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# Criminal Liability for Deed Forgery Committed by a Public Official

**Krisna Murti Prasetya Aji**
Faculty of Law, Universitas Islam Sultan Agung, Semarang, Indonesia, E-Mail: krisnamurtiprasetyaaji.std@unissula.ac.id

***Abstract.*** *This study aims to examine how the crime of forgery of deeds by notaries is regulated in the Criminal Code and the Notary Law, while also examining the criminal sanctions imposed on notaries in cases of forgery of deeds. The method used is normative juridical by combining regulatory, conceptual, and case approaches. The study material is sourced from secondary data obtained through literature review, then explained in a qualitative normative manner. The results of the review of its appearance are that the crime of forgery of deeds in the New Criminal Code is arranged more systematically through Articles 391, 392, and 394, which in principle are a continuation of the substance of Articles 263, 264, and 266 of the old Criminal Code. Notaries who neglect their official obligations may be subject to administrative sanctions according to the Notary Law, but this does not preclude the provisions of criminal liability as long as there is evidence of intent, guidance, and active involvement in the forgery of the deed. This affirmation is evident in Supreme Court Decision Number 933 K/Pid/2023, which states that notaries are not immune from the law and can still be held criminally liable if the deeds they make contain false information and cause legal losses to other parties.*

***Keywords:*** *Criminal; Forgery; Law; Liability; Notary.*

## 1. Introduction

The rampant practice of forgery of deeds involving notaries as public officials is a legal problem that cannot be taken lightly in Indonesia, because this issue directly touches on public trust in authentic deeds which are considered as evidence with perfect evidentiary power. [1]In practice, various forms of irregularities are found, such as forged signatures, the use of false identities, and the inclusion of

[1] Sakina, Nesha, and Budi Santoso, 2024, Notary's Liability in Making Authentic Deeds Containing False Information, *Notarius* , Vol. 17, No. 3, pp. 2415–2429, https://doi.org/10.14710/nts.v17i3.47166, accessed on December 20, 2025.

information that does not correspond to the actual situation in authentic deeds.[2] Such actions not only cause losses for the parties involved, but also shake legal certainty in various civil relations, especially in the realm of land, banking, and the business world.[3]

The problem becomes more complex when the notary is suspected of being involved in the forgery of the deed, either as an active perpetrator, a helping party, or due to negligence in implementing the principle of prudence.[4] In carrying out notarial duties, the notary's responsibility is in principle attached to the truth of the formal deed, while the material truth comes from the information provided to the parties.[5] However, there are a number of cases where notaries have actually tried criminal proceedings because they were deemed to have known or participated in including false information in authentic deeds.[6] This situation raises legal issues regarding the extent of the limits of a notary's criminal liability, particularly in distinguishing between administrative violations, violations of the code of ethics, professional violations and the crime of forgery of deeds.[7]

From a normative perspective, the regulation of the crime of forgery of deeds can be found in the Criminal Code, including Law Number 1 of 2023 concerning the Criminal Code, specifically in the range of Articles 391 to 394.[8] These provisions cover the act of creating or using forged documents, as well as including or providing false information in authentic deeds that could potentially give rise to legal consequences. On the other hand, Law Number 2 of 2014 concerning the Position of Notary Public outlines that in carrying out their position, notaries are required to be honest, independent, meticulous, and impartial, and can also be burdened with administrative, civil, and criminal liability if these provisions are

