

Responsibilities of a Notary in Preparing a Deed of Inheritance for The Disbursement of Term Deposit Funds at Bank Rakyat Indonesia (Case Study of BRI Tambun Branch, Bekasi Regency)

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Abstract. *This study aims to determine and analyze the responsibilities, obstacles, and solutions of Notaries in making Deeds of Inheritance (AKW) for the disbursement of time deposit funds at Bank Rakyat Indonesia (Case Study of BRI Tambun Branch, Bekasi Regency). The approach method used in this study is an empirical juridical approach. The specifications of this study use descriptive analysis. The types of data used are primary data obtained directly from the community concerned, and secondary data which only complements primary data such as laws, books, journals, and the internet. The data collection method uses primary data, namely by interviewing Notaries and Bank Rakyat Indonesia and secondary data by reading and analyzing legal materials such as books and journals, and other written sources. The data analysis method used in this study uses qualitative analysis methods. The results of the study indicate that Notaries in making AKW bear civil, criminal, and administrative responsibilities. Civilly, Notaries are obliged to compensate for losses due to their negligence, criminally, Notaries must comply with the provisions of the Criminal Code (KUHP), such as Article 264 concerning falsification of authentic documents, while administratively, Notaries are obliged to maintain Notary protocols such as storing deeds, and data confidentiality. In practice, Notaries face administrative obstacles in the form of incomplete heir documents, legal obstacles related to proving heir status in cases of multiple marriages or illegitimate children, and sociocultural obstacles due to differences in understanding of inheritance based on local customs. Solutions taken include improving communication and education to heirs (administrative), implementing the principle of prudence (legal), and strengthening Notary soft skills in communication, negotiation, and mediation (sociocultural).*

Keywords: *Deed of Inheritance; Notary; Time Deposit.*

1. Introduction

Banking functions as an agent of development because economic activities in the monetary and real sectors interact. Without monetary support, the real sector will not function optimally. Banks, as financial institutions, play a crucial role in collecting and channeling public funds, which in turn supports the smooth flow of investment, distribution, and consumption of goods and services. These three activities are at the heart of a country's economic development, thus banking plays a vital role in improving public welfare through effective and efficient fund distribution. In banking activities, there are two types of banks, namely Conventional Banks and Sharia Banks. Although both offer various products, the majority of Indonesians still choose Conventional Banks because they use the interest method in offering their products, one of which is deposits. According to Article 1 point (7) of Law Number 7 of 1992 in conjunction with Law Number 10 of 1998 concerning Banking, "Deposits are savings that can only be withdrawn within a certain period of time according to the agreement between the customer and the bank." Deposit products are often offered by conventional banks, including Bank Rakyat Indonesia (BRI), which is one of the largest government-owned banks in Indonesia. BRI provides various savings products, including deposits with varying terms ranging from 1, 3, 6, 12, 24, to 36 months, and a minimum initial deposit of IDR 10,000,000. Deposit funds are held until maturity according to the agreement between the depositor and the bank. If the funds are withdrawn prematurely, the depositor will be subject to a fine or penalty. Nevertheless, deposits remain superior to other savings products due to their more competitive interest rates, making them an attractive investment option for the public.

In the deposit withdrawal process, depositors must fulfill administrative requirements such as bringing their ID card, savings book, debit card, and deposit slip. However, problems arise when the depositor dies, so the withdrawal must be carried out by their heirs. BRI sets additional requirements, especially for nominal deposits above Rp 500,000,000, namely the heirs are required to show a Deed of Inheritance (AKW) made by a Notary as legal proof for the disbursement of funds. Notaries, according to Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries, are public officials authorized to make authentic deeds and other authorities based on the law. Notaries are not State Civil Apparatus, but are assigned authority by law to exercise some of the state's powers in the field of civil law.¹In carrying out his duties, the

¹Sjaifurracham & Habib Adjie, (2011), *Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta*, Bandung : CV. Maju Mundur, p. 67.

Notary is fully responsible for the truth and validity of the deeds he makes, including the AKW.

An authentic notarial deed is a perfect means of evidence in legal proceedings, different from a private deed which is made without the intervention of a public official.²An authentic deed details the rights and obligations of the parties in a legal act. As strong evidence, an authentic deed plays a crucial role in providing legal certainty in various legal relationships in society, including in banking matters through the creation of an Inheritance Certificate (AKW).³AKW, as an authentic notarial deed, serves to prove who is entitled to the testator's inheritance, whether in the form of movable, immovable, tangible, or intangible objects, including bank deposits. For banks such as BRI, AKW is an absolute requirement to ensure legal certainty regarding the disbursement of the testator's deposits, so the preparation of AKW must be carried out carefully and responsibly by the Notary to prevent potential legal disputes in the future.

