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Judicial Assessment of Forced-Heirship Claims in Testamentary Disputes: Harmonizing Indonesian Succession Law, Matrimonial Property Law, and Nozick's Entitlement Theory

Hendry Frand Tia^{1*}, Wahyuni Retnowulandari², Ning Adiasin³

¹⁻³Faculty of Law, Universitas Trisakti, Indonesia

E-mail: ¹⁾ hendrytia@yahoo.com

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*Corresponding author:

Hendry Frand Tia

hendrytia@yahoo.com



ABSTRACT

The judicial application of forced heirship in testamentary disputes raises problems of property classification, reserved-share calculation, and the legal consequences imposed on wills. Article 913 of the Indonesian Civil Code intensifies this by failing to distinguish the testator's separate property from the deceased's share in matrimonial community property. This article examines judicial assessment of forced-heirship claims by harmonizing Indonesian property and succession law with the matrimonial property regime under Law Number 1 of 1974 on Marriage. This normative legal research is descriptive-analytical and employs statutory, conceptual, case, and legal-theoretical approaches. Legal materials, particularly three district court judgments, were collected through library research and analyzed qualitatively through systematic, harmonious, teleological, and restrictive interpretation. Robert Nozick's entitlement theory assesses justice in acquisition, transfer, and rectification. The article develops a three-stage judicial test: acquisition and property status, validity of testamentary transfer, and appropriate rectification. Applied to the three decisions: Surakarta's invalidity should be limited to the portion not owned by the testator; Situbondo's total annulment is unjustified, as inventory, calculation mass, and shortfall are unshown; South Jakarta equated the intestate share with the reserved share, since one-third satisfies Article 914. Under the proposed construction, separate property is the primary domain of testamentary freedom, while the deceased's share in community property may be protected for forced heirs once the spouse's rights are separated. Judges should explain the object's origin, ownership status, net estate, reserved share, and shortfall before choosing a remedy, annulling an entire will only when the defect inseparably affects the whole intent.

Keywords: Forced Heirship, Separate Property, Testamentary Freedom, Will, Robert Nozick

1. Introduction

Civil succession law brings together two interests that do not always move in the same direction. On one side, the testator is the owner of property who in principle holds the authority to use, enjoy, manage, and determine the direction of the transfer of that property. On the other side, the Indonesian Civil Code provides protection to certain heirs in the direct line through the institution of forced heirship (*Legitime Portie*, the minimum share of the estate that the law reserves for those heirs) (Yusuf et al., 2025). That protection restricts the testator's freedom when a lifetime gift or a will reduces the minimum share established by law for the forced heir (*legitimar*, the direct-line heir who is entitled to that share) (Suciati et al., 2026). This tension between the owner's autonomy and family protection is a classic problem in forced-heirship systems, but its application acquires additional complexity when the testator's property originates from different matrimonial property regimes.

Article 913 of the Civil Code formulates forced heirship as the part of the estate that must be given to heirs in the direct line according to law, and with respect to that part the testator is not permitted to determine anything, whether through a lifetime gift or a will (Yusuf et al., 2025). Article 920 and the following provisions grant the forced heir the right to demand a reduction against a gift that harms his or her reserved share. This reduction is known as *inkorting* (abatement), a cut-back of the gift or will disposition only to the extent needed to restore the reserved share. Thus, the Civil Code recognizes testamentary freedom, but places it within limits formed by the forced heir's minimum share (Rajib, Lestari, et al., 2026). Succession law doctrine also distinguishes the intestate share, received when there is no will, from forced heirship, the minimum limit that must remain available for the forced heir (Budiono, 2024; Bachrudin, 2021).

Before calculating forced heirship, the judge must ascertain what property truly belongs to the testator, whether the object is attached to the rights of a spouse or a third party, what the net value of the estate is, and whether the forced heir truly suffers a shortfall. Once a violation is proven, the judge must also determine whether the legal consequence takes the form of partial invalidity, reduction or abatement (*inkorting*), value compensation, or annulment of the entire will. Without that sequence, forced heirship can shift from an instrument of minimum protection into a means of imposing equal division.

This factual condition is evident in Surakarta District Court Decision Number 78/Pdt.G/2025/PN Skt. This case involved children from the testator's first marriage and the testator's second wife. Three land and building objects included in the will were connected to the community property of the first marriage and to the undivided estate of the first wife. The testator subsequently executed Will Deed Number 08 dated 7 February 2020, which gave a substantial share to his second wife. The court connected the matter to the testator's lack of authority over property belonging to another party and to a violation of forced heirship, and then declared the will invalid or void by operation of law. The decision identified the existence of an ownership problem, but had not clearly separated the defect in the object, the shortfall in the reserved share, and the legal consequence for the portion of the will that could still be upheld.

Situbondo District Court Decision Number 26/Pdt.G/2024/PN Sit shows a different pattern. The beneficiary of the will claimed ownership of land and a building based on Will Deed Number 02 dated 6 September 2021. The opposing party argued that the will gave all or nearly all of the property to one child and set aside the lineage of another child who had died earlier. The court declared the will to have no binding legal force. However, the available text of the decision does not show an inventory of all assets, separation of the spouse's rights, calculation of each branch of descent's share, or the magnitude of the shortfall underlying the total annulment.

The problem appears most clearly in South Jakarta District Court Decision Number 901/Pdt.G/2024/PN Jkt.Sel. The testator left two children and one object of land and a building. Will Deed Number 3 dated 10 September 2015 gave 66⅔ percent to one child and 33⅓ percent to the other. The court declared the division to violate forced heirship, annulled the will, and restored the division to one half each. This reasoning equated the intestate share with the reserved share. When a testator leaves two children, each child's intestate share is one half, while Article 914 sets each child's forced heirship at two thirds of one half, that is, one third of the entire calculation mass. The child who received one third had therefore already obtained the minimum limit.

Two terms from legal theory help frame the problem. *Das sein* refers to what actually happens in practice, while *das sollen* refers to what the law requires to happen. As far as the available decision texts show, these three decisions reveal a *das sein* in the form of the absence of a consistent testing sequence. The ownership status of the object has not always been placed as an independent initial stage; the intestate share can become mixed with the reserved share; the calculation of the forced heir's shortfall is not always presented; and the annulment of the entire will tends to be used without explaining why a more limited remedy would not suffice. At the same time, the origin of the property as separate property or as the testator's share in community property has not been given adequate consequence for the scope of testamentary freedom.

