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| **APPLICATION OF THE NOTARY PRINCIPLE OF NON-PARTIALITY TO THE DEED OF SALE AND PURCHASE AGREEMENT AND THE DEED OF POWER OF SALE MADE BEFORE HIM**  **Gerry Akbarhananta Putra**  Master of Notary, Faculty of Law, University Jenderal Soedirman  ***Abstrak***  *A notary is a public official vested with the authority to authenticate deeds, including the Deed of Sale and Purchase, the Bonding Deed, and the Deed of Power of Sale. Notaries are obliged to perform their duties in accordance with the principle of impartiality. However, in practice, as evidenced by decision number 149/Pdt.G/2016/PN. The notary presented his perspective by drafting a Deed of Sale and Purchase Binding and a Deed of Power of Attorney to Sell as a land sale and purchase agreement, which resulted in the transfer of land ownership from the seller to the buyer. This article will examine the obligations of notaries with regard to the principle of impartiality and the consequences of a notary's violation of this principle. In light of these concerns, it is pertinent to inquire as to the manner in which the principle of impartiality is to be applied by the notary, and the extent of the responsibility incurred by the notary who fails to adhere to this principle in the preparation of the deed of binding sale and purchase agreement and the deed of power of sale. The research method employed is normative juridical research, utilizing a legal approach and a case approach. Data were collected through documentation studies and literature reviews on court decisions. The findings of this study indicate that notaries are expected to adhere to the principle of impartiality in their professional conduct, performing their duties in a manner that is free from undue influence or coercion. In cases where a notary prepares a deed of binding sale and purchase and a deed of power of attorney to sell in favor of one of the parties, they are held to a high standard of accountability, subject to sanctions at the administrative, ethical, criminal, or civil level, as appropriate.*  ***Keywords:*** *Principle of impartiality, Notary, Sale and Purchase Binding Act, Sale and Purchase Authority Act* |
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# **Introduction**

Indonesia is a Rechtstaat, a legal concept similar to that of continental European countries. This is evidenced by the 1945 Constitution, article 1, paragraph (3), which states, "The State of Indonesia is the State of Law." The Rechtstaat guarantees a high level of rule of law, which is reflected in the enforcement of the law and justice (equality) based on the Constitution of the Republic of Indonesia in 1945. (Tutik, 2008). The concept of the rule of law implies that all actions and decisions taken by government bodies and officials must be in accordance with the law. In a state of law, there must be written regulations established by the relevant authority, which are designed to regulate the behaviour of the community. These regulations must be accompanied by strict sanctions and must be binding and compelling. In order to ensure the continued integrity of the state of law, it is essential to study and address any issues that may arise. In essence, the state of law establishes the legal framework as the foundation for governance at the state, governmental, and societal levels. The legal system comprises a body of laws and regulations, as well as customary laws, which are recognized by a country or society as binding on its citizens. (Ali, 2015).

In the context of community life, relationships between individuals are invariably shaped by a complex interplay of rights and obligations, which are often articulated in written and unwritten agreements. However, in practice, it frequently results in violations that give rise to legal proceedings. Similarly, in practice, deeds are employed to document legal occurrences and are duly signed by the pertinent parties. A deed is a document that serves as written evidence. The deed is divided into two categories: the authentic deed and the deed under hand. (Andasasmita, 1981). The Civil Code, Article 1868, provides the legal definition of an authentic deed. It states that an authentic deed is a document created in a legally prescribed format by or in the presence of an authorized public official. In light of the aforementioned provisions, the characteristics of a deed that may be designated as authentic are as follows:

1. The item was manufactured in accordance with the specifications outlined in the relevant legislation.
2. The production process was overseen by an authorised public official.

