

REVIEW OF THE AUTHORITY OF THE NOTARY OFFICE AND THE LEGAL CONSEQUENCES OF MAKING AUTHENTIC DEEDS AGAINST THE LAW

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ABSTRACT

The authority obtained by a notary in making authentic deeds is recognized by law as having perfect evidentiary power. many cases where notaries are proven to have committed acts against the law resulting in legal consequences in the form of sanctions, these conditions are the background of this research. The purpose of this study is to determine the authority of a notary in society and the legal consequences of making authentic deeds that are against the law. The type of research used is normative legal research. normative legal research, namely research conducted by examining library materials or secondary data. The approach used is a statute approach and a case approach. The type of data in this study is secondary data, namely data obtained from empirical materials. This research is descriptive analysis in nature. The authority of a Notary in UUJN is mentioned in Article 15. This authority includes the authority to make authentic Deeds regarding all actions, agreements, and stipulations required by laws and regulations and/or desired by interested parties to be stated in the Deed authentic. Notaries will receive legal consequences in the form of civil, administrative and even criminal sanctions if proven against the law. The conclusion from this research is that a Notary as a public official in society has his authority regulated by applicable law, and his authority is inseparable from the laws relating to his actions in society. So that notaries as public officials remain bound by positive law in society, both civil and criminal. Notaries will receive legal consequences in the form of civil, administrative and even criminal sanctions if proven against the law.

Keywords: Deed, Authority; Against the Law; Notary

Introduction

The word Notary comes from the word "*Nota Literaria*", which is a writing mark or character used for those assigned to write or describe the expression of sentences delivered by the source. In the beginning, Notaries were essentially public officials to serve the needs of the public for authentic evidence that provided certainty of civil relations, as long as authentic evidence still required existence in the community.

The Notary Department was born because the public needed it, not a position that was deliberately created and then socialized to the public. This Notary position is not placed

in the judiciary, executive or judicial institutions because Notaries are expected to have a neutral position. The position of Notary Public is held or its presence is required by the rule of law with the intention to assist and serve the public who need authentic written evidence of legal circumstances, events or deeds. Currently, Law Number 30 of 2004 concerning Notary Positions has been updated with Law Number 2 of 2014 concerning Notary Positions (hereinafter referred to as UUJNP). Notary as referred to in Article 1 point 1 of UUJNP is a general official who is authorized to make authentic deeds and has other authorities as referred to in this law or under other laws (Afifah, 2017).

Notaries act as a public service of the public as officials appointed by the government who obtain attributive authority from the State to serve the public in legal relations that occur between them which are used as evidence of valid legal documents that have perfect evidentiary power. The duties and work of Notaries as general officials are not limited to making authentic deeds but also recording letters under hand by registering in a special book, as well as certifying and establishing the certainty of the date of letters under hand by registering in a special book. The notary profession has the most important role in every legal action, especially in the field of civil law (Budiono, 2013).

The inherent strength of an authentic deed is perfect (*volledig bewijskracht*) and binding (*bindende bewijskracht*), which means that if the evidence of an authentic deed is submitted that meets the formal and material requirements and the opposing evidence presented by the defendant does not diminish its existence, to itself as well as the perfect and binding power of proof (*volledig en bindende bewijskracht*), thus the correctness of the contents and statements contained therein becomes perfect and binding to the parties as to what is referred to in the deed. Perfect and binding to the judge so that the judge must make it the basis of perfect facts and sufficient to make a decision on the resolution of the disputed case (Sasauw, 2015).

Notarial deeds as authentic deeds are made according to the forms and procedures stipulated in Articles 38 to Article 65 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions (hereinafter referred to as UUJNP) (Fanjanu, 2023). In Article 65 of the UUJNP: "Notaries, Substitute Notaries, Special Substitute Notaries, and Notary Temporary Officers are responsible for every deed they make even though the Notary Protocol has been handed over or transferred to the depository party of the Notary Protocol". In this regard, Article 65 of the UUJNP considers that (Adjie, 2009):

1. Those who are appointed as notaries, substitute notaries, special substitute notaries, and temporary notary officials are regarded as carrying out personal and lifelong duties so that there is no time limit for liability.
2. The liability of notaries, substitute notaries, special substitute notaries, and temporary notary officials is considered inherent, wherever and wherever former notaries,

former substitute notaries, former special substitute notaries, and former temporary notary officials are located.

