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Authority and Legal Protection against Notaries in Carrying Out Job Tasks in Indonesia

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Abstract: Notary is a profession that is not immune because the notary can be a suspect if he uses his position to commit a criminal act. However, in accordance with the principle of presumption of innocence, a notary who is a suspect must not be treated as a convict. This study discusses the protection and authority of a notary when determined as a suspect. The results of this study indicate that the status of a Notary as a suspect does not prevent the Notary from making a deed unless there is a ministerial decree to dismiss it. So a Notary is still authorized to make a deed if he is not on leave and not dismissed as a Notary. In carrying out its duties, the notary receives proportional protection when carrying out office duties as a Notary, one of which is based on the provisions or mechanism of implementation of Article 66 of the Notary Law conducted by MPD. On the other hand also hopes that there will be a fair, transparent, ethical and scientific process when the MPD examines the Notary at the request of another party.

Keywords – authority, criminal procedure code, job task, legal protection, public notary,

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I. INTRODUCTION

Indonesia as a legal state (*rechtstaat*), therefore the law as commander and become the highest source of law governing state institutions from the aspect of position and from their functions and authorities. The division of power embraced in Indonesia between executive, judicial, legislative and incipient powers forms a system of governmental governance that is different from the State which adheres to the separation of powers. This can be found in the law enforcement process in Indonesia, starting from legislative institutions (institutions) that run the Law (executive) and institutions that enforce the Law (Judiciary). However, in the implementation of the law enforcement process, it was explained that there were other institutions in the executive that carried out tasks related to judicial authority, which consisted of investigating and prosecuting institutions.

In the process of law enforcement, the institution is given the authority to make forced efforts starting from the process of investigation, prosecution and execution. The process of forced effort as stipulated in article 7 paragraph (1) of the Criminal Procedure Code. In the process of investigation and pre-prosecution carried out by both investigators and public prosecutors as stipulated in article 110 paragraph (1) and (2) Criminal Procedure Code and equipped with the next Rules stipulated in article 138 paragraph (1), (2) Criminal Procedure Code. Investigators who do not carry out instructions to complete case files, then the case file completeness process will be neglected.

In a pre-prosecution implementation, the pre-prosecution process besides being able to spur the avoidance of engineering investigations can also speed up the completion of the investigation as well as avoid the occurrence of alternating current cases from public prosecutors and so on.

The pre-prosecution process in addition to eliminating the authority of investigation by public prosecutors in cases of general crimes is also carried out in conducting additional checks when the police investigator states that he has carried out the prosecutor's instructions optimally but the public prosecutor cannot carry out additional investigations in full meaning the prosecutor can only carry out witnesses without being able to examine the suspect. Pre-trial is carried out before a case is brought to court. This is intended to prepare the prosecution in front of the court and determine the success of the prosecution, meaning that the pre-prosecution action is very important to find material truth that will be the basis of the prosecution process. Pre-trial is a continuation of the investigation process, when the investigator has found at least two evidences, the investigation can be upgraded to an investigation to find two evidences found, in this deepening process the investigator coordinates with the Prosecutor of Research on the development of case files.

Regarding the investigation, it is regulated in Article 1 paragraph (1) of the Criminal Procedure Code, which states that investigations are a series of investigative actions in terms of and according to the method stipulated in the Law to find and collect evidence that makes it clear about criminal acts and to find the suspect. The investigation was carried out by Republic of Indonesia National Police officials or certain Civil Service Officials (PPNS) who were given special authority by law, this was stated in article 6 paragraph 1 of the Criminal Procedure Code. After the investigation is declared completed, then according to article 110 paragraph 1 of the Criminal Procedure Code, the investigator is obliged to immediately submit the case file to the public prosecutor.

This is to fulfill the principle of justice fast, simple and has a low cost. The case file was received by the Prosecutor / Public Works to study and examine the completeness of the case files as a result of the investigation. If there are shortcomings both formally and materially, the Public Prosecutor immediately notifies the investigator to be equipped. If the Prosecutor / Public Works declares that the file has been completed, the case will immediately be submitted to the court and the pre-prosecution process will be completed and then proceed to the Prosecution process.

Pre-prosecution of Notaries dealing with the law both as witnesses and suspects, as well as the execution of confiscation of minuta deeds is basically no different from other legal subjects who deal with the law both suspects, sanctions and so on. The pre-prosecution domain begins with the delivery of a Notice of Investigation (SPDP) by the investigator to the Head of the High / State Prosecutor's Office. The Prosecutor's Office appoints a prosecutor or more to follow the progress of the investigation until the case file is submitted to the Research Prosecutor.

