

# The Role of Notaries in the Transaction Process and its Implications for the Validity of Land Documents under the Law

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**Abstract.** *This study discusses the role of notaries in the land transaction process in Indonesia and its legal implications for the validity of land documents. Notaries as public officials have the authority to make authentic deeds that serve as the legal basis for the transfer of land rights. The involvement of notaries in every stage of the transaction, from verifying the identities of the parties to making and ratifying the deed, plays an important role in creating legal certainty and preventing disputes in the future. However, in practice, challenges are still found such as abuse of authority by unscrupulous notaries and low public awareness of the importance of the legality of land transactions. This study uses a normative legal method with a qualitative approach, examining relevant laws and regulations and legal literature. The results of the study indicate that although the role of notaries has made a significant contribution to the validity of land documents, supervision and guidance of the notary profession need to be improved, and legal education for the community needs to be expanded in order to create a more transparent, accountable, and legally secure land system.*

**Keywords:** Documents; Land; Transactions; Validity.

## 1. Introduction

Land is one of the assets that has high economic value and is an object of transactions that are often carried out in Indonesia. Along with the increasing need for land ownership, land transactions are becoming increasingly complex and require strict legal supervision. To ensure the validity of a land transaction, valid documents are needed that meet applicable legal requirements. In this context, the role of a notary is very important in guaranteeing the legality of transactions and the validity of land documents made (Noor et al, 2024).

A notary has a role as a public official who is authorized to make authentic deeds and has the responsibility to provide legal certainty for land transactions. In every land transaction, a notary is tasked with ensuring that the process of buying and selling or transferring land rights is carried out in accordance with applicable legal provisions. Notaries also have an obligation to check the validity of land certificates, ensure that the parties to the transaction have legal capacity, and prepare and legalize deeds that serve as authentic evidence of the transaction.

The role of a notary in land transactions is also closely related to legal protection for the parties involved. With the involvement of a notary, the risk of land disputes due to invalid or legally flawed documents can be minimized (Sitanggang, 2024). Notaries function as neutral and professional parties in preparing and validating land documents, so that they can prevent parties from potential legal problems in the future. This is in line with the principle of prudence in land transactions which aims to prevent fraudulent practices, document forgery, and unlawful actions.

However, in practice, there are still various challenges faced by notaries in carrying out their duties in land transactions. One of the problems that often occurs is the existence of incomplete or problematic land documents, both in terms of administration and substance. In addition, there are still cases where notaries are involved in unethical practices, such as making deeds that do not correspond to the actual facts or being involved in transactions that aim to legitimize illegal acts. Therefore, supervision of the performance of notaries is important so that their role in land transactions can run well and in accordance with applicable regulations.

The implications of notary involvement in land transactions not only affect the validity of land documents, but also legal certainty for the community. With valid and legally valid documents, landowners can feel more secure in managing their assets, both for investment, development, and long-term ownership. Conversely, if land documents do not meet applicable legal standards, uncertainty will arise that has the potential to cause disputes in the future. Therefore, understanding the role of notaries in land transactions and their implications for the validity of land documents is an important study to conduct.

Based on the description above, this study aims to analyze the role of notaries in the land transaction process and identify the legal implications that arise for the validity of land documents. In addition, this study will also discuss the challenges faced by notaries in carrying out their duties and efforts that can be made to improve the professionalism and accountability of notaries in land transactions. Thus, the results of this study are expected to contribute to the development of more transparent and accountable notary practices in the land sector in Indonesia.

## **2. Research Methods**

This study uses a normative legal research method with a qualitative approach. The normative legal approach is used to analyze laws and regulations relating to the role of notaries in land transactions and their legal implications on the validity of land documents. The data sources used in this study consist of secondary data obtained from laws and regulations, legal literature, scientific journals, and relevant court decisions. Data collection techniques are carried out through literature studies by reviewing various legal documents and academic references that discuss related topics. The data obtained are then analyzed descriptively qualitatively to provide a clear picture of the role of notaries in land transactions and the challenges they face. The results of this study are expected to provide a more comprehensive understanding of the working mechanisms of notaries in ensuring the validity of land documents and solutions to increase the effectiveness of the role of notaries in land transactions in Indonesia.

## **3. Results and Discussion**

### **3.1. The role of notaries in the land transaction process in Indonesia based on law**

Notaries have a very important role in land transactions in Indonesia, especially in providing legal certainty and validity of documents related to land rights. This role has been regulated in several laws and regulations, especially in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notaries, as well as in Government Regulation Number 24 of 1997 concerning Land Registration (Dharmayanti & Wiryawan, 2024).

