



# THE LEGAL CIRCLE

High Tower (9<sup>th</sup> Floor), 9 Mohakhali Commercial Area  
Dhaka-1212, Bangladesh

## **FAQ on owning Real Estate Properties by Dual Citizenship Holders in Bangladesh**

### **1. Can foreign nationals sell property in Bangladesh through a duly registered Power of Attorney?**

No, a foreign national cannot purchase or sell real property in Bangladesh. [Transfer of Property Act 1882](#) and the [Registration Act 1908](#) are the two main laws which regulate transfer of property in Bangladesh. These two laws do not have any provisions related to foreigners, which allow a foreigner to purchase land in Bangladesh.

Moreover, Article 13 and 42 of the [Constitution of Bangladesh](#), do not allow anyone other than Bangladeshi citizens to own land in Bangladesh. A foreigner can only buy or sell land in Bangladesh if he/she has a dual-citizenship or through a company duly incorporated in Bangladesh under the Registrar of Joint Stock Companies (RJSC).

### **2. Can foreign nationals take out the sale money from Bangladesh through legal channels? Can this create problems for co-owners (who are in Dhaka and are Bangladeshi citizens)**

Yes, a person can take out the sale money from Bangladesh by either writing an application on their own or through any of the local banks to the Foreign Exchange Operation Department of Bangladesh Bank and complete the necessary formalities. (Source: Bangladesh Bank)

### **3. Can a dual citizen give 100% of his inherited property to his wife and daughter through a registered Heba? What about the owner's cousins who are entitled to get shares by Islamic law?**

A person can only give portions of his/her inherited property through Heba if mutation of the property is completed after inheriting the property. Any property which was not mutated properly after inheritance will not be valid if it is given to someone through Heba.

A Muslim can devolve his property in various ways. Muslim law permits the transfer of property inter vivos (gift) or through testamentary dispositions (will). A disposition inter vivos is unrestricted as to quantum and a Muslim is allowed to give away his entire property during his lifetime by gift, but only one-third of the total property can be



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bequeathed by will. Heba is governed by The Muslim Personal Law (Shariat) Application Act, 1937 (ACT NO. XXVI OF 1937).

Under the Muslim Law a gift is a transfer of property or right by one person to another in accordance with the provisions provided under Muslim law. Heba (Tamlik al ain), is an immediate and unconditional transfer of the ownership of some property or of some right, without any consideration or with some return (ewaz); Gift is a wide term, but Heba is much narrower.

Registration: Under Muslim Hanafi Law the registration of a gift is not compulsory. It can be completed by the delivery of possession. But under registration Law the story is different. Before 2004, Hiba registration was not compulsory, but after an amendment made in 2006 in the Registration Act, all Heba Documents must be registered, in order to be valid.

After registration of the Heba document, the other legal process for completion of transfer of property is to mutate the property in the name of the new owners with the Government Record Office and Ministry of Works or RAJUK (if the land belongs to the Ministry of Works or RAJUK). The new owners can undertake this process even after the death of the donor.

Therefore, if the Heba is duly registered after mutation of the inherited property, then the owner's cousin will not be entitled to get any share under Islamic Law.