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Legal Protection ofr Heir of Account Owners Unlawfully Blocked By The Banks

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ABSTRACT

The study purpose was to examine the legal protection for heirs of account owners whose bank accounts are unlawfully blocked by banks without a valid court decision or the consent of the heirs. This issue arises because such actions contradict the principle of prudence in banking operations and may cause losses to the heirs, thus raising questions regarding the authority of banks and the legal remedies available. The research aims to analyze: (1) the authority of banks to block the accounts of deceased customers against their heirs; and (2) the legal protection available to heirs when banks commit unlawful blocking of accounts. This research employed a normative juridical legal research method, relying on secondary data obtained from primary, secondary, and tertiary legal sources. The approaches used included the Legislation Approach, Case Approach, Analytical Approach, and Conceptual Approach. Data were collected through literature study, identifying and inventorying statutory regulations, legal doctrines, and relevant case studies. The legal analysis techniques applied consisted of Grammatical Interpretation, Systematic Interpretation, and legal construction methods. The findings demonstrate that banks have no authority to unilaterally block the accounts of deceased customers, as this contradicts Article 29 paragraph (3) of Law Number 10 of 1998 concerning Banking. The action is deemed unlawful since it disregards the principle of prudence and the obligation to protect customer rights. Heirs who suffer losses due to such acts are entitled to legal protection and may file a civil lawsuit under Article 1365 of the Indonesian Civil Code to demand recognition and restoration of their rights. The study concludes that unilateral blocking of deceased customers' accounts by banks constitutes an unlawful act. Legal protection for heirs is available through civil remedies, ensuring the protection of property rights and upholding justice in banking practices.

Keywords: Legal Protection, Account Blocking, Heirs, Banking Law, Unlawful Acts.

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INTRODUCTION

From a civil law perspective, the relationship between a bank and its customers constitutes a contractual obligation.1 Customers and their lawful heirs, as the parties holding the funds, have the right to access and use those funds at any time, provided that no legal provisions are violated.2

If a bank blocks an account without a request from the lawful heirs, it is obligated to adhere to the prudential banking principle. Any action taken without a legal basis or a valid court decision may be considered a violation of the principles of prudence, consumer protection, and justice.3

Legal protection is essentially the state's effort to guarantee the rights of its citizens, including in the realm of financial transactions.4 The state, through Law Number 10 of 1998 concerning Banking

[1]Kasmir, *Dasar-Dasar Perbankan*. Jakarta, PT Raja Grafindo Persada, 2014, hlm. 17
[2]Hermansyah, *Hukum Perbankan Nasional Indonesia*, Kencana, Jakarta, 2011, hlm. 115.
[3]Sutan Remy Sjahdeini, *Perbankan Islam dan Kedudukannya dalam Tata Hukum Perbankan Indonesia*, Pustaka Utama Grafiti, Jakarta, 1999, hlm. 85.
[4]Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat Indonesia*, PT Bina Ilmu, Surabaya, 1987, hlm. 2.

and its derivative regulations, such as the Financial Services Authority (OJK) Regulations, is mandated to ensure that financial institutions operate in accordance with the applicable legal principles.5

Legal protection for bank customers is also explicitly regulated in Law Number 8 of 1999. In Indonesia, legitimate heirs have a legal standing to claim rights over the estate of the deceased from the moment of the testator's death.6 Legal protection for heirs is regulated in various statutory provisions, including the Civil Code (KUH Perdata), the Compilation of Islamic Law (KHI), banking laws, as well as court decisions.7

Legal protection is provided in the form of recognition of inheritance rights, acknowledgment of heir status, and dispute resolution mechanisms in cases where parties obstruct or deny such rights. Article 833 paragraph (1) of the Civil Code (KUH Perdata) stipulates that by law, heirs acquire ownership rights over all assets, rights, and receivables of the deceased.8 In banking practice, the freezing or withholding of a deceased account holder's funds is only legitimate if based on a court decision or the consent of all heirs; therefore, any unilateral action without a clear legal basis can be classified as an unlawful act.9

Although banks are required to implement due diligence in risk mitigation, in practice, account freezes are often carried out unilaterally based on reputational concerns, verbal requests from authorities, or internal analyses.10 However, such actions, especially when undertaken without a solid legal basis and without notifying the heirs, have the potential to create a conflict between the banking prudential principles and the protection of customers' rights as citizens.11

Field observations indicate that lawsuits filed by plaintiffs against defendants on the basis of unlawful acts concerning the blocking of accounts without the knowledge of legitimate heirs have repeatedly occurred, as reflected in Decision Number 176/PDT/2021/PT SBY, Supreme Court Decision Number 2396 K/Pdt/2016, and Decision Number 458/Pdt.G/2015/PN Dps. In all three cases, the defendants were proven to have unilaterally blocked the accounts, either without the approval of the legitimate heirs or based on invalid powers of attorney, thus constituting unlawful acts. These decisions have obtained permanent legal force (inkracht) and serve as concrete evidence of violations against the rights of heirs in account management.

Based on the literature review, five previous studies with different focuses were identified: (1) Rina Kartikasari (UI, 2021) examined legal protection for bank customers regarding account blocking without a court ruling;12 (2) Andi Prasetyo (Unair, 2020) focused on the juridical aspects of account blocking in cases of suspected money laundering;13 (3) Fitri Handayani (Undip, 2019) analyzed the position of heirs in accessing the deceased's bank accounts according to inheritance law and banking regulations;14 (4) M. Rizky Saputra (UGM, 2018) investigated the authority of banks in blocking customer accounts based on Bank Indonesia regulations;15 and (5) Lestari Dewi (UB, 2017) studied

[5]Amin, Zaidatul, *Kajian Pembentukan Otoritas Jasa Keuangan di Indonesia: Melihat dari Pengalaman di Negeri Lain*, Surabaya, Universitas Negeri Surabaya, 2012, hlm. 41

[6]Ahmadi Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen*, PT RajaGrafindo Persada, Jakarta, 2010, hlm. 25.

