

Juridical Review of Notary Responsibilities in Forgery of Authentic Deeds

Irwan Anwar¹, Budi Santoso², Achmad Busro³

¹ Doctoral Program in Law, Faculty of Law, Diponegoro University, Semarang

^{2,3} Lecturer in Doctoral Law Program, Faculty of Law, Diponegoro University, Semarang

Jl. Prof. Soedarto, SH., Tembalang, Semarang

irwananwar@students.undip.ac.id.

ABSTRACT

The purpose of this study is to analyze: 1) What are the responsibilities of Notaries in General? 2) To what extent is the criminal liability of a notary for an authentic deed made and indicated to be forgery? 3) What Are the Legal Effects of an Authentic Deed That Has Been Forged by a Notary? The research method used is normative juridical with a statutory approach, concept approach, and case studies.

The results showed that: 1) Notaries are authorized to make authentic deeds regarding all actions, agreements, and determinations required by laws and regulations and/or desired by interested parties to enter the authentic deed as long as the deed is not submitted or excluded. to other officials or other persons prescribed by law. Notaries can also guarantee the certainty of the date of the deed, keep the deed, and offer grosse, reduce, and quotation of the deed. 2) If a notary employee forges a letter so that it can cause the notary to deviate from a deed he made so as to cause a criminal case, the Notary Public must be criminally responsible for what has been done by the worker. 3) The legal effect of an authentic deed made by a Notary Public who commits an unlawful act is the loss of authenticity of the deed and it becomes a deed under hand in accordance with the provisions of Article 41 of the Law on Amendments to the Law and the authentic deed can be canceled if the postulating party can prove it in a court hearing.

Keywords: Review, Juridical, Liability, Notary, Forgery, Authentic Deed

INTRODUCTION

Background

Notaries in making authentic deeds must meet the provisions stipulated in Law No. 2 of 2014 concerning Amendments to Law NO. 30 of 2004 concerning the Notary Position in order to be a valid evidence without leaving the notary's obligation to the client such as the Notary Public must read the deed in front of the client and must complete the identity of the face, make the contents of the deed as desired by the face as long as it is not against the law, sign the deed, and so on. If in making a deed, the Notary does not meet the stipulated conditions, then the deed can become a deed under hand.¹

Notary is a legal profession and thus notary is a noble profession (*nobile officium*). It is called *nobile officium* because the notary profession is closely related to humanity. A deed made by a notary can be a legal basis for the status of property, rights and obligations of a person. An error in a notarial deed can lead to the deprivation of one's rights or one's burden on an obligation. Thus, notaries in carrying out their duties and positions must always be guided by laws and regulations, codes of ethics, and morals because if there is a violation committed by a notary, it will be very detrimental to the parties. If the deed he made contains a legal defect due to the notary's fault, either negligence or intentionality of the notary itself, the notary must give moral and legal responsibility.

Notary involvement in a criminal case is caused by notary negligence which is usually used by the parties by falsifying material evidence, such as identity. It is undeniable that there are also notaries who are involved in criminal acts on a deed, such as the crime of forging the deed he made. Forgery of authentic deeds contains a crime that deserves to be tackled considering that with such a deed, it is not only related to evidence but also to the factor of trust in the authorized official who by law is authorized to make the deed.²

¹ Emei Dwinanarhati Setiamandani, Juridical Implications of Falsification of Facing Self-Identity in Making Authentic Deeds and Notary Responsibilities, Journal of the Faculty of Law, Universitas Brawijaya Malang 2015, 2.

² R. Soesilo, The Criminal Code (KUHP) and its Complete Commentaries Article by Article, (Bogor: Politeia, 1985), p. 62

The duties and work of Notaries as general officials are not limited to making authentic deeds but also recording letters under hand by registering in a special book, as well as certifying and establishing the certainty of the date of letters under hand by registering in a special book. The notary profession has the most important role in every legal action, especially in the field of civil law.³

Notarial deeds as authentic deeds are made according to the forms and procedures stipulated in Articles 38 to Article 65 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions (hereinafter referred to as UUJNP)³. In Article 65 of the UUJNP: "*Notaries, Substitute Notaries, Special Substitute Notaries, and Notary Temporary Officers are responsible for every deed they make even though the Notary Protocol has been handed over or transferred to the depository party of the Notary Protocol*".⁴

