

Legal Analysis of the Temporary Suspension of Notaries Serving a Period of Detention (Case Study in Bintan Regency)

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Abstract. This study examines the temporary dismissal of a notary who is undergoing detention, focusing on the legal framework, administrative procedures, and juridical implications based on the case of Notary Ratu Aminah Gunawan in Bintan Regency. The research employs a normative-empirical legal method, combining analysis of legislation, legal doctrines, principles of administrative law, Islamic legal perspectives, criminal case documents (Indictment P-29, Prosecutor's Demand P-42, and the District Court Judgment of Tanjungpinang No. 35/Pid.B/2022/PN.Tpg), as well as interviews with members of the Supervisory Council and law enforcement officials. The findings demonstrate that the legal basis for temporary dismissal under Article 10 of the Notary Act (UUJN) and Government Regulation No. 37/2011 provides the Minister of Law and Human Rights with clear authority to impose temporary dismissal on a notary who is detained. The implementation of temporary dismissal in Bintan has complied with the multi-tiered supervisory mechanism (MPD-MPW-MPP), fulfilling the principles of legality, proportionality, and legal protection for the public. Juridically, deeds executed before the detention remain legally valid insofar as they meet the formal and material requirements of the Notary Act, while deeds declared defective by the court lose their evidentiary strength. Detention and temporary dismissal not only affect the continuity of notarial services but also necessitate the appointment of a Substitute Notary to ensure legal certainty. This study concludes that temporary dismissal is a legal and proportionate administrative mechanism essential for safeguarding the integrity of the notarial office and ensuring legal protection for service users.

Keywords: Authentic; Dismissal; Legal; Protection Temporary.

1. Introduction

Indonesia, as a country based on law, as stipulated in Article 1 Paragraph (3) of the 1945 Constitution, requires that all public positions, including notaries, be carried out based on the principles of legal certainty, justice, and benefit. Notaries are public officials authorized to make authentic deeds and have a strategic position in guaranteeing legal certainty in the lives of the community.¹ The functions and authorities of notaries are expressly regulated in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Office of Notaries (UUJN). The existence of notaries is considered essential in creating orderly administration and providing legal protection to parties in agreements or other legal acts.²

The position of notary demands integrity, professionalism and high morality.³ However, in practice, quite a few notaries have stumbled upon legal problems.⁴ Some notaries even had to undergo legal proceedings and were detained by law enforcement officers.⁵ When a notary is serving a period of detention, legal questions arise regarding the status of his position, his legal authority, and the protection of his rights as a public official.⁶

The Notary Law provides a mechanism for the temporary suspension of notaries who are serving a period of detention.⁷ These provisions are intended to uphold the dignity of the profession, prevent abuse of office, and ensure the smooth delivery of legal services to the public. However, the implementation of this temporary suspension often raises administrative and interpretive issues, particularly regarding the procedure, the authority of the official authorized to suspend, and its impact on deeds already or currently being executed by the notary in question.⁸

¹Borman, MS, 2019, The Position of Notaries as Public Officials in the Perspective of the Notary Position Law, 3(1), p. 75.

² Muljono, BE, 2013, Implementation of the Transfer of Land Rights Based on a Sale and Purchase Agreement and Power of Attorney to Sell Made by a Notary, Independent Journal, 1(2), p. 59.

³ Prasetyawati, BI, & Prananingtyas, P., 2022, The role of the notary code of ethics in building notary integrity in the 4.0 era, Notarius, 15(1), p. 310.

⁴Kosasih, JI, & Haykal, H., 2021, Notary legal cases in the field of banking credit, Bumi Aksara, p. 3.

⁵ Pohan, MN, Hidayani, S., & Munawir, Z., 2021, Legal Review of Prisoners' Competence in Signing Notarial Deeds in Detention Centers, Normative Journal, 1(2), p. 72.

⁶ Yudana, ME, 2024, Legal Analysis of the Implementation of the Use of Notary's Right of Refusal in Maintaining the Confidentiality of the Contents of Deeds (Master's thesis, Sultan Agung Islamic University (Indonesia)), p. 6.