Seeing the authority obtained by a notary in making an authentic deed accompanied by its great duties and responsibilities, moreover, an authentic deed made by a notary is recognized by law as having perfect evidentiary power, so that even the judge recognizes the existence of the deed as a perfect factual basis for making decisions in resolving the parties' disputes. This authority is also comparable to the responsibility imposed on a notary in making an authentic deed, because the responsibility continues to be attached to the notary even though the notary has retired, in other words, it is attached to the notary's lifetime. This of course makes notaries need to apply the principle of prudence in making authentic deeds.

In addition to being bound by UUJNP, notaries are bound by a notary code of ethics, a notary code of ethics is a moral rule set by the Indonesian notary association. The code of ethics is a reference for notaries in exercising their authority in accordance with the capacity given and protected by applicable law. In carrying out the duties of his office, a Notary Public must adhere to the Code of Ethics, because without it, the dignity and dignity of professionalism will be lost and no longer gain the trust of the public. Notaries are expected to have extensive and in-depth knowledge and skills so that they are a mainstay in designing, drafting and making various authentic deeds (Sari, Ismansyah, & Fendri, 2019). In the event of an unlawful act, the Notary as a public official can be held accountable based on the nature of the violation and the legal consequences it causes. In general, the liability commonly imposed on Notaries is criminal, administrative and civil liability. It is a consequence of the consequences of violations or omissions committed by Notaries in the process of making authentic deeds (Subekti, 1989).

However, even though it has been equipped with a code of ethics, it cannot be denied that a notary is also an ordinary person who of course does not escape from errors and mistakes, so it is still possible for a notary to make mistakes in making authentic deeds both intentional and unintentional causing legal consequences. If this happens and in the future it turns out that because the notary's actions cause losses to the parties, then of course the notary is obliged to account for the authentic deed.

Currently, cases are found that ensnare Notaries to court, ranging from criminal cases and civil cases and some have been sentenced by court. There are examples of casuistic jurisprudence regarding Notaries who have been sentenced criminally and civilly, namely the Supreme Court decision Number 1847K / Pid / 2010 jo. Medan District Court decision Number 1673 / Pid.B / 2008 / PN.Mdn jo. Medan High Court Decision Number 265 / PID / 2009 / PT. MDN who sentenced a Notary who has been legally and

conclusively proven guilty of committing a criminal act, namely making a false authentic deed. Medan High Court Decision Number 88 / PDT / 2011 / PT-MDN jo. Medan District Court Decision Number 297 / Pdt.G / 2009 / PN.Mdn which imposes civil sanctions in the form of compensation to Notaries for unlawful acts committed and causing losses to the parties. Court Decision Number 248/Pid.B/2022/PN.Jkt.Brj which imposes criminal sanctions on Notaries with a prison sentence of 2 years and 8 months plus a fine of Rp.1,000,000,000,-(one billion rupiah) for being proven to have participated legally and convincingly guilty of committing the criminal acts of forgery of authentic letters and money laundering (Mahkamah Agung RI, 2023).

Based on this background description, the author tries to raise the issue of "The Authority of the Notary Office and the Legal Effects of Making Authentic Deeds Against the Law"

Based on the background description above, and so that the discussion of this research is more well directed, the main problems are as follows:

1. What is the authority of Notaries as General Officials in providing services to the community?
2. What are the legal consequences for the notary office of making an authentic deed that is against the law?

The objectives of this study are:

1. To find out the authority of Notaries as General Officials in providing services to the community.
2. To find out the legal consequences for the notary office from making an authentic deed that is against the law.

This research is expected to contribute ideas to the development of legal science, especially in the fields of law and notarial and can be useful for the public and readers to add information and insight into the legal consequences for notary positions that make authentic deeds against the law.

The theoretical basis used in this study is the theories of experts related to the discussion in this study

Authority Theory

Notary Public is a general officer who is solely authorized to make authentic deeds concerning all deeds, agreements and determinations required by a general ordinance or by the interested person desired to be stated in an authentic deed, guarantee the certainty of the date, keep the deed and give grosse, copies and quotations, all so long as the making of the deed by a general ordinance is not also assigned or exempted to any other officer or person (Adjie & Indonesia, 2008).

The authority according to H.D. Stoud is: "The whole rules relating to the acquisition and exercise of governmental authority by subjects of public law in public law" (Khanifah & Sa'adah, 2022). There are two elements contained in the understanding of the concept of authority presented by H.D.Stoud, namely: the existence of the rule of law; and the nature of legal relations.

