

## JURIDICAL ANALYSIS OF TENURE RIGHTS TO LAND BY FOREIGN CITIZENS IN KARIMUNJAWA ISLANDS, INDONESIA

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### ABSTRACT

*The control of land rights by foreign citizens and foreign legal entities still needs to be limited with limited rights. Foreign citizens can only be granted the right to land use rights or lease rights for buildings. The possibility for foreign citizens in Karimun Jawa and foreign legal entities to control land rights such as Indonesian citizens and Indonesian legal entities cannot be justified, because statutory regulations prohibit it. Problem formulation: 1). What land rights do foreigners in Karimun Jawa control? 2). How should foreign citizens control land rights in Karimun Jawa? The approach method uses juridical empirical, the research specification is descriptive-analytical, the data source consists of primary data and secondary data, the data collection method is through interviews and document studies, the analysis method used is qualitative analysis. Research results: 1). Land rights controlled by foreign citizens in Karimun Jawa Village are property rights, a form of legal action by foreign citizens controlling land rights in Karimun Jawa Village through mixed marriages and indicated through a notary deed in the form of a nominee agreement and an agreement- another agreement, the use of land rights by foreign citizens in Karimun Jawa Village for businesses to build inns like homestays, hotels, villas, cottages, and resorts2). The nominee agreement contradicts the Basic Agrarian Law, however legally formal it is still valid because ownership rests with Indonesian citizens.*

Key words: Mastery of Land Rights, Foreign Citizens, Karimun Jawa. Nominee agreement.

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### BACKGROUND

Karimun Jawa Islands is one of the sub-districts of the 16 Districts in Jepara Regency, Central Java, and is separated from the district capital which is located on the island of Java. Karimun Jawa is located north of Jepara Regency with a distance of approximately 45 miles or 90 km from the capital city of Jepara Regency and must be reached by sea or air transportation. Karimun Jawa Islands have the potential to become a coastal tourism area so that the land is the target of investors for business interests in the tourism sector.

Control over land rights in Karimun Jawa generally has the status of ownership rights. Apart from property rights, the status of ownership of land rights in Karimun Jawa uses usage rights. The control of land rights in Karimun Jawa, especially the use and utilization of land, is generally used to establish lodgings, such as homestays, hotels, cottages, rides, or tourist attractions such as resorts and farming.

Subjects that can be granted and have land rights are following the principle of nationality which is the basis of Law Number 5 of 1960 concerning Basic Agrarian Basic Regulations which are later referred to as the Basic Agrarian Law, as stated in Article 9 which states that:

"Only Indonesian citizens can have a full relationship with the earth, water, and space."

About ownership of land rights, Article 26 paragraph (2) of the Basic Agrarian Law, states that property rights to foreigners are prohibited, and violations of this article are subject to legal sanctions. However, the Basic Agrarian Law does not completely close the opportunity for foreign citizens and foreign legal entities to have rights to land in Indonesia. Foreign citizens can have land rights in Indonesia, but limited, that is, only allowed with the status of a right to use or lease rights for buildings. No other land rights.

The possibility for foreigners and foreign legal entities to be able to control lands such as Indonesian citizens and Indonesian legal entities will not be fully justified. In practice, ownership remains the property of Indonesian citizens, but only in the name of the owner, but cannot use it as the real owner.

### Formulation of the problem

Based on the background that the author has described, the author focuses on the problems which are formulated as follows:

1. What land rights do foreigners in Karimun Jawa control?
2. How should foreign nationals control land rights in Karimun Jawa?

## LITERATURE REVIEW

### 1. Definition of Control and Ownership of Land Rights

According to the Big Indonesian Dictionary "mastery" and "master" come from the root word of power. Mastery means the process, method, act of controlling or empowering while controlling means controlling something or holding power over something.<sup>1</sup>

According to Article 33 paragraph (3) of the 1945 Constitution, namely: "The earth, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people". The state is limited to controlling but not owning and the prosperity of the people is the main foundation in ownership of land rights.

Control in connection with this article is related to ownership of land rights as regulated in Article 20 of the Basic Agrarian Law which states that:

- (1) Property rights are the strongest and fullest hereditary rights to land that a person can have over land, taking into account the provisions in Article 6.
- (2) Property rights can be transferred and transferred to other parties.

Furthermore, control of land rights according to Article 4 of the Basic Agrarian Law confirms that:

- (1) Based on the right to control of the state as meant in Article 2, it is determined that there are various rights over the surface of the earth, which are called land, which can be given to and owned by persons, either alone or together with other people and bodies law.

