

LEGAL VALIDITY OF LAND TENURE BY FOREIGNERS THROUGH MIXED MARRIAGES OBTAINED FROM INHERITANCE FROM THE UPA PERSPECTIVE

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Abstract

This scientific paper aims to examine the legal validity of land tenure by foreigners through mixed marriages obtained from inheritance, with a focus on the perspective of the UPA (Undang-Undang Pokok Agraria). It also investigates the legal consequences that arise from the cancellation of ownership rights to land obtained through inheritance by foreigners. The presence of mixed marriages in Indonesia has implications for joint property ownership in marriage. According to Article 35 of the Marriage Law, joint property refers to assets acquired during marriage that become shared property. However, Article 21, paragraph (3) of the Basic Agrarian Law (Law No. 5/1960) lacks clarity in terms of norms governing land tenure by foreigners derived from inheritance. This ambiguity arises from the absence of a defined time limit or clear provisions regarding land tenure by foreigners through inheritance. This research utilizes normative legal research methods, employing legislative, conceptual, and analytical approaches. Foreign nationals can acquire land ownership if they enter into a mixed marriage with Indonesian citizens. In such cases, the land must remain under the ownership of the Indonesian citizen, with a joint property separation agreement established prior to the mixed marriage. The heirs of foreign nationals can still hold Hak milik land acquired through inheritance, but only for a period of one year. After this period, the land reverts to state ownership. Foreign nationals have the option to sell the land to an Indonesian citizen or apply for a Right of Use through the National Land Agency, in accordance with the applicable regulations.

Keywords: Foreigners, Inheritance, Property Rights

1. INTRODUCTION

In today's era of rapid globalization and technological advancement, information and communication technology (ICT) has emerged as a driving force. ICT encompasses various communication technologies such as radio, film, television, press, telephone, and more interactive forms like theater, video, and storytelling. It also includes electronic means like email, the Internet, mobile phones, and digital video (Idowu et al., 2003).

The development of ICT brings significant benefits in fulfilling daily needs, and one of its advantages in the era of globalization is the elimination of national boundaries. Individuals can now easily interact with others without being constrained by geographical or time limitations. People from one country can effortlessly communicate with individuals from other countries around the world simultaneously. This is made possible by advancements in global network technologies, particularly the Internet.

By leveraging these advancements in information technology, communication, and the Internet, individuals can now easily engage in global communication. This opens up opportunities for individuals to form relationships and enter into marriages. In this context, a mixed marriage can be understood as an interracial relationship that focuses on the inherent Black/White binary in American society, as defined by critical race theory (Luther & Rightler-McDaniels, 2013).

In Indonesia, mixed marriages occur due to various reasons, including differences in customs, ethnic backgrounds, and religious beliefs. Examples of customary differences can be seen in marriages between individuals from the Minangkabau tribe and the Sundanese tribe. Additionally, mixed marriages also occur between individuals of different religions, such as Christian and Muslim. These types of mixed marriages are common in everyday life among the Indonesian community.

The regulations pertaining to mixed marriages in Indonesia are outlined in Article 57 of Law Number 1 of 1974 on Marriage, also known as the Marriage Law. According to this article, a mixed marriage refers to a marriage between two individuals in Indonesia who are subject to different laws due to differences in citizenship, where one party holds Indonesian citizenship (Syarifuddin, 2021).

Mixed marriages in Indonesia have implications for the ownership of joint property within the marital bond. According to Article 35 of the Marriage Law, joint property in marriage refers to assets acquired during the marriage and owned jointly. However, individually inherited property, gifts, or bequests remain separate unless otherwise agreed upon. One aspect of joint property ownership in marriage pertains to property rights, such as land ownership rights.

