

Assembly Supervisory Role of Regional Efforts in Order to Guidance and Supervision of Notary in The District of Cirebon

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Abstract. The purpose of this study was to: 1) analyze the implementation of MPD Cirebon role in the Framework Guidance and Control of Notaries. 2) analyze any efforts undertaken 3) analyze Barriers and Solutions MPD Cirebon in order to guidance and supervision of a Notary. This research is empirical. The method is empirical juridical approach. Specifications required in this research is descriptive. In this study consisted of data sources: primary data obtained by researchers through interviews and field research object Supervisory Council of Blood (MPD) in Cirebon, and secondary data obtained through literature.

Based on data analysis concluded 1) implementation of the supervision and oversight of the Regional Supervisory Council (MPD) Cirebon based on regulation Minister of Law and Human Rights of the Republic of Indonesia Number M.39.PW.07 2004, of carrying out the authority, as referred to in Article 13 paragraph (2), Article 14, Article 15, Article 16 and Article 17 and Article 70 and Article 71 UUJN. 2) Some of the efforts to be undertaken by the Assembly Regional Supervising Notary Cirebon in order to guidance and supervision of Notaries are: a) Implement supervision preventive and curative namely the prevention of the occurrence of malfeasance Notary and to provide guidance to the Notary itself, b) do socializations to the parties related to the Notary profession. 3) Factors to be barriers: 1) Notary less able to manage time between activities Notary with the time of inspection. 2) Notary also encountered less tidy in making a Notary Protocol. As for the solution is 1) Should the Notary make a schedule for the activities to be performed 2) Notary further explore and relearn the theories about the creation of Notary Protocol. 3) The area should be routinely Supervisory Council to follow up on the findings of the Regional Supervisory Council of Notaries.

Keywords: MPD; Development and Supervision; Sanctions.

1. Introduction

Notary as a public official, is one of the organs of the State which is equipped with the legal authority to provide public services, especially in the manufacture of the authentic as perfect evidence with regard to actions in the field of civil law.³ To make an authentic deed a Notary must follow the rules set out in legislation. Act No. 30 of 2004 concerning Notary jo. Act No. 2 of 2014 concerning Notary the legal foundation Notary, have determined step by step to do a Notary if he makes an authentic act. These steps are (among others heard the parties express their will, then read out the contents of the deed to the applicant, signed the act and others) is specifically held lawmakers to ensure that what is written in the deed it does contain what is desired the parties.⁴

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³ N.G Yudara, *Notaris dan Permasalahannya (Pokok-Pokok Pemikiran Di Seputar Kedudukan dan Fungsi Notari Serta Akta Notaris Menurut Sistem Hukum Indonesia)*. Renvoi magazine No.10.34 III, Issue 3 March 2006, p. 72

⁴Tan Khong Kie (b), 2000, *Buku II Studi Notarisat Serba Serbi Praktek Notaris*, Cet 1, Ikhtiar Baru Van Hoeve, Jakarta, p. 261

Rapid social developments also caused the legal relations developments in society, the role of the Notary to be very complex and often very different to the prevailing regulations. Thus it seems difficult to fully define the tasks and jobs Notary.⁵ Nevertheless, as has been described, in essence, the task of the Notary is set in writing and authentic legal relations between the parties unanimously enlist the services of a Notary. Notary of the main tasks, it can be said Notary have a daunting task of having to provide the public with the best. It required a responsibility both individually and socially, particularly adherence to the norms of positive law and a willingness to abide by the code of professional conduct even a mandatory thing that will strengthen the positive legal norms that already exist.⁶

Monitoring carried out against a Notary at the time of the enactment of Notary (PJM) are on the Supervisory Judge appointed by the District Court to monitor the Notary profession. Over time, to improve the quality and quantity of the Notary Public, the Government issued a new regulation that applies to the Notary, namely Act No. 30 of 2004 concerning Notary jo Act No. 2 of 2014 concerning Notary (UUJN). With the enactment of this Act the authority of the District Court as a Notary Supervisory ends are then replaced by a new Supervisory Authority called the Notary Supervisory Council (MPN). Since then, the date of the enactment UUJN, in principle authorized to conduct supervision and guidance to the Notary, is the Minister who is currently the Minister of Law and Human Rights (HAM Menkum). The authority was mandated to the Notary Supervisory Council (MPN). Under Article 68 UUJN mentioned that the Council of Trustees is composed of the Regional Supervisory Council (MPD), Regional Supervisory Council (MPW) and the Central Supervisory Council (MPP).