Therefore, the Notary's responsibility in this case includes the material truth of the Deed of Inheritance (AKW). Errors in the identification of heirs or the preparation of the letter can lead to legal disputes in the future. Therefore, the Notary must ensure that the preparation of the AKW is based on correct data and information and in accordance with applicable law. In addition, in the preparation of this AKW, the Notary does not only act as a witness to the preparation of the letter, but is also fully responsible for the validity of the deed. Therefore, based on the description that the author outlined above, the author wishes to research and discuss in more depth about the responsibilities, obstacles, and solutions that a Notary must face in preparing a Deed of Inheritance for the disbursement of term deposit funds at Bank Rakyat Indonesia, in a thesis entitled "Notary's Responsibilities in Making a Deed of Inheritance for the Disbursement of Term Deposit Funds at Bank Rakyat Indonesia (Case Study of BRI Tambun Branch, Bekasi Regency)".

2. Research Methods

In this research, the author used an empirical legal research method with a qualitative approach. According to Moleong, a qualitative approach is a type of approach that produces findings that cannot be achieved (obtained) using statistical procedures or other methods of quantification (measurement).⁴The data types used are primary data obtained directly from the communities concerned, and secondary data, which only complements primary data such as

²Widhi Handoko, (2019), *Dominasi Negara Terhadap Profesi Notaris (Antara Ide dan Realitas)*, Bogor : Roda Publikasi Kreasi, p. 103.

³Abdul Bari Azed, (2005), *Profesi Notaris sebagai Profesi Mulia*, Jakarta : Media Ilmu, p. 68.

⁴Muhammad Hasan, dkk, (2022), *Metode Penelitian Kualitatif*, Makassar : Tahta Media Group, p. 7-8.

laws, books, journals, and the internet. The data collection method used primary data, namely interviews with Notaries and representatives from Bank Rakyat Indonesia, and secondary data through reading and analyzing legal materials such as books and journals, and other written sources. The data analysis method used in this study is qualitative analysis.

3. Results and Discussion

3.1. Notary's Responsibilities in Making a Deed of Inheritance for the Disbursement of Time Deposit Funds at Bank Rakyat Indonesia

The legal product produced by a Notary, in the form of an authentic deed, has a very important role as written evidence that has the most perfect evidentiary power in the Indonesian legal system. The existence of authentic deeds is a crucial element in guaranteeing security and protection of relationships in various aspects of society's life, not only in the world of banking, but in business relations, land transactions, social activities, as well as in terms of inheritance. As the complexity of social and economic interactions increases, both at the national, regional, and global levels, the need for legal documents that are legal and legally accountable are increasingly increasing. In this context, the role of the Notary becomes increasingly significant because the legal product it produces not only supports administrative needs, but also becomes the main foundation in ensuring legal certainty in various social relations in society.

Based on Law Number 30 of 2014 concerning Amendments to Law Number 2 of 2004 concerning the Position of Notary (UUJN), Article 15 paragraph (1) states that "a Notary shall make an authentic deed regarding any deeds, agreements and decrees required by statutory regulations and/or enforced by the deed which have the need to be stated in an authentic deed, guarantee the certainty of the date of execution of the deed, store the deed, provide grosse, copy and quotation of the deed, everything "That, as long as the deeds are executed, they are not assigned or delegated to other officials or other people determined by the law."

From the sound of Article 15 paragraph (1) UUJN above, it can be concluded that the Notary as an official who is given authority by the state makes the proof of evidence in the form of an authentic deed, in this case the person who makes the Deed of Inheritance Certificate (AKW).⁵ Where this AKW is a deed which is used as the basis for the heirs' right to carry out legal actions on an inheritance left by the heirs. In Indonesia, the Deed of Inheritance (AKW) for all Indonesian Citizens (WNI)

