

The Substitute Notary's Responsibility for Errors in the Deed He/She Made

Indra Kusuma Huda¹⁾ & Jawade Hafidz²⁾

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

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

Abstract. *This study aims to analyze: 1) The duties and authorities of a Substitute Notary. 2) The responsibilities of a Substitute Notary if there is an error in the making of the deed he made. The approach method used in this study is an empirical juridical approach. The type of data uses primary data and secondary data obtained through interviews and literature studies. The data analysis method used in this study is qualitative descriptive analysis. The results of the study concluded: 1) The duties and authorities of a Substitute Notary are that a substitute Notary has the same duties and authorities as the replaced Notary or the Appointing Notary. Article 2 Paragraph 1 of Law Number 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary, which states that a Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws. The authority that exists in a Notary does not come from other government institutions, but rather the authority that is based on and granted by the Law. 2) The responsibility of the Substitute Notary if there is an error in making the deed he made is the same as the notary he appointed. Notary Abdul Moethalib Wahab above is an individual responsibility, the notary's actions are proven to have committed the crime of forgery of documents. Criminal responsibility for notaries is regulated in the Criminal Code, if the notary commits the crime of forgery of documents, as referred to in the criminal provisions regulated in Article 263 paragraph (1) and Article 264 paragraph (1) of the Criminal Code. Notaries who are proven guilty of a crime and have permanent legal force cannot be immediately dismissed dishonorably by the Minister of Law and Human Rights due to the uncertainty in the regulations of the Law on the Position of Notary, as contained in Articles 12 and 13 of the Law on the Position of Notary.*

Keywords: Criminal; Responsibility; Substitute Notary.

1. Introduction

Indonesia, with its Pancasila state ideology as a state based on the rule of law, as enshrined in the 1945 Constitution of the Republic of Indonesia, guarantees legal certainty, order, and protection for every citizen. To ensure this order and legal protection, authentic written evidence is required regarding acts, agreements, decisions, and legal events made before or by authorized officials.¹As stated in Article 1 paragraph (1) of Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary, it states that a Notary is a public official who is authorized to make authentic deeds and has other authority. A Notary is a law enforcer, because deeds made by a notary are valid as written evidence and have the power of proof.² Notaries in carrying out their profession are regulated in Law Number 2 of 2014 concerning amendments to Law Number 30 of 2004 concerning the Position of Notary. With the enactment of this law, the Reglement op Het Notaris Ambt in Indonesia / Regulation of the Position of Notary in Indonesia (Stb. 1860 Number 3) is revoked and declared invalid.³With the enactment of Law Number 30 of 2004 concerning the position of Notary, there has been legal unification in the regulation of Notaries in Indonesia and Law Number 30 of 2004 concerning the Position of Notary is a written law as a measuring tool for the legitimacy of Notaries in carrying out their duties and positions.⁴

In addition to Law Number 30 of 2004 concerning the Office of Notaries, notaries must also prioritize a code of ethics as a guideline in carrying out their duties as public officials.⁵Professional ethics are the totality of moral demands that are affected by the implementation of a profession, so that professional ethics pay attention to ideal problems and practices that develop because of the responsibilities and privileges attached to the profession, which are an expression of efforts to explain conditions that are unclear and still vague and are the application of general moral values in a specific field that is more concretely stated in a code of ethics.⁶The code of ethics provides limitations and regulations regarding every action, obligation, prohibition, exception, warning, sanction, and even regulates the dismissal or removal of a notary from his position.

Notary is an independent and individual job without having a superior, a job of trust and requires strong morals, because there are very few laws and regulations

¹Hadi Darus, M. Lutfhan, (2017), *Hukum Notariat dan tanggung jawab jabatan notaris*, Yogyakarta : UII Press, p. 1.

²Ghofur, Abdul, (2009), *Lembaga Kenotariatan Indonesia*, UII Press. Yogyakarta, p.16.

