

# Jurnal Notariil

Jurnal Notariil, Vol. 6, No. 2, Nopember 2021, 112-120

P ISSN 2540 - 797X

Available Online at <https://ejournal.warmadewa.ac.id/index.php/notariil>

E ISSN 2615 - 1545

## POTENTIAL CONFLICT OF LAND DEED IN THE PERSPECTIVE OF NOTARY POSITION

I Made Pria Dharsana<sup>1</sup>, I Nyoman Sumardika<sup>2</sup>, Putu Ayu Sriasih Wesna<sup>3</sup> and I Wayan Wesna Astara<sup>4</sup>

<sup>1</sup>**Ikatan Notaris Indonesia**

<sup>2,3,4</sup>**Universitas Warmadewa, Bali, Indonesia**

Email: dharsanaimade@yahoo.co.id

How To Cite:

Dharsana, I. M. P., Sumardika, I. N., Wesna, P. A. S., & Astara, I. W. W. (2021), Potential Conflict Of Land Deed In The Perspective Of Notary Position, *Jurnal Notariil*, 6(2), 112-120. Doi: <https://doi.org/10.22225/jn.6.2.2021.112-120>

### Abstract

This study aims to find out the potential conflicts on Land Deeds made by Notaries and to find out Notary efforts in making Land Deeds to minimize potential land conflicts. The method used in this study is the normative legal research method. In addition, the statute approach, conceptual approach, and analytical approach are the approach used in this study. The results of this study showed that (1) potential conflicts on Land Deeds made by Notaries are due to Notaries in carrying out their positions tend to be in a dilemma which on the one hand must comply with legal provisions with a normative nature, and on the other hand, empirical facts are so complex and often cannot be handled and accommodated by regulations that tend to be rigid. This is because when carrying out its positions, the Notary must serve the client, while the client needs service without being too concerned with the regulations that bind the Notary. (2) Notary efforts in issuing Land Deeds to minimize the potential for Land Conflicts are required to examine the completeness of documents by applying the precautionary principle to protect the real owner and reduce conflicts in the land sector. The application of the precautionary principle of the Notary in producing the PPJB deed and the Lease Agreement deed to registered land rights to be registered at the Land Office must start from the stage before the deed, the stage at which the deed is made and the reading of the deed.

**Keywords:** Land Deed; Notary Position; Potential Conflict

### 1. INTRODUCTION

Juridically, the land is defined as the surface of the earth that can be given to and owned by people, either alone or jointly with other people and legal entities. The term land can also be found in Government Regulation (referred as *PP*) No. 24 of 1997 concerning Land Registration is defined as a "plot of land" which is a part of the earth's surface which is a limited unit of field. Meanwhile, land rights are rights to a certain part of the earth's surface, which is limited, has two dimensions with length and width. Land rights that are common and widely owned by individuals are property rights, this view is very logical by referring to the provisions of Article 20 of the Basic Agrarian Law (referred as *UUPA*), which states that property rights are hereditary, strongest

and most complete rights that can be owned by people on land, given the nature of ownership that functions socially. The legality of ownership of land rights is reminiscent of the legal principle of "*nemo plus juris transferre potest quam ipse habet*" (Sutedi, 2007:6) meaning that no one can transfer or give something to another person beyond his/her own right.

Ownership rights can be transferred to other parties (transferred) by way of buying and selling, grants, exchanges, gifts by will and other actions intended to transfer property rights. Procedurally, the process of transferring land rights can occur due to certain legal actions, carried out and proven by the *PPAT* deed, however, with certain reasons and considerations, the parties often first use the agreement instrument made before a

Notary. With the enactment of Law. No. 30 of 2004 concerning the Position of a Notary (referred as *UUJN*), as amended by Law no. 2 of 2014 (referred as *UUJNP*), Article 15 paragraph (2) letter f, becomes the legal basis to strengthen the position of Notaries in making land deeds. The meaning related to land had become a polemic with the authority of *PPAT* which was authorized to make Land Deeds.

