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Cancellation of Notarial Deeds Containing Elements of Nominee Agreements in Land Control (An Analysis of Decision Number 247/PDT/2021/PT DPS)

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Abstract

Nominee agreements, whereby Indonesian citizens hold Freehold Title to land on behalf of foreign nationals, raise concerns regarding compliance with the nationality principle and create legal uncertainty over land ownership. This study aims to analyze the annulment of nominee agreements, the legal consequences for Freehold Title, and the judicial reasoning applied in Denpasar High Court Decision Number 247/PDT/2021/PT DPS. The study employs normative legal research with a descriptive approach, supported by empirical data obtained through interviews with academics and notarial practitioners. Primary, secondary, and tertiary legal materials were collected through library research and analyzed qualitatively. The findings indicate that nominee agreements contravene Articles 1320, 1335, and 1337 of the Indonesian Civil Code as well as Articles 21(1) and 26(2) of the Basic Agrarian Law, thereby rendering such agreements null and void. The examined decision reinforces the nationality principle in Indonesian land law and rejects legal protection for arrangements intended to circumvent statutory restrictions on foreign ownership of Freehold Title. The study concludes that the annulment of nominee agreements affirms the legal consequences arising from violations of mandatory land ownership provisions. These findings contribute to greater legal certainty in the application of the nationality principle and underscore the importance of prudence among notarial practitioners when preparing deeds related to land ownership arrangements.

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Keywords: Freehold Title; Land Ownership; Nationality Principle; Nominee Agreement; Notarial Practice

INTRODUCTION

Land occupies a strategic position in Indonesian society because it functions not only as a place of residence and an economic resource but also as an object of social and legal relations. This position makes the regulation of land possession, ownership, use, and transfer an important component of the national legal system. From an agrarian perspective, land is regarded as part of the living space of society and as an instrument for realizing social justice rather than merely as an economic commodity (Lubis, 2025). Under Indonesian agrarian law, the state has the authority to determine the types of land rights and the subjects entitled to acquire them (Atqiya et al., 2024). The hierarchy of land rights encompasses the rights of the Indonesian nation, the state's right of control, customary communal rights, and individual land rights (Arba, 2022). This legal structure demonstrates that private freedom to undertake legal acts concerning land remains subject to limitations established by agrarian law.

One of the legal issues arising in practice is the use of nominee agreements, commonly understood as arrangements in which one person is formally registered as the holder of a right while another person retains the underlying economic interest or control (Takko et al., 2021). Such arrangements may emerge as unnamed agreements developed through contractual practice rather than agreements expressly regulated by the Indonesian Civil Code (Salim & Nurbani, 2022). The principle of freedom of contract allows parties to determine whether to enter into an agreement, with whom to contract, and how the agreement is structured and performed (Salim, 2021). Nevertheless, contractual freedom is not absolute because an agreement must satisfy the statutory requirements for validity and must pursue a lawful purpose (Oka, 2020). The legal problem becomes more significant when a nominee arrangement is employed to separate formal ownership from substantive interests in land. This issue is particularly relevant to Indonesian land law because ownership rights over land are, as a matter of principle, reserved for Indonesian citizens. Accordingly, a nominee agreement concerning land cannot be assessed solely on the basis of contractual consent, but must also be examined in terms of its purpose, substance, and legal consequences (Naibaho et al., 2026).

In contract law, an agreement establishes a legal relationship consisting of rights and obligations between the contracting parties (Subekti, 2018). Although a valid agreement is binding upon the parties, its binding force does not permit the parties to disregard mandatory legal provisions or the requirement of good faith (Sinaga, 2021). The issue becomes more complex when a nominee arrangement is incorporated into instruments executed before a notary. A notarial deed constitutes an authentic instrument when the statutory requirements concerning the authority of the public official, the prescribed form, and the execution procedure have been satisfied (Soerodjo, 2013). Nevertheless, the authentic character of a deed does not automatically establish the substantive validity of every legal relationship recorded in it. The legal status of the deed and the validity of the underlying agreement therefore constitute distinct issues in examining nominee disputes. Consequently, the cancellation of an agreement or notarial deed involving a nominee arrangement requires an integrated analysis of contractual and agrarian law.

