

Notary's Responsibility for Misdemeanors Made in Accordance with Law No. 30 of 2004

Enita Adyalaksmi¹, Evita Isretno Israhadi², Megawati Barthos³
{enitaadvokat@gmail.com¹, evita_isretno@borobudur.ac.id², megawati_barthos@borobudur.ac.id³}

Universitas Borobudur, Indonesia

Abstract. A legal official is a public authority designated by the Public authority to help the overall population in going with arrangements that exist or emerge locally. So, issues frequently emerge in making a notarial deed, so the legal official should be liable for the missteps made. The obligation and authorizations of a Legal official as a public authority on the off chance that he commits an error in making a deed he made in light of Regulation No. 30 of 2004 concerning the Place of a Legal official and on the off chance that a Public accountant Deed is offered in view of the expressions of the gatherings however ends up being incorrectly or wrong. Concerning the conversation of the issues, to be specific: the obligation of the Public accountant isn't managed in Regulation No. 30 of 2004 concerning the Public accountant Position however the obligation of the Legal official depends on the deed he made, in this manner the legal official will in general complete liability regarding the items in the deed to safeguard himself so others both the client/parties engaged with the deed and the legal official both get legitimate conviction so as not to endure misfortunes on the grounds that the legal official should do his position in view of the law while the lawful security of a legal official in Regulation No. 30 of 2004 concerning the place of a public accountant is safeguarded by the Administrative Board (District, Locale, Center) which comprises of Scholastics, Specialists, and Government. Public accountant legitimate security is likewise founded on the deed he made.

Keywords: Misdemeanors, notary's responsibility, law

1 Introduction

The legal official is a public authority named by the Public authority to help the overall population in going with arrangements that exist or emerge locally. The requirement for these composed arrangements to be made before a legal official is to ensure lawful sureness for the gatherings to the understanding.

Notary Position Regulations (PjN) is a regulation concerning Notary Positions in Indonesia which is a translation from Dutch, which in Article 1 contains the meaning of Notary, Public accountant is a public authority who is the simply approved to make genuine deeds with respect to all demonstrations, arrangements, and expectations made. expected by a common principle.[1]

As a public authority, a Legal official in doing his obligations is safeguarded by regulation. Under the watchful eye of the institution of Regulation No. 30 of 2004 (UUJN) concerning the

Place of a Legal official, the Demonstration that filled in as the juridical premise of a Legal official was the Public accountant Position Guideline (PJN) which was the consequence of legacy from the Dutch Frontier period. In the Public accountant Position Guidelines, it is directed, among others:[2]

- a. Who has the right to be appointed as a Notary;
- b. Rights and obligations;
- c. Working area;
- d. Method of making standard deed;
- e. Notary stamp, and others

Meanwhile, Law No. 30 of 2004 also regulates:

- a. Notary Organization;
- b. Supervisory Board;
- c. Institutions that appoint Notaries;
- d. Requirements to be appointed as a Notary, and others.

Contrasting PJN and UUJN, there are a few distinctions however they are reciprocal and stress the capabilities, privileges, and commitments of a Legal official and establishments that are straightforwardly connected with the presence of a Legal official as a public authority. The foundation of the Administrative Committee establishment, which is a body confided in by the public authority to screen and direct the action of these authorities, is a fascinating guideline found in UUJN. To prevent the emergence of elements of engineering and Corruption, Collusion, and Nepotism (KKN) within the Supervisory Board, the Supervisory Council is taken from several layers of the existing practitioner community, including Academics (for this situation in the field of Advanced education), Practitioners (in this case, in the field of Higher Education). these are Notaries), and the Government (for this situation the Service of Regulation and Basic freedoms). In this case, the Head of the local Regional Office and officials elected by the Chairperson of the Supervisory Council.[3]

Public accountants have liabilities that cover the fields of private regulation, charge regulation, and criminal regulation. Accountability in one legal area may exclude accountability in another legal area. Then again, activities that bring about claims in light of unlawful demonstrations (Article 1365 of the Crook Code) can prompt making a move in the field of criminal regulation. The Public accountant's liability chiefly lies in the field of private regulation. As we have seen, PJN undermines with fines, verbal admonitions, composed alerts, brief excusal (Articles 50 and 51 of the PJN), and furthermore the excusal of a few infringement committed by Public accountants in doing their positions.[4]

