

Inheritance Disputes Due to Errors and Omissions in the Civil Registry: Legal Implications of the Lack of Documented Identity and Family Ties

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Abstract

This research analyzed inheritance conflicts arising from fraudulent errors and omissions in Peru, to determine the legal implications of the lack of identity and documented family ties, due to the lack of transparent access to information on ancestors and descendants recognized by the State. The study was developed under a qualitative approach with grounded theory design, using documentary analysis to examine judicial files. The analysis of ten files revealed that deficiencies in the documentation of identity and family ties facilitated the deliberate exclusion of forced heirs and the manipulation of inheritance processes, especially when there were errors in the civil registries or late registrations. The investigation concluded that it was urgent to modernize the Civil Registry System through an interoperable registry system with effective verification mechanisms to guarantee the equitable transmission of inheritance rights and protect the legitimate interests of heirs.

Keywords: Personal Identity, Civil Law, Genealogy, Legal Systems, Legal Systems.

Introduction

Identity and family ties are fundamental elements that the Peruvian State, from its constitutional basis, protects as essential human rights for the dignity and personality of the human being. These rights allow citizens to perform relevant legal acts, such as inheritance and family affiliation, generating relationships of obligation and responsibility (Mahapatra et al., 2007). For each citizen to be able to deliberately exercise his rights within the territory of a country, it is essential that he is recognized by the State itself, i.e., that each subject is identified and individualized so that he can have “legal existence” for the State Institution.

In theory, it is indispensable that each country at the global level has an area of personal information on each citizen, storing data on their marital status, relationship, age, residence, votes cast and other acts performed from the individual to the collectivity of the society belonging to the State. To make this management and supervision of the identity and civil status data of each person effective, the States have offices of Civil Registries and Identification of citizens, which serve as a repository of essential data (Glöckler et al., 2023)

However, at the international level, although some countries such as Jamaica provide access services to information on the genealogy and kinship links of registered citizens (AbouZahr et al., 2015), in Peru there is a deficit in terms of transparent access to this information on the ascendants and descendants recognized by the State (Vicente et al., 2022). This limits knowledge of maternal cultural identity and can generate inheritance conflicts arising from errors or omissions in the civil registry (Marshall, 2014; Ponzo et al., 2010).

Therefore, in this sense, the purpose of this study is to analyze the inheritance conflicts derived from fraudulent errors and omissions, in order to determine the legal implications of the lack of documented identity and family ties.

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Literature Review

One of the central issues addressed in the literature is the need for evolution in the regulation of the right to identity, particularly with regard to filiation and surnames (Álvarez et al., 2022). The authors emphasize the importance of guaranteeing the harmonious integration of the principles of childhood and adolescence, as well as the gender perspective, in the relevant legislation. This position contrasts with historical paradigms, and proposes prioritizing the best interests of children and adolescents, as well as their right to be heard. Álvarez et al. (2022) stress the relevance of entities such as the National Registry of Identification and Civil Status (RENIEC) to promote regulations that reflect these principles and comprehensively protect the right to family identity and kinship.

Contreras (2021), in his research on the right to identity in Ecuador, concludes that the importance of guaranteeing consistency and adequacy in decisions related to these rights should be prioritized. The author highlights that the protection of identity rights is not only achieved through jurisdictional guarantees, but also through constitutional jurisprudence and State intervention. In addition, Contreras (2021) highlights the need to review and adjust regulations, such as Article 37 of the Organic Law on Identity and Civil Data Management, to ensure full recognition of gender identity and avoid rights violations.

Another relevant aspect addressed in the literature is the need to implement legislative reforms to improve the processes related to inheritance rights. Mendoza (2021), in his research, concludes that Article 26 numeral 4 of the Civil Registry, Identification and Identification Law should be reformed in order to create a Complete Registry of Individuals. This measure is proposed to ensure the capacity of the grantors in the inheritance acts and guarantee the legal security in these processes.

In the national context, Shinno (2023) addresses the issue of inheritance rights in stepfamilies. The author concludes that it is necessary to recognize and regulate these rights, guaranteeing equality and non-discrimination between biological and related children. Shinno (2023) proposes amending certain articles of the Civil Code to include parents and related children as forced heirs, and urges the Congress of the Republic to draft a Civil Code bill that adequately addresses this situation.

Several authors agree on the need to modernize probate formalisms and adapt them to current technological and social realities, without compromising legal certainty. Manrique et al. (2023) and Almeida (2023) conclude that it is essential to harmonize inheritance rules with the constitutional principles of equality and human dignity, create agile mechanisms for emergency situations, and implement secure digital systems for the management of wills. In addition, they highlight the importance of adequately training legal operators and establishing clear protocols to protect the rights of heirs in complex contexts.

