

LEGAL PROTECTION OF LAND RIGHTS ACQUIRED FROM MIXED MARRIAGES

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ABSTRACT

Mixed marital unions between Indonesian Citizens (WNI) and Foreign Nationals (WNA) may precipitate legal complexities, particularly concerning the governance of land title interests and the apportionment of inherited estates. Such complications arise due to the stipulations of Indonesian land law, which restrict the entitlement to Title Right (*Hak Milik*) solely to Indonesian citizens, as prescribed under Law Number 5 of 1960 concerning the Basic Agrarian Law (UUPA). This research seeks to examine the modalities of legal safeguards pertaining to land rights derived from mixed marriages, alongside the procedural frameworks for the distribution of hereditary land assets within such unions. Employing a normative legal methodology, this study adopts statutory and conceptual approaches, drawing upon primary, secondary, and tertiary legal sources subjected to descriptive analysis. The findings reveal that legal protection over land rights in mixed marriages may be realized through the execution of a prenuptial agreement stipulating the separation of marital assets, thereby enabling the Indonesian spouse to retain land under Title Right status. In matters of inheritance, foreign nationals are still recognized as heirs; however, ownership of land title rights is restricted by the obligation to release or transfer such rights within one year of acquisition, downgrade the right to right of use (*hak pakai*), or sell the land to a qualifying party in accordance with the applicable laws and regulations.

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INTRODUCTION

Marriage is a physical and spiritual bond between two individuals to form a family with balanced rights and obligations. In the context of Indonesian law, marriage does not only occur between fellow citizens, but can also involve differences in citizenship, known as mixed marriage. Historically, the regulation of marriage in Indonesia has undergone developments since the colonial era, when the population was classified into several groups with different legal systems, and mixed marriages were regulated under the *Gemengde Huwelijken*, which covered differences in group, citizenship, and applicable law (Isnaeni, 2016).

In Indonesian positive law, based on Article 57 of Law Number 1 of 1974, mixed marriage is defined as a marriage between two people subject to different laws due to differences in citizenship, with the condition that one of

the parties is an Indonesian citizen (Ernaningsih & Samawati, 2006). Thus, the concept of mixed marriage explicitly refers to differences in citizenship, not differences in religion, and must therefore be distinguished from interfaith marriage, which has its own separate regulations.

Although the practice of mixed marriage is increasing, its regulation under Law Number 1 of 1974 remains relatively limited and does not yet comprehensively address its various legal implications (Darussalam, 2006). This situation raises issues regarding the legal status of the parties, citizenship, and the rights and obligations within the marital relationship. Citizenship status is an important aspect because it determines the legal relationship between an individual and the state, while also serving as the basis for exercising rights and obligations as a citizen (Hallet, 2008). In practice, foreign nationals who marry Indonesian citizens retain certain civil rights while residing in Indonesia, including the capacity to perform legal acts and to conduct family life (Supramono, 2014).

The legal consequences of marriage also relate to property. Based on Article 35 of Law Number 1 of 1974, property acquired during the marriage becomes joint marital property, while individually owned property, gifts, and inheritances remain the property of the respective party (Andayani et al., 2024; Masri & Wahyuni, 2021; Siringoringo et al., 2023). In mixed marriages, this arrangement becomes complex due to the differences in the legal systems applicable to each party (Jesikagum et al., 2024; Ramayudha, 2023). Problems frequently arise in the division of joint property, inheritance, and the legal consequences upon divorce or death (Halim & Ardhani, 2016). Law Number 12 of 2006 was enacted to provide protection for citizenship status, particularly for Indonesian women who marry foreign nationals, so that they and their children retain legal certainty (Hilman, 1992).

The matter becomes even more complex when linked to land rights. Based on Law Number 5 of 1960 on Basic Agrarian Principles, land ownership rights may only be held by Indonesian citizens. In practice, this creates obstacles in mixed marriages, particularly regarding the status of jointly owned land. The lack of clear regulation potentially gives rise to legal conflicts, especially in the division of assets following divorce or inheritance, since each party is subject to a different legal system (Yusuf, 2025). Furthermore, from a normative standpoint, rights in law are distinguished into absolute rights and relative rights. Absolute rights are rights that confer full authority upon the legal subject, while relative rights give rise to a legal relationship between specific parties that must be respected by others (Antareksa & Dahana, 2022; Soeroso, 2016). However, in the context of mixed marriage, there are no special regulations differentiating the rights and obligations of the parties compared to marriage in general, so the general provisions continue to refer to Law Number 1 of 1974.