The Prosecutor's examination of the case file has two things that are first fulfilled in formal form and the second is the fulfillment of material completeness. When both of these completeness have been fulfilled, the Prosecutor can declare the complete file and the investigator is given the time to submit the suspect and evidence to the prosecutor's office then delegated to the Court. An examination of violations committed by a Notary must be carried out in a holistic-integral examination by looking at the outward, formal and material aspects of the Notary deed, as well as carrying out the tasks of the Notary office in accordance with the Notary's authority, in addition to the legal rules governing the violations committed by Notaries. It also needs to be integrated with the reality of notary practice. As for criminal offenses relating to the position of a notary governed in several articles of the Criminal Code such as:

1. Forgery of letters in Article 263 of the Criminal Code, imprisonment for a maximum of six years. IG Notary falsifies letter of proof of BPHTB deposit.
2. Forgery of letters made on authentic deeds in Article 264 of the Criminal Code, with a maximum imprisonment of eight years. SS Notary in Medan.
3. Provision of false information on an authentic deed in Article 266 of the Criminal Code, with a maximum imprisonment of seven years. The TPS notary in Deli Serdang made a false statement.
4. Open secrets to Article 322 of the Criminal Code, with a maximum imprisonment of nine months or a maximum fine of nine thousand rupiah.

Law has the function of guarding so that the noble ideals of the Indonesian people are achieved and maintained. However, to uphold the law for justice and truth there needs to be strong, strong judicial bodies that are not easily influenced by other institutions. Whereas according to Fadjar what is meant by a free and impartial judiciary is the judicial power exercised by a judge (judiciary) to resolve a violation of law (either from the tools of the state itself or a citizen) or legal disputes between citizens, must be free from all kinds management or interference from wherever it comes in any form

As a legal state (*rechtsstaat*) such as Indonesia, a court is a judicial body or institution that is the foundation of the community's hope for justice, in addition to being able to resolve civil problems (private law) through non-justice channels. The judge in examining the case submitted to him is guided by the laws and regulations of the Republic of Indonesia.

According to Article 10 of Law Number 14 of 1970 jo. Law Number 35 Year 1999 jo. Law Number 4 of 2004 jo. Law Number 48 of 2009 concerning Judicial Power, "Courts are prohibited from refusing to examine, hear, and decide on a case filed under the pretext that the law does not exist or is unclear, but is obliged to examine and try it". That what is meant here is that the judge as the examiner and court breaker must not refuse to examine the case submitted to him under the pretext that the law does not exist or is unclear, because the judge is considered to know the law (*ius curia novit principle*).

Even though it is said that good law is a law that almost does not provide a chance for discretion for judges, in practice, many have found that the law turns out to be incomplete or unclear even though the explanation of the law is clearly stated. Therefore, a judge must seek and find the law (re-citing) because every rule of law needs to be explained and requires interpretation before it can be applied to certain legal events. [1] The definition of legal discovery itself according to Sudikno Mertokusumo in Eddy O. S. Hiariej, namely the

process of forming a law by a judge or other legal apparatus assigned to implement general legal regulations on concrete events. [2]

Judges in examining cases can use legal construction in order to establish law (judge made law) as well as interpretations / interpretations in order to find and find the law (rehtcsvinding). Judges can use legal construction if it turns out that the law does not exist or in other words Indonesian law has not regulated the case, and uses interpretations if the legal rules are unclear, thus there is no reason for the judge to refuse the case that was submitted to him under the pretext that the law does not exist or less clear. Nonetheless, the practice of legal discovery must be carried out responsibly, which is based on existing legislation and needs to be given attention and supervision from the judicial institution on it, to avoid the occurrence of legal error by the judge.

The Indonesian Criminal Procedure Code is regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP). A concrete rule of law must be based on the principle of law. Therefore the general principles of law as taught by science or doctrine play an important role in the discovery of law in court.

