be met regarding the unilateral withdrawal of grants. However, in fact there is a cancellation of a grant that is not in accordance with Article 1688 of the Civil Code and the cancellation of the grant causes losses to the recipient of the grant.

Article 1365 provides an obligation for the party who commits the act and the act is detrimental to another person, must compensate for the loss. The cancellation of the grant made by the Plaintiffs can be categorized as an unlawful act because it fulfills the elements contained in Article 1365 of the Civil Code. So in connection with this, the Plaintiffs are obliged to compensate the Defendant I.
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