Based on the foregoing issues, there is a gap in more specific regulations regarding legal protection of property, particularly land rights, in mixed marriages. This study focuses on analyzing legal protection of land rights acquired through mixed marriages and the mechanisms for distributing inherited assets, in order to provide legal certainty and justice for the parties involved.

METHODS

Departing from the legal issues examined, this study employs a normative legal research method. The primary sources of library research consist of primary and secondary legal materials, with key documents including the Civil Code (*KUHPerdata/Burgerlijk Wetboek*), Law Number 5 of 1960 on Basic Agrarian Principles, Law Number 1 of 1974 on Marriage, and Law Number 12 of 2006 on Citizenship. This research is normative legal research operationalized through the statutory approach (Marzuki, 2017). In addition, a conceptual approach is employed to provide an explanation of the legal regulation of mixed marriages between foreign nationals and Indonesian citizens. The authors then identify legal issues and formulate solutions to the problems based on the application of the normative legal research method.

This study uses three types of legal source materials, namely primary, secondary, and tertiary legal materials. Primary legal materials are authoritative and legally binding in nature, such as the Civil Code (*Burgerlijk Wetboek*), Law Number 16 of 2019 (amendment to Law Number 1 of 1974 on Marriage), the Compilation of Islamic Law (KHI), Government Regulation Number 18 of 2021 on the Management of Land Rights, Law Number 5 of 1960 on Basic Agrarian Principles, Law Number 12 of 2006 on Citizenship, and the Constitutional Court Decision Number 69/PUU-XIII/2015, along with other relevant legislation. In this regard, court decisions are analyzed based on their legal

standing: as primary legal material when they are binding and final (for example, Constitutional Court decisions), and as secondary legal material when used to examine legal arguments, judicial reasoning (*ratio decidendi*), and developments in legal doctrine. The analysis of court decisions is conducted by examining the judges' legal considerations, their conformity with legislation, and their relevance to the legal issues under study.

Secondary legal materials include books, scientific journals, research findings, analyses of court decisions, and seminar proceedings as well as other academic sources from both print and online media that provide explanations and interpretations of the legal issues examined. Tertiary legal materials consist of supporting materials such as legal dictionaries that assist in understanding the primary and secondary legal materials. Legal material collection was carried out through a systematic literature tracing method, namely by identifying initial relevant legal materials, then tracing further references through bibliographies, citations, and related legal documents systematically until comprehensive legal materials were obtained (Satriana, 2013). This study employs descriptive techniques and a legal discovery approach (*rechtsvinding*). Legal conditions or positions based on legal and non-legal propositions are explained through descriptive techniques (Hasan et al., 2002). Legal discovery, according to Sudikno Mertokusumo, is the process by which judges or law enforcement officers find the law in applying general legal norms to concrete events, which in this study is carried out through analysis of relevant legislation and court decisions.

RESULTS AND DISCUSSION

Forms of Legal Protection Over Land Rights Acquired from Mixed Marriages

Mixed marriages between Indonesian citizens (WNI) and foreign nationals (WNA) are increasingly common, whether conducted inside or outside Indonesia. This situation gives rise to legal implications for land ownership in Indonesia, particularly regarding restrictions on land rights for foreign nationals. Under the provisions of the Basic Agrarian Law (UUPA), only Indonesian citizens and certain legal entities may hold ownership rights, rights to cultivate (HGU), and rights to build (HGB). Foreign nationals are only permitted to hold use rights (*hak pakai*) as affirmed in Article 42 of the UUPA. In cases where foreign nationals acquire land through inheritance or as a result of mixed marriage, Article 21 of the UUPA requires that such rights be transferred or relinquished within a specified period (Mahendra & Yustiawan, 2023). It is therefore necessary to firmly distinguish the conceptual difference between ownership rights as a full form of land ownership and use rights, which only grant the authority to use or benefit from land without conferring ownership.

