

## The Role of the Notary Honorary Council on the Confiscation of Minutes of Deed by Police Investigators

Ahmad Ramadan<sup>\*)</sup>, Amin Purnawan<sup>\*\*)</sup>, and Lathifah Hanim<sup>\*\*\*)</sup>

<sup>\*)</sup> Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: [ahmadramadan87.kdi@gmail.com](mailto:ahmadramadan87.kdi@gmail.com)

<sup>\*)</sup> Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: [amin.p@unissula.ac.id](mailto:amin.p@unissula.ac.id)

<sup>\*)</sup> Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: [lathifah@unissula.ac.id](mailto:lathifah@unissula.ac.id)

**Abstract.** *The purpose of this study was to identify and analyze the role of the notary honorary council in the confiscation of the minutes of deed by the Southeast Sulawesi regional police investigators. And to find out and analyze the process of examining a criminal case allegedly carried out by a notary with the offense of entering false information in an authentic deed. The research method used is a sociological juridical method. The sociological juridical research method is legal research that uses secondary data as initial data which is then continued with primary data in the field or on the community, examines the effectiveness of a ministerial regulation and research that wants to find a relationship (correlation) between various symptoms or variables, as a data collection tool consists of from the study of documents or library materials and interviews. The results of this study found that: first, the Regional Notary Honorary Council from the results of the examination by the examining council could not give approval for the confiscation of the minutes of the notary deed but gave permission to the investigator to take a photocopy of the minutes of the notary deed. Second, from the results of the examination by the examining board, there was also no offense of entering false information into the minutes of the deed. Even from the results of the examination it was also found that the complainant did not question the contents of the deed, but what was questioned was his absence at the General Meeting of Shareholders (GMS), and in the minutes of the GMS there was the signature of the reporter which indicated that the reporter was present at the GMS and the Reporting Party itself was also present.*

**Keywords:** Council; Deed; Honorary; Investigator.

## 1. Introduction

The Republic of Indonesia as a legal state based on Pancasila and the 1945 Constitution of the Republic of Indonesia guarantees certainty, order and legal protection for every citizen. To ensure order and legal protection for Indonesian citizens or in the community, authentic written evidence is needed regarding legal acts, agreements, stipulations and events made before or by authorized officials.<sup>1</sup>

Act No. 2 of 2014 changes to Act No. 30 of 2004 concerning the position of a Notary. Article (1) states that notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws. The appointment of a Notary as a public official as we understand it in the Law on Notary Positions is an imperative derivative of the Civil Code, Book IV Article 1868, which outlines the provisions that the making of an authentic deed as a proof instrument that meets authentic qualifications must be before an official. The public authorized to do so, at the place where the deed was made and in a format that has been definitively determined by law. A notary is a public official who is authorized to make an authentic deed as long as the making of a certain authentic deed is not reserved for other public officials.<sup>2</sup>

The presence of a notary is intended to assist and serve the public who need authentic written evidence regarding legal circumstances, events or actions. Substantially, a notary deed can be in the form of a condition, event or legal action that is desired by the parties to be stated in the form of an authentic deed to be used as evidence and based on the laws and regulations that legal action must be made in the form of an authentic deed.<sup>3</sup>

The community in carrying out their activities related to a situation, event or legal action will certainly require the services of a notary. Furthermore, a notary as a public official who makes an authentic deed, must be independent and impartial, in protecting the interests of the people who use his services, keep the contents of the deed made in front of him secret and not carelessly to notify or leak the contents of the deed and other information related to the deed, so as not to known by other parties who have no interest in the deed, as a notary oath in carrying out his office.

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<sup>1</sup>Darus M. Lutfan Hadi, (2017), *Hukum Notariat dan Tanggung Jawab Notaris*, Yogyakarta, UII Press. p. 1.

<sup>2</sup>Moechtar Oemar, (2017), *Dasar-Dasar Teknik Pembuatan Akta*, Surabaya, Airlangga University Press, p. 9.

<sup>3</sup>Adjie, Habib, (2009), *Sanksi Perdata & Administrasi Terhadap Notaris Sebagai Pejabat Public*, Bandung, cetakan PT. Refika Aditama. p. 32.

