

Responsibility of Notaries and Legal Protection for Defective Legal Document

Nur Risca Tri Indarwati

Toko Semar 3 Purbalingga

Abstract

The practice of legal defects in the Denpasar District Court Decision Number 172/Pdt.G/2015/PN.Dps, began when the Defendants invited the Plaintiff to sign the Deed of Lease and receive payment for the Lease Agreement. When signing the Deed of Lease, the representative of Defendant I in signing the Deed of Lease did not have the authority, but the Plaintiff was still asked to sign the Deed of Lease and the Plaintiff was not given the completeness of the documents that should have been. The research method used is normative juridical by analyzing Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Office of Notary. The research results in this study are that if the deed made by the Notary concerned is not in accordance with the provisions for making notarial deeds in the Notary Position Law, then the Notary concerned can be held liable to pay compensation and the legal protection is not implemented correctly. Because in the decision the court did not punish the Notary concerned to make the deed of lease to pay compensation to the plaintiff as it should.

Keywords: Responsibility of the Notary, Legal Protection, Legal Defects.

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Introduction

Notaries are public officials, one of which has the authority to make authentic deeds. This authority has never been given to other officials, as long as the authority does not become the authority of other officials. Meanwhile, the authentic deed referred to is an authentic deed in accordance with the formulation of Article 1868 of the Civil Code, that is: "An authentic deed is a deed in the form prescribed by law, made by or before a public servant authorized to do so in the place where the deed is made (Afifah, 2017)." In more detail, according to Article 1868 of the Civil Code, what is meant by an authentic deed is a deed made in the form prescribed by law by or before a public official authorized to do so at the place where the deed is made. According to the provisions of this article, a deed can be said to be authentic if it has fulfilled the following elements, that are (Subekti, 2006) :

- 1) Made in the form prescribed by law;
- 2) Made by or before a public official authorized for the purpose for which the deed was made;
- 3) Made in the territory of the authorized notary.

The authentic deed referred to as the authority of the Notary made in the presence of or made by the Notary is useful for people who need deeds such as the deed of establishment of a limited liability company, deed of will, power of attorney, and so on. The presence of a Notary as a public official answers the public's need for legal certainty for every engagement they make, especially engagements related to trade and daily life. Therefore, people always need Notary services, especially matters relating to authentic written evidence regarding circumstances, events or legal actions.

Based on his authority, Notary can be responsible for his actions/work in making authentic deeds (Afifah, 2017). First, the civil responsibility of the Notary for the deed he made. The responsibility in this case is the responsibility for the material truth of the deed, in constructing unlawful acts. Unlawful acts here are both active

and passive. Active, in the sense of committing an act that causes harm to another party. While passive, in the sense of not doing a mandatory act, so that the other party suffers a loss. So, the elements of unlawful acts here are the existence of unlawful acts, fault, and loss caused.

Second, Notary's criminal responsibility for the deed he made. Criminal in this case is a criminal act committed by a Notary in his capacity as a Public Official authorized to make deeds, not in the context of an individual as a citizen in general. Third, the administrative responsibility of the Notary for the deed he made. Administrative sanctions based on Law No. 2 Year 2014 states that there are 5 (five) types of administrative sanctions given if a Notary violates the provisions of Law No. 2 Year 2014, that are:

- a. Oral warning;
- b. Written warning;
- c. Temporary dismissal;
- d. Honorable dismissal; and
- e. Dismissal with dishonor.

In practice, notaries often do not do it themselves. With all his capacity and busyness, Notary usually authorizes a trusted person to do the work (Harahap, 1986). However, instead of wanting to ease the work, granting this power of attorney to a non-Notary often impacts the degradation of evidentiary power or null and void. If the making of the deed does not fulfill the provisions as stated in the Notary Position Law, the parties concerned in making the deed and feel aggrieved by the Notary who made the deed can request compensation from the Notary. In practice, as happened in the Denpasar District Court Decision Number 172/Pdt.G/2015/PN.Dps with the chronology of the case is the existence of a lease agreement between the Plaintiff, that is Tjia Fransisca Teresa Nilawati, S.H. who is the owner of a land with a size of 5,500 square meters located in Dangin Puri Kaja Village, North Denpasar District, Denpasar with the Defendant Eddy Nyoman Winarta, S.H.

