

Notary's Responsibility For Authentic Deeds Which The Participant Uses A Fake Identity In Sukoharjo Regency

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Abstract.

Authentic deeds have a very important position. This is because authentic deeds are recognized by law and have very strong evidentiary power. Often cases of identity forgery by the witness used in the making of authentic deeds are found, which have a serious impact and cause various problems. The notary is only in charge of recording the data and information provided by the witness, as is known, the notary does not have the authority to conduct a material and passive investigation of false information and identities by the witnesses, but often if the notary is dragged and held accountable in the event of a dispute. The purpose of this writing, in general, the author wants to develop legal knowledge in the field of notary law. The writing in this journal analyzes the responsibility of notaries for authentic deeds that use false identities and the efforts that can be made by notaries to prevent identity forgery in making authentic deeds. So that unwanted things do not happen to people in good faith and notaries. The method of approach used is a qualitative approach, a research method that focuses on a deep understanding of the phenomenon being studied through the interpretation of context and meaning. This approach tends to generate descriptive data in the form of words, imagery, or narratives, and focuses more on understanding how and why a phenomenon occurs rather than simply measuring its frequency or magnitude. The results of the study show that the responsibility of a notary in making authentic deeds can be seen from the negligence of the Notary in making authentic deeds, the negligence in question is if the notary has made a deed that is not in accordance with the existing rules or the notary consciously and deliberately makes a deed with the aim of benefiting himself or certain parties, then the notary can be held responsible. However, if the negligence that arises is not from the notary but from the witness, either intentionally or unrelated to the identity or false information provided by the witness which is used as the basis for making an authentic deed and makes the deed incorrect, then it becomes the responsibility of the parties themselves as it is known that the notary has no obligation and is passive in terms of materially investigating the information and or the identity submitted by the witness.

Keywords: Notary's, Authentic and Sukoharjo.

I. INTRODUCTION

Authentic deeds have a very important position, this is because authentic deeds are recognized by law and have perfect evidentiary power. Apart from that, the validity of authentic deeds is very important because it concerns the interests of the parties and the notary. The validity of authentic deeds has been regulated in the BW and UUJN. Notaries, as public officials, have the authority to make authentic deeds regarding all acts, agreements, and determinations required by law or requested by interested parties to be recorded in authentic documents. They are also responsible for ensuring the date of creation of the document, storing the document, and providing copies, transcripts, or excerpts from the document. All of this is done as long as the creation of the document is not delegated or given to other officials or individuals in accordance with the law. (Notary Position Law, Law Number 2 of 2014, 2014). The importance of the role of notaries given by the state, where notaries as public officials are required to be responsible for the deeds they make, because notaries are required to comply with applicable regulations, namely the Law on the Position of Notaries and the Professional Code of Ethics if the deed has been made by a notary. If a problem occurs at a later date, it must be asked whether the error was purely the notary's negligence or the notary's error or the parties' error in not providing information and documents that were not true.

It is not uncommon to find cases of falsifying identities by persons used in making authentic deeds, this has serious consequences and causes various problems. The notary is only tasked with recording the data and information provided by the person present, as is known, the notary does not have the authority to carry out investigations and is passive in this matter. The notary is only responsible for the formal matters, not the

material. So it is not uncommon for many cases of authentic deeds to appear due to fake representation. Based on the description in the background that has been explained above, the following problems can be formulated: (1) What is the notary's responsibility for authentic deeds whose parties use false identities in Sukoharjo Regency? (2) What efforts can be made by a notary to prevent identity falsification in the making of authentic deeds in Sukoharjo Regency?

II. METHODS

Type The research used by the author is empirical legal research or non-doctrinal research (social legal research). The approach in this research uses the Statutory Approach, which is a way of analyzing a legal problem by referring to the provisions contained in the laws and regulations. (Soerjono Soekanto, 1992) . The research materials used in this research consist of primary data and secondary data, the description of which is (1) Data Type (a) Primary data is information obtained directly from the main source, which can be in the form of actual social interaction or verbal statements, (Lexy J. Moleong, 2011) Primary data will be obtained through the participation of informants and direct observation in a specific social context. (b) Secondary Data refers to data obtained from literature, including primary legal documents and other legal references, including but not limited to : (1) Primary Legal Materials, namely: (a) Law Number 30 of 2004 concerning the Position of Notary.

State Gazette of the Republic of Indonesia 2004 Number 117 and Supplement to the State Gazette of the Republic of Indonesia Number 4432, (b) Code of Ethics of the Notary Association of Indonesia (INI) in January 2005 at the Bandung Extraordinary Conference. (2) Secondary Legal Materials, including various written documents obtained from official sources, archives, and publications of related institutions, related to the focus of the research, such as the Code of Ethics of Notaries, notary supervision, as well as literature, papers, articles, internet data, research results, and other relevant scientific works . Data Collection Techniques, The information needed for this research will be collected using three methods, namely interviews, observations, and literature studies, with the following process .

III. RESULTS AND DISCUSSION

Notary's Responsibility for Authentic Deeds Whose Applicants Use Fake Identities

The responsibility of a notary in making an authentic deed can be seen from the notary's negligence in making an authentic deed. The negligence referred to is if the notary has made a deed that is not in accordance with existing regulations or the notary consciously and deliberately makes a deed with the aim of benefiting himself or his friends. certain parties, but if the negligence arises not from the notary but from the presenter, whether intentionally or not, related to false identity or information provided by the presenter which is used as the basis for making an authentic deed and makes the deed incorrect, then this becomes the responsibility of the parties. As is well known, the notary has no obligation and is passive when it comes to materially investigating the information and/or identity provided by the person present. The result of the research that the author has conducted with interviews with several notaries in Sukoharjo Regency is that notaries are not held accountable for mistakes or omissions made by the person but if the negligence comes from the notary, then the notary must be responsible

If the notary is proven negligent in making the notarial deed, the notary must be held accountable for his actions in the form of civil sanctions, administrative sanctions, and criminal sanctions.