In matters related to Notaries considering that they have been regulated in a special law, namely Law Number 2 of 2014 amending Law Number 30 of 2004 concerning Notary Positions, which relates to the Code of Professional Ethics and there is a Notary Supervisory Panel which functions to supervise the duties and authorities of Notaries, the application of criminal sanctions is ruled out to be limited to Notaries. Therefore, between the application of the UUJN law and the Law on Amendments to the UUJN with the application of criminal law regulated in the Criminal Code overlaps so as to provide legal clarity for Notaries if there is an error in acting based on their duties and authorities.⁵

Actually, criminal sanctions can be applied if there is evidence of a violation of the law that connects with criminal acts as an alternative part in solving a legal case. Because criminal sanctions are the Ultimate Remedium, which is the last remedy if sanctions or efforts in other branches of law do not work. In connection with the above, the author is interested in reviewing and conducting research on issues related to how Notary liability, especially criminal liability for the criminal act of forgery of authentic deeds made by him and how the legal status of deeds made by a Notary is indicated to be forgery and causes disputes.

³ Herlien Budiono. (2013). Collection of Civil Law Writings in the Field of Notarial Affairs – Second Book. Bandung: Citra Aditya Bakti, p. 267

⁴ Habib Adjie. (2009). Observing Khasanah Notary and PPAT Indonesia. Bandung: PT. Citra Aditya Bakti, p. 43

⁵ Marchelina Rante & Hernita Matana, Notary Criminal Liability for Indications of Forgery of Authentic Deeds Made, PAULUS Law Journal Volume 3 Number 1, September 2021, 31.

Problem Statement

1. What are the responsibilities of notaries in general?
2. To what extent is the criminal liability of a notary for authentic deeds made and indicated forgery?
3. What Are the Legal Effects on an Authentic Deed That Has Been Forged by a Notary?

Theoretical Framework

1. Theory of Legal Certainty

Legal certainty is a matter of certainty. The law must essentially be certain and just. Legal certainty is a question that can only be answered normatively, not sociologically. Normative Legal Certainty is when a regulation is made and promulgated with certainty because it regulates definitely and logically.⁶ Legal certainty as one of the goals of law and can be said to be an effort to realize justice. The real form of legal certainty is the implementation and enforcement of the law against an action regardless of who committed it. The existence of legal certainty everyone can predict what will happen if they take these legal actions. Legal certainty is needed to realize justice. Legal certainty is one of the characteristics that cannot be separated from the law, especially for written legal norms. Laws without certainty value will lose meaning because they cannot be used as a code of conduct for everyone.⁷

Apeldoorn argues, legal certainty has two aspects, first regarding the question of the formation (*bepaalbaarheid*) of law in concrete matters. This means that parties seeking Justice want to know the law in a specific matter before starting a case. Second, legal certainty means legal security. It means protection for the parties against the arbitrariness of the Judge. According to Jan Michiel Otto, real legal certainty is indeed more juridical in dimension. However, Otto provides further limits on legal certainty that define legal

⁶Cst Kansil. 2009. Dictionary of Legal terms. Gramedia Library. London.p.385

⁷*Ibid.* p 270

certainty as the possibility that in certain situations, namely: 1) Clear (clear), consistent and accessible rules are available; 2) The ruling agencies (government) apply these rules of law consistently and also submit and obey them; 3) Citizens adjust their behavior to these rules in principle; and 4) Independent and impartial judges apply these rules of law consistently as they resolve legal disputes and judicial decisions are concretely implemented.⁸

Research Methodology

This research is included in the type of *doctrinal research*, in this case it emphasizes more on the conception that law can be viewed as a set of laws and regulations that are systematically arranged based on certain regulations.⁹ So that this research will be prepared using the type of normative juridical research, which is research focused on examining the application of rules or norms in positive law.¹⁰ This research uses various approaches, the approaches used in this study are the statute *approach*, the *case approach*, and the conceptual approach.¹¹ *The analysis used is qualitative descriptive analysis*, namely by observing data and linking each data obtained with provisions and legal principles related to the problem under study with inductive logic.¹²

⁸L.j Van Apeldoorn in Shidarta. 2006. *The morality of the legal profession offers a framework of thinking*. Bandung: PT. REVIKA Aditama. pp.82-83

⁹ Suteki and Galang Taufani. 2018. *Legal Research Methods (Philosophy, Theory and Practice)*. Depok: PT. King Grafindo Persada. p. 265

¹⁰ Johnny Ibrahim. 2006. *Normative Legal Research Theory and Methodology*. Malang: Bayumedia Publishing. p. 12.