In the author's view, the two deeds are not equal, so they cannot cancel each other out, but the reasons and choices for making the deed are the differentiating factors for the parties who come before the Notary/*PPAT*. There are several reasons to strengthen this argument, namely: (a) Land deeds relating to land refer to land rights as the object of the agreement as referred to in Article 1320 of the Civil Code, (b) Agreements with objects of land rights made by the parties before a Notary including agreements individual is not a material agreement, (c) Recognition of the deed related to land (Deed of Sale and Purchase Agreement and/or Deed of Lease) made by a Notary, can be registered (not registered) at the Land Office, further confirming that the Land Deed made by a Notary not the same as the *PPAT* Deed.

The phenomenons of land disputes that appear to the surface, both disputes between the government and the community, investors and the community, as well as between community groups and also between individuals in the community are intensively increased. In terms of quality, land disputes are becoming increasingly complicated to solve, this is proven by the establishment of The Task Force of *Anti Mafia Tanah* of Bali Province, releasing various forms of modus operandi of crimes in the land sector, including forgery of land certificates and cases of land grabbing. The difficulty in eradicating land disputes is acknowledged by Sofyan Djalil, Minister of Agrarian Affairs and Spatial Planning Head of the National Land Agency, on one occasion stated that: eradicating land mafia must start from within the agency because this action is considered more difficult than suppressing land mafia from outside. There are four important components that can trigger land conflicts, namely: (a) Officials authorized to issue letters/documents used as requirements for certificate issuance, (b) Officials at the Land Office, (c) Notaries/*PPAT*, (d) Community. From the four components, the emergence of land disputes must be seen as to what causes it

because land disputes are only the result and the causes are not always the same. The emergence of land disputes in the context of the implementation of the position of a Notary is related to the legal actions of the parties framed by the Notary Deed.

Land conflicts in the perspective of implementing the position of a Notary can occur because of the actions of the parties, and/or a deed made by a Notary. The distinction between the two must be made to facilitate law enforcement against the perpetrators. In line with this, Maria SW Soemardjono, in one of his writings, stated that in general civil disputes ([Sumardjono, 1997](#)) are one of the important aspects of land issues and this can be caused by a deed made before a notary. Furthermore, Boedi Harsono, in one of his writings, makes an inventory of land issues that can be disputed, namely: disputes regarding the means of proving the existence of legal rights or actions taken ([Harsono, 1996](#)), and this model dispute related to the implementation of the position of a Notary.

Some similar studies have been conducted previously by some researchers that examined the notary position in various cases related to conflicts on land deeds made by notaries. [Krisyanto et al. \(2019\)](#) in their study about the opportunities, constraints and strength of evidence of notarial deed in the perspective of Cyber Notary in Indonesia revealed that a) the opportunity to implement Cyber Notary based on Law on Notary Position Amendment and Law on Information and Electronic Transactions turned out to face obstacles that actually originated from the provisions of the Law itself. This mainly concerns the procedure for the formality of notarial deed making whose form must be in accordance with the provisions of the Law (Law on Notary Position Amendment, Law on Information and Electronic Transactions, and Civil Code). It also concerns the obligation and necessity to hold face-to-face interactions between notary and appearer, to read the deed before the appearers who are at least attended by 2 (two) witnesses, and to sign the deed directly before a notary and appearer and b) the strength of evidence of deed resulting from this Cyber Notary product does not have perfect evidence like an authentic deed. Violations of the provisions of the Law (Law on Notary Position Amendment and Civil Code) resulted in the degradation of the value of evidence of the deed; i.e. it