³Ngadino. (2019), *Tugas Dan Tanggung Jawab Jabatan Notaris Di Indonesia*, Semarang : UPT Penerbitan Universitas PGRI Semarang Press, p.4.

⁴Adjie, Habib, (2011), *Kebatalan dan Pembatalan Akta Notaris*, Bandung : Refika Aditama, p.38.

⁵Ariy Yandillah, Sihabudin, & Herlin Wijayanti. (2015), "Tanggung Jawab Notaris Pengganti Terkait Pembuatan Akta Notaris Yang Merugikan Para Pihak Akibat." *Jurnal hukum*, p.2.

⁶Tedjosaputro, Liliana, (1995), *Etika Profesi Notaris Dalam Penegakan Hukum Pidana*, Yogyakarta : Bayu Grafika, p. 9.

that regulate it, for example in the provisions of article 3 letter g of the Notary Position Law which states: Not having the status of a civil servant, state official, advocate, or not holding another position which by law is prohibited from being held concurrently with the Notary Position. Furthermore, it is regulated in the provisions of article 17 of the Notary Position Law which states that Notaries are prohibited from:

1. Carrying out a position outside the area of his/her position;
2. Leaving the area of work for more than 7 (seven) consecutive working days without a valid reason;
3. Concurrently as a civil servant;
4. Concurrently serving as a State official;
5. Holding concurrent positions as an advocate;
6. Holds concurrent positions as head or employee of a State-owned enterprise, regional-owned enterprise or private enterprise.

Based on the above provisions, it is clear that notaries are prohibited from holding multiple positions. Although this provision is enshrined in law, in practice, many notaries often violate the provisions of this article. In relation to the above provisions, if a Notary is unable to carry out his duties and functions as a Notary, for example, a Notary is a State official, then in the provisions of Article 11 of the Notary Position Law, the notary is required to take leave. In submitting a request for leave, a Notary must be accompanied by a proposal to appoint a Substitute Notary to replace and carry out his duties, in accordance with the character of the Notary's position, namely that it must be continuous as long as the Notary is still in office. The Notary concerned determines the period of time for his leave and is required to appoint a Substitute Notary.⁷

A substitute notary as stated in Article 1 paragraph (3) of the UUJN is a person who is temporarily appointed as a notary to replace a notary who is on leave, sick, or temporarily unable to carry out his/her duties as a notary. The existence of a substitute notary is no different in the making of deeds, so that the deeds made by the substitute notary have the same legal force as the notary who appointed him/her. A substitute notary in carrying out his/her duties and functions of course sometimes makes mistakes and errors in making deeds, for example regarding the inaccuracy of the deeds he/she makes such as uncertainty of the day, date, month, so that it results in the loss of authenticity of the deed made by the substitute notary and makes the deed no longer a complete/perfect evidence for the parties who have an interest in the deed made by the substitute notary. Due to the violations committed by the substitute Notary, in civil law, the deed he made can be involved by the judge and criminally he is subject to criminal sanctions. For example, in practice, this was faced by Abdul Moethalib Wahab, a substitute Notary for Jhon Leonard Waworuntu, a Notary in West Jakarta. Based on the

⁷Adjie, Habib, (2007), *Hukum Notariat Indonesia, Tafsir Tematik Terhadap UU No.30 Tahun (2004 Tentang Jabatan Notaris*, Bandung : Refika Aditama, p. 102.

Decision of the West Jakarta District Court Number 221/PDT.G/2005/PN.JKT.BAR, dated July 7, 2005, the deed he made was declared invalid and null and void by law, and criminally based on the Decision of the West Jakarta District Court Number 1718/Pid/B2005/PN.JKT.BAR, dated October 25, 2005, Abdul Moethalib Wahab was found guilty of committing the crime of falsifying authentic documents and was sentenced to ten (10) months in prison.

2. Research Methods

This research is descriptive analytical. The approach used is an empirical legal approach. The data used are primary and secondary data obtained through interviews and literature studies. The data analysis method used is qualitative descriptive analysis.

