

Implementation of Administrative Sanctions Against Notaries for Formal Negligence in Making Authentic Deeds

Chairil¹⁾ & Widayati²⁾

¹⁾Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: Gerygeronz9321@gmail.com

²⁾Master of Notary Law, Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, Indonesia, E-mail: Widayati@unissula.ac.id

Abstract. *This study aims to examine the form of formal negligence committed by the Notary WP in making the Deed of Lease Agreement Number 97 of 2021, analyze the application of administrative sanctions by the Notary Supervisory Board, and evaluate the legal consequences of issuing a copy of the deed based on the minutes that were not signed by all parties. This study uses a normative and empirical legal approach. Data were obtained through literature studies, legal documentation, and interviews with the Notary and the Kolaka Regional Supervisory Board. Based on the results of the study, it was found that the Notary issued a copy of the deed without a complete signature on the minutes, which is a violation of Article 44 paragraph (5) of the Notary Law. Administrative sanctions in the form of temporary suspension for three months were imposed by the Central Supervisory Board as a form of guidance. Legally, the deed no longer has the force of an authentic deed and only stands as a deed underhand, which can create legal uncertainty and reduce the credibility of the Notary.*

Keywords: *Administrative; Authentic; Negligence; Procedural.*

1. Introduction

A notary is a public official who is authorized by law to make authentic deeds, namely written evidence that has perfect evidentiary power in the civil law system. The function of a notary in the Indonesian legal system is very strategic because it guarantees legal certainty, protection, and order for the parties involved in a legal agreement or other civil action.¹ In theory and legislation, an authentic deed is positioned as a legal document whose truth cannot be denied, except with proof to the contrary in court.

However, in the practice of notarial law in the field, violations of the formal

¹Avicenna, AF (2022). *Penerapan Sanksi Bagi Notaris yang Lalai dalam Membuat Akta Otentik. Officium Notarium*, Universitas Islam Indonesia. accessed from Retrieved <https://journal.uui.ac.id/JON/article/view/27677> accessed on 02 December 2022.

requirements stipulated in the Notary Law are still often found. One violation that occurs quite often is the action of a Notary issuing a copy of a deed based on the minutes of the deed that have not been signed by all parties appearing. This clearly contradicts the provisions of Article 44 paragraph (5) of Law Number 2 of 2014 concerning the Notary Law, which requires that a copy of a deed can only be issued if the contents are identical to the minutes that have been signed by the parties appearing and witnesses.².

If these provisions are not met, then the legal status of the deed in question is reduced to a private deed. Consequently, the deed no longer has the full evidentiary power as it should. This consequence not only weakens the legal standing of the deed, but can also cause legal uncertainty and disputes between the parties listed in the deed.³.

In the context of supervision of the Notary profession, the Notary Supervisory Board has the authority to impose administrative sanctions if violations of the formal procedures for making deeds are found. These administrative sanctions consist of four levels, namely written warnings, temporary suspensions, honorable dismissals, and dishonorable dismissals, depending on the level of violation committed.⁴. The imposition of this sanction is intended not only as a form of punishment, but also as an instrument for fostering and strengthening the professionalism of Notaries.

However, in a number of cases, it was found that even though they had been given administrative sanctions, some Notaries continued to practice their notarial duties without correcting their negligence. This indicates a weakness in the hierarchical supervision mechanism carried out by the Regional, Regional, and Central Supervisory Boards, as well as the need to strengthen the role of regulation and sanctions to encourage ethical and legal compliance in the Notary position.⁵.

The gap between normative regulations and practical implementation shows the urgency of evaluating the effectiveness of Notary supervision. In addition, increasing legal understanding and ethical awareness in the implementation of Notary authority is very important to ensure that the deeds issued are truly

²Republik Indonesia. (1847). Law Number 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary, Article 44 paragraph (5). State Gazette of the Republic of Indonesia 2014 Number 3.

³Pomantow, V. (2018). *Akibat Hukum Terhadap Akta Otentik yang Cacat Formil Berdasarkan Pasal 1869 KUHPerdata. Lex Privatum*, 6(7), 90–91. Retrieved from <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/22401> 17 January 2019.

⁴Sihite, CF (2023). *Akibat Hukum Bagi Notaris yang Dijatuhi Sanksi Administratif oleh Majelis Pengawas Notaris. Notarius*, Universitas Muhammadiyah Sumatera Utara Retrieved from <https://jurnal.umsu.ac.id/index.php/notarius/article/view/15892> accessed January-June 2023

⁵Avicenna, AF (2022). *Application of Sanctions for Notaries, loc. cit.*

valid, legally strong, and capable of being irrefutable evidence in the judicial process.