As a matter of *das sollen*, the assessment of a will must begin from the law governing ownership of the object. Articles 35 and 36 of Law Number 1 of 1974 on Marriage distinguish community property from separate property, and Article 36 paragraph (2) gives each husband or wife full right to perform legal acts regarding his or her separate property. This norm must be used to determine the object before succession law is applied.

Because of that full right, restricting a will over separate property requires stronger justification than a mere inequality in the resulting division.

The legal gap addressed in this research is not the absence of a norm on forced heirship, but the incompleteness of the relationship between norms. Article 913 does not distinguish separate property, the testator's share in community property (Rosania & Puspytasari, 2026), undivided inherited property, and objects still containing another party's rights. The Civil Code also does not provide an operational sequence explicitly requiring the judge to determine the status of the object, assess the validity of the transfer, calculate the shortfall, and select a proportional remedy. The relationship between the phrase "full right" in Article 36 paragraph (2) of the Marriage Law and the restriction of testamentary freedom in Article 913 has not been formulated explicitly (Siregar & Situmorang, 2026).

Prior research on inheritance among the Chinese community generally focuses on legal pluralism, the applicability of tradition, equality among heirs, choice of law, family agreements, and the use of authentic deeds. Ramiz (2022) studied the inheritance system of the Chinese community in Makassar City and found the role of tradition, the position of male children, and the need for notarial instruments to strengthen division based on family agreement. Sutjiadi et al. (2025) examined the transfer of undivided inherited objects based on agreements and management authority, with emphasis on the consent of all heirs. These studies have not specifically harmonized property law, matrimonial property law, and succession law to assess testamentary freedom over separate property, nor have they formulated a judicial assessment model that separates acquisition, transfer, and rectification.

The contribution of this research lies in the operationalization of Robert Nozick's entitlement theory into a three-stage test model for testamentary disputes. The principle of justice in acquisition is used to assess the origin and ownership status of property; justice in transfer is used to assess authority, capacity, freedom of will, formality, and satisfaction of the minimum share; while rectification of injustice is used to determine the form of remedy appropriate to the type and magnitude of the violation. This model is then harmonized with Articles 35 and 36 of the Marriage Law. The claim is deliberately modest. The model is largely a systematic ordering of steps that a careful judge already takes under the Civil Code and the Marriage Law, and it does not replace the statutory sequence. What Nozick's theory adds is a historical, process-based reason for that sequence: the legitimacy of acquisition and transfer is examined before the resulting division is assessed, and correction is limited to the type and magnitude of the violation found. The reasons for choosing this theory over theories that support family-protection rules are set out in the Results and Discussion.

Based on the foregoing, the research problem is formulated as follows: how should the judicial assessment of forced-heirship claims in testamentary disputes be constructed under the Civil Code and Robert Nozick's entitlement theory?

2. Methodology

This research is normative or doctrinal legal research (Irwansyah, 2022) that treats legal norms, principles, concepts, theories, and the ratio decidendi of decisions as the object of study. The nature of the research is descriptive-analytical. The descriptive element is used to describe the regulation of ownership rights, matrimonial property, wills, forced heirship, and judicial reasoning. The analytical element is used to assess the coherence between norms, examine the application of law in decisions, and formulate a construction for judicial assessment.

The research approaches include the statutory, conceptual, case, and legal-theoretical approaches. The statutory approach is used to examine the provisions on ownership, the opening of inheritance, wills, reserved shares, and abatement (inkorting) in the Civil Code, as well as Articles 35 and 36 of the Marriage Law. The conceptual approach is used to distinguish ownership, separate property, community property, the estate, net estate, intestate share, reserved share, free portion, and reduction. The case approach is applied to Surakarta District Court Decision Number 78/Pdt.G/2025/PN Skt, Situbondo District Court Decision Number 26/Pdt.G/2024/PN Sit, and South Jakarta District Court Decision Number 901/Pdt.G/2024/PN Jkt.Sel. These three decisions are analyzed as products of first-instance court reasoning and are not treated as binding

precedent. The analysis is limited to the reasoning shown in the decision texts, and where the text is incomplete on a point, the assessment is stated cautiously.

The legal-theoretical approach uses Robert Nozick's entitlement theory of justice. This theory is not treated as a norm replacing statute, but as a framework for assessing the legitimacy of acquisition, transfer, and corrective intervention. The use of progressive legal theory is not required because legal discovery is carried out through interpretive methods, while Nozick remains the sole philosophical analytical tool. The reasons for selecting Nozick over theories that support family-protection rules are explained in the Results and Discussion.

Primary legal materials consist of the Civil Code, the Marriage Law and its amendments, Law Number 48 of 2009 on Judicial Power, and the three decisions that are the object of this research. Secondary legal materials include books, journal articles, dissertations, and doctrine on succession law, property law, marriage law, legal research methodology, and Nozick's theory. Legal materials were collected through library research and documentary study.

Analysis was conducted qualitatively. Grammatical interpretation is used as the starting point to understand the text of the norm, followed by systematic, harmonious, teleological, and restrictive interpretation. Systematic interpretation connects Article 913 with property law and matrimonial property law. Harmonious interpretation seeks a meaning that allows Article 913 and Article 36 paragraph (2) to operate without negating one another. Teleological interpretation reconciles the purpose of protecting the forced heir with the owner's autonomy. Restrictive interpretation limits court intervention to the object, type, and magnitude of the proven violation. Conclusions are drawn deductively, that is, from general norms and theory toward the assessment of concrete cases and the formation of a test model.

3. Results and Discussion

3.1. Separate Property, Community Property, and Testamentary Freedom

Ownership does not merely indicate a static relationship between subject and object, but grants the owner the authority to use, enjoy, maintain, encumber, and transfer the object insofar as it does not conflict with law and does not violate another party's rights (Basri et al., 2025). In the context of a will, the authority to determine the recipient of property after death is one form of determining the direction of the transfer of ownership rights. Testamentary freedom is thus not born separately from ownership, but is one consequence of the owner's authority over property lawfully acquired (Budiono, 2024; Meliala, 2019).

