

The Notary's Responsibility for False Statements From the Parties in the Making of Authentic Deeds Reviewed From the UUJN

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How to cite:

Sari, N. N. A. S. R., Putra, I. M. W., & Laksana, I. G. N. D. (2025). The Notary's Responsibility for False Statements From the Parties in the Making of Authentic Deeds Reviewed From the UUJN. *Jurnal Notariil*, 10(2), 98-104. Doi. <https://doi.org/10.22225/jn.10.2.2025.98-104>

Abstract. A Notary is a Public Official who is authorized to make authentic deeds in accordance with the provisions of UUJN Article 1 number 1. Notaries are required to be responsible for the deeds they have made. However, the problem is when the authentic deed made by the Notary contains false information or untruths from the parties. In this case, the Notary only contains data and information provided by the parties. There are no regulations regarding the notary's obligation to validate information from the parties. The purpose of this study is to determine the notary's responsibility when the authentic deed contains false information from the parties and the form of legal protection for notaries against deeds containing false information. The research method used is the normative juridical legal research method which departs from the absence of norms where there is no regulation regarding false information contained in the Notary's deed. Using primary, secondary and tertiary legal materials as well as conceptual approaches and statutory approaches. The results of the study can be concluded that the notary is responsible for the deeds he made both civilly, criminally and administratively. Criminal responsibility lies entirely with the party who provides false information. If a notary intentionally falsifies or manipulates the contents of a deed, he or she can be held legally responsible. Legal protection for notaries can be seen in article 66 of the UUJN where a notary for the benefit of the court, investigation, public prosecutor, or judge with the approval of the Notary Honorary Council.

Keywords: Notary's responsibility; false statement; authentic deed

1. INTRODUCTION

In Indonesia, one of the professions that is required to be professional in carrying out its duties is that of a Notary. A Notary acts as an extension of the Government, in this case, the state. Notaries have been granted the authority by the state to manage certain affairs, especially in Civil Law (Tjukup et al., 2016). Professional accountability is accountability to oneself and to society. Being accountable

to oneself means that a professional works due to moral, intellectual, and professional integrity as part of their life; being accountable to society means the willingness to provide the best possible service according to their profession (Anshori, 2009).

A notary is a public official authorized to create authentic deeds and has other authorities as referred to in the Law or based on other laws. This statement is stated in Article 1 number 1 of Law Number

2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the position of notaries (hereinafter referred to as the Notary Law Number 2 of 2014). A notary is a legal profession, thus the notary profession is a noble profession (*nobile officium*). Deeds made by a notary can serve as legal grounds for the status of property, rights, and obligations of a person. Errors in the deeds created by a notary can lead to the loss of someone's rights or the imposition of obligations on someone, therefore, notaries in carrying out their duties and positions must comply with various provisions contained in the Notary Position Law (Anshori, 2009).

As a public official, the notary has full responsibility for every deed they create, especially if in the future that deed leads to a dispute in court and contains legal defects, it should be questioned. In the disputed deed or the one containing legal defects, it must also be determined whether there is an element of pure error from the notary, or whether the error comes from the parties in providing information and other supporting documents (Batubara, 2011).

Regarding the responsibilities of notaries as public officials, this writing covers the responsibilities of the profession itself related to authentic deeds. The responsibility of notaries for the authentic deeds they create and which indicate civil or criminal acts arises if there is a mistake, whether intentional or due to negligence, that results in loss to others (as a result of the creation of the deed), which means the Notary has committed an unlawful act and this can be a reason for the aggrieved party to claim reimbursement of costs, compensation, and interest from the Notary regarding the authentic deed that contains false information (Article 84 of the Notary Law).

According to R. Sugandhi, false testimony is information that is not true or contradicts the actual information (Chazawi, 2002). So what is meant by an authentic deed that contains false information in this case is when the notary, whether intentionally or unintentionally, along with the parties or applicants, creates a deed that does not match the actual circumstances with the intent and purpose of benefiting certain parties or applicants, where the information violates the interests

of others. If it is proven that the notary violates the authority clearly outlined in Article 15 of the Law on Amendments to the Notary Public Law, then the notary must be held accountable according to the actions taken, both in terms of administrative law, civil law, and criminal law (Aptaningsih *et al.*, 2025). From a criminal law perspective, this refers to when the notary commits forgery of documents or falsification of deeds as stipulated in Articles 263, 264, and 266 of the Criminal Code.