Notaries in carrying out their duties and positions as public officials must comply with the legal rules contained in the Law on Notary Positions and the Code of Ethics contained in the Notary Organization as well as other regulations concerning the duties and positions of a notary. In addition, in carrying out his position, a notary must be able to act professionally based on a noble personality by always implementing the law while upholding his professional code of ethics, namely the Notary Code of Ethics.<sup>4</sup> Article 65 of Act No. 30 of 2004 concerning the position of a notary (UUJN), states that a notary is responsible for every deed he makes even though the notary protocol has been submitted or transferred to the notary protocol keeper. This is because in carrying out their duties, one of the obligations of a notary in the field of administration is to store and maintain all documents, including a collection of deeds and various other documents commonly known as a notary protocol. The notary's obligations cannot be separated from the professional ethics of the notary position he carries. Professional ethics are applied to certain functional groups to define the situation so that the roles or functions of these groups become clear.<sup>5</sup>

The authority of a notary as regulated in Act No. 2 of 2014 amendments to Act No. 30 of 2004 concerning the position of a notary, article 15 paragraph 1 states that a notary has the authority to make authentic deeds regarding all actions, agreements, and stipulations required by laws and regulations. and/or those who have an interest in it to be stated in an authentic deed, guarantee the date of certainty of the deed, keep the deed, provide grosse, copies and quotations of the deed, all of this as long as the making of the deed is not assigned or excluded to other officials or other people determined by the Constitution. Furthermore, Article 16 letter f reads that the Notary is obliged to keep everything about the deed he made and all information obtained for the making of the deed in accordance with the oath/promise of office a secret.

Notaries in practice usually find a fact that a legal violation committed by a notary who actually can only be subject to administrative sanctions or civil sanctions even only in the form of sanctions for the code of ethics for the position of a notary, however, in practice many are found if there is a notary deed disputed by the parties or others. The notary is often withdrawn as a party who participates in committing or assisting in committing a criminal act, namely making or providing false information.<sup>6</sup>

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<sup>4</sup>Utama Shidarta, (2006), *Morality of the Legal Profession*, Refika Aditama, Bandung, p. 127.

<sup>5</sup>Prakoso Abintoro, (2015), *Etika Profesi Hukum Telaah Historis, Filosofis dan Teoritis Kode Etik Notaris, Advokat, Polisi, Jaksa, dan Hakim*, Surabaya, Laksbang Justitia. p. 63.

<sup>6</sup>Habib Adjie, (2004), *Hukum Notariat di Indonesia Tafsiran Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris*, Bandung, Rafika Aditama, p. 24.

UnAct No. 2 of 2014 changes to Act No. 30 of 2004 concerning Notary Positions, while the purpose of notary supervision is to fulfill the requirements and carry out their duties in accordance with the provisions of the applicable laws and regulations for the sake of securing the interests of the general public. , while the main task of notary supervision is that all rights and authorities as well as obligations given to a notary in carrying out his duties as given by the relevant basic regulations, are always carried out on a predetermined path, not only legal channels but also on moral and ethical profession to ensure legal protection and certainty for the community.

The existence of the Notary Honorary Council (MKN) basically replaces the role of the Regional Supervisory Council (MPD) as a legal protection institution for Notaries and aims to avoid arbitrary actions from investigators who want to summon a Notary in the trial.<sup>7</sup> Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016, concerning the Honorary Council of Notaries, states that The Notary Honorary Council (MKN) is a body that has the authority to carry out Notary development and the obligation to give approval or rejection for the purposes of the investigation and judicial process, for taking a photocopy of the Minutes of Deed and summoning a Notary to attend an examination related to the Deed or Notary Protocol that is in the Notary's custody. In Act No. 2 of 2014 amendments to Act No. 30 of 2004 concerning the Position of a Notary, Article 1 paragraph 7 states, a Notary Deed, hereinafter referred to as a Deed, is an authentic deed made by or before a Notary according to the form and procedure stipulated. An authentic deed made by a Notary is often disputed by one party or by another party because it is considered detrimental to its interests, be it by denying the contents of the deed, signature or the presence of the party before the Notary, even if there is an allegation in the authentic deed that false information is found.