3. Results and Discussion

3.1. Duties and Authorities of a Substitute Notary

The position of a notary as an official who makes authentic deeds is stated in Article 2 Paragraph 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, which states that a Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws. Authentic deeds made by or before a notary according to the form and procedures stipulated in the law.⁸

Notaries are authorized to make authentic deeds related to acts, agreements, and determinations required by law or requested by interested parties, guarantee the certainty of dates, store deeds, and provide grosse, copies, and extracts of deeds, as long as this authority is not given to other officials. In their duties, Notaries are under the supervision of the Ministry of Law and Human Rights. This supervision is regulated by Article 67 of the UUJN, which states that the Minister forms a Supervisory Board consisting of 9 people from government elements, notary organizations, and experts/academics (3 people each). If in the region there are no government elements, the membership is filled by other elements appointed by the Minister. Supervision includes the behavior and implementation of the Notary's office, including Substitute Notaries and Acting Notaries.⁹

The Notary Supervisory Council, in addition to its supervisory duties, also plays a role in providing guidance and imposing sanctions. The Notary Supervisory Council

⁸ Nawaaf Abdullah & Munsyarif Abdul Chalim, (2017), Kedudukan Dan Kewenangan Notaris Dalam Membuat Akta Otentik, *Jurnal Akta*, Vol. 4 No. 4, p.658

⁹Article 67 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN)

(MPN) consists of the Central Supervisory Council (MPP), established and based in the national capital; the Regional Supervisory Council (MPW), established and based in the provincial capital; and the Regional Supervisory Council (MPD), established and based in the district/city capital. The notary profession must have the following elements:¹⁰

1. Must be honest with clients and yourself (intellectual honesty).
2. Aware of the limits of his authority.
3. Not solely based on monetary considerations;
4. Have strong moral integrity.

Everyone who uses notary services definitely wants to be treated honestly, fairly, impartially and in accordance with applicable laws and regulations.¹¹ Due to the independent and impartial position of a Notary, the resulting deed constitutes a definite legal certainty and guarantee.¹²

In carrying out their duties, notaries must adhere to the UUJN and the notarial code of ethics. Notaries who violate these laws will face sanctions. Notaries cannot escape civil and even criminal prosecution, meaning that all notary actions in carrying out their duties must be legally accountable, including all consequences, including the imposition of legal sanctions for violations of the underlying legal norms.¹³

In practice, a notary may appoint a substitute notary, who is usually an employee of their office. The notary submits the notary's protocol to the substitute notary. Therefore, the substitute notary's assignment includes the protocol from the notary being replaced and the protocol covering the deeds the notary has prepared. A substitute notary is someone temporarily appointed as a notary to replace a notary who is on leave, sick, or otherwise temporarily unable to perform his/her duties.

Notary Public replacement has the same duties and authority as the Notary being replaced or the Notary Appointed. Therefore, the Substitute Notary also has the same obligations and responsibilities as Notaries in general, namely as a public

¹⁰Liliana Tedjasaputro, (1995), *Etika Profesi Notaris (Dalam Penegakan Hukum Pidana)*, Yogyakarta : Bigraf Publishing, p.86

¹¹Jaifurrachman & Habib Adjie, (2011), *Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta*, Bandung : Mandar Maju, p. 251

¹²Tan Thong Kie, (2011), *Studi Notariat dan Serba-Serbi Praktek Notaris* (Cetakan Kedua), Jakarta : Ichtiar Baru van Hoeve, p.444.

¹³Ary Yuniastuti & Jawade Hafidz, (2017), *Tinjauan Yuridis Kebatalan Akta dan Pertanggungjawaban Notaris*, *Jurnal Akta*, Volume 4 Nomor 2 , p.132

official who in carrying out his duties must be based on the UUJN and the Notary's Code of Ethics.¹⁴ The general duties of a notary are:

1. Making authentic deeds as stipulated in Article 1 of the Notary Law. Deeds made by a notary consist of articles of association or deed of establishment, and deed of agreement.
2. Based on Article 1874 of the Civil Code, a notary is responsible for registering private letters in a special book (waamerken), then legalizing these private letters (legalisiren).
3. Providing legal advice regarding the preparation of deeds.
4. Make a copy of the original private letter in the form of a copy containing the description as written and described in the letter in question.
5. Correct writing errors and/or typos contained in the minutes of the signed deed.