In the same vein, Da Silva (2022) points out that inheritance law faces critical challenges, especially in the wake of the COVID-19 pandemic. To effectively protect the right to inheritance and the identity of heirs, the author proposes to modernize probate formalisms to adapt them to technological and social realities. For his part, Balarezo (2021) indicates that the lack of effective public policies to strengthen the Civil Registry System in Peru has affected the development of legal processes in relation to speed and legal certainty in inheritance and patrimonial rights. Consequently, Balarezo (2021) points out that an urgent reform of RENIEC is required to decentralize the incorporation of registry information, guarantee its quality and transparency, and promote the interoperability of public services.

Another relevant aspect addressed in the literature is the prevention of illicit acts, such as the fraudulent omission of forced heirs in intestate succession processes. Camarena et al. (2023) conclude that, to address this problem, measures should be implemented to strengthen transparency and truthfulness in the affidavits of applicants. This includes requiring that all potential heirs be declared under oath, thus avoiding the malicious exclusion of forced heirs. In addition, the authors highlight the need to develop clear protocols for the verification of information and the prevention of the crime of ideological falsehood in notarial documents.

Finally, Huamán (2021) concludes that the digital system for birth registration implemented by RENIEC is directly linked to the effectiveness of information management during the pandemic in Metropolitan Lima in 2020. This finding underscores the importance of RENIEC's work in ensuring the registration of general data by law to protect the fundamental right of identity and family kinship in crisis contexts.

Methodology

Research Type

This research had an applied approach, whose main purpose was to provide concrete and effective solutions to the study problem. Through a practical approach, it sought not only to understand in depth the challenges present in the study area, but also to develop strategies and proposals that could be implemented to address these challenges directly (Nicomedes, 2018).

Research Approach

The methodological approach adopted was qualitative in nature, as it focused on understanding social and human phenomena from the perspective of those who directly experienced them. Rather than seeking numerical data and generalizations, qualitative research explored the meanings, experiences and visions of the people involved, providing a deep and rich understanding of their realities (Hernández et al., 2018).

Research Design

The research design employed was grounded theory, through which findings emerged based on the data. The researcher generated an interpretation of a specific phenomenon, process or interaction, considering the context and the perspectives of the participants involved (Correa, 2022).

Techniques and Tools

As for the data collection techniques and instruments, documentary analysis and the guide of the same name were used, this data analytical base tool allowed the researcher to obtain a deep understanding of the reality through the exhaustive exploration of information related to the topic of study, coming from various sources (Ñaupas et al., 2018).

Results and Discussion

In file 00058-2020-0-2208-JR-CI-02, there is evidence of a clear case of fraudulent exclusion where the defendant father, after the death of the deceased, carried out the intestate succession process declaring himself as the sole heir, deliberately excluding the plaintiff, who has the quality of forced heir. The situation was aggravated when the defendant father granted an “Inheritance Advance” in favor of the defendant brother, an act that was questioned for being a simulation with illicit purposes and contrary to the laws of public order. This case demonstrates the deliberate manipulation of the inheritance process to selectively benefit certain heirs to the detriment of others.

File 00270-2020-0-2208-JR-CI-02 reveals a conflict between siblings where the defendant excluded the plaintiffs from the intestate succession proceedings of the deceased. The seriousness of the case is increased by the fact that the defendant not only declared himself the sole heir of two properties located in Tarapoto, but also tried to formalize his possession of one of them by means of a supplementary title procedure, alleging a supposed private sale and purchase. This action constitutes a clear attempt to misappropriate the family patrimony through the manipulation of legal processes.

File 00400-2021-0-2208-JR-CI-02 documents the violation of the inheritance rights of the plaintiff, who married the deceased on May 19, 2007. After the death of the deceased on June 18, 2020, only the defendants were declared heirs in the intestate succession process, excluding the plaintiff despite her legal

status as spouse. This exclusion directly violates the legal provisions establishing the right of the surviving spouse to a portion equal to that of a child.

File 00424-2020-0-2208-JR-CI-02 presents a case where the defendant, surviving spouse, initiated a notarial intestate succession process declaring herself as the sole heir of the deceased, deliberately excluding the plaintiffs and necessary litisconsortes, legitimate children of the deceased. This action constitutes a direct violation of the inheritance rights of the descendants, who have the quality of forced heirs of first order.

Case 00457-2020-0-2208-JR-CI-02 documents how the defendant declared himself the sole and universal heir of the deceased, excluding the plaintiffs. This case demonstrates the violation of inheritance rights between siblings, where one of them took advantage of the intestate succession process to appropriate the entire inheritance.