On September 29, 2014 the Defendants invited the Plaintiff to sign the Deed of Lease and receive payment for the Lease Agreement. However, at the time of signing the Deed of Lease, the Power of Attorney from Defendant I did not yet exist which meant that the party authorized to represent Defendant I in signing the Deed of Lease was not authorized, but the Plaintiff was still asked to sign the Deed of Lease and the Plaintiff was not provided with the documents that should have been provided to the Plaintiff. In addition, Defendant II also pushed back the date of the Power of Attorney which should have been issued on September 29, 2014. In contrast, Article 47 paragraph (1) of the Notarial Office Law explains that an authentic power of attorney or other letter which is the basis of the authority of the confronter in signing a deed issued originally or a power of attorney under the hand must be attached to the Original Deed (Arsy, 2021).

At the same time, Defendant II did not read out the contents of the Deed of Lease Agreement to the Plaintiff, whereas a Notary should have done the reading out of the deed because this is an obligation of a Notary as set out in Article 16(m) of Law No. 2/2015 on the Office of a Notary. The Plaintiff in this case felt that Defendant II had sided with Defendant I because even though the power of attorney did not exist and the power of attorney from Defendant I was not present at the signing, Defendant II still asked the Plaintiff to sign the deed and did not read out the contents of the deed (Tobing, 1980).

Regarding the power of attorney from Defendant I which had not been received until after the signing of the Lease Deed, the Plaintiff stated that he did not believe that Hendrik had signed the Lease Deed as the attorney-in-fact from Defendant I on 29 September. The Plaintiff said that this was unreasonable because the power of attorney was only issued on October 27, and the Plaintiff also said that he never knew or saw the identity of Hendrik as Defendant I's attorney-in-fact. Then the Plaintiff filed a lawsuit with the court where the Plaintiff demanded that the Deed of Lease be canceled, however the Denpasar District Court Judge in his decision did not cancel the Deed of Lease and also did not consider the responsibility of the Notary in the decision.

In the case mentioned above, the author sees that the court in deciding the case has sided with the Defendant, where in the lawsuit the Plaintiff has explained and provided evidence to the panel of judges to be used as a consideration in deciding the case, but this was ignored by the panel of judges who decided otherwise. Because, the plaintiff in his lawsuit had explained that there were irregularities in the deed made by the Notary appointed by the parties, where the plaintiff said that the defendant had committed an unlawful act by violating the provisions of the process of making a notarial deed as stated in the Notary Office Law so as to cause the deed made by the defendant to degrade into a deed under the hand.

As a result of the degradation of authentic deeds into underhand deeds, the evidentiary power is also different. Underhand deeds have evidentiary power that can be submitted as other evidence and parties who feel aggrieved can file a request for compensation against them. Some of the qualifications where a Notary can be requested for compensation for his actions are contained in the Notary Position Law, in Article 44, Article 48, Article 49, Article 50 and Article 51 of the Notary Position Law. From the articles above, if a Notary does not carry out the provisions as intended in these articles, this harms the parties in making the deed. A Notary can be considered to have committed an unlawful act as described in Article 1365 of the Civil Code.

The case above also explains that during the signing of the deed the Plaintiff realized that in the Original Deed Defendant II did not attach a power of attorney from Defendant I which should have been given to the beneficiary at the time of signing the lease deed. The proxy at the time of the signing also did not inform Defendant II that he had not received a power of attorney from Defendant I because Defendant I had not received the power of attorney from Defendant I's Head Office. In this case, Defendant I, Defendant II and the power of attorney from Defendant I did not act in good faith in drawing up the Lease Deed, by not informing the Plaintiff that the power of attorney from Defendant I had not been received. The Plaintiff also stated during the trial that he never knew the identity of the attorney representing Defendant I in signing the lease deed. Likewise, the comparative lease deed did not include the identity of Defendant I as the party who authorized the proxy.