Based on the above task points, the replacement notary in carrying out his duties must comply with the duties that have been regulated, as stated in Article 1 number 3 of the UUJN. Which a substitute notary is someone who is temporarily appointed as a notary who is on leave, sick or is unable to carry out his/her duties as a notary.

The role of a notary as a public official is an honorable position granted by the state attributively through law to a trusted person. Article 1 of the UUJN states that a Notary is a public official authorized to make authentic deeds and other authorities as referred to in this Law. As a public official, a notary is appointed by the minister, based on Article 2 of the UUJN, with the appointment of a notary, he can carry out his duties freely, without being influenced by the executive body and other bodies and can act neutrally and independently. The duty of a notary is to carry out some of the public functions of the state and work for the service of the public interest, especially in the field of civil law, although notaries are not civil servants who receive salaries from the state.¹⁵

The position of a substitute notary is considered to cover the vacancy of the notary position because the notary is unable to carry out his duties for some time for reasons stipulated in the law. The position of a substitute notary in making deeds is no different from that of a notary. Therefore, the deeds made by the substitute notary have the same legal force as the deeds made by the notary who appointed him. In carrying out their profession, some substitute notaries are not free from various errors. If the substitute notary makes an error in making a deed, then he still has the obligation to be responsible for his error in the deed. The position of

¹⁴Interview with Mr. Suyanto, SH. Chairman of the Semarang City Notary Supervisory Board, November 2, 2023.

¹⁵Rizki Nurmayanti & Akhmad Khisni, Peran Dan Tanggung Jawab Notaris Dalam Pelaksanaan Pembuatan Akta Koperasi, *Jurnal Akta*, Vol. 4 No. 4 December 2017, p.611

a substitute notary based on Article 65 of the UUJN states that a substitute notary has the same responsibilities as a notary in making authentic deeds. The function of the substitute notary is no different in terms of authority and responsibility related to his function as a notary.

3.2. The replacement notary's responsibility for errors in the deed he/she made

A notary is responsible for ensuring that every deed he or she makes has an authentic nature as referred to in Article 1868 of the Civil Code. It is the notary's obligation to be able to understand the legal regulations in force in the Republic of Indonesia and to know what laws apply to the parties who come to the notary to make a deed. This is very important so that the deed made by the notary has its authenticity as an authentic deed because it is a perfect evidence. However, it is possible for a notary to make a mistake in making a deed. Errors that may occur are:

1. Typographical errors in the notary's copy, in this case the error can be corrected by making a new copy that is the same as the original and only a copy that is the same as the original has the same power as the original deed.
2. Errors in the form of the notarial deed, in this case where minutes of the meeting should have been made but the notary made it as a statement of the meeting's decisions.
3. Errors in the contents of the notarial deed, in this case regarding the statements of the parties who appeared before the notary, where at the time the deed was made it was considered correct but later turned out to be incorrect.¹⁶

Violations committed by a notary against the provisions of Article 16 (1) letter i, Article 16 (1) letter k, Article 41, Article 44, Article 48, Article 49, Article 50, Article 51, Article 52 of Law Number 2 of 2014 concerning the Position of Notary, which causes a deed to only have the power of proof as a private deed or the deed to be null and void by law, then the party who is harmed can demand reimbursement of costs, compensation and interest from the notary.¹⁷

A notary, as a public official (*openbaar ambtenaar*) authorized to draw up authentic deeds, can be held responsible for his or her actions related to the work of drawing up such deeds. The scope of a notary's responsibility includes ensuring the material accuracy of the deeds they draw up. Regarding the notary's

¹⁶Mudofir Hadi, Pembatalan Isi Akta Notaris Dengan Putusan Hakim, *Jurnal Varia Peradilan*, Tahun VI Nomor 72, p. 143.

