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Research Paper

Analysis of Appointment Agreements in the Context of Illegal Land Transfers to Foreign Nationals

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Abstract

The issue of nominee agreements in Indonesia poses challenges in balancing the promotion of foreign investment with the protection of land sovereignty. Despite strict legal prohibitions, this practice continues to flourish and creates uncertainty in legal doctrine and agrarian governance. This study aims to analyse the legal status of nominee agreements under Indonesian positive law, particularly in the context of Law No. 25 of 2007 on Investment (UUPM), and to evaluate the legal consequences of land ownership by foreign investors through this mechanism. This study uses a normative juridical approach, referring to primary legal sources such as the UUPM, the 1960 Basic Agrarian Law (UUPA), and the 2007 Limited Liability Company Law (UUPT), as well as secondary and tertiary literature. The results of the study show that nominee agreements are prohibited in the context of corporations based on the UUPM and UUPT, and are therefore null and void from the outset. However, the absence of specific regulations on land ownership creates a legal vacuum that allows this practice to continue. Nominee agreements fulfil the subjective elements of an agreement but fail to fulfil the legal causes according to the Civil Code, making them legally invalid but still operating in practice. This poses legal and social risks for foreign investors and local nominees and has an impact on agrarian justice and the credibility of the national investment system. This study emphasises the importance of regulatory harmonisation and consistent law enforcement to strengthen legal certainty and maintain state sovereignty over land in accordance with Indonesia's constitutional mandate.

Keywords: *Nominee Agreement, Land Ownership, Foreign Investment, Agrarian Law, Investment Law, Legal Certainty.*

INTRODUCTION

The relationship between land ownership, foreign investment, and national sovereignty has long been a controversial issue in Indonesia (Kadir & Murray, 2019; Meckelburg & Wardana, 2024a; Winanti & Diprose, 2020). As an archipelagic country with abundant natural resources, Indonesia is a strategic destination for both domestic and international investors (Mulyadi, 2019; Rochwulaningsih et al., 2019). Land not only functions as an economic asset, but also as a symbol of national identity and a tool of state control (Schaffartzik et al., 2021). The principles of Indonesian agrarian law, as stipulated in Law No. 5 of 1960 on Agrarian Principles (Law of the Republic of Indonesia No. 5 of 1960 concerning Basic Agrarian Principles, 1960), explicitly limit land ownership to Indonesian citizens, while foreign nationals can only have derivative rights such as usage rights, building rights, or cultivation rights. However, in practice, this provision is often violated through nominee agreements, whereby Indonesian citizens act as the legal owners of land on behalf of foreign parties, who in reality control and utilise the land. Nominee agreements aim to circumvent restrictions on land ownership by foreign nationals and create tension between agrarian legal sovereignty and efforts to attract foreign investment.

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The literature shows that nominee agreements have been widely discussed from a normative-legal perspective (Daniel & Ariawan, 2022; Ricky et al., 2024a). Researchers such as Zugliani (2019) and Chahya et al. (2025) emphasise the incompatibility of this practice with investment law, while Risna and Ridwan (2024) highlight its widespread use to circumvent restrictions on land ownership by foreign nationals. Tassopoulos's (2023) study also asserts that such contracts are null and void because they violate the requirements of a valid causa. However, most studies stop at confirming illegality, without exploring the practical consequences and law enforcement. This shows a gap between doctrinal understanding and legal reality in the field, which is the focus of this study.

Several studies have attempted to link nominee agreements with investment policy and agrarian governance (Bull et al., 2021; Nahak & Budiartha, 2021). For example, Hasanah et al. (2025) show that the implementation of Law No. 25 of 2007 on Investment (UUPM) aims to create legal certainty for foreign investors but creates tension with the principle of agrarian nationalism. Meanwhile, Nyarko (2019) highlights that the absence of explicit regulations on innominate contracts, such as nominee agreements, creates legal uncertainty. From these findings, it appears that the gap between investment policy and the protection of agrarian sovereignty has not been effectively addressed.

The phenomenon of nominee agreements arises when foreign nationals control land de facto by using the names of Indonesian citizens as the legal owners (Hurley & Lee, 2021; Noor, 2021). This practice, although formally legal, is actually a form of legal smuggling to avoid foreign ownership restrictions (Ghezelbash, 2020). This gap between formal legality and legal substance complicates the enforcement of agrarian law in Indonesia and threatens the integrity of the national land ownership system.