Regarding authority, Ateng Syafrudin, expressed the notion of authority, that "there is a difference between the understanding of authority and authority. We must distinguish between *authority (authority, gezag)* and *authority (competence, bevoegheid)*. Authority is what is called formal power, power derived from what is granted by law, while authority is only about a certain "*onderdeel*" (part) of authority. Within the authority are the authorities (*recths bevoegd-heidheden*) (Syafrudin, 2000). Authority is the scope of public law acts, the scope of government authority, not only includes the authority to make government decisions (*bestuur*), but includes authority in the context of carrying out duties, and provides authority and the distribution of authority is mainly stipulated in laws and regulations".

Research Method

This research is a qualitative normative juridical research that refers to legal norms contained in laws and court decisions as well as norms that live and develop in society (Ali, 2021). The type of research used is normative legal research. Normative legal research is research conducted by examining library materials or secondary data (Soekanto & Mamudji, 2009). Generally, there are 5 approaches used in legal research, namely the statute approach, the *case* approach, *the historical approach*, *the comparative approach*, and finally *the conceptual approach* (Marzuki, 2017). The approach used is the *statutory approach (statute approach)* and the *case approach (case approach)*. The type of data in this study is secondary data, that is, data obtained from empirical materials (Sunggono, 1995).

This research is descriptive analysis, meaning that the research aims to be able to explain or describe clearly and carefully the things in question, which are then analyzed based on legal theories or applicable laws and regulations in accordance with the object of research, and from the results of the analysis conclusions are drawn. Aims to be able to provide data as thoroughly as possible and in detail about the object of research, so that answers can be obtained that can be accounted for. The type of data used is secondary data.

The technique of collecting normative juridical legal materials in this study is by literature study. Literature collection carried out by researchers is carried out in university libraries, accessing the internet and analyzing primary and secondary legal

materials related to the object of research. Data analysis is defined as the process of organizing and sorting data into patterns, categories, and basic description units so that themes can be found and working hypotheses can be formulated as suggested by the data. In this study, the data analysis used was qualitative analysis. Qualitative analysis is a data analysis that does not use numbers, but provides descriptions (descriptions) in words on the findings, and therefore prioritizes the quality of the data, and not of the quantity (Salim & Nurbani, 2013).

Result And Discussion

Analysis of the authority of the notary office in its position in society

The Notary Position has been regulated in a Law (hereinafter referred to as Law), namely Law No. 30 of 2004 concerning Notary Position, State Gazette of the Republic of Indonesia of 2004 No. 117, Supplement to the State Gazette of the Republic of Indonesia No. 4432. It entered into force on October 6, 2004. Which law has been amended with the promulgation of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004, State Gazette of the Republic of Indonesia of 2014 No. 3, Supplement to the State Gazette of the Republic of Indonesia No. 5491. Entered into force on January 15, 2014 (hereinafter referred to as UUJN). According to Article 1 of Law Number 30 of 2004, the definition of a notary is stated, that a notary is a public official who is authorized to make authentic deeds and other authorities as referred to in this Law. This definition can be compared with other definitions in Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions which states, that notaries are general officials who are authorized to make authentic deeds and other authorities as referred to in this Law.

According to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. M.01-HT.03.01 of 2006, concerning Terms and Procedures for Appointment and Transfer, and Dismissal of Notaries, in Article 1 paragraph (1), what is meant by Notary is a general official who is authorized to make authentic deeds and other authorities, as referred to in the Notary Office Law (UUJN) (Sasi Wahyuningrum & Lasmadi, 2022). Notary is a public official, meaning someone who is appointed, given authority and obligation by the state to serve the public in certain matters. This shows the role of the state that determines the position or existence of the notary. Without state intervention, there would never be a juridical norm that gives authority to a notary. Notaries are public officials who carry out professions in legal services to the community, in order to provide legal protection and guarantees in order to achieve legal certainty in society. A public official is a person who performs some of the public functions of the state, which is especially in the field of civil law. That in order to make an authentic deed, one must have the position of "general official". Based on the formulation of the UUJN, it can be understood that a general official is a person who

carries out some public functions of the state, especially in the field of civil law. A public official is someone who is appointed and dismissed by the government and given the authority and obligation to serve the public in certain matters because he participates in exercising a power derived from the authority of the government. In his position is concluded a trait or characteristic that distinguishes him and other positions in society.

