

Legal Consequences of Falseing The Participant's Identity in Making an Authentic Deed (Demak District Court Decision Study No. 125/Pid.B/2020/Pn Dmk)

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Abstract. *Identity falsification in making authentic deeds is a legal problem that can threaten legal certainty and the validity of authentic documents. Authentic deeds have perfect evidentiary power, but the practice of identity falsification often occurs in various legal transactions, so it has the potential to cause losses to the parties involved and harm the integrity of the notary institution. This study aims to analyze the legal consequences of falsifying the identity of the person appearing in making authentic deeds and legal protection for notaries against such actions, with a case study of the Demak District Court Decision Number 125/Pid.B/2020/PN Dmk. The main problem raised is how identity falsification affects the validity of the deed and what are the legal implications for the parties involved. This research method uses a normative legal approach, meaning that the research is conducted using a literature study approach and a statute approach. Data type The type of data uses secondary data obtained from a literature study. The analysis in this study is prescriptive. The results of the study indicate that falsification of identity in an authentic deed can cause the deed to be null and void, with implications in the form of material and immaterial losses for the parties involved. In addition, the legal responsibility of notaries is in the spotlight, especially when there is negligence in the identity verification process. This study recommends strengthening regulations related to identity verification mechanisms and improving the competence of notaries to prevent similar cases in the future.*

Keywords: *Authentic deeds; Identity forgery; legal consequences; legal protection; Notary.*

1. Introduction

One form of legal certainty guaranteed in this system is the creation of authentic deeds that function as valid legal evidence in various civil and public transactions. To guarantee order and legal protection, authentic written evidence is needed regarding acts, agreements, determinations and legal events made before or by authorized officials.¹

The relationship between society and law is expressed in a very well-known adage in legal science, namely: *ubi societas ibi ius* (where there is society, there is law).²In this context, an authentic deed made by an authorized official, such as a notary, has higher evidentiary power than other deeds.

Identity forgery in the making of authentic deeds has the potential to threaten the validity of the transactions carried out and cause material and immaterial losses to the parties involved in the transaction. This crime can include fraud, embezzlement, or even illegal land trading.

This identity forgery also poses a challenge for notaries who are the parties authorized to make authentic deeds. As public officials, notaries have the responsibility to conduct careful verification of the identity of each individual who comes to make a deed. However, in practice, negligence or errors in conducting verification can open loopholes for parties who intend to commit identity forgery, which ultimately leads to the issuance of an invalid deed.

Identity forgery is one of the crimes that is increasingly rampant in Indonesia in the increasingly developing digital era. This phenomenon not only has an impact on social and economic aspects, but also has serious legal implications, especially when it comes to making authentic deeds. Authentic deeds, as official documents that have perfect evidentiary power, play an important role in various legal and business transactions.³

The making of an authentic deed involves the role of a notary as an authorized public official. The notary has the responsibility to ensure the validity of the identity of the parties before making the deed.⁴However, with increasingly sophisticated document forgery technology, notaries face increasing challenges in verifying the authenticity of the identity of the person appearing.

Cases of identity forgery in the making of authentic deeds have raised various

1M. Luthfan Hadi Darus, 2017, *Notary Law and the Responsibilities of the Notary Office*, Uii Press, Yogyakarta, page 1.

2Satjipto Raharjo, 1983, *Problems of Law Enforcement*, Sinar Baru, Bandung, p. 127.

3Adjie, Habib. 2008. *Indonesian Notary Law: Thematic Interpretation of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary*. Bandung: Refika Aditama.

4Tobing, GHS Lumban. 1983. *Regulations on the Position of Notary*. Jakarta: Erlangga.

legal issues. This not only harms the parties involved in the transaction, but also threatens the integrity of the legal system and public trust in notarial institutions.⁵The legal consequences of identity forgery can include cancellation of the deed, civil lawsuits, and even criminal charges against the perpetrator of the forgery and the parties involved.⁶

As a public official, a notary is tasked with ensuring that every person appearing in the making of a deed provides correct information, especially regarding personal identity, to guarantee the validity of the deed they make.⁷ However, there is often falsification of identity by the person appearing in making an authentic deed, both for the deed made and the parties involved. A deed based on a false identity can be considered legally flawed, thus losing its evidentiary power as an authentic deed and potentially being null and void by law.⁸

Identity falsification in the making of authentic deeds is still rampant in Indonesia. For example, in the Decision of the Demak District Court No. 125/Pid.B/2020/PN Dmk, a notary was proven to have falsified his identity in making a land sale and purchase deed, which resulted in the cancellation of the deed and losses for the parties involved. This case shows that although regulations have regulated the obligations of notaries in verifying identities, there are still legal loopholes that allow for misuse.