II. LITERATURE REVIEW

Notary began to enter Indonesia at the beginning of the 17th century, with the existence of Oost Indische Compagnie, which was a combination of Dutch trading companies for trade in the East Indies, better known as the VOC (Vereeningde Oost Indische Compagnie) with its Governor General named Jan Pieterszoon Coen , has appointed Melchior Kerchem as the first Notary in Jakarta on August 27, 1620. [3]

After the appointment of Melchior Kerchem as a Notary, the number of notaries continued to increase, although it was slowly adjusted according to the needs at that time. In 1650 Batavia was appointed 2 (two) notaries, in 1654 the number of notaries in Batavia was added to 3 (three) people and then in 1751 the number became 5 (five) people. Notariat in Indonesia was brought by the Dutch from the Netherlands, while the Dutch and other Western European countries had imitated ancient nations / nations such as Egypt and Greece. Since the entry of the notariat in Indonesia until 1822, it has been regulated by two regencies, namely from 1625 and 1765. In 1822 (Staatsblad Number 11) Instructie Voor de Notarissen in Indonesia was issued consisting of 34 articles.

In 1860 the Dutch government made adjustments to the regulations concerning the position of a notary in Indonesia with applicable regulations in the Netherlands, then promulgated the Notary Position (Notary Reglement) staatsblad 1860 Number 3 which was promulgated on 26 January 1860 and entered into force on 1 July 1860 , The Notary Position Regulation consists of 63 (sixty three) articles. The articles contained in the Notary Position Regulations are copies of the articles in Notary Law applicable in the Netherlands.

The Draft Law on Notary Position was ratified by the People's Legislative Assembly of the Republic of Indonesia (DPR-RI) at the DPR / MPR building on September 14, 2004. [4] Law Number 30 of 2004 concerning Notary Position came into force on the date of 6 October 2004 from 13 chapters with 92 articles, as an embodiment of legal unification in the field of notary. Law Number 30 of 2004 concerning Notary Position regulates in detail the General Position held by a notary, so that it is expected that authentic deeds made by or before a Notary are able to guarantee certainty, order and legal protection.

In 2014 the government ratified Law Number 2 Year 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Position, the function and role of Notaries in the increasingly complex movement of National development today, of course, broader and more developed, because of the smoothness and certainty of the law of course, services and legal products cannot be separated from the services provided by Notaries, therefore the services provided by Notaries must truly have reliable values and weights.[5]

A notary who is Pancasila must stick to the essential sense of justice, is not affected by the amount of money, and not merely creates formal evidence of the pursuit of legal certainty, but ignores the sense of justice. Since Act Number 30 of 2004 concerning Notary Position, the development of law has been directly related to the current world of notary namely:

1. Expansion of Notary authority, namely the authority stated in Article 15 paragraph (2) point f and g of Law Number 30 Year 2004 concerning Notary Position, namely the authority to make deeds related to land and the authority to make a deed of auction minutes. As well as the expansion of the jurisdiction, based on Article 18 paragraph (2) of Law Number 30 of 2004 concerning Notary Position namely Notary has an area of office covering the entire province, with a place of domicile in the district / city.
2. Implementation of Oath of Notary Position. Minister of Law and Human Rights of the Republic of Indonesia based on Letter Number: M.UM. 01.06-139 dated 08 November 2004 has delegated the authority to carry out the Oath of Notary Position to the Head of the Regional Office of the Ministry of Law and Human Rights.
3. A notary is permitted to carry out his position in the form of a civil union, in accordance with the provisions of article 20 paragraph (1) of Law Number 30 of 2004 concerning Notary Position.

4. Notary Supervision Issues. The Minister of Law and Human Rights of the Republic of Indonesia in accordance with their authority based on Article 67 paragraph (1) of Law Number 30 Year 2004 concerning Notary Position to form a Notary Supervisory Board.
5. Mandate that notaries meet in one notary organization organization in accordance with article 82 paragraph (1) of Law Number 30 of 2004 concerning Notary Position.

It is a principle of public law that before carrying out his position legally, a public official including a Notary must first take an oath / promise. As long as this has not been done, then the position cannot be carried out legally. Provisions in articles 5 and 6 of Law number 30 of 2004 concerning Notary Position must pronounce their oath / promise of office, not later than 2 (two) months from the date of their appointment as a Notary, if the decision is reached as a Notary can be canceled by the minister.

A deed, due to the lack of power or incompetence of the employee referred to above, or because of a defect in its form, cannot be treated as an authentic deed but has the power of writing under the hand if it is signed by the parties. The intensity of the notary deed comes from Article 1 paragraph (1) UUJN, namely a notary is made as a public official, so the deed made by the notary in his position obtains the authentic deed. Deed made by a notary has an authentic nature, not because the law applies so, but because the deed is made by or before a public official. This is as referred to in Article 1868 of the Civil Code which states: "An authentic deed is a deed which is in a form determined by law, made by or in front of the general employees in power for that in the place where the deed is made". GHS Lumban Tobing stated: "Deed made by a notary can be a deed that contains" relaas "or describes authentically an action taken or a condition seen or witnessed by the deed maker, namely the notary himself, in carrying out his position as a notary .