The legal framework governing investment through the Law No. 25 of 2007 on Investment (Law of the Republic of Indonesia No. 25 of 2007 concerning Investment, 2007) and the Law No. 40 of 2007 on Limited Liability Companies (Law of the Republic of Indonesia No. 40 of 2007 concerning Limited Liability Companies, 2007) has prohibited nominee practices in the ownership of company shares or assets (Sulistiyani, 2024; Safitri et al., 2024).

However, similar practices in land ownership continue to occur due to the absence of explicit regulations in agrarian law. This imbalance creates a paradox between strict investment regulations and weak control over land, highlighting the need for cross-sectoral legal harmonisation. The urgency to address nominee practices is increasing with the rise in land disputes and pressure on land availability due to urbanisation and industrial expansion.

Nominee agreements exacerbate inequality in access to land, erode public trust in the law, and threaten the constitutional principle that land should be used for the prosperity of the people. Therefore, this issue is not only a matter of contract legality, but also one of social justice and national governance.

From a legal theory perspective, nominee agreements create a paradox between the principle of freedom of contract in the Civil Code (KUHPerdata) and public law public order (Bakung et al., 2022; Makaarim et al., 2025). Subjectively, these contracts are valid because there is an agreement between the parties, but objectively, they are void because their purpose is contrary to the law (Miller, 2022). This paradox highlights the boundary between personal freedom and public interest, which is a crucial point in the analysis of this study.

Despite the prohibitions in place, nominee practices continue due to weak law enforcement, economic benefits, and a lack of consistent jurisprudence (Scheppele et al., 2021). These factors indicate that the problem lies not only in legal norms but also in the ability of institutions to enforce them. Therefore, this study is important to clarify the gap between written law and law in practice, as well as to provide recommendations to strengthen law enforcement.

This study aims to explain the legal status of nominee agreements in the Indonesian legal system and analyse their implications for land ownership by foreign nationals. This study has two focuses: (1) to evaluate the legal position of nominee agreements based on Law No. 5 of 1960 concerning Agrarian Principles (Law of the Republic of Indonesia No. 5 of 1960 concerning Basic Agrarian Principles, 1960), Law No. 25 of 2007 on Investment (Law of the Republic of Indonesia No. 25 of 2007 concerning Investment, 2007), and Law No. 40 of 2007 on Limited Liability Companies (Law of the Republic of Indonesia No. 40 of 2007 concerning Limited Liability Companies, 2007); and (2) identifying the legal consequences for the parties and the impact on legal certainty and state sovereignty. The results of this study are expected to contribute conceptually to the harmonisation of agrarian and investment regulations and serve as a reference for future judicial interpretations of Law No. 5 of 1960 on Agrarian Principles to strengthen legal certainty and protect Indonesia's land sovereignty.

LITERATURE REVIEW

The issue of *nominee* agreements in Indonesia has received widespread attention in various literature from the perspectives of investment law, agrarian law, contract law, and institutional enforcement (Perwitasari & Fairina, 2021). These studies provide an understanding of both the doctrinal illegality and the sustainability of the practice in an empirical context. However, there is still a gap in the literature that comprehensively integrates various legal perspectives and assesses their systemic implications for agrarian governance and the national investment climate. Therefore, this review outlines three main approaches: investment law, agrarian law, and contract law, and compares them with practices in other countries to enrich the context of the analysis.

Nominee Agreements and Investment Law

Most investment literature highlights the incompatibility of *nominee* agreements with the principles of transparency and openness of ownership that form the basis of investment law. He (2024) places this issue within the framework of foreign direct investment regulation, emphasising that Law No. 25 of 2007 on Investment (Law of the Republic of Indonesia No. 25 of 2007 concerning Investment, 2007) explicitly prohibits arrangements that conceal actual ownership. Tassopoulos (2023) reinforces this view by stating that the UUPM considers such contracts *void ab initio* to prevent manipulation of ownership structures by foreign parties.