This study aims to examine the form of formal negligence committed by the WP Notary in making the Deed of Lease Agreement Number 97 of 2021, analyze the application of administrative sanctions by the Notary Supervisory Board, and evaluate the legal consequences of issuing a copy of the deed based on minutes that were not signed by all parties.

2. Research Methods

This research method applies the normative legal and empirical legal approaches in a complementary manner. The normative legal approach focuses on the study of positive legal norms contained in laws and regulations, legal doctrine, and general principles of law, especially related to the authority of the notary office, the validity of authentic deeds, and the mechanism for granting administrative sanctions as regulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Office, and its implementing regulations such as the relevant Regulation of the Minister of Law and Human Rights. This approach aims to assess the consistency of the application of the law in the cases studied with the applicable normative framework.

Meanwhile, an empirical approach is used to understand the practice of supervision of notaries through the collection of factual data obtained from the results of the examination by the Regional Supervisory Council (MPD) of Kolaka Regency. This approach strengthens the sociological dimension of the legal study, by presenting field evidence through the results of direct interviews with Notary WP as the reported party, as well as members of the Kolaka MPD involved in the examination process.

The research specification is descriptive-analytical, which means that this research not only describes the legal facts and realities of notary practice systematically, but also analyzes them in depth to find the relationship between procedural negligence that occurs with legal responsibility and the imposition of administrative sanctions by the competent authorities.

The data collection method is carried out through two main techniques, namely library research and field studies. Library studies include the collection of primary legal materials, such as laws, implementing regulations, and decisions of supervisory institutions, as well as secondary legal materials in the form of legal literature, books, scientific journals, and current legal articles. Field studies are conducted by in-depth interviews with key subjects, including reported notaries and representatives of the Regional Supervisory Board, in order to obtain primary data related to the examination process, chronology of events, and arguments for granting administrative sanctions.

Data analysis was conducted qualitatively using the legal interpretation method. Normative and factual data were processed through a descriptive and argumentative approach, to examine the suitability between legal norms and the reality of their implementation. This analysis produced evaluative and normative-prescriptive conclusions, in order to answer the formulation of the problem and provide suggestions for improvements to the notary's job supervision system in general.

3. Results and Discussion

3.1. Formal Negligence Committed by Notary in Making Deed of Lease Agreement Number 97 of 2021

Based on the results of the research conducted through document studies and interviews, it was found that in the preparation of the Deed of Lease Agreement Number 97 dated March 29, 2021, Notary WP still issued a copy of the deed even though the minutes of the deed had not been signed by one of the parties appearing, namely NS. In notarial practice, the minutes of the deed are the main authentic documents that must be signed by all parties appearing and by the Notary and witnesses, as regulated in Article 44 paragraph (5) of Law Number 2 of 2014 concerning the Position of Notary. This provision emphasizes that only copies of the deed that are identical and sourced from valid minutes (completely signed) can be officially issued by a Notary.

From the direct clarification obtained through an interview with Notary WP on April 25, 2025, it was discovered that the issuance of a copy of the deed was carried out based on a request from other parties in the deed, and was carried out with the assumption that there would be no objections because the leased object was never used and was then replaced with a new lease deed. Notary WP stated that his actions were motivated by good faith, assuming that there was no actual loss experienced by NS, as the party who did not sign the minutes.

However, the results of the examination by the Regional Supervisory Council (MPD) of Kolaka Regency showed a different view. The MPD stated that the action was still included in the category of formal negligence because it had ignored the formal legal requirements that must be met in making an Authentic Deed. One of the MPD members (initials HS), in an interview on April 22, 2025, emphasized that the element of validity of an Authentic Deed is not solely determined by the presence or absence of real losses, but mainly by compliance with standard legal procedures. According to him, violation of the procedure for reading and signing the deed by all parties is a serious violation of the principle of caution in notarial practice.

Based on the analysis of the theory of legal responsibility as put forward by Hans Kelsen, it can be understood that any violation of legal norms will result in legal consequences that can be in the form of sanctions. In the modern legal system,

the form of responsibility does not only include criminal or civil, but also administrative responsibility, especially for public officials such as Notaries who carry out the authoritative function of the state in the field of civil law. Thus, even though there is no material loss incurred, violations of formal procedures in making a deed must still be legally accounted for by the Notary through the administrative sanction mechanism regulated by laws and regulations.⁶

The issuance of a copy of a deed in an invalid minute condition also has the potential to lower the deed's status from an Authentic Deed to a private deed, which in turn reduces its evidentiary power in the eyes of the law. In this context, violations of procedures cannot be considered trivial because they concern the principles of legality, accuracy, and legal certainty in the civil documentation process.