Deed made in such a way and contains a description of what is seen and witnessed and which it experiences is called a deed made "by" (door) notary (as a public official). However, a notary deed can also contain a "story" of what happened because of an act committed by another party before a notary public, meaning explained or told by another party to the notary in carrying out his position and for the purpose of which the other party intentionally came before notary and provide such information or perform the act before a notary, so that the information or action is constricted by a notary on an authentic deed. The deed is called a notary deed (ten overstaan) notary." [6] From the description above, it can be seen that there are 2 groups of notary deeds, namely:

1. Deed made "by" (door) notary or called "deed of relaas" or "official deed" (actual ambtelijke); Example: among others: statement of decision of the shareholders' meeting in a limited liability company, budel registration certificate.
2. Deed made "in the presence of" (ten overstan) notary or called "partij deed (partijen acten). For example, a deed that contains a grant agreement, sale and purchase (not including public sales or auction), will, power of attorney.

Notary deed as a product of a public official, the assessment of a notary deed must be carried out with the principle of legal presumption (vermoeden vanrechtmatigeheid) or presumption of iustae causa.[7] This principle can be used to assess a notary deed, which is where the notary deed must be considered valid until there is a party that states the deed is invalid. To declare or assess the deed is invalid must be with a lawsuit to the public court. As long as and as long as the lawsuit continues until a court decision has permanent legal force (inkracht), then the notary deed remains binding on the parties or anyone who has an interest in the deed.

In the lawsuit to declare the notary deed invalid, it must be proven the invalidity of the outward, formal and material aspects of the notary deed. If it cannot be proven, the deed concerned is still legally binding on the parties or anyone who has an interest in the deed. This principle has been recognized in UUJN, in the Explanation of the General Section that: Notary Deed as the strongest and most complete written evidence, what is stated in the Notary Deed must be accepted, unless the interested party can prove otherwise satisfactorily before the court hearing.

By applying the principle of legal presumption for notary deed, the provisions in Article 84 UUJN (Law Number 2 Year 2014 concerning Amendment to Law Number 30 Year 2004 concerning Position of Notary) confirms that a notary public violates (does not) the provisions referred to in Article 16 Paragraph (1) letter i, k, Article 41, Article 44, Article 48, Article 49, Article 50, Article 51 and article 52, the deed concerned only has proof power as a deed is not needed anymore, the cancellation of the notary deed only in the form of irrevocable (vernietigbaar) or null and void (van rechtoewege nietig).

III. RESULTS AND DISCUSSION

Authority of Notary in Making Authentic Deed

Notaries are legal experts who work in the private sector, for example the signing of contracts, land ownership, trade transactions, and others. They are usually not entitled to accompany clients in court. In Indonesia there is an organization of the Indonesian Notary Association stipulated in the Decree of the Minister of Justice No.M.01 / 2003 Article 1 point 13. Notaries are general officials who are authorized to make authentic

deeds regarding all acts, agreements and provisions required by legislation and / or what is desired by those concerned to be stated in an authentic deed, guaranteeing the date of making the deed, storing the grosse deed, copy and quotation of the deed, all as long as the making of the deeds is not also assigned or excluded to other officials invite.

Notary as an *auksioner* is authorized to carry out the auction and make the auction minutes. This is an inseparable part of the notary's authority as a general official to make authentic deeds. The role of the notary is needed in Indonesia because of the background of Article 1866 of the Civil Code which states that evidence consists of: See Article 15 of Act Number 30 of 2004 concerning Notary Position 1. Proof of writing; 2. evidence with witnesses; 3. assumptions; 4. recognition; 5. oath.

In this case the official in question is a Notary and the symbol used as the stamp of the notary is a symbol of the state. Notary is the only private sector that is allowed to use the symbol. Notaries are General Officials, this can also be seen in article 1 point 1 of the UUJN.