¹¹ Peter Mahmud Marzuki. 2008. *Legal Research*. Cet.2, Jakarta: Kencana. p. 29 .

¹² Abdulkadir Muhammad. 2004. *Law and Legal Research*. Bandung: PT. Image. Aditya Filial piety. p. 127

RESEARCH RESULTS

General Notary Responsibilities

Notary Public is a general officer who is solely authorized to make authentic deeds concerning all deeds, agreements and determinations required by a general ordinance or by the interested person desired to be stated in an authentic deed, guarantee the certainty of the date, keep the deed and give grosse, copies and quotations, all so long as the making of the deed by a general ordinance is not also assigned or exempted to any other officer or person.¹³

The duties and authorities of notaries when viewed from their position, a notary is tasked with exercising some of the authority of the government, because notaries according to article 1 of Law Number 30 of 2004 concerning the position of notaries, expressly state that notaries are the only public officials (*openbaar ambtenaar*) who are authorized to make authentic deeds. The essence of the notary's duties and authorities when viewed from the regulations of the notary office is only to make a deed, legalize the deed under hand and make a grosse deed and have the right to issue a copy or derivative of the deed to the party who is in charge. In addition to its authority to make authentic deeds within the meaning of *Verlijden* (drafting, reading and signing), but based on article 16 letter d of Law Number 30 of 2004 concerning the notary position, notaries are obliged to make them, unless there is a reason that has a basis for rejecting their actions.

A notary is a person who is authorized to imprison real deeds. This authority is granted by Article 1868 of the Civil Code. In order to strengthen the regulations contained in Article 1868 of the Criminal Code, UUJN is declared as one of the legal materials governing public accountants. Regarding the authority of Notaries, UUJN regulates several matters¹⁴. Notaries are authorized to make authentic deeds regarding all actions, agreements, and determinations required by laws and regulations and/or desired by interested parties to enter the authentic deed as long as the making of the deed is also not submitted or excluded. to other officials or other

¹³ Habib Adji. (2008). Indonesian Notary Law Thematic Interpretation of Law No. 30. Year 2004 on the position of Notary. Bandung: Refika Aditama, p. 13.

¹⁴ Muhammad Akbar and Fadhil Yazid, 'Legal Certainty in the Ease of Doing Business in the Industrial Revolution 4.0 Era Related to the Notary Profession', Law Journal, 1.2 (2021)

persons prescribed by law. Notaries can also guarantee the certainty of the date of the deed, keep the deed, and offer grosse, receiving, and quotation of the deed¹⁵:

1. There is a signature
2. Register the papers appropriately
3. Make a final copy of the original personal document that includes the written and interpreted description of the letter.
4. There is a photocopy of the original letter
5. Provide legal advice on the preparation of the deed
6. The process of making a land deed
7. There is an auction of the deed of auction

Notaries are not only authorized to make authentic deeds in the sense of *verlijden*, namely drafting, reading and signing and *verlijken* in the sense of making deeds in the form prescribed by law as referred to in article 1868 of the Civil Code, but also based on the provisions contained in article 16 paragraph 1 letter d of the UUJN, namely the obligation of notaries to provide services in accordance with the provisions in this law, unless there is a reason to refuse it. Notaries also provide legal advice and explanations regarding the provisions of the Law to the parties concerned. Relating to authority according to G.H.S. Lumban Tobing includes 4 things, which are as follows:

1. The notary shall be authorized insofar as the deed made is concerned;
2. The notary shall be authorized as far as the persons concerned, for whose benefit the deed is made;
3. The notary shall be authorized as far as the place where the deed is made;
4. The notary must be authorized as long as the deed is made.

