

Research Article

Comparison of The Transfer of Land Rights to The Description Deed of Inheritance Rights

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ABSTRACT

Marriages are carried out by mixed ethics, so it is very difficult to know whether there are ethnics of Chinese, foreign-Eastern or indigenous groups in a population. This study aims to determine the legal certainty of a certificate of inheritance for Indonesian citizens of Chinese descent. The research method used is normative juridical. The results of the research and the conclusions show that the notary is the only official authorized to make an authentic deed, namely a certificate of inheritance rights for Indonesian citizens of Chinese descent in accordance with Article 15 of the UUJNP. Comparison of Arrangements for Transfer of Land Rights to Deeds of Inheritance Rights of Chinese Descendants In ASEAN countries, namely Malaysia, that the distribution is contained in Article 6 of the Distribution Act 1958 jo. (Amendment) Act 1997 One of Article 6 (1), then in Turkey Article 35 of the Land Registry Law No 2644 / 1934my which gives foreigners the right to acquire land in Turkey and is subject to legal provisions governing restrictions and prohibitions.

Keywords: Transfer of Land Rights; Inheritance; and Chinese.

A. INTRODUCTION

Land plays an important role in human life, because it is a balance of life patterns for humans to develop. This is regulated in Article 33 paragraph (3) of the 1945 Constitution which states:

"Land, water and natural resources contained therein are controlled by the state and used for the greatest prosperity of the people".

Based on the above, natural assets controlled by the State are regulated in Law Number 5 of 1960 concerning Basic Agrarian Regulations or referred to as the Basic Agrarian Law (UUPA). This is clearly regulated in Article 19 Article (1) of the UUPA which states that:

"To ensure legal certainty by the Government, land registration is carried out throughout the territory of the Republic of Indonesia according to the provisions stipulated in a Government

Regulation."

In Indonesia, land has an important role for society because it is a source of prosperity, prosperity and a source of life (Agustina, 2018). Land is a natural resource and is needed for development in villages and cities as a valuable infrastructure provider, so that land is a valuable human object (Setiyarini, 2014).

Today, land is a basic facility, for example in the construction of houses, buildings, roads, industrial estates, residential areas and other living infrastructure, land is indispensable (Dhialulhaq, & McCarthy, 2020). Land ownership can occur because of inheritance, buying and selling, grants, and others. This land ownership process resulted in the transfer of land rights (Li, 2018). With the development of

globalization, the position and role of land often creates problems due to the increasingly limited land conditions with an increasing population and rapidly increasing land prices (Setiyarini, 2014).

With what arises related to land issues, the importance of guaranteeing legal certainty regarding the control or transfer of land rights by someone who is obtained from an inheritance is the transfer of a right to land from the heir to the heir.

The Indonesian state with population dynamics causes many problems related to land and citizenship. Therefore, the need for support in the form of legal certainty guarantees in the land sector will increase. Written, complete and clear legal instruments that are implemented consistently in accordance with the spirit and content of the provisions are indispensable in providing legal certainty in the land sector (Andraini, 2009). Besides that, what is no less important is the implementation of land registration in order to guarantee legal certainty of land rights (Riyanto, 2007).

In order to guarantee legal certainty which is one of the main objectives of the LoGA, the law instructs the government to conduct land registration in all regions of Indonesia which is *Rechskadaster* in nature, which means that the aim of ensuring legal certainty and certainty of rights (Hadisiswati, 2014). This is as regulated in Article 19 paragraph (1) of the UUPA which states that:

"To ensure legal certainty by the government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions stipulated by the Government Regulation".

The transitional provisions themselves are

contained in Article 20 paragraph (2) of the UUPA which states that:

"Property rights can be transferred and transferred to other people."

