
ANALYSIS OF THE APPLICATION OF SANCTIONS AGAINST NOTARIES WHO FORGERY DEEDS OF TRANSFERRING LAND RIGHTS (STUDY OF SUPREME COURT DECISION NUMBER 139 K/PID/2016)

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ABSTRACT

KEYWORDS

Sanctions, Notary, Forgery of Deed of Transfer of Land Rights

The Law on the Position of Notaries does not regulate the existence of criminal sanctions for the actions of notaries. This does not absolve the notary from criminal liability. Notaries can be held criminally liable if their actions contain a criminal element, where the relevant Notary can be summoned by the Notary Honorary Council. The problem is how to apply legal sanctions to a notary who falsifies the deed transferring land rights in Supreme Court Decision Number 139 k/PID/2016? And what is the responsibility of the Notary who falsified the deed of transferring land rights in Supreme Court Decision Number 139 K/PID/2016? The research method used is normative juridical. The results of the research are that the Notary concerned cannot be held responsible when elements of fraud and error are committed by the parties, because the Notary only records what is conveyed by the parties to be included in the deed, this is often known as *partij deed*. False information submitted by the parties is the responsibility of the parties. This means that a notary is only responsible if the fraud originates from the wishes and/or desires of a notary. In the UUJN which regulates sanctions for violations committed by a notary, the deed made by a notary does not have the power of an authentic deed but only has the power of a private deed. In relation to the actions of notaries who commit criminal acts of forgery of deeds or criminal acts of false statements committed by parties, the UUJN does not specifically regulate criminal provisions because they are based on the principle of legality which are the principles in the Criminal Code.

INTRODUCTION

In general, humans are recognized as social beings, where in every life they lead, they will need the presence of others to interact, starting from the moment they are born into the world until ultimately returning to the divine. During their life journey, humans are also inseparable from the existence of law. "Ubi societas ibi ius," as stated by the famous philosopher from Rome, Cicero. Ubi Societas Ibi Ius translates to "Where there is society, there is law" in Indonesian. Law exists to regulate human behavior (Mertokusumo, 2008).

The relationships between individuals are also governed by the law, such as in agreements like marriage contracts, employment contracts, lease agreements, and other contracts formed based on the law (Mertokusumo, 2008). Article 1313 of the Civil Procedure Code (hereafter referred to as KUHPER) explains that "An agreement is an act by which one or more persons bind themselves to one or more other persons." (Subekti & Tjitrosudibio, 2003)

This provision is a reference and requirement for parties to make a valid agreement, as stipulated in Article 1320 of KUHPER. During the agreement's execution, the parties will

produce evidence to demonstrate the validity of the agreement by using a deed (Anand, 2018). For parties wishing to enter into an agreement, they can freely choose the form of the deed they want to create. There are two forms of deeds: authentic deeds and private deeds. Both types of deeds have differences that impact the stages of their formation. An authentic deed is made in the presence of an authorized officer who has the right to create such a deed. On the other hand, a private deed is created by the parties involved without involving an authorized officer (Naja, 2012).

Another difference lies in the legal strength concerning proof in a court of law. An authentic deed carries strong legal evidence, while a private deed lacks perfect evidentiary power, making it easier to challenge by one of the parties (Anshori, 2009). Hence, it's necessary to involve a public officer or an authorized institution to create an authentic deed, and this is where the notarial institution comes into play.

The notarial institution, represented by a "Notary," emerged from the need in human interactions, desiring legal proof in their civil law relations. A Notary is a public officer authorized to create authentic deeds or transcripts and other powers (Article 1 paragraph (1) of Law Number 2 of 2014 concerning Notary Positions, hereafter referred to as UUJN). The Notary's role is significant in ensuring legal certainty and protection for the parties involved in an agreement, and they are appointed by the Minister. Before assuming their position, a Notary must take an oath according to their faith in front of the Minister, which mandates them to abide by the laws governing the Notary position.

Notaries play a significant role in creating authentic deeds or transcript deeds. Every deed issued by a Notary follows legal regulations (Anshori, 2009). A Notary cannot independently determine the form and content of an authentic deed, ensuring certainty, order, and legal protection for the parties. As an instrument whose form and content are determined by the law, a Notary must draft deeds in compliance with the requirements stipulated by the law (Adjie, 2011).