3.2. Implementation of Administrative Sanctions by the Notary Supervisory Board against Notaries Who Commit Negligence in Formal Procedures for Making Deeds

Based on the results of the study of official documents and interview results, it is known that the Regional Supervisory Council (MPD) of Kolaka Regency has conducted an examination of the WP Notary and found that there was formal negligence in issuing a copy of the deed that was not based on valid minutes. The Kolaka MPD then proposed to the Regional Supervisory Council (MPW) of Southeast Sulawesi Province to impose administrative sanctions, because the actions of the WP Notary were considered to have violated Article 16 paragraph (1) letters a, d, and m in conjunction with Article 44 of Law Number 2 of 2014 concerning the Position of Notary. The Regional Supervisory Council accepted the proposal and proposed to the Central Supervisory Council (MPP) to impose a sanction of temporary suspension for three months against the WP Notary. This decision was recorded in the official document Number: 02/Pts/MPWN Prov. Sultra/VIII/2022 dated April 27, 2022. In addition, the Kolaka MPD was also ordered to appoint a replacement Notary who would hold the office protocol.

From the perspective of the theory of legal evidence, as explained by Sudikno Mertokusumo, an Authentic Deed is a written evidence that has perfect evidentiary power if it is made in accordance with applicable legal procedures. If there is a violation of procedures such as the absence of one of the parties or the absence of a signature on the minutes, then the deed no longer meets the requirements as an Authentic Deed and only has the force of a private deed.⁷

The application of administrative sanctions in this case can also be analyzed from the perspective of the administrative sanctions theory put forward by Philipus

⁶Hans Kelsen. (2005). *General Theory of Law and State*. Cambridge: Harvard University Press. p. 35–37.

⁷Sudikno Mertokusumo. (2009) *Hukum Acara Perdata Indonesia*. Yogyakarta: Liberty. p. 109–111

M. Hadjon. According to him, administrative sanctions are not merely repressive actions, but are also an instrument of guidance, correction, and prevention. The purpose of implementing these sanctions is to maintain the professionalism of public officials, including Notaries, in carrying out their duties. In this context, the sanction of temporary dismissal is considered proportional to the level of violation committed⁸.

Furthermore, the implementation of these sanctions also reflects the commitment of the supervisory institution in maintaining the integrity of the Notary profession and ensuring that every implementation of the duties of the position is truly in accordance with applicable legal provisions. In addition to maintaining orderly administrative positions, administrative sanctions serve to restore public trust in the Notary institution.

3.3. Legal Consequences of Issuing a Copy of a Deed Based on the Minutes of a Deed that is Not Signed by All Parties

The results of the study conducted through tracing official documents and interviews with related parties show that Notary WP issued a copy of the Lease Agreement Deed Number 97 dated March 29, 2021, even though the minutes of the deed were not signed by one of the parties. According to the provisions of positive law, especially Article 44 paragraph (5) of Law Number 2 of 2014 concerning the Position of Notary, the issuance of a copy of the deed is only valid if all parties have signed the minutes. The minutes are an official source that has authentic value; a copy is only a duplicate of the original document, so the validity of the copy is very dependent on the perfection of the minutes.

The issuance of a copy without a complete signature on the minutes has serious legal consequences. Such a deed does not meet the requirements as an Authentic Deed, so it automatically loses its perfect evidentiary power, and is only considered a deed under hand as regulated in Article 1869 of the Civil Code. In this position, the deed has no binding force against the party who did not sign it and cannot be used as authentic evidence in the evidentiary process in court.⁹

Furthermore, the discrepancy between the contents of the copy and the minutes has administrative and ethical consequences that impact the profession and integrity of the Notary's position. In the context of fostering and supervising the position, the Regional Supervisory Council (MPW) of Southeast Sulawesi Province recommends a sanction of temporary dismissal to the Notary WP for three months, considering that this violation is not only a matter of technical procedures, but also concerns public trust in legal documents issued by Notary officials.

⁸Philipus M. Hadjon. (2008). *Pengantar Hukum Administrasi Indonesia*. Yogyakarta: Gadjah Mada University Press. pp. 213–215.

⁹Republic Indonesia. (1847). *Civil Code (Burgerlijk Wetboek)*, Article 1869.