One of the officials with the requisite authority to authenticate deeds is a notary. The term "notary" is defined in Law No. 2 of 2014 concerning the Notary Position (hereinafter referred to as UUJN) in Article 1, Number 1, which states that a notary is a public official who is authorized to perform authentic deeds and has other authorities as referred to in the Notary Position Law or based on other laws. The aforementioned authentic deeds, which are defined as products of the notary profession, are regulated in article 1, number 7. This article states that a notary deed is an authentic deed made by or before a notary in accordance with the form and procedures stipulated in the Notary Position Law. In light of the aforementioned, a notary deed, when based on the aforementioned understanding and associated with an authentic deed as per article 1868 of the Civil Code, fulfills all the characteristics of an authentic deed, including:

1. The document was created in accordance with the stipulations set forth in the relevant legislation. The specific format and all associated procedures pertaining to notary deeds are explicitly outlined in the UUJN, thereby conferring upon the notary, who is duly authorized to execute a notary deed, the obligation to adhere to the provisions set forth in the UUJN.
2. The document was duly executed in the presence of an authorized official, specifically a notary, as stipulated in the aforementioned legislation.

Notary deeds are a product issued by notaries in the course of carrying out their duties and authority in office. They are of considerable utility to individuals engaged in legal acts, particularly those involving other parties, as a means of obtaining enhanced legal protection. They also serve as a means of anticipating and avoiding potential future difficulties. Indeed, in certain instances, the presence of a notary deed is a mandatory prerequisite, as exemplified by the establishment of legal and business entities, as well as the imposition of guarantees on loans and debts and receivables. It is therefore evident that the role of the notary is of great importance within society, particularly in relation to the authentication of written evidence pertaining to circumstances, events and legal acts between legal entities.

One of the documents that may be drafted and notarized is the Sale and Purchase Agreement Act. This document is a binding agreement between a prospective seller and a prospective buyer regarding the sale and purchase of land. It is drafted before the signing of the Sale and Purchase Act. (Rifky dkk, 2015) The parties engaged in the process of buying and selling land and/or buildings enter into a legally binding sale and purchase agreement for a number of reasons, including the following: (Made Ara Denara Asia Amangsa, I Made Dedy Priyanto, 2019)

1. Payment for the object has not been made in full or in full;
2. Administrative files in the form of letters/object documents have not been completed;
3. The object cannot be controlled by the parties, sellers, or buyers; and
4. Consideration of the value of the object being traded that there is still no agreement between the parties;

The binding sale and purchase agreement will later bind the parties to complete all the requirements and carry out the sale and purchase agreement which will later be stated in the Sale and Purchase Deed made by the Land Deed Making Officer.

Furthermore, the Power of Sale Act constitutes one of the advance agreements executed before the conclusion of the sale and purchase transaction. The term "deed" is derived from the grant of power of attorney, as outlined in Article 1792 of the Civil Code. This article defines a power of attorney as an agreement between a principal and an agent, whereby the agent is authorized to act on behalf of the principal in performing an act or action on the principal's behalf. In this context, the power of attorney empowers the agent to manage and carry out the interests of the principal. (Aristyo, Raymond., Cahyono, Akhmad Budi. 2021) Therefore, the power of attorney deed is a power of attorney deed that has a more specific purpose, issued in order to sell or transfer, either to the recipient of the power of attorney or to other parties on the object in the power of attorney, sign the deed of sale/transfer and receive the money from the sale. (Afrian, Muhammad Eddo. 2016)

The Power of Sale Act is typically invoked in conjunction with the transfer of land rights. The existence of selling power is motivated by a number of factors, including:: (Afrian, Muhammad Eddo. 2016)

1. The holder of land rights / the power of attorney cannot be present in the presence of the authorized official due to illness
2. The holder of land rights / power of attorney cannot be present in the presence of the authorized official because he is not in the place temporarily.

However, in practice, there is still the creation of a deed of binding sale and purchase agreement and a deed of power of attorney to sell legal defects made by a notary, even through the deed he made, the notary shows impartiality in carrying out his duties by showing his partiality to one of the parties, so that there are parties who are disadvantaged by his partiality. As in the case the Denpasar District Court decided with decision number 149/Pdt.G/2016/PN. Dps. One of the notaries was dragged into the case and even became one of the defendants (defendant III), who had many roles in the continuation of the case.