Law number 30 of 2004 concerning Notary Position has been promulgated and entered into force on October 6, 2004. This Act supersedes the old Notary Position Regulations set out in Staatsblaad 1860 number 3 which is the Act of Notary Position of the Dutch East Indies colonial product. The birth of the UUJN was in accordance with what was mandated in Law Number 25 of 2000 concerning the National Development Program (Propenas) from 2000-2004 which emphasized the need to make improvements to the laws and regulations of colonial inheritance and national law which were no longer appropriate. In Article 1 of Law Number 30 of 2004 concerning Notary Position, it has regulated the notary's notary meaning a public official authorized to make authentic deeds and other authorities as referred to in this law.

Authority and Prohibition of Notaries

The main authority of the notary is to make authentic deeds, but not all authentic deeds are authorized by the notary. Deeds made by other officials, are not the authority of a notary, such as birth certificates, marriages, and divorces made by officials other than notaries. The deed made by the notary will only be an authentic deed, if the notary has authority covering four things, namely:

a. The notary must be authorized as long as it concerns the deed made; Not all public officials can make all deeds, but a general official can only make certain deeds, namely those assigned or exempted to him based on legislation. In Article 15 paragraph (1) of Law Number 30 of 2004 concerning Notary Position states that the authority of a notary is to make an authentic deed regarding all acts, agreements and provisions required by laws and / or those desired by those concerned to be stated in authentic deed.

b. The notary must be authorized as far as the person for the interests of the deed is made; Notary is not authorized to make deeds for the benefit of everyone. In Article 52 paragraph (1) of UUJN states that notaries are not permitted not to make deeds for themselves, wives / husbands, or people who have family relations with notaries either because of marriage or blood relations in a straight line down and / or above without degree limitation , and in the line to the third degree, and to be a party for oneself, even in a position or by an intermediary of power. The purpose and objective of this agreement is to prevent the occurrence of impartial actions and misuse of office.

c. The notary must be authorized as far as the place, where the deed was made; For each notary determined by his legal area (area of office) and only in the area determined for him, he is authorized to make an authentic deed. In Article 18 UUJN states that a notary has a place of domicile in the regency / city. The territory of the notary's office covers the entire province from its place of domicile. Deed made outside the area of office is invalid.

d. The notary must be authorized as far as the time for making the deed; the circumstances in which the notary is not arbitrary (onbevoegd) to make an authentic deed, namely: 1. before the notary appoints an oath (Article 7 UUJN); 2. as long as the notary is suspended (suspension); 3. during leave notary; 4. based on the provisions of Article 40 (2) letter e concerning the witness deed and Article 52 paragraph (1) of UUJN Article 15 paragraph (2) UUJN states that in addition to being authorized to make authentic deeds, the notary is also authorized: Ratifying signatures and determining date certainty underhanded letter by registering in a special book; Book letters under hand by registering in a special book; Make a copy of the original letter under the hand in the form of a copy that makes the description as written and described in the letter concerned; Ratify the suitability of the coffee photo with the original letter; Providing legal counseling in connection with making deeds; Making deeds related to land; or Making a deed of auction minutes.

There is an extension of the authority of the notary, namely the authority stated in Article 15 paragraph (2) point f UUJN, namely the authority to make deeds related to land. The authority of the notary to make land-related deeds creates controversy. PPAT still has scope. A different position from a notary, deeds that can be made by a notary, is limited to those which are not the authority of the PPAT.97 In Article 15 paragraph (2) letter g UUJN, it is the authority of a notary to make a deed of auction minutes. The deed of this auction minutes before the

birth of UUJN was the authority of the auctioneer in the State Debt and Auction Debt Agency (BUPLN) based on Law Number 49 Prp of 1960.

In Article 17 of the UUJN regulates notary prohibitions intended to guarantee the interests and provide legal certainty to the people who need notary services and at the same time prevent unhealthy competition between notaries in carrying out their positions, namely to carry out positions outside the area of office more than 7 (seven) successive working days without valid reasons, concurrently as a civil servant, concurrently holding positions as a state official, concurrently serving as an *advocoked*, concurrently holding a position as leader or employee of a state-owned enterprise, regionally-owned business entity or private business entity, concurrently serving as Land Acting Officer outside the notary's office; h. become a Substitute Notary or perform other work that is contrary to religious norms, decency or propriety which can affect the honor and dignity of the notary. Article 52 UUJN concerning Notary Position states: a. Notaries are not permitted to make deeds for themselves, their wives / husbands, or other people who have a family relationship with a notary either because of marriage or blood relations in a straight line down and / or above without limitation of degrees, and in a line to the third degree. as well as being a party for yourself, as well as in a position or by means of power; b. The provisions as referred to in paragraph (1) do not apply, if the person in paragraph (1) except the notary himself, becomes a public seller, as long as the sale can be made before a notary public, general leasing, or general chartering, or being a member of meeting the minutes were made by a notary. c. Violation of the provisions as referred to in paragraph (1) results in the account only having proof of strength as a deed under the hand if the deed is signed by the viewer, without reducing the obligation of the Notary to make the deed to pay the fee, compensation and Interest to the concerned. Article 53 of the PPJN states that the Notary Deed must not contain stipulations or provisions that give something to the Notary, wife or notary husband, Witness, witness's wife or husband; or a person who has a family relationship with a Notary or a witness, both blood relations in a straight line up or down without restrictions on the degree or relationship of marriage to the third degree.

