

# Legal Actions Of Notaries Who Feel Aggrieved By The Decision Of The PTUN Court On Dismissal In PTUN Decision Number 200/PK/2022 In Jakarta

Santi Susanti<sup>1\*</sup>, Albertus Sentot Sudarwanto<sup>2</sup>, Tuhana<sup>3</sup>

<sup>1</sup>Master of Notary, Faculty of Law, Universitas Sebelas Maret, Indonesia.

<sup>2,3</sup>Lecturer at Faculty of Law, Sebelas Maret University, Indonesia.

\*Corresponding Author:

Email: [santisusanty158@gmail.com](mailto:santisusanty158@gmail.com)

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## Abstract.

*As a public official, a Notary can be dishonorably dismissed if proven to have committed a criminal offense, as stipulated in the Notary Position Law. Although regulations related to dishonorable dismissal for notaries already exist, they are considered somewhat unclear. The issues discussed in this study include the substance of legal remedies for notaries who are dishonorably dismissed due to criminal convictions with a threat of less than five years. The research method used is normative juridical, with data collection through document study and literature review. The analytical approach used is qualitative. The research findings regarding the substance show that criminal offenses that can lead to dishonorable dismissal for notaries are criminal offenses with a prison sentence of 5 (five) years or more that have obtained legal force, whether committed in a personal or official capacity. Furthermore, the legal remedy for a Notary who is faced with dishonorable dismissal when convicted with a sentence of less than five years is to file a lawsuit to the State Administrative Court. This lawsuit is addressed to the Minister of Law and Human Rights as Defendant I, and the Notary as Defendant II.*

**Keywords:** Notary, dishonorable dismissal and PTUN.

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## I. INTRODUCTION

In carrying out their duties and responsibilities, a notary is required to comply with the provisions contained in the Notary Public Office Law and adhere to professional ethics. In simple terms, ethics can be defined as "guidelines on the best way for individuals to behave or conduct themselves in both their personal and social lives." (Gitayani & Luh, 2018) However, professional ethics are defined as "rules that apply to all members of a professional organization. These rules include permissible and impermissible actions, as well as professional guidelines described for a particular profession." Provisions governing Notary professional ethics in Indonesia can be found in the Notary Code of Ethics. According to Article 3 of the Code of Ethics, a Notary is required to have "good morals, ethics, and personality; act honestly, independently, impartially, trustworthy, carefully, responsibly, in accordance with the law and regulations, and the oath of office." The oath of office emphasizes a commitment to serve the interests of society and the state, and to treat every client well and fairly, without discrimination based on their economic and/or social status. The existence of a complaint made by Widya Agustien through her advocate to report Muhammad Irsan as a Notary and PPAT in the city of Tangerang to the Notary Supervisory Council of Banten Province, which issued decision Number: 07/PTS/MJ.PWN Prov, Banten/V/2018 dated May 17, 2018 with the alleged violation of the Code of Ethics of Notary Position and violation of Notary obligations committed by Notary Muhammad Irsan Violation. This complaint is based on the process of binding the sale and purchase agreement (PPJB) in front of a Notary and PPAT, after the process of signing the PPJB in question, the complainant has not been given a copy of the PPJB deed by the Notary.

Then the proposal from MPPN continued with the issuance of a decision from the central supervisory panel of Notaries (MPPN) Number 11/B/MPPN/XII/2018 dated December 10, 2018. With the decision of the Central Supervisory Board of Notaries, 2 (two) Decrees of the Ministry of Law and Human Rights of the Republic of Indonesia Number: AHU.55.AH.02.04 TAHUN 2019 Dated August 6, 2019 Regarding the Dismissal with Disrespect from the Position of Notary in the Name of Muhammad Irsan from the Position of Notary in Tangerang City and the Appointment of Notary Protocol Holder to Susanty Surjani Rade Notary in Tangerang City and dated September 5, 2019 regarding Temporary Dismissal of Notary.

Then the Decree of the Ministry of Law and Human Rights of the Republic of Indonesia dated August 6, 2019 concerning Temporary Dismissal. Both were received by the Notary on September 5, 2019. From these two Decrees from the Ministry of Law and Human Rights of the Republic of Indonesia, there was a defect in the law because the Notary had to carry out each sanction on the same day when he received different Decrees. Then the Notary filed a lawsuit with the object of the lawsuit Decree of the Ministry of Law and Human Rights of the Republic of Indonesia Number: AHU.55.AH.02.04 TAHUN 2019 Dated August 6, 2019 Regarding Dismissal with Disrespect from the Position of Notary in the Name of Muhammad Irsan from the Position of Notary in Tangerang City and Appointment of Notary Protocol Holder to Susanty Surjani Raden Notary in Tangerang City. Based on Decision Number 200/PK/2022/PTUN.JKT.