In light of the hypothetical and functional perspectives, basically in doing his situation, what a Legal official should have is the part of reasonability, exactness, and genuineness which are outright things in completing the Public accountant's situation. Assuming this stage is overlooked during the production of a deed, it might result either straightforwardly or in a roundabout way in a demonstration that should be revealed authoritatively (Article 85 UUJN), as well as acts that are remembered for criminal demonstrations (Article 84 UUJN) and common violations. Where the obligation of a Legal official in the lawbreaker field from the part of legal practice basically incorporates 3 (three) obligations, to be specific responsibility as a litigant, responsibility as an observer, and responsibility as a specialist as far as master declaration, specifically about the secrecy of a deed that can't be unveiled in court. the Public accountant ought to request to be set free from giving data in regards to the secrecy from the deed in view of the arrangements of Article 170 of the Criminal Technique Code.

2 Methodology

The review utilizes a standardizing or humanistic juridical methodology technique on the grounds that the review uses genuine practice as proof to uphold it notwithstanding legitimate and administrative material accumulated in libraries.[3] In addition, in this study, primary data sources are also used as supporting data in finding problems to be investigated relating to the accountability of Notaries based on Law No. 30 of 2004 concerning Notary Positions.

In this study the types of data include:

- a. Essential Information, specifically the wellspring of information acquired by leading direct meetings as questions and replies to capable gatherings to the issues talked about in this proposition.
- b. Auxiliary Information, in particular information sources acquired from existing library materials, which incorporate writing, logical works from specialists, and others that the writer can gather in finishing this proposal.
- c. Tertiary data, namely data sources obtained from library materials such as existing dictionaries, merely serve as more information or to strengthen this thesis.

Nonetheless, this study puts more accentuation on auxiliary information. Essential information is more steady of the information sources utilized, comprising of essential, auxiliary, and tertiary legitimate materials. In standardizing legitimate examination, auxiliary information as sources/materials of data can lawful materials comprise of:

- a. Primary legal materials
 - Law No. 30 of 2004 concerning the Position of a Notary (UUJN)
 - Notary Position Regulations (PJN)
- b. Secondary Legal Materials
 - Guideline of the Priest of Regulation and Common liberties of the Republic of Indonesia Number: M.02.PR.08.10 of 2004 concerning Systems for Arrangement of Individuals, Excusal of Individuals, Authoritative Design, Work Techniques, and Strategies for Assessment of the Provincial Administrative Gathering.
 - Monthly News Journal/Magazine Notary News/PPAT “RENVOI” published by PT.Jurnal Renvoi Mediatama.
 - Quarterly Magazine of the Indonesian Notary Association, the Information and Communication Forum “Media Notariat”.
- c. Tertiary Legal Materials
 - Legal Dictionaries
 - Modern Indonesian Dictionary
 - Complete English-Indonesian Dictionary

3 Result and Discussion

Functions and Authorities of a Notary

Article 15 of the UUJN has clarified the power of a Public accountant for make a credible deed with regards to deeds, arrangements, and arrangements expected by regulations and guidelines.

As per Habib Adjie Public accountant/PPAT in the city of Surabaya expressed, "Public accountant as a position (not a calling or calling), and any situation in this nation has its power.

Every authority must have a law. If we talk about authority, then the authority of any office must be clear and firm in the laws and regulations governing the official or position. So that if an official commits an act outside his authority, it is called an unlawful act".[5]

A Legal official's power includes the obligations of a place that is the fundamental errand of a Legal official, specifically the foundation of a genuine deed (and different specialists as alluded to in Article 15 of the UUJN). In doing his calling, the Public accountant not just pays attention to what his client needs and remembers it for the deed, yet the Legal official additionally incorporates things that are not expressed by his client but rather are suggested in the data given by his client. Besides that, as an official, a Notary is a trusted person who must be able to capture the wishes of the clients and describe them further in the Notary deed. All of this is done following applicable laws and regulations.