[7]Amir Syarifuddin, *Hukum Kewarisan Islam di Indonesia*, Kencana, Jakarta, 2012, hlm. 87.

[8]Subekti, *Pokok-Pokok Hukum Perdata*, PT Intermasa, Jakarta, 2008, hlm. 56.

[9]Ahmadi Miru, *Hukum Perikatan: Penjelasan Makna Pasal 1233 sampai 1456 BW*, PT RajaGrafindo Persada, Jakarta, 2011, hlm. 89.

[10]Hermansyah, *Hukum Perbankan Nasional Indonesia*, Kencana, Jakarta, 2011, hlm. 135.

[11]Zulkarnain Sitompul, *Prinsip Kehati-hatian dalam Hukum Perbankan Indonesia*, PT. Cipta Karya Indonesia, Bandung, 2005, hlm. 74.

[12]Rina Kartikasari, *Perlindungan Hukum Nasabah Bank Terhadap Pemblokiran Rekening Tanpa Putusan Pengadilan*, Universitas Indonesia, Jakarta, 2021, hlm. 45.

[13]Andi Prasetyo, *Tinjauan Yuridis Pemblokiran Rekening Nasabah Dalam Kasus Dugaan Tindak Pidana Pencucian Uang*, Universitas Airlangga, Surabaya, 2020, hlm. 52.

[14]Fitri Handayani, *Kedudukan Ahli Waris Dalam Akses Rekening Bank Pewaris Menurut Hukum Waris dan Peraturan Perbankan*, Universitas Diponegoro, Semarang, 2019, hlm. 67.

[15] M. Rizky Saputra, *Analisis Hukum Terhadap Kewenangan Bank Dalam Melakukan Pemblokiran Rekening Nasabah Berdasarkan Peraturan Bank Indonesia*, Universitas Gadjah Mada, Yogyakarta, 2018, hlm. 38.

bank liability in account blocking that causes losses to customers.16 From these varied focuses, the present study introduces novelty by integrating issues of bank authority, heirs' rights, and legal protection against unlawful account blocking, which has been scarcely addressed in previous literature.

Therefore, this study is entitled "Legal Protection for Heirs of Account Holders Whose Accounts Are Unlawfully Blocked by Banks" with the following research questions: (1) What is the authority of banks in blocking the accounts of deceased customers in relation to their heirs? and (2) How is legal protection provided to heirs of account holders against account blocking by banks as an act of unlawful conduct?

METHOD

Study participants

This study did not involve human participants directly, as it is a normative juridical legal research. The "participants" of the study are legal norms, doctrines, and principles derived from statutory regulations, court decisions, and scholarly works. The analysis focuses on heirs of account holders whose bank accounts were unlawfully blocked, as reflected in primary and secondary legal materials.

Study organization

The research applied a normative juridical approach, also known as library-based legal research, relying on secondary data. Several approaches were used: (1) the Statute Approach, by examining laws and regulations relevant to banking, inheritance, and consumer protection; (2) the Case Approach, by analyzing court decisions regarding account blocking; (3) the Analytical Approach, by interpreting legal concepts in legislation and practice; and (4) the Conceptual Approach, by assessing the underlying legal concepts and values.

Sources of legal materials consisted of: (a) Primary legal materials, including Pancasila, the 1945 Constitution, the Civil Code, Law No. 10 of 1998 on Banking, Law No. 8 of 1999 on Consumer Protection, Law No. 21 of 2011 on Financial Services Authority, Law No. 4 of 2023 on Financial Sector Development, and relevant OJK Regulations; (b) Secondary legal materials, such as scholarly articles, research reports, and academic writings; and (c) Tertiary legal materials, such as dictionaries, encyclopedias, and indexes.

Legal materials were collected through identification, classification, and literature review. The process ensured consistency and relevance in constructing legal arguments.

Statistical analysis

Since this is a legal normative study, no statistical analysis was applied. Instead, data analysis was carried out through legal interpretation and legal construction. Interpretation techniques included grammatical interpretation, which interprets legal texts based on everyday language and legal dictionaries, and systematic interpretation, which analyzes legal provisions within the broader structure of the law. Legal construction methods applied were analogy, which extends legal provisions to similar cases, and rechtsverfijning (refinement of law), which narrows the scope of legal provisions to ensure fairness and justice.

FINDING AND DISCUSSION

A. Bank Authority in Blocking Accounts of Deceased Customers in Relation to Their Heirs

The authority of banks to block the accounts of deceased customers is a crucial legal issue as it involves balancing the bank's obligation to uphold the prudential principle with the protection of heirs' rights as the legitimate successors of the deceased.17 In practice, disputes often arise when banks deny heirs access to the deceased's accounts, citing requests for account blocking from certain parties or the absence of an official determination of lawful heirs. This raises fundamental questions

[16]Lestari Dewi, *Tanggung Jawab Bank Dalam Pemblokiran Rekening Yang Menimbulkan Kerugian Nasabah*, Universitas Brawijaya, Malang, 2017, hlm. 74.

[17]Munir Fuady, *Hukum Perbankan Modern*, Citra Aditya Bakti, Bandung, 2003, hlm. 147.

regarding the extent of a bank's authority to block accounts and the legal limits under Indonesian positive law.

The legal basis for bank authority is found in Law Number 7 of 1992 on Banking, as amended by Law Number 10 of 1998, which stipulates that banks are business entities that collect public funds in the form of deposits and redistribute them as credit or other forms to improve community welfare. Bank authority is thus legal-rational, deriving from statutory regulations.18 Accordingly, account blocking should only be executed when there is a clear legal basis, whether in the form of legislation, a court order, or the consent of legitimate parties.