Land holds a crucial role in human life, both on an individual level and within the context of society and the state, as it is a fundamental agrarian resource (Indrawan & Munandar, 2022). The demand for land continues to rise alongside population growth and land-related needs. Land is a vital resource for individuals and the state, serving as a foundation for various activities aimed at fostering prosperity, such as building homes and engaging in agricultural practices. Additionally, land can be used as collateral for obtaining loans from banks in sale, purchase, or lease transactions (Permatadani & Irawan, 2021).

The legal provisions concerning land rights, in accordance with the UUPA, encompass three essential aspects: the certainty of the subject, object, and status of land rights. In the case of the object of land rights, it is crucial to establish the unique nature of each land parcel to prevent disputes regarding boundaries and location. Therefore, reliable infrastructure is necessary to accurately map land parcels and provide measurement certificates, ensuring certainty for all parties involved (Sutedi, 2009).

Several factors can lead to problems related to land in Indonesia, such as issues with inheritance and the regulation of inherited land rights. This arises due to the existence of three inheritance laws in Indonesia: customary inheritance law, Islamic inheritance law, and civil inheritance law. Article 830 of the Civil Code/*Burgerlijk Wetboek voor Indonesie* states that inheritance occurs after death, while Article 832 explains that heirs consist of legitimate or illegitimate blood relatives and the surviving spouse.

Although Article 20 of the UUPA indicates that land ownership rights can be transferred through various means, including inheritance, land ownership does not automatically transfer to heirs upon inheritance. There are several stages that must be completed for land ownership to be transferred from the deceased (testator) to their heirs. However, this situation can pose challenges if one of the heirs is a foreign national and inherits land ownership rights. According to the provisions of Law No. 5 of 1960 on Basic Agrarian Principles, only Indonesian citizens are entitled to land ownership.

Many Indonesians choose to relocate to other countries and renounce their Indonesian citizenship, while still maintaining familial connections in Indonesia. The

question arises: what happens if a person who has renounced Indonesian citizenship becomes an heir to a testator who is still an Indonesian citizen and inherits freehold land?

Inheritance law encompasses a set of rules that govern the consequences of a person's death, particularly concerning asset ownership and the transfer of inheritance to heirs. When a family member, such as a father, mother, or child, passes away, inheritance comes into play. However, when the testator has wealth, the issue extends beyond the event of death itself and includes the wealth left behind. This can give rise to legal challenges, particularly in relation to inheriting property (Moechthar, 2019).

The regulations governing land ownership rights in Indonesia are outlined in Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (referred to as UUPA). Specifically, Article 20, Paragraph 1 of the UUPA elucidates that "*hak milik*" (ownership right) is the most robust, comprehensive, and inheritable right that an individual holds over land, taking into account the provisions in Article 6. Numerous cases have emerged regarding the status of land ownership by foreign nationals acquired through mixed assets in mixed marriages with Indonesian citizens.

According to Article 20, Paragraph 2 of the UUPA, ownership rights can be transferred to other parties. Further details are explained in Article 21, Paragraph 1 of the UUPA, which stipulates that only Indonesian citizens are entitled to ownership rights. The law also mandates that foreigners who acquire ownership rights through inheritance without a will or Indonesian citizens who become foreign nationals must relinquish these rights within one year of acquiring the rights or losing their citizenship. Failure to do so within the prescribed time limit results in the rights being automatically revoked by law, and the land becomes the property of the State (Trovani, 2021).

Article 21 of the Basic Agrarian Law (Law No. 5/1960) provides the following explanations: (1) The first paragraph states that only Indonesian citizens can hold land ownership rights. (2) The second paragraph determines that the government will identify the legal entities that can possess "*hak milik*" (right of ownership) to land and the conditions that must be fulfilled to obtain such rights. (3) The third paragraph states that foreigners who acquire "*hak milik*" to land through inheritance without a will or as a result of asset mingling in marriage, as well as Indonesian citizens who lose their nationality, must relinquish their "*hak milik*" within one year of acquiring or losing their nationality. Failure to relinquish the ownership rights within the stipulated time frame leads to the rights being revoked, and the land becomes state property, while the rights of other parties against it remain valid. (4) The final paragraph states that as long as an individual holds foreign citizenship, they cannot possess "*hak milik*" to land, and the provisions in the third paragraph of Article 21 apply to them as well.