The Legal Consequences of Forgery of the Applicant's Identity in Making an Authentic Deed not only impact the deed and the notary, but also the legal system that depends on the validity of authentic documents. Therefore, an in-depth study is needed on how forgery of identity can be prevented, as well as how the law can provide fair protection for all parties involved.⁹

Based on the background description explaining about the falsification of the identity of the person appearing in making an authentic deed, the author is interested in studying and researching further by taking the title "Legal Consequences of Falsification of the Identity of the Person Showing in Making an Authentic Deed (Study of Demak District Court Decision No. 125/Pid.B/2020/PN Dmk)"

⁵Sjaifurrachman and Habib Adjie. 2011. Aspects of Notary Accountability in Making Deeds. Bandung: Mandar Maju.

⁶Budiono, Herlien. 2013. Collection of Civil Law Writings in the Notary Sector. Bandung: Citra Aditya Bakti.

⁷Subekti, R. 2002. Civil Procedure Law and Notarial Deeds. Jakarta: Pradnya Paramita, p. 145.

⁸Yahya. 2014. Document Forgery in Indonesian Law. Bandung: Citra Aditya Bakti, p. 58.

⁹Gunawan, H. 2019. "Legal Review of Identity Forgery in the Perspective of Indonesian Criminal Law", Jurnal Hukum Progresif, Vol. 7 No. 2, pp. 45-60.

2. Research Methods

This research is a normative juridical legal research that examines the legal norm system through a statutory and conceptual approach. The data used are secondary data consisting of primary legal materials (statutory regulations), secondary legal materials (literature and expert opinions), and tertiary legal materials (legal dictionaries and additional references). Data collection is carried out through literature studies, while data analysis is prescriptive, namely providing arguments and assessments of research results based on relevant legal theories.

3. Results and Discussion

3.1. Legal Consequences of Falsifying the Identity of the Applicant in Making an Authentic Deed on the Validity of the Deed

Based on Article 1868 of the Civil Code (KUHPer), an authentic deed is considered strong evidence regarding what is stated therein.¹⁰ Therefore, if the identity of the parties involved in making an authentic deed is falsified, the deed could lose its legal force, and potentially cause major losses to parties who depend on its validity.¹¹

Identity forgery not only impacts the individual who is the victim of the forgery, but also damages the integrity of the legal system and the notary itself.¹² In this case, we refer to the regulations governing the position and responsibilities of notaries, and how they function to ensure that every deed they make reflects the actual situation.¹³ This forgery often involves the use of a false identity by one of the parties to a legal transaction, either for fraudulent purposes or to avoid legal obligations.¹⁴

Based on the case of Demak District Court Decision No. 125/Pid.B/2020/PN Dmk, it is an interesting case study in analyzing the legal consequences of falsifying the identity of the person appearing in making an authentic deed and the responsibility of the notary in ensuring the validity of the identity of the party appearing.

This case began when the Defendant used a fake identity in a land sale transaction made in an authentic deed. The notary in charge received the identity document without conducting a thorough verification, so the deed was still issued.

¹⁰R. Soesilo, *Civil Code Bandung*: Sinar Grafika, 2015, 123.

¹¹HMS Harahap, *Authentic Deeds and Identity Forgery Jakarta*: Raja Grafindo Persada, 2020, 67.

¹²DA Prasetyo, "Legal Analysis of Identity Forgery in the Making of Notarial Deeds," *Journal of Law and Justice* 14, no. 1 2023: 88-102.

¹³IN Supriyadi, *Criminal Law and Identity Forgery Yogyakarta*: UGM Press, 2019, 134.

¹⁴RK Santoso, "Identity Forgery in the Context of Notary Law," *Journal of Law and Public Policy* 7, no. 2 2021: 45-60.

After some time, the legal owner of the land sued the deed to court, because the transaction was carried out without his knowledge. After further investigation, evidence was found that the Defendant had falsified his ID card and family card to pose as the land owner.