The relationship between ownership and a will is seen in the principle that a person cannot transfer a right that he or she does not possess. A will over property belonging to another party raises a problem of authority over the object, while a will over property lawfully owned by the testator raises a problem of the validity of the transfer and the limits of testamentary freedom. Therefore, the examination of ownership must precede the assessment of distribution.

The Marriage Law forms a fundamental distinction between community property and separate property. Property acquired during marriage in principle becomes community property, while separate property and property acquired individually by each party through gift or inheritance remains under each party's control (Aditya et al., 2026). For community property, a legal act requires the spouse's consent. For separate property, Article 36 paragraph (2) gives the owner full right to perform legal acts.

The phrase "full right" should not be reduced to mere administrative authority (Andayani et al., 2024). This norm recognizes individual autonomy over property that does not arise from the marital economic community. The owner may use, enjoy, sell, exhaust, encumber, or change the economic form of that property during his or her lifetime. The law does not require the owner to preserve a certain value so that it remains available as an inheritance. Prospective heirs do not yet hold an actual property right over their parent's property before succession opens upon death (Prayitno et al., 2025).

This statement must be distinguished from a gift that can be recalculated in determining the reserved share. The Civil Code allows a reduction against certain gifts that harm the forced heir. However, the law does not treat all lawful consumption, living expenses, investment, or use of property as an act that must be restored

for the benefit of prospective heirs. This distinction shows that the expectation of inheriting is not the same as the owner's actual right during his or her lifetime.

A will has a dual character. It is made, altered, and revoked while the testator is alive, but its transfer effect only takes force after death (Triwahyuni, 2022). Death does not create a new intent; death activates an intent previously declared. Therefore, a will can be understood as a continuation of the owner's autonomy, while at the same time being an act whose effect is subject to succession law.

Article 913 of the Civil Code does not distinguish the origin of property still owned by the testator at the time of death. Under a conventional textual reading, separate property remains included in the mass used to calculate the reserved share (Radinda & Fathonah, 2019). Therefore, the construction that places separate property as the primary domain of testamentary freedom must be honestly stated as an interpretive proposal, not as an established positive rule. However, it is precisely this absence of an explicit distinction that opens the need to read Article 913 systematically together with Articles 35 and 36 of the Marriage Law.

Harmonization can be distinguished at two levels. Minimum harmonization requires the judge to determine the status of the object, separate the spouse's rights, exclude property belonging to a third party, calculate the net estate, distinguish the intestate share from forced heirship, and limit remedy to the proven shortfall. Strong harmonization, the main proposition of this research, gives further consequence to the origin of the property: lawfully acquired separate property receives a stronger presumption of respect as a domain of testamentary freedom, while the testator's share in community property has a closer normative relationship with family protection after the spouse's rights have been separated.

3.2. Robert Nozick's Entitlement Theory of Justice

3.2.1. Justice as a Historical Concept

Robert Nozick's entitlement theory of justice starts from the view that the justice of a holding cannot be assessed solely based on the pattern of distribution at an end state. Unequal distribution is not in itself unjust, just as equal distribution is not necessarily just if produced through an unlawful taking or transfer of rights. Justice is historical because it is determined by how a right was acquired, how a right was transferred, and whether or not there was a violation in the history of that acquisition and transfer (Nozick, 2013).

The historical approach differs from patterned theories of justice that assess distribution based on equality, need, merit, or a particular criterion. In Nozick's theory, the main concern lies in the legitimacy of the process. If a person lawfully acquires an item and then freely transfers it to another party, the result of the transfer is in principle just even if it produces inequality.

Its relevance to testamentary disputes lies in the fact that unequal division among children is often perceived as an injustice. Under Nozick's theory, assessment must not stop at the percentage received. The court must examine how the property was acquired, whether the testator was the lawful owner, whether the testamentary intent was formed freely, and whether the transfer violated another party's rights. This framework is realized through the principles of justice in acquisition, justice in transfer, and rectification of injustice.

3.2.2. Justice in Acquisition

The principle of justice in acquisition is used to assess the initial validity of a holding. In the context of succession law, this principle is not applied literally to explain the taking of possession of an object previously owned by no one. The principle is operationalized as a framework for assessing the legal history and ownership status of each item included in the estate. Before testing the validity of a will or the existence of a violation of forced heirship, the judge must ascertain that the property being willed truly belongs to the testator.

Assessment of the acquisition of property must trace the time and basis of acquisition. The time of acquisition determines whether the property was acquired before or during marriage. The basis of acquisition explains whether the property originated from purchase, gift, inheritance, exchange, business proceeds, or another legal act. Both aspects determine the classification of the property under the Marriage Law and the scope of the testator's authority to transfer it.

If property was acquired before marriage or received individually through gift or inheritance, that property is in principle separate property under the individual control of the owner. From the perspective of justice in acquisition, that status indicates a strong individual entitlement. The testator not only factually controls the item but has a basis of ownership and legal authority to determine its use and direction of transfer.

Conversely, if an item was acquired during marriage and there are no circumstances placing it as personal property, that item must be treated as community property. The testator does not individually own the whole object because the spouse's rights are attached to it. The death of one spouse does not cause all community property to automatically become inheritance. The rights of the surviving spouse must be separated, and only the testator's share can be included in the estate.

The same examination applies to property originating from a prior inheritance. If the inheritance has not yet been divided, the testator only has an ideal share and cannot will the entire object while disregarding other heirs. The judge must also take into account the rights of third parties, security interests, debts, and other attached obligations. Determining the estate is not sufficiently done by listing items controlled by the testator; the court must reconstruct the legal relationship between the testator and each object.

The application of the principle of ownership in the context of a testamentary dispute must begin with determining the legal status of the object underlying the will. The judge cannot directly test a violation of forced heirship under Article 913 of the Civil Code before ascertaining whether the property truly forms part of the testator's estate that can be restricted. With respect to separate or personal property lawfully belonging to the testator, whether already owned before marriage or acquired during marriage through gift or inheritance from a third party, the testator has full testamentary authority as a consequence of individual ownership rights. In that position, the testator has the freedom to enjoy, use, transfer, and even determine the allocation of that property through a will without first being limited by the provisions on forced heirship.