becomes equivalent to private deed. However, the implementation of Cyber Notary is certainly possible by making changes to the relevant legal regulations and the development of supporting infrastructure and adequate electronic systems. Meanwhile, the study conducted by Putri et al. (2019) about the authority of a notary public in resolving land disputes with a deed of peace, showed that 1) Notary was authorized to make a peace deed to guarantee legal certainty for the parties to settle land disputes in accordance with article 15 Paragraph (2) letter f of the UUJN and 2) The peace deed drawn up by a Notary Public is an Authentic Deed but not final binding like a van dading deed decided from the results of mediation in court. In addition, another similar study has been conducted by Pratiwi et al. (2019) about 'Authority and Position of Notary Deed in the Land Sector'. The result of this study showed that notary as official authorized to make authentic deed has been regulated in the legislation. The authority of this Notary has been regulated in Article 15 paragraph (2). The authority of a notary in making an authentic deed is an attribution authority, where such authority is given by law. A notary can make a deed related to the land deed, and the authority mentioned in Article 15 paragraph (2) letter f. However, in its authority is an authority in a broad sense. In Article 15 paragraph (1) it is stated that the notary is authorized to make the deed as long as the deed is not assigned to another official, in which case the other official authorized to make the land deed is the Land Drafting Officer (PPAT). Notarial deed cannot be used as the basis for a transfer of land rights in this case land registration at the Office of the National Land Agency, because the requirements for the transfer at the BPN Office are the deed made by PPAT. Based on the background and previous related studies above, this study aims to find out the potential conflicts on Land Deeds made by Notaries, and to find out Notary efforts in making Land Deeds to minimize potential land conflicts.

## 2. METHOD

This study applied the normative legal research method. Normative legal research as a characteristic of legal science is its normative nature. This study starts from the phenomenon of land disputes that appear to the surface, both disputes between the government and the community, investors and the community,

as well as between community groups and also between individuals in the community are increasingly intensive, which is expected to minimize conflicts between the parties, both Buyers and Sellers, who use an instrument of an agreement made before a Notary before making an agreement with the PPAT deed. This study used the following approaches: statute approach, conceptual approach, and analytical approach. The technique in collecting the legal materials used documents study technique and analysis of study used qualitative analysis.

## 3. RESULT AND DISCUSSION

### **Potential Conflict of Land Deed Made by Notary**

The Land Deed consists of two words, namely Deed and Land. The word deed comes from the Latin "acta" which means *geschrift* or letter, which according to Pitlo is defined as signed letters made to be used as evidence, and to be used by people, for whom the letter was made. Correspondingly, S.J. Fockema Andrea in his book *Rechts geleerd handwoorddenboek*, generally deed has two meanings, namely: (a) action (handling) or legal action (*rechtshandeling*), and (b) a writing that is made to be used or to be utilized as a certain legal act, namely in the form of writing that is shown to certain evidence. The word land comes from the word "land" which gets the prefix "per" and the suffix "an", so the word land can be interpreted as matters relating to land. The deed related to land is used to formulate the act of transferring or removing land rights, as well as other actions that intend to make land rights as collateral for debts. Therefore, the deed is used to accommodate transactions related to land.

Land transactions are divided into: First, transactions on land, namely transactions whose object is the land itself, for example buying and selling, exchanging, grants, leases, and others (Thamrin, 2011). Second, transactions involving land, namely transactions that do not directly involve the land as the object of the transaction (Thamrin, 2011). The transaction makes land as an accessory to another agreement which is the main agreement. In this transaction, the principal agreement is debt or credit, while the encumbrance of land as collateral for debt is only an additional agreement (Setiawan, 2010:17-18). In more concrete,

the Land Deed referred to in this study is the Sale and Purchase Binding Agreement (referred as *PPJB*) and the Lease Deed made by a Notary. This is in line with the enactment of the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the Indonesian National Land Agency Number 16 of 2021 (referred as Permen ATR), Article 127B states:

"Interested parties can submit an application for recording a binding sale and purchase agreement or a lease agreement on registered land to the Land Office".

Hereinafter in Article states:

"In the event that *PPAT* makes a deed based on a sale and purchase agreement made before a Notary with a domicile that is not in accordance with the agreed location of the land, the *PPAT* is obliged to examine the completeness of the documents by applying the prudence principle to protect the real owner and reduce conflicts in the land sector".