Since the identity of the person appearing in this case was proven to be false, the deed was null and void. However, in this case, the validity of the deed was legally flawed because there was a forgery of identity. Based on Article 1868 of the Civil Code, an authentic deed is only considered valid if it is made by or before an authorized official and meets the formal and material requirements. Since the identity of the person appearing in this case was proven to be false, the deed was null and void.

Supreme Court Decision No. 3215 K/PDT/2018 also states that deeds made with false identities have no evidentiary force and can be canceled by the court. From a criminal law perspective, identity forgery is a criminal act as regulated in Article 263 of the Criminal Code, which states that a person who makes or uses a false document with the intention of misleading another party can be sentenced to a maximum of six years. According to the Legal Protection Theory, as stated by Philipus M. Hadjon, the law must provide protection for individuals who are harmed by unlawful acts. In this case, the legal owner of the land as the injured party has the right to demand the cancellation of the deed and to demand criminal responsibility from the perpetrator.

Notaries as public officials have an obligation to verify the identity of the person appearing in every authentic deed. This is regulated in Article 15 paragraph (1) of the Notary Law (UUJN) No. 2 of 2014, which requires notaries to ensure that the identity of the person appearing is correct and valid. However, in this case, the notary was negligent in carrying out the verification, so that the deed made was invalid. Based on the Theory of Legal Certainty, notaries have a moral and professional responsibility to maintain the validity of the deeds they make.

If it is proven that the notary was negligent, he can be subject to the following sanctions:

1. Administrative, in the form of a warning or revocation of a practice permit.
 2. Civil, in the form of compensation to the injured party.
 3. Criminal, if there is an element of intent or collaboration with the perpetrator.
- Based on the Decision of the Demak District Court in Decision No. 125/Pid.B/2020/PN Dmk in its decision it has stated that:
1. Deeds made with false identities are declared null and void by law.
 2. The defendant was found guilty of committing the crime of document falsification based on Article 263 of the Criminal Code and was sentenced to criminal punishment.
 3. Notaries are given a stern warning to be more careful in verifying the identity of the person appearing in the future.

This decision reflects the Theory of Legal Protection, because it provides protection to the injured party, as well as the Theory of Legal Certainty, by

confirming that deeds that do not meet formal and material requirements can be cancelled.

In this context, identity falsification disrupts the main purpose of making a deed, namely to provide maximum legal protection for the rights of individuals involved in an agreement.¹⁵

In more detail, according to Article 1320 of the Civil Code which regulates the conditions for a valid agreement, there are four conditions that must be met for an agreement to be legally valid: (1) there is an agreement between the parties, (2) legal capacity to make an agreement, (3) a certain thing, and (4) a lawful cause. Falsification of the identity of one of the parties in an agreement can cause the agreement to be null and void, considering that the first condition, namely the existence of a valid agreement, has been damaged.

In addition, deeds made using false identities are contrary to the basic principle of *pacta sunt servanda* (agreements must be carried out), which is the basis of all legal relations in civil law.¹⁶ Therefore, any act of identity forgery is not only dangerous for the injured party, but also damages public trust in the existing legal system. In civil relations, identity forgery that occurs in the making of an authentic deed can lead to the cancellation of the deed.¹⁷

A deed made with a false identity does not meet the requirements for a valid agreement, as stipulated in Article 1320 of the Civil Code. One of the requirements for a valid agreement is an agreement made by a legitimate and legally competent party.¹⁸ If the identity of the parties involved is falsified, then the resulting agreement becomes legally flawed, because it is not based on a valid identity. If an authentic deed is canceled, then the agreement recorded in the deed is also considered invalid. The injured party can sue for the cancellation of the deed through the court and demand compensation for losses arising from the falsification of the identity. In this case, Article 1365 of the Civil Code stipulates that every unlawful act has the right to claim compensation. Therefore, falsification of identity in making an authentic deed has a very serious impact on both the perpetrator, the notary, and the injured party.

3.2 Legal Protection for Notaries for Making Authentic Deeds Based on Falsification of the Parties' Identities

As an authorized public official, a notary is given legal protection in carrying out his duties, including in the making of authentic deeds. This legal protection is

¹⁵AM Yulianto, *Legal Protection of Notaries in Making Deeds Jakarta*: University of Indonesia Publisher, 2022, 112.