The case occurred when there was Plaintiff 1 and Plaintiff 2 who were husband and wife who were offered 1 (one) house unit that stood on a piece of land with a Certificate of Property Rights by defendant I but was still registered in the name of defendant II. In this case, defendant I reasoned that the land already belonged to defendant I as evidenced by the Deed of Sale and Purchase Agreement with number 12 dated December 19, 2012 which was followed by the Deed of Power of Sale with number 13 dated December 19, 2012 which was made and signed by defendant I and defendant II in front of defendant III. Therefore, plaintiff I and plaintiff II believe and are confident that the house in dispute has been purchased and paid in full by defendant I to defendant II. In order to facilitate the plaintiffs' interest in purchasing the disputed property and to establish a mutually agreed-upon purchase and sale price of Rp425,000,000 (four hundred and twenty-five million rupiah), an agreement has been reached between the plaintiffs and defendant I. Subsequently, the defendant directed the plaintiffs to proceed with the transaction in the presence of the third defendant, who then signed the Deed of Sale and Purchase Agreement No. 06, dated January 11, 2013. This was followed by the Deed of Power of Attorney No. 07, dated January 11, 2013. Defendant III was also deemed to be highly persuasive in his assertion that the signing of the PPJB and the Power of Attorney was valid and legally binding, effectively establishing the plaintiff's legal ownership of the disputed property. Furthermore, Defendant III demonstrated the certificate's authenticity and guaranteed that it would be safeguarded from any legal complications.

Moreover, in April 2023, the plaintiff initiated the transfer of land rights from Defendant II to the plaintiff. However, the plaintiff was subsequently informed that the transfer of land rights could not be completed due to the unavailability of the requisite documentation. In September 2023, the plaintiff was informed that defendant II and his subordinates had dismantled and damaged the door lock of the house and assumed control of the disputed property. Subsequently, in December 2023, defendant III transferred the original certificate to defendant II. It is therefore strongly suspected that the defendants' actions are considered unlawful.

In the above case, the author sees that the notary showed partiality towards defendant I and defendant II. This is evidenced by the notary who was very convincing to the plaintiff that the PPJB he made was legal and binding that the ownership of the land would move from in the name of defendant II to the plaintiff. This is certainly not true, considering that notaries do not have the authority to make a deed that is the basis for the transfer of ownership of land by buying and selling. This authority is owned by the Land Deed Making Officer, who can make a sale and purchase deed which then becomes the basis for land registration to the land office. So that there is a legal defect in the deed considering that it was made with a defect of will.

The case study demonstrates that the notary's actions continue to contravene the standards set forth for the performance of their duties and the issuance of authentic deeds. The credibility of the notary as an authorized official is undermined by the prevalence of violations, both intentional and unintentional, that compromise the authenticity of the authentic deeds they perform. Notaries are obliged to act impartially in the performance of their duties and authorities in order to provide legal protection for those who seek their services. Consequently, if the notary is unable to adhere to the principle of impartiality or engage in actions that favor one party while disadvantaging the other, he must assume responsibility for his actions, both morally and professionally.

In light of the aforementioned issues, the author is interested in composing a scientific article with the title "**Application of the Notary Principle of Non-Partiality to the Deed of Sale and Purchase Agreement and the Deed of Power of Sale Made Before Him**."”

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# **Research Problems**

In light of the aforementioned background, the author is interested in discussing the following formulation of the problem:

1. What is the rationale behind the notary's non-alignment with the principles of a binding sale and sale deed, as well as the Sale Power Act, when these are presented to them prior to the completion of the aforementioned transactions?
2. What are the responsibilities of a notary who fails to adhere to the principles of impartiality in the context of a binding sale and purchase agreement and the sale power of sale deed, particularly in instances where such documents have been executed before said notary?

**Research Method**

This research was conducted using the normative juridical method, specifically literature law research, which entails examining literature materials or secondary data. (Soemitro, 1985). This study employs a legislative approach, specifically the law (statute) approach, which examines the various legal rules that constitute the focus of the research. Additionally, it utilizes the conceptual approach, also known as the case approach, which involves studying cases related to the issues at hand and has become a court decision with permanent legal force..