However, Dimitropoulos (2020) points to ambiguities in the implementation of the UUPM, as on the one hand the law aims to attract foreign capital, but on the other hand it upholds national sovereignty. This tension between investment openness and the protection of domestic interests also arises in other countries. Thailand, for example, applies *leasehold limitations* to prevent direct foreign land ownership, while Malaysia allows foreign nationals to own certain properties below a certain value limit and with government permission. This pattern shows that the *nominee* issue is part of regional dynamics that attempt to balance economic liberalisation with the protection of national resources. Thus, investment literature emphasises that although *nominee agreements* are normatively prohibited, their implementation still faces a dilemma between legal certainty and foreign investment needs.

Nominee Agreements and Agrarian Law

Agrarian law literature views *nominee* agreements as a form of legal smuggling that directly violates the principle of agrarian nationalism in the 1960 Agrarian Law (Law of the Republic of Indonesia No. 5 of 1960 concerning Basic Agrarian Principles, 1960). The UUPA stipulates that land ownership rights can only be held by Indonesian citizens, while foreign nationals are limited to derivative rights such as the right of use, the right of cultivation, or the right of building. Anggriani

and Zandra (2021) and Nahak and Budiartha (2021) show that foreign nationals often use Indonesian citizens as *nominees* to register land, so that it appears legally valid but is in fact a violation of the law. Sulistiyani (2024) considers this practice to be *fraud legis,* as it is deliberately intended to circumvent the applicable norms. Mitsilegas (2019) adds that weak law enforcement mechanisms reinforce the continuation of this practice.

In the regional context, Vietnam and the Philippines have adopted an approach similar to Indonesia's, rejecting foreign land ownership but allowing *long-term leasehold* rights as a compromise between protection and investment. Meanwhile, Malaysia has tightened its supervision of foreign property ownership through its *Foreign Ownership Approval* policy. Lessons from these countries show that formal prohibitions without strict supervision are not sufficient to prevent covert practices such as *nominee* agreements. This agrarian literature reinforces the relevance of this study to examine the need for harmonisation between investment regulations and Indonesian agrarian law in order to close loopholes for legal smuggling.

Nominee Agreements and Contract Law

From a contract law perspective, *nominee* agreements challenge the limits of the principle of freedom of contract as stipulated in the Civil Code (KUHPerdata). Dhaniswara (2023) asserts that freedom of contract is only valid to the extent that the contract fulfils subjective (agreement) and objective (valid cause) requirements. In practice, *nominee* agreements fail to meet the objective requirements because their purpose conflicts with public law, which prohibits land ownership by foreign nationals. Anggriani and Zandra (2021) assess such agreements as contracts that are formally valid but substantively invalid because they violate public order. Filatova et al. (2019) emphasise that private law cannot be enforced separately from the principles of social justice and public interest.

Practices in Malaysia and Singapore provide important lessons. Both countries apply the principle *of substance over form*, which assesses the substance of a legal relationship rather than the form of the contract. With this approach, courts can invalidate contracts that are formally valid but aim to circumvent public law. A similar approach can be applied in Indonesia to strengthen the role of the courts in assessing the intent and substance of *nominee* agreements, rather than just the outward form of the contract. The contract literature thus confirms that *nominee* agreements not only violate legal norms but also undermine the fundamental principle of contractual integrity in the national legal system.

Challenges in Law Enforcement and Legal Uncertainty

Although *nominee* agreements are normatively declared invalid, various studies show weak law enforcement in practice. Aaronson and Shaffer (2021) highlight the difference between *law in the books* and *law in action,* where violations continue due to weak supervision and low accountability of legal institutions. Factors such as slow bureaucracy, inefficient land administration, and corruption exacerbate the situation. Liu et al. (2022) assert that the state's inability to effectively enforce prohibitions undermines public confidence in the legal system, while Azadi et al. (2024) and Kalabamu (2019) show that conflicts between nominal owners, beneficial owners, and third parties often arise due to the uncertainty of the legal status of land.

In a comparative context, the Philippines and Thailand have introduced *beneficial ownership disclosure* systems to identify the actual beneficial owners of land and companies. This mechanism serves as a preventive measure against legal smuggling practices and can be a model for Indonesia in strengthening land data integrity and legal certainty. This study shows that the main problem lies not only in the legal norms that prohibit such practices, but also in the effectiveness of enforcement and weak inter-agency coordination in their implementation.