In theoretical studies, this can be analyzed through the theory of administrative sanctions. Philipus M. Hadjon stated that administrative sanctions are a form of legal control by the state over public officials in order to maintain administrative order and prevent abuse of authority. Unlike criminal sanctions which are retributive in nature, administrative sanctions function as corrective, educational, and preventive instruments. In this case, the actions of the WP Notary are not only contrary to formal provisions, but also show professional negligence that deserves guidance through administrative sanctions.¹⁰.

The temporary suspension sanction imposed by the MPP is a form of accountability in the implementation of public office, which reflects the principles of good governance and job ethics. With this mechanism, it is hoped that every Notary understands that violations of procedures, even without real losses, can still reduce the legal validity of the deed and damage the public's trust system in the function of Notaries as professional and integrity-based legal service providers.

4. Conclusion

Based on the results of the analysis of primary data in the form of the results of the examination of the Regional Supervisory Council (MPD) of Kolaka Regency, documents resulting from the decisions of the Regional Supervisory Council (MPW), as well as secondary data from relevant legal provisions and theories, several conclusions can be drawn as follows: Formal Negligence of Notary Taxpayer in Making Deed Number 97 of 2021. The formal negligence committed by Notary WP lies in the act of issuing a copy of the Deed of Lease Agreement Number 97 dated March 29, 2021 even though the minutes of the deed have not been signed by one of the parties, namely NS. In fact, the provisions of Article 44 paragraph (5) of Law Number 2 of 2014 expressly stipulate that a copy of the deed can only be issued if the minutes of the deed are complete and signed by all parties and witnesses. This action shows a violation of the formal notarial procedure which damages the validity of the deed and is contrary to the principle of caution in carrying out the functions of a public official, Implementation of Administrative Sanctions by the Notary Supervisory Board Administrative sanctions imposed on Notaries by the Notary Supervisory Board are a form of disciplinary enforcement against violations of office. The Kolaka Regency MPD recommends sanctions to the Southeast Sulawesi Provincial MPW, which is then forwarded to the Central Supervisory Board (MPP). For violations of Article 16 paragraph (1) letters a, d, and m in conjunction with Article 44 of the UUJN, Notaries are subject to sanctions in the form of temporary suspension for three months. This supervisory action shows that even though there is no direct material loss, negligence towards formal procedures is still considered serious and can reduce the dignity and credibility of the notary profession. Legal

¹⁰Philipus M. Hadjon, *Loc.cit.*

Consequences of Issuing a Copy of a Deed Based on Minutes Not Signed by All Parties. A deed issued based on incomplete minutes loses its status as an Authentic Deed and only has the status of a private deed in accordance with the provisions of Article 1869 of the Civil Code. Consequently, the deed does not have perfect evidentiary power and is only valid if recognized by the relevant parties. In addition, the Notary's actions have the potential to cause legal uncertainty and disputes in the future. In the context of administrative law, this violation is the basis for the application of administrative sanctions as a form of ethical development and correction of office to maintain legal order and accountability of public officials.

5. References

Journals:

Avicenna, A. F. (2022). *Penerapan Sanksi Bagi Notaris yang Lalai dalam Membuat Akta Otentik*. *Officium Notarium*, Universitas Islam Indonesia. accessed from. <https://journal.uii.ac.id/JON/article/view/27677>

Pomantow, V. (2018). *Akibat Hukum Terhadap Akta Otentik yang Cacat Formil Berdasarkan Pasal 1869 KUHPdata*. *Lex Privatum*, 6(7), 90–91. Accessed from. <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/22401>

Sihite, C. F. (2023). *Akibat Hukum Bagi Notaris yang Dijatuhi Sanksi Administratif oleh Majelis Pengawas Notaris*. *Notarius*, Universitas Muhammadiyah Sumatera Utara. Accessed from <https://jurnal.umsu.ac.id/index.php/notarius/article/view/15892>

Books:

Hadjon, P. M. (2008). *Pengantar Hukum Administrasi Indonesia*. Yogyakarta: Gadjah Mada University Press.

Kelsen, H. (2005). *General Theory of Law and State*. Cambridge: Harvard University Press.

Mertokusumo, S. (2009). *Hukum Acara Perdata Indonesia*. Yogyakarta: Liberty.

Regulation:

Republik Indonesia. (1847). *Civil Code (Burgerlijk Wetboek)*. Article 1869.

Republik Indonesia. (2014). *Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary*. *State Gazette of the Republic of Indonesia* 2014 Number 3.