This issue is illustrated by Denpasar High Court Decision Number 247/PDT/2021/PT Dps, which concerned the control of a parcel of land in Jimbaran, Bali. The facts considered by the court indicated that the purchase funds originated from Louise Marie France Weiss and Alfred Victor Weiss, while the certificate of ownership was registered in the name of Desak Nyoman Karmini. The court subsequently considered a distinction between formal ownership and material ownership in determining the parties' respective positions in relation to the disputed property (Denpasar High Court Decision Number 247/PDT/2021/PT Dps, 2021). The dispute escalated when the registered holder subsequently transferred the property to a third party through a Sale and Purchase Binding Agreement. This situation demonstrates that a nominee arrangement may generate legal uncertainty concerning who is entitled to exercise legal authority over the land and how formal registration should be treated when it differs from the party claiming the substantive interest. Accordingly, cancellation of the agreement does not merely terminate a contractual relationship but may also affect the legal position of the parties and the control of the disputed land.

From the perspective of Islamic law, transactions involving property should be conducted on the basis of mutual consent and through lawful means (Muthiah & Setiawan, 2021). This principle places honesty and disclosure at the center of property transactions and discourages contractual arrangements that conceal material circumstances or pursue unlawful objectives. The importance of transparency is likewise reflected in the Prophetic tradition

narrated by Bukhari and Muslim concerning honesty and disclosure in sales. These principles are relevant to nominee arrangements because formally assigning land rights to one party while another party retains the substantive economic interest may raise questions concerning the transparency and legitimacy of the underlying transaction (Azzahra, 2025). Accordingly, the mere existence of contractual consent cannot by itself determine the legal validity of an agreement when its purpose or implementation conflicts with mandatory legal rules.

The cancellation of a nominee agreement must also be examined through the lens of legal certainty. Legal certainty requires legal rules and their consequences to be sufficiently clear and predictable so that legal subjects can understand their rights, obligations, and legal position (Atmoko, 2022). This requirement is particularly significant in land disputes because uncertainty regarding the legal position of the parties may affect both possession and subsequent transfers of the property. At the same time, legal certainty is interconnected with justice and legal utility within the broader objectives of law (Prasetyo, 2020). The legal assessment of cancellation should therefore examine not only whether an agreement may be annulled, but also whether the resulting legal consequences establish a clear and coherent position for the parties and the disputed land (Suyanto & Ningsih, 2018).

The research gap in this study arises from the tendency of previous research to examine nominee arrangements either from the perspective of contractual validity or through the cancellation of particular agreements. Primadani (2016), for instance, examined the cancellation of a land sale and purchase agreement involving a nominee agreement based on Decision Number 82/Pdt.G/2013/PN.Dps. Paringga (2018) focused on the validity of nominee agreements and their legal consequences for land ownership. Assura (2022), meanwhile, examined the cancellation of an underhand loan-for-use agreement concerning land rights and the judicial reasoning in Supreme Court Decision Number 1378 K/Pdt/2021. Other research has addressed the implications of nominee arrangements for foreign control of land in Bali (Ridhogusti & Kurniati, 2024). These studies leave room for a more integrated examination of the legal concept of cancelling a nominee agreement, the consequences of such cancellation, and judicial reasoning in a dispute involving a distinction between formal and material ownership.

The novelty of this study lies in integrating contract law, agrarian law, and legal protection theory to examine the cancellation of a nominee agreement based on Denpasar High Court Decision Number 247/PDT/2021/PT Dps. Rather than examining the

arrangement solely in terms of contractual validity, this study also addresses the consequences of cancellation for the legal status of the parties and their control over the disputed land. The analysis is supported by the concept of legal protection, which distinguishes preventive and repressive protection as mechanisms for preventing violations and resolving disputes after violations occur (Hadjon, 2007). This perspective is particularly relevant to notarial deeds because defects in their formation or substance may produce different legal consequences, including annulment, nullity by operation of law, or a reduction in evidentiary status (Baoeky, 2025). The conceptual distinction between an agreement that is voidable and one that is void by operation of law is therefore essential to accurately characterize the consequences of cancellation (Marilang, 2013).