The registration arrangement of the *PPJB* Deed and the Lease Agreement Deed made before a Notary is a new thing in the practice of notarial law. Substantively, the Ministerial Regulation of Agrarian Affairs and Spatial Planning regulates the *PPAT*'s obligation to examine the completeness of documents by applying the prudence principle with the aim of protecting the real owner and reducing conflicts in the land sector, including to protect the *PPAT* concerned in making the *PPAT* deed derived from the *PPJB* deed and the Lease Agreement deed made Notary Public.

*PPJB* is an agreement that arises because of the agreement of two or more parties with the aim of forming an engagement for the benefit of one at the expense of the other or also called a reciprocal agreement, when viewed from the aspect of the nature and legal consequences, and on the other hand it is referred to as an assistance agreement. As an aid agreement, its function is to prepare the parties to the main agreement, whose ultimate goal is the main agreement, namely the sale and purchase agreement. Herlien Budiono explained that the aid agreement was to strengthen the main agreement and its existence was only possible if the main agreement existed. In the practice of implementing the position of a Notary, the *PPJB* deed made before a Notary can occur due to 2 (two) things, namely paid off *PPJB* and unpaid *PPJB* (Instalment). For paid off *PPJB*, it must be followed by a

Deed of Power of Attorney.

In connection with the possibility of the *PPJB* Deed made by the parties to be registered at the Land Office, the Ministerial Regulation of Agrarian and Spatial Planning No. 16 of 2021, Article 127B paragraphs (1) and (3) state the following:

Interested parties may submit an application for recording a binding sale and purchase agreement or a lease agreement on registered land to the Land Office.

Submit a copy of the deed of sale and purchase agreement or lease agreement on land and the identities of the parties to the Land Office

Bring the original certificate of land rights or ownership rights to the apartment unit concerned to be recorded.

The arrangement of the provisions for recording *PPJB* and Lease Agreements, in Ministerial Regulation of Agrarian and Spatial Planning No. 16 of 2021, is still inadequate from the aspect of fulfilling the registering requirements. Thus, additional requirements are needed to provide more guarantees of legal protection and legal certainty for the parties, namely:

Obligation to check the object on land as referred to in *PPJB* and Lease Agreement,

Obligation to pay Land and Building Tax (PBB) based on the latest SPPT,

Obligation to pay Income Tax (PPh), because the seller and the renter have received money from the buyer

Obligation to submit a copy of the Deed of Authorization to Sell Notarial for a legal act of binding sale and purchase.

With this description, specifically for the recording of *PPJB* on registered land at the Land Office, it should be carried out on paid off *PPJB*. This is in line with the provisions of Article 127B paragraph (6) of the Ministerial Regulation of Agrarian and Spatial Planning which states: In the event that there is a record regarding the registered *PPJB*, the Land Rights cannot be transferred to other than the parties listed in the agreement. However, the possibility of deleting *PPJB* records and Lease Agreements is still possible by interested parties, on the grounds: (a) the parties are canceling, (b) cancellation is based on a Court Decision that has permanent legal force, and (c) the parties Buyer / Tenant waive their rights. Meanwhile, what is meant by the interested party is the Buyer

Party or the Creditor Party, if the *PPJB* on the registered land uses a credit facility in the sale and purchase process.

Government Regulation of Agrarian and Spatial Planning uses the term recording, which can be interpreted within the framework of fulfilling the principle of limited publicity, meaning that the recording is only binding on the parties who made the agreement and does not bind third parties. This is in line with the provisions stipulated in Article 1340 of the Criminal Code which reads: "The agreement is only valid between the parties who make it." This implies that the agreement made by the parties only applies to those who make it, in the legal literature the agreement is known as the principle of personality.