In reality, notarial deeds are often contested by the parties or third parties, so it is not surprising that notaries are often implicated as parties who participate in or assist in a crime that involves creating or providing false statements in notarial deeds (Adjie, 2014). In society, there are many instances of parties providing data or information that does not correspond to reality to notaries in the creation of a deed. As is known, notaries merely record the information or data from parties without further investigating the truth of the information provided. In the Supreme Court Decision No. 379 K/PID/2021, the responsibility of notaries who create authentic deeds based on false information from the parties is discussed. Authentic deeds containing false information can lead to legal consequences, both civil and criminal. The injured party can file a lawsuit in court to annul the deed.

There are no regulations regarding the authority of notaries to conduct investigations or seek material truth from the information provided by the parties. This, in turn, leads to problems arising in the future. The Notary Law and the Law on Amendments to the Notary Law do not regulate the criminal responsibility of notaries in the examination process related to the falsification of documents by the parties. The Notary Law also does not clearly provide for legal protection for notaries in criminal matters. Consequently, this creates a legal or normative vacuum in the Notary Law concerning the responsibility and legal protection when notaries create documents based on false statements by the parties. Based on this background, the author is interested in raising the title 'Notary Responsibility for False Statements from Parties in the Creation of Authentic Documents Reviewed from the Notary Law'.

Problem Formulation

Based on the background of the problem that has been outlined, the formulation of the problems to be studied is as follows:

What is the notary's accountability for the deeds made based on false statements from the parties according to the Notary Law?

How is the legal protection of a notary regarding deeds that contain false statements from the parties?

Purpose of Writing

The purpose of writing this journal is to understand and analyze the form of responsibility of a notary when there is false information given by the parties in the creation of an authentic deed, based on the provisions in the Notary Position Act (UUJN) and to analyze the legal protection for notaries in the event that the parties provide false information without the knowledge or bad faith of the notary himself.

2. METHOD

The method used in this study is the normative legal method. According to Peter Mahmud Marzuki, the writing of normative law has a perspective nature where the object of legal science is the coherence between legal norms and legal principles, between legal rules and legal regulations, as well as between individual behavior and legal norms (Marzuki, 2015). This type of research is used because it starts from a gap in norms, namely the absence of regulations regarding notary responsibilities in the making of deeds based on statements or forgery of letters carried out by the parties, both in the Notary Public Law (UUJN) and the Amendment Law on UUJN. The approach taken in this study is a statutory approach which examines the provisions of laws and regulations related to the topic being discussed through legal norms, and a conceptual approach, which is used through the views and doctrines that develop in legal science. This approach is used to provide an analytical perspective on problem-solving in this legal research seen from the aspect of legal concepts. The collection of legal materials uses a literature study technique.

3. DISCUSSION

The Notary's Responsibility for Deeds Made Based on False Statements from Parties According to the Notary Law

In Indonesia, a notary is a profession that is required to carry out their duties professionally. A notary is a public official authorized to create authentic deeds as long as the creation of certain authentic deeds is not exclusively designated for other public officials (Supriadi, 2006). The notary as a public officer (*openbaar ambtenaar*) authorized to create authentic deeds may be held responsible for their actions in connection with their work in creating these deeds. If there is found to be forgery of the document, whether formally or materially, then the deed no longer functions as a perfect instrument of evidence, resulting in the deed lacking binding power. A forged deed, whether formally or materially, will become a private deed whose binding power depends on proof in court (Siahaan, 2019). The scope of a notary includes material truth, which can be divided into four important points, including:

The Notary's civil responsibility for the material truth of the deeds they create

The Criminal Responsibility of a Notary for the material truth of the deeds they create

The Notary's responsibility based on the Notary Public Regulations is for the material truth in the deeds they create

The Notary's Responsibilities in carrying out their duties based on the Notary Code of Ethics (Nico, 2003).

If a Notary, as a public official, in exercising their authority creates an authentic deed regarding all actions, agreements, and provisions in accordance with the laws and regulations, then the Notary as a public official cannot be held legally accountable for the deed they have created. If linked to the provisions of Article 84 of the Notary Law, the deed created by the Notary does not have notarized power as an authentic deed, but only has the evidential power of a private deed if the deed does not or does not meet the subjective requirements, such as parties or applicants being incompetent in legal actions. The deed may also be null and void by law if it does not meet the objective requirements, such as the absence of an

object that is agreed upon or if the deed created is contrary to laws, public order, or morality. In this situation, the Notary can be held accountable from a legal perspective, whether from the perspective of administrative law, civil law, and criminal law.