Accordingly, this study focuses on the cancellation of a nominee agreement concerning land rights and its resulting legal consequences. Legal certainty theory is employed to examine the clarity of the parties' legal positions and the consequences of cancellation, while contract theory is used to analyze the contractual structure, validity requirements, and limits of freedom of contract (Indrawati & Suhendra, 2025). Legal protection theory is further applied to examine the protection afforded to the parties following the emergence of the dispute (Soekanto, 1986). The analysis also considers the hierarchical structure of land control rights and the legal authority attached to different forms of land rights (Sujadi et al., 2012). On this basis, the study aims to analyze the legal concept of cancelling a nominee agreement concerning land rights and its implications for land ownership, examine the legal consequences of such cancellation, and analyze the judicial reasoning in Denpasar High Court Decision Number 247/PDT/2021/PT Dps. The study is expected to contribute to a more systematic understanding of the limits of contractual freedom in nominee arrangements and the legal consequences that arise when such arrangements intersect with Indonesia's agrarian law framework.

METHODS

This study employs normative legal research using a statutory approach and a case approach. Normative legal research treats legal norms as the primary object of inquiry by examining relevant legislation, legal principles, concepts, doctrines, and other authoritative legal materials (Muhaimin, 2020). This approach is appropriate because the study examines the legal cancellation of a nominee agreement concerning land rights, the legal consequences

arising from such cancellation, and the judicial reasoning contained in Denpasar High Court Decision Number 247/PDT/2021/PT Dps. The study adopts a descriptive-analytical design by systematically describing the relevant legal norms and concepts and subsequently examining their application to the legal facts of the case (Ibrahim, 2018).

The research design focuses on the interaction between contract law and agrarian law in the context of nominee arrangements. The analytical indicators are derived from the theoretical and conceptual framework employed in the study, namely legal certainty theory, contract theory, and legal protection theory. Legal certainty theory is applied to examine the clarity of the parties' legal positions and the consequences arising from cancellation (Bhakti, 2025). Contract theory is used to assess contractual consent, the requirements for contractual validity, freedom of contract, its legal limitations, and the grounds for cancellation. Legal protection theory is applied to examine the protection of the parties' rights and legal interests following the emergence of the dispute (Nurhikmah et al., 2024). The conceptual indicators consist of contractual cancellation, the legal position of notarial deeds, the characteristics of nominee agreements, and control over land rights. These indicators provide the analytical framework for constructing the legal arguments required to address the research questions.

As a normative legal study, this research does not involve human participants, a population, a sample, or a sampling technique. Instead, the units of analysis are legal materials selected according to their relevance to the legal issues under investigation. Primary legal materials comprise the Indonesian Civil Code, Law Number 5 of 1960 concerning Basic Agrarian Regulations, Government Regulation Number 24 of 1997 concerning Land Registration, Law Number 2 of 2014 amending Law Number 30 of 2004 concerning the Notary Profession, and Denpasar High Court Decision Number 247/PDT/2021/PT Dps. Secondary legal materials consist of books, journal articles, previous research findings, and other scholarly works relevant to the subject matter, while tertiary materials include general and legal dictionaries (Dewata & Achmad, 2015). The study also incorporates the Qur'an, particularly Surah An-Nisa verse 29, and a hadith narrated by Bukhari and Muslim as supporting sources for the legal analysis.

Legal materials were collected through library research by identifying, reviewing, recording, and classifying sources relevant to the research questions (Ardian et al., 2026). The process involved examining statutory provisions, judicial decisions, legal literature, scholarly doctrines, and previous studies. The statutory approach was used to assess the conformity

of the relevant legal facts with applicable legal provisions, while the case approach was employed to examine the judicial considerations contained in Decision Number 247/PDT/2021/PT Dps (Ramlan & Perdana, 2023). Since the research does not employ questionnaires, interviews, or other empirical research instruments, instrument validity and reliability testing were not applicable.