As a public official authorized to make authentic deeds, notaries have the responsibility to ensure that every land transaction is carried out in accordance with applicable legal provisions. Article 15 paragraph (1) of the Notary Law states that notaries are authorized to make authentic deeds regarding all legal acts, agreements, and provisions required by laws and regulations. In the context of land, authentic deeds made by notaries often include Deeds of Sale and Purchase (AJB), Deeds of Grants, Deeds of Joint Rights Distribution, and other deeds related to the transfer of land rights (Lubis & Ramadhani, 2021).

In land sale and purchase transactions, notaries have a role to ensure that the parties to the transaction have valid legal standing. Notaries are required to verify the identities of the parties, the status of land ownership, and ensure that the land being traded is not in dispute or burdened with other rights such as mortgages or collateral. This process aims to prevent disputes in the future and provide legal certainty for buyers and sellers (Zevenbergen, 2002).

In addition, in accordance with the provisions of Government Regulation Number 24 of 1997 concerning Land Registration, notaries also have a role in assisting the land registration process at the land office. Notaries are tasked with preparing and validating the documents required for land rights registration, such as land certificates, inheritance certificates, and deeds of transfer of rights. In this case, the notary works together with the Land Deed Making Officer (PPAT) to ensure that the registration process is carried out legally and in accordance with the procedures set by the National Land Agency (BPN).

Not only in sales and purchase transactions, the role of a notary is also very important in the process of encumbering land rights, such as in the preparation of the Deed of Granting Mortgage Rights (APHT). Based on Law No. 4 of 1996 concerning Mortgage Rights, APHT is a legal document required in providing land collateral to creditors in a debt agreement. The notary is responsible for preparing the APHT and ensuring that the mortgage is registered at the Land Office to provide legal protection for the creditor (Robiyantoko, 2022).

Although notaries have a crucial role in ensuring the legality of land transactions, there are still challenges in their implementation. One of the main challenges is the practice of abuse of authority by notaries involved in falsifying documents or making deeds that do not correspond to the actual facts. Therefore, supervision of the notary profession needs to be continuously strengthened through a strict coaching mechanism and enforcement of the code of ethics by the Notary Supervisory Board. the role of notaries in land transactions in Indonesia is very important in ensuring legal certainty and validity of land documents. With clear regulations and strict supervision, it is hoped that the role of notaries can be increasingly optimal in supporting a more transparent and accountable land law system.

### **3.2. Legal Implications of Notary Involvement on the Validity of Land Documents in Indonesia**

Notaries have a very important role in ensuring the validity of land documents in Indonesia. As a public official authorized to make authentic deeds, the involvement of notaries in land transactions has broad legal implications, both for the parties to the transaction and for the legal certainty of land ownership. Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notaries and Government Regulation Number 24 of 1997 concerning Land Registration regulate the duties and responsibilities of notaries in ensuring that every land transaction is carried out in accordance with applicable law. One of the main legal implications of the involvement of notaries in land transactions is the validity of the documents produced. Notaries are responsible for making authentic deeds that have legal force as perfect evidence in court (Fatin, 2020). Deeds made by notaries have higher evidentiary power compared to private deeds, so they can be a strong legal basis in every land transaction. Thus, the deed made by a notary serves to protect the rights of the transacting parties and prevent land disputes in the future.

However, the legal implications of the involvement of a notary are also related to the notary's responsibility in ensuring the validity of land documents. The notary must verify the status of the land being traded, including ensuring that the land has a valid certificate, is not in dispute, and is not under collateral or confiscation status. If the notary is negligent in carrying out this task, it can result in a legal flaw in the transaction being carried out, which can ultimately lead to a legal dispute between the parties involved. In addition, in cases where there is a violation of procedures in the making of the deed by the notary, the legal implications can be very serious (Royce & Sudiro, 2024). If the notary is proven to be involved in document forgery or making a deed that does not correspond to the actual facts, then the deed he made can be canceled and declared invalid by the court. In this context, the injured party can file a lawsuit with the court to request the cancellation of the deed and demand compensation for the losses suffered.