Based on Article 20 above, it determines that the right to own land is a hereditary, strongest and full right that can be owned by people over land and has a social function. (Hadisiswati, 2014). Therefore, ownership rights to land derived from the right to control from the state are for realizing the welfare of the community. Property rights over land have the following special characteristics (Hadisiswati, 2014):

1. It can be transferred due to inheritance, due to hereditary characteristics;
2. It is unlimited and unrestricted use as long as it does not conflict with statutory regulations;
3. The owner may grant another land title above the right of ownership to another party.

Thus, the government has an obligation to carry out land registration throughout the territory of the Republic of Indonesia. This provision becomes the legal basis for the implementation of land registration in Indonesia which is later confirmed by the issuance of Government Regulation Number 24 of 1997 concerning Land Registration as a complement to the previous Government Regulation, namely Government Regulation Number 10 of 1961.

Sudirman Saad in his book Urip Santoso states that legal protection for holders Land rights in land registration can be realized if 3 (three) cumulative requirements are met, namely (Santoso, 2010):

1. The issuance of land certificates is 5 years old or more;
2. The certificate issuance process is based on good faith;
- and 3. The land is physically

controlled by the holder of the right or power.

Article 42 paragraph (1) Government Regulation Number 24 of 1997 concerning Land Registration in conjunction with Article 111 paragraph (1) letter c number 4 Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Implementation of Government Regulation Number 24 of 1997 concerning Land Registration and the Circular of the Ministry of Home Affairs of the Directorate General of Agrarian Affairs dated December 20, 1969 Number Dpt / 12/63/12/69 concerning the Certificate of Inheritance and Proof of Citizenship (Adjie, 2008) states that: 1. For native Indonesian citizens: certificate of heirs made by the heirs witnessed by (two) witnesses and confirmed by the Village / Kelurahan Head and the Camat where the heir lives at the time of his death; 2. For Indonesian citizens of Chinese descent: certificate of inheritance rights from a Notary; and 3. For other Indonesian citizens of foreign Eastern descent: a certificate of inheritance from the Heritage Hall.

In principle, the transfer of inheritance rights occurs automatically for the sake of law, but does not directly control the inheritance but determines what attitude will be carried out on the inheritance. To be able to take legal actions against the rights and obligations arising from the inheritance, a certificate of inheritance is required (Verklaring van Erfrecht) (Efendi, 1983).

Inheritance Certificate is a document that is self-made or issued by an authorized official or agency, containing the elaboration of the legal provisions of inheritance in terms of proving the

position of an heir and also used as a basis for the right to claim certain inheritance rights over objects or property rights as objects of inheritance (Massora, Monika, & Putri, 2019).

Notaries are the only public officials authorized to make authentic deeds. (Edwar, Rani, & Ali, 2019) Authentic deeds are perfect evidence as stipulated in Article 1870 of the Civil Code (KUHPerdata).

Notary is seen as part of the ruler who acts as state power as stipulated in Law Number 30 of 2004 and / or Law Number 2 of 2014 concerning the Position of a Notary which it regulates is included in the field of public law so that the provisions contained therein are most of the regulations are forcing (dwingend recht) (Setyawati, & Purnawan, 2018).

One example of a case is that there are marriages that are ethnically mixed, so that it is very difficult to know if there are ethnic groups of the population who are Chinese / Chinese, Eastern-Eastern or Indigenous.

In the case of a certificate of inheritance for Indonesian citizens of Chinese descent, based on Article 111 PMNA No. 3 of 1997 is written only in the form of a deed of inheritance rights made by a notary public. Notaries are the only public officials authorized to make authentic deeds (Edwar, Rani, & Ali, 2019). Authentic deeds are perfect evidence as stipulated in Article 1870 of the Civil Code (KUHPerdata).

In the case of a certificate of inheritance rights, it provides among the parties including their heirs or people who receive rights from the parties a perfect proof of what is done / stated in the deed, this means that it has such strength of evidence because it is

considered attached to the deed. itself so that it does not need to be proven again and for the judge it is "compulsory evidence" (*verplicht bewijs*). Thus, whoever states that the authentic deed is fake, he must prove the falsity of the deed, therefore authentic deeds have both physical, formal and material evidence (Tjukup, & Bella, 2016).