The collected legal materials were analyzed qualitatively by connecting statutory provisions, legal doctrines, theoretical perspectives, and the legal facts established in the judicial decision. The materials were first classified according to their type and relevance to each research question and then interpreted systematically to identify the relationship between applicable legal norms and the facts of the case. The analysis subsequently employed deductive reasoning by applying general legal principles and rules to the specific legal issues presented in the case (Ali, 2019). This analytical process was intended to produce a systematic legal argument concerning the concept of cancellation of a nominee agreement, its legal consequences, and the judicial considerations underlying the decision under examination.

RESULTS

This study finds that the nominee agreement arrangement examined in Denpasar High Court Decision Number 247/PDT/2021/PT DPS was not established through a single agreement but through a series of five interrelated notarial deeds executed on 18 October 2005. The series consisted of the Deed of Agreement, Power of Attorney to Sell, Lease Agreement, Sale and Purchase Binding Agreement (PPJB), and other related instruments. The findings indicate that the existence of a nominee agreement must be assessed based on the substance of the legal relationship, the interrelationship among the deeds, and the legal purpose pursued by the parties, rather than solely on the explicit use of the terms "nominee" or "name lending" in the deeds.

Table 1. Characteristics of the Series of Deeds Constituting the Nominee Arrangement

Deed	Main Substance	Indication of the Nominee Arrangement
Deed of Agreement Number 4	Acknowledgment that funds amounting to IDR 1,300,000,000 provided by the foreign national were used to acquire the land	Demonstrates a separation between the funding party and the party formally registered as the holder of Ownership
Power of Attorney to Sell	Authorization granted to the foreign national to sell or transfer the property and determine the selling price	Provides substantive control over the property to the foreign national

Deed	Main Substance	Indication of the Nominee Arrangement
Lease Agreement	Grant of the right to use the property for 75 years	Provides long-term control and use of the property to the foreign national
PPJB	Regulation of the potential transfer of the property to the foreign national if Indonesian law subsequently permits such ownership	Preserves the foreign national's interest in the Ownership property
Related deed	Restrictions on certain legal actions by the formal holder concerning the property	Strengthens the foreign national's position as the beneficiary

Source: Compiled by the researcher (2026)

Table 1. Characteristics of the Series of Deeds Constituting the *Nominee* Arrangement shows that each deed served a formally distinct legal function but was substantively interconnected in establishing the legal relationship between Desak Nyoman Karmini, whose name appeared as the registered holder of Ownership, and Louise Marie France Sumadi and Alfred Victor Weiss, who provided the funds and obtained economic interests in the disputed property.

Deed of Agreement Number 4 is particularly significant because it demonstrates the distinction between the party providing the funds and the party formally holding the land right. Article 1 of the deed states that Desak Nyoman Karmini used funds belonging to Louise Marie France Sumadi amounting to IDR 1,300,000,000 to purchase the land and its appurtenances. Although the deed does not expressly use the term nominee, its substance demonstrates a separation between the economic interest in the property and formal ownership. This finding indicates that a nominee arrangement may be identified from the substance of the legal relationship even when the term itself is not expressly stated.

The series of deeds further demonstrates that broad authority over the disputed property was granted to the foreign party. The Power of Attorney to Sell authorized Louise Marie France Sumadi to sell or transfer the disputed property, including determining its selling price. The Lease Agreement granted the right to use the property for 75 years, while the PPJB regulated the possibility of transferring the property to Louise Marie France Sumadi and Alfred Victor Weiss if Indonesian law were to permit foreign nationals to hold Ownership in the future. These findings indicate that the legal relationship between the parties extended beyond an ordinary lease or financing arrangement and resulted in substantive control over property formally registered as Ownership.