In the case file 00560-2021-0-2208-JR-CI-02, a case of hereditary exclusion is presented that reveals profound complexities in determining the legitimacy of succession. The plaintiff, as the brother of the deceased, questions the legitimacy of the defendant as an heir, basing his argument on significant documentary irregularities. The defendant's birth certificate has multiple inconsistencies, including late settlement in a municipality other than its place of origin, absence of official stamps and data lacking internal consistency.

This case critically exposes the structural problems related to the documentation of civil status in the Peruvian registration system. Late registrations, although legally permitted to regularize registration situations, generate a deep legal uncertainty. The absence of official seals and the presence of inconsistent data in the birth certificate create an area of uncertainty that challenges the precise determination of family ties and, consequently, of hereditary rights.

In the case 00593-2018-0-2208-JR-CI-02, a succession dispute is developed that illustrates the consequences of deficient family documentation. The plaintiffs argue that they were wrongly excluded from the intestate succession of their parents, which highlights a systemic problem in the recognition of inheritance rights. The situation reveals a series of deficiencies in the family recognition system, where the absence of timely documentation creates a direct violation of the principle of equality of succession established in the Civil Code. Notarial intestate succession procedures, despite their apparent speed, are manifestly insufficient to ensure comprehensive protection of the rights of all potential heirs.

The case 00596-2021-0-2208-JR-CI-02 presents a particularly sensitive scenario involving the representation of a minor excluded from the estate of his bereaved. This situation evidences practices of intentional exclusion within notarial procedures of intestate succession, revealing legal gaps that can be exploited to violate the rights of forced heirs. The case law in this case establishes a fundamental criterion: the existence of a prior declaration of heirs does not limit the right of excluded heirs to bring an action for a request for inheritance, which maintains its imprescriptible character. In addition, a crucial distinction is made between the procedural validity and the material effects of the succession, by conditioning the invalidation of the legal act to the proof of malice in the conduct of the declared heirs.

The case 00596-2021-0-2208-JR-CI-02 presents a particularly sensitive scenario involving the representation of a minor excluded from the estate of his bereaved. This situation evidences practices of intentional exclusion within notarial procedures of intestate succession, revealing legal gaps that can be exploited to violate the rights of forced heirs. In this case establishes a fundamental criterion: the existence of a prior declaration of heirs does not limit the right of excluded heirs to bring an action for a request for inheritance, which maintains its imprescriptible character. In addition, a crucial distinction is made between the procedural validity and the material effects of the succession, by conditioning the invalidation of the legal act to the proof of malice in the conduct of the declared heirs.

The file 00609-2017-0-2208-JR-CI-02 exemplifies in a paradigmatic way how material errors in civil registers can be instrumentalized to exclude forced heirs. In this case, an error in the entry of the paternal surname was used strategically by the co-owners to try to marginalize the plaintiff from the succession process. The

court, in a decision reaffirming principles of material justice, prioritized substantive truth over formal truth. It recognised the applicant's hereditary vocation on the basis of the evidence that the family link was well established, overcoming the documentary obstacles which claimed to be unaware of her succession rights.

In the case file 00752-2019-0-2208-JR-CI-02, a paradigmatic case is presented that deepens the complexity of inheritance rights when there is late documentation of family ties. The claim for inheritance filed by a child excluded from his parent's will reveals the legal subtleties in determining the legitimacy of inheritance. The conflict arises in the case of a will which exclusively favours the spouse and another child, excluding the plaintiff. The fundamental particularity lies in the registration of the plaintiff's birth, made by court order in 1985, a circumstance that the defendants tried to use to question his legitimacy as heir.

The court took a position of guarantor of inheritance rights, prioritizing the evidentiary value of judicial birth registration over other documents of lower evidentiary rank, such as a baptismal record. This decision safeguards the principle of recognition of compulsory heirs by establishing a precedent on the validity of judicial registrations of birth.

The file 00866-2019-0-2208-JR-CI-02 presents a succession dispute that highlights the complexities arising from inconsistencies in civil registrations. The application for inclusion as an heir by representation introduces additional elements of legal complexity, particularly when there are variations in the identification of the testator. The situation reveals a structural problem in civil registration systems, where inconsistencies in identification can generate significant inheritance conflicts. The plaintiff seeks to exercise his right of succession after being excluded by his uncles in the intestate succession of his grandmother.

The court applied precisely the principle of succession representation as provided for in article 681° of the Civil Code. The resolution recognizes the claimant's right to inherit on behalf of his deceased father, reaffirming the importance of keeping accurate and up-to-date civil registers to ensure proper transmission of inheritance rights.