⁵ I Gede Kade P.M.Y, dkk, (2018), Kewenangan Notaris dalam Pembuatan Surat Keterangan Waris Untuk Warga Negara Indonesia, *Jurnal Ilmiah Pendidikan Pancasila dan Kewarganegaraan*, Vol. 3, No. 2, p. 134, https://journal2.um.ac.id/index.php/jppk/article/download/7817/3746?_cf_chl_tk=sF3ld7YFuJ49Fv0Fyk7a3P6JDOOpMc1c8zyh1il.qXY-1748529729-1.0.1.1-4NAhpGo2yAfo.XmlIM7EDqk2YgxnM2Sbrmmy4H3FAqU

is made by a Notary without distinguishing any group. Because with the AKW, we can know exactly who is entitled to the assets left by the heir. In this case, the AKW is used for the disbursement of time deposit funds at Bank Rakyat Indonesia (BRI), with a nominal value above Rp. 500,000,000.00 (five hundred million rupiah), then the AKW must be made by a Notary for all Indonesian Citizens (WNI) without distinguishing any group. Meanwhile, deposits below the nominal value of Rp. 500,000,000.00 (five hundred million rupiah) is sufficient by using a Certificate of Inheritance made by the Village with the knowledge of the Sub-district Head where the heir resides for native Indonesian Citizens (WNI), and a Certificate of Inheritance made by the Estate Management Office for WNI of foreign descent.

Heirs who come to BRI Bank want to disburse their long-term deposit funds but must bring the following documents:

- a. Savings book of the heir who died;
- b. Residential Identity Card (KTP) of the heir who died (if still exists) and a photocopy thereof;
- c. Deposit slips;
- d. Photocopy of Death Certificate issued by the local Population and Civil Registration Service;
- e. Heir Certificate and/or Inheritance Certificate;
- f. Photocopy of KTP for all heirs;
- g. Photocopy of the deceased's/deceased's marriage certificate;
- h. Photocopy of family card;
- i. Power of attorney for the disbursement of funds as representing all the heirs if all the heirs are unable to attend, and if the heir is a single heir then he must make a statement on stamp paper that the sole heir will disburse the funds from the inheritance of the heirs with include the registration number in the statement letter.
- j. Photocopy of Will (if any).

In connection with the complexity of legal requirements that govern the role of heirs in the inheritance process, the Notary's responsibility becomes very significant in ensuring that the bank does not make a mistake in handing over funds to unauthorized parties. Mistakes in making AKW can have an impact on the possibility of future heirs, as well as creating potential losses for both the bank and other heirs who may not be included in the documents submitted.

Where the Notary's responsibility in making the Deed of Inheritance (AKW) is in line with the theory of responsibility proposed by Hans Kelsen, namely:

- a. Individual responsibility. In this context, the Notary as an official who is given the responsibility to make authentic deeds is responsible civilly, criminally, and administratively for every action against the law which is carried out intentionally or as a result of his own negligence.

b. Collective responsibility. Within the scope of a Notary's position, this form of responsibility can arise if there is a violation or administrative error committed by staff or employees at the Notary's office, where the Notary as the head of the office can still be held responsible for the negligence of supervision of his subordinates.

c. Responsibility is based on fault (liability based on fault. In this case, the Notary can be held responsible if the product of the law is that the deed in question was made deliberately to help the party concerned or cause harm to the party other.

d. Absolute liability (strict liability). This means that any negligence, no matter how small, which causes loss to another party, will still result in legal responsibility for the Notary. Therefore, Notaries are appointed to carry out their duties professionally, thoroughly and fully. caution in the execution of every authentic deed.

Regarding the Notary's responsibility in civil, criminal and administrative matters, it will be explained as follows:

a. Responsibilities of the Notary in a civil manner

In the context of civil law, the Notary as your official has a very important responsibility regarding the validity and material correctness of the authentic deed he or she makes. This civil responsibility is inseparable from the role of the Notary as a party entrusted with authority by the state to make written documents which have the power of making full documents as regulated in Article 1868 of the Indonesian Law Code. Civil Code (Civil Code).

The notary's civil liability primarily arises if the authentic deed he or she makes causes losses to the parties or third parties due to negligence (negligence), intentional act, or breach of obligation. Notary law as regulated in statutory regulations, especially Law Number 30 of 2004 concerning the Position of Notary jo. Law Number 2 of 2014 (UUJN).

Notary's civil responsibility refers to the principle of acts against law (onrechtmatige daad) as regulated in Article 1365 of the Civil Code, which states that every act against law that causes loss to another person is obligatory. the perpetrator is to compensate for the loss. In this context, a Notary can be considered to have committed an act against the law if:

- 1) Violating obligations stipulated in statutory regulations;
 - 2) Acting in conflict with injustice or insubordination;
 - 3) Violates the subjective rights of other parties;
 - 4) Ignoring the duty of prudence (prudential duty) in carrying out his/her duties.
- Thus, if in the execution of the deed the Notary is found to have made a negligence or error which causes damage to one of the parties with an interest, the Notary can be asked for compensation in civil law.