Table 2. Conformity of the Nominee Arrangement with the Applicable Legal Provisions

Legal Aspect	Legal Provision	Research Finding
Objective validity requirement of an agreement	Article 1320 of the Indonesian Civil Code	The purpose of the legal relationship raises an issue concerning the lawful cause because it relates to the exercise of control over Ownership by a foreign national
Prohibited cause	Articles 1335 and 1337 of the Indonesian Civil Code	The nominee arrangement pursues a purpose contrary to mandatory legal provisions
Subject of Ownership	Article 21 paragraph (1) of the UUPA	Ownership may only be held by Indonesian citizens
Transfer of Ownership to foreign nationals	Article 26 paragraph (2) of the UUPA	Legal acts intended directly or indirectly to transfer Ownership to foreign nationals are null and void by operation of law
Certainty of land ownership	Article 19 paragraph (2) of the UUPA and Article 32 paragraph (1) of Government Regulation Number 24 of 1997	A land certificate constitutes strong evidence of the physical and juridical data contained therein
Guidance concerning land ownership	Civil Chamber Formulation Number 4 of SEMA Number 10 of 2020	The person whose name appears on the land certificate constitutes an important basis for determining land ownership

Source: Compiled by the researcher (2026)

Table 2. Conformity of the Nominee Arrangement with the Applicable Legal Provisions shows that the nominee arrangement in the case is directly related to restrictions on the subject of Ownership and the objective validity requirements of an agreement. The series of agreements that substantively sought to provide the foreign party with control resembling ownership of Ownership was inconsistent with Articles 21 paragraph (1) and 26 paragraph (2) of the UUPA and was also related to the prohibited cause contemplated under Articles 1335 and 1337 of the Indonesian Civil Code. On this basis, the Denpasar High Court declared the five deeds null and void by operation of law.

The subsequent finding concerns the legal consequences of the nullity of the nominee arrangement. Once the series of nominee agreements was declared null and void by operation of law, the contractual basis used to confer control over the property upon the foreign party no longer had legal force. Such nullity does not automatically invalidate the land certificate, because the validity of the contractual relationship and the validity of land-registration data constitute distinct legal issues. Accordingly, the legal status of the land must continue to be determined on the basis of the applicable land law and valid evidence of the registered right.

The judgment also referred to the concepts of "material ownership" and "formal ownership." Louise Marie France Sumadi and Alfred Victor Weiss were positioned as the parties who provided the funds for the acquisition, whereas Desak Nyoman Karmini was the person whose name appeared on the Ownership certificate. The findings indicate that this distinction raises an issue of legal certainty because it may create the impression that a substantive form of ownership remained vested in the foreign parties after the nominee arrangement had been declared null and void.

Another finding concerns Kho Tjauw Tiam as a third party who acquired the disputed property through PPJB Number 17 and Power of Attorney Number 18 dated 18 November 2012. The High Court first examined the legal defect in the preceding legal relationship, resulting in the transfer to the third party being regarded as deriving from a problematic legal relationship. However, the judgment did not provide an extensive analysis of whether Kho Tjauw Tiam satisfied all the criteria for a good-faith purchaser as recognized under SEMA Number 7 of 2012 and SEMA Number 4 of 2016.

Finally, the study finds that the Australian court judgment submitted in the proceedings could not determine the status of Ownership over land located in Indonesia. Under the principle of lex rei sitae, the legal status of immovable property is determined by the law of the state in which the property is situated. Accordingly, the Australian court judgment may be considered as a legal fact relevant to the civil relationship between the parties, but it cannot constitute a legal basis for granting Ownership over land located in Indonesia.

DISCUSSION

The findings demonstrate that the nominee agreement arrangement in Denpasar High Court Decision Number 247/PDT/2021/PT DPS cannot be assessed solely on the formal characteristics of each deed but must instead be examined in terms of its substantive content, the interrelationship among the deeds, and the legal objectives pursued by the parties. The five deeds executed on 18 October 2005, namely Deed of Agreement Number 4, Power of Attorney to Sell Number 2, Power of Attorney to Lease Number 3, Sale and Purchase Binding Agreement Number 5, and Lease Agreement Number 6, collectively demonstrate a separation between the party providing the funds and the party formally registered as the holder of Ownership. This arrangement corresponds to the characteristics

of a nominee agreement, which separates formal title from the party receiving the economic benefits or interests associated with an asset (Wicaksono, 2016). Mumtaz (2025) similarly demonstrates that a nominee arrangement may be established through several interconnected legal instruments, meaning that the relationship between the nominee and the beneficiary is not necessarily expressed explicitly in a single document.