Inheritance information for Indonesian citizens of Chinese descent, based on Article 111 PMNA No. 3 of 1997 is written only in the form of a deed of inheritance rights made by a notary public. Basically, the classification in Article 111 Paragraph 1 letter c PMNA No. 3 of 1997 is also contrary to the objectives of Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) which also becomes a "grundorm".

The guarantee of legal certainty is one of the objectives of the UUPA as contained in Article 19 paragraph (1) which states that: "To ensure legal certainty by the government, land registration is held throughout the territory of the Republic of Indonesia according to the provisions regulated by the Government Regulation". Then, the government is obliged to implement it. land registration, not only in big cities, but in every corner of the territory of the Republic of Indonesia, then the Government Regulation Number 24 of 1997 concerning Land Registration (PP 24 of 1997) is issued as a complement to the previous Government Regulation, namely Government Regulation Number 10 of 1961.

Based on the above Until now, the practice in the field of civil law is still classified as a population, especially in terms of transfer of rights due to inheritance. Although Indonesian citizens of Chinese descent have also carried out assimilation and have

contributed to the formation of the Indonesian nation-state since the colonial period. To prove their loyalty to Indonesia and be recognized as part of Indonesian citizenship, some citizens of Chinese descent have entered politics to gain public trust for their contribution to Indonesia (Mubah, & Anabarja, 2020). Indonesian citizens of Chinese descent have realized that this does not simply erase negative perceptions embedded in the minds of the people, even so, things that trigger discrimination and ethnicity should not be left alone as if there is no problem.

One of the problems, there is a child who has a Chinese mother and a Madurese father, when the child wants to make a certificate of inheritance, the child is rejected by the head of the village where the child lives because the headman says he is not authorized to make an inheritance certificate for Indonesian citizens of Chinese descent. , then the child went to the notary but was also rejected because the notaries only made inheritance information for citizens of Chinese descent, not citizens of Salt Island (Madura) descent (Hukum Online, 2008). In cases like this, what is meant by the existence of a mixture of races and ethnicities due to mixed marriages, making it difficult if you still use population classifications based on descent.

Given the research that focuses on the Deed of Inheritance Rights for Chinese Citizens related to the Transfer of Rights to Land in Indonesia, so in this writing there are basically differences with previous research such as: Ayu Larasari, which focuses on the transfer of rights to land with a sale and purchase agreement according to Indonesian land law (Larasati, 2020); Husen Ahmed Tura who studies

land rights and land grabbing in Oromia, Ethiopia (Tura, 2018); Qianxi Wang and Xiaoling Zhang review China's proposed rural land rights reform (Wang, & Zhang, 2017); Jackline Kabahinda conducted a field study on women's land rights in Uganda (Kabahinda, 2018); and Brian Dillon and Alessandra Voena who focus on assessing widows' rights to land and agricultural investment (Dillon, & Voena, 2018).

Thus, from previous research, there is an element of novelty in this study regarding the legal certainty of the certificate of inheritance rights for Indonesian citizens of Chinese descent related to the transfer of land rights in Indonesia issued by a notary.

B. RESEARCH METHODS

This research used normative legal research methods so that the results of the research cannot be separated from the author's discipline, law, and the results achieved from the implementation of the research (Marzuki, 2014). The research resulting in a concept used statute and comparative approaches. The data analysis technique used in this study was a data analysis technique with deductive logic.

C. RESULTS AND DISCUSSION

1. Arrangement of Deed Information on Inheritance Rights for Indonesian Citizens of Chinese Descent Related to the Transfer of Rights to Land in Indonesia

The Basic Agrarian Law which contains the main basics in the land sector is the basis for legal reform efforts so that it is expected that legal certainty is guaranteed for society in utilizing the functions of

the earth, water and space as well as the natural resources contained therein for the common welfare fairly (Efendi, 1983).

Strictly speaking, it is to achieve prosperity in which you can safely carry out the rights and obligations that you get in accordance with regulations that have guaranteed certainty of protection of these rights and obligations (Efendi, 1983).

