

**Implementing Legal Consequences of Forgery of Authentic Deeds Performed by the Notary Profession**

**<sup>1</sup> Margareth Tutut Maharani Prakoso, <sup>2</sup>Sukirno**

<sup>1</sup>University of Diponegoro; margarethtutut1998@gmail.com

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**Abstract**

Notary is a public official who has the authority to make an authentic deed. In making an authentic deed, it must be based on the applicable laws and regulations so that legal certainty is created. An authentic deed drawn up before a Notary Public must not only comply with statutory regulations, but is desired by interested parties to ensure the rights and obligations of the parties for the sake of certainty, order and legal protection for interested parties. Notary is a position of trust. The position of trust given by law and society requires a Notary to be responsible for carrying out the trust as well as possible and upholding legal ethics and the dignity and position of his position. In the Notary profession, there is also a code of ethics when a Notary carries out his position must be guided by laws and regulations as well as a notary's code of ethics. Regulations related to the position of a notary are regulated in Law Number 30 of 2004 in conjunction with Law Number 2 of 2014 concerning the Position of Notary or commonly referred to as the Law on Notary Position (UUJN). The Notary Office Law regulates things that must be done and prohibited for a person who works as a Notary.

**Keywords:** Consequences, Law, Forgery of Deeds, Notary.

**Introduction**

The development of people's lives in the current modern era has increased the legal relations that exist between individuals and groups in society. Legal relations often occur in written agreements, but not only in private written agreements made by the parties but with authentic deeds made by a Notary. An authentic deed made by a Notary is an option for the parties when they are about to enter into an agreement because it has strong evidentiary power (Arrohim et al., 2020; Bashori, 2019).

Notary is a public official who has the authority to make an authentic deed. In making an authentic deed, it must be based on the applicable laws and regulations so that legal certainty is created. An authentic deed drawn up before a Notary Public must not only be in accordance with statutory regulations, but is desired by interested parties to ensure the rights and obligations of the parties for the sake of certainty, order and legal protection for interested parties (Weisbord & Horton, 2019; Siahaan, 2019).

The notary deed was born because of the direct involvement of the party facing the notary, they are the main actors in making a deed so that an authentic deed is created (Devi & Westra, 2021; Priono et al., 2017). Notary deed is an authentic deed drawn up by or before a notary according to the form and procedure stipulated in the law. The deed made by a notary describes authentically all the actions, agreements and decisions witnessed by the appearers and witnesses (Suhendar et al., 2022; Budianto et al., 2020). The deed drawn up by a notary must contain the conditions necessary to achieve the authentic nature of the deed, for example in reading the deed it is explained that the identities of the parties must be stated, the contents of the agreement that the parties want, signing the deed and so on. But if these conditions are not met then the deed can be canceled or null and void by law.

The purpose of reading this deed is so that the parties know each other about the contents

of the deed because the contents of the deed are the will of the parties. The reading of this deed is also carried out so that one party does not feel disadvantaged if there is a statement or redaction of the deed that is burdensome or detrimental to the other party (Setyono & Novianto, 2018; Gusti, 2019).

So important is the role of a notary given by the state, where a notary as a public official is required to be responsible for the deed he has made. Because a Notary must comply with applicable regulations, namely the Law on Notary Position and obey the code of ethics of the legal profession. The code of ethics referred to here is the Notary's code of ethics. If the deed made later turns out to contain a dispute then this needs to be questioned, whether this deed was a notary's mistake intentionally to benefit one of the appearers or the fault of the parties who did not provide the actual documents. If the deed made/issued by a notary contains legal defects due to a notary's mistake either due to negligence or on purpose, the notary must provide moral and legal accountability. And of course this must first be proven (Saputro et al., 2021; Wirantia et al., 2020).

Therefore, if the notary is proven to have made mistakes both personal and professional in the making of a deed that contains elements against the law, then several stages of the procedure that can be put forward in the field include summoning the notary as a witness, then being promoted as a defendant in a civil court regarding accountability for deed made to be used as evidence which previously had tolerance from the Notary Supervisory Council, then followed up with punishment, namely Notaries can be used as witnesses and suspects in criminal cases as well as confiscation of minuta bundles kept by the Notary (Monica & Pocora, 2013).

An important role for the duties and position of a Notary in the community and the strength of proof of an authentic deed he made, it can be said that the position of a Notary is a position of trust. The position of trust given by law and society requires the Notary to be responsible for carrying out the trust as well as possible and uphold the legal ethics and dignity and position.