Problems arise when, in practice, couples in mixed marriages do not fully understand these limitations, particularly regarding the legal position of foreign nationals who cannot hold land ownership rights, including land acquired through inheritance. This situation creates legal uncertainty, making it necessary to have protective instruments capable of safeguarding the rights of Indonesian citizens without conflicting with agrarian provisions. One relevant legal instrument is the prenuptial agreement. A prenuptial agreement is an agreement between prospective spouses made before or at the time of marriage to regulate the legal consequences regarding property (Oliogu & Okocha, 2025). This provision is regulated under Article 29 of Law Number 1 of 1974 on Marriage and is consistent with the concept of agreements in the Civil Code (Damanhuri, 2007). Normatively, a prenuptial agreement allows for deviation from the joint marital property system as long as it does not contradict law, morality, and public order as regulated in Article 139 of the Civil Code (Maulidia, 2020).

The validity of a prenuptial agreement remains subject to the conditions for a valid agreement under Article 1320 of the Civil Code and the principle of freedom of contract as set forth in Article 1338 of the Civil Code, which states that an agreement made validly serves as law for the parties and must be executed in good faith (Simanjuntak, 2017). Such an agreement cannot be ratified if it contradicts law, religion, or morality, and may only be amended by mutual consent of both parties without prejudicing third parties. In the event of a violation, the aggrieved party may file a claim either for divorce or for breach of contract (Abdurrahman, 2010; Damanhuri, 2007). Such an agreement cannot be ratified if it contradicts law, religion, or morality, and may only be amended by mutual consent of both parties without prejudicing third parties (Hernoko, 2019).

In the context of protecting land rights, a prenuptial agreement with separation of property is the most effective form of protection. Through this mechanism, property acquired by the Indonesian citizen remains personal property

and does not merge with that of the foreign national spouse, thereby avoiding the legal consequence of losing ownership rights over land. This is reinforced by Constitutional Court Decision Number 69/PUU-XIII/2015, which allows such agreements to be made before or during the course of the marriage. Conversely, without a prenuptial agreement, property within the marriage may potentially be regarded as joint marital property, thereby affecting the ownership status of land. In such circumstances, ownership rights cannot be maintained if there is an element of foreign national ownership, and the land must be adjusted to comply with applicable legal provisions, for example through conversion to use rights. This conversion affirms that the foreign national does not obtain ownership rights, but only the right to use or benefit from the land.

Where land is acquired through inheritance or commingling of assets, the UUPA provides that there is an obligation to transfer the rights within a specified period. This mechanism demonstrates that the position of a foreign national over land is temporary and does not confer permanent ownership rights. Accordingly, this regulation does not constitute a form of ownership protection, but rather a limitation to ensure that land rights remain within the framework of national law. Based on the foregoing, it can be affirmed that the most effective legal protection for Indonesian citizens in mixed marriages to maintain land rights is through a prenuptial agreement with separation of property. This instrument provides legal certainty for both the parties and third parties, and ensures that the possession and use of land remain in accordance with the principles regulated in the UUPA.

Distribution of Inherited Assets Regarding Land Rights Resulting from Mixed Marriages The Position of Foreign National Heirs Receiving an Inheritance in the Form of Land Title Rights in Mixed Marriages

The Constitution of the Republic of Indonesia of 1945 provides the legal basis regarding a person's right to determine their citizenship status, including a change of citizenship from one country to another. In the context of globalization, changes in citizenship have become increasingly common, including among Indonesian citizens who, for reasons of education, employment, or marriage, choose to become foreign nationals (Charity, 2016). This change in citizenship status has legal implications, particularly with respect to the possession and ownership of land in Indonesia.

Land as the primary natural resource holds strategic value as well as social and spiritual significance for the Indonesian people. Therefore, the state, through the agrarian legal system, has the authority to regulate the allocation, use, and ownership of land in order to ensure the welfare of the people (Harsono, 2007). This principle derives from Article 33 of the 1945 Constitution, which affirms that the earth, water, and natural resources are controlled by the state for the greatest benefit of the people. In this context, it is important to draw a firm distinction between land ownership rights, rights of control, and rights of use, as each carries different legal consequences.

Under the Basic Agrarian Law (UUPA), the state has the authority to grant land rights to individuals and legal entities. Article 9 paragraph (2) of the UUPA affirms that every Indonesian citizen has an equal opportunity to obtain land rights. However, the UUPA also strictly limits the rights of foreign nationals, who in principle cannot hold ownership rights, rights to cultivate (HGU), or rights to build (HGB), but are only permitted to hold use rights or lease rights as regulated in Articles 42 and 45 of the UUPA.