¹⁶SP Wibowo, *Civil Law and Identity Forgery Bandung*: Alfabeta, 2021, 95.

¹⁷TH Lestari, "The Impact of Identity Forgery on the Validity of Notarial Deeds," *Journal of Law and Society* 12, no. 4 2022: 200-215.

¹⁸SA Rahman, "The Validity of Authentic Deeds in Indonesian Law," *Journal of Law and Ethics* 9, no. 2 2023: 150-165.

given based on several provisions in Law Number 30 of 2004 concerning the Position of Notary, which regulates in detail the duties and authorities of a notary in making authentic deeds.

According to Article 15 of the Notary Law, a notary is responsible for the material truth of the deed he/she makes. However, this responsibility is limited to the validity of the deed based on the information provided by the parties. Therefore, if the identity of one or more parties involved in making an authentic deed is falsified, the notary may face difficulties in proving the validity of the deed. In this case, legal protection for notaries must cover several aspects, namely protection against legal liability, protection against risks caused by acts of falsification of identity, and protection in carrying out their professional duties.¹⁹ Identity falsification in the creation of authentic deeds can take the form of using fake documents, claiming an identity that does not correspond to the actual data, or even using another person's identity without the knowledge of the person concerned.²⁰

According to research conducted by Wulandari (2022), identity fraud often occurs in business transactions or agreements involving large amounts of money or assets.²¹ This forgery not only harms the injured party, but can also increase the legal burden for the notary who made the deed. In this case, the role of the notary as the party responsible for making authentic deeds becomes very important, because he must ensure that the identity of each party involved in the deed is valid and in accordance with the existing data.

Notaries, as public officials, are expected to conduct a careful examination of the identities of the parties present to make the deed. However, in reality, this identity examination does not always run smoothly, especially if the identities of the parties involved have been falsified in a very sophisticated manner.²²

Identity forgery can cause the deed that has been made to be null and void or cannot be accepted as valid evidence in court. This can result in great losses for the parties involved, including the party who feels disadvantaged by the identity forgery.²³

In this case, legal protection for notaries is very important so that notaries are not blamed for mistakes made by other parties. Article 16 of the Notary Law provides protection if the notary has conducted an identity check in a reasonable manner and in accordance with procedures. However, if the notary is proven to be negligent or involved in forgery, he can be subject to criminal sanctions in accordance with Article 57 of the Notary Law. In addition, professional

¹⁹A. Rahman, "Legal Protection for Notaries in Making Authentic Deeds", Journal of Law and Development, Vol. 50, No. 2, 2020, pp. 123-134.

²⁰R. Subekti, Notary Law and its Practice, Jakarta: Intermasa, 2016, p. 102.

²¹Wulandari, "Analysis of Identity Forgery in Making Authentic Deeds", Journal of Law and Society, Vol. 15, No. 1, 2022, pp. 45-60.

²²A. Rahman, Op.Cit.

²³Abdul Manan, "Implementation of Civil Procedure Law in Religious Courts", Jakarta: Kencana, 2017.

organizations such as the Indonesian Notary Association (INI) provide legal assistance to notaries who face lawsuits related to deeds they have made. Therefore, it is important for notaries to conduct in-depth verification of the identities of the parties involved, using available tools, such as biometric verification or more sophisticated examination of identity documents.²⁴

4. Conclusion

Identity falsification in making authentic deeds has significant legal impacts, including: Loss of Legal Power of the Deed, Legal Uncertainty and Losses for Related Parties, Cancellation of the Deed by the Court. Meanwhile, for legal protection for notaries for making authentic deeds based on falsification of the identities of the parties, namely: Protection Based on the Notary Law (UUJN), Limitation of Notary Liability and protection through the Indonesian Notary Association (INI). To minimize problems that occur regarding authentic deeds, notaries must be more careful in verifying the identity of the person appearing by not only relying on physical documents, but also using supporting technology such as biometric verification systems or data matching with related agencies. Likewise, government support and supervision and notary professional organizations tighten regulations and increase supervision of notarial practices to prevent identity falsification in the making of authentic deeds. Notaries must also make more detailed records related to the identity verification process, such as documenting copies of official documents, evidence of communication, and witnesses present in the making of the deed.

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²⁴Sutrisno, "The Validity of Authentic Deeds in the Perspective of Civil Law", *Journal of Law and Notary*, Vol. 5, No. 2, 2018.

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