[2] Anami, Mulan Kasisty, and Syamsul Hadi, 2025, The Responsibility of Land Deed Making Officials and Notaries in Illegal Land Rights Transfer: Case Study of Nirina Zubir Land Mafia, *Jurnal Daulat Hukum* , Vol. 8, No. 3, https://jurnal.unissula.ac.id/index.php/RH/article/view/48687 , accessed on January 22, 2026.
[3] Habib Adjie, Indonesian Notary Law (Thematic Interpretation of the Notary Law) (Bandung: Refika Aditama, 2015), p. 45.
[4] Manuaba, Ida Bagus Paramaningrat, I Wayan Parsa, and I Gusti Ketut Ariawan, 2018, Principles of Notary Prudence in Making Authentic Deeds, *Acta Comitas* , Vol. 3, No. 1, pp. 59–74, https://doi.org/10.24843/AC.2018.v03.i01.p05, accessed on December 3, 2025.
[5] Dzulqarnain, Salsabilla, and Mujiono Hafidh Prasetyo, 2024, Legal Consequences of Authentic Deeds If the Client Uses a False Identity, *Notarius* , Vol. 17, No. 2, pp. 1051–1068, https://doi.org/10.14710/nts.v17i2.51265, accessed on November 24, 2025.
[6] Ariyanto, Teguh, and Sudarto, 2024, Criminal Liability of Notaries in the Crime of Assisting in Ordering to Place False Information into an Authentic Deed, *IBLAM Law Review* , Vol. 4, No. 3, pp. 153–157, https://doi.org/10.52249/ilr.v4i3.514, accessed on November 18, 2025.
[7] Abdul Ghofur Anshori, *Indonesian Notary Institution: Legal and Ethical Perspectives* (Yogyakarta: UII Press, 2009), p. 97
[8] Republic of Indonesia, Law Number 1 of 2023 concerning the Criminal Code, Articles 391–394

violated.[9]

At the law enforcement level, issues often arise regarding the dividing line between ethical violations, administrative violations, and criminal acts committed by notaries. This issue also intersects with the notary examination mechanism, which involves the Notary Honorary Council (MKN) and law enforcement officials, whose implementation often gives rise to conflicting interpretations. This situation creates legal uncertainty in determining whether a notary's actions fall within the realm of misconduct or meet the elements of the crime of deed forgery.[10] [11]

One illustration of the importance of this issue is seen in Supreme Court Decision Number 933 K/Pid/2023, when a notary was found to have participated in the falsification of a Sales and Purchase Agreement (PPJB) and a power of attorney by including information that deviated from the legal facts. The decision emphasized that notaries can be held criminally liable if proven to have intentionally participated in or assisted in the forgery of an authentic deed. This suggests that the circumstances authorized by a notary are not merely ethical matters but can also escalate into criminal acts that impact legal certainty and public protection.

Based on the explanation above, the main legal issue in this research revolves around the method of applying criminal liability of notaries in cases of forgery of deeds according to the Criminal Code and the Law on Notary Public Position, as well as determining the boundary between administrative errors and criminal acts in law enforcement practices. Based on this, the author is motivated to examine this problem in research entitled "Criminal Liability for Deed Forgery Committed by a Public Official".

## 2. Research Methods

This research uses a normative juridical approach, namely a legal study conducted by searching for library materials or secondary data. This approach is used to examine and dissect the regulations and legal doctrines related to the crime of forgery of deeds by notaries. The nature of the research is descriptive analytical, namely a study that attempts to systematically describe the characteristics of a phenomenon or legal problem, which is then analyzed to find a solution to the legal problem. Such specifications are used to examine the legal provisions

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[9] Republic of Indonesia, 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

[10] Habib Adjie, Indonesian Notary Law: Thematic Interpretation of the Notary Law, (Bandung: Refika Aditama, 2018)

[11] Adnan, Muhammad Ali, Erlangga P. Suranta Tarigan, Rizaldo Zendrato, and Atika Sunarto, 2025, Legal Analysis of Notary's Obligations and Responsibilities in Providing Social Services in Medan City, *Jurnal Daulat Hukum* , Vol. 8, No. 2, pp. 251–257, https://jurnal.unissula.ac.id/index.php/RH/article/download/45653/12764 , accessed on January 14, 2026.