The data used is secondary data sourced from:

1. Primary Legal Entity, which is a legal rule that is formally formed and/or made by an institution and/or government bodies which for the sake of upholding will be pursued based on coercion officially carried out by state apparatus, in this writing includes:, the Notary Position Law and the Notary Position Code of Ethics.
2. Secondary Legal Entity, which is all information about the law that applies or has been in force in a country, but formally cannot be categorized as positive law, in this study is various literature and scientific journals.
3. Tertiary Legal Entity, namely Legal Materials that provide clues or explanations to primary and secondary legal materials, in this study namely the Great Dictionary of Indonesian Language.

The technique of collecting legal materials related to research is carried out by content analysis obtained from secondary legal materials (Soerjono, 2004). The data will be analyzed in a qualitative descriptive manner.

# **Discussion**

1. **Application of the Notary's Principle of Non-Alignment to the Sale and Purchase Agreement Act and the Sale and Sale Authority Act made before him**

Notaries, in the performance of their duties as public officials, exemplify the primary characteristics of impartiality and independence (Francis Sinaga, 2017). As a result of this attribute, the notary is not among the parties involved in the execution of their duties. A notary is authorized to provide services related to the authentication of an agreement, provided that they do not have a personal interest in the matter. Consequently, a notary is obliged to maintain neutrality in the provision of services to clients, particularly given the legal nature of the profession and the responsibility to ensure legal certainty for clients.

The principle of notary impartiality is derived from the term "partisanship." As defined in the Great Dictionary of the Indonesian Language, the term "taking sides" refers to the act of aligning with one of the parties involved in a dispute or disagreement. In other words, impartiality is the principle of not taking sides. The principle of notary impartiality is derived from the notary's obligation as outlined in Article 16, paragraph (1), letter a. This stipulates that in the fulfillment of their duties, notaries are obliged to act in a manner that is trustworthy, honest, thorough, independent, impartial, and to safeguard the interests of relevant parties in legal transactions. Furthermore, the Code of Ethics for Notary Positions stipulates the obligations of notaries with regard to their impartiality in the performance of their duties, as set forth in Article 3, Section 4 of the aforementioned Code. Similarly, in the event that a notary performs the duties and assumes the responsibilities associated with a civil union in accordance with Article 20, paragraph (1), of the UUJN, it is imperative that they maintain the utmost standards of independence and impartiality in the execution of their duties. In light of the aforementioned regulations pertaining to notary obligations, it is incumbent upon notaries to maintain neutrality in the provision of services to their clients.

Despite the stipulations set forth in the UUJN, which require notaries to act impartially, there are instances where notaries engage in actions that are contrary to these principles, pursuing their own interests at the expense of their professional obligations. In the case of the decision rendered by the Denpasar District Court (Case Number 149/Pdt.G/2016/PN Dps), the notary, designated as Defendant III, demonstrated partiality by providing assistance to both Defendant I, who was acting as the seller's attorney, and Defendant II, who was acting as the seller. This assistance was provided with the objective of enabling the aforementioned parties to benefit from the proceeds derived from the execution of the sale and purchase deed and the sale power of attorney deed by the witnesses. The Notary, in his capacity as defendant III, provided the buyer with erroneous legal information. This information stated that the signing of the deed of binding sale and purchase agreement with deed number 06 and the deed of power of attorney to sell with deed number 07, both of which were executed before him, would result in the house in question, situated on SHM No. 12555, becoming legally the property of the buyer. Furthermore, the notary, in their capacity as defendant III, also assumed custody of the certificate pertaining to the object of dispute as a guarantee for the implementation of the agreement. This agreement stipulated that the seller would initiate the transfer of ownership of the land from the seller's name to the buyer's name at the land office. However, the notary, in a subsequent action, unilaterally transferred the certificate in question to the seller without the buyer's knowledge.