Authority of Notary to Carry Out Job Tasks in Status as a Suspect

A notary as a trusted public official whose deeds can be strong evidence when a legal dispute occurs in court. A Notary must uphold the dignity of his profession as a position of trust and carry out his duties appropriately and honestly, which means acting according to the truth in accordance with the oath of office notary. Notary is also a human being who is not immune from mistakes both intentionally and because of his negligence. No Notary is immune from the law. Deviations from authority and obligations carried out by a Notary, allow Notaries to deal with legal responsibility (legal responsibility) both civil responsibility, administrative responsibility and criminal responsibility.

A notary who is a suspect in a criminal case, who is legally not yet having a permanent legal force (*inkracht*) is considered incompetent to make a deed, because it will create a bad impression on the community towards the profession of Notary itself. Even though no court ruling has a permanent legal force, a Notary in the status of a suspect is temporarily not authorized to make a deed. This is to facilitate the judicial process and also as a form of protection for the Notary client in particular and the general public in general.

Notaries who are in the status of suspects are still allowed to make deeds, because someone who has just become a suspect is not necessarily guilty and we must also uphold the principle of the Presumption of Innocence, namely the presumption of innocence and the principle of legitimate presumption of the deed made by the Notary. Prior to the existence of a fixed decision from a court the Notary was not guilty and the status of the notary was still an active notary and the deed he made still had legal power over the parties mentioned in the deed.

In the event that a Notary as a suspect does not prevent the Notary from making a deed unless there is a ministerial decree to dismiss it. So a Notary is still authorized to make a deed if he is not on leave and not dismissed as a Notary.

Legal Protection Against Notaries As Public Officials Subject to Sanctions

Notary deed is one of the results of the implementation of the duty of a Notary in accordance with the authority given to the Notary. In the imposition of sanctions on a Notary, if it is a civil sanction due to a Notary deed that has the power of proof as a deed under the deed and deed of Notary null and void is a sanction relating to the product of a Notary submitted by the party or the person whose name is in the deed or experts his inheritance. The sanction was imposed because the Notary violated the provisions in Article 84 of the UUJN. Administrative sanctions imposed by the Supervisory Board because the Notary violates certain provisions mentioned in Article 85 UUJN.

Notary deeds cannot be assessed or stated directly unilaterally to have the power of proof as a deed under hand or null and void by the parties whose names are recorded in the deed or by other people with an interest in the deed. The Notary Deed has the power of proof as a deed under hand or null and void, because it violates certain provisions mentioned in Article 84 of the UUJN.

Evaluation of such deeds cannot be carried out by the Supervisory Board, Notary, or the parties whose names are in the deed or other parties, but the assessment of Notary deeds has the power of proof as a deed under the law and null and void must go through a court procedure to prove , whether the Notary deed violates the provisions in Article 84 UUJN or not. Thus the Supervisory Board does not have the authority to carry out the contents of Article 84 of the UUJN.

The parties or viewers who judge or consider or know that the Notary deed has violated the provisions in Article 84 of the UUJN, the parties providing such assessments must be able to prove it through a court process (claim) and request reimbursement of costs, compensation, and interest in order to prove its judgment, by showing which provisions or articles are violated by the Notary.

In Article 1865 of the Civil Code, it is expressly stated that every person who claims to have a right, or designates an event to confirm his rights or to deny the rights of another person, must prove the existence of that right or the incident stated. For this claim, if the plaintiff can prove his claim and the court decides that the deed concerned does not have the power of proof as a deed under hand or null and void, then the judge imposes compensation to the Notary to pay the plaintiff. In this lawsuit, all levels of justice can be taken by a Notary, until there is a breakdown that has definite legal force.