regarding the crime of forgery of deeds by notaries, the form of criminal liability, potential legal sanctions imposed, and the harmony between the provisions of the Criminal Code and the Law on the Position of Notaries. As the primary source, secondary data in this study consists of primary legal materials, secondary legal materials, and tertiary legal materials related to the crime of deed forgery by notaries. Data collection in this normative legal research was conducted through literature study (library research) or document study. The stages were carried out by inventorying, classifying, systematizing, and analyzing legally, as well as recording and citing laws and regulations, expert opinions, and court decisions related to deed forgery by notaries. The collected data was then analyzed using a qualitative normative legal analysis method. This method examines the positive legal norms applicable in the Indonesian legal system to understand and interpret the legal norms related to the crime of deed forgery by notaries according to the Criminal Code and the Notary Law. The analysis phase includes legal interpretation, legal construction, and legal argumentation to consider the elements of the crime of deed forgery, the notary's criminal liability, and the possibility of inclusion or inconsistency of norms in the applicable legal regulations.

## 3. Study And Discussion

### 3.1. Effectiveness of Regulation of Criminal Acts of Forgery of Deeds in the Criminal Code

In Indonesia's positive legal system, the provisions for forgery of deeds have now been reorganized through Law Number 1 of 2023 concerning the Criminal Code (New Criminal Code), specifically in Articles 391, 392, and 394, as a replacement for Articles 263 and 264 of the old Criminal Code. Among these provisions, Article 392 specifically acts as a form of aggravation against forgery of authentic deeds, considering that authentic deeds have perfect evidentiary power and carry a high level of trust. [12]Referring to Article 1868 of the Civil Code, an authentic deed is a deed made according to the form stipulated by law, either by or before an authorized public official. Thus, a new deed is authentic if it is made by or before a public official, follows the form stipulated by law, and the official is indeed authorized to do so.[13]

In substance, Article 391 of the New Criminal Code maintains the normative construction of Article 263 of the old Criminal Code, particularly regarding the element of the act of making or using a forged letter that can cause harm. However, the New Criminal Code makes several important adjustments, including

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[12] Royce, P., & Sudiro, A., 2024, The Legal Implications for Authentic Deeds Declared to be False, *Law Development Journal* , Vol. 6, no. 4, pp. 434–447, https://jurnal.unissula.ac.id/index.php/ldj/article/download/40724/10627 , accessed 27 January 2026.

[13]Article 1868 of the Civil Code.

the use of the term "Any Person" to other legal subjects in question, alternative criminal sanctions, namely imprisonment or fines in certain categories, and the wording of norms is made more systematic and modern, in accordance with the principles of national criminal law codification. Article 391 of the New Criminal Code remains the main normative basis for ensnaring ordinary acts of forgery of letters, including those related to the use of forged letters, before entering into the provisions of aggravated forgery as regulated in Article 392 of the New Criminal Code. This subjective element states that the crime of forgery of letters according to the New Criminal Code is an offense that requires intent (opzet), so that criminal responsibility can only be imposed if there is evidence of the perpetrator's will and knowledge of the forged nature of the letter made or used.

Article 392 of the New Criminal Code stipulates that the criminal threat for forgery of documents becomes heavier when the object being forged is an authentic deed or certain documents that carry a high level of public trust, such as authentic deeds, securities, letters of credit, and commercial letters intended to be expired. This formulation shows that the basis for increasing the criminal penalty lies not only in the act itself, but also in the type or weight of the document being forged. Authentic deeds have perfect evidentiary power and also contain a high level of legal trust, so that their forgery threatens the public interest in a broader scope. The main difference between Article 391 and Article 392 of the New Criminal Code lies in the object of the forgery, namely Article 392 is directed at documents that have a higher level of legal trust.

Legally, letters and authentic deeds are two different legal objects. Letters are generally not bound by a specific form stipulated by law, while authentic deeds have a form, procedure, and formal requirements that are regulated in a limited manner in the Notary Law, specifically Articles 38, 39, and 40 of the Notary Law. Therefore, proving the act of making or falsifying an authentic deed as referred to in Article 392 paragraph (1) letter a of the New Criminal Code cannot be separated from the normative provisions in the Notary Law. The element of intent in this criminal act is not sufficient to be proven based on the Criminal Code alone, but must also review the violation of the Notary's official obligations as stipulated in the Notary Law. [14]Therefore, the element of intent must be linked to the Notary's actions that consciously deviate from the procedures and authorities established by law.