Unlike the testator's personal property, community property in marriage has a different legal character because it contains the rights of the living spouse. Therefore, the application of Article 913 of the Civil Code to community property must be carried out after the spouse's rights have first been separated as regulated in marriage law. The share of the living spouse is not part of the testator's estate, so it cannot become the object of calculating forced heirship. After that spouse's rights are excluded, only the portion that legally belongs to the testator can be included in the estate mass and subsequently tested for whether there is a violation of the forced heir's absolute right.

From the perspective of Robert Nozick's theory of ownership, testing the testator's testamentary authority is not based solely on the end state of ownership, but must also look at the process by which that right was formed. Therefore, the judge needs to conduct three stages of testing, namely acquisition, transfer, and rectification. The acquisition stage aims to ascertain that the property was truly lawfully acquired as separate or personal property of the testator, which can be proven through a record of ownership before marriage, a gift document, or evidence of receiving an inheritance from a third party. The transfer stage ascertains the traceability of the origin and transfer of the right over that property so that it can be known that the testator's ownership originated from a lawful legal process. Next, the rectification stage ascertains that the ownership was not formed through a circumstance containing injustice toward another party. If there is no claim, lawsuit, or legal objection to that property during the period of the testator's ownership, then that ownership must be considered to have satisfied the principle of corrective justice.

Thus, justice in acquisition places the examination of ownership as a prerequisite for a forced-heirship claim. An error in identifying the object will affect the intestate share, the reserved share, the free portion, and the form of rectification. Justice in acquisition therefore functions both as a philosophical basis and as a methodological basis for the judge.

3.2.3. Justice in Transfer

The principle of justice in transfer assesses the validity of the transfer of a right from the owner to another party. A just transfer must originate from an authorized owner, be carried out voluntarily, and not contain coercion, fraud, theft, or violation of another party's rights. The justice of a transfer is not determined by the equality of the result, but by the legitimacy of authority and freedom of will.

In a will, this principle is adjusted to the character of a testamentary transfer. A will is made by the testator while alive, may be altered or revoked, and only produces effect after death. The justice of the transfer first requires authority over the object. If the item is community property, the testator can only will his or her share after the spouse's rights have been separated. If the item is an undivided inheritance, the testator can only transfer his or her ideal share. If the item is separate property, the basis of authority is stronger because Article 36 paragraph (2) recognizes the owner's full right.

Besides authority, the court must examine the testator's capacity, freedom of will, formality, clarity of the object and recipient, and the absence of coercion, fraud, a determinative mistake, or abuse of circumstances. Advanced age, dependence on one child, or unequal division are not sufficient to prove a defect of will. Concrete facts are needed showing that the testator's decision was not formed freely.

In relation to forced heirship, this principle requires a distinction between a defective transfer and a valid transfer that is limited by succession law. A will made by a capable, free, and authorized owner does not become defective merely because one child receives a larger share. Inequality only becomes relevant if the forced heir's actual share falls below the minimum set by law.

When a testator leaves two children, each one's intestate share is one half. Under Article 914, each child's reserved share is two thirds of one half, that is, one third. The child who receives two thirds obtains his or her own reserved share of one third and the testator's free portion of one third. The other child who receives one third has already obtained the minimum share. Therefore, a distribution of two thirds and one third does not in itself violate forced heirship.

This principle carries greater weight if the object is separate property. The owner of separate property during his or her lifetime has individual power to use and transfer it. A will over that property is a continuation of the owner's authority to determine the direction of transfer. A restriction must be based on a specific and proven reason, not on the assumption that all children must receive an equal share.

3.2.4. Rectification of Injustice

The principle of rectification of injustice applies when the history of acquisition or transfer of a right shows an injustice. In a testamentary dispute, rectification may be needed because the testator included property belonging to a spouse or a third party, community property had not been separated, the testator lacked capacity, the intent was formed through coercion or fraud, formality was not satisfied, or a gift reduced a lawfully protected reserved share.

Each violation has a different character and cannot always be resolved through annulment of the entire will. If the problem lies in the object, rectification must restore the right to the true owner. The will does not apply to the portion of the item that is not owned by the testator, while the disposition over property owned by the testator can still be upheld if it can be separated.

If the problem lies in capacity or freedom of will, the judge must assess whether the defect affects one clause or the entire will. Coercion relating only to a particular gift may result in the invalidity of that gift alone. Total annulment is only justified if the defect affects the entire authenticity of the intent. If the problem lies in a shortfall in the reserved share, rectification is limited to the proven shortfall through the mechanism of abatement (inkorting). The forced heir is entitled to receive the minimum share, not automatically the full intestate share. If the object cannot be physically divided without damaging its function or economic value, remedy can be given through value compensation, a substitute asset, or the proceeds of a sale.

The principle of rectification does not justify a judge restructuring the distribution merely because the testator's division is considered insufficiently balanced. Rectification requires an identifiable injustice in acquisition or transfer. A direct relationship between the type of violation and the form of remedy is required so that intervention does not exceed the need for protection.

3.2.5. Limits on the Application of Nozick's Theory

The use of Nozick is not intended to negate all family protection. Forced heirship remains part of positive law. Nozick is used to test the basis and proportionality of restrictions on the owner's will, not to state that testamentary freedom is absolute. Ownership rights must also respect statute, spousal rights, creditors, third parties, public order, and good faith.

Nozick's theory does not directly determine the classification of separate property and community property. Classification still originates from positive law, ownership documents, and facts. The theory provides a normative reason why the history of acquisition and the owner's authority must become the basis of assessment. Likewise, justice in transfer does not automatically nullify Article 913. The principle is used to assess whether a restriction on a valid transfer has sufficient basis.

Therefore, Nozick is placed as a legal theory that helps build the assessment construction, while its operationalization is carried out through systematic and harmonious interpretation of property law, marriage law, and succession law.