In the practice of implementing the position of a Notary, the making of *PPJB* deeds and Lease Agreements often faces a dilemma, because on the one hand they must comply with legal provisions with a normative nature, and on the other hand the empirical facts are so complex and often cannot be handled and accommodated by regulations that tend to rigid. Therefore, in the context of the situation, a Notary interprets the existing regulations and it is unavoidable to serve his clients. In carrying out its functions, the Notary must serve the client, while the client needs the service without being too concerned with the regulations that bind the Notary and maintain the continuity of his work, the client often does not want to be bothered by the technical requirements required by law.

The issues above can trigger the possibility of conflict in the land sector with multi-dimensional dimensions. The position of a Notary who is passive, only witnesses and ratify legal actions made by the parties, can be the cause of land conflicts, especially notaries take an active role. This means that the position of the Notary becomes a dilemma regarding the emergence of land conflicts. However, a Notary must be careful and prudent in using his passive and active roles appropriately and wisely in making deeds, especially in the field of land.

Soedjendro, (2001) in one of her writings, stated that the types of land rights transfer agreements that have the potential to a conflict are caused by: (1) the written conditions are not fulfilled and (2) the unwritten conditions are not fulfilled. It is further explained that the written requirements are not fulfilled,

namely: (a) the land certificate which is the object of the agreement is being used as bank collateral, (b) the land certificate which is the object of the agreement is still in the application for rights, (c) the certificate is in the name of another person. and the buyer is not old enough, (d) sale and purchase of paddy fields, (e) sale and purchase of buildings on land with Building Utility Rights (HGB). Meanwhile, the unwritten conditions that are not fulfilled consist of: (a) sale and purchase of land which is being used as collateral for credit at the Bank accompanied by a statement from the lender willing to surrender the remaining land price after deducting the borrower's debt, (b) sale and purchase with installment payments based on agreement of the parties, (c) sale and purchase with installment payments where the certificate is kept at the *PPAT* office as collateral, (d) sale and purchase of land accompanied by a statement giving the seller the first right to buy back, (e) sale and purchase of land and houses as compensation the seller's debt to the buyer. From the aspect of implementing the service function to clients, the Notary is more appropriate to be seen as an agent (Soedjendro, 2001:30) than as a mere legal role holder. Meanwhile, because the Land Deed made by the Notary is related to land issues, the study will focus on the existence of the Notary as an agent in handling *PPJB* and Lease Agreements that have the potential to conflict. There are three things that characterize a Notary as an agent, namely: (a) the legal authority inherent in the position of a Notary, (b) the function of a Notary as an agent is to reconcile existing legal rules with the social realities encountered when handling *PPJB* and Lease Agreements, and (c) bring together two interests (legal and social) in choosing ways, means to achieve goals.

Doctrinally in Giddens' theory of structuration (Soedjendro, 2001), the agent is in charge of translating general rules into more meaningful for real everyday struggles. The structural theory explains that a person's actions are not solely tied to shared values and norms, but are related to expected goals based on certain reasons. Regarding the concept of potential conflict, in addition to referring to the *PPJB* Deed and Lease Agreement, as part of the Land Deed, it also assumes that the deed made by the Notary itself basically contains conflict.

In a relationship with a Notary as a legal agent, the actions are largely

determined by the influence or demands of the client (customer), regarding what they must carry out as client servants. The parties (clients) in requesting notary legal services are not interested in that the law is enforced, but they want to be helped to ratify the agreement. This relationship pattern allows the formation of clearer patterns of action chosen by a Notary in his interactions with clients. Thus, a Notary is not only required to apply the law in every deed but also as someone who is asked to provide assistance and services to clients.

There are three basic assumptions about the possible steps that a person can take when a Notary faces a conflict situation and wants to resolve it, namely: First, choosing the one that is considered is the best and most appropriate, and rejecting the others, Second, accommodating the truths that exist in two things the contradiction is to combine them so that nothing is absolutely accepted or rejected, and Third, neither rejects one nor accepts both. Likewise, ethically, when someone faces two contradictory things, then there are three possible steps to be taken: First, being deontological, which is measuring everything based on mutually agreed general norms, Second, being teleological, which is measuring everything based on goals. which according to general standards is good, and Third, being contextual, that is, everything is measured based on the situation.