Notary has a very specific nature and position, so it is difficult to define what and how the Notary profession. However, noting the legislation regarding the authority of the Supervisory Council of Notaries (MPN), more or less have a better understanding and overview of the Notary profession. Implementation Supervisory Council the authority to give an overview of the status and functions of Notary and deed made by or before him.⁷

At least four of authority MPN are directly related to the community Notary namely, the authority for carrying out checks on making photocopies of minutes of the deed, carrying out checks on the calling Notary in the judicial process, carrying out checks on reports from the public about the alleged violation of the Code of Professional Ethics or Law on Notary, and conduct an examination of the Notary Protocol.⁸

Regional Supervisory Council of one of the bodies authorized to supervise the performance of a notary in the Regency / City. In writing this time in the working area of Cirebon regency. Guidance and supervision aims to Notary can be responsible for what he has done so as to avoid errors which can result in losses for its clients themselves or can damage the good name of Notary concerned, which under Article 70, Article 71 of Act No. 2 Of 2014.

Based on this background, the Assembly appointed the title role of the Implementation of the Regional Supervisor in the Framework of Efforts Direction and Supervision of

⁵Habib Adjie, 2003, *Tebaran Pemikiran Dalam Dunia Notaris dan PPAT, "Penegakan Etika Profesi Notaris Dari Perspektif Pendekatan System,"*Lembaga Kajian Notaris dan PPAT Indonesia, Surabaya, p. 27

⁶Liliana Tedjosaputro, 1994, *Etika Profesi Notaris Dalam Penegakan Hukum Pidana,* Bigraf Publishing, Yogyakarta, p. 4

⁷ Machmud Fauzi, 2008, *Kewenangan Majelis Pengawas Cerminkan Kelembagaan Notaris,* magazine Number 8.56.V, h.56 January Edition

⁸ *Ibid.*p. 81

Notaries in Cirebon District. This study tried to answer the question about the implementation of the Regional Supervisory Council's role in the framework of Cirebon Guidance and Control of Notaries, the efforts undertaken by the Supervisory Council of the District of Cirebon in the Framework of Guidance and Control of Notaries. Barriers and Solutions Cirebon Regional Supervisory Council in order to foster and Supervision of Notaries.

Research Methods

This study is that empirical research that give priority to research in the field to obtain primary data. The method of approach is empirical juridical approach. Empirical jurisdiction is a legal research methods that attempt to view the law in terms of real or can be said to see, examine, how the working of the law in society.⁹ In this case the juridical approach is used to analyze various regulations concerning the Notary office, while the empirical approach used to analyze the legal views of the behavior of people in public life, always interacting and relating with the community aspects.¹⁰ Specifications required in this research is descriptive. The data source consists of primary and secondary data in the form of interviews and literature.

2. Discussion

2.1 The Role of the Regional Implementation Supervisory Council (MPD) Cirebon in the Context of Development and Supervision of Notaries

The key task of supervision of the notary is that all the rights and powers and duties given to the Notary in carrying out their duties as provided by rule base is concerned, is always carried out on a race track not only the legal but also the path of moral and professional ethics for the sake of ensuring the protection of and legal certainty for the public.