The authority of Notaries in UUJN is mentioned in Article 15. This authority includes the authority to make authentic deeds regarding all deeds, agreements, and determinations required by laws and regulations and/or desired by those interested to be stated in authentic deeds (Article 15 paragraph (1)). Other authorities are further regulated in Article 15 paragraph (2) and paragraph (3) of the UUJN. An authentic deed according to the legal dictionary is a deed that from the beginning was made deliberately and officially for proof in the event of a dispute in the future (Mawran & Jimmy, 2009). An authentic deed according to Article 1868 of the Civil Code (KUH Percivil) is a deed made in the form prescribed by law by or before a public official authorized for it at the place where the deed was made. Based on the definition of an authentic deed according to Article 1868 of the Civil Code, it can be seen that there are 2 (two) forms of authentic deeds, namely a deed made by an authorized general official (referred to as an official deed / *ambtelijke acte*) and a deed made before an authorized general official (referred to as a party act / deed of the parties).

An authentic deed essentially contains formal truth in accordance with what the parties notify to the Notary. However, Notaries have the obligation to include that what is contained in the Notary Deed has really been understood and in accordance with the wishes of the parties, namely by reading it so that it becomes clear the contents of the Notary Deed, and providing access to information, including access to related laws and regulations for the parties signing the deed. Thus, the parties can determine freely whether or not to agree on the contents of the Notary Deed to be signed (Borman, 2019).

In the Explanation of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, it is stated that the State of the Republic of Indonesia as a state of law based on Pancasila and the Constitution of the Republic of Indonesia Year 1945 guarantees certainty, order, and legal protection for every citizen. To ensure legal certainty, order, and protection, authentic written evidence is needed regarding legal deeds, agreements, determinations, and events made before or by a Notary. Notaries as public officials who carry out their profession in providing legal services to the public, need to get protection and guarantees in order to achieve legal certainty. The guarantee of protection and the guarantee of achieving legal certainty for the implementation of Notary duties has been regulated in Law Number 30 of 2004 concerning Notary Positions. However, some provisions in the Law are no longer in accordance with legal developments and the needs of the community so that changes need to be made, which are also intended to

further affirm and strengthen the duties, functions, and authorities of Notaries as officials who carry out public services, as well as synchronize with other laws.

Related to Notaries in service to the public, that public services according to Law Number: 25 of 2009 concerning Public Services in Article 1 stated that public services are activities or series of activities in order to fulfill service needs in accordance with laws and regulations for every citizen and resident of goods, services, and/or administrative services provided by public service providers. Meanwhile, A.G.Subarsono stated about public services as a series of activities carried out by the public bureaucracy to meet the needs of user citizens (Rahman & Bakri, 2019). The intended users are citizens who need public services, such as making birth certificates, making Identity Cards (KTP), marriage certificates, death certificates, certificates. Public service can be interpreted as providing services (serving) the needs of people or communities who have an interest in the organization in accordance with the main rules of procedures that have been determined. In the Big Indonesian Dictionary (KBBI) public service means the process, the way of making serving many people (general) (Hakim, 2020).

Based on several notions of public services that have been described above, it can be concluded, public services are the provision of services or services carried out by public service providers as an effort to meet the needs and needs of service recipients or the community as well as implementers of the provisions of laws and regulations that have an interest in the organization, in accordance with the main rules and procedures set, The needs in this case are not individual needs but various needs that are actually expected by society.

The form of public service for Notaries in carrying out their positions is to certify authentic deeds in accordance with the provisions of Article 1 related to Article 15 of the UUJNP. An authentic deed according to R. Subekti is a writing that is deliberately made to be used as evidence about an event and signed. Meanwhile, R. Tresna argues that an authentic deed is a deed made by or in the face of a public employee, by whom in the deed is recorded the statement of the party who ordered the deed. Public employees referred to here are employees who are declared by law to have the authority to make authentic deeds, such as Notaries. Various conditions are held to ensure that the contents of the deed correspond to what the public servant saw or heard. Therefore, the contents of the authentic deed are held to be undeniable, unless it can be proved that what the public servant recorded as true, is not so.

In the context of service to the public, especially in legal traffic related to all legal acts related to authentic deeds described above, Notaries who are appointed and dismissed under the UUJN (in this case by the state with government intermediaries), Notaries as public officials carry out state offices and carry out state duties to serve the public with the authority given and obligations imposed on them, from and therefore Notaries also exercise the power and authority of the state, that is what distinguishes Notaries from other officials. Notaries, like other public officials have a role to provide services to the community, the role of Notaries in this case is so important, because based on the

authority they have, Notaries as general officials are the only authorized to make authentic deeds. As stated in Article 15 of the UUJNP stipulates "Notaries are authorized to make authentic deeds regarding all deeds, agreements and determinations required by laws and regulations and / or desired by the interested person to be stated in the authentic deed, guarantee the certainty of the date of making the deed, save the deed, give grosse, copies and quotations of the deed, all so long as the making of the deed is not also assigned or exempted to other officials or other persons who stipulated by law.

