

Legal Analysis of Notary's Obligations and Responsibilities in Providing Social Services in Medan City

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Abstract. *Notaries have important duties and responsibilities in providing social services, in accordance with Law No. 2 of 2014 on the amendment of Law No. 30 of 2004 on the Office of Notary. These duties are mainly related to making legal deeds and ensuring that legal actions are carried out in accordance with applicable rules. This study aims to examine the duties and responsibilities of notaries in social services as well as the impact of negligence in performing duties, including the legal sanctions that can be imposed. The analysis shows that notary negligence can harm the parties involved and undermine trust in the notary profession. Therefore, supervision of notary performance needs to be improved, and sanctions should be strictly applied to those who are negligent. Continuous education and training, as well as transparency in decision making, are important to reduce errors and improve the quality of legal services.*

Keywords: *Notary; Negligence; Responsibilities; Social; Sanctions.*

1. Introduction

In the Indonesian legal system, Notaries have a strategic position as public officials who play a role in ensuring legal certainty and protection for the community. The function of a Notary is not only limited to document legalization, but also includes providing legal services in social aspects. This is based on the community's need for legally valid written evidence in civil interactions.(Lumban Tobing, 1999).

The Notary profession in Indonesia has existed since the 17th century and is one of the oldest legal professions. Public trust in Notaries is based on their independent attitude and expertise in making official legal documents.(Sasauw, 2015). The main task of a notary is to prevent legal

disputes by providing clear deeds that have legal force.(Siahaan, 2021)which is valid evidence in various legal transactions such as buying and selling, gifts, inheritance, and the establishment of legal entities. This authority is given directly by laws and regulations through the attribution mechanism.(Soeroso, 2014).

Article 15 has three authorities, namely general, special, and additional which are further regulated in other regulations. In carrying out their duties, Notaries are required to ensure that the deeds made are valid, record the date of making, keep the minutes of the deed, and provide official copies to related parties. However, in reality, Notaries are often asked to take care of matters outside their official authority, such as managing permits or guardianship, which if not done carefully can cause legal problems.

In the field, it is not uncommon to find behavioral deviations from Notaries that violate the basic principles of the profession, such as being non-neutral, making deeds without the presence of related parties, to falsifying data or signatures. Violations of this kind not only damage the image and ethics of the Notary profession, but also have the potential to cause legal losses to the community and erode public trust in the social function of Notaries.(Widido, 2020)

In addition to their main duties, Notaries also provide additional services in the notarial realm that are still within their authority, such as assisting clients in completing various legal and administrative matters. However, public trust in Notaries is often extended to areas outside their formal authority, for example in managing company permits, taxation, guardianship, and land documents.(Sunarto, 2024). Therefore, it is important for Notaries to understand and comply with the limitations of authority as regulated in Law Number 2 of 2014 as an amendment to Law Number 30 of 2004, in order to prevent violations of the law and conflicts of interest.(Adnan, 2019).

There are many cases of ethical violations committed by Notaries, such as bias, drafting deeds without the presence of the parties concerned, and forgery of signatures. In Medan City itself, according to data from the Medan District Court in 2018, there were 87 civil cases involving Notaries as defendants or co-defendants. This fact shows a gap between ideal legal norms and implementation in the field which has negative implications for society and the integrity of the Notary profession.

The need for Notary services in Medan City is quite high along with the complex dynamics of the economy and law. However, public understanding of the law is still low, so Notaries need to actively carry out legal education functions. Notaries are expected to explain legal procedures and risks in various transactions, such as inheritance and the establishment of small businesses.

However, many reports show irregularities in notarial practices in Medan. Several Notaries have been proven to have drafted deeds without the presence of parties or not neutrally. In addition,

digitalization requires Notaries to provide fast and transparent services, but still uphold legal principles, maintain data confidentiality, and avoid conflicts of interest.

2. Research Methods

This research applies a normative legal approach method, which focuses on the analysis of laws and regulations, legal doctrines, and court decisions that are relevant to the obligations and social responsibilities of Notaries as public officials.(Soekanto & Mamudji, 2004).

3. Results and Discussion

3.1 The Notary's Contribution to Law-Based Social Services

Notaries have an obligation to provide comprehensive legal services to the community. This task is not only limited to the preparation and ratification of deeds, but also includes providing easy-to-understand information and friendly service, both by the Notary himself and his staff.(Kurniawan, 2018). This service includes the ease of the public in obtaining information regarding the requirements for making authentic deeds, as well as the professional and friendly attitude of the Notary and team in serving clients. The Notary maintains the honor, dignity, and good name of his profession in the community.(Anshori, 2009).

Notaries have a legal and ethical responsibility to ensure that every deed meets the formal and material requirements according to the law. Negligence in this task can be subject to administrative, civil, or criminal sanctions. Therefore, notaries must understand the law well and work carefully. Authentic deeds made by notaries have high evidentiary power according to Articles 1868 and 1870 of the Civil Code, so that errors can have serious consequences. To ensure honest and quality legal services, the performance of notaries is supervised by an institution appointed according to the regulations.(Rachmawati, 2021).

Notaries can be held civilly liable if they are proven to have committed an unlawful act as stipulated in Article 1365 of the Civil Code. Although a notary acts as a recorder or facilitator of the will of the interested parties, this does not exempt him from legal responsibility if there is a violation of the provisions of the law, whether caused by intent or negligence. His position as an intermediary still requires him to act with caution, professionalism, and uphold integrity in every stage of making a deed. Therefore, any action or negligence that results in losses for another party can be used as a basis for filing a civil lawsuit, including a claim for compensation for the damages incurred.(Ternoshuizen, 2002).