⁷ Mirawati, L., & Soepanji, KW, 2023, Mechanism for Temporary Suspension of Notary Position (Study of State Administrative Court Decision No. 88/G/2017/PTUN-JKT), UNES Law Review, 6(1), p. 3672.

⁸ Yuniati, S., 2017, Mechanism for Imposing Sanctions on Notaries Who Violate the Notary's Code of Ethics, Jurnal Akta, 4(4), p. 585.

Legal problems do not just stop at the normative aspect.⁹ In reality, not all cases of notary detention are immediately followed by temporary suspension according to the provisions.¹⁰ In several areas, including Bintan Regency, there are situations where the detention process has not been followed up with appropriate administrative action, giving rise to legal uncertainty and the potential for future disputes. This indicates a gap between legal norms and practice in practice.

Bintan Regency as a region with rapid economic growth and development has a high need for legal certainty in transactions and agreements.¹¹ Notaries are an important pillar in ensuring the legality of every legal process related to assets, permits, and civil relations.¹² Therefore, when a notary in Bintan Regency is involved in legal problems and ends up in detention, this has the potential to create a gap in services and disrupt the ongoing legal process.¹³

There is a need to further examine how the temporary suspension of notaries serving detention is implemented, particularly in Bintan Regency. This research should analyze whether the implementation of the temporary suspension mechanism complies with the mandate of the law and the principle of legal protection for public officials. Furthermore, it is important to examine the legal implications of this suspension status for previously executed deeds.

2. Research Methods

This research uses a normative juridical and empirical juridical approach.¹⁴ The normative legal approach relies on an analysis of written legal norms, such as Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary Public, as well as other implementing regulations governing the mechanism for the temporary dismissal of notaries. This approach focuses on examining legal principles, doctrines, and regulations relevant to the problem under study. The empirical legal approach is used to describe and analyze how these legal provisions are applied in practice.¹⁵ specifically in the context of the temporary suspension of notaries in Bintan Regency. This research will examine

⁹ Benuf, K., & Azhar, M., 2020, Legal research methodology as an instrument for analyzing contemporary legal problems, *Gema Keadilan*, 7(1), p. 20.

¹⁰ Ilhaqh, MY, & Suprayitno, MM, 2024, Legal Responsibility for Notaries Convicted of Criminal Offenses for Files Still Being Processed, *Journal of Law and Nation*, 3(3), p. 673.

¹¹ Laia, INE, Salsabila, L., & Lodan, KT, 2024, Ambiguity and Economic Growth in Bintan Regency, in *Proceedings of the National Seminar on Social Sciences and Technology (SNISTEK)*, Vol. 6, p. 240.

¹² Ramadhana, MQ, & Kobliyati, SI, 2024, The Role and Responsibilities of Notaries in Mergers, Amalgamations and Takeovers of Companies According to Competition Law, *Future Academia: The Journal of Multidisciplinary Research on Scientific and Advanced*, 2(4), p. 783.

¹³ Nauli, M., 2019, Constitutional Views on Notaries: (Case Study of the Constitutional Court's Decision on Notaries), *Recital Review*, 1(1), p. 82.

¹⁴ Abdulkadir Muhammad, 2004, *Law and Legal Research*, Bandung: Citra Aditya Bakti, p. 134.

¹⁵ Benuf, K., & Azhar, M., 2020, Legal Research Methodology as an Instrument for Analyzing Contemporary Legal Problems, *Gema Keadilan*, 7(1), p. 20.

the implementation of legal regulations by relevant institutions, such as the Regional Supervisory Council, the Ministry of Law and Human Rights, and law enforcement officials, through field data and interviews. The use of these two approaches aims to gain a comprehensive understanding, both from a normative perspective and empirical reality on the ground. This approach also allows researchers to identify gaps between legal theory and practice and provide input for improving legal implementation in the notary sector.