In Article 21, Paragraph 3 of the Basic Agrarian Law (Law No. 5/1960), there is ambiguity regarding land tenure for foreigners acquired through inheritance. The provision lacks a specific time limit or clear guidelines for land tenure by foreigners derived from inheritance. It states that foreigners who acquire land ownership rights through inheritance without a will or through mixed marital assets after the enactment of this law must relinquish their ownership rights within one year of acquiring or losing their nationality.

However, this provision does not address the time limit for land tenure by foreigners derived from inheritance prior to the enactment of this law. This ambiguity poses a challenge in the practical implementation of land tenure by foreigners derived from inheritance, and it is crucial to find an appropriate solution to avoid legal uncertainty.

This can be achieved by introducing new provisions or amending existing laws and regulations to provide clear and definitive guidelines for land tenure by foreigners derived from inheritance.

Furthermore, these legal provisions can have detrimental consequences for heirs who were originally Indonesian citizens (WNI) but became foreign citizens (WNA) due to marriage. Article 21, Paragraph 3 of the Basic Agrarian Law (Law No. 5/1960) states that foreigners who acquire land ownership rights through inheritance without a will or through mixed marital assets after the enactment of this law must relinquish their ownership rights within one year of acquiring or losing their citizenship. This can result in losses for the heirs.

The potential loss faced by heirs includes the deprivation of rights to land that should have been inherited or passed down within the family. Additionally, the heirs may have made investments or carried out developments on the land, leading to financial losses when relinquishing the land ownership rights. However, Article 21, Paragraph 3 also permits foreigners to sell or transfer the land within one year of acquiring or losing their nationality. In such cases, the heir may receive financial compensation from the sale or transfer of the land, thus mitigating the loss.

In addition, Article 23, Paragraph 1 of the Basic Agrarian Law also addresses the limitation or cancellation of land ownership rights for foreigners. This article stipulates that land rights can be restricted or revoked if the holder of the ownership right no longer meets the requirements or conditions specified by laws and regulations.

In cases where land ownership rights of foreigners are abolished, the government is obligated to provide fair compensation to the affected owners. This compensation should encompass the value of the land, the value of any structures or buildings on the land, and any other losses incurred as a result of the abolition of land ownership rights. The abolition of land ownership rights by foreigners can have significant repercussions for heirs or current holders of such rights. Therefore, it is imperative for the government to take appropriate measures to safeguard their rights and ensure fair compensation in instances where land ownership rights are abolished.

Building upon the background information presented above, this research focuses on exploring and discussing the legal validity of land tenure by foreigners through mixed marriages acquired via inheritance from the perspective of the UUPA. Additionally, the study addresses the legal consequences arising from the cancellation of land ownership rights acquired through inheritance by foreigners.

This research builds upon previous studies, such as "Ownership of Land Rights of Indonesian Citizens in Mixed Marriages" by A.A. Sri Indrawati and I Nyoman Darmadha, which examines the legal protection available to Indonesian citizens who enter into mixed marriages in relation to land ownership rights (Sari et al., 2017). Furthermore, the research conducted by Ega Permatadani and Anang Dony Irawan, titled "Land Ownership for Foreign Citizens Reviewed from Indonesian Land Law," explores land ownership rights for foreigners from the perspective of the UUPA (Permatadani & Irawan, 2021). While there are similarities with previous research in terms of land rights for foreigners, this study focuses specifically on the ownership of land rights obtained through inheritance resulting from mixed marriages.