The state's authority to control land as regulated in Article 2 paragraph (2) of the UUPA is not interpreted as state ownership, but rather as the authority to regulate, manage, and determine the legal relationship between persons and land. This authority aims to achieve the prosperity of the people within the framework of a sovereign and prosperous state. Within this system, ownership rights are the strongest and most complete rights, which may only be held by Indonesian citizens, and may be transferred through sale and purchase, grant, bequest, or inheritance (Suwarni et al., 2020).

In the context of inheritance, Indonesia recognizes legal pluralism, namely Islamic inheritance law, customary inheritance law, and civil inheritance law (BW). Inheritance is a legal event resulting in the transfer of the rights and obligations of the decedent to the heirs upon the death of the decedent. Heirs, whether related by blood or the surviving spouse, are entitled to the estate (Subeitan, 2021). However, problems arise when the heir is a foreign national, because

although they remain legally entitled to the estate under inheritance law, there are restrictions under agrarian law regarding land ownership.

In practice, a lack of awareness of agrarian law often gives rise to disputes, particularly when foreign nationals receive land rights through inheritance (Krisnawati & Kusumasari, 2022). In principle, Indonesian law does not prohibit foreign nationals from becoming heirs. This is consistent with the *saisine* principle in civil law, which states that the rights and obligations of the decedent automatically transfer to the heirs at the moment of death. However, such rights do not automatically confer the authority to own land with ownership right status.

This restriction is affirmed by the nationality principle in the UUPA (Articles 1–3), which states that only Indonesian citizens may hold land ownership rights (Article 21 paragraph (1) of the UUPA). Foreign nationals are also not entitled to HGU or HGB as regulated in Articles 30 and 36 of the UUPA. The rights that may be held by foreign nationals are limited to use rights, which grant the authority to use or benefit from land without conferring ownership. These provisions are further reinforced by various regulations, such as Law Number 11 of 2020 on Job Creation and Government Regulation Number 18 of 2021, which further regulate land rights for foreign nationals. Thus, the position of foreign nationals as heirs to land in Indonesia is limited in nature. Although they remain legally valid as recipients of rights under inheritance law, the exercise of such rights must be adjusted to comply with agrarian law provisions. Foreign nationals who acquire land with ownership right status are required to transfer such rights within a period of one year as regulated in Article 21 paragraph (3) of the UUPA. If this obligation is not fulfilled, the land rights are extinguished by operation of law and the land reverts to state ownership.

As a form of solution, there are several mechanisms available to foreign nationals to continue benefiting from inherited assets without violating legal provisions. First, the land may be transferred to another party who qualifies as a subject of ownership rights, such as an Indonesian citizen, through sale and purchase, grant, or exchange. Second, the status of land rights may be downgraded to use rights, so that the foreign national may continue to use and benefit from the land in accordance with applicable provisions. Third, the foreign national may receive the economic value of the land through sale, thereby still obtaining their entitlement as an heir. Furthermore, ownership of residential property by foreign nationals is also restricted to those who hold a valid residence permit in accordance with applicable legislation (Hidayati & Pasaribu, 2021). This demonstrates that although there is room for foreign nationals to access land and buildings in Indonesia, such access is limited and does not confer full ownership rights.

Based on judicial practice, foreign nationals or individuals who have changed citizenship continue to be recognized as legitimate heirs and do not lose their inheritance rights. However, such rights are more appropriately understood as the right to obtain economic benefit or limited possession, rather than full ownership rights over land. Accordingly, there is no contradiction between inheritance law and agrarian law, but rather a limitation in the exercise of such rights. It can therefore be affirmed that the Indonesian legal system continues to provide protection for the inheritance rights of foreign nationals, but within the limitations determined by national agrarian law. The distinction between rights as an heir and rights over land must be clearly understood, so as not to give rise to misunderstandings in practice. This is important to ensure that legal certainty is maintained for both Indonesian citizens and foreign nationals alike, and remains consistent with the nationality principle in the UUPA.

Legal Protection of Inheritance Rights Over Land Title Rights Received by Foreign Nationals in Mixed Marriages

Land is one of the strategic resources with a high degree of complexity in its management, particularly in a country such as Indonesia with its vast territory and social and cultural diversity. As a state based on the rule of law as affirmed in Article 1 paragraph (3) of the 1945 Constitution, Indonesia guarantees legal certainty and legal protection for every citizen, including in the field of land. This principle demands a clear legal system, professional law enforcement officers, and consistent implementation of the law in order to create justice and order in society. In the context of land, legal certainty is realized through the land registration mechanism, which serves as the basis for a person to obtain and prove land rights. This process positions the state as the authority responsible for granting and regulating land rights, while prioritizing data accuracy and the accountability of the parties involved in the acquisition of such rights.