Different specialists alluded to in Article 15 of the UUJN incorporate Public accountants, who are approved to a. approve the mark and decide the conviction of the date of the letter under the hand by enrolling it in an extraordinary book; b. Book letters under the hand by enlisting in an exceptional book; c. Make duplicates of the first underhand letters as duplicates that make portrayals as composed and portrayed in the letter concerned; d. Approving the similarity of copies with different letters; e. Furnish lawful directing regarding the creation of the deed; f. Make a deed connected with land; and g. Make a deed of closeout minutes.

The capability did by a Public accountant is public (in light of the arrangements of Article 16 section (1) letter d of the UUJN) on the grounds that the local area just requests the help of a Legal official as befits an authority who completes his obligations like a common recorder or a bailiff, yet the thing that matters is that a Legal official gets an honorarium in view of the Demonstration. Regulation [5], states that a Notary pays himself, from the honorarium for the legal services he provides in the making of the deed he does.

Notary Deed and Responsibilities

A deed made before a legal official can be a deed that contains or portrays truly a move made or a circumstance seen or saw by the producer of the deed, in particular the public accountant himself, in completing his situation as a public accountant. Public accountant credible deeds are arranged into two sorts of deeds, to be specific party deeds, and official deeds. The party deed is a deed where the public accountant just remembers the data or wishes of the gatherings for the deed he made. While the authority deed is a deed made by a legal official which typically contains the minutes of an occasion saw by the legal official himself.

The deed is called genuine assuming it satisfies the accompanying components:

- a. Made in a structure as per the arrangements of the Demonstration;
- b. made by or before a public authority;
- c. The public authority should be approved to do as such where the deed was made.

In the Civil Code and also in general legal literature, we do not find an understanding of what is meant by:

- a. Made in the "Form" according to the provisions of the Act;
- b. Who is meant by "General Official";
- c. What does "authorized" mean for that.

Consequently, the lawmakers then finished it with the Guideline of Het Public accountant Ambt in Indonesia Stbl 1860 No. 3 dated October 6, 2004, another Public accountant Position Act has been authorized, in particular the Law of the Republic of Indonesia Number 30 of 2004.[6]

Sanctions of the Notary as a General Office when committing an offense in the making of a deed based on Law No. 30 of 2004

The Public accountant's liability in the past Demonstration and the current Regulation isn't controlled how a Public accountant as a Public Authority is legitimately mindful on the off chance that he commits an error in making the deed he made. In view of the absence of clearness about the legal official's liabilities, the essayist will initially portray what the components are in a deed. As it is realized that a deed comprises of the Top of the Deed, the Correlation, the Premises of the Deed, the Body/Content of the Deed, and the Finish of the Deed. To explain this, the creator makes an illustration of a deed which will be depicted as follows:

- a. Beginning (Start/Head)
Deed The consideration of the title of the deed, number, hour, day, date, month, and year as well as the complete name and house of the Public not entirely settled in Article 38 section (2) of the UUJN.
- b. Comparison
Consideration of the character of the client/individual or the appearers/parties in the deed, in which the complete name, place, date of birth, occupation or position, and spot of home of each showed up and ID number/personality should be clear.
- c. Premises (Recitals)
Deed of Premises/Praemitto (Latin) as an introduction/ interpreted as a statement or initial statement of the contents of a deed or also a reason or background for making.
- d. Contents/Entity of the Deed
Is a definition of the desires of the gatherings who made the deed which is portrayed in words and sentences or legitimate language that can be perceived by the actual gatherings or different gatherings who one day read the deed.
- e. End/End
A deed is a depiction of Legal officials' commitment to peruse the deed made before them to the appearers, witnesses, etc, as well as a portrayal of the marking and, if fitting, the spot of marking or record of the deed. Incorporation of the complete name, place, date of birth, occupation/position, position, and spot of home of each observer to the deed.

Explanation of a deed:

- Beginning of the Deed: The inclusion of the title of the deed must be following the content and purpose of the deed, the inclusion of the Deed Number is crucial, among others regarding inclusion in the repertoire, deed books, and others, because it is made every month and put together in a book and must be sequential. The inclusion of the hour, day, date, month, and year is made to state that the deed has been made in the copy and the minutes of the document. The consideration of the complete name and residence of the Public accountant is made to express that the deed was made by or before the Legal official concerned and the Legal official's house in light of the fact that the Legal official isn't approved to do his/her situation outside his/her home (Article 19 UUJN).
- Comparison: if the presenter does not have an ID card, he/she can use a temporary ID card/identity, and (if any) the one he/she represents is mandatory and included in the Notary Deed. And if the appeared is not a resident or does not live/is in the area/area of the Notary works, then in the Notary deed it must be stated, "that the appeared to take legal action is temporarily in the territory/living/area" The Notary is working. The statement that the appearers have been "known by" or "introduced to" the Notary can be placed after the identity of the appearers or before the end of the deed. If there are more than two parties, it is better/more practical to include this before the end of the