In relation to the forgery of notarial deeds, the forms of forgery can be classified into formal forgery and material forgery, which in the New Criminal Code remain relevant to be explained in relation to Article 391, Article 392, and Article 394 of

[14] Manuaba, IBP, Parsa, IW, & Ariawan, IGK, 2018, Principles of Notary Prudence in Making Authentic Deeds, *Acta Comitas* , Vol. 3, No. 1, pp. 59–74, https://www.neliti.com/id/publications/241261/dasar-kehati-hatian-notaris-dalam-membuat-akta-autentik , accessed on January 8, 2026.

Law No. 1 of 2023 (which substantially replaces Articles 263, 264, and 266 of the old Criminal Code). [15]Formal forgery relates to inaccuracies in the procedures, identity, or procedures for preparing the deed, while material forgery concerns discrepancies in the content or information contained in the deed. [16]As a concrete illustration, a notarial deed can be broken down into a forged deed if the signature of the person appearing on the deed is proven to be inauthentic according to the results of a forensic examination, but the deed still includes the clause "the person appearing is known to me, Notary Public." [17]In such circumstances, even though the deed-making procedures appear to be in line with the Notary Law, such as the reading and signing of the deed and the presentation of the parties' identification documents, there are still substantial inaccuracies that undermine the deed's authenticity. This situation indicates the existence of falsification of an authentic deed, which can be subject to criminal liability under the provisions of the New Criminal Code.

Normatively, the regulation of the crime of forgery of deeds in the New Criminal Code (Law No. 1 of 2023) is structured in an orderly manner through Articles 391, 392, and 394. Among them, Article 392 specifically becomes a form of aggravation for forgery of authentic deeds, because authentic deeds have perfect evidentiary power and carry a high level of public trust. Therefore, any act of making or forging an authentic deed or using a forged authentic deed is seen as a serious crime because it can threaten legal certainty and damage public trust in the legal evidence system. However, from an effectiveness perspective, these regulations still face obstacles in law enforcement practices, especially regarding proving the element of intent, determining the limits of responsibility between notaries and parties, and coordination between the Notary Honorary Council and law enforcement officials in the process of examining and enforcing criminal law.

### 3.2. Notary Liability in the Criminal Offense of Deed Forgery by a Notary under the Notary Office Law

Forgery of an authentic deed can be interpreted as any act of changing a deed, in any way, carried out by a party who is not authorized to do so.[18] An authentic deed drawn up before a notary has a form and procedures that have been limitedly

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[15] Santoso, EA, & Priyono, FJ, 2023, Legal Analysis of the Authenticity of Falsified Notarial Deeds, *Notarius* , Vol. 16, No. 1, pp. 18–33, accessed on December 16, 2025.

[16]Andi Hamzah, *Principles of Criminal Law* , (Jakarta: Rineka Cipta, 2019), pp. 146–149.

[17] Rahmaini, A., Tarsono, E., & Wijaya, E., 2026, Notary's Responsibilities in the Preparation of Authentic Deeds Related to the Occurrence of Criminal Acts of Forgery of Signatures by Notaries, *Jurnal Hukum Lex Generalis* , Vol. 6, No. 7, https://ojs.rewangrencang.com/index.php/JHLG/article/view/2376 , accessed on June 4, 2026.