Land disputes in Indonesia continue to develop and become increasingly complex, caused among other things by land scarcity, overlapping ownership, duplicate certificates, and inheritance disputes, including those involving heirs of foreign nationality (Widodo et al., 2023). This situation demonstrates that the legal aspects of land do not only concern ownership, but also involve the certainty of legal status and protection for parties with an interest in the land. Within the agrarian legal framework, Article 21 of the UUPA affirms the restriction on land ownership rights, which are reserved exclusively for Indonesian citizens. Nevertheless, the UUPA also regulates mechanisms for the transfer and conveyance of rights. Transfer of rights (*beralih*) occurs as a result of a legal event, such as inheritance, while conveyance of rights (*dialihkan*) is a deliberate legal act, such as through sale and purchase or grant (Salindeho, 1987). In the event that land ownership rights are acquired by a foreign national through inheritance or as a result of a change in citizenship, Article 21 paragraph (3) of the UUPA requires that such rights be relinquished within a period of one year. If this is not carried out, the rights are extinguished by operation of law and the land reverts to state ownership.

These provisions demonstrate that Indonesian agrarian law explicitly distinguishes between ownership of land rights and the mechanism of acquiring rights. Although the acquisition of rights may lawfully occur through a legal event such as inheritance, the ownership of land ownership rights remains restricted by the nationality principle. Therefore, every acquisition of land rights must be adjusted to comply with applicable legal provisions in order to prevent disputes and legal uncertainty in the future.

In practice, when a person dies leaving behind assets in the form of land rights, this is referred to as “inheritance of land.” In connection with the ownership of land title rights by foreign nationals, the regulation is in accordance with the UUPA. Various legal remedies may be undertaken by heirs who are foreign nationals with respect to land held under title rights by reason of inheritance. The author’s analysis is as follows:

Pursuant to the Indonesian Citizenship Law and the relevant Government Regulation on the procedures for acquiring, losing, canceling, and reacquiring citizenship, every former Indonesian citizen who has lost their nationality is lawfully entitled to apply for reacquisition of Indonesian citizenship. By availing themselves of this legally protected right, they may recover all privileges inherent to Indonesian citizenship, including Title Rights over land inherited in their favor.

Within the period mandated by Article 21 paragraph (3) of the UUPA, the foreign national heir may transfer their right to another heir.

In the event that the foreign national heir fails to comply with the mandate of Article 21 paragraph (3) of the UUPA namely, to transfer their right within 1 (one) year, so that their right has been extinguished by operation of law and the land has reverted to the state, then in such case, as a former land right holder, the foreign national may re-apply for a right of use, because the law and regulations give priority to rights of use for former land right holders (in accordance with the provisions of Article 49 of Government Regulation 18/2021).

Heirs may also transfer title rights over land through sale and purchase, auction, exchange, or donation, within the time period provided by the UUPA; however, the foreign national will no longer have any rights over land in Indonesian territory, having instead received cash in exchange.

Through a court decision, a foreign national may be granted the right to occupy (including the attendant rights to utilize, manage, and enjoy economically), as established in Supreme Court Decision Number 3143 K/Pdt/2010.

Based on Article 21 paragraph (1) of the Basic Agrarian Law (UUPA), only Indonesian citizens (WNI) are permitted to hold land ownership rights. This provision constitutes a firm restriction on land ownership by foreign nationals (WNA). In the event that a foreign national acquires land ownership rights, whether through inheritance or as a result of a change in citizenship, then pursuant to Article 21 paragraph (3) of the UUPA, the party concerned is obligated to transfer or relinquish such rights within a period of one year from the date the rights were acquired or from the date the citizenship status changed. If this obligation is not fulfilled, the land rights are extinguished by operation of law and the land reverts to state ownership (Syarifuddin, 2021). These provisions demonstrate that although inheritance law grants foreign nationals the right to receive an inheritance, including land, agrarian law continues to restrict the form of rights that may be held. It is therefore necessary to draw a firm distinction between rights as an heir and rights over land. Rights as an heir continue to be recognized, however the exercise of such rights must be adjusted to comply with the provisions of the UUPA.