Civil liability is related to the notary's responsibility to carry out his work. This responsibility is a consistent outcome that must be requested of legitimate calls in completing their obligations. Obligations are based not only on morals but also on law. This departs from the assumption that a person must be responsible for everything

¹⁵ Kadek Setiadewi and I Made Hendra Wijaya, Legality of Notary Deed Based on Cyber Notary as an Authentic Deed, Journal of Legal Communication (JKH), 6.1 (2020)

he does.¹⁶ The notary's role is more than just witnessing legal documents; with the help of philosophical, sociological, and legal justifications, notaries can also spot potential bad intentions and unintended consequences, and can defend parties with precarious socioeconomic and legal positions to protect third parties in good faith. The notary ensures that the parties to the deed he made are competent and able to file a lawsuit.¹⁷

The notary must identify the confronter to carry out his work and prevent the identity of forgery, therefore the precautionary rule must be observed. In relation to the foregoing,¹⁸ claims that whenever someone breaks the law, their responsibility for their actions is usually basically meaningless, and most of these violations fall into the category of what the Civil Code calls "*unlawful acts*". Articles 1365 to 1380 Book III of the Civil Code Chapter III concerning Agreements Made by Law, control over rechtmatige daad or unlawful acts. The full content of Article 1365 of the Civil Code is as follows: "*Every unlawful act that harms a person, obliges the person who for his fault caused the loss to compensate for the damage*".

According to Article 1365 of the Civil Code, if a Notary is found to have committed an unlawful act, then the Notary can be held accountable. If the notary is involved in an unlawful act (onrechmatige daad), it can be prosecuted that the notary is involved in making the deed. Conversely ¹⁹, if the notary in charge of serving the community or people in need certifies or makes a deed containing clauses that are against the law, such as harming other people and parties present. If the Notary Public violates passively or silently, it may be subject to Article 1365 of the Civil Code.²⁰

No Notary Public has impunity. Violations and deviations from obligations and authorities committed by a Notary. That liability is determined by the nature of the

¹⁶ Rizki Amalia, Muhammad Arifin, and Adi Mansar, Notary Responsibility for Canceling a Deed at the Seller's Request Unilaterally in the Perspective of Notary Position Law, Juridical Journal, 8.1 (2021)

¹⁷ Dea Drika, 'The Notary's Function in Checking the Identity of the Deed Is Linked to the Precautionary Principle', Syiar Hukum : Journal of Legal Sciences, 18.2 (2020)

¹⁸ Desy Ramadhani Pratini, 'Liability for Social Media Accounts Without Real Identity for Unlawful Acts', Jurist-Diction, 4.6 (2021)

¹⁹ Theo Anugrah Pakarti and Daly Erni, 'NOTARY OFFICE AND NOTARY CODE OF ETHICS: WHAT ARE THE ROLES AND FUNCTIONS OF THE NOTARY HONOR BOARD?', Kertha Semaya : Journal of Legal Sciences, 10.7 (2022)

²⁰ Puspa Anggraini & Aju Putrijanti, Juridical Review of Notary Rights and Obligations in Making Authentic Deeds, Unes Law Review Vol. 6, No. 1, September 2023, 1820.

violation and the legal consequences it causes. In general, the liability commonly imposed on Notaries is criminal, administrative and civil liability. Criminal liability is subject to criminal sanctions, administrative liability is subject to administrative sanctions, and civil liability is subject to civil sanctions. It is a consequence of the consequences of violations or omissions committed by Notaries in the process of making authentic deeds.²¹

Criminal liability of a notary for authentic deeds made and indicated forgery

Criminal liability is essentially a mechanism established by criminal law to react to violations of a particular act's "refusal agreement".²² Sudarto said that convicting a person is not enough if that person has committed an act that is contrary to the law or unlawful. So even though the act meets the formulation of offense in law and is not justified, it does not meet the requirements for criminal conviction. For punishment, there still needs to be a condition for criminal conviction, namely that the person who committed the act has a fault or guilt. The person must be held accountable for his actions or if viewed from the point of his actions, his actions can only be accounted to the person.