When viewed from Article 1 of the Notary Office Regulation in Indonesia, the Staatblad of 1860 Number: 3 (hereinafter referred to as PJN), as the basis for the appointment of Notaries as general officials authorized to make authentic deeds. The use of the word "authorized" (*bevoegd*) in Article 1 of the PJN is required, in connection with the provision stated in Article 1868 of the Civil Code which states: "an authentic deed is a deed which, in the form prescribed by law, is made by or before the public officers authorized for that purpose at the place where the deed is made."

For the implementation of Article 1868 of the Civil Code, the lawmaker must make laws and regulations to appoint public officials who are authorized to make authentic deeds and therefore Notaries are appointed as such general officials under Article 1 of the PJN. While the intended authentic deed will provide the parties concerned and other parties who obtain rights from it a perfect proof (vide 1870 Civil Code). Based on the notary's authorities as mentioned above and connected with Article 1870, it appears that Notaries play a role in providing legal certainty in serving the public. This was affirmed by Salim HS, who stated that the philosophical basis for giving authority to Notaries to make authentic deeds and other deeds, namely to provide legal certainty for legal acts committed by the community or legal subjects (Putra & Putra, 2022). The evidentiary power of an authentic deed is perfect, because it is made by an authorized official (Yerniwati, Rahmi, & Hartati, 2019).

When viewed from the theory of authority according to H.D. Stoud which states that authority is "The whole of rules relating to the acquisition and use of government authority by subjects of public law in public law" (Hadi & Michael, 2017). Where there are two elements contained in the understanding of the concept of authority presented by H.D.Stoud, namely: the existence of legal rules; and the nature of legal relations. Notaries as public officials who have a role in the community are regulated by applicable law, and their authority is inseparable from the laws related to their actions in the community. So that notaries as public officials remain bound by positive laws in society, both civil and criminal.

Analysis of the legal consequences of the notary office from making authentic deeds that are against the law.

Notaries in carrying out their duties as public officials are not free from mistakes, both intentional and unintentional. The mistakes made by the Notary allow the Notary to deal with legal liability both civilly, administratively and criminally. If it turns out that the deed contains elements of entering false information, then the deed is null and void,

meaning that the law considers that there has never been an agreement or void by itself without having to have a lawsuit. The state is restored to the original state before the agreement. In this case, it means that it must first be proven whether there is an element of a criminal act in its making, meaning after the suspect is convicted of a crime (Wibowo, 2011).

Relating to the accountability of the Notary profession in carrying out the duties of its position is related to civil liability. This accountability is a logical consequence that must be asked of someone in the legal profession in carrying out their duties. The accountability is not only based on morals but also based on law. This departs from the thought that everything done by a person must be held accountable (Herawati, 2022). Related to the above, R. Wirjono Prodjodikoro stated that responsibility for a person's actions is usually practically meaningful if that person does actions that are not allowed by law and most of these actions are acts that in the Civil Code are called unlawful acts (*onrechtmatige daad*) (Prodjodikoro, 1995). *Onrechtmatige daad* or unlawful acts are regulated in the Civil Code Book III Chapter III concerning Engagements born for the sake of law, Articles 1365 to Article 1380. In full, Article 1365 of the Civil Code reads as follows: "every unlawful act that brings harm to persons, obliges the person who by mistake publishes the loss, to compensate for the loss".

Based on the provisions of the aforementioned Article, it can be known that the elements of unlawful acts (*onrechtmatige daad*) are as follows:

- a. Unlawful acts;
- b. There must be an error;
- c. There must be losses caused;
- d. There is a causal relationship between the act and the loss (Latumeten, 2017).

Unlawful acts when associated with the Notary profession, it can be said that if the Notary in carrying out the duties of his office deliberately commits an act that harms one or both parties facing in the making of a deed and it can really be known, that something done by the Notary for example is contrary to the law, then the Notary can be held accountable under Article 1365 of the Civil Code (Ardiansyah, Saleh, & Rachman, 2022). Vice versa, if the Notary whose duty is also to provide services to the community or people who need their services in ratifying or making a deed, then in the deed there is a clause that is contrary for example to the law, so as to cause harm to others, while the parties facing him do not know it at all, then with that passive or silent attitude the Notary concerned can be subject to Article 1365 Civil Code (Blatz, 1861).