In Article 67 of Act No. 2 of 2014 on the Amendment of Act No. 30 of 2004 concerning Notary, who monitor the Notary is the minister in this case is the Ministry of Justice. Minister of Justice and Human Rights form the Assembly of Trustees perform their duties. Supervisory Council set up by the Ministry of Justice's representatives from the government, Notary and expert organizations or academia. Supervisory Council in question is Regional Supervising Council, Assembly The area superintendent and superintendent Assembly Center. In the implementation of Notary supervision in each district / city are the Supervisory Council Notary area.¹¹

Obviously, if a Notary are not performing their duties and responsibilities well, and violate for egoing, the Notary can be sanctioned. Sanctions against Notary regulated by Article 84 and Article 85 of Notary Law, there are two (2) kinds of sanctions, namely:¹²

- As mentioned in Article 84 of Notary Law, example if the Notary abuse (did) the provisions referred to in Article 16 paragraph (1) letter, Article 41, Article 44, Article

⁹Cholid Narbuko dan H. Abu Achmadi, 2002, *Metodologi Penelitian*, PT. Bumi Aksara, Jakarta, p.14

¹⁰ Bambang Sunggono, 2003, *Metodologi Penelitian Hukum*, PT Raja Grafindo Persada, Jakarta, p.3

¹¹ Habib Adjie, 2007, *Hukum Notaris Indonesia Tafsir Tematik Terhadap Undang- Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris*, Refika Aditama, Surabaya, p.173.

¹²Soegianto, 2015, *Etika Profesi dan Perlindungan Hukum Bagi Notaris*, CV. Farisma Indonesia, Yogyakarta, p. 76

48, Article 49, Article 50, Article 51, Article 52. If the provisions in the article above are not met, then the deed in question only has the strength of evidence as a deed under hand or deed null and void, and it can be used as a reason for the parties (the applicant) specified in the deed suffered the loss to claim reimbursement of expenses, damages and interest to the Notary. These sanctions can be categorized as civil sanctions.

- As mentioned in Article 85 of Notary Law, example if a Notary violate the provisions of Article 7, Article 16 paragraph (1) letter a to k, Article 17, Article 20, Article 27, Article 32, Article 37, Article 54, Article 58, Article 59 and / or Article 63, the Notary will be penalized in the form of an oral reprimand, written reprimand, suspension, dismissal with respect and dishonorable discharge.

UUJN not set firmly on the provision of penal or criminal responsibility related to an act committed by a Notary. On the other hand, the legislation governing the Notary, it was not enough to provide protection for the Notary profession itself. Protection against Notary contained in Article 66 UUJN implemented by the Regional Supervisory Council (MPD). According Widyadharma, in the legislation is found mostly only the range of work settings, but very little concerning the protection of the profession.¹³

Implementation supervision and fostering the Regional Supervisory Council (MPD) Cirebon based on the Regulation of the Minister of Justice and Human Rights of the Republic of Indonesia Number M.39.PW.07 2004, namely: ¹⁴

- Exercise authority, as referred to in Article 70 and Article 71 UUJN, and Article 13 paragraph (2), Article 14, Article 15, Article 16 and Article 17 Candy;
- Moreover Regional Supervisory Council also authorized:
 - Convey to the Supervisory Council Regional Council Regional Supervisor feedback with regard to the objection to the decision of refusal on leave.
 - Notify the Regional Supervisory Council of the alleged criminal element found by the Regional Supervisory Council on a report submitted to the Regional Supervisory Council.
 - Noting permission granted leave in the leave certificate.
 - Signed and initialed the Register of Deeds and Special Books used to validate signatures on the letter under the hand and to record the letter under the hand.
 - Receive and organize try Minutes Delivery Protocol;
 - Convey to the Regional Supervisory Council: Periodic reports every six (6) months or in July and January; Incidental reports every 15 (fifteen) days after granting leave Notary.

In carrying out the supervision of the Regional Supervisory Council (MPD) respectively Cirebon often find violations of the Notary itself. With the supervision of a Notary is expected to be more presentable in the completeness of the Protocol of administrative records for frequently encountered during the examination is incomplete administration of the Protocol and still less tidy.¹⁵ One work program of the Regional Supervisory Council of Notaries of Cirebon that will be implemented in the near future is to do one of the tasks and powers of the Supervisory Council is the examination of the Notary protocol, for the purposes of routine examinations (once a year) and a specific time as necessary. Notary Regional Supervisory Council has been formed Cirebon Investigation Team consisting of three people coming from each of the elements, assisted by one