Considering a Notary is entrusted with the power and mandate to declare the existence of a legal relationship between the parties or to record a legal event in a deed, they bear significant responsibility for the deeds they issue. In their work, Notaries are expected to adhere to the Professional Code of Ethics, ensuring correctness, diligence, and avoiding negligence or deliberate misconduct. Thus, the authentic deed can provide legal protection and certainty to the parties involved (Gunadi & Efendi, 2016).

The Law concerning Notarial Positions regulates the acts of a Notary. If a Notary violates the regulations, they could face civil penalties such as cost reimbursement or compensation due to an inadequately prepared deed, administrative sanctions like warnings or dismissal, and ethical sanctions imposed by the Notary Supervisory Council. While the Law concerning Notarial Positions does not explicitly regulate criminal sanctions for a Notary's actions, it doesn't absolve a Notary from criminal liability. If a Notary's actions involve criminal elements, they can be held accountable and called upon by the Notary Honorary Council. Sanctions set by laws and regulations illustrate that a Notary is not immune to the law (Darus, 2017).

Criminal punishment is often a subject of public debate in the context of criminal law. The severity of punishments can vary significantly compared to the committed offenses (Kanter, 2001). Judges, based on inquisitorial law, decide and impose sentences considering legal aspects and social considerations. In relation to the previously discussed aspects, the author is interested in examining a case involving a Notary who breached professional ethics by fabricating a deed regarding the transfer of land rights due to a dispute with their neighbor, Mardiana Oemar (Sulihandari & Rifiani, 2013).

The case involves the defendant, Hendri, S.H., M.Kn., a Notary, in the wrongful takeover of a 600-square-meter land parcel. The defendant forged a document, seeking an employee in his office to create a document for the transfer of land rights. Furthermore, the defendant also asked another fellow Notary, purportedly Henny, S.H., M.Kn., to sign the forged document and registered it as an official transaction. This transaction, seemingly between the parents of the victim and the defendant's father, was valued at Rp. 20,000,000.00 (Twenty million Rupiah) and was signed by Henny, S.H., M.Kn. As a result, Mardiana Oemar, the victim, experienced a loss of Rp. 700,000,000.00 (Seven hundred million Rupiah) due to the defendant's land encroachment.

Consequently, the defendant was sentenced by the Palembang District Court to one year of imprisonment. However, the defendant Hendri didn't have to serve the prison term unless within one year and six months, they received a legally binding sentence. At the Palembang High Court level, the judge found the defendant's actions to be unlawful and reduced the prison sentence to one year and six months, to be served in state detention (RUTAN). The Supreme Court upheld this decision, finding that the lower court judge did not err in their judgment (Lumbuan Tobing, 1999).

This incident contradicts the ethical obligations that a Notary should uphold, namely honesty and fairness. The case began when the defendant, Hendri, S.H., M.Kn., a Notary domiciled in Palembang, became involved in a dispute over a 600-square-meter land with the victim, Mardiana Oemar. In light of the aforementioned discussions, the author aims to address a thesis proposal titled: "Analysis of The Application of Sanctions on a Notary Falsifying a Land Rights Transfer Deed (Study On Supreme Court Decision Number 139 K/Pid/2016)."

Based on the background discussion above, the Problem Identification in this study is 1. How is the application of legal sanctions against a notary who forges a deed of passing land rights in Supreme Court Decision Number 139 k / PID / 2016? 2. What is the responsibility of Notaries who commit forgery of land rights deed in Supreme Court Decision Number 139 K / PID / 2016? And the purpose of this study is to explain and know 1. Application of sanctions in the case of forgery of land rights deed of operant in Supreme Court Decision Number 139 k / PID / 2016. 2. Responsibility of Notaries who forged land rights deeds in Supreme Court Decision Number 139 k / PID / 2016.

RESEARCH METHOD

The method in this study focuses on collecting, processing, analyzing, and concluding data in accordance with the legal issues studied. Peter Mahmud Marzuki defines legal research as an attempt to discover the truth of the relationship between the rule of law, legal norms, legal principles, and relevant individual behavior.

This research uses qualitative methods, which emphasize a deep understanding of legal issues. This research covers the issue of decision-making procedures that are considered unfair, which also considers the judge's reasons in his decision. This research focuses on the application of legal sanctions for violations of notary law, to obtain legal certainty, accuracy, and accountability of notaries in carrying out their duties (Fajar & Achmad, 2019).