The hierarchy of land tenure rights in the Basic Agrarian Law and National Land Law, namely:

1. The rights of the Indonesian people as mentioned in article 1, are the highest land tenure rights, with civil and public aspects;
2. The right to control of the State as mentioned in article 2, solely has the public aspect;
3. The customary rights of indigenous peoples as mentioned in article 3, have civil and public aspects;
4. Individual rights/individuals, all on a civil perspective, consist of:
  - a. Rights to Land as individual rights, all of which are directly or indirectly derived from the Rights of the Nation, which are mentioned in articles 16 and 53;
  - b. Waqf, namely property rights that have been donated article 49;
  - c. Security rights over land are called Mortgage Rights in articles 25, 33, 39, and 51.<sup>2</sup>

### 2. Land Rights in Indonesia

Land rights are stated in Article 4 paragraph (1) of the Basic Agrarian Law:

"Based on the right to control of the state as meant in Article 2, it is determined that there are various rights over the surface of the earth, which are called land, which can be given to and owned by people, either alone or together with other people and bodies -legal entity".

Furthermore, Article 16 paragraph (1) of the Basic Agrarian Law confirms that

- (1) Land rights as meant in Article 4 paragraph (1) are:
  - a. Right of ownership
  - b. Cultivation Rights
  - c. Building rights
  - d. Right to Use

<sup>1</sup>Ministry of National Education, 2008, Big Indonesian Dictionary, (Jakarta: Language Center), p. 763.

<sup>2</sup>Boedi Harsono, 2003, Indonesian Agrarian Law: History of the Formation of Basic Agrarian Laws, Content and Implementation, Volume 1, (Jakarta: Djambatan), p. 24.

- e. Lease Rights
- f. Land Opening Rights
- g. Right to Collect Forest Products
- h. Rights which are not included in the aforementioned rights which will be stipulated by law as well as rights which are temporary as mentioned in article 53.

Individuals or legal entities that can become holders of land rights (subject to land rights) are:<sup>3</sup>

- 1) Individual
  - a. Indonesian citizens
  - b. Foreigners domiciled in Indonesia.
- 2) Legal entity
  - a. State institutions
  - b. Ministry
  - c. Non-Ministerial Government Institutions
  - d. State-owned enterprises
  - e. Regional owned enterprises
  - f. Provincial government
  - g. Regency / City Government
  - h. Village government
  - i. Authority Agency
  - j. Representatives of foreign countries
  - k. Representatives of international agencies
  - l. Limited company
  - m. Foundation
  - n. Religious bodies
  - o. Social agency
  - p. Foreign legal entities that have representatives in Indonesia.

Broadly speaking, there are only two land rights:<sup>4</sup>

- 1. Rights controlled by individuals or legal entities
- 2. Rights controlled by the state

Article 1 Government Regulation Number 38 of 1963 concerning the Designation of Legal Entities That Can Have Land Rights, namely:

- a. Banks established by the State (hereinafter referred to as state banks);
- b. Agricultural Cooperative Associations established under Law No. 79 of 1958;
- c. Religious bodies, appointed by the Minister of Agriculture / Agrarian Affairs, after hearing the Minister of Religion;
- d. Social agencies appointed by the Minister of Agriculture / Agrarian after hearing the Minister of Social Welfare.<sup>5</sup>

Furthermore, Article 21 of the Main Agraria Law states that only Indonesian citizens can have property rights.

Based on the various laws and regulations above, it can be emphasized that ownership of land rights can only be owned by Indonesian citizens. Foreign citizens do not have the authority to do so, but it is not further regulated regarding ownership by foreign nationals in other ways.

### 3. Mastery of Land Rights by Foreign Citizens

Article 26 paragraph (2) of the 1945 Constitution states:

"Residents are Indonesian citizens and foreigners residing in Indonesia".

This means that a foreign citizen may reside in Indonesia, or a foreign citizen is someone who resides in a certain country but is not a citizen of that country.<sup>6</sup>

<sup>3</sup> Urip Santoso, 2017, Rights to Land, Management Rights, and Ownership Rights to Flats, (Jakarta: Kencana Prenadamedia Group), pp. 13-14.

<sup>4</sup> Jimmy Joses Sembiring, 2010, Guide to Managing Land Certificates, (Jakarta: Visimedia), p. 6.

<sup>5</sup> Supriadi, 2016, Agrarian Law, Seventh Printing, (Jakarta: Sinar Grafika), p. 66.