Every profession must have a code of ethics. The code of ethics is defined as written values, norms and rules that explicitly state what is good and right, what is not good and what is not right for a profession. In the Notary profession, there is also a code of ethics when a Notary carries out his position must be guided by laws and regulations as well as a notary's code of ethics (Navaro, 2007). Regulations related to the position of a notary are regulated in Law Number 30 of 2004 in conjunction with Law Number 2 of 2014 concerning the Position of Notary or commonly referred to as the Law on Notary Position (UUJN). The Notary Office Law regulates things that must be done and prohibited for a person who works as a Notary.

The code of ethics for a notary has been made in such a way as to accommodate the interests of a notary and provide legal certainty for parties who use the services of a notary. However, in practice cases related to deeds made by a notary still arise, with demands from parties or third parties who feel aggrieved by the existence of the deed. Falsification of deeds and documents that support the making of the deed or the intentional involvement of a notary (Siranggi et al., 2019; Putri & Putra, 2022). The existence of cases of forgery of deeds in the community can make the public's sense of trust fade towards the Notary profession. If a Notary does work that is not in accordance with the Law on Notary Position, the Notary profession can be subject to sanctions for violating the code of ethics.

Based on the background that has been described, the writer is interested in conducting deeper research regarding "Legal Consequences of Forgery of Authentic Deeds Carried Out by Notary Professions"..

### Methods

The research method used is normative juridical research using secondary data in studying laws and positive legal principles related to research objects whose stages are obtained through library research using secondary data sources consisting of primary, secondary and tertiary legal materials. The technique of determining the informants in this study was purposive sampling with the criteria of informants being people who really knew and were directly involved. In this study, the data collection techniques carried out by researchers were observation, interviews and documentation. In this study, the data analysis technique used qualitative data analysis techniques according to Miles and Huberman, where the analysis consisted of three activity lines, namely: data reduction, data presentation, conclusion drawing/verification.

### Result and Discussion

As a public official who is given the authority to make authentic deed, based on the request of the appearer or the public who needs services in the field of making deed. A Notary is required to always adhere to the Law on the Position of a Notary, besides that, a Notary is trusted by the public to make authentic deeds related to the legal actions to be carried out. Notarial deed must be in accordance with statutory regulations in order to provide legal certainty to the parties who make it or to third parties.

The notarial deed provides assurance that an incident or fact in the deed was actually carried out by a notary or explained by the parties who appeared at the time stated in the deed in accordance with the procedures specified in making the deed (Begirai, 2020; Muhammad et al., 2019). Formally to prove the truth and certainty regarding the day, date, month, year, time of appearance as well as the parties appearing, initials and signatures of the parties or appearers, witnesses and Notaries and proving what was seen, witnessed, heard by the Notary (in the deed officials or minutes), and record information or inclusion of the parties (in the deed of parties).

The notary can be burdened with responsibility for his actions in connection with his work in making the deed. The scope of responsibility of the Notary includes the material truth of the deed he made. Regarding the responsibilities of a Notary as a public official relating to material truth, Abdul Ghofur distinguishes them into four, namely: 1) Civil Notary's responsibility for material truth with the deed he made; 2) Notary's criminal responsibility for material truth with the deed he made; 3) Notary's responsibility based on the Notary's Position Regulations for the material truth of the deed he made; 4) The responsibility of a Notary in carrying out his/her duties is based on the Notary's code of ethics.

Law Number 30 of 2004 in conjunction with Law Number 2 of 2014 concerning the Position of Notary Public has regulated sanctions for Notaries who commit violations. If a Notary while carrying out his/her position commits an offense that causes harm to the parties or third parties, then a Notary may be subject to sanctions in the form of civil sanctions contained in Article 84 and sanctions in the code of ethics of Notary or administrative positions in Article 85. Law on the Position of Notaries only regulates civil sanctions and code of ethics sanctions for Notary positions, while not mentioning any criminal sanctions that can be given to a Notary. However, criminal sanctions can also be imposed on a Notary if the act committed fulfills the elements of a crime.

Forgery of letters which is often carried out by a Notary and is often questioned by the parties or other parties, namely making or providing false information in a Notary deed. There is information written inside about things that actually don't exist (Lamatenggo, 2021; Sunaryo, 2015). The provisions in the Notary Office Law state that basically the contents of the deed made

by a Notary may not be changed or added either in the form of overlapping, inserting, crossing out, or deleting and replacing it with something else. However, changes in the form of additions, replacements, or deletions in the deed can be made if there is approval from the parties listed in the deed.

The notary also has the authority to correct typographical errors or errors in the signed Minutes of the Deed by making an official report and providing a note about this in the original Minutes of the Deed by mentioning the date and number of the correct minutes of the Acrape Deed. A copy of the deed of the minutes must be submitted to the parties.