Notary position Act No. 2 of 2014 Amendment to Act No. 30 of 2004 concerning Notary Positions, article 1 paragraph (8) states that Minutes of Deed are original Deeds that include the signatures of the appearers, witnesses, and Notaries, which are kept as part of the Notary Protocol. Article 1 paragraph 13 of Act No. 2 of 2014 amendments to Act No. 30 of 2004 concerning the position of a notary, states that a Notary Protocol is a collection of documents which are State archives that must be stored and maintained by a Notary in accordance with the provisions of the legislation.

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<sup>7</sup>Etin Sholikhah, March (2017), "Perlindungan Hukum Terhadap Jabatan Notaris Yang Diduga Melakukan Malpraktek Dalam Proses Pembuatan Akta Otentik", *Jurnal Akta*, Vol. 4, No. 1, p. 49. url. <http://jurnal.unissula.ac.id/index.php/akta/article/download/1570/1204>. Accessed on 15 March 2022, at 15.00.

Violations of the Notary in carrying out his duties and positions are actually only in the form of administrative sanctions or civil sanctions and sanctions for the code of ethics for the position of a notary, but in practice, notaries in carrying out their positions are often involved also by parties who feel that their interests have been harmed. If you look at the duties and responsibilities of a notary as an official making an authentic deed, it is possible for a notary to abuse his authority and at any time, a summons may be made by law enforcement against a notary for a violation of the law committed when carrying out his position as a deed official with suspicion of participating in making and providing false information which constitutes a criminal offence. As a result of these criminal violations, the notary may be summoned at any time by law enforcement to take his statement as a witness to any legal issues related to the deed he made and it is possible that the notary is made a suspect.

Act No. 8 of 1981 concerning the Criminal Procedure Code article 1 paragraph (1), investigators are officials of the State Police of the Republic of Indonesia or certain civil servants who are given special authority by law to conduct investigations. Article 1 paragraph 2 of the investigation is a series of actions of investigators in terms of and according to the method regulated in this law to seek and collect evidence with which evidence makes light of the criminal act that occurred and in order to find the suspect. Next Article 1 point (16) explains that confiscation is a series of actions by an investigator to take over and or keep under his control movable or immovable, tangible or intangible objects for the purpose of proof in investigation, prosecution and trial.

Based on the description above, this study aims to determine and analyze the role of the notary honorary council in the confiscation of the minutes of deed by the Southeast Sulawesi regional police investigators. And to find out and analyze the process of examining a criminal case allegedly carried out by a notary with the offense of entering false information in an authentic deed.

## **2. Research Methods**

This research method uses a sociological juridical approach. The approach method that will be used in this research is the Sociological Juridical approach method. The sociological juridical approach emphasizes research that aims to obtain legal knowledge empirically by going directly to the object.<sup>8</sup> Sociological juridical research is legal research that uses secondary data as initial data which is then continued with primary data in the field or on the community, examines the effectiveness of a ministerial regulation and research that wants to find a

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<sup>8</sup>Soekanto Soerjono, (2005), *Pengantar Penelitian Hukum*, Jakarta, Penerbit Universitas Indonesia Press. p. 51.

relationship (correlation) between various symptoms or variables, as a data collection tool consisting of study of documents or library materials and interviews. The specifications in this study refer to analytical descriptive studies, which is a method that functions to describe or provide an overview of the object under study through data or samples that have been collected as they are without analyzing and making conclusions that apply to the public.

### **3. Results and Discussion**

#### **3.1. The Role of the Notary Honorary Council on the Confiscation of Minutes of Notary Deed by Southeast Sulawesi Regional Police Investigators**

Based on the police report with LP Number: 288/VII/2020 SPKT Polda Sultra dated July 15, 2020 with the allegation of articles 263 and 374 of the Criminal Code, of course it will be a series in carrying out the investigation, investigation, prosecution and trial process. On the other hand, this report is closely related to the notary profession. As regulated in Article 66 paragraph 1 of the Law on Notary Positions No. 2 of 2014 amendments to Act No. 30 of 2004 concerning the position of a notary, which states that, For the purposes of the judicial process, investigators, public prosecutors or judges with the approval of the Notarial Honorary Council authorized, Take a photocopy of the minutes of the deed and or the letters/letters attached to the minutes of the deed or the protocol of the notary in the notary's depository.