Article 1365 of the Civil Code only regulates when a person who suffers losses due to the actions of others, then that person can file a claim for compensation to the District Court. This means that in this case the aggrieved party in making an authentic deed made either by or before a Notary, can file a lawsuit with the Court so that the Notary Public compensates for the losses caused (Tornado, Nurunnisa, & Azmi, 2023). If the Notary in constituting a deed, then includes something in the deed not as ordered by the

parties, then such an act based on Article 1365 of the Civil Code, the Notary can be said to have committed an unlawful act and if the consequences of his actions have caused a loss to another person or his client, the Notary Public is obliged to pay compensation for the losses caused.

All legal regulations actually aim towards the balance of these interests, since legal regulations are only the result of human actions and a man is imperfect, then of course all legal regulations contain imperfect qualities as well (Utamy, Kartikasari, & Wahjuni, 2020). If this is related to the Notary profession, then basically the Notary in carrying out the duties of his office may commit an error or violation for which civilly this can be held accountable, even though it is related to the material truth of the deed made before him (Stylianou, Buchan, & Dunn, 2015). In general, the engagement relationship between a Notary and its clients is regulated in Article 1320 of the Civil Code. The sound of the article is as follows. For the validity of consents four conditions are required:

- 1). Agree those who bind themselves;
- 2). Ability to make an engagement;
- 3). A certain thing;
- 4). A lawful cause.

Although the notary's liability in his position is related to an authentic deed that is civil in nature, if in making the authentic deed there are elements that are criminally unlawful, it is possible that the notary as a general official may be subject to criminal sanctions. Criminal provisions are not regulated in the UUJN but the Notary's criminal responsibility can be imposed if the Notary commits a criminal act. The Notary's responsibility is mentioned in Article 65 of the UUJN which states that the Notary Public is responsible for every deed he makes, even though the Notary protocol has been handed over or transferred to the depository of the Notary protocol. According to Ima Erlie Yuana, material responsibility for the deed made before the Notary needs to be emphasized that with the authority of the Notary in making an authentic deed does not mean that the Notary can freely according to his will make an authentic deed without the parties asking for a deed. The Notary Deed is thus actually the deed of the interested parties, not the Notary Deed concerned, therefore in the event of a dispute from the agreement contained in the Notary deed made for them and before the Notary, those who are bound are those who enter into the agreement themselves, while the Notary is not bound to fulfill any promises or obligations as stated in the Notary Deed made before him and the Notary completely beyond those who are the parties (Kurniawan, 2020).

Notary profession is a profession related to individuals, professional organizations, society in general and the state. Notary professional relations with society and the state have been regulated in UUJN, while Notary professional relations with Notary professional organizations are regulated through the Notary code of ethics. Without a code of ethics, the dignity and dignity of the profession will be lost. Notaries in carrying

out their office duties must comply with the UUJN and their professional code of ethics. The scope of the code of ethics applies to all members of the Indonesian Notary Association (INI) and other persons who carry out the position of Notary. Sanctions as a form of enforcement of the Notary code of ethics for violations of the code of ethics are set forth in Article 6, stating that sanctions imposed on members who violate the code of ethics can be in the form of reprimands, warnings, temporary dismissal from association membership and dishonorable dismissal from association membership (Rahim, 2022). In the state administration, the letter of appointment given by the Minister of Law and Human Rights of the Republic of Indonesia to a Notary Public can be revoked and the Notary dismissed from his position.

Violation of UUJN committed by Notary in making a deed, namely non-fulfillment of the provisions of Article:

1) Article 16 paragraph (1), confirms that:

