

Privat Law Journal **AUTHENTICA**

Tri Minati

Juridical Reasons for the Acceptance of the Actio Pauliana Application for Assets Encumbered with Mortgage Rights in Decision Number 461 K/Pdt.Sus-Bankrupt/2019

Setiya Megawati Dewi

Legal Protection of Notaries Against the Use of the Right to Renounce in Criminal Cases

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Preface

Enhancing the Legal Basis of Notary Services in Indonesia: Addressing Challenges and Implementing Solutions for Secure Legal Transactions

As the Editor in Chief, I am pleased to introduce the most recent edition of our journal, which arrives during a period of unique difficulties and opportunities in notarial law. The notarial legal landscape has been altered by digital transformation, shifting social dynamics, and evolving legal policy, leading to detailed arguments regarding its practices and principles. This edition offers readers the opportunity to delve into different facets of notarial law through seven papers that offer detailed examination of recent cases and significant challenges in this area.

Analysing notarial legal issues in Indonesia involves examining key topics such as legislation, practices, and supervision of the notary profession. Notaries, as public officers, play a crucial role in verifying the authenticity, security, and legal certainty of deeds related to legal agreements and transactions. Key issues in notarial law in Indonesia involve regulations that are not entirely comprehensive. Despite the existence of various regulations governing the notary profession, such as Law Number 2 of 2014 amending Law Number 30 of 2004 regarding the Position of Notaries, there are still certain aspects that lack thorough regulation or need updating to align with advancements over time, particularly in relation to digitalisation. Additionally, variations in the level of professionalism among notaries exist due to inconsistencies in the school and training system. Insufficient comprehension of professional ethics and standard operating procedures when creating deeds can lead to legal issues, including arguments on the legitimacy of deeds. Issues with accessing notary services exist as well. Notary services are still scarce in several regions, particularly in distant areas. This might impede legal and administrative procedures for individuals requiring notary services. Enhanced oversight of notary practices is necessary to guarantee that all notaries adhere to the relevant code of ethics and rules. Sanctions for infractions are still considered insufficient in deterring unprofessional or criminal behaviour. Digitalisation and data security concerns are significant factors in the evolution of notarial legislation. Technological advancements facilitate the digitisation of notarial deeds in their formation and storage. Nevertheless, this also presents additional obstacles with data security and privacy. Regulations concerning the digitisation of the notarial process and the safeguarding of personal data require strengthening. Moreover, it is associated with detrimental competition. Competition among notaries for clients can result in unethical behaviours, such as reducing rates below accepted levels, which may compromise the quality of service and the reputation of the notary profession. To address this issue, it is necessary to enhance and revise legislation that pertain to contemporary advancements, particularly in digitalisation. Enhancing the education and training standards for future notaries and establishing explicit Standard Operating Procedures. Enhancing monitoring procedures and improving the efficacy of punishments for infractions. Improving infrastructure and providing access to notary services in rural regions. Utilising information technology in the notary process with a focus on security and data privacy. The aim is to address notarial legal issues in Indonesia to ensure that notaries can fulfil their position as public authorities in ensuring legal certainty effectively.

The contemporary state of notarial law is marked by growing intricacy in transactions and agreements, together with a demand for enhanced legal certainty. Notaries, as public

authorities who charge public fees, are essential in ensuring legal clarity. Nevertheless, they encounter obstacles such as heightened legal liabilities and the necessity for a more comprehensive grasp of information technology. The importance of safeguarding personal data and the transition to digital notary services is growing. The evolution of notarial law is a continuous process that necessitates strategic planning and adjustment to changes in legislation, technology, and societal requirements. Effective growth of notarial law requires a multidisciplinary strategy involving legislative change, enhancing professional ability, integrating technology, and improving access to justice. The articles in this issue address this difficulty by offering case study, doctrinal investigation, and theoretical exploration of the following areas.

1. Recognition of Actio Pauliana in the Context of Mortgage Rights: This article delves into the ramifications of Decision Number 461 K/PDT.SUS-BANKRUPT/2019, shedding light on how notarial law addresses disputes between mortgage rights and actio pauliana claims.
2. Legal Protection for Notaries: The article examines the application of the right to refuse in criminal situations to address the difficulties encountered by notaries and proposes strategies to enhance their legal safeguarding.
3. Validity of the Deed of Compromise Arbitration: This article examines the necessity of the parties' signatures in the drafting of the Deed of Compromise Arbitration by a notary, emphasising the significance of this process within the realm of arbitration.
4. Precautionary Principles in Sale and Purchase Deeds: This article offers a realistic example of how the precautionary principle is applied in notary-mediated transactions, based on Decision Number: 2255 K/PDT/2014.
5. Responsibilities of Notaries for Deeds Made: Notaries are responsible for verifying and certifying deeds. The paper examines Decision Number 126/PDT/2018/PT YYS, focusing on notary responsibilities and their influence on notarial practice.
6. Legal Responsibility in Buying and Selling Land by PPAT: Legal obligations while purchasing and selling real estate by PPAT: This essay examines legal liability for illegal actions in land purchase and sale transactions using case studies, offering a fresh outlook on the function of PPAT.
7. Reporting of Motor Vehicle Embezzlement: This article discusses the issue of automotive embezzlement in terms of fiduciary responsibility and examines the legal framework for reporting these incidents.

This volume aims to promote communication between theory and practice, stimulate critical thought on current notarial practice, and aid in finding solutions to the issues encountered by notaries and notarial law practitioners. We anticipate that the conversations arising from this edition will enhance our comprehension and aid in the advancement of a fairer and more effective notarial legislation.

Purwokerto, February 2024

Editor in Chief

Ulil Afwa