¹³Ignatius Rdwan Widyadharma, 2008, *Perlu Hadirnya Peraturan Perundang-undangan Tentang Perlindungan Profesi*, Varia Advokad Vol.5 p. 77

¹⁴ Interview with Member of the MPD Cirebon, February 1st, 2019

¹⁵ Interview with Member of the MPD Cirebon, February 1st, 2019

secretary. By considering the issue of efficiency of time and the effectiveness of tasks performed inspection team that has been formed it has a regional coordinator who was tasked to supervise certain areas in Cirebon, given Cirebon district that is wide enough so that the necessary division of Cirebon district into regions smaller.¹⁶

2.2 Efforts Conducted by the Regional Supervisory Council (MPD) Cirebon in the Context of Development and Supervision of Notaries

Some efforts will be made by the MPD Cirebon in order to guidance and supervision of a Notary:¹⁷

- Applying preventive supervision and curative namely prevention of violations of the Notary office and to provide guidance to the Notary itself. In his explanation, the Regional Supervisory Council of Notaries of Cirebon explained that the surveillance conducted by the Supervisory Council today, especially Assembly Regional Supervising Notary Cirebon is monitoring refers to what is stipulated in UUJN, Sweets and Decree. Where mentioned in Candy in Article 1 paragraph 5 that surveillance is an activity that is both preventive and curative including development activities carried out by the Supervisory Council of the Notary. Forms MPD efforts Cirebon, among others:¹⁸
 - Re-schedule of the examination of notaries who could not attend the first examination and evaluation of the first examination during the second examination performed.
 - Before doing Notaries examination given Notice that supervision can be run according to the schedule that has been made.
 - Periodic monitoring conducted two (2) times a year, on the first and second inspection at intervals of six (6) months.
- Assembly Cirebon Regional Supervising Notary will also do socializations to the parties related to the Notary profession among other elements of society, academic elements, the Indonesian National Police, and especially against the Notary under his authority. Socialization is intended that the parties relating to the Notary profession can better understand about the existence of the newly formed regulatory agencies, the authorities in maintaining the rule of Notary Code. Besides socialization is also intended for the public as service users Notary can better know their rights and obligations so that if in the future the case of violations committed by notary public to report the Assembly Regional Supervisor has the authority to conduct an examination of the Notary, this authority including organizing a hearing to examine the alleged violation or breach Notary Code implementing the Notary office; took the decision to sanction the UUJN and notaries who violate the Code of Conduct Notary Public.
- Provide public education related to offenses committed in order to report to the Assembly Notary Regional Supervising Notary in Cirebon in particular, so that the cooperation between the public and the Supervisory Council of Regions in monitoring more optimal.

¹⁶ *Ibid.*

¹⁷ Interview with MPD Members Cirebon, February 1st, 2019

¹⁸ Interviews with Member MPD Cirebon, February 1st, 2019

2.3 Barriers and Solutions Regional Supervisory Council of Cirebon in the Framework of Guidance and Control of Notaries

Factors to be an obstacle to the MPD Cirebon in run tasks and duties in Notary supervision and guidance include:

- Notaries are less able to manage time between events with a time notary examination.
- Notaries also encountered less tidy in making sometimes Protocol notary and notary has not copied the book of the Protocol and are still written with a pencil or with correction.
- Inhibiting factors encountered when implementing supervision are still many notaries who are negligent in collecting monthly reports, or not timely submit a report so that the Assembly Regional Supervising Notary difficulties in the record and recapitulate the Notary Protocol.
- Barriers were also encountered in the implementation of the supervision is not yet ready to be examined Notary, the Notary who had recently moved there and still cleanup, so the process of re-examination is scheduled.
- Against the findings of the Regional Supervisory Council of Notaries, far less followed up by the Supervisory Council of the Territory.