Regulations on land issues related to equality in obtaining land rights that do not differentiate between population classifications are regulated in the UUPA using the basis of nationality, which is reflected in Article 9 paragraph (2) that: "Every Indonesian citizen, both male and female, has a different opportunity. the same to obtain a right to land and to get benefits and results, both for himself and his family.

Article 21 of the UUPA states that:

- (1) Only Indonesian citizens can have property rights.
- (2) The government determines legal entities which can have property rights and the conditions thereof.
- (3) Foreigners who after the enactment of this law obtain property rights due to inheritance without a will or mixing of assets due to marriage, likewise Indonesian citizens who have property rights and after this law is enacted lose their citizenship are obliged to relinquish said rights within a period of one year. since the acquisition of this right or loss of nationality. If after that period, the right of ownership is not relinquished, then the right is canceled because the law and land fall on the State, provided that the rights of the other party continue to apply to it.
- (4) As long as someone besides his Indonesian nationality has foreign citizenship, he cannot own land with ownership rights and for him the provisions in paragraph (3) of this article shall

apply.

The switch is the transfer from ownership rights for land from original Ruler or owner to another party that does not act as the buyer or renter of the land through an act or legal even (Power, & Nugraheni, 2021). Transfer of rights due to inheritance occurs by law when the right holder in question dies. In a sense, that since then the heirs become the new rights holders. Regarding who is the heir is regulated in the Civil Law which applies to the heir. Registration of transfer of rights due to inheritance is also required, in order to provide legal protection to the heirs and for orderly administration of land registration, so that the data stored and presented always shows an up-to-date condition. Proof of evidence as an heir can be in the form of a Certificate of Inheritance Rights, or a Certificate of Inheritance or Certificate of Inheritance (Yoga, Kusumadara, & Kawuryan, 2020).

The authority to make a certificate of inheritance for those who are subject to the inheritance law regulated in the Civil Code is based on the concordance principle with Article 14 paragraphs 1 and 3 Wet op de Grootboeken der Nationale Schuld (S.1931-105) in the Netherlands which was later accepted as doctrine and jurisprudence. in Indonesia and is considered customary law.

The procedure for making an inheritance certificate is in the Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Implementation of Government Regulation Number 24 of 1997

concerning Land Registration in article 111 paragraph (1) letter c, once again using the system of division of Indonesian citizens in Certain groups are like the division of groups during the Dutch colonial period as regulated in article 131 and article 163 Indische Staatregeling.

The heritage center is the body authorized to make a certificate of inheritance for Indonesian citizens of foreign eastern descent apart from Chinese. The statement of the right to inherit must be made based on the inheritance law in force in the country of the ancestor. As stated in the Circular of the Ministry of Home Affairs of the Directorate General of Agrarian Affairs dated December 20, 1969 Number Dpt / 12/63/12/69 concerning the Certificate of Inheritance and Proof of Citizenship and Article 111 paragraph (1) letter c of the Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.

Until now, at the time of independence, the heritage hall was still carrying out its body activities based on *staatblad*, for example in terms of making a certificate of inheritance for foreign eastern groups other than Chinese, namely Article 14 paragraph (1) *Instructie voor de Gouvernements Landmeters in Indonesie en als zoodanig fungeerende personen (Instructions for Land Registry Officers in Indonesia And Those Who Act In This Way) Stbl. 1916 No. 517.*

On December 20, 1969, a circular letter from the Ministry of Home Affairs of the Directorate General of Agrarian Affairs Number Dpt / 12/63/12/69, the main letter of the letter concerning

the certificate of inheritance and proof of citizenship. In the contents of this letter it is stated that for groups of Chinese descent, a certificate of inheritance is made by a notary.

It was also stated in the contents of the letter that the appointment of an authorized official to make a certificate of inheritance originated from population groups in the colonial realm (none other than the provisions in Articles 131 and 163 Indische Staatregeling) and indeed there is no specific regulation regulating who is authorized to make a certificate of inheritance.