Deed of Agreement Number 4 constitutes an important indicator because it acknowledges that Desak Nyoman Karmini used IDR 1,300,000,000 provided by Louise Marie France Sumadi to acquire the land and building, which were subsequently registered formally in Desak's name. Although the deed does not expressly employ the terms "nominee" or "name lending," its substance demonstrates a distinction between the party providing the funds and the party formally registered as the holder of Ownership. This indicates that the assessment of a nominee agreement cannot be confined to the nomenclature used in a deed. When the Power of Attorney to Sell grants Louise broad authority to sell or transfer the property, the Lease Agreement grants her the right to use the property for 75 years, and the PPJB provides for the possibility of transferring Ownership to Louise and Alfred if Indonesian law subsequently permits foreign nationals to hold such rights, the combined instruments demonstrate a legal relationship extending beyond an ordinary lease. This approach is consistent with Kolopaking (2021), who explains that the use of legal arrangements to circumvent restrictions on Ownership may constitute legal circumvention.

When each deed is examined independently, the contractual forms employed are not, in themselves, necessarily prohibited. Foreign nationals may participate in lease agreements and, subject to applicable requirements, may hold right to use under Indonesian land law (Mahadewi, 2019). The legal issue arises when these instruments are used collectively to confer control resembling ownership of Ownership upon a foreign national. The fact that the Lease Agreement and PPJB were executed on the same date constitutes a relevant indication because, if Louise's position were genuinely limited to that of a lessee, the existence of a PPJB regulating the potential transfer of the land to her would be difficult to separate from the broader objective of securing control over the property. Accordingly, the legal function of each deed cannot be detached from the function of the other instruments. Their interrelationship demonstrates that the nominee arrangement in this case was constructed through a combination of lease, powers of attorney, a binding sale and purchase arrangement, and an acknowledgment concerning the source of the acquisition funds.

This assessment is directly connected to the nationality principle in Indonesian agrarian law. Article 21 paragraph (1) of the UUPA stipulates that Ownership may only be held by Indonesian citizens. This restriction is relevant not only to direct transfers of Ownership but also to legal arrangements that substantively confer control over Ownership upon a party who does not qualify as a subject of that right. Prithresia (2023) explains that the nationality principle constitutes an important principle governing land ownership in Indonesia. Accordingly, freedom of contract cannot be exercised to circumvent mandatory provisions of land law. From the perspective of Article 1320 of the Indonesian Civil Code, this issue concerns the objective requirement relating to a lawful cause. Articles 1335 and 1337 of the Indonesian Civil Code likewise restrict agreements based on a false or prohibited cause. Therefore, when the purpose of a series of agreements is to confer control over Ownership upon a foreign national through the use of an Indonesian citizen's name, the issue concerns not merely contractual freedom but also the objective validity of the legal relationship established by the parties.

From the perspective of R. Subekti's contract theory, the parties' consent constitutes the basis for establishing a legal relationship; however, such relationship acquires legal force only when the agreement satisfies the requirements prescribed by law. Freedom of contract allows parties to establish unnamed agreements (innominaat), but such freedom remains subject to statutory provisions, morality, and public order (Devi et al., 2023). Consequently, the fact that the five deeds were voluntarily executed and embodied in authentic notarial instruments does not, by itself, establish the substantive validity of their contents. The authentic character of a deed concerns its evidentiary force, whereas the legal relationship embodied in the deed must independently satisfy the substantive requirements for contractual validity (Adityanata et al., 2026). Accordingly, the High Court's approach of examining the five deeds as a single legal construction may be understood as a substantive approach aimed at identifying the actual legal objective underlying the parties' relationship.