The notary's partiality in the case of the position in the decision of the Denpasar District Court with decision number 149/Pdt. It can be demonstrated that the notary, designated as defendant III, provided erroneous legal counsel to the parties involved, thereby contravening the notary's obligation as delineated in Article 16, paragraph (1), letter a of the UUJN. This obligation pertains to the notary's duty to act in a trustworthy, honest, thorough, independent, and impartial manner. Furthermore, the notary is obliged to safeguard the interests of parties related to legal acts, as stipulated in article 16, paragraph (1), letter e of the UUJN. This article also provides guidance on the reasons why notaries may refuse to provide services to their clients, outlining the circumstances that may result in notaries not taking sides. Additionally, the notary, in their capacity as defendant III, must be mindful of their role as a legal counselor, as outlined in Article 15, Paragraph (2), Letter E of the Notary Law. A competent legal counselor is expected to provide advice and direction in order to facilitate the drafting of a legally sound deed of agreement. This is essential to avoid potential legal issues in the future. Furthermore, the notary demonstrated his willingness to assume responsibility by accepting custody of the certificate of the object of the dispute as a guarantee for the implementation of the agreement, which was then returned to the seller. It is important to note that the notary does not possess the authority to accept custody in any form and is not responsible for ensuring the execution of his client's agreement. The role of the notary in the context of the position case in the decision of the Denpasar District Court with decision number 149/Pdt.G/2016/PN Dps is limited to providing services in the form In the context of the position case in the decision of the Denpasar District Court with decision number 149/Pdt.G/2016/PN Dps, the authority of the notary is limited to providing services in the form of facilitation to enable the creation of an authentic deed in accordance with the terms of the agreement reached by the parties concerned. Therefore, the act of the notary, designated as defendant III, in accepting custody of the certificate of the object of dispute as a guarantee for the implementation of the agreement by the parties is an unnecessary act to be performed. Furthermore, the notary, in his capacity as defendant III, returned the item in question to the seller without the buyer's knowledge. This action on the part of the notary, in his capacity as defendant III, served to further demonstrate his partiality towards the seller. In the event that the notary is confronted with analogous circumstances pertaining to the Denpasar District Court's decision bearing the designation 149/Pdt.G/2016/PN Dps, it is imperative that the notary adheres to the stipulation that, in the event that the notary In the event that the notary provides services, he or she must maintain a neutral position. Furthermore, all actions must be based on the code of ethics and the UUJN, which serve as guidelines for the implementation of the notary position. It is of the utmost importance that notaries apply the principle of impartiality in anticipation of potential legal problems that may arise in the future.

The impartiality of notaries in carrying out their positions can be influenced by several factors, including high competition among notaries and the notary's personal relationship with their clients. In the case of the Denpasar District Court with decision number 149/Pdt.G/2016/PN Dps, it was determined that the notary had prior knowledge of the seller, a fact that could be substantiated by the seller's previous deed before the notary of defendant III. Therefore, it would be prudent for a notary to refrain from such actions, as a notary, such as the defendant III, is expected to uphold the integrity and reputation of the notary profession, and to adhere to the standards set forth in the UUJN and the code of ethics for notary positions, which serve as guiding principles for notaries in the fulfillment of their duties.

The independence of a notary is intrinsic to their role as a public official, which is limited to the act of confirming or recording in writing and in an authentic manner the legal acts of interested parties. Notaries are not directly involved in the transaction but rather act as an impartial third party. The parties who perform the legal act are the same parties who are bound by the content of the agreement. It is incumbent upon notaries to be aware of the boundaries of their authority and to adhere to the pertinent legislation and regulations. They must also be cognizant of the limits of their capacity to act, the permissible and the impermissible actions within the scope of their authority (Francis Sinaga, 2017). The attitudes that must be possessed by the notary can serve as a parameter for the notary who applies the principle of impartiality. In such cases, the notary can apply the principle of impartiality when performing duties within the limits of their authority and always adhering to the applicable laws and regulations..

The role of the notary is one that is based on trust, and it is therefore incumbent upon notaries to maintain the nobility and dignity that are inherent to the position. The impartiality of notaries is manifested in their ability to perform their duties and positions in a manner that is free from undue influence and coercion. This ensures that disputes do not arise for the parties in the future, and that notaries conduct themselves in a manner that is in accordance with the law and in a professional manner. A notary's role as a public official and legal advisor requires active participation in enhancing legal certainty. Impartiality is a crucial principle in this endeavor, as it enables notaries to contribute to the assurance of certainty, order, and legal protection within society.