1. Civil Liability

a) Material Truth

The civil liability of a notary refers to the notary's obligation to compensate for damages that have arisen as a result of his actions that have violated the law or are not in accordance with his professional obligations and have harmed other parties. Notaries who have committed negligence and have harmed third parties (3) will be held civilly liable. The notary can be held accountable for losses incurred due to his negligence in making authentic deeds. Notaries who are negligent in making authentic deeds such as not following existing procedures, incorrectly inputting identities, not checking the identity cards of the

witnesses and there are other substantial errors, then the party who is aggrieved by the problem can sue the notary for compensation. Article 1320 of the Civil Code stipulates the requirements that must be met for an agreement to be considered valid and legally binding in Indonesia. When associated with a situation where a party (a party involved in an agreement or deed) uses a false identity, this article means that an agreement is considered valid if it is made in good faith and without coercion. However, if one party uses a false identity, this agreement can be questioned because the other party may have given consent based on false information. The use of a false identity can be considered an act of fraud, which can invalidate the agreement because the other party did not give consent fully aware and without error.

The cause or purpose of the agreement must be legitimate. The use of a false identity usually indicates an illegitimate intention, such as fraud or other unlawful purpose. If the false identity is used to achieve an unlawful purpose, then the agreement is invalid because it does not meet the requirements of legality. In relation to this material truth in the Notary Law Article 15 paragraph 1 states that a Notary has the authority to make authentic deeds that include various acts, agreements, and provisions required by laws and regulations or desired by the interested parties to be recorded in the form of an authentic deed. In addition, the notary is also responsible for ensuring the certainty of the date of the deed, storing the deed, and providing a grosse, copy, and extract of the deed. However, this authority applies as long as the task is not given or excluded to other officials or other persons determined by law. Meanwhile, Article 15 paragraph 2 letter d states that the notary's authority is "**To Validate the Suitability of Photocopies with the Original Document**" from this article means that a Notary can validate that a photocopy of a document is truly in accordance with the original document. This provides a guarantee of validity for parties using the photocopy and also there is no use of false identities by parties who make authentic deeds to the relevant notary. The obligations stipulated in Article 15 paragraph (1) of the UUJN, as part of the legal profession, notaries also have an implicit obligation to prevent disputes from arising. Authentic deeds play an important role in efforts to prevent or resolve disputes, both inside and outside the court. Therefore, in making authentic deeds, notaries must apply the principle of caution and accuracy to ensure certainty, order, and legal protection for interested parties, as mandated by laws and regulations.

By applying this principle of caution, notaries can reduce the risk that authentic deeds will be questioned or disputed legally, both now and in the future. (Zahira, 2021). If there is an error or manipulation in the deed, the notary can be held responsible for the losses caused to other parties. This includes active or passive unlawful acts. The forms of loss can be various, namely Financial Loss, Legal Loss, Reputational Loss, Loss of Time and Energy, Psychological Loss, Loss of Rights or Ownership, Administrative Complications.

2. Criminal Responsibility :

Notaries are criminally responsible for the deeds they make. This means that notaries must carry out their duties by respecting the law and not committing criminal acts. If a notary commits a violation of the law, he can be punished under the Law. In addition to being responsible under civil law as stated above, notaries can also be criminally responsible as regulated in several criminal provisions, namely Forgery of Letters, Inserting False Information into Authentic Deeds, Participation and Assistance in Criminal Acts, Fraud

3. Administrative Responsibilities :

Notaries can be subject to administrative sanctions if they violate the provisions of the Law as explained above, related to administrative responsibility if they do not carry out the civil provisions contained in the notary office law and the civil code, then the notary's administrative responsibility is that the deed he made only has the legal force of a deed under hand, besides that, the act of falsifying the identity is detrimental to other parties and results in criminal penalties. The regional notary supervisory board holds a hearing to examine alleged violations of the Notary Code of Ethics or violations of the implementation of the Notary's office. The results of the examination are submitted to the regional supervisory board, the regional supervisory table can impose sanctions. These sanctions can be in the form of verbal or written warnings.

4. Ethical Responsibilities

The following are ethical responsibilities related to the act of false identity in making authentic deeds, namely Maintaining Integrity and Honesty, Carrying out Duties Carefully and Diligently, Maintaining the Honor and Dignity of the Notary's Office, Obligation to Reject Invalid Deeds .

IV. CONCLUSION

Firstly, the responsibility of a notary in making an authentic deed can be seen from the Notary's negligence in making an authentic deed. The negligence referred to is if the notary has made a deed that does not comply with existing regulations or the notary consciously and deliberately made a deed with the aim of benefiting his person. or certain parties, but if the negligence arises not from the notary but from the presenter, whether intentionally or not, related to false identity or information provided by the presenter which is used as the basis for making an authentic deed and makes the deed incorrect then this becomes the responsibility As is well known to the parties themselves, the notary has no obligation and is passive when it comes to materially investigating the information and/or identity provided by the person present.

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