Such a procedure must be carried out so that a unilateral assessment of a Notary deed does not occur, because the Notary deed has perfect proof power, which can be assessed from the outward, formal and material aspects. Notary in making a deed at the request of the parties based on the procedure or procedure in making a Notary deed. When the viewers assume that something is not true of the deed, and suffer losses as a direct result of the deed, then the party concerned must sue the Notary and must prove that the Notary deed does not fulfill the outward, formal and material aspects and proves its loss. In other words, the assessment of a Notary deed has the power of proof as a deed under the hand or null and void of not only one party, but must be done by or through and proven in court.

In the case of a court deciding a deed has the power of proof as a deed under hand or null and void by law, then the court ruling Notary is demanded for fees, compensation, and interest. On the contrary, it turns out that the claim was not proven or rejected, then the Notary concerned could file a lawsuit against them or the party who had sued him. This is an attempt to defend the rights and obligations of the Notary in carrying out his / her duties, relating to the deed made before or by a Notary. Furthermore, the Regional Supervisory Board and the Central Supervisory Board can impose administrative sanctions on Notaries according to their authority.

Both sanctions for verbal reprimand and written reprimand from the Regional Supervisory Board, and sanctions for temporary termination of office by the Central Supervisory Board. MPW can only impose sanctions in the form of sanctions in the form of oral or written warnings, and sanctions like this are final (Article 73 paragraph (1) letter e and paragraph (2) UUJN). MPP can only sanction temporary dismissals (Article 77 letter c UUJN). Thus the sanctions are the authority of MPW and MPD.

As described above, the Notary Supervisory Board can form an Examining Board with the authority to examine receiving reports received from the public or from fellow Notaries. In Article 31 paragraph (1) and (2) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004, it was found that the Notary Examination Board (Region and Center) was formed by the Notary Supervisory Board (Region and the Center), if the examination of a Notary is proven that the person concerned violates the implementation of the duties of the Notary office and the Notary Code of Ethics, the Regional or Central Examination Board may impose sanctions, in the form of verbal reprimand and written reprimand, temporary stop, respect and dismissal with disrespect. The authority to impose certain sanctions is only in MPW based on UUJN, but on the other hand the Examination Board (Regional and Central) is also authorized to impose administrative sanctions as mentioned above.

According to Article 33 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004, that a Notary who is sanctioned by the Regional Audit Board may appeal to MPP. The decision of the Central Examination Board is final and has binding legal force, except for the discontinuation of the proposal to impose sanctions in the form of disrespectful dismissal of the Minister (Article 35 paragraph (2) Regulation of the Minister of Law and Human Rights Republic of Indonesia Number M.02.PR.08.10Tahun 2004). The decision of the Central Audit Board was reported to MPP to be forwarded to the Minister (Article 35 paragraph (3) and (4) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 Year 2004).

The regulation of administrative sanctions is synchronized between the regulation of administrative sanctions listed in the UUJN and the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004, in terms of authority. According to Article 73 paragraph (1) letter e and paragraph (2) of UUJN, MPW's authority can only sanction oral warnings and written warnings.

Sanctions like this are final, meaning that there are no other legal remedies, and MPP can only impose sanctions in the form of a temporary dismissal from his position (Article 77 letter c UUJN). Thus, the authority to impose sanctions as mentioned above only exists in MPW and MPP, but it turns out that in Article 31

paragraph (1) and (2) the Ministerial Regulation also states that the Examining Board (Region and Center) can result in sanctions in the form of : verbal reprimand and written reprimand, temporary dismissal, dismissal with respect and disrespectful dismissal.

Thus, the Examining Board can impose broader sanctions than the sanctions that can be imposed by MPW and MPP to the Notary, so that there are two agencies that can impose sanctions on Notaries, namely MPW and MPP or the regional examining panel and the central examining panel. The substance of the ministerial regulation above is not appropriate to be implemented because it confuses MPW's authority and the Regional Examining Council and the Central Examining Council in imposing sanctions, so that what remains to be used as a guideline is a higher rule of law, UUJN.

The main agency for imposing sanctions on Notaries is the Notary Supervisory Board, while the Examining Team and the Examining Board are internal parts made by the Supervisory Board with certain authorities that remain under the control of the Supervisory Board. Therefore, the Examining Board should only be authorized to receive reports received from the public or from fellow Notaries, conduct open checks and hearings, and if according to the results of the examination by the Examining Board it is proven that the Notary concerned has committed a violation in carrying out the duties of the Notary, then The Examining Board reported it to the Supervisory Board, and was accompanied by a proposal to impose certain sanctions on the Notary concerned.