The provisions for division of population groups are still in effect at the time the Circular of the Ministry of Home Affairs of the Directorate General of Agrarian Affairs is enacted Number Dpt / 12/63/12/69 concerning Inheritance Certificate and Proof of Citizenship, this is due to the existence of Article II of the 1945 Constitution, part of the transitional rules, namely: "All existing state agencies and regulations are still in effect immediately, as long as a new one has not been made according to this Basic Law."

Government Regulation Number 24 of 1997 concerning Land Registration regulates the transfer of rights due to inheritance in Article 42, Article 42 Paragraph (1) also states the documents required for registration of transfer of rights due to inheritance, one of which is a certificate of inheritance.

Article 111 paragraph (1) letter c point 4 of the Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency No. 3 of 1997 concerning Provisions for the Implementation of Government Regulation No. 24 of 1997 concerning Land Registration, it is stated that one of the

requirements for reverse registration of an inheritance name is: 1. Inheritance Certificate: for native Indonesian citizens: heir certificate written by the heirs witnessed by 2 (two) witnesses and strengthened by the Village / Sub-district Head and the Sub-district where the heir lives at the time of death; and 2. Deed affirming the right to inherit from a notary; for Indonesian citizens of Chinese descent:

From this explanation, there are differences in the population class of the party who died (heir). For the indigenous group, it is enough to make it under the hand, and witnessed and confirmed by the local village head and strengthened by the sub-district head. Meanwhile, the Chinese population group who has the authority to make is a notary. Then there is a party authorized to make a statement of inheritance for Indonesian citizens of Chinese descent, the statement of inheritance is made in the presence of a notary, where beforehand the will is checked first.

The enforcement of Article 111 Paragraph 1 letter c PMNA No. 3 of 1997, which has been implemented for a very long time in Indonesia, clearly has unfavorable implications for society, because it creates discrimination. Described in the regulation, for native Indonesians, the heir certificate is made in the form of an underhand deed made by the heirs themselves and witnessed and signed by the village / sub-district head and sub-district head. However, if we look at the authority of the village head / lurah and camat, at that time the land sector was still under the auspices of the Ministry of Home Affairs, the Minister of Home Affairs authorized the village / lurah and sub-district heads to be witnesses and sign the heir certificate, however after the Republic of Indonesia

Presidential Decree No. 26 of 1988, which formed the National Land Agency (BPN) as assistant to the President in managing and developing land administration. Thus, the basis for the authority of the village head / village head and sub-district head in the case of a certificate of heir no longer exists. Nothing in Law no. 23/2014 on Regional Government, which explains the authority of the village head / village head and sub-district head to know, justify / witness and sign a certificate of inheritance for these indigenous women (Yoga, Kusumadara, & Kawuryan, 2020). The regulation regarding the making of Inheritance Certificate for the Bumiputera group is contained in Article 111 paragraph (1) letter c Regulation of the Minister of Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 as amended by Regulation of the Head of the National Land Agency Number 8 of 2012 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration (hereinafter referred to as Perkaban No. 8 of 2012), which states that:

"a certificate of proof as an heir which can be in the form of a will from the heir, or a court decision, or a judge / Chairman of the Court, or for citizens. Indigenous Indonesians: certificate of heirs prepared by the heirs witnessed by 2 (two) witnesses and confirmed by the Village / Kelurahan Head and the Camat where the heir lives at the time of death, for Indonesian citizens of Chinese descent: certificate of inheritance rights from Notary Public, for Indonesian citizens of Asin Eastern descent g others: certificate of inheritance from the Heritage Hall. written power of attorney from the heir if the applicant for registration of transfer of rights is not the heir concerned; proof of the identity of the heir."