The PPJB clause providing for the potential transfer of Ownership to Louise Marie France Sumadi and Alfred Victor Weiss if Indonesian law were to permit foreign nationals to hold Ownership further reinforces this construction. Although conditional obligations are generally recognized in contract law because contractual performance may be made dependent upon a future and uncertain event, the condition and its intended legal consequences must remain legally permissible. In this case, the clause does not merely indicate the possibility of a future transaction but also demonstrates an intention to preserve

the foreign parties' interest in the Ownership property until a potential change in the law would permit such transfer. Accordingly, the PPJB is more appropriately understood as part of the overall nominee construction rather than as an independent preliminary sale and purchase agreement. This consideration reinforces the proposition that the substance of a legal relationship must be examined comprehensively to determine whether a contractual arrangement ultimately functions as a means of circumventing mandatory legal provisions.

Nevertheless, the High Court's characterization of Louise Marie France Sumadi and Alfred Victor Weiss as "material owners" raises an issue from the perspective of legal certainty. The Court distinguished the parties who provided the purchase funds from the party whose name appeared on the land certificate, namely Desak Nyoman Karmini. On the one hand, the source of the funds is relevant to establishing the civil relationship between the parties. On the other hand, the use of the term "material owner" may create an interpretation that the foreign parties continued to possess a form of ownership interest in the land even after the nominee agreement arrangement had been declared null and void. Such interpretation potentially conflicts with the basis for declaring the arrangement invalid, namely its incompatibility with the nationality principle. Therefore, the source of the funds and ownership of Ownership should be treated as two distinct legal issues.

This issue can be further examined through Gustav Radbruch's theory of legal certainty. Legal certainty requires clarity concerning the legal status of the parties and the disputed object. In this case, the concept of "material ownership" may create uncertainty if it is not expressly limited to an economic interest or to the factual circumstance that the foreign party provided the funds. Civil Chamber Formulation Number 4 of SEMA Number 10 of 2020 is relevant in this context because it identifies the person whose name appears on the land certificate as the owner of the land even where the land was acquired using money, assets, or property belonging to a foreign national or another party. Santoso et al. (2023) explain that SEMA does not form part of the hierarchy of Indonesian legislation and is therefore more appropriately understood as an internal judicial guideline. Nevertheless, the formulation may serve as a relevant comparative reference when assessing the consistency of judicial reasoning concerning land ownership. Accordingly, the term "material owner" should not be interpreted as recognizing Ownership in favor of a foreign national but should instead be limited to acknowledging that such party provided the funds or possessed an economic interest in the transaction.

The distinction between land ownership and the civil relationship concerning the funds is also relevant to legal protection. According to Philipus M. Hadjon's theory of legal protection, repressive legal protection is provided after a dispute has arisen through established legal mechanisms. In this case, judicial examination of the validity of the series of deeds and determination of their legal consequences constitute a form of repressive legal protection intended to clarify the legal relationship between the parties. Protection of foreign nationals cannot take the form of recognizing Ownership because such recognition would contradict the UUPA. Nevertheless, civil interests arising from the parties' relationship should still be addressed appropriately within the dispute-resolution process. Therefore, the fact that a foreign national provided funds for the acquisition of the land cannot constitute a basis for granting Ownership, although it may remain a relevant fact in determining a separate civil relationship concerning the parties' financial interests.

The position of the third party, Kho Tjauw Tiam, further demonstrates the importance of distinguishing between the validity of the underlying title and the protection afforded to a good-faith purchaser. Kho acquired the disputed property through PPJB Number 17 and Power of Attorney Number 18 dated 18 November 2012 from Desak Nyoman Karmini, whose name appeared on the Ownership certificate. In his claim, Kho argued that he was a good-faith purchaser because he had paid the purchase price and received the original land certificate. However, the High Court first examined the validity of the legal relationship underlying Desak's control of the property and found its connection with the nominee arrangement that had been declared null and void. In relation to the protection of good-faith purchasers, SEMA Number 7 of 2012 and SEMA Number 4 of 2016 are relevant because good faith is not determined solely by payment of the purchase price but also by proper examination of the property and the authority of the transferor. Therefore, the issue of good faith should be assessed separately after the preceding legal relationship has been found defective, including by examining whether Kho had undertaken adequate due diligence concerning the status of the property and Desak's legal authority to transfer it.