b. Notary's criminal responsibility

The Notary's criminal liability for the deed he or she has executed is an important part of protecting legal relations, both for society and the integrity of the notarial profession. As a public official who is responsible for making an authentic deed, a Notary is not only legally responsible, but can also be held criminally liable if in the performance of his duties he commits an act that violates law which fulfills the following elements. criminal act. In this context, the criminal liability of Notaries refers to the provisions in the Criminal Code (KUHP), especially Article 263 concerning forgery of documents, Article 264 concerning forgery of authentic documents, Article 266 concerning the disclosure of false statements in authentic deed, as well as Articles 55 and 56 regarding participation in criminal acts. A criminal act can occur if a Notary deliberately or negligently makes, makes a mistake, or inserts false information into an authentic deed which results in causing losses to other parties.

In order for criminal liability to be imposed on a Notary, the principal must be the existence of an unlawful act, a mistake (intentionally or negligently), the occurrence of prohibited consequences, as well as the existence of personal responsibility on the part of the Notary. perpetrator. Acts against law in the office of Notary include, for example, making deeds containing false data or statements, or notarizing documents without proper inspection. This error (*mens rea*) can be intentional (*dolus*), namely when the Notary knowingly and deliberately violates the law in order to ensure the validity of the document, or negligence (*culpa*) when the Notary neglects to check the validity of the document or the identities of the parties are carefully ascertained as to their obligations according to the Law on the Office of Notaries. The prohibited consequences must also be real, such as the occurrence of losses to the parties or third parties, the emergence of legal disputes, to the reduction of public trust in the Notary profession. In addition, criminal responsibility is personal, meaning that the Notary can only be held responsible if the error or violation was committed by himself or was committed under his orders or knowledge.

c. Administrative responsibility of the notarist

In addition to civil and criminal responsibilities, Notaries also have administrative responsibilities, which relate to the implementation of the duties and functions of the office of Notary as regulated in Law Number 30 of 2004 concerning the Position of Notary as amended by Constitution Number 2 of 2014 (UUJN). In this case, the Notary is obliged to carry out all the duties of his office in accordance with statutory regulations, the Notary's code of ethics, and applicable operational standards of legal processes.

These administrative responsibilities include, among other things, the obligation to maintain Notary protocols, store deeds properly, and maintain the confidentiality of all information obtained in the implementation of their official duties. Violations of administrative regulations can result in administrative sanctions imposed by the Notary Supervising Council, ranging from verbal warnings, written warnings, suspension from office, temporary suspension, to permanent suspension from Notary position. In this way, administrative responsibility becomes a complement to the civil and criminal responsibilities that have been committed in the past, and also serves to prevent abuse of office by the Notary.

3.2. Obstacles and Solutions Faced by Notaries in Making a Deed of Inheritance for the Disbursement of Time Deposit Funds at Bank Rakyat Indonesia

A notary is an official who is given the authority to make an authentic deed, including making a Deed of Inheritance Certificate (AKW). This refers to the provisions of the ATR/Head of BPN 16/2021 which states that the Deed of Inheritance is a document of evidence as an heir made by a Notary, and is intended for all Indonesian Citizens (WNI) without distinction of class. anywhere. However, the process of making a Certificate of Inheritance by a Notary for the disbursement of term deposit funds is not simple and often faces various obstacles of an administrative, legal and socio-cultural nature. From an administrative aspect, one of the obstacles that a Notary faces is the incompleteness of supporting documents that must be submitted by the heirs. For example, in the process of creating an AKW, the Notary needs to provide basic documents such as birth certificates for all heirs, marriage certificates or divorce certificates for the deceased heirs (if any), death certificates for the heirs, as well as legal identity of the heirs in form of KTP and Family Card. Not infrequently, heirs come to the Notary's office with complete documents that have not yet been recorded, so that the process of making the AKW documents must be completed. This delay not only has an impact on the smoothness of the Notary's internal administration, but also has an impact on the disbursement process of term deposit funds at banking institutions which require the existence of AKW as the primary document for the purpose of making payments. who is the legal beneficiary of the heir's inheritance funds?.

From a judicial aspect, the Notary has a big responsibility in ensuring that the determination of who is entitled to be an heir is truly in accordance with the provisions of the applicable law. In this context, the increasingly realistic system of inheritance law in Indonesia is a challenge in itself, because the Notary must determine whether the inheritance law used is western civil law (Burgelijk Wetboek), Islamic law, or customary law, depends on the legal status of the heirs and heirs. Choosing the wrong legal system can have fatal consequences, both in terms of the validity of the AKW and the potential for lawsuits from third parties

who feel their rights are being ignored. For example, in cases where Muslim heirs refuse to establish AKW based on civil inheritance laws, even though they should be based on Islamic inheritance laws, this could give rise to legal conflicts in the future. The notary must be careful in ensuring the correct legal requirements to be implemented, and sometimes even has to carry out clarifications directly to the heirs or the large family of the heirs.