3.3. Analysis of Court Decisions

3.3.1. Surakarta District Court Decision Number 78/Pdt.G/2025/PN Skt

The Surakarta decision shows that a testamentary dispute cannot always immediately be placed as a matter of forced heirship. Three objects listed in the will related to the community property of the first marriage and to the undivided estate of the first wife. This shows that the first issue is the scope of the right lawfully held by the testator over each object.

For the community property of the first marriage, the first wife's share must be separated. When the first wife died, her share became an estate inherited by the husband and children according to their respective positions. The testator, as the husband, did not automatically become the owner of the whole object. From the perspective of justice in acquisition, the testator was only authorized to will his personal share in the community property and the share he subsequently obtained as an heir of the first wife. The children's share originating from their mother's inheritance lies outside his testamentary power.

The court's reasoning had identified the problem of authority, but had not clearly separated the invalidity of the will over property belonging to another party from a reduction due to a violation of the reserved share. When the testator included a portion belonging to the children in the will, the problem is the absence of authority over the object. A violation of forced heirship only arises when the testator transfers property that truly belongs to him but reduces the forced heir's minimum share.

This distinction determines the legal consequence. A will over a portion of an item not owned by the testator does not apply to that portion. After the other party's right is excluded, the disposition over property owned by the testator can be upheld as long as there is no other defect. If the testator's own portion turns out to reduce forced heirship, rectification is carried out to the extent of the proven shortfall. Annuling the entire deed requires a reason that the disposition cannot be separated or that a defect affects the entire intent.

The decision also had not presented a transparent calculation of the net estate, the intestate share, the individual reserved share, the free portion, and the shortfall of each forced heir. A calculation based only on land area is also inadequate if the economic value of each object differs. Thus, the Surakarta case mainly shows the importance of justice in acquisition and the limitation of rectification so that correction is directed at the source of the violation.

3.3.2. Situbondo District Court Decision Number 26/Pdt.G/2024/PN Sit

The Situbondo decision originated from the will beneficiary's claim of ownership of land and a building based on Will Deed Number 02 dated 6 September 2021. The opposing party argued that the will gave all or most of the wealth to one child and set aside the lineage of another child who had died earlier. The court declared the will to have no binding legal force.

This case is closer to an alleged elimination of the share of a particular branch of descent. However, that allegation is not sufficiently based on the fact that one party received more. The court must inventory all property at the time of death, the status of each object, debts and burdens, relevant lifetime gifts, benefits already received, and the position of descendants through representation.

The mass used to calculate forced heirship does not consist solely of objects in a single will deed. Other property and certain gifts can affect the size of the shortfall. If the branch considered disadvantaged had previously received a benefit, that receipt can be taken into account. Conversely, if all the wealth was given to one party and the other branch received nothing, a reduction may be needed after the shortfall is calculated.

From the perspective of justice in acquisition, the origin of all assets must be traced. A certificate in the name of the testator or the will beneficiary does not always resolve the material history of the transfer. If the object is community property, the spouse's share must be separated. If it is separate property, the testator's testamentary authority is stronger. If it originates from a prior undivided inheritance, the testator can only transfer his or her share.

From the perspective of justice in transfer, the will must be distinguished between a defective deed and a valid deed containing a gift exceeding the limit. A violation of forced heirship in principle produces a right to demand a reduction, not automatic annulment of the entire deed. If a branch of descent suffers a shortfall, remedy can be carried out through reduction, value compensation, or transfer of a portion of the right. For a productive asset or family business, value compensation may be more proportional than physical division.

The reasoning stating that the entire will is not binding causes the basis of the will beneficiary's ownership to collapse entirely. This effect is broader than the purpose of remedying the minimum share. Because the status of the property, the calculation mass, and the shortfall have not been fully described in the available text of the decision, a more defensible conclusion is that total annulment has not yet received adequate analytical justification on the face of that text. If the full decision or the case file contains these details, this assessment would need to be revisited.

3.3.3. South Jakarta District Court Decision Number 901/Pdt.G/2024/PN Jkt.Sel

The South Jakarta decision is the clearest illustration of the distinction between the intestate share and forced heirship. The testator left two children and gave $66\frac{2}{3}$ percent to one child and $33\frac{1}{3}$ percent to the other. The court annulled the will and set the division at one half each.

With two children, each one's intestate share is one half. Under Article 914, each child's forced heirship is two thirds of one half, that is, one third. The calculation can be expressed as follows:

$$\text{LP for each child} = 2/3 \times 1/2 = 1/3 \text{ of the calculation mass.}$$

The share of $33\frac{1}{3}$ percent is exactly equal to the reserved share of the child receiving the smaller portion. The $66\frac{2}{3}$ percent received by the other child consists of one third as his or her own reserved share and one third as the testator's free portion. Thus, there was no shortfall to serve as a basis for abatement (inkorting).

The reasoning that a gift exceeding one third is unjustified improperly conflates the free portion with the total amount a forced heir may receive. A forced heir may receive his or her own reserved share as well as the free portion. The failure to prove a prior gift to the child who received one third also does not change the formula of Article 914, because the one-third share in the will itself already satisfies the minimum.

The decision also contained the fact of a marriage agreement and a certificate in the testator's name. This fact should have prompted an examination of whether the object was personal property. If proven to be personal property, the reason for respecting testamentary intent becomes stronger. The decision shows no finding that the testator lacked capacity, was coerced, was defrauded, failed to satisfy formality, or did not own the object.

From Nozick's perspective, the court replaced a distribution arising from a valid transfer with an equal-division pattern without finding any defect in acquisition or transfer. At the rectification stage, there was no violation requiring remedy. Even without accepting strong harmonization regarding separate property, conventional positive law already shows that a one-third share satisfies Article 914. The will should have been upheld.

3.3.4. Pattern of Reasoning in the Three Decisions

Comparison of the three decisions shows the absence of a consistent testing sequence. The South Jakarta decision equated the intestate share with the reserved share. The three decisions also show a tendency to use annulment of the entire will. Yet the Civil Code provides a reduction mechanism to remedy a forced heir's shortfall. Total annulment is only appropriate if there is a defect affecting the entire intent and it cannot be separated.

From Nozick's perspective, this weakness shows the importance of shifting focus from equality of result toward the legitimacy of rights and process. The judge must assess how property was acquired and who its

owner is, then test the transfer, and only then determine the need for and form of correction. This sequence allows heir protection to proceed without excessively erasing the owner's intent.