In judicial practice, there are several decisions that demonstrate how the law accommodates the position of foreign nationals as heirs without violating agrarian provisions. In Decision Number 3143 K/Pdt/2010, the plaintiff was a foreign national who received an inheritance in the form of a house situated on land with ownership right status. Although under agrarian law the plaintiff was no longer entitled to such ownership rights having become a foreign national, the court nonetheless granted the right to occupy and use the object for the duration of their lifetime. This right encompasses the use, management, and economic benefit of the inherited object, but cannot be equated with land ownership rights. The right to occupy constitutes a form of legal protection grounded in considerations of justice, propriety, and social conditions, particularly as a guarantee of the heir's continued livelihood. Juridically, this right differs from ownership rights as regulated under the UUPA, since it does not confer full ownership authority, but only limited rights of possession and use. Accordingly, there is no contradiction between inheritance law and agrarian law, but rather a limitation in the exercise of rights.

Furthermore, the right to occupy and benefit from inherited objects may also derive from an agreement between the parties that is legally binding pursuant to Articles 1320 and 1338 of the Civil Code. Where such an agreement is set forth in a deed of settlement before the court, then pursuant to Article 130 of the HIR or Article 154 of the RBG, the deed carries permanent legal force and executorial force. Therefore, the granting of the right to occupy does not contradict the law as long as it does not transfer ownership rights to a foreign national. The principle prohibited by the UUPA is the ownership of land ownership rights by foreign nationals, not limited possession or economic use of the land. This demonstrates that the law continues to provide room for foreign nationals to benefit from inherited assets without violating agrarian provisions. This approach is also consistent with the guarantee of human rights under the 1945 Constitution, particularly Articles 28A and 28E, which guarantee the right to life and to sustain one's livelihood.

In another decision, namely Decision Number 776 K/Pdt/2014, the court declared the heirs, including those with foreign national status, as legitimate heirs with equal rights. However, where the inherited object in the form of land cannot be physically divided, it is sold through auction and the proceeds are distributed to the heirs in accordance with their respective shares. This mechanism constitutes a legal solution that continues to recognize the inheritance rights of foreign nationals without violating the prohibition on land ownership rights. A similar approach is also evident in Decision Number 2406 K/Pdt/2020, in which the court recognized the foreign national's status as a legitimate heir, but affirmed that they could not hold land ownership rights. Where direct division is not possible, the inherited object is sold and the proceeds distributed to the heirs. In this way, the economic rights of the heirs remain protected. Both decisions demonstrate that judicial practice in Indonesia is consistent in separating inheritance rights from land rights. Foreign nationals continue to be recognized as legitimate heirs, however the exercise of their rights is restricted in accordance with the provisions of the UUPA. Mechanisms such as the transfer of rights, the downgrading of right status, or sale through auction constitute legally valid solutions.

Normatively, the Civil Code continues to provide protection to heirs, including foreign nationals, through the *saisine* principle as regulated in Article 833 paragraph (1), which states that heirs automatically acquire rights to the estate of the decedent. In addition, Article 834 of the Civil Code grants heirs the right to file a claim if their rights are violated. These provisions are reinforced by Articles 830, 832, and 833 of the Civil Code, which affirm that inheritance occurs upon death and that such rights transfer to the legitimate heirs (Suhartono et al., 2022). From a theoretical perspective, the protection of the inheritance rights of foreign national heirs is also consistent with the Legal Protection Theory advanced by Soetjipto Rahardjo and the Inheritance Law Theory by Wirjono Prodjodikoro, both of which emphasize the importance of guaranteeing individual rights within the legal system. Nevertheless, such protection is not absolute in nature, but is limited by the provisions of national agrarian law. It can therefore be affirmed that differences in citizenship between the decedent and the heir do not extinguish a person's right to receive an inheritance. However, where the inherited object consists of land with ownership right status, foreign nationals are obligated to adjust the exercise of their rights to comply with the provisions of the UUPA. Accordingly, legal protection for foreign nationals as heirs lies in the recognition of their inheritance rights, while the restriction on land ownership constitutes a form of regulation to uphold the nationality principle in Indonesian agrarian law.