1. **Liability of Notary for Not Exercising the Principle of Non-Partiality to the Sale and Purchase Agreement Deed and the Sale Authority Act made before him.**

A notary is a public official who is authorized to authenticate deeds of agreement. As such, they must be held to the highest standards of responsibility for every deed they make. As a legal profession, it is imperative that neutrality be maintained and that no party be favored in the provision of legal services for the purpose of making authentic deeds. In the civil case decided by the Denpasar District Court (Case Number 149/Pdt.G/2016/PN Dps), the notary, designated as Defendant III, exhibited a clear bias in favor of Defendant I, the seller, and against Defendant II by preparing a Deed of Sale and Purchase. The agreement and the deed of power of attorney to sell serve as the basis for the right to transfer ownership of land rights in the form of a sale and purchase. However, despite the fact that the deed of sale and purchase agreement and the deed of power of sale were drafted by the notary, they were unable to transfer ownership of the land rights. In this instance, the notary is deemed to have breached his obligations as set forth in Article 16, Paragraph (1), Letter a of the Notary Position Law. This entails acting in a trustworthy, honest, thorough, independent, impartial, and impartial manner, while safeguarding the interests of relevant parties in legal transactions. In consequence of the above, the following attitudes are not applied by the notary, thus giving rise to the issues that have been identified in the case of the position in the decision of the Denpasar District Court with decision number 149/Pdt.G/2016/PN Dps:

1. Thoroughly

Meticulousness and precision are intrinsic to fairness. The prudent nature of determining the right decision about the deed made by the notary will avoid the notary from similar problems. In the Denpasar District Court decision case with decision number 149/Pdt.G/2016/PN Dps, the notary (defendant III) did not make a careful decision by making a deed that could harm one of the parties, resulting in a court lawsuit and even the notary becoming one of the defendants in the lawsuit.

1. Impartiality

Notaries in providing their services, must not take sides with one party. The notary must be fair to the parties. As in the Denpasar District Court decision case with decision number 149/Pdt.G/2016/PN Dps, the notary showed his impartiality to the buyer by helping the seller's malicious intentions to deceive the seller, thus harming the seller afterwards. So the notary also has a mistake because he does not have an impartial attitude in carrying out his duties.

1. Responsibility

Notaries are expected to demonstrate a sense of accountability and responsibility, particularly in light of the potential for subsequent accountability for their policies and actions. The notary must be prepared to accept responsibility for any shortcomings in their policies and implement new ones as necessary. This is exemplified by the Denpasar District Court decision with decision number 149/Pdt.G/2016/PN Dps, in which the notary is one of the defendants due to the problematic nature of the deed they prepared. In such cases, the notary must assume responsibility for their actions from both a moral and legal standpoint, as well as in their professional capacity.

It is imperative that these attitudes are consistently demonstrated by the notary, as they are the primary responsibility of the position. The non-application of these characteristics by the notary in the capacity of defendant III may result in a partiality on the part of the notary, thereby creating a potential for violations of the ethical code and the Law of Conduct.

Furthermore, notaries are bound by the stipulations set forth in Article 16, Paragraph (1), Letter e of the Notary Position Law. In consequence of this obligation, the notary is entitled to decline to provide services in the event of circumstances that would otherwise result in the notary assuming a position of partiality, as set forth in the explanation of article 16, paragraph (1), letter e of the Notary Position Law. Such circumstances include the existence of a blood or consanguinity relationship with the notary or with the husband or wife of the notary, the inability of a party to act to commit the act, or other circumstances proscribed by law.. R. Soegondo Notodisoerjo also presented his perspective on the rationale behind the provision of services by notaries, which can be summarized as follows: (Soegondo Notodisoerjo, 1982)

1. If the Notary is sick and cannot provide his services, he is physically impeded.
2. If the Notary is not there because he is on leave, it is for a legitimate reason.
3. If the Notary is unable to serve others due to his busy work.
4. If the papers required to make a deed, are not submitted to the notary
5. If the witness or witness of the instrument submitted by the witness is not known by the Notary or cannot be introduced to him.
6. If the interested party does not want to pay the required stamp duty.
7. If because of the provision of these services, the Notary violates his oath or commits an unlawful act.
8. If the parties wish that the Notary make the deed in a language that he does not understand, or if the people present speak in an unclear language, so that the Notary does not understand what they want.