A bank account is not merely an administrative record but constitutes part of the civil law relationship between the bank and its customer. The funds deposited in the account are the property rights of the account holder, protected under constitutional law, and upon the account holder's death, these rights automatically transfer to the heirs in accordance with Article 833 of the Indonesian Civil Code (KUH Perdata). Account freezing is a unilateral action by the bank that restricts the rights of the heirs and, therefore, may only be conducted if there is a clear legal basis, such as a court decision or an official request from all heirs.

In banking practice, the bank usually requires legal documents such as a death certificate, a certificate of inheritance, or a court determination of heirs before releasing the funds. Verification of these documents is essential to determine the rightful beneficiary. However, it does not grant the bank the authority to freeze the account without a lawful basis.19 Therefore, if a bank obstructs heirs' access without a valid legal foundation, such action can be considered an unlawful act, as it impedes the exercise of inheritance rights guaranteed by law.

According to Max Weber's authority theory, banks fall under the category of legal-rational authority, meaning they may act only in accordance with formal regulations. Blocking an account without a clear legal basis constitutes arbitrary action that violates the principles of legality and legal certainty, and therefore, the bank's authority must be limited to prevent harm to heirs. Philipus M. Hadjon's legal protection theory emphasizes that preventive protection can be implemented by requiring banks to provide notice and obtain the heirs' consent before blocking accounts, while repressive protection can be pursued through civil lawsuits if banks block accounts without legal grounds. Consequently, banks must consistently uphold transparency and accountability in all their actions.20

Case examples indicate that the blocking of an account by a bank without the knowledge and consent of the legitimate heirs can be classified as an unlawful act, as reflected in the Surabaya High Court Decision No. 176/PDT/2021/PT.SBY and the Supreme Court Decision No. 2396 K/Pdt/2016. This underscores that banks bear legal responsibility if they fail to follow the applicable procedures. The authority of banks to block the accounts of deceased customers should be understood through Max Weber's theory of authority, which distinguishes between power (Macht) and legitimate authority (Authority); such authority is valid only when based on clear formal regulations recognized both socially and legally, whereas actions lacking a legal basis become arbitrary (willekeur).

Max Weber classifies authority into three types: traditional, charismatic, and legal-rational. As a modern institution, banks clearly fall under legal-rational authority, where every action is legitimate only if it is based on written regulations and executed through a legitimate organizational structure.21 Therefore, the blocking of an account belonging to a deceased customer can only be carried out if there is a written legal basis, such as a court order, a request from law enforcement, or the consent of all heirs. In other words, the bank's actions should not be based solely on internal discretion or reputational considerations.

[18]Hermansyah, *Hukum Perbankan Nasional Indonesia*, Prenadamedia Group, Jakarta, 2011, hlm. 82.
[19]Subekti, *Pokok-Pokok Hukum Perdata*, Intermasa, Jakarta, 2008, hlm. 56.
[20]Johannes Ibrahim, *Bank dan Lembaga Keuangan Lain*, PT Refika Aditama, Bandung, 2010, hlm. 115.
[21]Sentosa Sembiring, *Hukum Perbankan di Indonesia*, Mandar Maju, Bandung, 2012, hlm. 133.

In banking practice, it is common to encounter cases where accounts are blocked solely based on requests from third parties claiming an interest in the deceased's estate. According to Weber, however, legal-rational actions require adherence to formal, impersonal rules.22 This means that the bank must base its decision on official documents, such as a court determination of heirs or a notarial deed of inheritance, rather than on personal claims from parties not legally recognized. If the bank blocks the account solely based on unilateral requests, the action falls outside the legal-rational framework and becomes a personal act that is neither sociologically nor legally valid.

The concept of legal-rational authority also requires clearly defined limits of positional competence. Weber emphasizes that each bureaucratic official is authorized only within the scope of duties prescribed by law. While banks have the authority to manage customers' funds, they do not possess the power to determine who the lawful heirs are or to assess the validity of the deceased's familial relationships. Such determinations fall within the jurisdiction of the courts, not banking institutions. Therefore, when a bank blocks an account citing the need to clarify heirs without formal legal basis, it is effectively acting beyond the limits of its authorized competence.

Moreover, one characteristic of legal-rational authority, according to Weber, is the impersonal nature of decision-making. Legitimate decisions should not be influenced by personal relationships, external pressures, or unilateral interests but must be based on generally applicable legal norms. In the context of blocking a deceased's account, this means that banks must base their actions on applicable legal norms, such as Bank Indonesia Regulation No. 2/19/PBI/2000, which stipulates valid reasons for account blocking. Without such a basis, the blocking decision becomes non-impersonal and violates the legal-rational principle that legitimizes bank authority.

Weber also stresses that every action within a legal-rational system must be auditable and accountable through official documentation.23 In practice, this requires that each account blockage be accompanied by a written order from an authorized authority or other clear official documents. If the bank cannot present such documentation, the action lacks legitimacy and constitutes an abuse of authority. This principle is reinforced in numerous court decisions that classify account blocking without official documentation as an unlawful act.

In inheritance disputes, banks often invoke the principle of prudence as a basis for account blocking; however, within Weber's framework, prudence cannot replace formal legality. Formal rationality requires that every bureaucratic action comply with written regulations and clear procedures, including a legal basis, auditable official documents, and a definite timeframe. If these requirements are not met, the blocking constitutes an arbitrary act without legitimate authority and may be classified as an unlawful act under Article 1365 of the Indonesian Civil Code (KUHPerdata).24 Therefore, a bank's authority to block a deceased account holder's account is limited, constrained, and only valid if it adheres to the legal-rational principle, meaning any action beyond this scope incurs legal liability.