Synthesis and Theoretical Framework

Overall, the existing literature emphasises three key points. First, under investment law ( ), *nominee* agreements violate the principle of ownership transparency and are invalid under the Capital Market Law (UUPM) and the Limited Liability Companies Law (UUPT). Second, under agrarian law, this practice violates the principle of national sovereignty as stipulated in the Basic Agrarian Law (UUPA). Third, under contract law, these agreements are invalid because their legal basis violates public order. However, there is still little research that systematically integrates these three legal frameworks and assesses their implications for law enforcement and public policy.

This study attempts to bridge this gap by adopting a normative juridical approach to examine the relationship between contractual autonomy and public interest in the context of land ownership by foreign nationals. Theoretically, this study is based on the Land Sovereignty Theory, which asserts that land is the main instrument of state sovereignty and public welfare. With this framework, this study is expected to contribute to the harmonisation of agrarian-investment regulations and strengthen the direction of future judicial interpretations to be in line with the principles of agrarian justice and legal certainty.

RESEARCH METHOD

This study utilises a normative legal research method, which focuses on analysing laws and regulations as the primary sources of research. Normative legal research does not analyse the empirical implementation of law (law in practice), but rather emphasises the conceptual and theoretical dimensions of law (law in books). The main objective of this approach is to identify legal principles, doctrines, and norms relevant to the research problem, as well as to formulate arguments based on applicable legal provisions.

This approach combines conceptual and comparative legal sub-approaches, analysing Indonesian positive legal principles while comparing them with similar practices in several other jurisdictions (e.g. Malaysia, Thailand, and the Philippines) to enrich theoretical understanding. This comparative design involves strict selection criteria, namely: (1) countries that have regulations related to foreign land ownership; (2) countries that face similar challenges in terms of foreign investment and land regulations; and (3) countries that have legal mechanisms that allow the application of nominee agreements in a context relevant to Indonesia. The comparative variables used are: (i) the legal framework regarding foreign land ownership, (ii) foreign investment regulations in the laws of each country, and (iii) law enforcement against nominee agreements or similar practices. Thus, comparative analysis can provide a richer perspective on the legal challenges faced by Indonesia in dealing with nominee practices.

This method is in line with the research objective of examining the legality of nominee agreements based on the national agrarian and investment framework, while linking it to the principle of agrarian legal sovereignty.

The analysis in this study is based on three categories of legal sources: primary, secondary, and tertiary.

1. Primary legal sources are binding authorities and form the basis of the research. These sources include Indonesian legislative instruments, specifically: a) Law No. 5 of 1960 concerning Agrarian Principles (UUPA), b) Law No. 25 of 2007 concerning Investment (UUPM), and c) Law No. 40 of 2007 concerning Limited Liability Companies (UUPT). These three laws were chosen because they represent the main pillars governing the relationship between land ownership, foreign investment, and corporate legal structures in Indonesia. The UUPA serves as the basis for national agrarian law, the UUPM regulates the foreign investment regime, and the UUPT provides a legal framework for foreign share ownership and legal entities. The selection of these three laws allows for a comprehensive cross-

disciplinary legal analysis.

2. Secondary legal sources are non-binding materials that provide interpretations, explanations, and evaluations of primary sources. These sources include academic books, scientific journal articles, dissertations, conference reports, and scientific works related to agrarian law, foreign investment, and nominee agreements. Secondary sources were selected through systematic searches of several academic and legal databases, such as HeinOnline, JSTOR, Scopus, Google Scholar, and national legal journal portals (Garuda and Neliti). The inclusion criteria were: (i) direct relevance to the theme of land ownership by foreign nationals or nominee agreements; (ii) works published between 2015 and 2025; and (iii) academic reputation (peer-reviewed or published by an official legal institution). Sources that did not meet the criteria of scientific validity or topic relevance were excluded. In addition, secondary sources were identified and evaluated using a systematic qualitative approach, comparing academic views, normative interpretations, and judicial opinions to obtain a consistent picture of the legal position of nominee agreements.
3. Tertiary legal sources are used as supporting references to explain the legal terms and concepts used. These sources include legal dictionaries, legal encyclopaedias, and other general references that assist in interpreting technical terminology. All legal materials were accessed through official government databases (such as peraturan.go.id and jdih.setneg.go.id for the text of laws), university law libraries, and online journal repositories. This process aimed to ensure the validity and authenticity of the legal materials used.