3. Results and Discussion

3.1. Overview of the Case of Temporary Suspension of Notaries in Bintan Regency

1) Notary Profile and Position History

The notary who is the object of the research is Ratu Aminah Gunawan, SH, M.Kn, a public official domiciled in Tanjung Uban Selatan Village, North Bintan District, Bintan Regency. Her personal identity and profession are clearly stated in the P-29 Indictment, which states that she is an Indonesian female citizen, Muslim, holds a master's degree in notary, and has an office at Jalan Permaisuri No. 03 RT 003/RW 002. The Tanjungpinang District Court Decision No. 35/Pid.B/2022/PN.Tpg reaffirms the defendant's status and position as a notary who was actively providing services before this case occurred.

Case data also shows that prior to this case, notaries had been carrying out a number of professional activities related to land transactions in the Bintan and Tanjungpinang areas. These professional activities, which involve issuing deeds of sale and purchase, PPJB (Concession Agreement), powers of attorney, and land administration, place notaries in a strategic position in civil relations. The intensity of their duties and the considerable public trust in notaries also make it clear that their position carries significant legal consequences if any irregularities occur. The case of Ratu Aminah Gunawan is significant because it demonstrates how the legally protected position of a notary can be impacted by criminal findings directly related to the products of their position, namely land deeds and documents.

2) Brief Chronology of the Criminal Case

The case began in 2016 when witness Supriati offered four hectares of land to Hariadi, who then processed the transaction through the notary office of Ratu Aminah Gunawan. The process of managing land documents involved the creation of SPORADIK, SKPT, and several deeds such as PPJB Number 09 dated December 15, 2016. Indictment P-29 and Charges P-42, it was stated that there were allegations of forgery and the use of letters that "could give rise to rights" as well as allegations of invalidity in the land administration process. Witness testimony at the trial strengthened the allegation that the measurement process, land

boundaries, and the presence of related parties were not carried out according to correct procedures.

The court's ruling indicates that the series of events was not merely a procedural error, but was deemed to constitute an act that fulfills the elements of the crime of jointly falsifying authentic documents and deeds, as stated in the verdict. The court also considered that the defendant's actions resulted in material losses for the land purchaser and created legal uncertainty regarding the status of the land object. The falsification of land documents and the issuance of deeds that did not comply with procedures show that this case not only impacted the parties but also shook confidence in the office of notary in Bintan Regency.

3) Notary Detention Status and Its Impact on the Execution of Office

The notary's detention history began on January 27, 2022, and ended on February 15, 2022, by the public prosecutor, then continued by the judge and chief justice until May 9, 2022, as stated in Tanjungpinang District Court Decision No. 35/Pid.B/2022/PN.Tpg. During the detention period, the notary was in fact unable to carry out his official authority such as making minutes of deeds, legalizing them, or receiving witnesses. This situation is an objective basis for implementing temporary suspension as regulated in Article 10 paragraph (1) of the UUJN and PP 37/2011.

Detention also has significant administrative consequences for legal services in Bintan Regency. The prolonged absence of a notary has delayed several civil administration processes, necessitating the appointment of a replacement notary to ensure continued service. This situation makes it clear that detention is not merely a personal matter but a legal condition that impedes the ability to perform notarial duties. Therefore, temporary suspension has a strong basis for maintaining legal certainty and preventing harm to the public, who rely heavily on notarial services.

4) Position of Cases in the Notary Supervision System

This case automatically places notaries within the oversight mechanism of the MPD–MPW–MPP as stipulated in PP 37/2011. Allegations of falsification of deeds and land documents that serve as evidence in the case, including the PPJB and sporadic documents, are the basis for the MPN to conduct ethical and administrative investigations. The court's decision ordering the confiscation and destruction of several related documents makes this case have a high level of oversight because it concerns official products whose authenticity should be guaranteed by the notary.