In this article, the authority of a notary in making a certificate of inheritance is limited to Indonesian citizens of Chinese descent. One of the restrictions in rural China, namely During much of the reform era, a divide has existed between China's urban and rural land regimes which restricted the direct transfer of rural land rights to parties outside of the village. While urban land can be sold or leased to external capital by its landlord - the government - village collectives lacked such powers despite being nominal owners of rural land. However, with its objective to rejuvenate rural areas by attracting capital to "go down to the countryside" (ziben xiaxiang), the Chinese leadership has in recent years relaxed the rules on rural land transfer (Kan, 2021).

The statement of Indonesian Citizen-Chinese inheritance is an authentic deed made by / in front of authorized public officials in accordance with article 1868 of the Civil Code which states that:

"An authentic deed is a deed made in the form determined by law by or in the presence of a public official authorizing it at the place where the deed was made. "

For population groups of European descent, Chinese and those who are subject to the Civil Code, the deed of inheritance is made by a notary. According to Notary Suyanto, SH, Chairperson of the Indonesian Notary Association (INI Central Java), for Indonesian citizens of Chinese, the form of Inheritance Certificate has been made in the form of an Inheritance Deed (Andraini, 2009): 1. An Individual statement is made by Notary Public; 2. It is in the form of a minimum of information given by the witnesses. The form of such a certificate is not

included in the category of authentic deed according to the provisions of Article 1868 of the Criminal Code where authentic deeds are deeds made by or before the competent official for that in the form stipulated by law and within their jurisdiction. The power of proof remains as the deed under hand; and 3. With a minimum, the contents of which are the information given by the witness and a conclusion in the form of an heir and part of the inheritance given by a notary with the reason to make it easier for the protocol holder to make a copy if someone asks for it

In the future, there will be a harmonization between laws and regulations and developments in society so that the applicable laws and regulations have not only legal certainty but also legal justice and benefit citizens and their country. Then, it can improve legal regulations that still contain racial and ethnic discrimination.

2. Comparative Arrangements for Transfer of Land Rights to Deeds Information on Inheritance of Chinese Descendants in ASEAN Countries

The Chinese community is one of the population groups according to Article 131 Indische Straatsregeling, the Civil Code applies but in implementing not all of the provisions stipulated in the Book Civil law laws are followed and sometimes even disregarded.

BW West's civil inheritance law initially applies to Dutch people and European people, who are in Indonesia, then extended to foreigners, except Arabs who are Muslim. So BW western civilian inheritance law applies to people of foreign descent who are not Muslim, such as Europeans, Chinese people, Thai

people, Japanese people and others.

Indonesia and Malaysia have different legal systems; Indonesia with civil law and Malaysia with a common law system. It is different in Malaysia, which is divided into two tigers, namely inheritance in terms of the distribution of inheritance seen from religion and inheritance in terms of the distribution of inheritance.

Malaysia, whose population is predominantly of Malay descent, followed by Chinese and Indian descent, operates a racist political system. Each ethnic group has its own party, and a ruling Malay party, supported by ethnic Chinese and Indian parties. However, by supporting the Malay government, the rights of other ethnic groups will certainly be protected by the government.

Malaysia is formed from a racist political system. The ruling coalition is Barisan Nasional (BN), and includes parties that each represent a racial group within the Malaysian population. There is the United Malays National Organization (Umno), which is an important party for BN which represents the Malay population who make up the majority of the population in Malaysia. There is also the Malaysian Chinese Association (MCA) and the Malaysian Indian Congress (MIC), which represent the Chinese and Indian communities, which are the second and third largest ethnic groups in Malaysia.

This was followed by other smaller parties representing indigenous groups in the states of East Malaysia, Sarawak and Sabah and because of this political system any national issue tends to be racial. Each political party is tasked with convincing its ethnic supporters why it is so important to give power

to BN, to ensure that their rights will be protected by the government.

Perak or Pahang Malaysia where the inheritance of the throne or title follows the line of the father, but the division of land inheritance follows the ad at matrilineal law (maternal line). In a legal case in 1886, for example, the Silver State Council ordered lands to be inherited according to the maternal line.