Legal protection for foreign national heirs regarding an inheritance in the form of land title rights is regulated in the UUPA, specifically Article 21 paragraph (3), which protects the rights of foreign nationals as heirs, with the

requirement that they must relinquish the land title right within one year of acquiring the right (Ratu & Santika, 2024; Sudiarto, 2021). Within that period, the foreign national may transfer or sell the title right land to another heir or other party, or downgrade the right to a right of use. Upon the conclusion of that period, the right is extinguished by operation of law, and the land reverts to the State as a matter of legal necessity. Notwithstanding this automatic reversion, Supreme Court Decision Number 3143 K/Pdt/2010 provides that, to preserve the life and livelihood of a foreign national heir, such an heir may be endowed with the right of occupancy including the derivative rights to utilize, manage, and enjoy economic benefits given the absence of any statutory prohibition within Indonesian positive law against a foreign national occupying or deriving economic advantage from a residential or building object. In light of the foregoing analysis and legal clarification, the author therefore advances the following interpretation:

The distribution of inherited assets in the form of land in mixed marriages (between Indonesian citizens and foreign nationals) has unique characteristics due to the restrictions on land ownership for foreign nationals in Indonesia under Law No. 5 of 1960 on Basic Agrarian Principles (UUPA). The following is an explanation of the distribution mechanism and its legal consequences:

Nationality Principle in Land Ownership

In Indonesia, Title Rights (*Hak Milik*) may only be held by Indonesian Citizens (WNI). This has a direct impact on the inheritance process:

Foreign National Heirs: Still entitled to receive the inheritance in terms of economic value, but legally may not permanently hold Title Right status.

Obligation to Relinquish: Based on Article 21 paragraph (3) of the UUPA, foreign nationals who acquire Title Rights through inheritance are obligated to relinquish those rights (by selling or donating them to an Indonesian citizen) within 1 year of acquiring the right.

Distribution Scenarios Based on Asset Status

Distribution is highly dependent on whether the couple has a Marriage Agreement (Asset Separation) or not:

Table 1. Asset Distribution Scenarios Based on Marriage Agreement Status

Asset Condition	Explanation of Distribution
Without Marriage Agreement	Land is considered Jointly Acquired Property. If the Indonesian citizen spouse passes away, then 50% belongs to the foreign national spouse (as joint property) and the remaining 50% constitutes the inherited estate to be distributed among the heirs (spouse and children).
With Marriage Agreement	The land is entirely owned by the Indonesian citizen spouse. Upon death, 100% of the land becomes the inherited estate to be distributed among the heirs in accordance with applicable inheritance law.

Source: Law Number 1 of 1974 on Marriage, Articles 29 & 35 concerning joint marital property and prenuptial agreements; Basic Agrarian Law Number 5 of 1960, Article 21 concerning the prohibition on foreign nationals holding land ownership rights; the Civil Code or the Compilation of Islamic Law concerning the distribution of inheritance.

Procedures to Be Followed by Foreign National Heirs

If it is determined that the heirs, or other heirs, are foreign nationals who have received an inheritance of Title Right land, two main options are indicated to prevent the loss of the asset's value.

Sale/Transfer: Selling the land to another party (Indonesian citizen) within less than 1 year. The proceeds of the sale become entirely the right of the heir.

Downgrade of Right: Filing an application with the Land Office (BPN) to change the status of the land from Title Right to Right of Use. Foreign nationals are permitted to hold land under Right of Use status (for a specified period).

If the relinquishment of the right or a change in its status is not carried out within one year, the land is legally reverted to the State, and the heir's rights over the land are extinguished.

Position of Children in Mixed Marriages

Children with Dual Citizenship: Before reaching the age of 18 (or 21 if already married), children born of a mixed marriage may still hold Title Rights.

Upon Reaching Adulthood: If the child chooses to become a foreign national, the same rules applicable to foreign nationals apply (obligated to relinquish the right within 1 year). If the child chooses to become an Indonesian citizen, they may fully hold the land as Title Right.

CONCLUSION

Legal protection of land rights in mixed marriages fundamentally depends on the existence of a prenuptial agreement with separation of property. Such an agreement serves as the primary instrument to ensure that land ownership rights remain with the Indonesian citizen party and are not affected by the restrictions on ownership applicable to foreign nationals as regulated under the UUPA, thereby providing legal certainty for the parties and third parties. With regard to the distribution of inherited assets, foreign nationals continue to be recognized as legitimate heirs, however the exercise of their rights is restricted by agrarian law. Foreign nationals may not hold land ownership rights and are obligated to transfer, downgrade the status of, or extract the economic value of such rights within the prescribed period. The primary legal implication of this arrangement is the firm separation between the recognition of inheritance rights and the restriction on land ownership, which affirms that legal protection for foreign nationals lies in the aspect of economic rights, while the nationality principle remains the foundation of land ownership rights in Indonesia.

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