### **Notary Efforts in Establishing a Land Deed to Minimize the Potential for Land Conflicts**

Ministerial Regulation of Agrarian and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021, Article 127 A states:

"In the event that *PPAT* makes a deed based on a sale and purchase agreement made before a Notary with a domicile that does not match the location of the agreed land, the *PPAT* is obliged to examine the completeness of the document by applying the prudence principle to protect the real owner and reduce conflicts in the land sector."

The policy to apply the prudence principle aimed at *PPAT* can be understood because the process of appointing and dismissing *PPAT* is in the Ministry of Agrarian and Spatial Planning/ Head of National Land Agency, and on the other hand the *PPJB* Deed is a notary legal

product. By using the method of *argumentum per analogiam* (analogy), contextually, the prudence principle is actually intended for the legal product of the Notary Deed. This means that the Notary is bound to implement the prudence principle in the *PPJB* deed and the Deed of Lease Agreement which will be recorded at the local Land Office.

The prudence principle requires Notaries to always be careful in carrying out their positions, namely to be consistent in carrying out their positions in accordance with the laws and regulations in the notary field based on professionalism and good faith (Zulkanaen, 2008:6). In the provisions of the *UUJN* and *UUJNP* it is not stated explicitly regarding the prudence principle, but by referring to the provisions of Article 16 paragraph (1) letter d of the *UUJN* it states that in carrying out his position, a Notary is obliged to provide services in accordance with the provisions of this law unless there is a reason to reject it. In line with this, based on a search of the Indonesian language literature (Rahman, 2018:70) it can be concluded that the application of this prudence principle must be carried out in the preparation of *PPJB* deed and Notary Lease Agreements related to registered land rights which will be registered at the Land Office, namely by:

Conduct identification to the identity of the attendees.

Carefully verifying the data of the subject and object of the attendees.

Asking, then listening and paying close attention to the wishes or inclination of the parties

Checking proof of letters relating to the wishes or inclination of the parties

Provide a grace period in the work of an authentic deed.

Provide advice and create a deed framework to fulfill the wishes or wishes of the parties

Act carefully, thoroughly and accurate in the process of making the deed.

Fulfill all technical requirements for making a Notary deed such as in terms of reading, signing, providing copies and filing for minutes

Report to the authorities if there are indications of money laundering in transactions at a Notary, (Manuaba, 2018:68-69).

The explanation above shows that the

application of the Notary prudence principle in producing the *PPJB* deed and the Lease Agreement deed to registered land rights to be registered at the Land Office can be classified into several stages, namely: First, the stage before the deed, (referring to numbers 1 to with number 6). Second, the stage when making and reading the deed. (refer to numbers 7 to 9). Meanwhile, the accountability of the *PPJB* deed and the Lease Agreement deed made by a Notary will be tested by interested parties, in the third stage, namely when the deed is executed, especially if the deed causes a conflict, meaning whether the *PPJB* deed and the Lease Agreement deed made before a Notary already reflect the attitude and actions of a Notary who is full of prudence or vice versa.

The prudence principle is reflected in the juridical content of the preamble of the *UUJNP* which emphasizes that the presence of a Notary is to ensure certainty, order, and legal protection related to authentic written evidence regarding acts, agreements, stipulations, and legal events made before or by Notary Public. To distinguish the *PPJB* that is registered from the unregistered, it must be emphasized in the Closing section of the Notary Deed with the formulation of the sentence: This *PPJB* Deed is registered by the Second Party (the Buyer) at the \_\_\_\_\_ Land Office, or if the Buyer uses a credit facility it is stated that this *PPJB* Deed is registered by \_\_\_\_\_, as the Creditor, as well as the Lease Agreement. The prudence principle cannot be applied by every Notary in carrying out his position, because there are other factors that influence its implementation. The factors that support the application of the precautionary principle are the attitudes and actions of a Notary to maintain his self-image as a Notary, and as a public official who has been sworn in to serve and obey the law, which is more valuable than anything offered by others.