[18] Qodarrahman, Almi, Febrian, and Anna Sagita, 2022, *Notary's Responsibility for Deeds Made Related to Forgery of the Applicant's Signature by the Notary* , *Repertorium: Scientific Journal of Notary Law* , Vol. 11, No. 2 (2022), pp. 208–220, DOI: 10.28946/rpt.v11i2.2434, accessed on December 9, 2025.

stipulated in the Notary Law, starting from the inclusion of the identities of the parties appearing, the deed and the notary's identity as a public official, to its presentation as evidence with full evidentiary force. Thus, any change to the deed by an unqualified party is already qualified as a forgery of the deed, regardless of whether the change makes the contents of the deed true or not. Forgery of a deed is not limited to the entire contents of the deed, but can also affect part of its contents, including the forgery of signatures or the identities of the parties listed therein, so that the deed no longer reflects the true wishes and circumstances as stated in the authentic deed.[19]

The fundamental difference between making a false deed and falsifying a deed lies in the existence or absence of a deed prior to the act. In the act of making a false deed, no deed existed before the act took place, and then a deed is created that from the outset contains information that is partially or completely deviant from the truth. Therefore, the entire contents of the deed are born from the act of falsification, so the resulting deed is classified as a false deed or a deed that is not genuine.

If a notary is involved in practice and is deemed to have participated in the forgery of a deed, then based on Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, he can be subject to administrative sanctions. This sanction is a consequence of fulfilling the obligations and prohibitions stipulated in the Notary Position Law. Article 16 of the Notary Position Law regulates various obligations of a notary in carrying out his/her position, including maintaining the authenticity of the deeds he/she makes. Notaries are required to behave honestly, carefully, independently, impartially, and protect the interests of the parties; prepare the deed in the form of Minutes of Deed and store it as part of the Notary Protocol; and keep the deed and the information obtained confidential in accordance with the oath of office, unless otherwise stipulated by law. With this obligation, any forgery of the grosse, copy, or extract of the deed can be identified through its conformity with the minutes of the deed as the original deed, so that the authenticity and evidentiary function of the authentic deed remain guaranteed.

In addition to Article 16, Article 17 of the Notary Law contains a number of prohibitions that notaries must adhere to in carrying out their duties. These prohibitions aim to protect the interests of the public using notary services, guarantee legal certainty, and maintain the honor and professionalism of notaries. Furthermore, Article 37 of the Notary Law specifically requires notaries to provide free notarial legal services to those who cannot afford them. In accordance with Article 54 of the Notary Law, which regulates the obligation of notaries to maintain the confidentiality of deeds and all information obtained during the course of their

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[19]Habib Adjie, *Op.Cit* ., p. 67

duties, it is expressly stated that the contents of a deed may only be given, shown, or disclosed to parties who have a legal interest in the deed.

Furthermore, Article 58 of the Notary Law regulates the obligations of notaries in administering the creation of deeds. Notaries are required to compile and maintain a list of deeds, a list of approved private letters, a list of private letters that are recorded, and a list of other letters whose creation is required by law. Through this list of deeds, notaries are required to record every deed they create daily, both deeds in the form of minutes and deeds issued in original form (original), as a form of orderly administration and accountability for their position.

Based on the description of the provisions above, it can be understood that violations of the obligations and prohibitions regulated in the Notary Law will result in administrative sanctions being imposed on the notary concerned.[20] This administrative sanction is a form of administrative law enforcement to maintain the professionalism and authority of the notary's position, which can take the form of a verbal warning, written warning, temporary dismissal, honorable dismissal, or dishonorable dismissal.

Thus, the imposition of administrative sanctions as stipulated in the Notary Law is an important instrument to ensure that notaries consistently carry out their duties and authorities in accordance with the principles of prudence, honesty, and adherence to the law. These sanctions are not merely a means of enforcing discipline, but also a preventive and repressive measure to maintain public trust in the notary's position as a public official authorized to issue authentic deeds. Therefore, the existence of this administrative sanction mechanism is expected to encourage the realization of notary professionalism and integrity, while also encouraging the possibility of agreement in notarial practice.

### 3.3. The Ideal Model of Notarial Liability for the Criminal Offense of Deed Forgery in the Future

As public officials, notaries have the authority to create authentic deeds with full evidentiary force. This authority is affirmed in Law Number 2 of 2014 concerning the Office of Notaries (UUJN), which stipulates that notarial deeds must reflect the formal truth of the parties appearing before them. However, in practice, notaries remain susceptible to irregularities, including involvement in the crime of deed forgery.