Banks often justify account blocking as a measure of prudence when there is a potential dispute among heirs. However, such actions frequently harm the legitimate heirs who wish to access the deceased's funds. This creates a conflict between the principle of prudence and the protection of heirs' rights. To resolve this conflict, banks should not unilaterally block accounts but should instead seek a court determination or obtain written consent from all legitimate heirs.25

The Consumer Protection Law grants heirs, as consumers of financial services, the right to fair, transparent, and non-detrimental treatment by banks. Arbitrary blocking of a deceased account holder's funds may violate consumer rights, including rights to convenience, security, and legal certainty. Furthermore, the Financial Services Authority (OJK) has the authority to supervise banking activities, and heirs can file complaints if they are adversely affected, while the Deposit Insurance

[22]Soerjono Soekanto, *Hukum Waris di Indonesia*, Rajawali Pers, Jakarta, 2013, hlm. 41.
[23]Max Weber, *Economy and Society: An Outline of Interpretive Sociology*, University of California Press, Berkeley, 1978, hlm. 215.
[24]*Ibid,* hlm. 92.
[25]*Ibid,* hlm. 102.

Corporation (LPS) guarantees customer deposits. Thus, legal protection for heirs derives not only from the Civil Code but also from financial sector regulations.26

The act of blocking an account without a legal basis violates the principles of legal certainty, justice, and usefulness, as the lawful heirs already have rights to the estate, the blocking creates injustice, and it causes economic and social harm. Under civil law, this action can be classified as an unlawful act (Article 1365 of the Indonesian Civil Code), as it fulfills the elements of an act, unlawfulness, resulting in loss, fault, and causal connection, thereby entitling the heirs to claim compensation.27

In developed countries such as the Netherlands and Germany, an inheritor's bank account may only be blocked based on a court order or the written consent of all heirs, reflecting an international standard that prohibits unilateral actions by banks. In Indonesia, interbank procedures are inconsistent; some banks require a court determination of heirs, while others accept a notarial deed, often to the detriment of heirs. Clear regulations are needed, for instance through OJK regulations, mandating that account blocks occur only based on the written request of all heirs or a court decision, accompanied by written notice to the heirs. The Surabaya High Court Decision No. 176/PDT/2021/PT.SBY affirms that blocking an account based on a third party's request without legal grounds constitutes an unlawful act. According to Max Weber's theory, such bank actions fail to meet the criteria of legal-rational authority because they are not based on generally applicable and impersonal written rules, thereby losing legitimacy. Meanwhile, Article 833 of the Indonesian Civil Code stipulates that ownership rights over a deceased's estate automatically transfer to the heirs, so bank actions that delay or refuse fund disbursement reflect a conflict between the substantive rights of heirs and the bank's formal actions that disregard written rules, where the bank prioritizes substantive rationality (prudence) over formal rationality (legality).

This decision also highlights the bank's failure to maintain bureaucratic impersonality. Weber emphasizes that modern bureaucracy must not be influenced by personal interests or unilateral claims, but should operate solely under official legal documents.28 However, in this case, the bank prioritized a third party's claim over formal documents that should have been requested, such as a certificate of heirs or a court determination. This illustrates a gap between Weber's legal-rational theory, which requires impersonal, document-based decision-making, and the bank's practice, which tends to be influenced by external parties without a legal basis.

Furthermore, the Consumer Protection Law Number 8 of 1999 provides legal certainty for consumers, including heirs as users of banking services. Article 4 of the Law stipulates that consumers are entitled to comfort, security, and legal certainty. Bank actions that block accounts without a clear legal basis contravene these principles. From Weber's perspective, the bank's authority in this context loses social legitimacy as it violates the rule-boundedness principle central to legal-rational authority. In other words, the bank not only breaches positive law but also deviates from the sociological legitimacy of authority that should inherently apply.

This gap is also evident in the implementation of the prudential principle as regulated in Article 29 of the Banking Law. While the prudential principle allows banks to prevent losses and maintain customer trust, it must operate within a formal regulatory framework and not through arbitrary actions.29 In this case, the bank interpreted the prudential principle excessively, causing losses to the heirs. According to Weber, this constitutes an abuse of authority, where a bureaucratic institution exceeds the limits of legal-rational authority under the guise of pragmatic interests.

Thus, it can be concluded that an analysis based on Max Weber's theory and legal regulations reveals a significant gap between applicable legal norms, the authority theory requiring formal legality, and banking practices that often prioritize prudence without a legal basis. This gap is the root cause of disputes between heirs and banks. Therefore, the necessary solution is the reinforcement of

[26]Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat di Indonesia*, Bina Ilmu, Surabaya, 1987, hlm. 34.
[27]Yahya Harahap, *Hukum Acara Perdata tentang Gugatan, Persidangan, Penyitaan, Pembuktian, dan Putusan Pengadilan*, Sinar Grafika, Jakarta, 2017, hlm. 289.
[28]Max Weber, *From Max Weber: Essays in Sociology*, Oxford University Press, New York, 1946, hlm. 328.
[29]Franz Magnis-Suseno, *Pemikiran Karl Marx dan Max Weber: Suatu Perbandingan*, Gramedia, Jakarta, 1999, hlm. 92.

regulations through the Financial Services Authority (OJK) or Bank Indonesia, ensuring that any account blocking can only be carried out on a clear legal basis, while simultaneously strengthening banks' compliance with the legal-rational framework that underpins the legitimacy of their authority.

The authority of banks to block customer accounts is a significant issue in banking practice, particularly when the account holder has passed away and the rights to the account have transferred to the heirs. In practice, problems often arise when banks block a deceased customer's account under the pretext of exercising prudence or awaiting legal certainty regarding the rightful heirs. However, legally, the heirs acquire rights to the estate immediately upon the account holder's death, as stipulated in Article 833 paragraph (1) of the Indonesian Civil Code (KUH Perdata).30 This situation creates a conflict between the authority of banks as financial institutions and the rights of heirs as legitimate successors to the deceased's property.