Notaries with this mindset are of the view that the highest value of life as a public official lies in the awareness of respecting the position. The form of respect is carried out by looking at the Notary profession as a means of devotion and obtaining rewards in the future through commendable actions. In the context of Hindu teachings, it can be matched with the belief that there is a "Law of Karma", which always works, only when it is time to reap the fruits of that

karma, cannot be known by everyone, including Notaries. Meanwhile, what can degrade the prudence principle in carrying out the position of a Notary is a motivational orientation with the dimensions of profit and loss considerations, and value considerations, because these two considerations have a significant effect as the basis for consideration of success in carrying out a position as a Notary. There is a phrase "*ini baru Notaris*" (this a true Notary) dan "*ini Notaris baru*" (this is a new Notary) sometimes appears in the reality of social life.

In connection with the recording of the paid-off *PPJB* Deed followed by the Deed of Power of Attorney, what needs to be observed is whether the *PPJB* deed is purely a deed that intends to transfer land rights or the *PPJB* deed is made by design by the parties with or without the role of a Notary, for example, *PPJB* is made on the basis of accounts payable, *PPJB* with an option to buy back. Furthermore, for the Deed of Lease Agreement, what needs to be observed are: whether the Lease Agreement is a pure Lease Agreement, meaning that it is not followed by other legal actions, a rental agreement that is born from a legal act made by way of *nominee*, a Lease Agreement that does not regulate the time period or regulates the term of the lease agreement. time exceeds the limits of propriety/fairness.

#### 4. CONCLUSION

Based on the results explained above, thus it can be concluded that (1) potential conflicts on Land Deeds made by Notaries are due to Notaries in carrying out their positions tend to be in a dilemma which on the one hand must comply with legal provisions with a normative nature, and on the other hand, empirical facts are so complex and often cannot be handled and accommodated by regulations that tend to be rigid. This is because when carrying out its positions, the Notary must serve the client, while the client needs service without being too concerned with the regulations that bind the Notary, the client comes to the Notary's office with the intention of ratifying his legal actions, and clients who come to the Notary's office often do not want to bother by legally required technical requirements. The position of a Notary who is passive, only witnesses and ratify legal actions made by the parties, can be the cause of land conflicts, moreover, Notaries take an active role. As for the causes of land

conflicts in the perspective of implementing the position of a Notary, it can occur because of the actions of the parties, and/or because the deed made by the Notary, consciously or not, was indeed filled with conflict from the beginning. (2) Notary efforts in issuing Land Deeds to minimize the potential for Land Conflicts are required to examine the completeness of documents by applying the precautionary principle to protect the real owner and reduce conflicts in the land sector. The application of the precautionary principle of the Notary in producing the PPJB deed and the Lease Agreement deed to registered land rights to be registered at the Land Office must start from the stage before the deed, the stage at which the deed is made and the reading of the deed. The factors that support the application of the precautionary principle are the attitudes and actions of a Notary to maintain his self-image as a Notary, and as a public official who has been sworn in to serve and obey the law. Meanwhile, what can degrade the precautionary principle in carrying out the position of a Notary is a motivational orientation with the dimensions of profit and loss considerations and value considerations. Meanwhile, it can be suggested that (a) guidance and supervision steps are required for Notaries in establishing Land Deeds to minimize land conflicts. Guidance and supervision can be carried out internally by involving supervisory agencies that have the authority to supervise Notaries or involving Land Office Officials, law enforcement agencies. (b) Given the tendency to increase the quantity and quality of land conflicts, it is necessary to consider establishing a Land Court which is part of the General Courts environment, with judges who have special expertise in the field of land law.