The next obstacle which is no less important is from a sociocultural perspective. As a society that is still steeped in customs, the majority of heir families in Indonesia have varying understandings regarding inheritance distribution. For example, in an elite culture, sons are given priority in inheritance compared to women's children, even though legally positive things are not recognized. This difference in understanding often triggers protracted family conflicts so that the heirs refuse to be together and agree to AKW's implementation. It is not uncommon for heirs who live in remote areas or who have lived abroad for a long time to be reluctant to be involved in this process, either because of geographical distance or because of ignorance of the importance of the document. Notaries in this situation are required to have high persuasive abilities in order to convince the heirs of the importance of their presence for the completeness of the legal process of making AKW.

Of the obstacles that Notaries face, it is certain that a series of solutions are needed that are comprehensive, systematic, and involve synergy between Notaries, heirs and related parties, including banking institutions and government agencies. From an administrative aspect, the first solution that can be implemented is improving communication and education to heirs from the beginning of the AKW application process. The notary needs to explain in detail the list of complete documents that must be prepared by the heirs, as well as the consequences of the incompleteness of the documents that must be prepared by the heirs, including the potential for violation of the process and the potential for rejection. request for disbursement of funds at the bank. To carry out the process of verifying data, notaries can utilize the services of the civil law information system (SIK) which is integrated with the civil service and civil registration service (Disdukcapil) to check the validity of the documents and identity of the heirs, thus minimizing administrative errors due to data differences. Apart from that, the application of a standardized form for filling in personal data and a standardized list of documents and requirements at the Notary's office can also be an effective solution to ensure that each applicant understands and completes the requirements of the application process. AKW begins.

From a judicial aspect, the Notary must always carry out legal proceedings in a manner that relates to the system of legal inheritance that applies to the heir and his heirs. The solution that can be taken is to conduct in-depth interviews with the

heirs to explore the background of the religious laws, customs, and family history of the heirs so that the basic determination of the inheritance laws used becomes correct. In the event that there is a potential overlap between customary law, Islamic law, and western civil law, the Notary must be able to provide an objective explanation of the rights and obligations of the heirs based on the positive laws that apply, as well as promoting settlement through consensus agreement to avoid prolonged conflict. The notary can also advise the heirs to submit a request for heir determination to the Religious Court or the National Court if there are strong indications that an inheritance dispute will be difficult to resolve in a family-friendly manner. In this way, the court's objective is to be able to enforce the basis of the AKW law made by the Notary, as well as preventing the occurrence of lawsuits from third parties in the future.

From a sociocultural perspective, the first solution that can be achieved is increasing the soft skills of Notaries, especially in terms of international communication, negotiation and mediation between heirs. The notary should be able to act aggressively to encourage heirs who live far away, whether outside the local area or even outside the country, to be involved in the process of creating AKW through the mechanism of granting power, online communication. (online), or video conference services, which are legal in the eyes of the law. Apart from that, it is a simple but clear explanation of the importance of a notarial AKW, compared to a private certificate of inheritance, this needs to be conveyed to the heirs so that they understand that the creation of the AKW before a Notary provides certainty. stronger law, as well as avoiding disputes in the future. In dealing with unequal understanding of inheritance which is influenced by local customs, the Notary can resolve the differences in inheritance law by upholding the principles of justice and compliance with positive law. act, while still respecting local cultural values through a polite and communicative approach.

4. Conclusion

The Notary's responsibility in preparing the Deed of Inheritance (AKW) for the disbursement of term deposit funds at Bank Rakyat Indonesia covers civil, criminal, and administrative aspects, where the Notary can be held responsible for losses arising from negligence, subject to criminal sanctions if proven to have committed unlawful acts such as forgery, and is obliged to maintain protocols and data confidentiality in accordance with the Notary Law. In practice, Notaries also face a number of obstacles, both administrative related to incomplete or inconsistent documents, legal in ensuring the validity of the status of heirs, and sociocultural due to differences in understanding of inheritance influenced by local customs. To overcome this, solutions that can be taken include improving communication and education to heirs, seeking legal information through in-depth interviews, and honing soft skills such as interpersonal communication, negotiation, and

mediation so that the AKW preparation process runs smoothly and continues to protect the rights of the parties served.

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