Article 1 Reglement Op Het Notary Ambt in Indonesia 1860, the notary is a public official who is only authorized to make an authentic deed regarding all acts, agreements and stipulations required by a general regulation or by interested parties who are required to be stated in an authentic deed, guarantee the certainty of the date, keep the deed, all as long as the deed is made by a general regulation which is also assigned or excluded to other officials or other people. Notary is a profession of trust which in carrying out its position is impartial because the person concerned is trusted to produce evidence that has authentic power.<sup>9</sup>

Notary position Act No. 2 of 2014 Amendment to Act No. 30 of 2004 concerning Notary Positions, article 1 paragraph (8) states that Minutes of Deed are original Deeds that include the signatures of the appearers, witnesses, and Notaries, which are kept as part of the Notary Protocol. Article 1 paragraph 13 of Act No. 2 of 2014 amendments to Act No. 30 of 2004 concerning the position of a notary, states that a Notary Protocol is a collection of documents which are State

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<sup>9</sup>Arief Rahman Mahmoud, (2014), "Implikasi Hukum bagi Notaris yang tidak melekatkan sidik jari penghadap pada Minuta Akta", *Jurnal Penelitian Magister Kenotariatan Unuversitas Brawijaya*, Volume, p. 4.

archives that must be stored and maintained by a Notary in accordance with the provisions of the legislation.

Minutes of deed are generally referred to as authentic deeds because they have fulfilled the requirements for the authenticity of a deed, namely if the deed is prepared, it is read out by a notary in front of the appearers in the presence of at least 2 (two) witnesses and signed at that time by the appearers, witnesses and Notary Public. The minutes of the deed are part of the notary protocol and from the notary administration which is the state archive, so it must be stored, guarded and maintained by the notary as well as possible.

Article 1 paragraph 1 Permenkum-HAM Number 17 of 2021 concerning Duties, Functions, and Procedures for Appointment and Dismissal, Organizational Structure, Work Procedures, and Budgets of the Notary Honorary Council, states that the Notary Honorary Council is an agency that has the authority to carry out notary development and the obligation to give approval or refusal for the purposes of the investigation and judicial process, for taking a photocopy of the minutes of the deed and summoning a notary to attend the examination related to the notary deed or protocol that is in the notary's depository.

Article 28 paragraph 1 of the Permenkum-HAM states that requests for approval to take a photocopy of the minutes of the deed or notarial protocol and the summons of a notary by the investigator, public prosecutor, or judge to attending the examination related to the notary deed or protocol that is in the notary's deposit is submitted to the chairman of the regional notary honorary council in accordance with the work area of the notary concerned. Article 29 paragraph 1 states that, in conducting an examination, the panel of examiners is authorized to summon a notary based on a request from investigators, public prosecutors and judges. Based on the powers granted by the Notary Office Act No. 2 of 2014 on the amendment to Act No. 30 of 2004 concerning the Notary Position, the Notary Honorary Council is authorized according to Article 66 paragraph 1 which states that for the purposes of the judicial process, investigators, the public prosecutor or judge with the approval of the notarial honorary panel has the authority to:

- Take a photocopy of the minutes of the deed and or the letter / letter attached to the minutes of the deed or the protocol of the notary in the notary's storage.
- Calling the notary to be present in the examination related to the notary deed or protocol that is in the notary's storage.



### **3.2. The Process of Examination of Criminal Cases Allegedly Conducted by a Notary with the Offense of Entering False Information in an Authentic Deed**

Police investigators are authorized by Act No. 8 of 1981 concerning the Criminal Procedure Code in Article 1 paragraph 2 an investigation is a series of actions by investigators in terms of and according to the method stipulated in this law to seek and collect evidence that makes it clear about the crime that occurred and to find the suspect. Article 7 paragraph 1 investigators have the right to, Receive a report or complaint from a person regarding a criminal act, Take the first action at the scene of the incident, Order a suspect to stop and check the suspect's identification, Make an arrest, detention, search, confiscation, Conduct an examination and confiscation of letters, Taking fingerprints and taking pictures of a person, Summoning people to be heard and examined as suspects or witnesses.