Based on this, the author is interested in discussing the case and formulating it in a journal entitled "RESPONSIBILITY OF NOTARIES AND LEGAL PROTECTION FOR DEFECTIVE LEGAL DOCUMENT".

Research Problems

1. How the responsibility of notaries for the deed of lease that is legally defective?

2. How the legal protection of the parties who are harmed from the making of the deed of lease that is legally defective?

Research Method

The research method used in this research is normative juridical, which is one type of legal research methodology that bases its analysis on applicable laws and regulations that are relevant to the legal issues that are the focus of research (Benuf, 2020) by analyzing Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Offices and Denpasar District Court Decision Number 172/Pdt.G/2015/PN. Dps Therefore, the Approach Method in this writing refers to the use of a statute approach and case approach and uses a legal material collection technique based on literature studies from literature related to this research by analyzing legal materials carried out by content analysis obtained from primary legal materials and then supported by secondary legal materials (Soerjono, 2004). The data will be analyzed descriptively qualitative.

Discussion

1. Position and Authority of Notary in Making Authentic Deed

Notary is a legal service provider to the public. Therefore, in carrying out their duties, they need protection and guarantees to achieve legal certainty. In addition, the Notary is also a state official. This means that the Notary can provide assurance of certainty, order, and legal protection needed for authentic written evidence regarding circumstances, events, or legal actions organized through certain positions. Legal certainty, order, and protection require, among other things, that legal traffic in the life of society requires evidence that determines the rights and obligations of a person as a legal subject in society (Abdullah, 2017).

When exercising his/her authority, a notary has a domicile in the district or city. In this case, the notary must have only one office, namely at his domicile. However, in terms of working area, a notary has an office area covering the entire provincial territory of his/her domicile. Notaries are not authorized to regularly perform their duties outside of their domicile.

The position of a notary as an official making authentic deeds is stated in Article 2 Paragraph 1 of Law No. 2 of 2014 concerning the Amendment to Law No. 30 of 2004 concerning the Position of Notary, which states:

"Notary is a public official authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws". Furthermore, a notary as an official making authentic deeds has a working area regulated in Article 18 paragraph 1 and Law No. 30 of 2004 concerning the Notary Position, which states: (a) Notaries have a domicile in the regency or city; (b) Notaries have an office area covering the entire provincial territory from their domicile. Notaries are also required to have an office which is regulated in Article 19 paragraphs 1 and 2 states: (a) Notaries must have only one office, namely their domicile, (b) Notaries are not authorized to regularly carry out their duties outside their domicile."

Forms of authentic deeds made and related to the authority of Ateng Syafrudin, suggests the notion of authority, that "there is a difference between the notions of authority and authority. We must distinguish between authority (authority, gezag) and authority (competence, bevoegheid). Authority is what is called formal power of power derived from what is given by law, while authority is only about a certain "onderdeel" (part) of the authority. In the authority there are authorities (recths bevoegd- heidheden) (Syafrudin, 2000). notary authority can be

seen in Article 15 of Law No. 30 of 2004 concerning the Office of Notary, which explains as follows:

“(a) Notaries are authorized to make authentic deeds concerning all deeds, agreements, and provisions required by laws and regulations and/or desired by those concerned to be stated in an authentic deed, guarantee the certainty of the date of making deeds, keep deeds, provide grosse, copies and quotations of deeds, all insofar as the making of deeds is not also assigned or excluded to other officials or other persons stipulated by law; (b) Notaries are also authorized to certify signatures and determine the certainty of the date of letters under the hand by registering in a special book and record letters under the hand by registering in a special book.” The authority given to a Notary is an attribution authority, this is because the authority is given by the Notary office law/*UUJN*. The authority in a Notary does not come from other government institutions but is based on and given by law. Therefore, the authority a Notary possesses is the authority of attribution (Ramadhan, 2019).