The legal validity of land tenure by foreigners through inheritance from mixed marriages and the perspective of the UUPA raises important questions. Firstly, how is the

legal validity of land tenure by foreigners through inheritance viewed from the UUPA standpoint? Secondly, what are the legal consequences that arise when ownership rights to land acquired through inheritance by foreigners are canceled?

The objective of this scientific work is to analyze the legal validity of land tenure by foreigners in the context of mixed marriages and inheritance, with a specific focus on the perspective of the UUPA. The study also aims to examine the legal consequences that occur when ownership rights to land acquired through inheritance by foreigners are canceled. By addressing these research objectives, this study aims to contribute to a better understanding of the legal implications surrounding land tenure for foreigners in mixed marriages and the potential consequences when ownership rights to inherited land are terminated.

2. RESEARCH METHODS

This research employs a normative legal research method to analyze the ambiguity of norms concerning land tenure by foreigners through mixed marriages, specifically from the perspective of the UUPA. A statutory approach is adopted, emphasizing the objective interpretation of relevant regulations within the field of law under examination. Furthermore, the conceptual and analytical approaches are utilized to comprehend legal concepts and analyze data gathered from previous research and legal sources. Additional legal materials are collected to support a comprehensive analysis (Marzuki, 2013).

3. RESULTS AND DISCUSSION

3.1. Legal Validity of Land Tenure by Foreigners through Mixed Marriages Obtained from Inheritance Perspective of UUPA

Land holds significant juridical aspects, encompassing belief, social, economic, and cultural dimensions. Its importance cannot be overstated, as it plays a crucial role in human life, officially regulated by the Basic Agrarian Law (UUPA) within a country. While land is intrinsically connected to legal aspects, it also intertwines with various other factors on a broader scale.

The purpose of the UUPA originates from the provisions stated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which aims to strengthen the state's ownership of land. Consequently, regulations are required to govern the state's authority in this matter. The UUPA provides opportunities for citizens to own or acquire land rights, whether through ownership or other forms of rights. This reflects the state's role in enhancing the welfare of its people by facilitating the distribution of land ownership.

As the country undergoes development and experiences the rapid influence of globalization, the role of the state extends beyond its relationship with its citizens. It now involves interactions between the state and foreign citizens, as well as interactions between citizens and foreign citizens. These interactions can encompass marital ties, family relationships, or trade activities conducted within Indonesia. Hence, foreign nationals require access to land ownership rights within the context of managing trade.

According to Article 1 paragraph (9) of Law Number 6 Year 2011 on Immigration, a foreign national is defined as an individual who is not an Indonesian citizen. The concepts of "citizen" and "citizenship" can be understood as legal concepts that pertain to

the status of legal subjects, both on an individual and organizational level. Interpreting citizens and citizenship as legal subjects is part of the process of establishing legal identity, which confers certain rights and obligations to individuals. Therefore, it is essential to distinguish between subjects within the community (inside the community) and those outside the community. This distinction necessitates considering an individual's status separately in terms of their citizenship (Isharyanto, 2021).

Issues concerning the land sector are closely tied to the progress of urban development, prompting the government to address them with care. The prevalence of various problems within the land sector highlights the high priority given to land-related issues. Factors contributing to these problems include limited land availability, the transfer of land rights through inheritance, changes in the status of land rights owners to foreign nationals, conflicting regulations on land ownership, disputes arising from overlapping claims to the same land due to past manipulations in land acquisition, and other relevant factors.

The national agrarian law governs the concept of land rights, which can be categorized into two forms. Firstly, there are primary land rights that grant individuals or legal entities direct ownership or control over land for an extended period, allowing for transfer to other parties or their heirs. Examples of primary land rights include *Hak milik* (HM) or right of ownership, *Hak Guna Usaha* (HGU) or right to cultivate, *Hak Guna Bangunan* (HGB) or right to build, and *Hak Pakai* (HP) or right to use.