deed, so that it is sufficient to mention the sentence once (not many times). There are also forms of comparison, namely: For oneself, as a proxy, in position/position (Business/Social/Government/Religious Entity/Other Entity), exercising power as parents, as guardians, as guardians, maturity, and voluntary representatives.

- **Premise Deed: Position** The premise on the deed is facultative, meaning that it is not always present in every deed there must be a premise, in general, in complicated deeds, this premise is always present. That what must be considered in the Premises/Recitals section must be in the form of a Statement of Facts or in the form of presenting facts, not in the form of an opinion or analysis of events, nor does it contain something that will happen or something that is expected to happen, but it must be something current and measurable fact that is owned by the Parties.
- **Contents of the Deed:** Those who are asked for assistance in making a deed are required to provide a legal framework, meaning to explain first the legal actions that will be included in the deed. There are 4 (four) things listed in the contents of the deed: 1. Definition clause, 2. Operational Language clause, 3. Specific clause, and 4. General Provisions Clause.
- **End/Closing Deed:** If any appeared is unable to sign, then it must be done with a thumbprint and it is explained in the deed that the appeared cannot sign. A portrayal of the "renvooi" of the deed, or the shortfall of changes that happen during the deed's creation, or a depiction of the changes, which can appear as increments, erasures, or substitutions.

In other words, the agreements made before a Notary have strong legal force and can be used as authentic evidence, which means that for the party who declares the deed agreements to be wrong, then he (the party) must prove the error. As in the example of the deed above which contains the words, "The appearers first explain: "that the appearers have been known by/introduced to the Notary as a trusted institution to make a deed in this case providing the assistance requested by the client because the client cannot take legal action itself, only a notary can take the action (making a notary deed).

The legitimate connection between the Public accountant and the appearers is an exceptional lawful relationship, with the accompanying qualities:

- a. There is compelling reason need to concur, both oral and written through conceding overarching legal authority to make a deed or to play out specific positions;
- b. The people who precede a Legal official, with the supposition that the Legal official can assist with figuring out the desires of the gatherings recorded as a hard copy as a credible deed;
- c. The end-product of a Legal official's activity depends on the power of a Public accountant that comes from the solicitation or want of the actual gatherings; and
- d. The legal official isn't involved with the deed being referred to.

In view of Article 16 section (1) letter d of the UUJN, a Public accountant without a legitimate explanation can't decline to help, so the through and through freedom of the Public accountant as fitting to agree in an understanding isn't satisfied.

Deeds made before a legal official are characterized into two sorts of deeds, specifically party deeds, and official deeds. In the party deed, the Legal official is liberated from liability assuming it just so happens, later what is made sense of by the moderators isn't correct. The legal official ensures that the seemed is right in expressed as written in the deed, yet the public accountant doesn't ensure that what is expressed by the entertainer is valid or reality. While the authority deed contains the Minutes of an occasion that was seen and heard by the Public accountant himself. Here the Public accountant is completely liable for the reality of the items

in the deed he made. For instance, the Minutes of the Comprehensive gathering of Investors of an Organization.

Public accountants can't be considered liable for misfortunes that emerge because of the creation of the deed as well as its arrangement and execution as long as the help given by the Public accountant has been completed following the arrangements of the UUJN, different regulations, and guidelines inside sensible restrictions of exactness.