In addition, Notary is also referred to as an office of trust. Thus, it is appropriate that the Notary is obliged to keep secrets regarding the deeds he makes and the information or statements of the parties obtained in the making of the deed, unless the law orders him to open the secret and provide the information/statement to the party who requests it. Such action is an obligation of the Notary based on the provisions of Article 4 paragraph (2) of *UUJN* and Article 16 paragraph (1) letter e of *UUJN*. If it turns out that the Notary as a witness or suspect, defendant or in the examination by the Notary Supervisory Panel discloses secrets and provides information/statements that should be kept confidential. At the same time, the law does not order it, then upon the complaint of the aggrieved party to the authorities, action can be taken against the Notary, such actions of the Notary can be subject to Article 322 paragraph (1) and (2) of the Criminal Code, namely disclosing secrets, even though the Notary is obliged to keep them. In his position as a witness (civil case), the Notary can request to be released from his obligation to give testimony, because his position is obliged by law to keep it secret (Article 1909 paragraph (3) BW).

Article 16 letter a of *UUJN* Number 30 of 2004, Notaries are required to act honestly, carefully, independently impartially and safeguard the interests of the parties involved in legal actions. In addition, Notaries as Public Officials must be sensitive, responsive, have sharp thinking and be able to provide appropriate analysis of every legal and social phenomenon that arises, so that it will foster an attitude of courage in taking appropriate action. The courage in question is the courage to carry out correct legal actions by the applicable laws and regulations through the deeds they make and firmly reject the making of deeds that are contrary to the law, morals and ethics.

Once the law entrusts notaries with the confidentiality of the deeds they make. The public's trust in the Notary is also the public's trust in the deed he makes. That is why the position of Notary is often referred to as a position of trust. The government's trust as the agency that appoints and dismisses Notaries (in this case the Minister of Law and Human Rights), as well as the trust of the public as users of Notary services.

In more detail, the obligations of notaries in performing their duties are regulated in Article 16 paragraph 1 of Law No. 2/2014, which reads

- a) Acting trustworthy, honest, careful, independent, impartial, and safeguard the interests of the parties involved in legal actions,

- b) Making deeds in the form of Original Deed and keep them as part of the Notary Protocol,
- c) Attaching letters and documents as well as the fingerprints of the confrontants to the Original Deed,
- d) Issuing a grosse of the Deed, a copy of the Deed or a quotation of the Deed based on the Original Deed,
- e) Providing services by the provisions of this Law, unless there is a reason to refuse,
- f) Keeping confidential all matters concerning the Deed made by him and all information obtained to make the Deed by his oath/pledge of office, unless the law provides otherwise,
- g) Binding the Deeds made in 1 (one) month into books containing no more than 50 (fifty) Deeds and if the number of Deeds cannot be contained in one book, the Deeds may be bound in more than one book and record the number of Original Deeds of the month and year of making on the cover of each book,
- h) Making a list of Deeds of protest against non-payment or non-receipt of securities.

2. Notary's Liability for a Deed of Lease with Legal Defects

The responsibility held by the Notary adheres to the principle of liability based on fault. This means that in making an authentic deed, the Notary must be responsible if the deed he makes contains an error or violation that is intentional by the Notary. Conversely, suppose the element of error or violation occurs from the confronting parties. In that case, as long as the Notary exercises his authority by the relevant Notary regulations, he cannot be held liable, because the Notary only records what is conveyed by the parties to be poured into the deed. False information submitted by the parties is the responsibility of the parties.