Investigators are also given the authority to conduct investigations into cases of forgery of letters as regulated in Article 264 of the Criminal Code, which reads that forgery of letters is punishable by imprisonment for a maximum of eight years if committed against authentic deeds, debt certificates or debt certificates from a State or part thereof or from a public institution, a holding letter or debt or a certificate of ownership or debt from an association of foundations, companies or airlines, talon, proof of dividends or interest from one of the letters described in 2 and 3 or proof issued in lieu of the letters , credit or trade letter intended for circulation.

Article 1 paragraph 1 of Act No. 2 of 2014 amendments to Act No. 30 of 2004 concerning the position of a notary, states that a notary is a public official who is authorized to make an authentic deed and has other authorities as referred to in this law or based on this law.

Habib Adjie said that a notary as a public official is the only public official who is authorized to make an authentic deed regarding all acts, agreements and stipulations required by a general regulation or by an interested party that is required to be stated in an authentic deed, guarantees the certainty of the date, keeps the deed and provide grosse, copies and quotations, all as long as the making of the deed by a general regulation is not assigned or excluded to officials or other people.<sup>10</sup>

An authentic deed made before a notary is in the area of civil law (private). This is different from the term "evidence" in criminal law or letter documents in state administrative law or state administrative law which is commonly referred to as a decree (*beschikking*), which is included in the area of public law. Authentic written

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<sup>10</sup>Habib Adjie, 2008, Indonesian Notary Law, Thematic Interpretation of Law no. 30 of 2004 concerning the Position of Notary, Refika Aditama, Bandung, p. 13.



evidence made by a notary has a different purpose and legal basis from a decision letter made by a State administrative agency or official in carrying out functions to carry out government affairs, both at the center and in the regions.

Written proof is regulated in Article 1867 of the Civil Code which states that written proof is carried out with an authentic deed and written under the hand. Furthermore, Article 165 HIR and Article 285 Rbg explain that, an authentic deed is a deed made by or before an official who is authorized to do so, is complete evidence between the parties of the heirs and those who have rights from him about what is listed. Therein and even as a mere notification, but the latter is only notified to those who are directly related to the matter in the deed. That in this case, explaining the notary as an authentic deed maker so that the community in carrying out all actions, agreements, and provisions according to the law should be carried out before a notary. Article 15 paragraph 1, Act No. 30 of 2004 as amended by Act No. 2 of 2014 concerning the position of a notary, states: "Notaries are authorized to make authentic deeds regarding all actions, agreements and provisions that must be required by laws and regulations and/or desired by the interested parties to be stated in an authentic deed. Guaranteeing the certainty of the date of making the deed, keeping the deed, providing grosse, copies and quotations of the deed, all of that as long as the making of the deed is not assigned or excluded to other officials or other people stipulated by law.

A notary may be free from responsibility and legal liability due to a defective deed, as long as the legal defect is caused by the fault of another party, or a statement or letter evidence submitted by the client. Regarding forms of legal defects that are not the fault of a notary, for example the existence of asphalt or original but fake identities, such as identity cards, family cards, passports, certificates of heirs, certificates, agreements, decrees, BPKB, marriage certificates, birth certificates and others. The document becomes a notary reference in serving the community as a public official assigned to represent the State in making authentic deeds. The statement or statement of the parties submitted before a notary is the basic material for a notary to make according to the wishes of the parties who appear before a notary. Without the information or statements and wishes of the parties, it is impossible for a notary to make a deed. If there is information or a statement that is allegedly false that is included in the notary deed, it does not cause the deed to be fake.