The for solutions to the barriers mentioned above are:

- Notary should create a schedule for the activities to be carried out, so that all activities can be done well Notary.
- It would be nice if the Notary more deeply and reexamine theories about the creation of Notary Protocol. Notaries must take time to copy the book Protocols and check what has been written it is correct or still to be repaired, if it is true and nothing needs to be repaired, you should immediately written using bollpoint.
- For notaries who is negligent with all things, it should Notary makes the special details to himself that contain collection schedule a monthly report, whether it has been collected or not, so the process of submission of the report is not delayed time, and should this schedule put in place that always reached by Notary.
- Preferably before the examination, a notary reread the back of the notification given to the Notary, so before the examination day arrived, a notary was prepared beforehand to be examined.
- The area should be routinely Supervisory Council to follow up the findings of the Regional Supervisory Council of Notaries.

Departing from this problem is severe enough task for the Regional Supervisory Council because this institution should be able to seek the maximum so that the effectiveness of dissemination and the information would be submitted through these activities actually achieve the goals and targets.

3. Closing

3.1. Conclusion

Based on the results of research and discussion that writer has wrote the above, it can be concluded that:

- Implementation of supervision and oversight of the Regional Supervisory Council (MPD) Cirebon based on Peaturan Minister of Law and Human Rights of the Republic of Indonesia Number M.39.PW.07 2004, of carrying out the authority, as referred to in Article 13 paragraph (2), Article 14 , Article 15, Article 16 and Article

17 and Article 70 and Article 71 UUJN. With the supervision of a Notary is expected to be more presentable in the completeness of the Protocol of administrative records for frequently encountered during the examination is incomplete administration of the Protocol and still less tidy. One work program of the Regional Supervisory Council of Notaries of Cirebon that will be implemented in the near future is to do one of the tasks and powers of the Supervisory Council is the examination of the Notary protocols.

- Some efforts will be made by the Assembly Regional Supervising Notary Cirebon in order to guidance and supervision of a Notary:
 - Applying preventive supervision and curative namely prevention of violations of the Notary office and to provide guidance to the Notary itself. Forms efforts Cirebon MPD include: 1) re-schedule of the examination of notaries who could not attend the first examination and evaluation of the first examination during the second examination performed. 2) Before the examination Notary given chapter 3) Notice that supervision can be run according to the schedule carried out surveillance at regular intervals of 2 (two) times a year, on first inspection, and the second at intervals of six (6) months.
 - Assembly Cirebon Regional Supervising Notary will also do socializations to the parties related to the Notary profession among other elements of society, academic elements, the Indonesian National Police, and especially against the Notary under his authority.
- Other factors that become an obstacle to the MPD Cirebon in carrying out tasks and duties in Notary supervision and development, among others: 1) Notary less able to manage time between activities Notary with the time of inspection. 2) Notary also encountered less tidy in making a Notary Protocol. 3) Many notaries who are negligent in collecting monthly report 4) Notary not yet ready to be examined, there is a Notary who had recently moved and is still cleanup, so the process of re-examination is scheduled. As for solutions to the barriers mentioned above are 1) Should the Notary make a schedule for the activities to be performed 2) Notary further explore and relearn the theories about the creation of Notary Protocol. 3) the Notary should make special details to himself which shows the monthly report collection schedule. 4) We recommend that before the day of the examination, a notary reread the back of the notification given to the Notary, so before the examination day arrived, a notary was prepared beforehand to be examined 5) should be routinely Regional Supervisory Council to follow up the findings of the Regional Supervisory Council of Notaries.

3.2. Suggestion

- Regional Supervisory Council as the spearhead of the Supervisory Council of Notaries in this Assembly Cirebon Regional Supervising Notary must strive to be more creative and careful in making efforts so that the role of guidance and supervision of the Supervisory Council can be maximized.
- Coaching and supervision by the Supervisory Council of Regency Ciebon should ideally be able to increase the quality of service Notary. The guidance that should be based on the awareness and understanding of his high moral values and ethics, for it needs to be preceded by equating view in advance between the parties concerned, especially fellow members of the Council of Trustees Notary so that differences in the elements in the membership of the Council of Trustees Notary not

an obstacle in performing their duties the Supervisory Council authority but can provide synergies supervision and inspection objective.

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