The authority of banks to block customer accounts is strictly regulated under the Banking Law and Bank Indonesia Regulations. Banks are required to implement the prudential principle but are prohibited from acting arbitrarily in ways that harm customers or heirs. Under civil law, the rights to a deceased customer's account automatically transfer to the heirs (Article 833 of the Indonesian Civil Code), meaning that blocking an account without a legal basis violates legal certainty and property rights. In practice, procedures in Indonesia vary among banks; some require a court determination, while others accept a notarial deed, often resulting in losses for heirs. A concrete example is found in the Surabaya High Court Decision No. 176/PDT/2021/PT.SBY, where the bank refused to release the heirs' funds despite all valid documents being submitted, citing a third-party request and prudential considerations. However, the accounts in question were the deceased's personal assets unrelated to her late husband's estate, rendering the bank's action unlawful (Article 1365 of the Civil Code). Bank Indonesia regulations clarify that account blocking is only valid if the customer has been designated a suspect/defendant or upon an official order from authorized legal authorities, meaning that unilateral blocking by banks contravenes both regulatory provisions and the heirs' rights.

This means that the basis for account blocking must originate from a legitimate law enforcement authority or a court decision. The Bank Indonesia Regulation does not grant banks the authority to block accounts unilaterally merely based on claims from third parties without legally binding force.31 In the context of inheritance disputes, the appropriate measures a bank can take to protect itself are to request a court determination of the heirs or place the funds in an escrow account until the dispute is resolved, rather than permanently blocking the account without a formal legal basis.

Article 833 of the Indonesian Civil Code (KUHPerdata) grants heirs automatic rights over the estate upon the death of the decedent, including funds in bank accounts, making it the bank's duty to release such funds once formal requirements are fulfilled. While the bank's prudential principle is important, it must not restrict the legitimate rights of heirs. Bank actions should be proportional and based on a legal foundation. In this case, blocking the deceased's personal account legally separated from her husband's assets was legally irrelevant, disproportionate, and exceeded the bank's authority.

From the perspective of civil law, an unlawful act as regulated in Article 1365 of the Indonesian Civil Code (KUHPerdata) requires the existence of an act, its unlawful nature, resulting harm, and a causal relationship.32 The act of blocking a bank account constitutes a tangible action. Its unlawful nature is evident from the absence of a valid legal basis for the blockage, as stipulated in Bank Indonesia Regulation No. 2/19/PBI/2000 and the Banking Law.

The losses incurred by the heirs include the inability to access inheritance funds and immaterial damages such as loss of trust and reputational disruption, which are directly caused by the bank's account blocking. With the fulfillment of the elements of an act, unlawfulness, damage, and causal relationship, the bank's action can be classified as an unlawful act. According to Max Weber's theory of authority, the bank falls under legal-rational authority, meaning that the blocking of accounts is

[30]Gunarto Suhardi, *Hukum Perbankan Suatu Pengantar*, Kanisius, Yogyakarta, 2006, hlm. 77.
[31]Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Konstitusi Press, Jakarta, 2005, hlm. 115.
[32]Zulkarnain Sitompul, *Hukum Perbankan di Indonesia*, Alumni, Bandung, 2005, hlm. 166.

only legitimate if based on formal legal regulations or a court ruling, and not merely on the bank's internal policies.

According to Philipus M. Hadjon's legal protection theory, there are two forms of legal protection: preventive and repressive. Preventive protection involves efforts to prevent the violation of heirs' rights, such as the bank's obligation to verify the rightful heirs before deciding to block an account.33 Repressive protection is provided through legal channels once a violation has occurred, for example, by filing a lawsuit based on unlawful acts. From this perspective, a bank's action of blocking a deceased account holder's account without a legal basis clearly violates the principle of preventive legal protection.

Several court decisions illustrate the legal position of heirs regarding bank account blocking. For instance, Supreme Court Decision No. 2396 K/Pdt/2016 emphasizes that blocking an account based on a third party's request without the consent of the lawful heirs constitutes an unlawful act. Similarly, Decision No. 458/Pdt.G/2015/PN Dps states that a bank does not have the right to block an heir's account solely based on a unilateral request without considering the existence of lawful heirs. These decisions indicate that a bank's authority is not absolute but must comply with the principles of legality and protection of rights.

The main issue in blocking heirs' accounts lies in the dilemma between the bank's duty to exercise prudence and its duty to respect the heirs' rights. Allowing fund disbursement without verification may lead to claims from other parties who assert a right to the funds. Conversely, blocking accounts without a legal basis may result in lawsuits from lawful heirs for violating their property rights. Therefore, a balance between legal certainty, justice, and utility is essential in exercising bank authority.

One of the bank's obligations is to provide an internal dispute resolution mechanism, as regulated by the Financial Services Authority (POJK). Before taking blocking action, the bank should communicate openly with the heirs and allow them to present legal evidence, such as a certificate of inheritance or a court ruling. 34 This approach prevents accusations of arbitrary conduct and violations of consumer protection principles.

In conclusion, while banks' authority to block the accounts of deceased customers is recognized under the prudential principle, such authority cannot be exercised unilaterally without a clear legal basis. Every account-blocking action must respect the legally established rights of heirs to uphold legal certainty, protect property rights, and prevent prolonged disputes.

B. Legal Protection for Heirs of Account Holders Against Bank Account Blocking Based on Unlawful Acts

Legal certainty for heirs of account holders regarding bank account blocking is a crucial issue within the framework of civil rights protection, particularly in the legal relationship between banks as financial institutions and their customers or parties who derive rights from the customer, namely the heirs.35

This issue becomes particularly relevant when disputes arise over funds deposited in a bank after the account holder's death, especially if the bank takes administrative actions such as blocking accounts without a clear legal basis or proper procedures. In the context of Indonesian law, such disputes involve not only banking regulations but also general civil law principles, inheritance law, freedom of contract, and the protection of property rights as guaranteed by the 1945 Constitution of the Republic of Indonesia.