Secondly, there are secondary land rights that are of a temporary nature, such as liens, profit-sharing business rights, right of passage, and lease rights specifically pertaining to agricultural land. These secondary rights offer limited-term usage or benefits related to land.

Of the various types of land rights mentioned earlier, *Hak milik* (right of ownership) is the only form that confers complete power and existence, allowing individuals to fully own land. According to Article 20, paragraph (1) of the UUPA, *Hak milik* is a hereditary right that can be owned by individuals over land. Hereditary means that the right of ownership can endure as long as the owner is alive and can be inherited by their heirs if they meet the requirements as property rights holders. *Hak milik* holds a superior position compared to other land rights, as it is stronger, enduring, easily defensible against interference, and difficult to extinguish. It provides broader powers and can serve as the basis for other types of land rights. The use of land under *Hak milik* is more extensive than under other forms of land rights (Kusuma et al., 2017).

Inheritance involves the transfer of the rights and obligations of a deceased individual. Inheritance law governs the handling of the deceased's property, including the transfer of their assets and the effects on the heirs.

The owners of land ownership rights are Indonesian citizens and legal entities designated by the government in accordance with specific requirements. According to Article 21, paragraph (1) of the UUPA, only Indonesian citizens have the right to own *Hak milik*, while paragraph (2) states that legal entities that can own *Hak milik* are determined by the government based on stipulated requirements.

In essence, the granting of land rights by the state involves granting individuals, groups, or legal entities direct control over land. Article 9, paragraph (2) of the UUPA ensures that every Indonesian citizen, regardless of gender, has an equal opportunity to acquire land rights for personal and family interests. However, there are limitations for

foreign nationals or foreign legal entities with representatives in Indonesia, who are restricted to the rights of use and lease as described in Article 42 and Article 45 of the UUPA (Trovani, 2021).

Property rights to land can be lost in cases where the land is transferred to state ownership or undergoes irreparable damage. The transfer process can occur through revocation of rights as stated in Article 18 of the UUPA, voluntary surrender by the owner, abandonment of the land, or in accordance with the provisions outlined in Article 21, paragraph (3) and Article 26, paragraph (2) of the UUPA. The criteria for land to be considered abandoned have been specified in Government Regulation No. 11/2010 (Jayanti & Wita, 2016).

From the perspective of the UUPA, the legal validity of land ownership by foreigners through mixed marriages acquired by inheritance can be explained as follows: The UUPA imposes restrictions and limitations on land ownership by foreigners. According to Article 21, paragraph (2) of the UUPA, foreigners are not allowed to have *Hak milik* (right of ownership) over land but are only permitted to have the right to use or the right to lease the land. In the context of a mixed marriage, if one spouse who is an Indonesian citizen (WNI) passes away and bequeaths land, the legal regulations of inheritance come into effect.

However, in the case of land tenure by foreigners through inheritance, specific requirements and limitations must be fulfilled for the tenure to be legally recognized under the UUPA. According to Article 43, paragraph (1) of the UUPA, land acquired by foreigners through inheritance can only be used as a right of use and requires a permit from the Minister of Agrarian and Spatial Planning/Head of the National Land Agency. The granting of this permit is based on special considerations, including kinship relations with the Indonesian heir. Therefore, for land tenure by foreigners through mixed marriages obtained through inheritance, it is crucial to comply with the requirements of the UUPA and obtain permission from the competent authority.

Government Regulation No. 40/1996, which governs Building Rights Title, Business Rights Title, and Use Rights Title, specifies that Use Rights can be owned by foreigners in Indonesia. Use Rights are not limited to Indonesian citizens and are the only form of land right that can be owned by foreigners in the country. Additionally, there are other regulations pertaining to the ownership of residences for foreigners in Indonesia, as described in Article 52 of Law Number 1 Year 2011 on Housing and Settlement Areas. This article allows foreigners to occupy or live in a house in Indonesia through the right of lease or right of use (Tambing & Kartika, 2016).