In the context of the oversight system, this case serves as an important reference because it demonstrates the direct link between criminal cases and ethical-administrative evaluations of notaries. The results of the MPN examination will

later form the basis for a recommendation to the Minister of Law and Human Rights to temporarily suspend the notary. This case also demonstrates how the oversight system uses court decisions as a tool to assess the level of official misconduct, ensuring that administrative actions taken are not based solely on allegations but are supported by legally binding decisions. Therefore, this case is crucial in the context of professional development and the prevention of future misconduct.

3.2. Legal Provisions Concerning the Temporary Suspension of a Notary Public Undergoing Detention

1) Temporary Dismissal in the Notary Position Law

Law No. 30 of 2004 concerning the Position of Notary Public as amended by Law No. 2 of 2014 provides the main legal basis for the temporary dismissal of a notary public. Article 10 paragraph (1) states that a notary public may be temporarily dismissed for the following reasons: (a) being a defendant in a criminal case that carries a prison sentence of five years or more; or (b) being temporarily prevented from carrying out their duties. This provision is strengthened by Article 10 paragraph (2) which authorizes the Minister of Law and Human Rights to issue a decision on temporary dismissal based on the recommendation of the Supervisory Board.¹⁶

This norm indicates that grounds for temporary suspension do not require a legally binding decision; rather, objective circumstances precluding the notary's ability to perform his or her duties are sufficient. Detention is one such objective condition. The UUJN (National Notary Law) considers the ability to perform the notary's duties to be physical presence, professional responsibility, and freedom of action. Because detention eliminates these elements, temporary suspension serves as a legal instrument to ensure service certainty.

The UUJN also stipulates that temporary suspension is administrative in nature, not an ethical or criminal sanction. The goal is not to punish, but to maintain the effectiveness of notarial services while ensuring public trust in authentic deeds. In the context of Ratu Aminah Gunawan's case, the provisions of this article are relevant because detention prevents the notary from being present to draw up deeds, verify witnesses, or perform authentication duties, which are core to the notary's role.

2) Temporary suspension in PP 37/2011 and PP 79/2010

¹⁶Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.

PP 37/2011 concerning the Position of Officials Making Land Deeds (which also regulates the Notary Supervisory Board),¹⁷ together with PP 79/2010,¹⁸ regulates the technical procedures for temporary suspension. The PP stipulates that:

- a. The MPD conducts an initial investigation into alleged violations or conditions that prevent a notary from carrying out his/her duties.
- b. The MPW conducts further investigations, including clarification, file verification, and assessment of the level of violation.
- c. The MPP provides administrative recommendations to the Minister if the notary's condition meets the requirements for temporary dismissal.

Articles 17–21 of PP 37/2011 emphasize that temporary dismissal must be based on evidence and multiple investigations. Detention is considered part of the conditions indicating inability to perform one's duties, which form the basis for a recommendation for temporary dismissal.

The PP also emphasizes the principle of proportionality, stating that administrative action must not exceed the severity of the violation or the circumstances. In situations of detention, the PP considers temporary restrictions on office necessary to maintain the continuity of legal services and prevent obstruction of civil proceedings requiring notarial deeds.

Government Regulation 79/2010 specifically emphasizes that the National Notary's Office (MPN) is responsible for upholding the dignity, honor, and validity of notarial deeds. Therefore, when a notarial deed becomes part of a criminal case, the PP provides a basis for the Panel to assess whether such circumstances affect the notary's eligibility to carry out their professional duties.

3) The Authority of the Notary Supervisory Board in Determining Temporary Suspension

The Notary Supervisory Board (MPN) has a central role in the temporary suspension process.¹⁹ Based on UUJN and PP 37/2011, the authority of the MPN includes:

- a. The MPD conducted an initial investigation, including receiving reports, summoning a notary, and collecting evidence.

¹⁷Government Regulation (PP) Number 37 of 2011.

¹⁸Government Regulation Number 79 of 2010.

¹⁹Supardi, MYA, A. Miru, and W. Heryani, 2020, "The Role of the Investigation Team in the Supervision of Notaries as Public Officials", *Pagaruyung Law Journal*, Vol. 4, No. 1, p. 108.