The High Court's treatment of the Australian court judgment may subsequently be understood through the principle of lex rei sitae. A foreign judgment concerning the matrimonial property relationship between Louise Marie France Sumadi and Alfred Victor Weiss cannot directly determine the status of Ownership over land located in Indonesia. Handayani et al. (2025) explain that the principle of lex rei sitae subjects immovable property

to the law of the state in which the property is situated. Because the disputed property is located in Indonesia, its Ownership status must be determined under the UUPA and its implementing regulations. Accordingly, the Australian court judgment may be considered as a factual circumstance relevant to the parties' civil relationship, but it cannot constitute a legal basis for granting Ownership to a foreign national. This consideration further demonstrates that land ownership status must remain governed by the national land-law framework.

Overall, the Denpasar High Court's determination that the five deeds constituted a single nominee arrangement and were null and void can be understood on the basis of the nationality principle and the objective requirements for contractual validity. The approach demonstrates that the Court did not examine the formal structure of the deeds in isolation but considered their interrelationship and the legal objective pursued by the parties. Nevertheless, the Court's use of the concept of "material ownership" raises an issue of legal certainty because it may blur the distinction between economic interests and ownership of Ownership. Based on the findings of this study, the status of Ownership should be determined according to land law and valid evidence of title, while the issue of funds provided by the foreign party should be addressed as a separate civil matter. Such an approach preserves the nationality principle without disregarding the civil circumstances arising from the parties' transaction.

The distinction between Denpasar District Court Decision Number 872/Pdt.G/2020/PN Dps and Denpasar High Court Decision Number 247/PDT/2021/PT DPS further illustrates a difference in emphasis concerning the economic interests underlying the nominee arrangement. The High Court maintained the principle that foreign nationals cannot hold Ownership while simultaneously recognizing the factual relevance of the funds provided by the foreign party. Based on an interview with Ikhsan Lubis on 12 May 2026, the economic interest of a party financing the acquisition of land may remain relevant as a legal fact even though the nominee arrangement itself cannot be legally sustained. However, such relevance should not be interpreted as recognition of Ownership. Accordingly, disputes involving nominee arrangements require a clear distinction between the status of the land right, the contractual relationship between the parties, and the economic interests arising from the source of funds, so that the nullity of the agreement does not generate a new form of legal uncertainty.

CONCLUSION

This study finds that the cancellation of a nominee agreement concerning the control of land under a Right of Ownership extinguishes the legal basis established by the parties, thereby preventing the rights and obligations arising from the agreement from being further enforced. Such cancellation also has implications for legal certainty regarding land ownership and control, which must ultimately be grounded in rights recognized by Indonesian land law. In arrangements through which foreign nationals obtain control or economic benefits over land through Indonesian nationals, nominee agreements function to circumvent ownership restrictions established under the nationality principle and therefore conflict with the fundamental framework of land law. The legal consequences extend beyond the contractual relationship between the parties and may also concern the legal standing of notarial instruments and the status of land rights, although the validity of an agreement and the validity of a land certificate constitute legally distinct issues.

The analysis of Denpasar High Court Decision Number 247/PDT/2021/PT Dps demonstrates that the five authentic deeds executed by the parties were substantively interconnected and operated as a single nominee arrangement. The recognition of the foreign national as the "material owner" requires careful legal qualification because ownership of land is determined by the land-law regime, whereas the provision of funds constitutes a separate civil-law matter that may generate distinct legal consequences. The study contributes an integrated analysis of the cancellation of nominee agreements, their legal consequences, and judicial reasoning by examining legal certainty, contractual freedom, and legal protection within a single analytical framework. Practically, the findings underscore the importance of prudence by Notaries and Land Deed Officials and of protecting third parties who satisfy the requirements of good-faith purchasers. Future research should further examine regulatory mechanisms governing nominee arrangements, consistent application of the nationality principle, and the legal protection of third parties in comparable land disputes.

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