Asnahwati H. Herwidi, S.H. said that the Notary is not responsible for the content of the deed made before him because the content of the deed is the will and agreement desired by the parties (Afifah, 2017). In this case, the Notary only puts the agreement into an authentic deed. Therefore, the Notary is only responsible for the formal form of the authentic deed stipulated by law.

Based on this, the Notary only records or pours a legal action carried out by the parties / faces into the deed. The Notary is not required to investigate the truth of the material content of the authentic deed. This obliges the Notary to be neutral and impartial and provide legal advice for clients who request legal guidance from the Notary concerned. However, not being a Notary does not have work consequences. According to Rusiana Suryadi, every action taken by a Notary can be held accountable if there is a violation committed by him and the action causes harm to the parties. Notary must be responsible for the material truth of a deed if the legal advice he gives turns out to be erroneous in the future.

Notary as an official making an authentic deed, if there is an error either intentionally or due to negligence resulting in other people (due to the making of the deed) suffering losses, which means that the Notary has committed an unlawful act. If an error committed by a Notary can be proven, then the Notary can be subject to sanctions in the form of threats as determined by the law. As referred to in Article 84 of the *UUJN* which stipulates that "it can be a reason for the party who suffers a loss to demand reimbursement of costs, compensation and interest to the Notary".

Compensation for unlawful acts in civil law is regulated in Article 1365 of the Civil Code: "Every unlawful act that causes damage to another person, obliges the

person who through his fault causes the damage, to compensate for the loss. The provisions of Article 1365 of the Civil Code above contain the following elements: 1. Unlawful act; 2. There must be fault; 3. There must be loss caused; 4. There is a causal relationship between the act and the loss.

Notary's civil liability for the deeds he makes can be interpreted that the deed made by the Notary is related to civil matters, namely regarding the binding made by two or more parties even though it is possible to be made unilaterally (it only strengthens). The nature and principles adopted by the law of obligations, especially obligations born of agreements, that the law can only be and may be changed or replaced or declared invalid, only by those who make it, meaning that the agreement of the two parties as outlined in an authentic deed binds both parties as binding as the law. Article 41 of the Law on the amendment of *UUJN* determines the existence of civil sanctions, if a Notary commits an unlawful act or violation of Article 38, Article 39, and Article 40 of the Law on the amendment of *UUJN*, then the Notarial deed will only have evidence as a deed under the hand. As a result of such a Notarial deed, it can be a reason for the party who suffers a loss to claim reimbursement of costs, compensation and interest to the Notary.

Regarding fault in unlawful acts, civil law does not distinguish between fault arising from the perpetrator's intent, but also due to the perpetrator's fault or lack of caution. This provision follows what Riduan Syahrani stated: "no lack of care" (Syahrani. 1998). Notaries who make deeds that are not in accordance with their authority can occur due to their intentions or negligence, which means that they are wrong, so the element of error must be fulfilled. According to Sri Peni Nughrohawati, S.H., a Notary can be held liable if he commits elements of error and it is necessary to prove the elements of error made by the Notary, which include: 1. The day, date, month, and year of facing; 2. The time (hour) of facing; and 3. The signature contained in the Original Deed.

Notarial deeds that are null and void cannot be requested to reimburse costs, compensation and interest. Reimbursement of costs, compensation and interest can be sued to the Notary based on the legal relationship between the Notary and the parties facing the Notary. A claim for reimbursement of costs, compensation and interest against a Notary, is not based on the position of evidence that changes due to violation of certain provisions in the *UUJN*, but is based on the legal relationship that occurs between the Notary and the parties facing the Notary. Even if the Notary has retired, the Notary must still be civilly responsible for the deed he/she has made.

Regarding losses in civil unlawful acts, notaries can be sued to compensate the parties in the form of material and immaterial losses. Losses in the form of material, namely losses that can be calculated, while immaterial losses, the amount cannot be calculated, for example, his good name is tainted, resulting in death. With the existence of a deed that can be canceled or null and void, a loss arises, so that the element that there must be a loss has been fulfilled. A lawsuit for compensation based on an unlawful act if the perpetrator commits an act that fulfills all the elements of Article 1365 of the Civil Code, regarding who is required to prove the existence of an unlawful act (Afifah, 2017).