From a legal perspective, the criminal law provisions against notaries are not only based on the formal aspects of the preparation of the deed, but also on the

[20] Nabila, Marcelina Siti, and Pieter E. Latumeten, 2023, *Application of Administrative Sanctions against Notaries Who Violate Their Position: A Study of State Administrative Court Decision No. 235/G/2019/PTUN.KT* , *UNES Law Review* , Vol. 6, No. 2 (2023), pp. 5274–5282, DOI: 10.31933/unesrev.v6i2, accessed on January 6, 2026.

material aspects of the contents of the deed. This means that even though a deed has been made following formal procedures as stipulated in the UUJN, if the substance or information therein deviates from the actual facts, it can be broken down into material forgery. From a criminal law perspective, forgery of a deed committed by a notary can be qualified as a criminal act as regulated in both the old Criminal Code (Article 264 of the Criminal Code) and the new Criminal Code (Law No. 1 of 2023), especially in the provisions regarding forgery of authentic letters and deeds.

Furthermore, in the context of criminal liability, a notary can be held responsible if the elements of fault (*schuld)* are met, either in the form of intent (*dolus)* or negligence (*culpa)*. [21]Intention in this case can be in the form of:

(1)The notary consciously knows that the information in the deed is incorrect, but still includes it in the deed;

(2)A notary intentionally collaborates or participates with another party to enter false information;

(3)The notary was aware of the data discrepancy, but still validated the deed without adequate verification.

Furthermore, if a notary acts solely on the basis of the parties' statements without knowing any element of inaccuracy, further analysis is necessary to determine whether or not there is an element of error. This aligns with the principle of error, which states that there is no crime without error (geen straf zonder schuld).

In practice, it is often found that the party who actually bears responsibility is actually the party who "ordered the insertion of false information" into the deed. The provisions regarding this act in the old Criminal Code are regulated in Article 266, which remains substantially relevant in the construction of the New Criminal Code regarding document forgery. Thus, a party who provides false information to a notary can be punished if proven to have the intent to use the deed as if it were genuine.

On the other hand, according to the Notary Law, notaries essentially bear administrative responsibility for the performance of their duties. Administrative sanctions can range from a warning, temporary suspension, to permanent suspension. [22]However, if a notarial deed meets the elements of a criminal offense, this administrative responsibility does not preclude the possibility of

[21] Avicenna, Ahmad Fitra, 2022, *Application of Sanctions for Notaries Who Negligently Make Authentic Deeds* , *Officium Notarium* , Vol. 2, No. 3 (2022), pp. 466–475, accessed on December 16, 2025.

[22] Muhammad, Fabryan Nur, Yeni Widowaty, and Trisno Rahardjo, 2019, *Application of Criminal Sanctions for Forgery of Authentic Deeds by Notaries* , *Media of Law and Sharia* , Vol. 1, No. 1 (2019), pp. 1–13, accessed on December 18, 2025.

criminal liability.

From a legal perspective, the application of criminal law to notaries in cases of forgery of deeds must also take into account several important aspects, namely:

(1) Aspects of the notary's authority, whether the deed was made within the scope of his authority;

(2) Procedural aspects, whether the procedures for making the deed are in accordance with UUJN;

(3) Material aspects, whether the contents of the deed are in accordance with the actual legal facts;

(4) The aspect of error, whether the notary knew or should have suspected that there was an untruth.

Thus, it can be concluded that the application of criminal law to notaries in cases of deed forgery cannot be done immediately, but rather requires comprehensive proof of all elements of the crime, particularly those related to the elements of error and unlawfulness. This approach is crucial to maintaining a balance between protecting legal certainty and protecting the notary profession as a public official exercising a function of public trust.