Data sources consist of primary legal material (laws and judges' decisions) and secondary legal material (legal doctrine from books, journals, and the internet). Non-legal data is obtained through interviews with related parties. Qualitative analysis methods are used to explore and structure data from existing sources. This data analysis was conducted before, during, and after the study, focusing on deciphering, understanding, and concluding the research data for appropriate conclusions. The research focused on understanding the obligations and prohibitions of notaries in accordance with the Notary Position Law and the Notary

Professional Code of Ethics, as well as the application of appropriate sanctions to the cases studied, with the aim of achieving fairness in legal proceedings.

RESULTS AND DISCUSSION

A. Research Analysis Results

In this study will discuss decision number 139 K / PID / 2016. In this judgment Defendant Hendri, S.H., M.Kn.bin M. Usman on Saturday, February 27, 2010 at approximately 10.15 WIB or at least at another time in 2010 at the Notary Office of Henny Meikarinda, SH, M.Kn. Jalan Kamil No. 1041 RT. 020 RW. 003 Sukabangun Village, Sukarami District, Palembang or at least in a place that is still included in the jurisdiction of the Palembang District Court, ordered to insert false information into an authentic deed about a matter whose truth must be stated by the deed, with the intention of using a deed as if the description were in accordance with its truth. Which act was committed by the Defendant in the following manner:

Starting from the Defendant who works as a Notary in Palembang City will make a deed of passing land rights covering an area of approximately 600 m² claiming that his property comes from the inheritance of his parents M. Usman A. Gani located on Jalan Pipa Reja, Pipa Reja Village, Kemuning District, Palembang, then the Defendant when he was in his office told Septiana Freedom Yani, one of the Defendant's employees, to type the Deed of Passing Rights to the piece of land with an explanation, among others, that: there has been a rights transfer from witness Kasiem Binti Ahmad Syarbini as the first party (seller) to M. Usman A. Gani as the second party (buyer) with a price payment of Rp20,000,000.00 (twenty million rupiah) witnessed by witnesses Deddi Kurniawan Bin Aswan Nyoto and Septiana Freedom Yani and explained that the parties had faced Notary Henny Meikarinda, S.H. M.Kn., The deed with Deed Header is written from Notary Henny Meikarinda, S.H., M.Kn. after the deed was completed the Defendant asked witness Deddi Kurniawan Bin Aswan Nyoto to meet witness Henny Meikarinda, S.H., M.Kn. Binti H. Asli Amardi, S.H. at his office by bringing the deed of operation of rights that had been made at Jalan Kamil No. 1041 RT. 020 RW. 003 Sukabangun Village, Sukarami District, Palembang and witness Deddi Kurniawan Bin Aswan Nyoto met directly with witness Henny Meikarinda, S.H., M.Kn. binti H. Asli Amardi, S.H. by submitting the deed document; - That between the Defendant and witness Henny Meikarinda, S.H., M.Kn. Binti H. Asli Amardi, S.H. an agreement was reached in which the Defendant instructed witness Henny Meikarinda, S.H., M.Kn. Binti H. Asli Amardi, S.H. to make or sign the Deed of Passing Rights requested by the Defendant and by witness Henny Maikarinda, S.H., M.Kn. Binti H. Asli Amardi, S.H. was registered in register book No. 04 dated February 27, 2010.

The preparation of Deed of Passing Rights Number 04 dated February 27, 2010 made at the Notary Office of Henny Maikarinda, S.H. M.Kn. is in fact not in accordance with the actual facts of the incident because it was not carried out at the Notary Office of Henny Meikarinda, S.H., M.Kn. including:

1. Witness Kasiem Bint Ahmad Syarbini as the first party (seller) to M. Usman A. Gani as the second party (buyer) never came to the office or faced;
2. There has never been a sale and purchase transaction worth IDR 20,000,000.00;
3. The signing of the Minuta was not done in his presence;
4. The witnesses, namely witnesses Deddi Kurniawan Bin Aswan Nyoto and Septiana Freedom Yani are employees of the Defendant's office who should be witnesses are employees of Notary Henny Meikarinda, S.H., M.Kn.; However, witness Henny

Meikarinda, S.H., M.Kn. Binti H. Asli Amardi, S.H. still signed it and registered it in the register book in his office because it was at the request of the Defendant.