<sup>6</sup> Titik Triwulan Tutik, 2008, Principles of Constitutional Law Post Amendment to the 1945 Constitution, (Jakarta: Cerdas Pustaka), p. 347.

Article 9 paragraph (1) of the Basic Agrarian Law states that:

"Only Indonesian citizens can have full relations with the earth, water, and space within the limits of the provisions of Articles 1 and 2."

Certain boundaries indicate the existence of a period of land rights stipulated in government regulations, namely:

1. Property rights are the strongest and fullest hereditary rights that people can have overland (Article 20 paragraph (1) of the Basic Agrarian Law).
2. Right to Cultivate, granted for a maximum period of 35 (thirty-five) years, can be extended for a maximum of 25 (twenty-five) years and then can be renewed.
3. Building Use Rights, granted for a maximum period of 30 (thirty) years, can be extended for a maximum of 20 (twenty) years and then can be renewed.
4. The Right to Use, granted for a maximum period of 25 (twenty-five) years, can be extended for a maximum of 20 (twenty) years or for an unspecified period (as long as the land is used for certain purposes) and can be renewed. The right to use the right of owning land is granted for a maximum period of 25 (twenty-five) years, cannot be extended.

#### 4. Nominee Agreement

Article 1317 of the Civil Code states:

"An agreement can also be made for the benefit of a third person, if an agreement made for oneself, or a gift to another person, contains such conditions."

The practice of nominee agreements occurs in terms of ownership of land rights by foreign nationals who are prohibited by law from owning title to land (Article 21 Basic Agrarian Law). In the nominee agreement, it is agreed that the land rights use the name and finances of the foreign citizen and there is a statement from the Indonesian citizen that the right to the land belongs to the foreign citizen. The agreement and the attorney of this kind are against the law and the result is null and void. The nominee agreement apart from being a sham agreement also contains prohibited causes (Article 1335 of the Civil Code).<sup>7</sup>

The nominee concept is known by 2 (two) parties, namely the nominee who is legally registered and the beneficiary who enjoys every benefit and benefit from the actions taken by the party that is legally registered.

Several aspects that indicate the direct transfer of ownership rights from these agreements are as follows:<sup>8</sup>

1. Land Ownership Agreement and Authorization
2. Option Agreement
3. Lease Agreement
4. Power of Attorney to Sell
5. Will Grants
6. Heir Statement Letter

In addition to the aforementioned forms of agreements, there are other agreements which aim to transfer property rights indirectly to foreign nationals in the following forms:<sup>9</sup>

1. Debt Recognition Deed;
2. A statement that Indonesian citizens obtain loan facilities from foreign nationals to be used to build businesses;
3. Deed A statement by the Indonesian citizen that the land with ownership rights is the property of a foreign citizen;
4. Power to Sell
5. Power Roya
6. Rent Renting Land

<sup>7</sup>Herlien Budiono, 2011, *General Doctrine of Covenant Law and Its Application in the Field of Notary*, (Bandung:Citra Aditya Bakti)p. 270.

<sup>8</sup>Martin Roestamy, 2011, *Concepts of Property Ownership for Foreigners*, (Bandung: PT. Alumni) p. 206.

<sup>9</sup> *Ibid*, p. 208.

7. Power.

## RESEARCH METHODS

This study uses an empirical juridical approach, which is an approach method that gives the position of the researcher to examine what lies behind the appearance of the application of legislation.<sup>10</sup> The research specification is descriptive-analytical, which describes a valid, factual, and systematic way based on the correlation of research data. Sources of data are primary data and secondary data. Data collection methods are carried out by interviews and documentary studies. The data analysis method uses a qualitative analysis.

## RESEARCH RESULTS AND DISCUSSION

### 1. Rights to land controlled by foreigners in Karimunjawa

Land rights are rights that give authority to those who have the right to use or benefit from the land they own.<sup>11</sup>

The land that is mostly controlled by foreign nationals in the Karimunjawa Islands is in Karimunjawa Village. Factors that influence the number of foreign nationals choosing to control land rights in Karimunjawa Village because Karimunjawa Village is the only village closest to the port or access to the arrival and return of tourists, and is the center of the crowd or the heart of the Karimunjawa archipelago which is closest to several tourist destinations which is in the Karimunjawa islands.

Foreign citizens control land rights in Karimunjawa Village because of mixed marriages, namely between Indonesian citizens and foreign nationals. Many of the land rights in Karimunjawa Village are controlled by foreign nationals with the status of title to private land in the name of their spouse through mixed marriages or indicated by the nominee or other agreements.