According to Article 1338 of the Indonesian Civil Code (KUHPerdata), a legally valid agreement functions as law for the parties who enter into it, meaning that the contents of a marriage agreement are binding and must be respected by third parties, including banks.36 Therefore, legally, the property

[33]Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat di Indonesia*, Bina Ilmu, Surabaya, 1987, hlm. 34.
[34]Sudikno Mertokusumo, *Penemuan Hukum: Sebuah Pengantar*, Liberty, Yogyakarta, 2009, hlm. 112.
[35]Subekti, *Pokok-Pokok Hukum Perdata*, Intermasa, Jakarta, 2008, hlm. 45.
[36]Wirjono Prodjodikoro, *Asas-Asas Hukum Perjanjian*, Mandar Maju, Bandung, 2000, hlm. 67.

in the name of the deceased cannot be commingled with the husband's assets, and verification regarding the husband's heirs is irrelevant to the account under dispute.

The prudential banking principle regulated under Article 2 of Law No. 10 of 1998 concerning Banking provides banks with discretion to manage risks; however, this principle cannot be interpreted as justification for acting arbitrarily or disregarding the rights of parties whose legal status is clear.

Beyond the legal dimension, human rights considerations are also relevant in this dispute. Article 28H(4) of the 1945 Constitution guarantees that every individual has the right to private property, and such rights may not be arbitrarily taken by anyone. Bank actions that prevent heirs from accessing inheritance funds without a legitimate legal basis potentially violate this constitutional provision. This is reinforced by civil law doctrine, which holds that any act infringing upon the rights of others and causing harm must be compensated, as stipulated in Article 1365 of the Civil Code concerning unlawful acts.37

From the perspective of inheritance law, a legally valid Heir Certificate is sufficient to designate the party entitled to the decedent's estate. Claims by other parties must be resolved through legal channels, not through unilateral account blocking by the bank. The plaintiff's losses include material damages (account balance) and immaterial damages (loss of trust, psychological distress, and legal uncertainty), which are recognized under Indonesian law and can be compensated reasonably. The court decision in favor of the plaintiff, ordering the bank to lift the account block and release the funds, reinforces legal certainty and the protection of heirs' rights.38

From the author's perspective, this case highlights the need to clearly define the limits of a bank's authority in blocking accounts and to establish clear procedures for resolving disputes between heirs and third parties. Banking regulations must align with civil law principles and human rights protection, allowing banks to exercise prudential measures without violating the rights of legitimate parties. Legal certainty involves not only written rules but also consistent application that protects substantive rights.

The analysis shows that the bank's account-blocking in this case lacked legality, violated trust principles, infringed constitutionally protected private ownership, and contradicted inheritance law. Court rulings set an important precedent, affirming that heirs who meet legal requirements must have their rights protected, and any action obstructing these rights without a solid legal basis constitutes an unlawful act with juridical consequences. Therefore, harmonization between banking regulations, civil law, and banking practice is necessary to balance customer rights protection and the bank's fiduciary duties.

Applying Philipus M. Hadjon's legal protection theory provides a relevant framework: preventive legal protection aims to avoid disputes by allowing parties to raise objections before adverse administrative actions occur, while repressive legal protection addresses violations after they happen, ensuring rights restoration through judicial or dispute resolution mechanisms.39

This framework shows that in inheritance account-blocking disputes, preventive legal protection should involve transparent verification by the bank before blocking an account. The bank must formally notify the legitimate heirs of any third-party claims and allow them to provide clarification or proof of ownership. Mediation between claimants can also prevent escalation to litigation. If applied, this aligns with banking prudence while ensuring legal certainty for heirs.

In this case, the bank blocked the account without involving the heirs, so preventive protection failed. Repressive legal protection occurred when the heirs pursued litigation, resulting in Court Decision 176/PDT/2021/PT SBY, which reinforced the earlier ruling (1289/Pdt.G/2019/PN Sby) declaring the bank's account blocking unlawful. The heirs filed a civil suit under Article 1365 of the Civil Code, seeking annulment of the bank's actions, account unblocking, and compensation for material and immaterial losses a classic repressive mechanism to restore rights.

Inheritance account-blocking disputes are common in Indonesian banking. Legally, funds in a deceased's account automatically become part of the estate and pass to heirs (Article 833(1) Civil

[37]Hermansyah, *Hukum Perbankan Nasional Indonesia*, Kencana, Jakarta, 2011, hlm. 102.
[38]Jimly Asshiddiqie, *Konstitusi dan Hak Asasi Manusia*, Konstitusi Press, Jakarta, 2005, hlm. 153.
[39]Soepomo, *Hukum Waris dalam Teori dan Praktik*, Pradnya Paramita, Jakarta, 1996, hlm. 89.

Code). However, banks often block accounts without a clear legal basis, based solely on one party's claim or internal initiative, creating serious obstacles to heirs' rights to access and enjoy the inherited assets.40

Legal protection for heirs in Indonesia is derived from several sources. First, the Civil Code (KUHPerdata) regulates the automatic transfer of ownership from the deceased to the heirs upon death. Second, Law No. 10 of 1998 on Banking obliges banks to implement prudential principles and provide protection for both account holders and their heirs. Third, Law No. 8 of 1999 on Consumer Protection extends safeguards to bank customers as consumers of financial services. Fourth, the Financial Services Authority Regulation (POJK) No. 1/POJK.07/2013 mandates that banks act transparently, accountably, and without harming consumers. Fifth, judicial precedents establish that blocking accounts without a legal basis can constitute an unlawful act (onrechtmatige daad) under Article 1365 of the Civil Code.