The Deed of Passing Rights Number 04 dated February 27, 2010 has been used by the Defendant as proof of ownership or control over the piece of land in question and the Defendant has registered it at the Office of the National Land Agency (BPN) Palembang city, but the Defendant's application was rejected because on the piece of land there was a Certificate of Ownership in the name of Mardiana Oemar Number 895 with Measuring Letter Number 103 / Pipa Reja / 2013 dated December 13, 2013.

Even though the Defendant works as a Notary and has known that the piece of land has an owner and has been issued a certificate in the name of Mardiana Oemar from the Office of the National Land Agency (BPN) Palembang City, the Defendant still controls the land on the basis of ownership of Deed of Passing Rights Number 04 dated February 27, 2010. The defendant's actions have cost the witness Hj. Mardiana S. Binti Saidina Oemar Rp700,000,000.00 (seven hundred million rupiah) or at least more than Rp250.00 (two hundred and fifty rupiah). The actions of the defendants in the first indictment, namely Hendri, S.H., M.Kn. Bin M. Usman as regulated and threatened with crime in Article 266 Paragraph (1) of the Penal Code. In the second indictment of the Acts of Defendants Hendri, S.H., M.Kn. Bin M. Usman as regulated and threatened with crime in Article 264 Paragraph (1) of the Penal Code juncto Article 55 Paragraph (1) 1st of the Penal Code and in the indictment of the acts of Defendants Hendri, S.H., M.Kn. Bin M. Usman as regulated and threatened with crime in Article 385 Paragraph (1) of the Penal Code.

The Supreme Court read the criminal complaint of the Public Prosecutor to the Palembang District Attorney on May 25, 2015 as follows:

1. Declaring that the Defendant Hendri, S.H., M.Kn. Bin M. Usman has been validly proven guilty of committing the crime of "Mail forgery" as stipulated and threatened with crime in Article 266 paragraph (1) of the Indonesian Civil Code in the First Indictment;
2. Imposing a prison sentence therefore against the Defendant for 2 (two) years reduced while the Defendant is in temporary detention with an order that the Defendant be detained in the State Detention Center (Rutan);
3. State evidence in the form of:
 - 1 (one) legalized copy of the deed of passing rights of Notary Henny Meikarinda, S.H., M.Kn. dated February 27, 2010;
 - Remain attached to the case file;
 - Charge the Defendant with a case fee of Rp2,000.00 (two thousand rupiah).

Read the decision of the Palembang District Court Number 135 / Pid.B / 2015 / PN.Plg. dated May 27, 2015 which is complete as follows:

1. Declaring Defendants Hendri, S.H., M.Kn. Bin M. Usman legally and conclusively guilty of committing the crime of "jointly forging authentic certificates";
2. Sentenced Defendant Hendri, S.H., M.Kn. Bin M. Usman to 1 (one) year imprisonment;
3. Stipulate that the sentence does not need to be served by the Defendant unless before the expiry of 1 (one) year and 6 (six) months the Defendant has also been sentenced based on the decision of the Judge who has permanent legal force for committing a criminal act;
4. State evidence in the form of: Photocopy of Notarial Rights Passing Deed Henny Meikarinda, S.H., M.Kn. No. 4 dated February 27, 2010, remains attached to the case file;

5. Charge the Defendant to pay the cost of the case in the amount of Rp5,000.00 (five thousand rupiah);

Reading the decision of the Palembang High Court Number 85 / PID / 2015 / PT. PLG. dated September 10, 2015 which is complete as follows:

1. Declaring Defendant Hendri, S.H., M.Kn. Bin M. Usman legally and conclusively guilty of committing the crime of "Jointly forging an Authentic Deed";
2. Sentenced Defendant Hendri, S.H., M.Kn. Bin M. Usman in the form of imprisonment for 1 (one) year imprisonment;
3. Order that the Defendant be detained;
4. State evidence in the form of: Photocopy of the deed of passing rights of Notary Henny Meikarinda, S.H., M.Kn. No. 4 dated February 27, 2010 remains attached to the case file;
5. Charge the Defendant to pay the costs of the case in both levels of court which in the appeal level is Rp. 5,000.00 (five thousand rupiah).