Based on data collected at the Karimunjawa Village Officials Office, the number of foreign nationals in Karimunjawa Village in January 2020, a total of 13 people, consisting of 5 foreign nationals from the Netherlands, 2 foreign nationals from England, 2 foreign nationals from Germany, 2 citizens foreign countries from France and 2 foreign nationals respectively from Spain and Italy.

Based on data submitted by Karimunjawa Village Officials, there are 13 (thirteen) mixed marital statuses committed by foreign nationals and Indonesian citizens in Karimunjawa Village. Of the 13 (thirteen) mixed marriages, 3 (three) of them were conducted with Indonesian citizens, the original inhabitants of Karimunjawa Village.<sup>12</sup>

At the macro level, the practice of ownership of land rights by foreign citizens in Karimunjawa Village is influenced by:

#### 1. Laws and regulations

On the one hand, foreign citizens are prohibited from having rights to land with property rights, however, it is possible for foreign citizens in Karimunjawa to control land rights with property rights, namely through mixed marriage or indicated by nominee or loan agreements. other.

#### 2. Mixed Marriage

The existence of mixed marriages in Karimunjawa Village between foreign nationals and Indonesian citizens affects the ownership of assets in a marriage. In Karimunjawa Village, many cases arise regarding the ownership and control of land rights obtained by foreign nationals through mixing assets in marriage with Indonesian citizens.

#### 3. Bureaucrat Support

In general, the control of land rights by foreign nationals in Karimunjawa Village indirectly receives support from bureaucrats.

#### 4. Tourism Potential

The tourism potential of Karimunjawa Village is:

##### a) Potential of Nature Tourism

The potential for natural tourism is the natural landscape or physical condition of Karimunjawa Village with its beautiful beaches, hills, flora, fauna, and underwater beauty.

##### b) Potential of Cultural Tourism

The potential for cultural tourism is all the results of human creations, tastes, and initiatives in the form of customs (Lomba Party), handicrafts, or historical relics.

##### c) Man-Made Tourism Potential

Man-made tourism potential can be in the form of tourist attractions in Karimunjawa Village.

These various influences indicate that the Karimunjawa Islands have good prospects in the field of tourism, both in the form of natural, artificial, and cultural tourism. These various potentials open up tremendous business opportunities that can still be developed further.

<sup>10</sup>Mukti Fajar and Yulianto Achmad, 2015, *Dualism of Normative & Empirical Legal Research*, (Yogyakarta, Student Library), p. 48.

<sup>11</sup>Budhi, Interview, Usage Rights Section of the National Land Agency (BPN) Jepara Regency, Wednesday, February 5, 2020.

<sup>12</sup>Arif Rahman, Interview, Karimunjawa Village Official, Saturday, February 1, 2020.

Business opportunities in Karimunjawa Village that attract Indonesian citizens and foreign nationals:<sup>13</sup>

1. Lodging business
2. Culinary business
3. Vehicle rental business
4. Souvenirs Selling Business
5. Translation Services Business
6. Photography and Videography Services Business
7. Diving and Snorkeling Equipment Rental Business

Based on the results of an interview with one of the employee notary-Official for Making Land Deeds in Jepara Regency (UM)<sup>14</sup>, Foreign Citizens in their efforts to get the right to free land for businesses or build inns such as *homestay*, hotels, villas, cottages, and resorts or other businesses conducted covertly by mixed marriages or using a nominee loan agreement.

Based on the results of an interview with one of the employees of a Notary-Public Land Deed Maker in Jepara Regency, some nominee agreements were made in the form of an underhand deed, some were made in the form of a Notary. The nominee agreement contains a statement that ownership of land rights does not belong to him. Besides, it is accompanied by a power of attorney to sell, and Indonesian citizens as nominees cannot file a lawsuit or claim or compensation.<sup>15</sup>

Based on the results of an interview with a resident of Karimunjawa Village who was once a nominee (SM)<sup>16</sup>, the nominee sale and purchase of land for a foreign citizen are carried out based on trust, which continues to become a friendship, until an idea arises from a foreigner to buy land in Karimunjawa using the name (SM) in exchange for a certain amount of money given. After signing the agreement in front of a notary without knowing the contents of the agreement beforehand, and after the signature (SM) is given an amount of money by the foreign citizen and is still promised to be given a reward annually, but what is promised is that the annual reward is not done by foreign citizens who borrowed his name, and (SM) could not do anything because he did not know and did not have proof of the agreement he had signed before the notary.<sup>17</sup>