The Land Regulation requires landowners to record their rights over them at the Land Office and to establish procedures for inheriting land to their landlords, without indicating what inheritance law is. Feeling that this solution is in line with Malaysian customary law, the land officials enforced customary law in this case. Kadhis, who is often asked for his opinion regarding inheritance rights, has declared this customary law as Islamic law many times. However, from these cases as well as from the decisions of the State Council of Perak, Pahang and Selangor, it was clear that until 1907, the law of wealth and inheritance in the Malaysian states was the customary law of Malaysia.

Judging from the transfer of land rights against the certificate of inheritance rights of Chinese descendants in the State of Malaysia, the distribution is contained in Article 6 of the Distribution Act 1958 in conjunction with (Amendment) of the 1997 Law One of Article 6 (1) e states: "if an heir dies, leaving a spouse and offspring but there is no father and mother, the surviving spouse is entitled to one third of the inheritance property and the remaining is given to two third child (Masakke, Hapsari, & Az-zahro, 2020).

The Chinese, who are non-Muslims in Malaysia, are then regulated in the division of people

who were non-Muslim in the Distribution Act 1958 in conjunction with (Amendment) Act 1997. Even though the Chinese were not native to Sarawak, it is stated that in Sarawak, Chinese customary law is enforced as long as it is stated by invitation, but not more than that. For example, Court.

In contrast to the Turkey State in which the legal basis for ownership of land and building (property) rights is regulated in the Constitution of the Republic of Turkey, the relevant provisions of the Civil Code, Deeds, Foreign Investment Law and relevant laws and regulations form legal framework that allows foreigners or foreign legal entities to buy land and buildings (real estate) in Turkey. Land rights (Right to Ownership) are regulated in Article 35 of the Constitution of the Republic of Turkey which states that: (1) Everyone has the right to own and inherit property; (2) These rights can be limited by law only in the view of the public interest; (3) The exercise of property rights must not conflict with the public interest. "It means that everyone has the right to own and inherit land and buildings (Larasati, 2020). These rights can be developed by law only in terms of the public interest. The exercise of the right to own land and buildings belonging to it must not conflict with the public interest. When viewed from Article 35 of the Constitution of the Republic of Turkey, there is a similarity in principle with the applicable provisions in Indonesia, that all land rights have a social function, in the sense that although the State respects the rights to land that belongs to a person, it can be justified that the land will be used solely for its own interests, especially when it causes harm to the community. This provision means; the interest that

individuals can be pushed by the public interest. Based on Article 35 of the Turkish Constitution, it is the main part of the Law which states the terms and conditions under which people can acquire immovable property (land and buildings) in the State of Turkey.

Article 683 of the Turkish Civil Code (Indonesian Civil Code) states that a person who owns a piece of land has the right to use an object within the confines of legal regulations in order to obtain benefits or transfer it to another party. The Turkish Civil Code has two ownership, namely joint ownership and ownership. Joint ownership is an ownership shared by law or agreement in which more than one person actually owns his own share and each owner has rights and interactions over his shares. Meanwhile, individual ownership of land and buildings is real, independent and the rights to the land are recorded in the Land Registration in TAPU - Land Registration Offices and Cadastres (Land Registration Offices).

Specific provisions regarding land ownership (Land Ownership) are regulated in Article 44 of the Constitution of the Republic of Turkey: (1) The State shall take the necessary measures to maintain and develop efficient land cultivation, to prevent its loss through erosion, and to provide land to farmers with insufficient land of their own, or no land. For this purpose, the law may define the size of appropriate land units, according to different agricultural regions and types of farming. Providing of land to farmers with no or insufficient land shall not lead to a fall in production, or to the depletion of forests and other land and underground resources; (2) Lands

distributed for this purpose shall neither be divided nor be transferred to others, except through inheritance, and shall be cultivated only by farmers, to whom they have been distributed, and their heirs. The principles relating to the recovery by the State of the land thus distributed in the event of loss of these conditions shall be prescribed by law.