As a general official (*openbaar ambtenaar*) notaries are authorized to make authentic deeds. In connection with his authority, the notary can be burdened with responsibility for his deeds / work in making authentic deeds. The notary's responsibilities as a general official include the responsibilities of the notary profession itself related to the deed, including the notary's criminal responsibility for the deed made. Criminal in this case is a criminal act committed by a notary in his capacity as a general official authorized to make deeds, not in the context of individuals as citizens in general.²³

²¹ O Kusumawati, Lanny, Responsibilities of Notary Position, Refika Aditama, Bandung, 2006, p. 39

²² Chairul Huda, From No Crime Without Fault To No Criminal Responsibility Without Fault, Cet. II, (Jakarta: Kencana, 2006), p. 68.

²³ Abdul Ghofur Anshori, Indonesian Notarial Institute, Legal and Ethical Perspectives, (Yogyakarta: UII Press, 2009), pp. 38-39

The notary's responsibility as a general official for authentic deeds made and indicating criminal acts is very necessary even though the realm of notary work in the realm of civil law and administrative law as well as moral and ethical responsibility, but for deeds made and indicating criminal acts, the notary must be criminally responsible, starting from examination in the investigation process to the evidentiary process in court and carrying out the decision of the judge who has The force of law remains.

According to Habib Adjie, a notary can be subject to criminal sanctions contained in the Criminal Code, provided that the punishment of the notary can be carried out with restrictions, namely:

- a) There is a legal action from the notary regarding the physical, formal, and material aspects of the deed that is deliberate, conscious and real, and it is planned that the deed to be made before a notary or by a notary Together with the complainants is used as a basis for committing a criminal act;
- b) There is a notary legal action in making a deed before or by a notary which, when measured based on Law Number 30 of 2004 concerning the position of notary, is not in accordance with Law Number 30 of 2004 concerning the position of notary;
- c) The notary's action is also not appropriate according to the agency authorized to assess the actions of a notary, in this case the notary supervisory panel.²⁴

The imposition of criminal sanctions against notaries can be carried out as long as the Limitations as they are violated, meaning that in addition to fulfilling the formulation of violations contained in law number 30 of 2004 concerning the position of notary, the code of ethics for the position of notary must also meet the formulation stated in the Criminal Code. Usually, the articles used to prosecute notaries in the performance of office duties are articles that regulate the criminal act of forgery of letters, namely article 263, article 264. And article 266 of the Criminal Code.

So, the notary liability aspect arises because of an error made in carrying out a duty of his office and the error causes harm to others who ask for notary services

²⁴ Adjie, Habib, civil and administrative sanctions against notaries as public officials, reflika aditama, bandung, 2009

(clients), meaning to establish a notary guilty of causing reimbursement of costs, damages, and interest is required if the unlawful act of the notary can be liable. In relation to the notary's responsibility if there is false information in an authentic deed, then based on the results of interviews with several notaries in the suspect, data is obtained that the notary is not responsible for the contents of the deed if there is a face who gives or uses false information, because the notary only pours the information and wishes of the face in the deed. Regarding the statements of the facing parties is not the notary's authority to investigate the truth of the matters stated by the parties / facers. The notary only formulates what happened, what he saw, and experienced from the parties / faces along with adjusting the formal conditions with the actual and then pouring them into the deed.²⁵

The Notary liability aspect arises due to negligence (*culpa*) which results in errors (*schuld*) committed by notary workers in carrying out a job duty and the error causes losses to others who ask for Notary services (clients). So that unlawful acts (*wederrechtelijk*) for notary negligence can be held accountable from a civil, administrative and criminal law point of view even though the UUJN does not regulate criminal sanctions.

Forgery of letters that are often carried out by Notaries and are often disputed by parties or other parties as parties who participate in committing or helping to commit a criminal act, namely making or giving false information into a notary deed. Notaries often falsify these aspects, and notaries generally consider them to be ordinary administrative offenses. However, if investigated more deeply, what is done by a Notary Public can be qualified as a criminal offense.