Recalling the deed regarding cassation application No. 31/Akta.Pid/2015/PN.Plg. made by the Registrar at the Palembang District Court which explained, that on October 20, 2015 Defendant Hendri, S.H., M.Kn. Bin M. Usman filed a cassation application against the Palembang High Court decision. Taking into account the memory of cassation dated October 22, 2015 from the Defendant as a Cassation Applicant received at the Registrar of the Palembang District Court on October 27, 2015.

Read the letters in question. The decision of the Palembang High Court was notified to the Defendant on October 8, 2015 and the Defendant filed a cassation application on October 20, 2015 and the memory of his cassation has been received at the Palembang District Court Registrar on October 27, 2015, thus the cassation application along with its reasons has been submitted within the grace period and in a statutory manner, Therefore the application for cassation is formally acceptable.

Considering, that the reasons for the cassation application filed by the Cassation Applicant/Defendant are essentially as follows:

1. The Palembang High Court, which heard and decided criminal case No. 85/Pid/2015/PT.Plg. has erred in applying the law, at least not applying the law properly therefore the decision of the Palembang High Court No. 85/Pid/2015/PT.Plg. dated September 10, 2015 which was requested for cassation must be annulled;
2. The dictum of Palembang High Court decision No. 85/Pid/2015/PT.Plg. dated September 10, 2015 No. 1 reads: "Declaring Defendant Hendri, S.H., M.Kn. Bin M. Usman legally and conclusively guilty of committing the crime of "jointly forging authentic deeds";

This decision is an incorrect verdict because the word "together" means that the crime was committed by more than 1 (one) person, while in this case only the Cassation Applicant himself was tried, there were no other defendants. Nor is it mentioned together with whom the Cassation Petitioner committed, if the trial is separate or the file is separate should be mentioned in the indictment or indictment, it turns out that it is not mentioned by the Public Prosecutor at all. So actually the Prosecutor's indictment is legally flawed, it should have been rejected;

3. The panel of judges of the Palembang High Court, who heard and tried case No. 85/Pid/2015/PT.Plg. has increased the sentence of the Defendant/Cassation Applicant from suspended sentence to imprisonment without giving the legal basis, why the sentence was aggravated. In other words, the panel of judges of the Palembang High Court who examined and tried case No. 85/Pid/2015/PT.Plg. did not give sufficient consideration (*Divendunde gemetiveer*).

According to the permanent jurisprudence of the Supreme Court of the Republic of Indonesia, a Court decision that is not sufficiently considered or the Panel of Judges does not give sufficient consideration, then the decision must be annulled.

The reasons for the appeal of the Cassation Petitioner/Defendant are of the opinion of the Supreme Court:

The reason for the cassation application from the Cassation Applicant / Defendant cannot be justified, because the *Judex Facti* / High Court decision which corrects only the length of the crime imposed in the *Judex Facti* / District Court decision is that the Defendant was sentenced to imprisonment for 1 (one) year, which previously in the *Judex Facti* / District Court decision was sentenced to parole in the form of imprisonment for 1 (one) year provided that the sentence does not need to be served unless it was before the past within 1 (one) year and 6 (six) months the Defendant has been convicted based on the decision of the Judge who has permanent legal force for committing a criminal act, is a decision that does not misapply the law that has considered precisely and correctly the juridically relevant legal facts as revealed in the trial, namely the Defendant is legally and conclusively proven guilty of committing a criminal act: "Jointly forged an authentic certificate", violating Article 264 paragraph (1) of the Penal Code juncto Article 55 paragraph (1) 1st of the Penal Code according to the charges of the Two Public Prosecutors, as well as the *Judex Facti*/High Court adequately considered the grounds for the criminal conviction of the above Defendant in accordance with Article 197 Paragraph (1) letter (f) of Law Number 8 of 1981.

The reason for the application for cassation cannot be justified also because with regard to the length of the sentence imposed against the Defendant, in addition to having given sufficient consideration to the basis of the reasons for the conviction in the *Judex Facti* / High Court decision, it is also the authority of *Judex Facti* whose examination is not subject to the level of cassation.

Based on the above considerations, it is also evident that the *Judex Facti* decision in this case is not contrary to the law and/or the law, then the cassation application from the Cassation Applicant/Defendant must be rejected. Since the appeal of the Cassation Applicant/Defendant is rejected and the Defendant is convicted, the Defendant must be burdened to pay the costs of the case at this level of cassation.