In the Notary Position Law, there are several qualifications for an authentic deed to be declared legally defective so that the Notary can be subject to sanctions for reimbursement of costs, compensation and interest contained in the following articles, among others, Article 44, Article 48, Article 49, Article 50 and Article 51. Based on the articles above, an authentic deed is considered legally defective if the deed violates the provisions contained in the articles above. The legal consequences

of the authentic deed made by the Plaintiff and the Defendants in the Denpasar District Court Decision Number 172/Pdt.G/2015/PN.Dps are declared legally defective, so that the injured parties can claim reimbursement of costs, compensation, and interest to the Notary concerned in making the deed. The lawsuit relating to compensation is related to the material which is then regulated in various laws and regulations, one of which is Law Number 30 of 2004 concerning Notary Position as amended by Law Number 2 of 2014, besides that it is also based on Article 1365 of the Civil Code. (Novita, 2017). In addition to violating the articles mentioned above, the Notary concerned in the case above also violated Article 16 letter m which contains:

"Read out the Deed in front of the confronter in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of a deed of will under hand, and signed at that time by the confronter, witnesses, and Notary."

From the explanation of Article 16 letter m, it can be concluded that in the above case, Defendant II, the Notary authorized to make the lease deed, violated Article 16 letter m. This is because, in signing the lease deed, Defendant II as the Notary did not bring witnesses and the process of signing the deed was not carried out directly, so that the recipient of the power of attorney, who in this case represented Defendant I, signed the lease deed first and in signing the deed the recipient of the power of attorney did not submit a power of attorney to the Notary because the power of attorney had not yet come down from the Defendant I's Head Office. In the case that is the subject of this paper, in his claim the Plaintiff stated that Defendant II did not attach a power of attorney from Defendant I's attorney-in-fact. Defendant II also stated that at the time of signing the power of attorney the beneficiary did not bring the power of attorney, because the beneficiary had not received the power of attorney from Defendant I's Head Office.

Defendant II also did not make a good faith effort to inform the Plaintiff that Defendant II did not receive a power of attorney from the assignee of Defendant I. In this case, it can be said that the signing process carried out by the power of attorney recipient acting on behalf of Defendant I was invalid, because in signing a Notarial deed, all parties must appear before the notary. If there is one party who another party represents as a power of attorney, the power of attorney recipient must provide a Power of Attorney signed by the Power of Attorney which is then given to the Notary concerned to be attached to the Original Deed. The obligation of the Notary to read out the deed in front of the confronter in the presence of at least 2 (two) witnesses and signed at that time by the confronter, witnesses, and Notary is regulated in the provisions of Article 16 paragraph (1) letter l of *UUJN*. This provision is reaffirmed in Article 44 of the *UUJN* which states that immediately after the deed is read out, the deed is signed by each confronter, witness, and Notary, except if there is a confronter who is unable to sign by stating the reason. The reading and signing provisions are an integral part of the inauguration of the deed (*verlijden*) (Elvina, 2020). Therefore, based on the chronology of the case above, the relevant Notary can be compensated for the deed of lease he made which has caused losses to the parties.

In terms of the liability of the Notary concerned in the making of the deed of lease, if seen based on the violation of the articles mentioned, the Notary is obliged to take responsibility for his actions by the provisions contained in the articles mentioned above. The theory used in answering the formulation of the first problem is the theory of legal certainty based on Gustav Radbruch's opinion that "something that is made must have a mind or purpose" (Erwin, 2011). So according to him, the

law was made because there is a purpose, this goal is a value that humans want to realize, the main legal objectives are three, namely, justice for balance, certainty for stability, and benefits for happiness.