Thus, legal protection for heirs rests on the complementary foundations of inheritance and banking law. Bank account blocking without a valid legal basis qualifies as an unlawful act (PMH), which under Article 1365 of the Civil Code requires an unlawful act, fault, resulting damage, and a causal link. If a bank blocks an inheritance account without a court decision or the consent of all heirs, the act is unlawful as it obstructs the heirs' rights. Material losses include delayed access to funds, while immaterial losses include a sense of injustice, both direct consequences of the action. Accordingly, unilateral account blocking constitutes PMH and allows heirs to seek compensation through civil litigation.

From the moment of the account holder's death, all heirs are legally entitled to the inheritance, including bank deposits, as affirmed in Article 833(1) of the Civil Code: "Heirs, by law, acquire ownership of all goods, rights, and receivables of the deceased." In practice, this right is reinforced through official heir certificates or court determinations that identify the legitimate heirs.41 Thus, a bank's action in denying heirs access without a valid legal reason contravenes the principles of legal certainty and the protection of property rights. In this context, heirs should not be regarded as third parties but as the legitimate successors to the account holder's legal position.

Banks indeed have an obligation to uphold the prudential principle in serving their customers, including in matters of inheritance. However, this principle should not be interpreted as a justification to arbitrarily restrict the rights of heirs. It must be applied proportionally, taking into account legal certainty for the heirs. If a bank restricts access citing prudence without a clear legal basis, it constitutes a violation of its legal obligations and may be held accountable. Therefore, a bank is only authorized to block an account when there is a court decision or a written agreement of all heirs, and not solely based on a unilateral claim.42

Jurisprudence provides a clear illustration of how courts assess bank account blockages. For instance, the Supreme Court Decision No. 2396 K/Pdt/2016 held that a bank's action to block an account based on a claim from an unauthorized party constitutes an unlawful act. Similarly, in Decision No. 458/Pdt.G/2015/PN Dps, the court found that unilateral account blockage by a bank without a valid legal basis caused tangible losses to heirs, rendering the bank liable. Another example, the Surabaya High Court Decision No. 176/PDT/2021/PT SBY, confirmed that blocking a deceased account holder's account without involving the rightful heirs constitutes a legal violation. These decisions consistently show that bank actions lacking legal basis and disregarding heirs' rights fall under the category of unlawful acts.

According to Philipus M. Hadjon, legal protection is divided into two forms: preventive and repressive. Preventive protection allows citizens to object or refuse actions by government or institutions before those actions occur. In the banking context, this means banks should provide heirs with the opportunity to participate through notifications, clarifications, or submission of documents prior to account blocking. Repressive protection, on the other hand, applies after a rights violation

[40]Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia*, Liberty, Yogyakarta, 2002, hlm. 214.
[41]Satjipto Rahardjo, *Ilmu Hukum*, Citra Aditya Bakti, Bandung, 2000, hlm. 125.
[42]Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Kencana, Jakarta, 2008, hlm. 233.

occurs and involves dispute resolution through courts or other legal mechanisms. Hadjon's framework thus enables the assessment that bank actions without legal basis neglect preventive protection, forcing heirs to pursue repressive measures via civil litigation.

Analysis based on Hadjon's theory shows that banks often fail to provide preventive protection. Banks tend to block accounts immediately without clarification mechanisms for heirs, leading to conflicts. In such cases, heirs receive only repressive protection through court litigation, which is time-consuming, costly, and burdensome. This practice contradicts the core principle of legal protection, which emphasizes the importance of preventive measures. Therefore, it can be concluded that current banking practices are not fully aligned with Hadjon's concept of legal protection.43

Weaknesses in banking regulations also contribute to this issue. Banking law does not explicitly regulate procedures for blocking accounts related to inheritance, which allows banks to interpret their authority independently. This regulatory gap creates legal uncertainty and opens the possibility of unlawful acts (PMH). Therefore, there is a need to strengthen regulations that clearly stipulate that account blockages can only be carried out based on a court order or the consent of all lawful heirs. Clearer rules would provide banks with strong legal guidance while ensuring certainty for heirs.

Based on the above, it can be concluded that heirs of account holders have full rights to the deceased's funds from the moment of death. Unilateral account blockages by banks without a valid legal basis constitute unlawful acts that violate the principles of legal certainty and heirs' property rights. Philipus M. Hadjon's legal protection theory emphasizes the importance of both preventive and repressive protection; however, banking practices in Indonesia still tend to neglect preventive measures. Therefore, regulatory reinforcement and the balanced application of the prudential principle are necessary to optimally safeguard heirs' rights.44

Case law reinforces this thesis. The Surabaya High Court Decision No. 176/PDT/2021/PT SBY shows that the bank blocked an account in the name of the deceased solely based on a third-party request, even though the account was the deceased's personal property, legally separated from the husband's assets under a prenuptial agreement. The court held that there was no legal attribution, delegation, or mandate justifying the blockage, thus fulfilling the element of unlawfulness. Since the heirs' rights were fully documented but obstructed, the bank is liable for resulting losses. This decision sets a precedent that "prudence" cannot become "discretion without basis."

The same paradigm is evident in other judicial reasoning: account blockages that are not preceded by an investigator/prosecutor/judge order, a court ruling in the context of execution or civil dispute, or the lawful consent of all heirs, are considered to lack legal grounding. When these preconditions are not met, courts view the blockage as an unlawful act (PMH), triggering liability for both material and immaterial damages. This argument underscores the minimum threshold for legitimacy: account blockage is not a "standard procedure" for handling claims but an exceptional measure that must be grounded in clear legal authority.