- b. The MPW conducts a second-level examination, evaluates the notary's actions, and assesses the urgency of the temporary suspension.
- c. The MPP provides administrative recommendations to the Minister based on a comprehensive examination.

The Supervisory Board not only assesses ethical violations but also assesses whether the notary is factually unable to perform their duties, including due to detention. In the Bintan case, case documents show that the notary was detained for more than a month, a condition of absolute absence that legally disables their ability to perform their duties.

The MPN's authority is administratively attributive, granted by law, so any recommendations it makes have legal force as the basis for a Ministerial decision. Therefore, temporary dismissal cannot be carried out without a multi-level review process by the MPN.

4) Detention according to the Criminal Procedure Code as a Basis for Inability to Carry Out Office

The Criminal Procedure Code (KUHAP) stipulates that detention is a coercive measure that restricts the freedom of a suspect/defendant to ensure the smooth running of the judicial process (Article 21 of the KUHAP). Detention may be imposed if there are objective reasons, such as a five-year prison sentence or the risk of flight, destruction of evidence, or recurrence of the crime. In the context of the notary profession, detention creates three important conditions:

- a. Unable to carry out physical activities of the position (unable to meet with witnesses, check documents, sign deeds).
- b. Unable to carry out administrative responsibilities, including recording minutes and protocols.
- c. Raising public doubts about the integrity of the position, thereby disrupting public trust.

Therefore, legally, detention constitutes a strong basis for temporary suspension. This is in accordance with the administrative law concept that public office can only be held by individuals with factual ability, legal authority, and administrative capacity.

5) Normative Analysis of the Suitability of Administrative Actions

When applied to the case in Bintan Regency, the provisions of the UUJN, PP 37/2011, PP 79/2010, and the Criminal Procedure Code (KUHAP) demonstrate that temporary suspension is a legitimate, proportionate, and legally compliant measure. This action is not a form of sanction, but rather a legal protection

mechanism for the public, maintaining the continuity of notarial services, and ensuring that public trust is not compromised. Normatively:

- a. Detention fulfills the requirements for the notary's inability to carry out his/her duties.
- b. MPN has the authority to conduct inspections and provide recommendations.
- c. The Minister of Law and Human Rights has the authority to determine temporary suspension.
- d. Temporary suspension is administrative in nature and does not assess the notary's substantive errors.

These administrative actions are in line with the principles of legality, legal certainty, proportionality and the principle of community protection.

3.3. Implementation of Temporary Suspension in Practice in Bintan Regency

1) Facts of Detention Based on Indictment, Charges, and Decision

The detention of notary Ratu Aminah Gunawan is consistently documented throughout the case. Indictment P-29 notes that the defendant was detained by investigators for alleged falsification of land documents and authentic deeds related to land transactions in Bintan Regency. During the prosecution phase, P-42 reaffirmed the defendant's detention status and role in the issuance of SPORADIK, SKPT, and PPJB deeds that caused losses to the parties. Tanjungpinang District Court Decision No. 35/Pid.B/2022/PN.Tpg details the duration of detention, namely from January 27, 2022, to May 9, 2022, including detention by investigators, detention by public prosecutors, and detention by judges.

The fact of this detention was reinforced by the results of an interview with the Bintan District Attorney's Office Investigating Officer who explained that the detention was carried out because "the Defendant was not cooperative in submitting the documents requested by the investigator, and it was feared that it would affect the evidence if he was left free." This statement emphasized that the detention was not related to the notary's position alone, but because it fulfilled the objective elements in Article 21 of the Criminal Procedure Code.

2) Regional/Regional/Central Supervisory Board Inspection Procedures

The Notary Supervisory Board (MPN) examination followed the procedures stipulated in PP 37/2011 and PP 79/2010. Based on interviews with members of the Bintan Regional Supervisory Board (MPD), the MPD received public reports regarding the alleged involvement of notaries in falsifying land documents since 2021. The MPD then summoned the notaries for clarification, but the process did

not run optimally because by the time the second clarification agenda was scheduled, the notaries were already in detention.