If a Notary makes changes to a Notary Deed drawn up in the appropriate manner as stated in the Law on Notary Office, this is not categorized as an act of forging a letter (deed). However, if the changes made by the Notary to the deed made are not in accordance with those specified in the Notary Office Law, then it can be categorized as an act of forging a document.

Forgery of deed committed by a notary is an act that violates the code of ethics of the notary profession. Article 16 paragraph (1) number a UUJN states that:

*“In carrying out his position, a Notary must act trustworthy, honest, thorough, independent, impartial and protect the interests of parties related to legal actions.”*

This article explains that in carrying out the duties of his position, a Notary must act in a trustworthy, honest manner, and safeguard the interests of the parties' information. If a Notary commits falsification of the deed he made, the contents of the deed made are not in accordance with reality. If there is an exaggeration or subtraction of information, it can be interpreted that the Notary has violated the code of ethics of the position of Notary.

Law enforcement instruments in the Notary Office Law, include preventive measures (supervision) and repressive measures (implementation of sanctions). Preventive steps are carried out through regular Notary protocol inspections and the possibility of violations of the code of ethics in the implementation of Notary positions. Meanwhile, repressive measures are carried out through the imposition of sanctions by: 1) the Regional Supervisory Council, in the form of verbal and written warnings and has the right to propose to the Central Supervisory Council temporary suspension of 3 months to 6 months and dishonorable dismissal; 2) Central Supervisory Council, in the form of temporary dismissal and has the right to propose to the Minister in the form of dishonorable discharge; and 3) Minister, in the form of dishonorable dismissal.

Regarding the falsification of the deed carried out by this Notary, criminal sanctions can also be imposed if it fulfills the elements contained in Article 263 and Article 264 of the Criminal Code. Article '263 of the Criminal Code reads:

Any person who makes a forged letter or falsifies a letter which can give rise to a right, an agreement or release of debt, or which is intended as evidence of something with the intention of using or ordering someone else to use the letter as if the contents were true and not forged, threatened if such use can cause harm, due to falsification of documents with a maximum imprisonment of 6 (six) years.

The same penalty shall be imposed on any person who deliberately uses a forged or forged document to pretend to be genuine, if the use of said document can cause harm.

Furthermore, in Article 264 of the Criminal Code it is emphasized that:

Forgery of letters is punishable by imprisonment for a maximum of 8 (eight) years, if committed against authentic deeds; Letters of debt or certificates of debt from a country; Letter of interest or debt or certificate of interest or debt from an association, foundation, company or airline; Talon, proof of dividends or interest from one of the letters described in 2 and 3 or proof issued in lieu of said letters; and Letters of credit or trade letters intended for circulation.

A person who intentionally uses the letter in the first paragraph, which is not true or forged as if it were true and not fake, will be punished if the forgery of this letter can cause losses.

As stipulated in Article 264 of the Criminal Code, a notary who falsifies a letter, in this case a deed, which harms other parties, is subject to a maximum imprisonment of 8 years. Related to the imposition of criminal sanctions against Notaries, deeds made with elements of the crime of forgery of letters, result in the authentic deed being degraded in its evidentiary power as an underhanded deed, null and void and can also be canceled by the court by means of the parties concerned filing a lawsuit for annulment to the local District Court.

Legal Implications Regarding Cancellation and Cancellation of Notary Deeds Based on the Law on Notary Position namely:

1) Notary deed can be canceled

Can be canceled is a sanction against a legal action that contains a juridical defect (cause of cancellation) in the form of cancellation of a legal action at the will of a certain party and legal consequences since the cancellation occurred, and the cancellation or ratification of the legal action depends on certain parties causing the legal action to be canceled or ratified.

2) Notarial deed null and void

If a notarial deed does not fulfill the objective elements in an agreement, the notary deed may become null and void. Null by law is a civil sanction against a legal action that causes cancellation contains a juridical defect (cause of cancellation), in the form of a legal action that has been carried out without legal consequences since the occurrence of the legal action or the legal action becomes invalid since the deed is signed and the legal action taken mentioned in the deed is deemed never to have happened.

### Conclusion

The consequences of the book on the profession of a notary who commits an act of forgery on an authentic deed is an act that can be subject to sanctions by the code of ethics of notary office and criminal sanctions. Sanctions for the code of ethics are regulated in the Notary Office Law, namely in the form of verbal reprimands up to dishonorable dismissal. Criminal sanctions can be imposed if it is proven that they fulfill the criminal elements in Articles 263 and 264 of the Criminal Code. Regarding the deed drawn up by a notary, if it is proven that a forgery of certificates has been committed, the strength of the proof can be degraded, such as an underhanded deed null and void or can be canceled by requesting an annulment at the local court.

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