Foreign nationals are generally not permitted to own land in Indonesia according to existing laws and regulations. They are only allowed to obtain the right to use or lease land and/or buildings. However, there is an exception for foreign nationals who enter into a mixed marriage with an Indonesian citizen. In such cases, the land ownership must still be held by the Indonesian citizen, based on a joint property separation agreement prior to the mixed marriage.

The concept of *hak pakai*, which grants the right to use land, is regulated in Article 39 of Government Regulation No. 40/1996. It specifically applies to foreigners residing in Indonesia. Hak Pakai is further regulated in Articles 41 to 43 of the UUPA and Articles 39 to 58 of Government Regulation No. 40/1996 on Cultivation Rights, Building Rights, and Land Use Rights.

The duration of *hak pakai* is defined in Government Regulation No. 40/1996, specifically in Article 45. Additionally, the rules regarding the term of *hak pakai* are also outlined in Article 4, letter a, paragraph (2) of Government Regulation No. 103/2015. According to this provision, foreigners are granted the right to extend the right of use for 20 years, which can be renewed for a maximum of 30 years. Therefore, the total period given to foreigners to control the right of use amounts to 80 years. This total period exceeds the duration stipulated in Government Regulation No. 40/1996 (Ardani, 2017).

3.2. Legal Consequences Resulting from the Cancellation of Land Ownership Rights Acquired from the Inheritance of Foreigners

In principle, foreigners are not permitted to hold land titles. However, UUPA allows for certain exceptions where foreigners can hold land titles. These exceptions are regulated in Article 21 of the UUPA and include the following:

1. Statutory inheritance: This occurs when the transfer of land from a deceased person (testator) to their heirs is based on blood relationship, with the heir's nationality being the determining factor.
2. Mixed marriages under the property partnership regime: If an Indonesian citizen marries a foreigner and purchases land under their own name with full ownership rights (*hak milik*), the foreign spouse can hold the land title.
3. Transfer of citizenship: When an Indonesian citizen changes their citizenship to that of a foreign country, they can still retain ownership of land.

The inheritance law system serves to regulate the transfer of a person's estate after death and its implications for the heirs. When land ownership rights are transferred from the deceased (testator) to heirs of different nationalities, certain restrictions come into play regarding the transfer of land rights. These restrictions are based on nationality, as outlined in the Basic Agrarian Law (UUPA), which stipulates that full rights to water resources, land, and space can only be owned by Indonesian citizens. The UUPA also states that property rights over land are exclusively for Indonesian citizens. Therefore, foreigners residing in Indonesia are granted the right of use in accordance with Article 42 of the UUPA (Chayadi, 2020).

Heirs who have foreign citizenship have several options to pursue legal action regarding their inherited land ownership. The following steps can be taken:

Heirs who have changed their nationality but are still entitled to inherit from an Indonesian citizen can apply to maintain their status as an Indonesian citizen, in accordance with the provisions of the Indonesian Citizenship Law and government regulations governing procedures for obtaining, losing, canceling, and regaining Indonesian citizenship. By doing so, heirs who have become foreign nationals can regain the rights possessed by Indonesian citizens (Chayadi, 2020).

If an heir with foreign citizenship resides in Indonesia and fails to sell or manage the land in accordance with the requirements of the Basic Agrarian Law (UUPA) within one year, the ownership of the land will be transferred to the state. However, the foreigner still retains the right to use the land for constructing buildings, as specified in the UUPA.

The process of transferring property ownership rights to heirs who have become foreign nationals can be accomplished through a sale or grant to Indonesian citizens within one year. As a result, heirs who have changed their nationality will no longer have

ownership rights to the property in Indonesia and will only receive monetary compensation from the sale (Chayadi, 2020).