In the event that a notary encounters a client who is suspected of having malicious intentions and who may potentially pose a legal problem in the future, the notary is entitled to refuse to act on the client's behalf. In such a case, the notary is obliged to provide a valid reason for refusing to act. In light of the above, the statement is also pertinent in the context of the case pertaining to the position in the decision of the Denpasar District Court with decision number 149/Pdt.G/2016/PN Dps. In this instance, the notary, designated as defendant III, is obliged to be aware that the deed in question has the potential to give rise to future difficulties and should have declined the request from defendants I and II, his clients, to execute a deed. In practice, the notary continued to provide services for the preparation of deeds, thereby assisting defendants I and II in deceiving the plaintiff. Consequently, the notary bears responsibility for the violation and error.

The notary's prerogative to decline to provide services is also consistent with the authority of a notary as set forth in Article 15, paragraph (2), letter e, namely the authority to provide legal counsel in relation to the making of deeds. In consequence of this authority, the newly-appointed notary is ipso facto a legal counselor. However, as an extension of their role in the preparation of deeds, notaries are not obliged to provide their services if doing so would contravene the law. They must be able to act as legal advisors and provide input on every occasion on which they provide services in relation to the preparation of deeds and other matters within their remit.

Every mistake and violation committed by the notary as in the case of the position of the Denpasar District Court decision with decision number 149/Pdt.G/2016/PN Dps, then he must be responsible. The responsibility in question is in accordance with what was conveyed by Hans Kelsen regarding legal responsibility, which is as follows: (Hans Kelsen, 2007)

"A person is legally responsible for a particular act or that he bears legal responsibility, subject means that he is responsible for a sanction in the event of a contrary act"..

In the event that the aforementioned statement pertains to instances of non-compliance and errors on the part of the notary, it is imperative that legal accountability be established through the imposition of sanctions for his actions that contravene established norms. The sanctions may be imposed in accordance with the relevant legal framework, which may include criminal law, civil law, state administrative law, or a code of ethics, depending on the severity of the violation. In accordance with the decision of the Denpasar District Court (No. 149/Pdt.G/2016/PN Dps), the appropriate penalty for the notary is an administrative sanction based on state administrative law and the code of ethics. In consequence, the sanctions that may be imposed on notaries in accordance with Article 16, paragraph (11) of the Notary Position Law may be in the form of written warnings or dismissals, whether temporary, respectful, or disrespectful. Similarly, the Code of Ethics for Notaries outlines the potential sanctions that may be imposed by notaries, as outlined in Article 6 of the Code of Ethics for Notaries. These sanctions may be imposed in accordance with the provisions set forth in the aforementioned Article. The aforementioned sanctions are outlined in Article 6 of the Code of Ethics for Notary Positions and include reprimands, warnings, and dismissals from association membership, which may be temporary, respectful, or disrespectful. As set forth in Article 16, paragraph (11), of the Notary Position Law, administrative sanctions are imposed by the Notary Supervisory Council following an examination. Similarly, sanctions pertaining to the Code of Ethics for Notary Positions, as outlined in Article 6, are imposed by the Honorary Council following an examination.

In accordance with the decision of the Denpasar District Court (decision number 149/Pdt.G/2016/PN Dps), a notary who violates the code of conduct by demonstrating partiality towards a seller and thereby committing an act against the law by providing false information to a buyer may be subject to disciplinary action, including dismissal from both his position as a notary and membership of the association. This is because the notary acted intentionally. The notary, like defendant III, created the document and provided false information about it with full awareness. Therefore, according to the author, significant sanctions should be imposed on the notary in question to deter similar violations and serve as a lesson for other notaries.