## REFERENCES

- Harsono, B. (1996). Settlement of land disputes in accordance with the provisions in the LoGA. *The Anniversary Seminar of LoGA XXXVI, 1996, Organized by the Office of the State Minister for Agrarian Affairs / Head of BPN*. Jakarta.
- Krisyanto, T. H., Daulay, Z., & Beatrix, B. (2019). Strength of Evidence of Notarial Deed in the Perspective of Cyber Notary in Indonesia. *International Journal of Multicultural and Multireligious Understanding*, 6(3), 775. <https://doi.org/10.18415/ijmmu.v6i3.906>
- Manuaba, I. B. P. (2018). *Prinsip Kehati-Hatian Notaris Dalam Membuat Akta Autentik*. Universitas Udayana.
- Pratiwi, S. H., Fendri, A., & Benni, B. (2019). Authority and Position of Notary Deed in the Land Sector. *International Journal of Multicultural and Multireligious Understanding*, 6(5), 391. <https://doi.org/10.18415/ijmmu.v6i5.1111>
- Putri, A. K., Yuslim, Y., & Suharizal, S. (2019). The Notary Authority in Resolving Land Disputes with Deed of Peace. *International Journal of Multicultural and Multireligious Understanding*, 6(5), 219. <https://doi.org/10.18415/ijmmu.v6i5.1095>
- Rahman, F. A. (2018). *Penerapan Prinsip Kehati-hatian Notaris Dalam Mengenal Para Penghadap*. Universitas Islam Indonesia.
- Setiawan, Y. (2010). *Hukum Pertanahan Teori Dan Praktik*. Malang: Bayumedia.
- Soedjendro, J. K. (2001). *Perjanjian Peralihan Hak Atas Tanah yang Berpotensi Konflik*. Yogyakarta: Kanisius.
- Sumardjono, M. S. W. (1997). Penyelesaian Sengketa Pertanahan Melalui Lembaga Mediasi. *Era Hukum - Jurnal Ilmiah Ilmu Hukum*, 4(1), 12–19. <https://doi.org/http://dx.doi.org/10.24912/era%20hukum.v4i1.5292>
- Sutedi, A. (2007). *Peralihan Hak Atas Tanah dan Pendaftarannya*. Jakarta: Sinar Grafika.
- Thamrin, H. (2011). *Pembuatan Akta Pertanahan Oleh Notaris*. Yogyakarta: LaksBang PressIndo.
- Zulkarnaen, S. D. (2008). *Prinsip Kehati-hatian Notaris Sebagai Pejabat Umum Dalam Melaksanakan Jabatannya* (Universitas Indonesia). Retrieved from [http://lib.ui.ac.id/file?file=digital/2017-1/20269795-T36959-Sam Zulkarnaen.pdf](http://lib.ui.ac.id/file?file=digital/2017-1/20269795-T36959-Sam%20Zulkarnaen.pdf)
- Law Number 30 of 2004 concerning the Position of a Notary (State Gazette of the Republic of Indonesia of 2004 Number 117, Supplement to the State Gazette of the Republic of Indonesia Number 4432)
- Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary (State Gazette of the Republic of Indonesia of 2014 Number 3, Supplementary to the State Gazette of the Republic of Indonesia Number 5491)
- Ministerial Regulation of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 16 of 2021 concerning the Third Amendment to the Regulation of the State Minister of Agrarian Affairs/Head of the National Land Agency Number 3 of 1997 concerning Provisions for the Implementation of Government Regulation Number 24 of 1997 concerning Land Registration.
- <https://www.tvonenews.com/berita/nasional/6739-jadi-mafia-tanah-kepala-desa-di-bali-diamankan-polisi>
- <https://ekbis.sindonews.com/read/588590/34/sofyan-djalil-akui-susah-berantas-mafia-tanah-orang-dalam-1635945061>

[https://widhiyuliawan.blogspot.com/2013/04/  
akta-kelahiran.html](https://widhiyuliawan.blogspot.com/2013/04/akta-kelahiran.html)