Notaries are vulnerable to legal issues because in drafting deeds, notaries rely only on formal truth, which is the authenticity of the documents submitted, not on material truth which is the responsibility of the parties present before them. If the information or documents provided to the notary turn out to be false, then the resulting deed is still considered formally valid, because material truth is not the notary's responsibility. The content of the deed reflects what is declared by the parties, but the notary does not guarantee the honesty of their statements. Therefore, if a legal issue arises related to material substance, the first investigation should be directed towards the parties who provided false information or documents, not the notary who merely records based on the statements presented to them. It is not uncommon for notaries to be accused of colluding with the parties to issue false notarial deeds (Sjaifurrachman & Adjie, 2011).

The situation made the Notary feel anxious in carrying out his duties, as there is a potential to be sued by related parties at any time, even facing a criminal legal process. If the negligence or mistakes made by the Notary in drafting the deed can be proven, the concerned Notary may be held accountable in accordance with the provisions of the Notary Law when a notary commits violations that result in legal deviations, then that Notary may be subjected to legal sanctions, namely civil sanctions (Article 84 of the Notary Law), administrative sanctions, or code of ethics of the Notary office, and could even face criminal sanctions (Article 66 of the Notary Law). Therefore, in order to protect himself, a Notary is highly required to maintain vigilance and caution. The Notary provides services in accordance with applicable regulations. Notaries are required to uphold their dignity as public officials and are also expected to have high moral values. It is hoped that with these high moral standards, notaries will not abuse their authority (Sakina & Santoso, 2024). In practice, many

notaries experience problems when the deeds they have created are declared null and void by court decision due to the discovery of legal defects in their creation, for example, if the documents provided by one party turn out to be incorrect.

In the Supreme Court Decision No. 379 K/PID/2021, notary TRI AGUS HERYONO, SH. was proven to have committed a criminal offense of fraud as regulated in Article 378 of the Criminal Code in conjunction with Article 55 Paragraph (1) point 1 of the Criminal Code, thus sentenced to 1 year in prison (Sinaga *et al.*, 2024). This decision emphasizes that the notary committed a criminal act by including false information in the creation of an authentic deed that caused harm to others, thus the notary can be held accountable for criminal, civil, and administrative responsibilities. Therefore, in this ruling, the notary is proven to have violated the law. The decision of the Supreme Court No. 379 K/PID/2021 also includes the criminal liability of the notary who created the authentic deed based on false information from the parties. In this ruling, the Supreme Court emphasizes that authentic deeds containing false information can be annulled by the court, thus reducing their evidentiary power to that of a private deed. Notaries proven to have committed violations in the creation of such deeds may face criminal, civil, and administrative sanctions in accordance with the provisions of Law No. 30 of 2004 concerning Notary Positions as amended by Law No. 2 of 2014 concerning Notary Positions (UUJN-P), as well as in the code of ethics of the notary profession. This ruling also affirms the notary's right to self-defense and legal protection, as long as it is not proven that they committed violations knowingly. However, if found guilty of a criminal act, the notary may be criminally prosecuted, and this ruling sets an important precedent in law enforcement against notaries involved in creating deeds with false information.

If false information in the making of an authentic deed is provided by the parties (the applicants) and the notary is unaware of the falsehood, then the criminal responsibility lies with the parties that provided the false information, not with the notary. A notary can only be held criminally liable if it is proven that they intentionally or negligently made a deed containing false

information that harms another party. In other words, if a notary acts professionally and is unaware of any false information, then the legal responsibility for that false information lies with the provider of the false information (the parties) who can be subject to criminal sanctions under Article 266 paragraph (1) of the Penal Code. However, the deed made based on such false information can be annulled by the court, thereby losing its legal force as an authentic deed and becoming a private deed (Handayani & Priyono, 2023).

Legal Protection of Notaries Against Deeds Containing False Information from the Parties

The role of a Notary as a public official as regulated in the Notary Position Law demands legal protection in carrying out their duties to serve the community, in order to realize legal certainty. The rights of Notaries need to be respected, protected, and adhered to as part of legal protection for their position as public officials. This is also the result of a legislative process that reflects protection of legal interests within the state system. To declare or assess that the deed is invalid can be done by filing a lawsuit in the District Court (Hamdi & Putra, 2024).