- a. Act trustfully, honestly, thoroughly, independently, impartially, and safeguard the interests of parties involved in legal actions;
- b. Create a deed in the form of a deed minuta and keep it as part of the Notary protocol;
- c. Attach letters and documents and fingerprints to the minuta of the deed;
- d. Issue grosse deed, copy of deed, or quotation of deed based on deed minuta;
- e. Provide services in accordance with the provisions of this Law, unless there is a reason to refuse it;
- f. Keep everything confidential about the deed he made and all information obtained for the making of the deed in accordance with the oath / promise of office, unless the law provides otherwise;
- g. Bind the deed he made in 1 (one) month into a book containing no more than 50 (fifty) deeds, and if the number of deeds cannot be contained in one book, the deed can be bound into more than one book, and record the number of minuta of the deed, month, and year of manufacture on the cover of each book;
- h. Make a list of deed of protest against non-payment or non-receipt of securities;
- i. Make a list of deeds relating to wills in the order of time of making deeds each month;
- j. Send the list of deeds referred to in letter i or the list of nil relating to the will to the center of the register of wills at the ministry that organizes government affairs in the field of law within 5 (five) days in the first week of each following month;
- k. Record in the repertorium the date of sending the list of wills at the end of each month;
- l. Have a stamp or stamp containing the state emblem of the Republic of Indonesia and in the space surrounding it is written the name, position, and place of residence concerned;
- m. Read the deed before the face in the presence of at least 2 (two) witnesses, or 4 (four) special witnesses for the preparation of the will deed under hand, and signed at that time by the face, witnesses, and Notary; and

n. Accepting apprentices of Notary candidates.

To analyze how the legal consequences obtained by notaries as public officials in making authentic deeds need to look at the casuistics that have occurred. There are examples of casuistic jurisprudence regarding Notaries who have been sentenced criminally and civilly, namely the Supreme Court decision Number 1847K / Pid / 2010 jo. Medan District Court decision Number 1673 / Pid.B / 2008 / PN.Mdn jo. Medan High Court Decision Number 265 / PID / 2009 / PT. MDN who sentenced a Notary who has been legally and conclusively proven guilty of committing a criminal act, namely making a false authentic deed. Medan High Court Decision Number 88 / PDT / 2011 / PT-MDN jo. Medan District Court Decision Number 297 / Pdt.G / 2009 / PN.Mdn which imposes civil sanctions in the form of compensation to Notaries for unlawful acts committed and causing losses to the parties. Court Decision Number 248/Pid.B/2022/PN.Jkt.Brt which imposes criminal sanctions on Notaries with a prison sentence of 2 years and 8 months plus a fine of Rp.1,000,000,000,-(one billion rupiah) for being proven to have participated legally and convincingly guilty of committing the criminal acts of forgery of authentic letters and money laundering (Mahkamah Agung RI, 2023).

Of the several cases that ensnare notaries in legal cases, researchers classify what actions are taken by notaries that are indicated to be against the law as follows:

1. Issue and or use more than one letter of title in the form of girik, pipil, kekitir, Foundation, Letter C, land certificate.
2. Issue or use documents that are indicated to be false related to land.
3. Occupying or controlling land without permission on land owned by others (Hak Milik/Hak Guna/Hak Guna Bangunan/Hak Pakai/Hak Management),
4. Change or move land boundary markings
5. Participate in the process and ratification of authentic deeds of transfer of rights that are not halal
6. Committing money laundering

From the above actions, it can be concluded that the above actions are criminal acts, where if the unlawful act is committed by a notary, it will get legal consequences according to applicable rules. Criminal sanctions given to notaries can be carried out as long as there is legal action from the notary against the formal aspects of the deed that is deliberate, conscious and planned, that the deed is made before a notary or by a notary together (agreed) to be used as a basis for committing a criminal act. There is a legal action from a notary in making a deed before or by a notary which when measured based on the UUJN and it is not in accordance with the rules therein. And the notary action is not appropriate according to the authorized agency, namely the Notary Supervisory Panel to assess a notary action. This means that in addition to fulfilling the elements of violations mentioned in the Notary Position Law and the Notary Professional Code of

Ethics which must also meet the formulation in the Criminal Code (KUHP) (Mansyur, 2013). The following are the results of the analysis of rules that will be the legal consequences for notaries who commit unlawful acts in accordance with the Criminal Code:

1. Forgery of authentic deeds is regulated in Article 264 paragraph (1) jo 263 of the Criminal Code which will be punishable by a maximum of eight years imprisonment.
2. The crime of assistance is regulated in Article 56 of the Criminal Code, which reads: "(1) those who knowingly provide assistance at the time the crime is committed (2) those who deliberately provide opportunity, means or information to commit the crime". Threatened because notaries allegedly consensual with authorized professional groups and functioning as legal advocates.
3. The crime of embezzlement is regulated in Article 372 of the Criminal Code, which reads "whoever intentionally and unlawfully owns something that wholly or partly belongs to another person, but which is in his power not for a crime is threatened with embezzlement, with a maximum imprisonment of four years or a maximum fine of nine hundred rupiah" (Kusuma & SH, 2021).