The legal relationship between the Notary and the parties/appearers who have made the deed before or made by the Notary cannot be constructed, determined at the beginning of the Notary and the parties in contact, because at that time there had not been any problems. To decide the type of the connection between a Legal official and the gatherings/appearers, it should be connected with the arrangements of Article 1869 BW, that bona fide deeds are debased to have evidentiary power as underhand deeds for the accompanying reasons: (1). Ineptitude of the public authority concerned, or (2). The failure of the public authority concerned, or (3). Deserts in structure, or in light of the fact that the Legal official deed is dropped in view of a court choice that has legitimate power, then, at that point, this can be utilized as a reason for suing the Public accountant as a demonstration illegal or at the end of the day the connection between the Legal official and the gatherings/appearers can be qualified as an unlawful demonstration. [7]

In the opinion of Notary/PPAT JUHAIDI, SH., Notary in Palembang, he said that: "Notaries have no obligation under the law to provide information to their prospective clients regarding the existence of prior rights. Notaries who have not provided the information in question are not considered to do an act that is contrary to their obligations under the law or a violation of the rights of others. Therefore, the action of the Notary cannot be classified as an unlawful act. That what can be meant by an act against the law is an act of carelessness, which violates a person's rights or is contrary to the legal obligations of the perpetrator, or is contrary to good decency that is prudent in nature and is considered normal in society related to people or things "[8]

With such an interpretation, it means that a Notary is responsible for mistakes that have been made for work that is not only stated in the laws and regulations, but also for acts of carelessness as considered normal in society. Except in cases where it is expressly stipulated by law, the Notary, in general, must provide compensation for costs, losses, and interest to the interested party, when the deeds made by him are defective in form, are canceled according to law, or are decided only valid as deeds. under the hand, without reducing the compensation in the form of money as long as it has been done because of lies or deception.

The legal official is difficult to safeguard himself against any deformities that emerge. The Public accountant's risk should be restricted to issues where the deformity is the aftereffect of the Public accountant's shortcoming. This is in accordance with UUJN as contained in Article 84 UUJN, which peruses:

"Actions of violations committed by a Notary against the provisions as referred to in Article 16 paragraph (1) letter i, Article 16 paragraph (1) letter k, Article 41, Article 44, Article 48, Article 49, Article 50, Article 51 or Article 52, which results in a deed only having the power of proof as an underhand deed or can be canceled according to law or the deed becomes null and void by law can be a reason for the party suffering the loss to demand reimbursement of costs, compensation, and interest to the Notary."

Another legal official might be dependent upon a criminal punishment on the off chance that the components of a criminal offense in Article 264 section 1 of the Lawbreaker Code are met, in particular:

- a. The objective element or the nature of the formal unlawful act described in Article 264 paragraph 1 of the Criminal Code;
- b. The subjective element or the nature of the action against the material law (error and responsibility).

The Supervisory Council as the only institution authorized to examine violations committed by a Notary against the UUJN and the Notary Code of Ethics must be able to find the law in its decision, especially to formulate the meaning of Know or Know the Appellant as referred to in the UUJN. It is proper that the individual who should be rebuffed is the individual who misrepresents the ID card or the phony moderator as involved with the deed, not a public accountant who in the party deed just capabilities as a mechanism for the introduction of the legitimate deed.

Criminal Articles That Often Appear in the Implementation of Notary Duties. 1. Article 263 of the Criminal Code which reads:

- a. Whoever makes a phony or distorts a letter, which can give a right, an understanding (commitment) or obligation help, or which might be utilized as a clarification for a demonstration, to involve or arrange others to involve the records as though the letter is unique and can't be misrepresented, so in the event that utilizing it can bring about a misfortune, the sentence for misrepresentation of the letter is deserving of a greatest detainment of 6 (six) years.
- b. With a similar discipline, whoever purposely involves a fashioned or manufactured letter as though the letter was veritable and not misrepresented on the off chance that utilizing it can bring about something misfortune.

4 Conclusion

Responsibility for Public accountants isn't obviously managed in the Law. No. 30 of 2004 concerning the place of a Public accountant, however the obligation of the Public accountant depends on the deed he made; subsequently, the Legal official will in general complete the obligation regarding the items in the deed to safeguard himself so his kindred gatherings, the two clients/parties engaged with the deed and the Public accountant, are similarly equivalent to getting legitimate conviction so as not to endure misfortunes on the grounds that the Public accountant should do his position in view of the law. In each deed made before a Public accountant, the Public accountant has an extraordinary obligation in making the legitimate deed he does in light of the fact that in completing his situation, the Public accountant is obliged to act reliable, genuine, exhaustive, free, and safeguard the interests of the gatherings engaged with lawful activities which are by and large not leaned toward anybody.

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