With the existence of 2 (two) Decrees from the Ministry of Law and Human Rights of the Republic of Indonesia, each with different sanctions, there is a violation of the Principle of Legal Uncertainty in the implementation of law enforcement. The decision of the Notary Central Supervisory Council regarding the proposal for the dishonorable dismissal of the Notary Position to the Ministry of Law and Human Rights of the Republic of Indonesia is not in accordance with Article 12 and Article of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position. This is because there are no elements committed by the Notary in Article 12 and Article 13 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. Thus, notaries who do not provide copies of deeds that are not in accordance with the facts can certainly be held accountable both civilly, administratively and criminally. This is in line with Hans Kelsen's view that a concept related to the concept of legal obligation is the concept of legal responsibility (liability). A person is said to be legally responsible for a certain act is that he can be subject to a sanction in the case of the opposite act. (Safa'at & Ali, 2006) In addition to criminal, civil and administrative forms of liability, the Notary Profession is also known as the Notary Supervisory Council, which is primarily tasked with supervising the performance of Notaries in order to remain within the scope of the Notary Code of Ethics.

## **II. METHODS**

The significance of research methodology lies in its pivotal role in determining whether the objectives of a study are achieved. If a research uses the right method, the facts or truths revealed in the research become easier to account for. The scientific research method is considered a systematic approach to seeking truth through scientific means. Research methods include the means or paths used to understand the intended subject, enabling the achievement of the desired goals and expected results. (Baker, 1984). The nature of this research is normative juridical, which means that it is carried out through analyzing a number of related legal archives, books, books, and other scientific works in the library that can be used as references for this thesis. This approach involves collecting data based on information related to the research problem.

## **III. RESULT AND DISCUSSION**

### **Legal actions of Notaries who feel aggrieved by the Decision of the Administrative Court on Dismissal.**

Notary self-defense, often referred to as legal protection in the process of examination and trial at MPD, MPW, and MPP, can be explained as an effort made by the Notary to ensure the existence of legal certainty, both for himself and the institution that supervises and adjudicates the Notary. Legal defense or protection provided to Notaries involves aspects of preventive and repressive legal protection. Preventive legal protection is an effort to prevent conflicts that can encourage government actions to be careful in making decisions based on their authority. A reported Notary cannot be automatically presumed guilty. As in criminal procedure law which applies the principle of presumption of innocence, a person cannot be presumed guilty until proven otherwise. Individuals who are presumed guilty are given the right to defend themselves in court with the help of a defender or lawyer. The difference with Notary self-defense lies in the administrative nature of the defense, which is related to the exercise of the office of Notary. However, regarding the public report submitted to the Supervisory Panel, the Notary has the right to exercise his/her right not to testify during the examination by the Supervisory Panel. If the Notary exercises his/her right not

to testify, the Examining Tribunal is not obliged to force the Notary to answer the questions asked. (Siregar, 2020) The State Administrative Court in Indonesia functions as a means to resolve conflicts arising between State Administrative Officials and individuals or civil legal entities.

The resolution of this dispute is carried out by a Judge, who as a state official has the authority to end a case or conflict between the parties involved by providing a decision related to the State Administrative dispute. The Judge also has the authority to provide appropriate explanations to the parties involved and provide warnings regarding legal remedies and evidence that can be used to ensure the examination process runs smoothly and results in a fair decision. Before issuing a decision, the Judge initially provides the basic reasons or legal considerations that form the basis for his decision. (Imawati, 2024) The Panel of Judges stated that the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number AHU.55.AH.02.04 TAHUN 2019, issued on August 6, 2019, regarding the dishonorable dismissal from the position of Notary Muhammad Irsan, S.H., in Tangerang City was deemed to violate the General Principles of Good Governance as stipulated in Article 53 paragraph (2) letters a and b of Law Number 9 of 2004 concerning State Administrative Courts. According to the Law, a lawsuit can be filed if the challenged state administrative decision is contrary to the prevailing laws and regulations or contrary to the general principles of good governance.

#### IV. CONCLUSION

The Panel of Judges stated that the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number AHU.55.AH.02.04 TAHUN 2019, issued on August 6, 2019, regarding the dishonorable dismissal from the position of Notary Muhammad Irsan, S.H., in Tangerang City was deemed to violate the General Principles of Good Governance as stipulated in Article 53 paragraph (2) letters a and b of Law Number 9 of 2004 concerning State Administrative Courts. According to the Law, a lawsuit can be filed if the challenged state administrative decision is contrary to the prevailing laws and regulations or contrary to the general principles of good governance.

Therefore, a Notary cannot be dishonorably terminated on the grounds of the regulations stipulated in article 12 of UUJN-P and article 13 of UUJNP. Thus, the Notary has the right to take legal steps to cancel the decision of dishonorable dismissal, which is taken beyond the limits of authority or not in accordance with applicable regulations. The annulment process must be carried out through the State Administrative Court. In addition, the notary has the right to demand that his profession and position be restored to its original condition, and to pursue restoration of his dignity.

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