**Conclussion**

Based on the results of the discussion that has been submitted, there are the following conclusions:

1. Notaries in exercising their authority must always apply the principle of impartiality to their clients. But in reality, there are still notaries who ignore the principle of impartiality and make violations for their own interests. As in the case of the position in the decision of the Denpasar District Court with decision number 149/Pdt.G/2016/PN Dps, that the notary as defendant III showed his partiality by assisting defendant I as the seller's attorney and defendant II as the seller so that they could get the benefits obtained as a result of the signing of the sale and purchase deed and the sale power of attorney deed by the witnesses and unilaterally giving the certificate entrusted by the parties to the seller without to the buyer's knowledge, thus harming the buyer.
2. As a result of not implementing the notary's principle of impartiality in the Deed of Sale and Purchase Agreement and the Deed of Power of Sale made before him, the notary must be responsible by being subject to administrative, code of ethics, and criminal and civil sanctions if necessary. Sanctions that can be given can be in the form of written reprimands to dismissal from their positions as notaries.

**Advice**

1. Notaries in carrying out their positions are obliged to apply the principle of prudence by carrying out their duties and positions correctly and professionally in accordance with the Law without any influence and coercion, so that disputes do not arise for the parties in the future.
2. Notaries in carrying out their positions must pay attention to the obligations and prohibitions as stated in the Notary Position Law, so as not to be subject to sanctions that can harm them in carrying out their positions.

**Refferences**

**Books**

Ali, Achmad. (2015). Menguak Tabir Hukum. Jakarta: Kencana.

Andasasmita, I Komar. (1981). Notaris Jilid I. Bandung: Sumur Bandung.

Kelsen, Hans. 2007. *General Theory Of law and state, Teori Umum Hukum dan Negara, Dasar-Dasar Ilmu Hukum Normatif Sebagai Ilmu Hukum Deskriptif Empirik*, Jakarta: BEE Media Indonesia.

Notodisoerjo, R. Soegondo. 1982. *Hukum Notariat di Indonesia, Suatu Penjelasan*. Jakarta. PT Raja Grafindo Persada.

Soekanto, Soerjono dkk. (2003). *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*. Jakarta: PT Raja Grafindo Persada

Soemitro, Hanitijo. (1985). Metodologi Penelitian Hukum. Jakarta: Ghalia Indonesia.

Tutik, Titik Triwulan. (2008). Hukum Perdata Dalam System Hukum Nasional. Surabaya: Kencana.

**Article Journal**

Afrian, Muhammad Eddo. (2016). Kuasa Menjual Sebagai Alternatif Penyelesaian Sengketa Kredit Macet Dikecamatan Sukajadi Kota Pekanbaru. JOM Fakultas Hukum. 3 (2). 1-15.

Amasangsa, Made Ara Denara Asia., Priyanto, I Made Dedy. (2019). Perjanjian Pengikatan Jual Beli (PPJB) Dalam Transaksi Peralihan Hak Atas Tanah Dan/Atau Bangunan. Kertha Semaya. 8 (1) 1-18

Aristyo, Raymond., Cahyono, Akhmad Budi. (2021). Tanggung Jawab Notaris Terhadap Akta PPJB dan Akta Kuasa Untuk Menjual Sebagai Jaminan Terjadinya Utang Piutang. Kertha Semaya. 9 (12). 1-18

Cipta, Rifky Anggatiastara., Ngadino., Prabandari, Adya Paramita. (2020). Akta Pengikatan Jual Beli Tanah Sebelum Dibuatnya Akta Pejabat Pembuat Akta Tanah. Notarius, 13 (2). 890-905.

Widodo, Gatut Hendro Tri. (2022). Kemandirian Notaris Dalam Perjanjian Kerja Sama Rekanan Bank dan Pelaksanaan Terkait Dengan Pelanggaran Undang-Undang Jabatan Notaris. DIKMAS. 02 (2). 525-538

**Thesis**

Sinaga, Fransiskus. (2013). Prinsip Kemandirian Notaris Dalam Pembuatan Akta Otentik. (Tesis Magister, Universitas Sumatera Utara)