If a notary employee forges a letter so that it can cause the notary to deviate from a deed he made so as to cause a criminal case, the Notary must be criminally responsible for what has been done by the worker. Criminal liability is born by passing on objective reproach (*verwijbaarheid*) for acts declared as criminal offenses under

²⁵ Juliati br Ginting, Juridical Review of Authentic Deeds Made by Notaries Containing False Information, Journal Justice. Volume 1, Number 1 January 2019, 6-7.

the applicable Criminal Law, and subjectively to perpetrators who meet the requirements to be criminally charged for their actions.²⁶

The amount of responsibility of Notaries in carrying out their profession requires Notaries to always be careful and careful in every action. However, as an ordinary human being, of course, a Notary in carrying out his duties and positions sometimes does not escape mistakes either intentionally or because of negligence which can then harm other parties. In imposing sanctions on a Notary, there are several conditions that must be met, namely the Notary's actions must meet the formulation that the act is prohibited by law, there are losses arising from the Notary's actions and the act must be unlawful, both formal and material.²⁷

The limitations of punishment for actions committed by Notaries are in the form of legal action from Notaries against the formal aspects of deeds that are deliberate, full of awareness and conviction and planned, that the deed made before the Notary or by the Notary together (agreed) to be used as a basis for committing a criminal act. Proving a Notary Public has committed a criminal act of forgery of a deed or making a false deed as referred to in Article 263, Article 264 and Article 266 of the Criminal Code must be based on an investigation and evidentiary process in accordance with the rules of law by looking for elements of guilt and intentionality from the Notary itself. It is intended to be accountable both institutionally and in the capacity of Notary as a legal subject. In general, counterfeiting is a type of violation of 2 (two) norms, namely:

1. The truth (belief) whose violation may fall under the category of fraud crimes;
2. Public order whose violations are classified as a group of crimes against the state/public order.²⁸

²⁶ Dwidja Priyatno, Legislation Policy on Corporate Criminal Responsibility System in Indonesia, (Bandung: Utomo, 2004), p. 56

²⁷ Risa Hermawati, Forgery of Authentic Deeds Committed by Notaries (Case Study of Decision Number 1003 K/PID/2015), Authentic's: Journal of Notarial Law (Vol 2, No. 2, July 2020), 167

²⁸ H. A. K. Moch. Anwar, 1989, Special Section of Criminal Law, (KUHP Book II), Volume I, Citra Aditya Bakti, Bandung, 1989, p. 155.

Legal consequences for authentic deeds that have been forged by a notary

A deed basically has a variety of functions with regard to legal acts, among others, the function of determining validity (According to Mochammad Dja'is and RMJ Koosmargono, a deed is seen from its function to determine the complete or perfect (not valid) of a legal act), or the conditions for formation and function as evidence.²⁹ In terms of its function as evidence, an authentic deed has perfect evidentiary power (only one proof is sufficient as a basis for deciding the case, the authentic deed is considered true and the refuting party is burdened to prove the truth of the rebuttal).

According to Article 1869 of the Civil Code, an authentic deed can descend or degrade its evidentiary power from having perfect evidentiary power to having only evidentiary power as writing under hand, if the general officer who made the deed is not authorized to make the deed or if the deed is defective in form. While the words form in Article 1868 and Article 1869 of the Civil Code, in the opinion of the author are not forms in the physical sense but forms in the juridical sense, so that the understanding of forms in these Articles can be interpreted as procedures for making authentic deeds. As is known by laws or regulations, the requirements that must be met are determined so that a deed can be called an authentic deed.

In the general explanation of Law Number 30 of 2004 juncto Law Number 2 of 2014 concerning the Notary Position, it is stated that an authentic Deed essentially contains formal truth in accordance with what the parties notify to the Notary. However, the Notary has the obligation to include that what is contained in the Notarial Deed has really been understood and in accordance with the will of the parties, namely by reading it so that it becomes clear the contents of the Notary Deed.³⁰ This means that although the notary's responsibility is limited to the formal responsibility for the deed he made, but the notary in making an authentic deed, must have a careful attitude in pouring the wishes of the parties into the contents of the deed he made.

