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Non-citizens can continue owning land through inheritance

- Welcome move by Government
- Shelves plan to restrict prohibition for non-citizens from owning land through inheritance
- Probate and Administration Act remains unchanged
- Diaspora can breathe a sigh of relief

On 14 November 2019, the Written Laws (Miscellaneous Amendments) Bill 2019, Act No 8 of 2019 (the Bill) proposed to amend several laws including the Probate and Administration of Estates Act, Cap. 352 (the Act).

The amendment to the Act initially proposed to impose a restriction on Administrators and Executors in distributing the estate of the deceased which is in the form of landed property to heirs who are non-citizens. In short, the Bill proposed that non-citizen heirs would only be allowed to benefit from the proceeds realised from the disposition of the said landed property after the Administrator or Executor disposes off the property.

However, in a welcome move, after the Bill went through parliamentary debate, the Government has shelved amending the Act meaning that heirs who are non-citizens can continue to inherit property, not necessitating for administrators or executors to dispose of the property for distribution of the proceeds. The Written Laws (Miscellaneous Amendments) Act, 2020, which came into force on 21 February 2020, now contains no amendment disallowing non-citizens from owning landed property through inheritance.

The laws of Tanzania through the provisions of section 20 of the Land Act prohibit foreigners to acquire land unless it is for investment purposes under the Tanzania Investment Act. The Tanzania Investment Act makes it clear that a non-citizen can only acquire land if it is for investment purposes and that investment must be under the Tanzania Investment Centre. Otherwise non-citizens are not allowed to hold land in Tanzania.

However, through jurisprudential developments by way of case law, the High Court (Dr Fauz Twaib, J.), in the case of Emmanuel Marangakis as Attorney of Anastasios Anagnostou vs The Administrator General, Civil Case No. 1 of 2011 (Marangakis case), in a historic and welcome decision, ruled that non-citizen heirs could own land by way of inheritance. The Court in this case interpreted that what was prohibited by the Land Act was direct grant or allocation of land to non-citizens and not ownership by way of inheritance.

The decision by the Government not to continue with the amendment of the Act is going to ensure that the diaspora, amongst others, continue to maintain their nexus to Tanzania, which will prove beneficial to the country.

To read our Legal Update dated 19 November 2019 on the Bill [click here](#).

To read the Marangakis case [click here](#).

To read the Written Laws (Miscellaneous Amendments) Act, 2020 [click here](#).

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