

# New Precedent Establishes Three Years as a Period of Limitation for “Petitio Haereditatis”

## Description

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## Background

There **were** Federal Supreme Court Cassation Division Decisions that give contradictory interpretations on periods of limitation as to the time of filing of suit to partition of inheritance property or get share of the inheritance. Cassation File Number 186329( including 26422,20295, and others) accepts three years of limitation to request division of the inheritance property once a person has an inheritance certificate. On the other hand, Cassation File Number 205248 ( including file numbers 38533 and 44237 and others) consider the request for division of inheritance to be requested without any period of limitation. Hence the Cassation Division with 7 (seven) judges sitting, attempts to resolve the contradictory interpretation and render a uniform application of the law.

## Recent Federal Supreme Court Cassation Division Decision

The Federal Supreme Court Cassation Division on Cassation File Number 24973 on October 16,2024 by a sitting of 7(seven) judges gave a landmark interpretation on the issue of period of limitation on Article 1000(1) and Article 1062 of the 1960 Ethiopian Civil Code.

Art. 1062. – Time of partition. When the succession has been liquidated, each of the co-heirs may at any time require that the partition of the inheritance be effected.

Article 1000 (1)An action of “petitio haereditatis” shall be barred after three years from the plaintiff having become aware of his right and of the taking possession of the property of the inheritance by the defendant.

In a landmark recent decision, merely having a certificate of heir does not guarantee request of inheritance property anytime. The holder of the certificate of inheritance has to institute his or her case within three years from the date of his or her awareness of his/her right and of the taking of possession of the property of the inheritance by the defendant. Article 1062 comes into picture when the succession has been liquidated and the co-heirs can request partition of the inheritance anytime. This development marks a major departure from the long-standing view that acquiring certificates of heirs entitles one to request a partition of inheritance anytime.

## Implications of the New Precedent

The New Precedent carries significant legal implications among co-heirs. The right to file for inheritance property needs obtaining a certificate of heir. The holder of the certificate, if he/she is not administering or jointly holding of the inheritance property, should file for the right to get share of the inheritance from the holder of the property within three years of being aware of such circumstances.

### **What This Means for You**

Heirs should take note of this new opportunity to request rights in inheritance property within a short period of time. Having a certificate of heirs is an important step. However, the certificate itself alone is not sufficient. Action against defendants who held the inheritance property has to be filed within three years. Otherwise the case will be closed for a period of limitation. In addition to obtaining a certificate of heir, liquidation of the inheritance process has to be carried out. The New Precedent opens the possibility of judicial challenges, which may influence both ongoing and future cases. Complexities may arise depending on the circumstances of each case. Stakeholders should seek legal advice tailored to their specific case.

If you have any queries about the new precedent, you may contact us at [info@dmethiolawyers.com](mailto:info@dmethiolawyers.com)

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