In the case file 01001-2019-0-2208-JR-CI-02 a particularly serious scenario of infringement of inheritance rights is set out. The plaintiff brothers seek inclusion as heirs in their parent's intestate succession, after being excluded by their parent through a process that is revealed to be maliciously structured. The situation reveals a deliberate mechanism of exclusion of forced heirs. The parent, taking advantage of his or her status as a surviving spouse, developed an intestate succession process that intentionally marginalized their children, who are first-order compulsory heirs. The severity increases exponentially with the subsequent disposition of the hereditary property, which complicates the potential recovery of the inheritance.

The analysis of the files shows how inheritance disputes, arising from errors and omissions in civil registries, seriously affect the rights of the forced heirs. The Committee of the Regions is concerned with the problem of the lack of adequate documentation on identity and family affiliation. Cases such as the deliberate exclusion of legitimate children or spouses and the exploitation of omissions in filiation demonstrate that the lack of an accurate and up-to-date civil registry facilitates manipulation of declarations of heirs. In violation of the law on succession and the equality of heirs established by law. The judicial decisions in these cases, by sometimes prioritizing material truth over formal truth, reflect the importance of an integrated and reliable registry system that ensures equitable transmission of inheritance rights, because the delay or omission of registration not only increases conflict in succession proceedings but also allows for irregular legal acts with serious legal implications, such as the affectation of the inheritance through the intentional exclusion of heirs or the malicious transfer of assets to third parties

Discussion

The cases studied show that the lack of a robust registration system facilitates the deliberate exclusion of forced heirs and the manipulation of inheritance processes. The situation is aggravated when there are errors in identity documents or late birth registrations. These findings coincide with those reported by Balarezo (2021) and Camarena et al. (2023), who identified that the absence of effective public policies to strengthen the Civil Registry System in Peru negatively impacts the legal certainty of succession processes.

The files analysed, particularly 00609-2017 and 01001-2019, show how the intentional omission of compulsory heirs is facilitated by the absence of effective information verification mechanisms, allowing deliberate exclusions from the estate and subsequent acts of disposition that harm the legitimate heirs.

The research also validates the observations of Da Silva (2022) and Huamán (2021) on the urgent need to modernize civil registration systems to ensure transparency and efficiency in succession processes. The case studies show that deficiencies in documentation of family ties not only generate immediate conflicts but also have long-term implications, especially when transfers of property are made on the basis of incomplete or fraudulent declarations of heirs. This situation is compounded by the lack of interconnection between different state registries and the absence of standardized procedures for verifying information provided in intestate succession processes.

The results obtained underline the need to implement legislative reforms that strengthen transparency and veracity in affidavits during succession processes, as suggested by Mendoza (2021) and Álvarez et al. (2022). The evidence gathered shows that the absence of effective verification protocols, combined with deficiencies in civil registries, creates an environment conducive to the infringement of inheritance rights, affecting mainly those heirs who, for various reasons, were not registered in a timely manner or whose records contain material errors which are subsequently exploited for their exclusion from the estate.

Conclusion

The research reveals that deficiencies in identity documentation and family ties allow some heirs to take advantage of this situation to benefit at the expense of others, contrary to the principle of equality of succession established by law. The cases analyzed highlight how the absence of effective public policies to strengthen the Civil Registry System creates an environment conducive to the manipulation of succession processes. The wilful omission of heirs, either due to errors in registration or late registration of births, makes it possible for some family members to declare themselves as sole heirs, even to dispose unduly of the assets of the inheritance.

The research also highlights that deficiencies in family relationship documentation not only have immediate consequences, but also long-term implications, especially when transfers of property are made on the basis of incomplete or fraudulent declarations of heirs. This situation is aggravated by the lack of interconnection between different state registers and the absence of standardized procedures for validating information provided in succession proceedings.

While the courts have in some cases prioritized material truth over formal truth, recognizing excluded heir rights, it is clear that this should not be the only solution. It is the responsibility of the competent authorities to address this issue in a comprehensive and proactive manner, implementing legislative reforms and mechanisms that strengthen the transparency and veracity of information submitted during succession proceedings.

In this context, the findings highlight the urgent need to modernize and strengthen the Civil Registry System in the country, only through an interoperable registration system with effective verification mechanisms, the equitable transmission of inheritance rights can be ensured and deficiencies in civil registration can no longer be exploited to harm the legitimate interests of heirs. It is the responsibility of the State to ensure the integrity and reliability of records, in order to protect the fundamental rights of citizens.

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