The sanctions imposed by the Supervisory Board, the Notary were given the opportunity to file an objection to the Supervisory Board who sanctioned him. If they are dissatisfied, they can appeal to the higher supervisory board. A claim to a state administrative court can also be carried out if the decision of the Supervisory Board is still unsatisfactory.

In an ideal level, that all levels of the Supervisory Board have the authority to impose sanctions in the form of verbal reprimand, written warning, temporary dismissal, and sanctions for termination with respect and disrespectful dismissal. For all forms of sanctions, an objection can be submitted to the agency that imposes the sanction and if it is dissatisfied, it can appeal to higher authorities in this matter MPW and continue to MPP.

If all of these procedures have been fulfilled but still not satisfying the concerned Notary, then the Notary may file a claim to the State Administrative Court to sue MPP's decision. In this case, it must be determined that during the examination in the state administrative court, for the time being the Notary cannot carry out his position as a Notary until a court decision has permanent legal force.

Arranging sanctions imposed by the Notary Supervisory Board there is no chance to make legal remedies as mentioned above. If such an opportunity is not regulated or does not exist, then the legal remedy can be taken with a claim directly to the State Business Court.

Furthermore, the Regional Supervisory Board (MPD) has special authority not possessed by MPW and MPP, namely as stated in Article 66 of the UUJN, that the MPD has the authority to examine Notaries in connection with requests from investigators, public prosecutors or judges to take copies of Minutes or Letters - Other letters attached to minuta or in the Notary protocol in the storage of Notaries, also the calling of a Notary relating to the deed made or in the Notary protocol that is in the storage of the Notary. The final results of the MPD examination as outlined in the form of a Decree, can provide approval or reject the request of the investigator, public prosecutor or judge.

In Article 6 of the Regulation of the Minister of Law and Human Rights Number: M.03.HT.03.10 of 2007 concerning the Taking of Minutes of Deed and Calling of Notaries, it is affirmed that the Regional Supervisory Board (MPD) is obliged to give consent or not give written consent in the longest period of time 14 (fourteen) days from receipt of the application letter, and if within 14 (fourteen) days no MPD decree is exceeded.

Notaries receive proportional protection when carrying out their assignments as Notaries, one of which is based on the provisions or mechanism of implementation of Article 66 of the UUJN conducted by MPD. On the other hand also hopes that there will be a fair, transparent, ethical and scientific process when the MPD examines the Notary at the request of other parties (police, prosecutors, court). However, this is very difficult to implement because the MPD members consist of different elements, namely 3 (three) Notaries, 3 (three) academics, and 3 (three) bureaucrats (Article 67 paragraph (3) UUJN, who depart from different backgrounds, so different perceptions can occur when examining the Notary.

In the MPD examination it cannot distinguish between Notaries as objects and deeds as objects. If MPD places a Notary as an object, then MPD means that it will examine the actions or actions of the Notary in carrying out his office duties, which in the end will lead Notaries to qualifications participating or assisting in the occurrence of a criminal act. Of course this kind of action cannot be justified, because a matter that is very deviant for a Notary in carrying out his duty to participate or help do or suggest in a deed for the occurrence of a criminal act with the parties / viewers.

In this connection, there is no legal rule that justifies MPD taking action and conclusions that can qualify Notaries to participate or help commit a crime together with the parties / viewers, MPD is not a breaker agency to determine a Notary in such qualifications.

MPD must place the Notary deed as an object, because the Notary in carrying out his duty is related to making a legal document, in the form of a deed as the basis of written evidence within the scope of civil law, so that the deed must be assessed based on legal rules relating to the deed. If there are proven violations, sanctions will be imposed as stated in Article 84 and 85 UUJN.

IV. CONCLUSION

The status of a Notary as a suspect does not prevent the Notary from making a deed unless there is a ministerial decree to dismiss it. So a Notary is still authorized to make a deed if he is not on leave and not dismissed as a Notary. In carrying out its duties, the notary receives proportional protection when carrying out office duties as a Notary, one of which is based on the provisions or mechanism of implementation of Article 66 of the Notary Law conducted by MPD. On the other hand also hopes that there will be a fair, transparent, ethical and scientific process when the MPD examines the Notary at the request of another party.

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