Legal protection must be based on provisions and legal rules that function to provide justice and serve as a means to realize the welfare of all people (Satjipto, 2006). Protection, justice, and welfare are shown to legal subjects, namely supporters of rights and obligations, including a Notary (Habib Adjie, 2009). The Notary Position Law has provided a law enforcement mechanism against the arbitrary actions of law enforcement against Notaries. This can be seen in Article 66 paragraph (1) of the Notary Law with the establishment of the notary honor council, as a legal protection institution for Notaries that functions to conduct preliminary examinations in the notary organization's meetings to grant approval or rejection to investigators from the police, prosecutors, or judges who summon Notaries for questioning in judicial processes. In addition, the MKN is also authorized to provide guidance to Notaries in carrying out their duties as public officials. Legal protection for Notaries has been normatively provided by applicable laws and regulations, namely:

According to Article 66 of the Notary Law regarding the taking of the minutes of the deed and summons to the Notary, which states that: for the purpose of judicial proceedings, investigators, public prosecutors, or judges with the approval of the National Body for Notaries have the authority:

to take a photocopy of the minutes of the deed and the documents placed on the minutes of the deed.

Calling a notary to attend an examination related to the deed made by them or the Notary Protocol that is in the storage of the Notary. This means that in conducting the examination, especially in criminal cases, law enforcement must follow the procedural rules for summons. When the notary's honor council does not approve, the notary does not need to attend the investigation process. This article provides legal protection for every notary.

Notary Denial Rights as regulated in:

Article 170 of the Criminal Procedure Code;

Article 19019 number 3 of the Indonesian Penal Code;

Article 277 HIR;

Article 4 of the Higher Education Law and Article 16 paragraph (1) letter e of the Law on Notary Public

The jurisprudence that can be used as a basis for consideration of several cases related to criminal acts faced by notaries is the Supreme Court Decision No. 702K/SIP/1973, which states that a notary only functions to record/write down what is desired and stated by the parties approaching the notary. Notaries are not required to investigate materially concerning the statements made by the parties. Therefore, based on this decision it can be concluded that if the deed made in front of the notary later becomes problematic, the matter will entirely be the responsibility of the parties involved, and the notary cannot be held accountable because the notary is not a party to the deed.

A notary obtains legal protection if the deed they create contains false information from the parties, as long as the notary does not know or is not intentionally or negligently involved in the creation of that

false information (Wiradiredja, 2016). Legal protection from the Regional Supervisory Council, now known as the Honorary Council of Notaries, is aimed at overseeing notaries to ensure they maintain a high level of professionalism. The form of legal protection for notaries is that when they act in accordance with the Notary Law (UUJN) and the notary code of ethics, they are not allowed to attend or be questioned, either as a witness or as a suspect. Additionally, the legal protection provided by the Indonesian Notary Association (INI) includes accompanying notaries during sessions of the Honorary Council (MKN); if the notary is found guilty, they will be assisted and provided with legal aid.

4. CONCLUSION

A notary cannot be held criminally liable if the false information in the deed originates from the parties, because the criminal responsibility lies entirely with the party that provided the false information. A notary can only be held accountable if he is involved in forgery or fraud. In the decision of the Supreme Court No. 379 K/PID/2021, it also includes the criminal responsibility of notaries who create authentic deeds based on false information from the parties. In this ruling, the Supreme Court emphasized that authentic deeds containing false information can be annulled by the court, thus reducing their evidentiary power to that of a private deed. Notaries proven to have committed violations in the creation of such deeds may be subject to criminal, civil, and administrative sanctions in accordance with Law No. 30 of 2004 on Notary Positions as amended by Law No. 2 of 2014 on Notary Positions (UUJN-P) and in the notarial code of ethics.

Legal protection for notaries is regulated in Article 66 of the Notary Law, which requires law enforcement authorities to seek permission from the Notary Honorary Council (MKN) before examining a notary. The MKN has the authority to refuse an examination if the notary has acted according to the Notary Law and the code of ethics. In addition, the Indonesian Notary Association (INI) provides protection in the form of assistance and legal support to notaries facing legal issues. MKN's approval is a procedure regulated by statutory law, which is indeed necessary before a notary can be examined in matters related to

documents containing false statements from the parties.

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