3. Legal Protection Against Parties Harmed in the Making of a Deed of Lease with Legal Defects

Legal protection consists of two forms, namely preventive legal protection and repressive legal protection. In the case above, the legal protection provided is repressive legal protection, because there was a case in the making of the lease deed where the recipient of the power of attorney as the party representing Defendant I in signing the lease deed did not provide the Power of Attorney to Defendant II by stating that the Power of Attorney had not been received from the Head Office of Defendant I. Therefore, in the case above, the legal protection provided was to claim compensation from the relevant notary, because the lease deed was invalidated. Therefore, in the case above, the legal protection provided is by claiming compensation to the relevant notary, because the lease deed became invalid as a result of the signing of the power of attorney from Defendant I was not accompanied by a power of attorney provided by Defendant I and the Notary did not include or attach the power of attorney to the Original Deed.

Legal protection is needed to be carried out to restore the losses suffered by the parties in the making of the deed, where basically if you look at the evidence submitted by the Plaintiff regarding the signing of the deed that did not bring both parties, and also the Plaintiff who said that he did not recognize the identity of the power of attorney recipient, then this has violated the provisions contained in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004, especially in Article 16 letter m and Article 44, Article 48, Article 49, Article 50 and Article 51. However, in the case mentioned above, in the decision that was the subject of the research, the legal protection of the Plaintiff was not carried out properly because in the decision the legal protection only favored the defendants.

Based on the court decision which is the material of this writing, legal protection is not provided fairly because the Defendant in this case is the Notary and other defendants are not sentenced to pay the losses suffered by the Plaintiff for negligence caused by Defendant I and Defendant II. According to Aristotle, the word fair contains many meanings, namely fair can mean demanding the law, and what is comparable, namely what should be. From this understanding, a person is considered unfair if he takes more than his fair share. People who ignore the law are also considered unfair, because everything that is based on the law can be considered fair.

Conclusion

Ideally, Notary as an authority that has the authority to make authentic deeds carries out its work properly. This means that they are responsible based on the applicable regulations, namely as follows; 1) civil responsibility for the material truth of the deed they have made; 2) criminal responsibility for the material truth of the deed they have made; 3) responsibility based on the Notary Position for the material truth of the deed they have made; 4) the responsibility of notaries in carrying out their official duties based on the notary code of ethics. Suppose the deed made by the Notary in question is not in accordance with the provisions for making notarial deeds in the Notary Position Law. In that case, the Notary in question can be held liable to pay compensation. However, before the Notary is subject to civil sanctions,

the Notary must first be able to prove that there has been a loss caused by the Notary's unlawful act against the parties, and between the losses suffered and the unlawful act of the Notary there is a causal relationship. The unlawful act or negligence is caused by an error that can be accounted for by the Notary concerned.

However, in the court decision there was an error so that the Court did not apply sanctions to the Notary appropriately so that the decision imposed by the Denpasar District Court was not correct when referring to the evidence submitted by the Plaintiff that it was true that the Notary had violated Article 44 of the Notary Office Law. In terms of legal protection provided by the Denpasar District Court, the legal protection is not implemented properly. Because in the decision the court did not order the Notary concerned to make the deed of lease to pay compensation to the plaintiff as it should. In the court's decision, the evidence provided by the plaintiff seemed to be ignored by the court.

Suggestions

Appropriate advice for Notaries to pay more attention to the provisions in the Notary Office Law when making authentic deeds. This is so that the Notary can avoid all risks, both sanctions and cancelation of authentic deeds in the process of making deeds that require Notaries to be civilly responsible for the deeds they make, so Notaries must use the principles of prudence, thoroughness and honesty in making authentic deeds. In addition, notaries should pay more attention to the provisions of the signing of authentic deeds. Meanwhile, for the court that decides the case filed in the trial to be more careful, pay attention to the evidence submitted by the plaintiff, and make the right decision.

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