Analysis Stage

The research process involves three main stages:

1. Identification of legal norms, namely the collection and grouping of relevant legal provisions and doctrines that support the analysis.
2. Analysis and systematisation, which involves reviewing legal materials based on doctrinal principles, such as the requirements for a valid agreement according to the Civil Code (KUHPerdata), as well as prohibitions in the UUPA, UUPM, and UUPT regarding foreign ownership.
3. Evaluation and synthesis, namely a critical assessment of whether nominee agreements can be harmonised with existing legal norms and how this affects land ownership and investment governance in Indonesia.

At each stage, doctrinal interpretation and systematic analysis techniques are used, interpreting legal provisions grammatically, systematically, and teleologically.

The results of the interpretation from various sources are then triangulated doctrinally by matching the findings from:

1. interpretation of the law,
2. court decisions (relevant court decisions), and
3. academic consensus. This step ensures the consistency and validity of the legal findings while strengthening the credibility of the normative research methodology used.

FINDINGS AND DISCUSSION

Legal Status of Nominee Agreements under Indonesian Positive Law

The findings of this study confirm that *nominee* agreements occupy an ambiguous position but are essentially illegal under Indonesian law (Salampessy, 2024). Based on the Investment Law (Law of the Republic of Indonesia No. 25 of 2007 concerning Investment, 2007) and the Limited Liability Company Law (Law No. 40 of 2007, Law of the Republic of Indonesia No. 40 of 2007 concerning Limited Liability Companies, 2007), the use of *nominee* agreements is explicitly

prohibited. Ricky et al. (2024b) emphasise that the UUPM prohibits domestic and foreign investors from entering into contracts that conceal the actual ownership of shares and declares them null and void. Similarly, Farisi et al. (2025) and Safitri et al. (2024) emphasise that the UUPT requires shares to be issued in the name of the rightful owner. These provisions demonstrate the state's efforts to ensure transparency and legal certainty in investment.

However, research shows that *nominee* practices are still widespread, especially in the context of land ownership. Foreign nationals who are prohibited from owning property under the 1960 Basic Agrarian Law (Law of the Republic of Indonesia No. 5 of 1960 concerning Basic Agrarian Principles, 1960) often use agreements with Indonesian citizens who act as nominal owners. Under this arrangement, Indonesian citizens become the formal certificate holders, while foreign parties retain control and reap the economic benefits. This situation creates a duality between legal ownership and beneficial ownership, revealing a gap between the text of the law and socio-economic practices.

The role of notaries helps to reinforce the continuity of this practice. Based on Law Number 2 of 2014 concerning the Position of Notaries, notaries have the authority to draw up authentic deeds in accordance with the statements of the parties. However, in the context *of nominees*, this authority is often misused as a tool to "legitimise" legal smuggling. Subekti's classic literature (1992; 2023) and recent research confirm that *nominee* contracts fail to fulfil the elements of a valid cause as stipulated in Article 1335 of the Civil Code. Thus, these agreements are not only doctrinally illegal but also give rise to structural legal uncertainty.

A new point in this study is the identification of a "normative loophole" that allows the practice *of* land *nominee* to continue. Unlike the corporate context, which is clearly regulated by the UUPM and UUPT, there is no explicit prohibition on *nominee* agreements in land ownership. Although the Land Law explicitly prohibits foreigners from owning property (Ogbuabor & Ajah, 2020; Sumarja et al., 2023), the absence of specific norms regarding *nominee agreements* creates a legal grey area. As a result, this practice appears to be formally legal but actually contradicts the principle of agrarian sovereignty.

To clarify this position, the following table maps the relationship between legal provisions, empirical findings, and legal consequences:

Table 1. Relationship between Legal Provisions and *Nominee* Agreement Practices

Legal Aspect	**Normative Provisions**	**Field Findings**	**Legal & Social Consequences**
Law of the Republic of Indonesia Number 25 of 2007 concerning Investment	Prohibits arrangements that conceal legal ownership	Nominee practices continue to be used to conceal foreign investment	Contracts are null and void; foreign investors lose legal protection
Law of the Republic of Indonesia Number 40 of 2007 concerning Limited Liability Companies	Shares may only be held in the name of the legitimate owner	Local intermediaries are used for share and land ownership	This creates legal uncertainty regarding ownership status
Law of the Republic of Indonesia Number 5 of 1960 concerning Basic Agrarian Principles	Ownership rights only for Indonesian citizens	Foreign nationals purchase land under the name of an Indonesian citizen	Violation of the principle of agrarian sovereignty
Notarial practice	Deeds are drawn up based on the	Notaries facilitate legal smuggling	The deed is formal but its substance is illegal

	statements of the parties	

This table clarifies that the main contradiction lies in the tension between formal legal certainty and the abuse of substantive norms, which marks the difference between "law on paper" and "law in practice".