The legal actions of the parties are carried out before a Notary after there is an agreement verbally between the two of them, then the aims and objectives are stated in a deed of agreement (nominee). The contents of the agreement, in essence, are debts, which contain a statement that the money used to buy the land is recognized by Indonesian citizens as the property of foreign citizens. The act of buying and selling and signing of the nominee agreement was carried out at that time, which began with the signing of the sale and purchase of land by Indonesian citizens, namely residents of Karimunjawa Village as landowners with the buyer (nominee) who were both native Karimunjawa residents in front of the Land Deed Maker Officer,<sup>18</sup>

## 2. Control of land rights by foreign citizens in Karimunjawa in the future.

Based on the results of an interview with one of the speakers (Rahmawati Dwi Jayani,<sup>19</sup>Notary-Official Land Deed Maker in Jepara), who expressed his opinion, that the nominee agreement is contrary to Article 26 paragraph (2) of Law Number 5 of 1960 concerning Basic Agrarian Regulations. Philosophically, nominee agreements are prohibited, because of the smuggling of laws and the existence of unprotected rights. Because basically, the agreement made is to provide equal rights and obligations based on the principles/principles of the contract law which is the basis for agreeing.

Normatively, agreements are made based on applicable laws and become guidelines in legal actions. In this case the sale and purchase of land, namely the Basic Agrarian Law and other related agreement regulations.

Empirically, the agreement is based on the interests of the parties, that the nominee agreement indicates that there is legal smuggling regarding the sale and purchase of land for foreigners in connection with the sale and purchase of land using a nominee agreement and other agreements are indicated.

Based on the results of an interview with Mr.Budhi, the Usage Rights Section of the Jepara Regency National Land Agency states, foreign citizens domiciled in Indonesia and foreign legal entities that have representatives in Indonesia can only be granted with use rights or lease rights for buildings.<sup>20</sup>

As a follow-up to the aforementioned legal provisions, Government Regulation Number 103 of 2015 concerning Ownership of Residential or Residential Homes by Foreigners Domiciled in Indonesia states that foreigners domiciled in Indonesia can have a house for residence or occupancy with certain land rights, namely usage rights. What is meant by foreigners are foreigners whose presence in Indonesia provides benefits for national development. It is emphasized again in the elucidation of Article 1 paragraph

<sup>13</sup> Soleh, Interview, Karimunjawa District Staff, Sunday, February 2, 2020.

<sup>14</sup> UM (initial), Interview, Notary Employee - Jepara Regency Land Deed Maker, Friday, 7 February 2020.

<sup>15</sup> Ibid.

<sup>16</sup>(BC) , Interview, Nominee of Karimunjawa Village, Sunday, February 1, 2020.

<sup>17</sup>SM (initial), Interview, Nominee of Karimunjawa Village, Sunday, February 1, 2020.

<sup>18</sup> UM (Initial), Interview, one of the employees Notary Public- Land Titles Registrar in Jepara Regency, Friday, February 7, 2020.

<sup>19</sup> Rahmawati Dwi Jayani, Interview, Notary-Public Land Deed Maker in Jepara, Friday, 7 February 2020

<sup>20</sup>Budhi, Interview, Usage Rights Section of the Jepara Regency National Land Agency, Wednesday, February 5, 2020.

(2), namely that the ownership is still limited to one single house or house. The purpose of the above restrictions is to ensure that the opportunity for ownership does not deviate from its purpose.

Concerning the category of foreign citizens who can own a house in Indonesia, in Government Regulation Number 103 of 2015 concerning Ownership of Residential or Residential Homes by Foreigners, it is explained that foreigners in terms of their position in Indonesia in the explanation of Article 2 paragraph (2) can be divided into several groups, namely:

1. Foreigners who have permanent residency permits;
2. Foreigners who have a limited stay permit;
3. Foreigners who have a diplomatic residence permit;
4. Foreigners who have an official residence permit;
5. Foreigners who have a residence visit permit.