One of the distinctive features of the land ownership profile in Turkey is the high share of land owned by the State, either directly, under the authority of the Undersecretariat Treasury (colloquial Hazine) or indirectly through the inheritance and management of the Ottoman Foundation (vakıf) - (formerly the Ottoman Empire), under the authority of the General Directorate for Foundations.

Based on the comparative arrangement of the transfer of land rights to the deed of inheritance rights for Chinese descendants in ASEAN countries, namely Malaysia and Turkey above, the ownership of land rights according to the Indonesian and Turkish Land Laws is inseparable from the legal system and conceptions that underlie it. According to the National Land Law, State land is a land directly controlled by the State. The state only has the authority to regulate the designation, control, and use of the land. In Turkey, State Land is a land that belongs to the State. The state has the authority to lease land. Most of the land in Turkey, owned by the State, is directly under the authority of the Undersecretariat Treasury (Hazine) and indirectly through the inheritance and management of the Ottoman Foundation (vakif) (formerly the Ottoman Empire) under the jurisdiction of the General Directorate for Foundations. There are different types of land rights according to the Land

Law in Indonesia and Turkey, namely according to the National Land Law in Indonesia. In Malaysia, the distribution of the transfer of land rights related to the deed of inheritance is contained in Article 6 of the Distribution Act 1958 in conjunction with (Amendment) Act 1997. Article 6 (1) e states: "if an heir dies, leaving a spouse and offspring but no father and mother, the surviving spouse is entitled to one third of the inheritance property and the remainder is given to two-thirds of the children.

D. CONCLUSION

The arrangement of Information Deed on Inheritance Rights for Indonesian Citizens of Chinese Descent Regarding Transfer of Rights to Land in Indonesia is based on Article 111 of the Regulation of the State Minister for Agrarian Affairs / Head of the National Land Agency Number 3 of 1997 concerning Provisions for Implementing Government Regulation Number 24 of 1997 concerning Land Registration. Notaries have the authority to make the letters of inheritance statement as stated in the article that the application for registration of transfer of land rights or ownership rights to a flat unit is submitted by the heir or his attorney by attaching a deed of inheritance rights from a notary for Indonesian citizens of Chinese, the deeds regarding the distribution of inheritance made in the form of individual deeds of all heirs and witnessed by 2 (two) witnesses or by notarial deed. for Indonesian - Chinese inheritance information which is an authentic deed made by / before authorized public officials in accordance with article 1868 of the Civil Code which states that: "An authentic deed is a deed made in the form

determined by law by or in the presence of a public official authorized for it at the place where the deed is drawn up. " Then, apart from that, the Inheritance Asset Agency also has the duty and authority to make a statement of the inheritance rights for Indonesians of foreign eastern descents, such as Arab, Indian, and Pakistani, except for Chinese. The statement of the right to inherit must be made based on the inheritance law in force in the country of the ancestor. The comparison of the Arrangements for the Transfer of Land Rights against the Deeds of Inheritance Rights of Chinese Descendants in ASEAN Countries is to Malaysia and Turkey. The Transfer of Land Rights Against the Information Deed on the inheritance rights of Chinese descendants in the State of Malaysia indicates that the distribution is contained in Article 6 of the Distribution Act 1958 in conjunction with (Amendment) Act 1997. Article 6 (1) e states: "if an heir dies, leaving a spouse and offspring but no father and mother, the surviving spouse is entitled to one third of the inheritance property and the remainder is given to two-thirds of the children. Article 35 of the Land Registration Law Number 2644 of 1934 (the Land Registry Law No 2644/1934) reads, "Foreign natural persons may acquire and inherit real property in Turkey without prejudice to the provisions limiting application and on condition of reciprocity." (Foreigners can acquire and inherit land and buildings in Turkey without prejudice to the terms of limiting application on reciprocal terms. "Article 35 of the Land Registry Law No. 2644/1934 entitles foreigners to acquire land in Turkey and is subject to provisions laws governing restrictions and prohibitions.

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