3.4. Harmonization of Article 913 of the Civil Code with Articles 35 and 36 of the Marriage Law

3.4.1. Harmonization as a Systematic Reading Across Legal Regimes

The relationship between Article 913 of the Civil Code and Articles 35 and 36 of the Marriage Law is not properly understood as a conflict resolved by negating one of the norms. These provisions occupy different fields but intersect when the object of a will originates from the property of a person bound in marriage. Article 913 protects the reserved share, while Articles 35 and 36 determine the origin, status of control, and authority to perform legal acts over marital property.

Harmonization places norms in a functional sequence. Marriage law determines whether an object is community property, separate property, a gift, personal inheritance, or property whose status has been changed through a marriage agreement. Property law determines the owner and scope of authority. After that, succession law determines the consequence of transfer due to death. Article 913 is not used to determine ownership, but operates after ownership and the relevant property mass have been established.

The Marriage Law does not directly revoke Article 913 and does not regulate forced heirship. However, Article 913 also cannot be applied in a manner that negates the classification and power over property established by the newer statute. Both regimes must work together: marriage law determines the object and owner, while succession law determines the consequence of transfer.

3.4.2. Determining the Meaning of the Estate

The term "estate" cannot be interpreted as all items physically controlled or recorded in the testator's name. In a juridical sense, the estate must be limited to the rights and obligations in the field of wealth that truly attach to the testator when the inheritance opens. Factual control, administrative recording, and material ownership must be distinguished.

A certificate in the testator's name does not necessarily prove that the entire land is personal property if it was acquired during marriage. Likewise, control over an undivided inheritance does not erase the share of other heirs. The judge must trace the basis of acquisition, the time of acquisition, marital status, marriage agreement, and other parties' rights.

The estate must also be distinguished from the net estate. Before division, the testator's wealth is reduced by the spouse's right, third parties' rights, debts, burdens, and other obligations. Certain lifetime gifts can be recalculated according to the provisions on the reserved share. For community property, only the testator's share enters the calculation after the spouse's share is separated.

This reading does not change the wording of Article 913, but prevents its application to objects outside the testator's power. It also clarifies that the right of reduction under Article 920 can only be exercised accurately after the calculation mass is determined. The structure of reduction shows that the effect of a violation is in principle directed at remedying a shortfall, not automatic elimination of the entire will.

3.4.3. Separate Property as a Domain of Testamentary Freedom

The most fundamental problem arises when the object of a will is separate property. Article 35 paragraph (2) places that property under the control of each husband or wife, while Article 36 paragraph (2) gives full right to perform legal acts. This quality of control differs from community property, which requires the spouse's consent.

Full right grants authority to use, enjoy, manage, encumber, sell, exchange, or transfer property. The owner may use its economic value for living needs, business, education, health, investment, or consumption. Prospective heirs cannot demand that the owner preserve the value of that property for the sake of inheritance.

A will brings together the owner's right during his or her lifetime with the legal effect after death. Because a will is made, altered, and revoked while the owner is alive, a will over separate property can be constructed as a continuation of the owner's authority to determine the direction of transfer of his or her rights. If the

owner can enjoy and exhaust the property during his or her lifetime, there is a normative reason to give strong respect to the decision regarding the recipient after death.

This construction is relevant when a testator divides property among children in different proportions. The owner may consider prior assistance, ability to manage assets, contribution, care, or need. The law need not accept every subjective reason without examination, but unequal proportion does not automatically prove injustice.

On this basis, this research offers the interpretation that lawfully acquired separate property constitutes the primary domain of testamentary freedom. Intervention in a will over that property requires a specific reason such as a defect in ownership, a defect of will, incapacity, a formal violation, abuse of circumstances, or violation of another party's right. This position must remain stated as an interpretive construction because the text of Article 913 does not explicitly exclude separate property.

3.4.4. The Testator's Share in Community Property and the Protection of the Forced Heir

Community property arises from the marital economic community and contains the rights of both spouses. When one spouse dies, the share of the surviving spouse must be separated. The testator's share is then reduced by debts and burdens before becoming the net estate.

In the construction of this research, the testator's share in community property has a stronger normative relationship with forced-heirship protection. That property is formed within family life and does not entirely arise from a history of individual ownership. Nevertheless, protection must still not be applied formalistically. The judge must calculate the intestate share, the Article 914 fraction, the actual benefit, and the shortfall that truly occurred.

If a shortfall is proven, remedy is carried out through reduction. The portion of the will that remains within the testator's domain of freedom is upheld. Harmonization thus not only distinguishes separate property and community property, but also demands differentiation of legal consequence.

3.4.5. Legal Discovery and the Limits of Harmonization

Judges are obligated to examine a case even though the law is considered incomplete, and are obligated to explore legal values and a sense of justice. This obligation provides room for legal discovery, but does not justify arbitrary disregard of norms. In a forced-heirship case, legal discovery is carried out by seeking the most coherent meaning from the whole system.

Systematic interpretation connects Article 913 with ownership, wills, marital property, and reduction. Harmonious interpretation keeps Article 913 and Article 36 paragraph (2) from negating one another. Teleological interpretation reconciles the purpose of protecting the forced heir with the owner's autonomy. Restrictive interpretation limits intervention to the object and the proven violation.

Respect for separate property does not make testamentary freedom absolute. A will can still be declared invalid if the testator is not the owner, lacks capacity, was coerced, was defrauded, did not satisfy formality, or violated the rights of a spouse, creditor, or third party. The classification of property must also be based on proof of acquisition, source of funds, marriage agreement, and other documents; a unilateral acknowledgment in a will does not always bind other parties.

An important limit lies in the difference between interpretation and change of norm. A judge using strong harmonization is obligated to provide open and rational reasoning on why the character of separate property affects the scope of application of the reserved share. With that limit, harmonization does not eliminate forced heirship, but improves the sequence and depth of its assessment.