Interviews with members of the Riau Islands Province's MPW revealed that the MPW received the MPD's investigation files along with criminal case documents as the basis for the second-level examination. The MPW verified the deeds used as evidence in the verdict, including the PPJB, SKPT, SPORADIK, and statements from the parties contained in the indictment and charges.

Based on PP 37/2011, after the MPW evaluates the files, the next step is to submit a report to the Central Supervisory Board (MPP). Interviews with MPP members indicate that the MPP conducts an administrative review of two important aspects:

- a. the notary's inability to carry out his/her duties due to detention,
- b. alleged serious violation of official duties.

The MPP then recommended to the Minister of Law and Human Rights to issue a temporary dismissal decision.

3) Assessment of Compliance of Procedures with UUJN and Supervision PP

Normative analysis shows that the procedures carried out by the MPD–MPW–MPP are in accordance with the examination stages as stipulated in the Notary Law and PP 37/2011. The MPD has carried out the initial examination function, the MPW has conducted a follow-up investigation, and the MPP has provided an administrative recommendation. The results of interviews with academic notary experts from Raja Ali Haji Maritime University confirmed that in cases of detention, the provisions of the UUJN clearly state that temporary suspension is an administrative measure to maintain legal certainty and does not require an inkraft criminal decision.

The process in Bintan Regency was deemed to have met the principles of legality (based on Article 10 of the UUJN), accuracy (involving multi-level examinations), and legal protection for the public. However, several points emerged in interviews with INI administrators from the Riau Islands Region, stating that coordination between the MPD and MPW was hampered because investigators had not yet submitted all the criminal case documents. This resulted in a slight delay in the administrative process.

4) The Role of the Ministry of Law and Human Rights in Temporary Suspension

The Ministry of Law and Human Rights has attribution authority to issue temporary suspensions based on the recommendations of the MPP. In this case, the Ministry of Law and Human Rights received the MPP's report along with copies of the indictment, charges, and court rulings indicating the notary's involvement

in the crime of falsifying land documents. An interview with an official at the Ministry of Law and Human Rights' Notary Supervision Sub-Directorate explained that in the Bintan case, the Ministry's considerations were not only based on detention but also on the fact that the documents used as evidence were products of the notary's office.

The Ministry of Law and Human Rights fulfills its role by issuing a temporary suspension decision after ensuring that all MPN procedures have been met. This decision is administrative in nature and does not assess the notary's substantive misconduct. Instead, it ensures that notarial services continue in Bintan Regency by appointing a replacement notary.

5) Evaluation of the Implementation of Temporary Suspension in the Case of Ratu Aminah Gunawan

The application of temporary suspension in this case can be considered normatively and administratively appropriate. Detention lasting more than three months renders a notary unable to perform his/her duties therefore, temporary suspension is an appropriate measure under Article 10 of the UUJN.

Interviews with the Head of the Regional People's Representative Council (MPD) revealed that the public experienced service disruptions before the appointment of a replacement notary. This demonstrates the importance of temporary dismissal to maintain continuity of public services. An evaluation of the administrative process demonstrated that the MPP's recommendations to the Minister and the decision to temporarily dismiss were in accordance with positive legal provisions, principles of good governance, and the principle of legal protection for the public.

This case serves as an example of how the notary supervision system works effectively when faced with the situation of the detention of public officials, because it is able to harmonize the interests of the community, professional integrity, and the needs of law enforcement.

4. Conclusion

Temporary suspension is regulated in Article 10 of the UUJN as an administrative measure when a notary is accused in a criminal case with a sentence of five years or more, or when the notary is factually unable to carry out his/her duties, including due to detention. This provision is reinforced by PP 37/2011 and PP 79/2010 which stipulate that the examination is carried out in stages by the MPD–MPW–MPP before the Minister of Law and Human Rights issues a decision. Detention according to the Criminal Procedure Code causes the loss of the notary's factual ability to carry out his/her duties, so temporary suspension is an action that is in accordance with the principles of legality, legal certainty, and public protection.

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