Article 66 paragraph 1 Number 2 of 2014 amendments to Act No. 30 of 2004 concerning the Position of a Notary, says that for the purposes of the judicial process, investigators, public prosecutors or judges with the approval of the notarial honorary council are authorized to:

- Take a photocopy of the minutes of the deed and or the letters/letters attached to the minutes of the deed or the protocol of the notary in the notary's storage.
- Calling the notary to be present in the examination related to the notary deed or protocol that is in the notary's storage.

Notary, if in carrying out the duties of his professional position, it is suspected that he has committed a criminal act, first investigators, public prosecutors and judges seek approval from the Notary Honorary Council (MKN).

MoU (Memorandum of Understanding) number: B/1056/V/2006 and number: 1/MoU/PP-INI/2006 dated May 9, 2006. The memorandum of understanding states:

- Summons against a notary must be made in writing and signed by the investigator.
- The summons of a notary shall be made after the investigator has obtained approval from the supervisory board which is a body that has the authority and obligation to conduct guidance and supervision.
- The summons must clearly state the reason for the summons, the status of the summoned (witness or suspect) at the time and place and its implementation on time.
- The summons is given at the latest 3 (three) days in advance or a grace period of 3 (three) days from the date of receipt of the summons as recorded in the receipt to prepare for the notary to collect the necessary data/materials.
- With the existence of a valid summons according to law, the notary is obliged to fulfill the summons of the investigator as regulated in Article 112 paragraph 2 of the Criminal Procedure Code which states that the summoned person must come to the investigator and if the investigator does not come, the investigator will summon again with an order to the officer to bring him or her.
- If the notary who is summoned for legal reasons cannot fulfill the summons of the investigator, the investigator may come to the office/residence of the notary who was summoned to conduct an examination as regulated in Article 113 of the Criminal Procedure Code. It is natural that he cannot come to the investigator who is conducting the examination. The investigator comes to his residence.

Article 170 paragraph 1 of the Civil Code stipulates that those who because of their job, prestige, dignity or position are obliged to keep secrets, may request to be released from the obligation to give testimony as witnesses, namely regarding matters entrusted to them. The judge determines whether or not the reasons for the request are valid. Article 1 point 1 of the Regulation of the Minister of Law and Human Rights Number 17 of 2021, further stipulates the duties, functions, requirements and procedures for appointment and dismissal, organizational structure, work procedures and budget of the Notary Honorary Council, which is a

body that has the authority to carry out notary development and the obligation to give approval and or rejection for the purposes of investigation and judicial process,

Article 1 paragraph 1 of Act No. 2 of 2002 concerning the National Police of the Republic of Indonesia states that the police are all matters relating to the functions and institutions of the police with statutory regulations. Paragraph 2 reads that members of the State Police of the Republic of Indonesia are civil servants in the State Police of the Republic of Indonesia. One of the tasks of the Indonesian National Police is to conduct investigations. In the investigation process, among the authorities of the Indonesian National Police is that these officials have the authority that has been regulated in criminal law so that they are authorized to carry out coercive actions against anyone they can be suspected of having committed a crime. One of them is to confiscate for the sake of proof, especially as evidence before the trial.

Article 1 paragraph 1 Act No. 8 of 1981 concerning the Criminal Procedure Code states that Investigators are officials of the State Police of the Republic of Indonesia or certain civil servants who are given special authority by law to conduct investigations. Investigation in Dutch is the same as *opsporing*, and investigation (English) or tactics. According to De Pinto, to investigate (*opsporing*) means an initial examination by officials for that purpose appointed by the law after they have in any way heard news that is simply grounded, that there has been a violation of the law. Article 1 paragraph 5 KUHAP investigation is a series of actions of investigators to seek and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out according to the method regulated by law. Article 1 paragraph 2 of the investigation is a series of actions of investigators in terms of and according to the method regulated in this law to seek and collect evidence with which evidence makes light of the criminal act that occurred and in order to find the suspect.

Notary deed made according to the will of the interested parties to ensure or guarantee the rights and obligations of the parties, certainty, order and legal protection of the parties. The notary deed essentially contains the formal truth in accordance with what the parties have notified the public official (notary). The notary is obliged to include in the deed what has really been understood in accordance with the wishes of the parties and to read to the parties the contents of the deed. An authentic deed is a valid document and can be perfect evidence, which means that it can be assumed that everything stated in the deed is true, unless there is another deed that can prove the contents of the first deed are wrong. An authentic deed is made before a public official of the State so that its legality can be ascertained.

