

ABSTRACT

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STATUS OF OWNERSHIP OF BUILDING RIGHTS IN JOINT PROPERTY BY FOREIGNERS AND CITIZENS POST DIVORCE (CASE STUDY OF DOMPU STATE'S COURT DECISION NUMBER 29/PDT.G/2019/PN DPU)

(XI + 85 pages)

Many intermarriage couples between Indonesian Citizens and Foreigner make prenuptial or prenupe for seperation of assets, but on the other side many also do not make prenupe for seperation of assets. As happened in the case at the Dompu State's Court Number 29/PDT.G/2019/PN DPU, which arose as a result of not making a prenupe for the separation of assets over land rights with Building Rights (HGB) in Dompu. Finally, the judge decided that Indonesian citizens had full rights over the Building Rights. This study conducts to analyze and find solutions to legal problems regarding the Building Rights in joint property by an Indonesian wife and a foreign husband without a prenupe in the event of a divorce. The research method that the author uses is a normative juridical legal research method that uses legal materials consisting of Undang-Undang and government regulations, books on legal topics, scientific journals, legal papers, scientific articles, opinions of legal experts relevant to the discussion of this thesis, as well as the Indonesian Dictionary (KBBI). The results of the study show that in fact both Indonesian Citizens and foreigners are not entitled to the Building Rights that they obtained at the time of the marriage, although according to Article 36 paragraph (1) of the UUPA (Basic Agrarian Law), Article 19 of PP (Government Regulation) Number 40 of 1996, and Article 34 of PP Number 18 of 2021 state that Indonesian Citizens have the right to Building Rights. This is because Article 35 paragraph (1) of the Marriage Law No 1 of 1974 stipulates that when there is no prenupe for the separation of assets, there is a mixture of joint assets, making foreigners also own the Building Rights which is ruled by Indonesian citizens indirectly. Thus, according to Article 36 paragraph (2) of the UUPA, Article 20 of PP Number 1996, and Article 35 paragraphs (1) and (2) of PP Number 18 of 2021, the Building Rights owned by the Indonesian Citizen must be released or transferred to another party who meets the requirements within a period of 1 (one) year. Otherwise, it will be null and void.

Keywords: Intermarriage, Joint Property, Divorce, Building Rights

Reference: 38 (1960-2022)