The distinction is related to the documents that must be shown when carrying out a legal action to obtain a house, namely:

1. For resident foreigners: Permanent Residence Permit, and
2. For other foreigners: Visit Permit or other Immigration Permit in the form of a sign printed on a passport or other immigration document owned by the foreigner concerned.<sup>21</sup>  
The categories of residential or residential houses that can be owned by foreign citizens are:
  - a. The single house above ground:
    1. Use Rights, or
    2. Hak Pakai on freehold land that is controlled based on an agreement granting usufructuary rights over the right of ownership with the deed of the Land Deed Maker (PPAT)
  - b. Apartment units built on land use rights over state land.<sup>22</sup>

The explanation of Government Regulation Number 103 of 2015 states that ownership of use rights over state land for foreign citizens (WNA) is possible based on the provisions of Article 42 of the Basic Agrarian Law (UUPA), while for independent houses built on land that is controlled based on agreements with land rights holders, it is explained that Article 6 of Law Number 4 of 1992 concerning Housing and Settlements, allows the construction of houses to be carried out by non-owners of land rights based on the consent of the holders of land rights with a written agreement.

Article 6 Government Regulation Number 103 of 2015 concerning Ownership of Residential or Residential Houses by Foreigners Domiciled in Indonesia, it is stated that the period of land control by foreigners to establish residential buildings on land with usufructuary rights is given within 30 (thirty) years, and can be extended for 20 (twenty) years, if the extension ends, the right to use can be renewed for a maximum period of 30 (thirty) years.

Article 7 Government Regulation Number 103 of 2015 concerning Ownership of Residential or Residential Homes by Foreigners Domiciled in Indonesia, states that the period of land control by foreigners to build residential buildings on land use rights originating from freehold land granted by holders of property rights with deeds of Land Deed Making Official. The right to use is granted for an agreed period of no longer than 30 (thirty) years, can be extended for 20 (twenty) years, and if the extension ends, the right to use can be renewed for a maximum period of 30 (thirty) year, based on the agreement of the two parties as stated in the deed of the Land Deed Making Official. Hak Pakai must be registered (issued a certificate) and for the right to use land with the right of ownership, it must be recorded in the land book and certificate of ownership rights concerned. If the foreign citizen no longer meets the requirements, within 1 (one) year he must relinquish the right to use the land of the country concerned to another party who meets the requirements. If this obligation is not fulfilled, the right to use will be nullified and the land will become state land.<sup>23</sup>

Based on the analysis above, access to businesses in Indonesia, especially in the Karimunjawa Islands is very open to foreign nationals and Indonesian citizens; however, there are ownership boundaries for land rights. Arrangements for ownership of land rights by foreign nationals are still prohibited, but foreign nationals can still own use rights for residential houses in Indonesia.

## CLOSING

### 1. Conclusion

Based on the results of the research and discussion above, it can be concluded about the control of land rights by foreign nationals in Karimunjawa:

1. The control of land rights by foreign citizens is the right to use, but there are indications of control of land rights by foreign citizens in Karimunjawa, namely ownership of land rights using a nominee agreement.

<sup>21</sup>Mirah Sanusi Darwiyah. Interview, Pemilik Karimunjannah House, Sunday, February 2, 2020.

<sup>22</sup>Interview with Mr. Budhi, Usage Rights Section of the Jepara Regency National Land Agency (BPN), Wednesday, February 5, 2020.

<sup>23</sup>Budhi, Interview, Usage Rights Section Ministry of Agrarian and Spatial Planning, Jepara Regency National Land Agency, Wednesday, February 5, 2020.



2. The legal position of foreign citizens in activities to control land rights is the right to use or lease rights for buildings. The right to use is a form of legal certainty in controlling land rights in Karimunjawa. Ownership rights over land by foreign nationals other than use rights or lease rights for buildings have no legal certainty, due to indications of a form of legal smuggling that often occurs. Based on the prevailing laws and regulations, use rights over state land for foreign citizens are granted for 25 years, can be extended for 20 years, and renewed for 25 years. The right of use over land management rights can be extended and renewed at the suggestion of the holder of management rights,

## 2. Suggestion

Based on the above conclusions, the authors can provide the following suggestions:

1. Harmonization and synchronization of statutory regulations related to the control of land rights with the legal politics of prohibiting ownership of private land by foreign citizens are needed, without any hidden intention to provide opportunities for foreign nationals to acquire private land, followed by strict law enforcement against the rules for prohibiting ownership of land owned by foreign nationals as stipulated in the provisions of Article 9 paragraph (1), 21 paragraph (3) and Article 26 paragraph (2) of the Basic Agrarian Law.
2. There needs to be an affirmation of the main duties and functions of the National Land Agency related to institutions responsible for land supervision, particularly in the supervision of the transfer of land rights, which have the potential to fall to foreign nationals in the form of government regulations.

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