Article 16 paragraph 1 Act No. 2 of 2014 amendments to Act No. 30 of 2004 concerning the Position of a Notary, it is very clear that in carrying out his position, a notary is obliged to:

- Acting trustworthy, honest, thorough, independent, impartial and safeguarding the interests of the parties involved in legal actions.
- Make a deed in the form of minutes of deed and save it as part of the notary protocol.
- Attaching letters and documents as well as the fingerprint of the appearer on the minutes of the deed.
- Issue grosse deed, copy of deed, or deed excerpt based on the minutes of the deed.
- Provide services in accordance with the provisions of this law, unless there is a reason to refuse it.
- Keep everything about the deed he made and all information obtained for the making of the deed in accordance with the oath/promise of office, unless, unless the law stipulates otherwise.
- Bind the deed he made in 1 (one) month into a book containing no more than 50 (fifty) deeds, and if the number of deeds cannot be contained in one book, the deed can be bound into more than one book, and record the number of minutes of deed month and year of manufacture on the cover of each book.
- Make a deed of deed of protest against non-payment or non-receipt of securities.
- Make a list of deeds related to wills according to the order in which the deeds are made every month.
- Send the list of deeds as referred to in letter l or a list of nil with respect to the will to the center of the will list at the ministry that administers government affairs in the field of law within 5 (five) days in the first week of each following month.
- Record in the repertoire the date of delivery of the will at the end of each month.
- Have a stamp or seal containing the symbol of the Republic of Indonesia and in the space surrounding it the name, position and place of domicile are written.
- Read the deed before the public in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of an underhand testament deed, and signed at the same time by the appearer, witness and notary.
- Accepting the internship of prospective notaries.

Sudikno mertokusumo said that considering that the notary basically only records what was put forward by the appearers and is not required to investigate the material truth of its contents, it is not appropriate if the judge cancels it or

blames the notary and accuses him of committing legal acts. The notary may err regarding the contents of the deed due to erroneous information from the parties. Presumably this error cannot be accounted for to the notary because the contents of the deed have been confirmed to the parties by the notary. This is in accordance with article 16 paragraph 1 letter m.

The notary is not responsible for the contents of the deed because the notary is only responsible for the formality of a deed while the material is the responsibility of the parties because the notary only records what is explained by the parties.

Written proof is regulated in Article 1867 of the Civil Code which states that written proof is carried out with an authentic deed and written under the hand. Furthermore, Article 1868 of the Civil Code states that an authentic deed is made in the form determined by law or before a public official who is authorized to do so at the place where the deed was made. Article 165 HIR and Article 285 Rbg explain that, an authentic deed is a deed made by or before an official who is authorized to do so, is complete evidence between the parties from his heirs and those who have rights from him about what is contained therein and even as a mere notification, but the latter is only notified to those who are directly related to the matter on the deed.

#### 4. Conclusion

A notary is a public official who is authorized by law to make an authentic deed. Article 15 paragraph 1, Act No. 30 of 2004 as amended by Act No. 2 of 2014 concerning the position of a notary, states: "Notaries are authorized to make authentic deeds regarding all actions, agreements and provisions that must be required by laws and regulations and/or desired by the interested parties to be stated in an authentic deed. Guaranteeing the certainty of the date of making the deed, keeping the deed, providing grosse, copies and quotations of the deed, all of that as long as the making of the deed is not assigned or excluded to other officials or other people stipulated by law. In addition, the notary is obliged to keep all the deeds he made secret.

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**Regulation:**

- [1] Act No. 2 of 2014 changes to Act No. 30 of 2004, concerning the position of a notary.
- [2] Act No. 8 of 1981 concerning the Criminal Procedure Code.
- [3] Act No. 2 of 2002 concerning the police.
- [4] Minister of Law and Human Rights regulation number 17 of 2021 concerning duties and functions, terms and procedures for appointment and dismissal, organizational structure, work procedures, and budget of the notary honorary assembly.