Case study of the Supreme Court of the Republic of Indonesia Decision Number 933 K/Pid/2023. As follows:

a. Decision Number: 933 K/Pid/2023

b. Type of Case: Criminal Act of Forgery of Documents (Article 264 Paragraph 1 of the Criminal Code)

c. Defendant : A Notary

d. Cassation Level : Supreme Court of the Republic of Indonesia

e. Verdict: rejects the defendant's appeal and confirms that the defendant is legally and convincingly guilty of committing the crime of document forgery. The defendant, who works as a notary, was proven to have made an authentic deed whose contents did not correspond to the actual facts. The deed was made without the presence of the parties who should have been present and without the consent of the related parties, thus containing false information. Therefore, the defendant's actions fulfill the elements of the crime of document forgery and the previous court decision is maintained.

Judge's Legal Considerations

a. That the judex facti (Bandung High Court) did not make a mistake in applying the law, because it had properly considered the defendant's position as a notary who should have acted carefully, precisely and in accordance with legal provisions in carrying out his position as a public official.

b. Based on the facts of the trial, it is known that the defendant understood that there was a legal defect in the object that served as the basis for the deed, namely the Certificate of Ownership which had been stamped "not issued by the Bekasi City Land Office." Nevertheless, the defendant still made a Deed of Sale and Purchase Agreement (PPJB) and even upgraded its status to a Deed of Sale and Purchase.

c. That the defendant's actions were carried out with awareness of the problematic condition of the object, resulting in legal consequences that were detrimental to other parties, with material losses reaching IDR 7,500,000,000.00 (seven billion five hundred million rupiah).

d. That in this way, the elements of a criminal act as regulated in Article 264 paragraph (1) of the Criminal Code have been fulfilled, especially the element of making or using an authentic deed that does not correspond to the actual circumstances.

e. That the reasons for the cassation submitted by the Public Prosecutor and the Defendant are basically only related to the assessment of facts and evidence, which is not the authority of the Supreme Court at the cassation level as regulated in Article 253 of the Criminal Procedure Code.

f. Therefore, the Supreme Court is of the opinion that the judex facti decision is in accordance with the law and statutory regulations, so that the cassation application from both parties must be rejected.

Based on the research on Supreme Court Decision Number 933 K/Pid/2023, the application of criminal law to a notary in a case of forgery of a legal deed can be justified because his actions fulfill the elements of a criminal act in Article 264 paragraph (1) of the Criminal Code. The accused notary was proven to have made an authentic deed that deviated from the facts and continued to make it despite knowing that there was a legal flaw in the basic object of the agreement. This act shows an element of intent (dolus) in the authority of his position, so that it is no longer in the realm of administration or professional ethics, but rather criminal law. Legally, the authority of a notary is limited by legal norms and the principle of prudence; if a notary deliberately makes a deed with false information or information that does not correspond to reality, this act constitutes (abuse of power) for which he can be held criminally responsible. The accused cannot hide behind his position because of the principle of gen straf zonder schuld (no crime without fault).

Legally, a notary, as a public official, is empowered to create authentic deeds with full evidentiary force. However, this authority is not absolute, as it is limited by legal norms and the principle of prudence. If a notary intentionally drafts a deed containing false information or deviating from the facts, such action is considered an abuse of authority (abuse of power) and is subject to criminal liability. This is in accordance with the provisions of the Notary Law, which requires notaries to act honestly, meticulously, independently, and impartially in carrying out their duties.[23]

Furthermore, from a criminal liability perspective, criminals cannot hide behind their position as notaries, as criminal law adheres to the principle of geen straf zonder schuld (no crime without fault). In this case, the defendant's guilt was evident from his knowledge of the invalidity of the certificate used as the basis for the deed, yet he still created and upgraded the deed to a sale and purchase deed. This demonstrates deliberate intent and the intention to provide legal legitimacy to the problematic object, thus potentially causing material harm to other parties.[24]

In the context of this case, the deed prepared by the notary is an authentic deed with full evidentiary power. Therefore, if the deed is made based on false information, without the presence of the parties, or without a valid legal basis, then legally, the act fulfills the elements of forgery as defined in the new Criminal Code. Therefore, even though this case was decided under the old Criminal Code, the core of the act remains relevant and can be prosecuted under the provisions of the new Criminal Code.