From the perspective of legal protection, Philipus M. Hadjon's framework offers a clear analytical approach. Hadjon divides legal protection into preventive and repressive forms. In the preventive dimension, legal subjects are entitled to an opportunity to present objections or clarifications before any administrative action that may cause harm is taken.45

Applied to inheritance account blockage disputes, the bank is obliged to notify the lawful heirs of any third-party claims, provide an opportunity for clarification and, if necessary, mediation, and conduct transparent verification before deciding on any restriction measures. When the bank blocks the account immediately without such participatory mechanisms, preventive protection fails, and the dispute almost inevitably shifts to the repressive domain (civil litigation).46

From a repressive perspective, protection is realized through legal remedies after rights have been violated. This is evident in court decisions declaring that banks committed an unlawful act (PMH) by

[43]Philipus M. Hadjon, *Perlindungan Hukum bagi Rakyat di Indonesia*, Bina Ilmu, Surabaya, 1987, hlm. 29.
[44]Maria Farida Indrati, *Ilmu Perundang-Undangan: Jenis, Fungsi, dan Materi Muatan*, Kanisius, Yogyakarta, 2007, hlm. 164.
[45]*Ibid*, hlm. 99.
[46]*Ibid*, hlm. 99.

blocking accounts without legal basis, ordering the unblocking of accounts and the payment of compensation. Although effective in restoring rights, the repressive route is costly in terms of time, expenses, and effort, making it an inadequate substitute for a well-structured preventive mechanism. In other words, sound practice should minimize the need for repressive measures through robust preventive procedures from the outset.

From the authority perspective, account blocking is an exercise of power constrained by law. A bank's authority must be traced to its source whether as attribution from legislation, delegation from an authority, or a mandate from a court ruling. Without one of these foundations, a blocking action risks becoming administrative arbitrariness exceeding its authority (ultra vires). This aligns with doctrinal views that authority limitations aim to prevent actions that undermine legal certainty and property rights. Since heirs' rights to inheritance are guaranteed under inheritance law, any restriction must be assessed for proportionality, appropriate instruments, and minimal burden on those rights.47

Proportionality assessment becomes crucial when evaluating claims of "prudence." While the bank's objective preventing asset misallocation or avoiding disputes is legitimate, the chosen instrument must be the least restrictive. In the context of inheritance disputes, more proportional alternatives to a full account block include: (i) requesting a court determination of the rightful heirs; (ii) placing the funds in an escrow or holding account until ownership is clarified; or (iii) imposing limited transactional restrictions (e.g., partial freeze rather than full block) accompanied by written notice and a reasonable timeframe. When a bank jumps directly to a full block without following verification or communication steps, the action becomes disproportionate and approaches the threshold of an unlawful act (PMH), even if the original goal is legitimate.

The construction of an unlawful act (PMH) under Article 1365 of the Indonesian Civil Code requires four elements: an unlawful act, fault, loss, and causation.48 In inheritance account block disputes, the "unlawful act" element arises from violations of written norms (regulatory limits on blocking), infringement of subjective rights (heirs' ownership rights), or contradictions with the principle of propriety—particularly when the bank restricts access without proper procedures, communication, or verification. "Fault" is established through the bank's negligence or failure to apply prudential standards correctly; "loss" can be both material (e.g., heirs unable to access funds for urgent needs) and immaterial (psychological burden, loss of peace of mind). Causation is clear, as the block directly prevents access. These considerations are consistently highlighted by courts in similar cases.

From the banking law perspective, there is an additional layer of obligation to protect financial services consumers. Statutory and sectoral regulations require transparency, accountability, and procedural fairness in handling complaints and disputes, including third-party claims on inheritance accounts. Consequently, secretly blocking accounts without notification, reasoned decision-making, or a channel for objection contravenes Hadjon's theory and the principles of fair service in financial sectors. This is why, in academic analyses and judicial decisions, courts frequently emphasize the bank's failure to implement preventive communicative mechanisms as an aggravating factor in assessing unlawfulness.49

It should also be noted that, in the dispute under analysis, the prenuptial separation-of-property agreement between the deceased and her husband carries significant legal weight. The existence of this agreement severs any correlation between claims by parties asserting rights as the executor of the husband's will and the deceased's personal account. In other words, "verification of the husband's heirs abroad" is not directly relevant to the deceased's account rights. When the bank used this irrelevant rationale to deny withdrawal and impose a block, the court viewed it as exceeding its authority and violating the principle of relevance in private-administrative decision-making. Here, a single material fact (the separation-of-property agreement) effectively negates the bank's justification.

Thus, implementing preventive and repressive legal protections in a balanced manner is key to ensuring legal certainty for heirs facing bank account blocks. Preventive measures ensure disputes can

[47]*Ibid*, hlm. 101.
[48]Ridwan HR, *Hukum Administrasi Negara*, RajaGrafindo Persada, Jakarta, 2006, hlm. 188.
[49]Andi Hamzah, *Perbuatan Melawan Hukum*, Rineka Cipta, Jakarta, 2005, hlm. 76.

be avoided through communication, verification, and transparent procedures, while repressive measures guarantee the restoration of rights if prevention fails. Integrating both forms of protection fosters a banking system that is not only legally compliant but also oriented toward substantive justice for clients and their heirs.

CONCLUSIONS

Banks do not have the authority to unilaterally block the accounts of deceased customers. Such actions contradict Article 29 paragraph (3) of Law Number 10 of 1998 concerning Banking, which mandates that banks conduct their operations based on the principle of prudence while ensuring customer protection. Account blocking without a clear legal basis, such as a court decision or the consent of the heirs, constitutes an arbitrary act that violates the principle of customer protection and can be categorized as an unlawful act causing loss. Legal protection for heirs harmed by such account blocking is provided under Article 1365 of the Civil Code (KUHPerdata), which stipulates that any unlawful act causing damage obliges the perpetrator to provide compensation. In this context, heirs may pursue civil litigation to claim their rights to the funds left by the deceased, thereby upholding justice and ensuring that banks exercise their authority professionally without harming customers or their lawful heirs.

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