Legal Consequences of Foreign Land Ownership Through Nominee Agreements

The second finding highlights the legal and practical consequences of land ownership by foreign nationals through *nominees*. Based on the concept of distinguishing between legal and factual ownership (Philippot et al., 2022), *nominee* agreements blur the line between the two. Legally, Indonesian *nominees* are the legal owners; in fact, it is foreign nationals who control and utilise the land. This duality creates legal vulnerability for both parties (Nkansah-Dwamena, 2021).

From a doctrinal perspective, *nominee* contracts do meet the subjective requirement of agreement between the parties, but they fail to meet the objective requirement of a valid cause. Based on the Civil Code (Dudás et al., 2022), contracts with objectives that violate the law are null and void. Because *nominee* agreements aim to circumvent the restrictions of the UUPA (Tassopoulos, 2023), these contracts are considered void ab initio. In practice, this means that foreign nationals cannot claim legal ownership rights, while the *nominee* party is also not bound by personal promises that conflict with public law (Mahy & Ngirmang, 2024).

Furthermore, the analysis found risks related to inheritance and transfer of rights. When the *nominee* dies, legal ownership passes to their heirs, not to the foreign national who actually funded the purchase. This creates the potential for difficult legal disputes and opens the door to new illegal practices such as under-the-table *re-contracting* or manipulation of PPAT deeds. This aspect shows that *nominee arrangements* are not only legally flawed but also create ongoing economic and social risks.

Furthermore, this practice undermines the principle of agrarian justice affirmed in the Basic Agrarian Law and the constitutional value that land should be used for the greatest prosperity of the people (Hoddy, 2021). By allowing de facto ownership by foreigners, the state risks losing control over land distribution and weakening the legitimacy of agrarian policy. Peterson et al. (2025) note that such inconsistencies undermine public trust in the legal system. In the context of public policy, this indicates the need to harmonise investment and agrarian regulations. Without coordination between investment and agrarian institutions, policies aimed at attracting investment actually create a legal paradox. A cross-sectoral approach is needed to ensure legal protection without sacrificing agrarian sovereignty.

In terms of judicial interpretation, several agrarian court decisions (for example, in disputes in Bali and Lombok, 2017–2022) tend to affirm the nullity of *nominee* agreements because they violate public order. However, there are still differences in interpretation between district courts, particularly regarding the status of derivative rights and the protection of third parties acting in good faith. This indicates systemic inconsistency in the application of the law, which weakens the deterrent effect against similar practices.

Integration of Findings: Conflict Between Normative Prohibitions and Practical Persistence

Integrated, this study identifies four recurring motifs that illustrate the conflict between

legal prohibitions and practical persistence:

1. Normative Ambiguity – differences in the scope of prohibitions between investment, corporate, and agrarian laws.
2. Ownership Dualism – the separation between legal ownership and beneficial ownership.
3. Weak Law Enforcement – low coordination between legal institutions and judicial inconsistency.
4. Public Policy Contradictions – the clash between investment promotion and land sovereignty protection.

Collectively, these four motives demonstrate that the *nominee* agreement problem is not merely a matter of private law, but rather a systemic reflection of the disharmony between investment policy and agrarian justice.

Thus, this study bridges the gap between doctrinal literature that highlights the illegality of contracts and policy literature that emphasises the attractiveness of investment. This study affirms the importance of regulatory harmonisation and consistent judicial interpretation as key to strengthening legal certainty and state sovereignty over land. The resulting policy implications are the need to develop national guidelines on *nominee arrangements* and to increase law enforcement capacity in the land sector.

CONCLUSIONS

This study analyses the legal status and consequences of *nominee* agreements in Indonesia's investment and agrarian legal systems with the aim of closing a research gap that has not been discussed in an integrative manner. As identified in the problem statement, most of the previous literature only highlights the doctrinal aspects of the illegality of *nominee* agreements, without linking them to broader practical and policy dimensions. This study expands on that analysis by showing how disharmony between legal frameworks, particularly between the Basic Agrarian Law (UUPA), the Foreign Investment Law ( ), and the Limited Liability Company Law (UUPT), creates a grey area that allows *nominee* practices to continue despite being normatively prohibited.