Another legal implication is the possibility of administrative, civil, or criminal sanctions against notaries who violate legal provisions. Administratively, notaries who are proven to have committed violations can be subject to sanctions in the form of reprimands, temporary suspension, or revocation of their notary license by the Notary Supervisory Board. From a civil law perspective, notaries who are negligent or make mistakes in making deeds can be sued to provide compensation to the injured party. Meanwhile, if there are criminal elements such as falsification of documents or abuse of authority, then notaries can be subject to criminal sanctions in accordance with the provisions of the Criminal Code (KUHP) (Rossulliaty, 2023). Although the involvement of notaries in land transactions provides a guarantee of legal certainty, challenges in practice are still often found. Several cases show notaries working with certain parties to make deeds that do not correspond to the facts, such as in cases of fictitious land sales or the use of fake documents in the transfer of rights process. This shows that supervision of the notary profession must continue to be improved to prevent deviations that can harm the community.

To overcome this challenge, efforts are needed to improve the professionalism and accountability of notaries in carrying out their duties. The government through the Ministry of Law and Human Rights and the Notary Supervisory Board must tighten supervision and guidance of notaries so that they can carry out their duties more transparently and accountably. In addition, the public also needs to be given an understanding of the correct procedures in land transactions, so that they can avoid

practices that have the potential to cause disputes in the future. Thus, the involvement of notaries in land transactions has very significant legal implications for the validity of land documents. Notaries play a role in ensuring the legality of transactions, but also have the responsibility to carry out their duties professionally and in accordance with applicable laws. If notaries work well and in accordance with professional ethics, the validity of land documents will be more guaranteed, thus creating legal certainty for all parties involved in land transactions in Indonesia (Putri, nd).

The implementation of the role of notaries in land transactions in Indonesia has so far been carried out in accordance with applicable regulations, although it still faces various challenges in practice. Notaries play a role in ensuring that every land transaction is carried out with an authentic deed that is legally valid, so that it can provide legal certainty for the parties to the transaction. In many cases, the involvement of notaries has helped reduce the risk of land disputes because the documents made have strong legal force and can be evidence in court if a dispute occurs. In practice, notaries work together with Land Deed Making Officials (PPAT) in preparing and validating land transfer deeds, such as Sale and Purchase Deeds (AJB), Grant Deeds, and Joint Rights Distribution Deeds. In addition, notaries also have a role in making Mortgage Grant Deeds (APHT) to guarantee the interests of creditors in loan transactions involving land as collateral (Hutagalung & Rahaditya, 2023). This process has generally gone well, especially in urban areas that have a more organized land administration system. However, in its implementation, there are still various challenges faced, such as the practice of abuse of authority by several notaries involved in document forgery or making deeds that do not correspond to the actual facts. Cases such as making AJB without the presence of the seller or buyer, as well as forgery of signatures on deeds, still occur in several regions. This often leads to prolonged land disputes and creates legal uncertainty for legitimate land owners.

In addition, the lack of public awareness of the importance of notary involvement in land transactions is also a challenge in itself. Many land transactions are still carried out underhand without involving notaries, especially in rural areas, so that there is a risk of causing legal problems in the future (Prajuniar, 2023). This is due to economic factors, lack of legal understanding, or the assumption that the notary process will only increase costs in the transaction. The government continues to strive to improve the effectiveness of the role of notaries in land transactions through various policies and regulations. One of the steps taken is through a land digitalization system managed by the National Land Agency (BPN). With the existence of electronic systems, such as online land rights registration, it is hoped that the role of notaries in the land administration process can be more transparent, efficient, and reduce the potential for abuse of authority. Overall, the implementation of the role of notaries in land transactions in Indonesia has made a significant contribution to creating legal certainty. However, increased supervision and enforcement of the code of ethics for the notary profession are still needed to prevent deviations. In addition, education to the public regarding the importance of legitimate and legal land transactions also needs to be continuously encouraged so that more parties realize the benefits of notary involvement in ensuring the validity of land documents.

#### **4. Conclusion**

The role of notaries in land transactions in Indonesia is vital in ensuring the legality and validity of land documents that have permanent legal force. Through the authority

regulated in the Notary Law and other land regulations, notaries are tasked with preparing authentic deeds that serve as valid legal evidence of the transfer, encumbrance, or recognition of land rights. The involvement of notaries not only provides legal protection for the parties to the transaction, but also plays a role in preventing disputes through verification of the validity of documents and land status. The legal implications are also very large, because if the notary is negligent or violates the provisions, the deed made can be null and void and cause legal and financial losses. Although its implementation has been running quite well in various regions, the practice of deviation and lack of public legal awareness are still challenges. Therefore, strengthening supervision, increasing the professionalism of notaries, and legal education for the public are important steps to ensure that the land system in Indonesia is increasingly orderly, safe, and provides optimal legal certainty for all parties.

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