The cancellation of property rights, which involves the loss of land rights transferring to the state as described earlier, is closely linked to the potential losses experienced by the land title holder. The cancellation of property rights can lead to various losses, such as:

1. Loss of investment: If a foreigner has invested a substantial amount of money or resources in land that is subsequently subject to title cancellation, they may incur significant financial losses. Investments made, such as land purchases, property construction, or business development on the land, may be lost or irretrievable upon title cancellation.
2. Decrease in property value: Title cancellation can cause the value of the property to decline. Land that previously held a strong title status and was highly valued may lose its value after the cancellation of the title. This can result in financial loss for the owner who loses the title.
3. Legal disputes and costs: Title cancellation can give rise to complex and costly legal disputes. The affected party may initiate legal proceedings to defend the title or seek compensation for the incurred losses. Legal proceedings can consume significant time, effort, and expenses (Sumanto, 2013).

In the context of this research, there is a scenario where one of the heirs becomes a foreign national after inheriting ownership of the land. In such cases, Article 21, paragraph (1) of the UUPA, which governs land ownership rights, states that only Indonesian citizens are entitled to own land. Therefore, if foreign nationals still hold a *hak milik* (full ownership rights) to the land, they need to take the following legal steps: (Paramita et al., 2018)

The heirs have the option to transfer ownership of the land and/or building through sale, exchange, grant, or auction within a maximum period of one year, as stipulated in Article 21, paragraph (3) of the UUPA. Failure to take legal action regarding the land within one year will result in the land becoming state property. In this situation, the heirs have the right to apply to the local National Land Agency to change the land's status to a right of use, as outlined in Article 49 of Government Regulation No. 18 of 2021.

In the context of inheritance, when a person passes away, the rights to their property are immediately transferred to the heirs as per the law. However, it is crucial to maintain land documents as publicly accessible evidence in land law. In relation to the transfer of rights due to death, an evidence letter is required to establish the heir's status.

The procedure for obtaining an evidence letter as an heir is regulated in "Article 111, paragraph 1, letter c of Regulation of the Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 on Provisions for the Implementation of Government Regulation Number 24 of 1997 on Land Registration." An evidence letter as an heir can be obtained in several ways, including: (Moechthar, 2019)

- 1) A will left by the deceased person (testator).
- 2) A court decision that confirms the status as an heir.
- 3) A ruling by a judge or the President of the Court acknowledging the status as an heir.
- 4) A proof letter as an heir can be obtained through the following methods:

- a. For Indonesian citizens of indigenous origin, they can use a certificate of heirs created by the heirs, witnessed by two witnesses, and certified by the Head of the Village or *Kelurahan* and the Sub-district Head where the deceased person lived at the time of their death.
- b. For Indonesian citizens of Chinese descent, they can use a certificate of inheritance rights issued by a Notary.
- c. For Indonesian citizens of other foreign Eastern descent, they can use a certificate of inheritance provided by the *Balai Harta Peninggalan* (Estate Asset Office).

4. CONCLUSION

Foreign nationals are generally not allowed to own land in Indonesia, except for a few exceptions. One exception is if they marry an Indonesian citizen, in which case the land ownership must remain with the Indonesian citizen. Another exception is if the foreign national officially changes their citizenship to become an Indonesian citizen, without holding dual citizenship. These exceptions are based on the Single Citizenship Principle applied in Indonesia.

Regarding inherited land with the *Hak milik* (full ownership rights) status, the transfer of ownership to the heirs applies regardless of whether they become Indonesian citizens or foreign citizens. Even if the heirs become foreign nationals, they can still maintain ownership of the land with *Hak milik* status as per the relevant laws. However, there is a maximum time limit of one year for foreign national heirs to hold such ownership. If this time limit is exceeded, the land ownership will be transferred to the state.

Foreign heirs still have options available to them. They can choose to sell the land to an Indonesian citizen or apply for a Right of Use through the National Land Agency in accordance with the applicable regulations. These alternatives enable foreign heirs to comply with the legal requirements and retain their rights to the land within the specified timeframe.

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