The findings of this study confirm that *nominee* agreements are inherently illegal under Indonesian positive law. In the corporate context, the UUPM and UUPT explicitly state that ownership hidden behind another party's name is null and void. Meanwhile, in the agrarian context, the UUPA does prohibit foreign nationals from owning land, but it does not explicitly regulate *nominee* agreements as a form of circumvention of the law. This normative vacuum opens the door to legal evasion practices that appear formally valid but substantively violate the principle of agrarian sovereignty. As a result, there is tension between formal legal certainty and the principle of social justice, which is the basis of national land law.

Furthermore, the consequences of *nominee* practices go beyond mere contractual invalidity. From a private law perspective, such contracts do not protect foreign parties who finance land purchases because legal ownership remains with Indonesian citizens and can be inherited without regard to the underlying contractual relationship. For local *nominees*, these agreements create potential legal liability and ownership disputes, while from the state's perspective, this practice weakens control over land distribution and undermines the credibility of the national investment system. Thus, *nominee arrangements* are not only a form of contract violation but also a mechanism of legal evasion (*fraus legis)* that threatens the legitimacy of Indonesia's agrarian and investment governance.

Theoretically, this study broadens the understanding of *the Theory of Agrarian Legal Sovereignty* by showing that *nominee* practices create a new form of legal dualism, in which private norms are used to undermine public legal authority. These findings also enrich the discourse on the

limits of freedom of contract in the Indonesian legal system by emphasising that contractual autonomy cannot be separated from the public interest and the principle of distributive justice. Thus, this study contributes to strengthening the argument that the protection of land ownership and legal sovereignty must be positioned above capital interests.

The policy implications of this research call for more concrete steps. Harmonisation between the UUPA, UUPM, and UUPT needs to be carried out immediately so that the prohibition of *nominee* agreements also explicitly covers land. Institutional coordination between the National Land Agency, the Ministry of Investment, and the Ministry of Law and Human Rights needs to be strengthened through a *beneficial ownership* verification mechanism, so that the identity of the actual owner can be disclosed transparently. The role of notaries and land officials must also be clarified through ethical guidelines and sanctions against practices that facilitate legal smuggling. On the other hand, the government can review its investment policies by offering legal alternatives such as strictly supervised long-term usage rights for foreign nationals, without sacrificing the principle of agrarian sovereignty.

Overall, this study bridges the gap between doctrinal analysis and public policy by emphasising that solutions to the *nominee* agreement issue are not sufficient through normative prohibitions alone, but also require institutional reform and consistency in judicial interpretation. With an approach that integrates law, policy, and practice, this study contributes to building a more coherent and equitable direction for legal reform that is in line with the constitutional mandate that land must be used for the prosperity of the people.

LIMITATIONS & FURTHER RESEARCH

Like all legal research, this study has several limitations. The analysis is based on a normative juridical approach, which focuses on legal provisions, doctrinal interpretations, and secondary literature. While this method provides doctrinal clarity, it does not capture the empirical reality of how nominee agreements are practised, debated, or decided in Indonesian society. For example, the role of corruption, administrative discretion, and local power relations in maintaining nominee agreements remains outside the scope of this study. Furthermore, this study is limited to the Indonesian legal system and does not include a comparative perspective. Insights from other jurisdictions facing similar tensions between foreign investment and land sovereignty, such as Thailand, Vietnam, or Malaysia, could provide valuable lessons for Indonesia.

Future research should move in three directions. First, empirical studies are needed to analyse the practical application of nominee prohibitions, including analysis of court decisions, administrative practices, and the perspectives of notaries, land officials, and investors. Second, comparative research could explore how other countries balance the facilitation of foreign investment with restrictions on land ownership, thereby offering models for regulatory reform. Third, an interdisciplinary approach integrating law, economics, and political science can illuminate the broader implications of nominee agreements for land governance, distributive justice, and sustainable development. By addressing these gaps, future literature can build upon this study to provide a more holistic understanding of nominee agreements and contribute to more coherent and equitable policy solutions in Indonesia's investment and agrarian governance.

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