3.5. The Three-Stage Test Model

3.5.1. Basis for Forming the Model

Analysis of the three decisions shows that the problem in applying forced heirship lies not only in the size of the reserved share, but in the absence of a consistent sequence of reasoning. A judge may assess unequal division without first ascertaining the status of the object, the testator's authority, and the concrete shortfall. As a result, property belonging to another party, a defect of will, a violation of the reserved share, and unequal

distribution can be treated as a single violation with a uniform consequence in the form of annulment of the entire will.

The three-stage test model is formed to separate these layers sequentially. The first stage tests acquisition and ownership status based on justice in acquisition. The second stage tests the validity of the testamentary transfer based on justice in transfer. The third stage tests the form of rectification based on rectification of injustice. Nozick does not replace statute, but provides a historical structure operationalized through the norms of property law, marital property, wills, and the reserved share.

The contribution of the model is modest. It is largely a systematic ordering of steps that a careful judge already takes under the Civil Code and the Marriage Law, such as identifying the object, separating the spouse's rights, calculating the shortfall, and selecting a proportional remedy. What Nozick's theory adds beyond that statutory sequence is threefold: a reason why the history of acquisition must be examined before the division is assessed, a reason why an unequal division is not in itself a violation, and a reason why correction must follow the type and magnitude of the violation. The added value of the theory is therefore explanatory and structural rather than a new set of steps. The model also gives consequence to the origin of the property. Separate property is placed as a stronger domain of testamentary freedom, while the testator's share in community property is linked to forced-heir protection after the spouse's rights have been separated.

3.5.2. First Stage: Test of Acquisition and Ownership Status

The first stage proceeds from the premise that a person can only transfer a right that he or she possesses. The judge must reconstruct the time and basis of acquisition, marital status, source of funds, marriage agreement, spousal rights, third-party rights, debts, burdens, and the extent of the testator's ownership.

Ownership documents are important but do not always determine material status. A certificate in the testator's name does not automatically make an item personal property if it was acquired during marriage. For community property, the spouse's share is separated. For an undivided inheritance, the testator only has an ideal share. For an item encumbered by a creditor's right or another party's right, the value available for inheritance must be adjusted.

The result of the first stage is the classification of the object as separate or personal property, the testator's share in community property, property still containing another party's right, or an item not owned by the testator. The classification determines the scope of testamentary authority. Separate property receives a stronger presumption of authority; community property can only be transferred to the extent of the testator's share; property belonging to another party is excluded from the will.

3.5.3. Second Stage: Test of the Validity of the Testamentary Transfer

The second stage assesses whether the lawful owner declared his or her intent through a will satisfying the requirements. The judge examines capacity, freedom of will, formality, authority over the object, clarity of the recipient and the disposition, and the absence of coercion, fraud, mistake, or abuse of circumstances.

A forced-heirship claim is examined after the basic validity of the transfer. The calculation begins from the intestate share, multiplied by the Article 914 fraction, then compared with the actual benefit already received. A shortfall exists only if the minimum share is greater than the actual benefit. If the difference is zero or negative, there is no violation.

Under strong harmonization, the calculation is not automatically applied uniformly to separate property. Lawfully acquired separate property receives a presumption of respect. The party challenging it must show a specific defect in ownership, a defect in transfer, or a specific violation of rights. This model does not eliminate Article 913, but demands a stronger reason to restrict a will over property fully owned individually.

3.5.4. Third Stage: Test of Correction

The third stage is carried out only if the two preceding stages found a violation. In principle, correction must follow the source, type, and magnitude of the violation. If part of the object is not owned by the testator, the will does not apply to that portion. If the spouse's right has not been separated, separation is carried out before calculating the inheritance. If there is a proven shortfall in the reserved share, abatement (inkorting) is carried out to the extent of the proven difference.

If the object cannot be divided without damaging its economic function, remedy can be given in the form of value compensation, a substitute asset, or the proceeds of a sale. If a defect of will concerns only one disposition, the legal effect is limited to that disposition. Annulment of the entire will is placed as a last resort remedy when the defect affects the entire intent and cannot be separated.

If ownership and transfer are valid and the minimum share has been satisfied, the third stage ends by upholding the will. Not carrying out correction is an important juridical result because respect for a valid transfer is a consequence of rights-based justice.

3.5.5. Functional Relationship Between Stages

The three stages are sequential and cumulative. The first stage determines the object and the limit of authority. The second stage depends on the result of the first stage because a transfer can only be assessed against a right that is owned. The third stage depends on the findings of the preceding stages because the form of correction must follow the type of violation.

This sequence prevents forced heirship from being used to resolve a matter that actually lies outside the reserved share. Property belonging to another party is resolved through the restoration of ownership; a defect of will is resolved through the law on the validity of acts; a shortfall in the reserved share is resolved through abatement. This distinction clarifies the basis of the claim, the burden of proof, the ratio decidendi, and the operative part of the decision.

The model also forms a standard of argumentation for the parties. It is not enough for a forced heir to state that he or she received a smaller share; he or she must show the calculation mass, position, intestate share, reserved-share fraction, actual benefit, and shortfall. The will beneficiary must show the basis of the testator's ownership and the validity of the transfer. For the judge, the model produces reasoning that can be audited from the determination of rights, through the assessment of transfer, to the selection of remedy.

3.6. Application of the Three-Stage Test Model to the Three Decisions

3.6.1. Surakarta District Court Decision

At the first stage, the object in the Surakarta case must be separated into the testator's share in the community property of the first marriage, the share he obtained from the first wife's inheritance, and the children's share originating directly from their mother. Only the first portion and a certain portion of the wife's inheritance fall within the testator's testamentary authority. The children's share is not an object of forced heirship against their father, but an ownership right already formed from their mother's inheritance.

At the second stage, the validity of the will is assessed only against the portion truly owned by the testator. If the deed was made by a testator who was capable, free, and satisfied formality, the disposition over his own portion can still apply. The calculation of forced heirship is carried out after the testator's entire net property is determined by economic value, not merely land area.

At the third stage, the will is declared invalid with respect to the portion of property not owned by the testator. If the portion owned by the testator is proven to have a shortfall in the reserved share, abatement is carried out to the extent of the shortfall. Total annulment is only justified if the disposition cannot be separated. With this model, the Surakarta case does not end in a wholesale justification or rejection, but in a correction that follows the ownership structure.