In the exercise of its authority, notaries perform *relatering* and *constatering functions*. The purpose of carrying out the relatering function is that the notary only formulates the will of the parties and is poured into an authentic deed, so that what is poured into the deed is purely the will of the parties, of course, as long as it meets the provisions of Article 1320 of the Civil Code regarding the legal terms of the agreement. Then the case with the constatering function, meaning that the notary records things that occur in front of him which are then poured into an authentic deed, at the request of the parties who need it. A notarial deed is a letter that regulates the legal interests of the parties and all legal consequences. There is also often an investigator's perception of the material truth that must be sought in criminal law, it is also what the investigator uses to assess the involvement of a notary in a criminal case he is investigating, basically there is no legal basis regarding the notary's authority to seek the material truth of a document and / or statements of the facers. For example, when the documents or statements of the parties are found to be false, the notary is considered sufficient evidence to be suspected of committing a criminal act of making an authentic deed whose contents are false, then ideally it can be considered that the notary only accepts and uses it without testing the correctness of the documents and / or information given to him. This is based on the Jurisprudence of the Supreme Court R.I. Number: 702K/Sip/1973, dated September 5, 1973, which basically states that the cancellation of the notarial deed *by judex factie* is inappropriate, because the notary only records what is stated by the complainant by not being obliged to investigate the material truth of what is stated to him (Kusuma & SH, 2021),

Forgery of authentic deeds, embezzlement or participation in unlawful acts Together with other parties deliberately in the capacity of notaries as public officials, it can be said

that notaries exist in the vortex of the land mafia. Meanwhile, if the notary is involved in the land mafia case but does not participate in the conspiracy of land mafia members and only formulates the will of the parties (land mafia) into an authentic deed. So the notary is not responsible for the contents of the deed he made and is not obliged to seek the material truth of the deed.

The results of the researcher's analysis from the previous description, the legal consequences that will be received by notaries if they make authentic deeds that are against the law include:

1. Civil sanctions in the form of reimbursement of costs, compensation is the consequence that must be received by the notary on the claims of the claimants if the deed concerned only has the power of proof as a deed under hand or the deed will become null and void and considered never existed.
2. Administrative sanctions include verbal reprimands, written reprimands, suspensions, honorable dismissals and dishonorable dismissals. In enforcing administrative sanctions on notaries, the supervisory instrument is the Supervisory Panel (Hermansyah, 2021).

Meanwhile, the legal consequences that will be received by notaries who agree with parties (land mafia), namely the imposition of criminal sanctions based on criminal acts that have been proven to be committed, can be dismissed by the Minister on the grounds that the notary has been proven guilty and is subject to imprisonment, which is regulated in the 2003 Ministerial Decree concerning the notarial Article 21 paragraph (2) sub b, which is other with a penalty of 5 years imprisonment (Panjaitan, 2017).

Conclusion

Based on the analysis in the discussion, the conclusions of this study include: (1) The authority of notaries as general officials has been regulated in Law No. 30 of 2004 concerning Notary Positions, Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004, Notary Authority in UUJN is mentioned in Article 15. This authority includes the authority to make authentic Deeds regarding all deeds, agreements, and determinations required by laws and regulations and/or desired by those interested to be stated in authentic Deeds (Article 15 paragraph (1)). Other authorities are further regulated in Article 15 paragraph (2) and paragraph (3) of the UUJN, in the sense of the concept of authority presented by H.D.Stoud, namely: the existence of the rule of law; and the nature of legal relations. Notaries as public officials who have a role in the community are regulated by applicable law, and their authority is inseparable from the laws related to their actions in the community. So that notaries as public officials remain bound by positive laws in society, both civil and criminal. (2) legal consequences that will be received by a notary if making an authentic deed that is against the law include, namely Civil sanctions in the form of reimbursement of costs, compensation is the

consequence that must be received by the notary on the claims of the claimants if the deed concerned only has the power of proof as a deed under hand or the deed will become null and void and is considered to have never existed, Administrative sanctions include verbal reprimands, written reprimands, suspensions, honorable dismissals and dishonorable dismissals. In enforcing administrative sanctions on notaries, the supervisory instrument is the Supervisory Panel. Meanwhile, the legal consequences that will be received by notaries who agree with parties (land mafia), namely the imposition of criminal sanctions based on criminal acts that have been proven to be committed, can be dismissed by the Minister on the grounds that the notary has been proven guilty and is subject to imprisonment, which is regulated in the 2003 Ministerial Decree concerning the notarial Article 21 paragraph (2) sub b, which is other with a penalty of 5 years imprisonment.

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