Taking into account Article 264 Paragraph (1) juncto Article 55 Paragraph (1) 1st of the Penal Code, Law Number 8 of 1981, Law Number 48 of 2009, and Law Number 14 of 1985 as amended and supplemented by Law Number 5 of 2004 and the second amendment by Law Number 3 of 2009, as well as other relevant laws and regulations.

The verdict is to reject the cassation application from the Cassation Applicant/Defendant HENDRI, S.H., M.Kn., Bin M. USMAN.

B. Discussion

1. Application of legal sanctions against a notary who forged a deed of transfer of land rights in Supreme Court Decision Number 139 K / PID / 2016

The application of legal sanctions against a Notary who forges a deed of passing land rights, as stipulated in Supreme Court Decision Number 139 k / PID / 2016, is closely related to legal principles that mandate certainty, order, and legal protection with authentic written evidence. Notaries, as general officials in providing legal services, have an important role in civil law. Through authentic deeds, Notaries provide legal support to the community.

Notaries are required to carry out their duties and obligations in accordance with applicable legislation. In Article 16 paragraph (1) letter (a) of UUJN, Notaries must act trustfully, maintain honesty, and protect the interests of parties involved in legal actions. Any

act of violation or action that violates the Notary code of ethics is subject to administrative sanctions in accordance with the UUJN.

Violations committed by Notaries may result in administrative sanctions, such as verbal warnings, written warnings, suspension, honorable dismissal, or dishonorable dismissal. However, in situations where Notaries refuse to make deeds without a clear reason, the sanctions imposed still depend on regulations that have not expressly regulated the type and form of Notary refusal in making deeds and corresponding sanctions.

In certain cases, the Notary's refusal to make an authentic deed without a reason justified by law may harm society. People who need an authentic deed can feel hampered because they have to find another Notary who is willing to make a deed, which in turn can have an impact on time, energy, and costs. The presence of the Regional Supervisory Panel is important in handling reports or allegations of Notary violations.

A special case related to forgery of a deed of passing land rights shows the legal consequences of the actions of Notaries who commit forgery in authentic deeds. Law enforcement related to this case reflects legal considerations involving the validity of written evidence, the credibility of the Notary, and the legal responsibilities attached to the position.

Legal sanctions against a Notary who forges a deed of land rights transfer, as stipulated in Supreme Court Decision Number 139 k / PID / 2016, highlight legal principles that emphasize certainty, order, and legal protection using authentic written evidence. Notaries, as guardians of the validity of legal documents, have an important role in providing legal services to the public through authentic deeds.

Notaries are expected to carry out their duties in accordance with applicable regulations, especially in Article 16 paragraph (1) letter (a) of the UUJN which affirms the Notary's responsibility to act trustfully, honestly, and protect the interests of parties involved in legal transactions. Violations of the code of ethics or Notary regulations are subject to administrative sanctions regulated by UUJN.

Administrative sanctions for Notaries who violate the provisions may be in the form of oral, written warnings, temporary suspension, dismissal with or without honor. However, in situations where Notaries refuse to make deeds without a clear reason, the sanctions imposed still need further clarification, because legal regulations have not specifically regulated the type of Notary's refusal to make deeds and appropriate sanctions.

Notary Public's refusal to make an authentic deed without a reason justified by law can have an impact on people who need such legal documents. This can make it difficult for them to get legal services and can affect aspects of time, cost, and effort spent. The role of the Regional Supervisory Board is important in handling reports and alleged violations committed by Notaries.

The specific case involving the forgery of the deed of passing land title reflects the legal action against the Notary Public who committed forgery in the authentic deed. Such cases highlight the issue of authentic written evidence, the reputation of the Notary, as well as the legal responsibility attached to the office of Notary Public.

2. Responsibility of Notaries who Forged Deed of Passing Land Rights in Supreme Court Decision Number 139 K / PID / 2016)

The responsibility of a Notary engaged in falsifying a deed of transfer of land rights, as outlined in the Supreme Court Verdict Number 139 K/Pid/2016, is a legal issue emphasizing the notary's liability in the criminal legal process and the significance of authentic deeds in legal transactions. The Notary is accountable for the deed they have created in the event of disputes arising later, compelling the notary to provide testimony regarding the formal and

material aspects of the deed in legal proceedings. In the criminal legal process, the notary's responsibility is faced with strong legal evidence. According to Article 66 of the Notary Law (UUJN), investigators and prosecutors must seek permission from the Notary's Honorary Council before summoning a notary in an investigation process involving issues concerning deeds they created. This is intended to offer legal protection to the notary as a public official, especially if there's no initial evidence suggesting the notary's involvement in any criminal deed related to the deed they produced.