3.6.2. Situbondo District Court Decision

At the first stage, the court must determine the status of all assets, the spouse's right, business activities, prior gifts, debts, and the position of descendants through representation. If a certificate has passed to the will beneficiary, it shows an administrative process, but does not resolve the material basis of the transfer. If the testator was survived by a spouse, that spouse's rights over property acquired during marriage must also be separated.

At the second stage, Will Deed Number 02 is tested from the aspects of capacity, freedom of will, formality, authority, and calculation of the reserved share. A dominant gift to one child is an indicator, not a conclusion. The court must determine the calculation mass, the share of each branch, the benefit already received, and the shortfall.

At the third stage, the spouse's right is restored first if not yet separated. The shortfall of a branch of descent is satisfied through reduction or value compensation. Because the object relates to a shophouse and business activity, compensation may be more proportional than physical division. Annulment of the entire will is only appropriate if there is an independent defect affecting the entire intent. Based on the material of the decision, the justification for total annulment has not been adequately described.

3.6.3. South Jakarta District Court Decision

At the first stage, the marriage agreement and the certificate in the testator's name become the initial basis for testing the object as personal property. The content of the agreement and the history of acquisition must still be examined. If the object is proven to be personal property, the testator's entitlement is strong and there is no indication of another party's right.

At the second stage, no facts were found regarding incapacity, coercion, fraud, or formal defect. The calculation under Article 914 shows that the child receiving one third had already obtained the reserved share. The testator's reason regarding a prior gift does not determine the validity of the formula because the one-third share itself already satisfies the minimum.

At the third stage, the difference between the reserved share and the actual benefit is zero. There is no basis for abatement or annulment. The court should have rejected the request for annulment and upheld the will. This conclusion can be reached even without accepting strong harmonization, because based on a conventional reading of Article 914 alone the will does not violate the reserved share.

3.6.4. Comparison of the Results of Application

Applying the model produces different results according to the type of problem. The Surakarta case mainly contained a defect of ownership, so invalidity is limited to the portion not owned by the testator. The Situbondo case requires a more complete inventory and calculation; if a shortfall is proven, reduction or compensation is more appropriate than total annulment. The South Jakarta case requires no correction because the minimum share had been satisfied.

This variation shows the model's advantage compared with an approach that links every forced-heirship claim to annulment of the entire will. The model separates property belonging to another party, an excessive gift, and inequality that still remains within legal limits. Its implication is also seen in the burden of proof: an ownership claim must prove a right to the object, a reserved-share claim must prove a shortfall, and a claim of a defect of will must prove coercion, fraud, or incapacity.

The pattern of a judge's reasoning must therefore move from the history of the object toward the validity of the will and finally to remedy. A decision must explain the origin of the property, ownership status, net mass, intestate share, reserved share, actual benefit, shortfall, and the reason for selecting the legal consequence. This structure makes the reasoning more transparent and testable.

3.7. Theoretical and Practical Implications

The three-stage test model shifts the orientation of forced-heirship assessment from equality of result toward rights-based justice and the history of ownership. Unequal division is not directly positioned as an injustice. Assessment is directed at the validity of acquisition, the scope of the testator's right, the validity of the transfer, and the proven shortfall. Forced heirship is maintained as minimum protection, but is not extended into a right to the full intestate share or to always-equal division.

Doctrinally, the model strengthens the relationship between property law, matrimonial property law, and succession law. Determining the estate is preceded by classification as separate property, community property, undivided inheritance, or an item containing another party's right. Article 913 is read together with Articles 35 and 36 so that the owner's power over separate property acquires operational meaning without disregarding the rights of a spouse and other parties.

For judges, the model provides a transparent structure of reasoning. A decision must explain the origin of the object, the scope of authority, the validity of the will, the intestate share, the reserved share, the free portion, the actual benefit, the shortfall, and the reason for the remedy. Total annulment can only be justified

if a defect affects the entire intent and cannot be remedied through partial invalidity, abatement, or compensation.

For notaries, the model affirms the importance of examining the origin and status of an object before a will is made. A deed is ideally supported by documents on the time and basis of acquisition, the marriage agreement, and the rights of a spouse or other party. This examination does not make the notary an arbiter of disputes, but strengthens the evidence that the testator acted regarding property within his or her authority.

For the parties, a forced-heirship claim is not sufficiently based on a difference in percentage. The forced heir must show the property mass, the intestate share, the reserved-share fraction, the value already received, and a concrete shortfall. The will beneficiary must prove the testator's ownership and the validity of the transfer. Thus, the dispute centers on proof of rights and measurable violations, not an abstract assessment of who received more.

4. Conclusion

The juridical construction of judicial assessment of forced-heirship claims must begin with determining the history and ownership status of the object, including the separation of spousal and third-party rights and the establishment of the net estate, before calculating the reserved share. Article 913 of the Civil Code needs to be read systematically and harmoniously with Articles 35 and 36 of the Marriage Law so that lawfully acquired separate property receives a stronger domain of testamentary freedom, while forced-heirship protection over community property is applied after the spouse's rights have been separated. Through Robert Nozick's entitlement theory of justice, assessment is carried out in stages by testing acquisition and ownership status (justice in acquisition), the validity of the testamentary transfer (justice in transfer), and the need for correction (rectification of injustice), so that a distinction can be made among a defect of ownership, a defect of transfer, a shortfall in the reserved share, and an inequality of division that is not in itself a violation. Applying this construction to the Surakarta, Situbondo, and South Jakarta decisions shows that annulment of the entire will should not become an automatic legal consequence; rather, judicial intervention must be adjusted to the source, type, and magnitude of the proven violation. Thus, Article 913 still provides protection to the forced heir, but its application must maintain coherence with matrimonial property law, the testator's ownership rights, and testamentary freedom.

Future research should apply the model to a larger and more varied set of decisions, including higher-court decisions and complete case files, to check whether the patterns recur. It should compare the model with theories supporting family-protection rules, especially for separate property, and examine whether judges, notaries, and parties can use the three stages in practice, including how the burden of proof operates for forced heirs and will beneficiaries. Finally, the interpretive proposal on separate property should be tested against doctrinal debate and its reception in later decisions.

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