

## ABSTRAK

Persoalan mengenai ahli waris negara asing yang berasal dari perkawinan campuran kerap kali menimbulkan pertanyaan mengenai hak dan kewenangannya untuk menerima harta warisan. Terlebih lagi selama masa pandemi Covid-19 terdapat pembatasan masuknya WNA demi menekan angka penyebaran virus di Indonesia, padahal ahli waris WNA bisa saja tidak berdomisili di Indonesia. Sedangkan dalam pengurusan peralihan hak atas tanah karena pewarisan diperlukan kehadiran fisik. Kemudian apabila ahli waris WNA melampaui jangka waktu satu tahun yang ditentukan UUPA, maka akan terancam warisan tersebut akan jatuh kepada negara. Hal tersebut akan merugikan ahli waris WNA tersebut. Maka dari itu, rumusan masalah penelitian ini adalah bagaimana kewenangan dan hak untuk mewaris bagi WNA menurut KUHPerdara dan UU Perkawinan, serta bagaimana implikasi hak mewaris WNA dihubungkan dengan ketentuan Pasal 21 Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria (UUPA) selama adanya pembatasan masuknya WNA di masa pandemi Covid-19.

Metode pendekatan yang dipergunakan dalam pendapat hukum ini adalah pendekatan yuridis normatif atau penelitian hukum kepustakaan dengan metode pengumpulan data sekunder berupa peraturan perundang-undangan serta wawancara narasumber. Berdasarkan hasil penelitian, maka dapat disimpulkan bahwa: *pertama*, menurut KUHPerdara ahli waris WNA memiliki kewenangan atas hak keperdataannya untuk menerima warisan dari orangtuanya yang berasal dari perkawinan campuran yang melakukan pemisahan harta yang dituang dalam perjanjian perkawinan. Walaupun demikian, ahli waris WNA dibatasi untuk mempunyai hak milik sebagaimana diatur UUPA. Sedangkan UU perkawinan sendiri belum mengatur perihal harta kekayaan yang beralih karna kematian yakni pewarisan, sehingga dalam penegakan hukum masih berdasarkan KUHPerdara dan hukum lainnya yang berlaku; *kedua*, teruntuk sekarang pengurusan peralihan hak atas tanah masih memerlukan kehadiran fisik dalam hal penandatanganan dan pembacaan akta, sehingga ahli waris WNA terpaksa harus mengurus langsung ke Indonesia walaupun di tengah pandemi. Peraturan kementerian mengenai pembatasan warga negara asing masuk ke Indonesia telah dicabut, sehingga warga negara asing apapun itu urusannya termasuk pengurusan peralihan hak atas waris diperbolehkan masuk Indonesia dengan tetap mengindahi protokol kesehatan yang berlaku. Saran yang dapat disampaikan oleh penulis yakni: *pertama*, diperlukan adanya pencerdasan hukum yang masif mengenai pemisahan harta perkawinan yang dituang dalam perjanjian kawin kepada pelaku perkawinan campuran; *kedua*, diperlukan adanya pendobrakan hukum yang mengakomodir secara khusus mengenai pelayanan jasa hukum secara elektronik oleh Notaris agar proses prealihan hak atas tanah dapat dilaksanakan secara efektif.

**Kata Kunci: Hak dan Kedudukan Ahli Waris WNA, Peralihan Hak Atas Tanah WNA dan Pandemi COVID-19.**

## **ABSTRACT**

*The issue of foreign heirs who come from mixed marriages often raises questions about their rights and authority to receive an inheritance from their Indonesian parents that came from mixed marriages. Moreover, during the Covid-19 pandemic, there were restrictions on the entry of foreigners in order to reduce the spread of the virus in Indonesia, while the foreigner heirs may not be domiciled in Indonesia. Meanwhile, processing the transition of land rights due to inheritance, physical presence was required. Subsequently, if the foreign heirs exceed the one year period stipulated by the Basic Regulations on Agrarian Principles (UUPA), the inheritance will belong to the state. This possibility will injure the foreign heirs. Therefore, the formulation of the research problem is how the authority and right to inherit for foreigners according to the Civil Code and the Marriage Law, and how the implications of the inheritance rights of foreigners are related to the provisions of Article 21 of Law Number 5 of 1960 concerning Basic Regulations on Agrarian Principles (UUPA). ) as long as there are restrictions on the entry of foreigners during the Covid-19 pandemic. This legal opinion writing aims to find out and analyze how the rights and authority of foreign heirs to receive an inheritance according to the KUHP (Civil Code) and the Marriage Law (UUP) and to know the process of the transition of land rights that must be settled by the foreign heirs during the Covid-19 pandemic.*

*The approach method used in this legal research is a normative juridical approach or legal research literature with secondary data collection methods in the form of statutory regulations and interviewing sources. Based on the results of the study, it can be concluded that: first, according to the Civil Code (KUHP), foreign heirs have the authority over their civil rights to receive an inheritance from their parents that came from mixed marriages that separate their assets on prenuptial agreement. However, foreigners are still limited by having property rights as mentioned in UUPA. Meanwhile, the marriage law itself does not regulate assets that are transferred due to death, namely inheritance, so the law enforcement is still based on Civil Law (KUHP) and other applicable laws; second, for now, the process of the transition of land rights still requires a physical presence in terms of signing and reading the deed, so that foreign heirs are forced to settle the transfer of land rights directly to Indonesia even in the midst of the pandemic. The ministerial regulation regarding restrictions on foreign nationals entering Indonesia has been revoked, so that any foreign citizen, regardless of his business, including settling the transition of land rights due to inheritance, is allowed to enter Indonesia while still adhering to the applicable health protocols. Author's suggestions are: first, there is a need for massive legal intelligence regarding the separation of marital property as stated in the prenuptial agreement to mixed marriage parties; second, there is a need for a legal breakthrough that specifically accommodates legal services electronically by a Notary so that the transition of land rights will be effective.*

**Keywords: Rights and Authority of Foreign Heirs, Transition of Foreign Land Rights, and COVID-19 Pandemic.**