Regarding the cancellation of the deed is the authority of the civil judge, namely by filing a civil lawsuit to the court. If in the trial it is requested to cancel the deed by

²⁹ Herlien Budiono, Principles of Balance for Indonesian Treaty Law Treaty Law Based on Wigati Indonesia Principles, (Bandung: PT. Citra Aditya Bakti, 2006), p. 256

³⁰ Indonesia, Law of the Republic of Indonesia concerning Notary Positions, Law No. 30 of 2004 juncto Law No. 2 of 2014, General Explanation

the aggrieved party, the Notary Public can be canceled by the civil judge if there is evidence from the opponent. As is known that a Notary Deed is an authentic deed which is written evidence that has binding and perfect evidentiary power. This means that it is still possible to be paralyzed by opposing evidence, namely the filing of a lawsuit to demand the cancellation of the deed to the court so that the deed is canceled.

If the Notary is dragged into a case of forgery of deeds and becomes an intellectual actor or the Notary participates in forging letters that can be categorized as criminal acts, it cannot be juridically tolerated not only based on criminal provisions, but also by regulations in the Civil Code and the Law on Amendments to the Law. The Notary's case relates to an authentic deed he made and the deed gives rise to a civil or criminal case so the deed is null and void.

The position of the Notary Deed can be divided into 5 (five) types, namely revocable, null and void, having the power of proof as a deed under hand, canceled by the parties themselves and canceled by a court decision that has permanent legal force due to the application of the principle of legal presumption. The five positions of the Notary Deed cannot be done together, but only apply to one. If the Notary Deed is submitted for cancellation by the interested party to the general court (State) and there has been a general court decision that has permanent legal force or the Notary deed has a evidentiary position as a deed under hand or a Notary deed is null and void, or the Notary deed is canceled by the parties themselves with another Notary deed, then the cancellation of the other Notary deed does not apply.

The legal consequence of an authentic deed made by a Notary Public who commits an unlawful act is the loss of authenticity of the deed and becomes a deed under hand in accordance with the provisions of Article 41 of the Law on Amendments to the Law and the authentic deed can be canceled if the postulating party can prove it in a trial in court, because the making of an authentic deed must contain the three elements mentioned above (outwardly, formal and mathematical) or any of these elements are incorrect and give rise to criminal or civil cases which can then be proven untrue. So that in carrying out his position, a Notary Public must comply with the provisions of the law and the deed is made by and before the Notary in accordance

with the procedures and procedures for making a deed so that the deed does not become a deed under hand or the deed is not canceled.³¹

CONCLUSION

The results showed that;

- a. Notaries are authorized to make authentic deeds regarding all actions, agreements, and determinations required by laws and regulations and/or desired by interested parties to enter the authentic deed as long as the making of the deed is also not submitted or excluded. to other officials or other persons prescribed by law. Notaries can also guarantee the certainty of the date of the deed, keep the deed, and offer grosse, reduce, and quotation of the deed.
- b. If a notary employee forges a letter so that it can cause the notary to deviate from a deed he made giving rise to a criminal case, the Notary must be criminally responsible for what has been done by the worker
- c. The legal consequence of an authentic deed made by a Notary Public who commits an unlawful act is the loss of authenticity of the deed and becomes a deed under hand in accordance with the provisions of Article 41 of the Law on Amendments to the Law and the authentic deed can be canceled if the postulating party can prove it in a trial in court

³¹ Marchelina Rante, & Hernita Matana, Notary Criminal Liability for Indications of Forgery of Authentic Deeds Made, PAULUS Law Journal Volume 3 Number 1, September 2021, 37