On the other hand, the new Criminal Code also emphasizes criminal liability that involves fault and the perpetrator's ability to take responsibility. In this case, the fraudster, acting as a notary, possessed sufficient legal competence and mastery, so there is no excuse or justification that could eliminate his criminal liability. This situation indicates that the punishment in this criminal act is in line with the principles of modern criminal liability. Based on the above description, it can be concluded that the application of criminal law to notaries in Supreme Court Decision Number 933 K/Pid/2023 is legally appropriate because:

(1) The defendant's actions fulfill the elements of the crime of falsifying an authentic deed;

(2) There were errors in the form of deliberate acts and abuse of official authority;

(3) The application of the law by the court is in accordance with procedural law and material law;

(4) The provisions in the new Criminal Code (Articles 391 and 392) remain relevant

[23]Habib Adjie, *Op.Cit* ., p. 45
[24]Moeljatno, Principles of Criminal Law (Jakarta: Rineka Cipta, 2008), p. 165.

to prosecute similar acts in the future.[25]

Based on the analysis of Supreme Court Decision Number 933 K/Pid/2023, the ideal model of notarial liability for the criminal offense of deed forgery in the future should be developed on the principle of balancing the protection of the notarial profession with the enforcement of criminal law. Criminal liability should not be imposed automatically merely because a deed contains defects or inaccuracies; rather, it must be based on proof of fault in the form of intent (dolus) or gross negligence (culpa). Under this ideal model, a notary may only be held criminally liable if it is proven that he or she knowingly recognized the falsity of the data, participated in the inclusion of false statements, or intentionally disregarded the duty of care inherent in the office. In addition, preventive supervisory mechanisms through the Notary Honorary Council and the Notary Supervisory Council should be strengthened, alongside the optimization of document and identity verification systems based on information technology to prevent deed forgery. Furthermore, clearer regulations are required to distinguish administrative violations, breaches of the code of ethics, and criminal offenses committed by notaries, thereby ensuring legal certainty in determining the appropriate form of liability. Accordingly, the ideal model of notarial liability should not focus solely on the imposition of criminal sanctions, but also on prevention, legal protection, and the enhancement of the professionalism of notaries as public officials entrusted with a public function.

## 4. Conclusion

Based on the results of the research and discussion, it can be concluded that the forgery of notarial deeds was initially regulated in Article 263, Article 264, and Article 266 of the old Criminal Code, which respectively regulate the forgery of letters, aggravated forgery of authentic deeds, and the submission of false information in deeds. These three provisions were then reaffirmed through Article 391, Article 392, and Article 394 of Law Number 1 of 2023 with a clearer and more modern structure, but still maintaining the main substance, so that legal protection for authentic deeds is maintained. Meanwhile, according to Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, the responsibility of a notary basically depends on administrative sanctions, but criminal responsibility can still be imposed as long as it is legally proven and guarantees the absence of errors and an active role in the forgery of the deed. Thus, the responsibility of a notary is not only based on criminal law, but is also related to the provisions of civil law as well as the obligations and prohibitions in the Notary Public Law, so that law enforcement

[25] Lubis, Muhammad Fayyadh, Alvi Syahrin, and Suprayitno, 2025, *Criminal Liability for Notaries Who Forge Deeds of Sale and Purchase Agreements and Power of Attorney: Case Study of Supreme Court Decision Number 933 K/Pid/2023* , *Rewang Rencang: Jurnal Hukum Lex Generalis* , Vol. 6, No. 4 (2025), accessed on January 12, 2026.

against forgery of deeds becomes an important means of maintaining legal certainty and public trust, both in authentic deeds and the notary profession.

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