In addition to carrying out legal responsibilities, Notaries also have significant social responsibilities, namely ensuring that access to justice can be enjoyed by all elements of society. One real form of this social contribution is by providing voluntary legal services (pro bono) to economically disadvantaged communities. In addition, Notaries are also expected to be involved

in legal counseling activities and provide objective and educational consultations to improve legal literacy in society. Therefore, the function of Notaries is not only limited to the technical application of law, but also as a strategic partner of the state in strengthening social justice and forming a legal system that is humane, open, and based on moral values.(Kurniawan & Suhendra, 2017).

3.2 The Legal Aspects of Notary Negligence in Carrying Out Official Duties

A notary is a public official who is authorized to make authentic deeds and carry out other notarial duties. The responsibility of a notary is very large because the deeds made are legally binding and have strong evidentiary power. However, in reality, there are still frequent cases of negligence committed by notaries. Such negligence can be in the form of making a deed without the presence of the parties (in absentia), not verifying data carefully, preparing a deed based on false information, or acting beyond the limits of his authority. Negligence such as this can cause losses to the interested parties, and can even create complex legal conflicts.(Adiwinata, Teloeki, Boerhanoeddin, & Batoeah, 1999).

The element of guilt in criminal law requires the ability to be responsible, mental elements such as intent or negligence, and the absence of a reason to eliminate guilt. Article 44 of the Criminal Code states that a person who is unable to be responsible for his actions due to mental disorders cannot be punished.

Legal liability for negligence committed by a Notary can be classified into three categories, namely civil, criminal, and administrative liability. In the context of civil law, a Notary can be sued under Article 1365 of the Civil Code (KUHPdata) if proven to have committed an unlawful act that causes harm to another party. In this situation, the Notary can be asked to pay compensation or face a request to cancel the deed he has made. If the negligence contains an element of intent or has serious impacts, the Notary can also be subject to criminal sanctions, for example under Article 263 and Article 264 of the Criminal Code which regulates forgery of letters or deeds. In addition, in the administrative realm, a Notary can be subject to sanctions by the Notary Supervisory Board or the Ministry of Law and Human Rights of the Province of North Sumatra, ranging from written warnings to permanent dismissal from office.

A number of cases in Medan City reveal forms of negligence committed by Notaries, such as the preparation of deeds of sale and purchase without the presence of all parties involved and the preparation of deeds of inheritance using invalid or fictitious data. Practices such as this reflect weak integrity and a lack of caution, even though Article 16 paragraph (1) letter a of the Notary Law strictly requires Notaries to act honestly, carefully, independently and impartially.

Unfortunately, supervision carried out by the Supervisory Board and professional organizations such as the Indonesian Notary Association (INI) is still considered less than optimal, because the

sanctions given tend to be light and do not have a deterrent effect. For this reason, concrete steps are needed in the form of strengthening the supervision system, implementing regular audits, increasing professional ethics training, and expanding legal literacy to the community. In addition, the community needs to be empowered through legal education and the provision of effective complaint channels, so that they can play an active role in monitoring the performance of Notaries in a participatory manner.

3.3 Legal Sanctions for Notaries Who Commit Negligence

Violation of the obligations and prohibitions in the Notary Law can result in civil sanctions, especially if there is evidence of default or unlawful acts that harm other parties. For example, if the Notary's negligence causes a deed that should be authentic to change into a deed under hand, then the deed loses its legal force and harms the related party. In this situation, the Notary can be held civilly liable, such as paying compensation, costs incurred, and interest in accordance with applicable provisions.(Waluyo, 2004).

In practice, civil sanctions against Notaries generally arise due to procedural negligence, such as not reading the contents of the deed to the parties, not presenting witnesses according to the provisions, or making a deed outside the legal area of his/her position. In order to file a civil lawsuit, the plaintiff must be able to prove the existence of a legal relationship with the Notary and show concretely that there has been a violation of the provisions of the Notary Law.

However, in Medan City, although reports of violations by Notaries are quite frequent, the realization of civil lawsuits is still very minimal. This is due to the low level of public legal awareness and limited access to adequate legal assistance. This condition indicates the need to increase legal literacy and provide more inclusive legal services for the community so that they can take legal action effectively when harmed by the actions of Notaries.(Din, 2019).

In addition to civil sanctions, Notaries can also be subject to administrative sanctions supervised by the Notary Supervisory Board (MPN), which consists of the Regional Supervisory Board (MPD), Regional Supervisory Board (MPW), and Central Supervisory Board (MPP). These administrative sanctions vary, from written warnings, warnings, to temporary or dishonorable dismissal from the position of Notary. The supervision process is designed to provide Notaries with the opportunity to correct mistakes or violations committed before more severe sanctions are imposed.(Toruan Donald, 2020).

Overall, Notaries who are negligent during their term of office can be subject to various legal sanctions, including civil, administrative, code of ethics, and criminal sanctions if the elements of a crime are met. Strict supervision by the Supervisory Board and the active role of professional organizations are crucial to maintaining the professionalism and accountability of Notaries, so that the function of Notaries as guarantors of legal certainty can run well and not become a

source of conflict. With strict sanctions and effective supervision, it is hoped that Notaries can carry out their duties according to procedures, maintain the dignity of their position, and provide optimal legal protection for the community using their services, especially in areas such as Medan City which still face challenges in enforcing the law against this profession.

4. Conclusion

Notaries have an obligation to provide fair, transparent, and legal social services as stipulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. In carrying out their duties, they must ensure that the deed meets formal and material requirements, maintain the integrity of the profession, and protect the interests of the parties. Negligence such as not reading the deed or not attending the signing can cause the deed to lose legal force and result in administrative, civil, and criminal sanctions. Therefore, notaries are required to always be careful and responsible in carrying out their profession in order to ensure legal certainty and public protection.

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