BIBLIOGRAPHY

- A Emei Dwinanarhati Setiamandani, Juridical Implications of Falsification of Facing Self-Identity in Making Authentic Deeds and Notary Responsibility, Journal of the Faculty of Law, Universitas Brawijaya Malang 2015
- Abdul Ghofur Anshori, Indonesian Notarial Institute, Legal and Ethical Perspectives, (Yogyakarta: UII Press, 2009)
- Abdulkadir Muhammad. 2004. *Law and Legal Research*. Bandung: PT. Image. Aditya Filial piety.
- Chairul Huda, From No Crime Without Fault To No Criminal Responsibility Without Fault, Cet. II, (Jakarta: Kencana, 2006).
- Cst Kansil. 2009. Dictionary of Legal terms. Gramedia Library. Jakarta
- Dea Derika, 'The Notary's Function in Checking the Identity of the Deed Is Linked to the Precautionary Principle', Syiar Hukum : Journal of Legal Sciences, 18.2 (2020)
- Desy Ramadhani Pratini, 'Liability for Social Media Accounts Without Real Identity for Unlawful Acts', Jurist-Diction, 4.6 (2021)
- Dwidja Priyatno, Legislation Policy on Corporate Criminal Responsibility System in Indonesia, (Bandung: Utomo, 2004).
- H. A. K. Moch. Anwar, 1989, Special Section of Criminal Law, (KUHP Book II), Volume I, Citra Aditya Bakti, Bandung, 1989.
- Habib Adji. (2008). Indonesian Notary Law Thematic Interpretation of Law No. 30. Year 2004 on the position of Notary. Bandung: Refika Aditama.
- Habib Adjie, Civil and administrative sanctions against notaries as public officials, reflika aditama, Bandung, 2009.
- Habib Adjie. (2009). Observing Khasanah Notary and PPAT Indonesia. Bandung: PT. Citra Aditya Bakti

Herlien Budiono, Principles of Balance for Indonesian Treaty Law Treaty Law Based on Wigati Indonesia Principles, (Bandung: PT. Citra Aditya Bakti, 2006).

Herlien Budiono. (2013). Collection of Civil Law Writings in the Field of Notarial Affairs – Second Book. Bandung: Citra Aditya Bakti

Indonesia, Law of the Republic of Indonesia on Notary Positions, Law No. 30 of 2004 juncto Law No. 2 of 2014, General Explanation.

Johnny Ibrahim. 2006. *Normative Legal Research Theory and Methodology*. Malang: Bayumedia Publishing.

Juliati br Ginting, Juridical Review of Authentic Deeds Made by Notaries Containing False Information, Journal Justice. Volume 1, Number 1 January 2019.

Kadek Setiadewi and I Made Hendra Wijaya, Legality of Notary Deed Based on Cyber Notary as an Authentic Deed, Journal of Legal Communication (JKH), 6.1 (2020)

Kusumawati, Lanny, Responsibilities of Notary Position, Refika Aditama, Bandung, 2006.

L.j Van Apeldoorn in Shidarta. 2006. *The morality of the legal profession offers a framework of thinking*. Bandung: PT. REVIKA Aditama.

Marchelina Rante & Hernita Matana, Notary Criminal Liability for Indications of Forgery of Authentic Deeds Made, PAULUS Law Journal Volume 3 Number 1, September 2021

Muhammad Akbar and Fadhil Yazid, 'Legal Certainty in the Ease of Doing Business in the Industrial Revolution 4.0 Era Related to the Notary Profession', Law Journal, 1.2 (2021).

Peter Mahmud Marzuki. 2008. *Legal Research*. Cet.2, Jakarta: Kencana.

Puspa Anggraini & Aju Putrijanti, Juridical Review of Notary Rights and Obligations in Making Authentic Deeds, Unes Law Review Vol. 6, No. 1, September 2023.

- R. Soesilo, The Criminal Code (KUHP) and its Complete Commentaries Article by Article, (Bogor: Politeia, 1985)
- Risa Hermawati, Forgery of Authentic Deeds Committed by Notaries (Case Study of Decision Number 1003 K/PID/2015), Authentic's: Journal of Notarial Law (Vol 2, No. 2, July 2020).
- Rizki Amalia, Muhammad Arifin, and Adi Mansar, Notary Responsibility for Canceling a Deed at the Seller's Request Unilaterally in the Perspective of Notary Position Law, Juridical Journal, 8.1 (2021).
- Suteki and Galang Taufani. 2018. *Legal Research Methods (Philosophy, Theory and Practice)*. Depok: PT. King Grafindo Persada.
- Theo Anugrah Pakarti and Daly Erni, Notary Position and Notary Code of Ethics: What is the Role and Function of the Notary Honor Council?, Kertha Semaya : Journal of Legal Sciences, 10.7 (2022).