A notary is criminally responsible if, during the proof process, it is proven they committed an error or a criminal act. In criminal law, "error" consists of several elements, including the capacity to be responsible, intent or negligence, and the absence of excuses. Error can also refer to actions contrary to the law due to lack of knowledge, ignorance, or violation of existing rules. Regarding the act of forgery or false information in a deed involving a notary, the law does not specifically govern criminal sanctions. The Notary Law and notary's code of ethics focus on civil and administrative sanctions, not directly touching upon criminal responsibility regarding the deed the notary created. However, if proven involved in a criminal act, a notary can face sanctions under criminal law regulated in the Criminal Code (KUHP).

However, the notary is not responsible for fraud or mistakes made by other parties in deed creation. The notary merely records information presented by the involved parties, known as *partij akta*, so if false information is provided by the parties, their responsibility lies with those parties. The notary is only responsible if involved in that fraud or false information.

Legal accountability is governed by several principles in the law, including principles of responsibility based on error, presumption of always being responsible, presumption of not always being responsible, absolute responsibility, and responsibility with limitations. This relates to the principle of legal responsibility for a notary in creating a deed containing false information, which is the main subject of Supreme Court Verdict Number 139 K/Pid/2016. In this verdict, the defendant Hendri, S.H., M.Kn, son of M. Usman, is proven to have been engaged in the forgery of deeds collectively. This confirms that in cases of forged deeds, criminal sanctions can be applied if a notary is proven to be involved in a criminal act related to deed creation. The content you've shared is a text discussing the responsibility of a Notary engaged in falsifying a deed of transfer of land rights, with reference to the Supreme Court Verdict Number 139 K/Pid/2016. It illustrates the notary's accountability in the criminal legal process and the importance of authentic deeds in legal transactions. Please note that this text contains specific information detailing legal principles and the responsibilities of a notary in situations related to the falsification of deeds.

CONCLUSION

Based on the discussion above, the conclusions are as follows: 1. The application of legal sanctions against a notary who falsifies a deed of transfer of land rights in Supreme Court Verdict Number 139 K/PID/2016 indicates that the appeal grounds cannot be justified due to the length of the defendant's punishment. Moreover, sufficient consideration has been provided regarding the basis of the criminal sentence in the *Judex Facti*/High Court decision, which falls under the authority of the *Judex Facti* and is not subject to cassation. Considering the aforementioned considerations, the *Judex Facti*'s decision in this case does not contradict the law or regulations. Therefore, the appeal of cassation from the Appellant/Cassation Defendant should be dismissed. The verdict dictates rejecting the cassation appeal from the Appellant/Cassation Defendant HENDRI, S.H., M.Kn., Son of M. USMAN, and orders the defendant to pay the appeal costs at the cassation level amounting to Rp2,500,00 (two thousand five hundred Indonesian rupiah). 2. The accountability of a Notary involved in falsifying a deed of transfer of land rights in Supreme Court Verdict Number 139 K/PID/2016 can be observed

in that the Notary Law and the notary's code of ethics do not specify the notary's criminal responsibility for deeds they've produced if proven to violate criminal law. The Notary Law only regulates civil and administrative legal sanction provisions. However, "Notaries are criminally accountable if they are proven to commit a criminal act." Should a criminal violation be committed by a notary, they can face criminal sanctions under the Indonesian Criminal Code (KUHP). The notary cannot be held accountable when fraud and errors are committed by the appearing parties, as the notary merely records the information presented by the parties, known as *partij akta*. False information provided by the parties remains the responsibility of those parties. In essence, a notary is only accountable when fraud is sourced from the will and/or desire of a notary. Regarding the law regulating sanctions for a notary's violations, deeds created by a notary do not hold the power of an authentic deed but only hold the power of a private deed. Concerning a notary's criminal acts of falsifying deeds or false statements made by the parties, the Notary Law does not specifically regulate criminal provisions due to the principle of legality, a principle within the Indonesian Criminal Code. The Judge's panel, in its verdict, rejected the cassation appeal from the Appellant/Cassation Defendant HENDRI, S.H., M.Kn., Son of M. USMAN.

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