¹⁷GHS Lumban Tobing, *Op.Cit*, p. 84

responsibility as a public official related to material accuracy, it is divided into four points, namely:¹⁸

1. The notary's civil responsibility for the material truth of the deeds he makes.
2. The responsibility of a notary public based on the Notary Public Regulations regarding the material truth of the deeds they make.
3. The responsibility of a notary in carrying out his/her duties is based on the Notary Code of Ethics.
4. The notary's criminal responsibility for the material truth of the deeds he makes.

The presence of a notary in a criminal case examination is required if the deed he made causes losses to the parties or there is initial evidence that the notary is reasonably suspected of participating in or assisting in committing a crime related to his authority as regulated in Article 15 of the UUJN. The alleged crime may include violations of various articles of the Criminal Code, such as participating in a crime (Article 55), assisting in a crime (Article 231), making a false document (Article 263), providing false information in an authentic deed (Article 266), embezzlement (Article 372), fraud (Article 378), to selling or encumbering land that has not been certified or is still under mortgage rights (Article 385). In this context, a notary examination is required to obtain information both formally and materially regarding the deed made, if the deed is indicated to contain elements of a criminal act.

In addition, summoning a notary in a criminal case is also part of the obligation of every citizen to appear as a witness, expert witness, or interpreter as regulated in Article 224 of the Criminal Code, with the threat of criminal penalties for refusal without a valid reason. However, according to Article 66 of the UUJN, summoning a notary must first obtain the approval of the Regional Supervisory Council or the Regional Supervisory Council. Notaries also have the right to refuse to provide information concerning their official secrets, except in cases where the error is personal in nature or occurs in the performance of their official duties. The separation between personal errors and official errors is important in assessing the legal responsibility of notaries in criminal proceedings.¹⁹

If a deed is made by a notary without his/her authority, it can be concluded that the deed in question is null and void by law, all legal actions or actions in the deed

¹⁸Nico, (2003), *Tanggung Jawab Notaris Selaku Pejabat Umum*, Yogyakarta : Center for Documentation and Studies of Business Law, p. 34.

¹⁹Paulus Efendi Lotulung, (2002), *Perlindungan Hukum Bagi Notaris Selaku Pejabat Umum dalam Menjalankan Tugasnya*, Media Notariat : Ikatan Notaris Indonesia, Edisi April, p. 3.

must be considered as never having occurred, and a deed like this cannot be executed.²⁰

Notaries are legal professions in the civil realm, and it is not uncommon in current developments to be involved in criminal law cases. It is also not uncommon for Substitute Notaries to be involved in a case due to errors in the deeds they made. As in the case, businessman Jason Surjana Tanuwidjaja was reported to the police for using Deed of Sale and Purchase Agreement Number 24-27 and Deed of Power of Attorney Number 25-27 dated April 17, 1997 made by Substitute Notary Abdul Moethalib Wahab as the basis for a lawsuit to the Depok District Court against the heirs of Tan Kwan Seng. In fact, these deeds have been annulled by the Decision of the West Jakarta District Court No. 221/Pdt.G/2005/PN.JKT.BAR which has permanent legal force. Jason is suspected of making and using fake deeds without the knowledge of the heirs, so he was reported to the Criminal Investigation Unit of the Indonesian National Police and named a suspect. However, he fled and was included in the Wanted Persons List (DPO).

In the trial at the West Jakarta District Court (Case No. 1718/Pid.B/2005/PN.JKT.BAR), it was revealed that the deeds did not have original minutes, were never signed or read to the relevant parties, and were not recorded in the repertory book of Notary Jhon Leonard Waworuntu. Substitute Notary Abdul Moethalib Wahab admitted that he had never met or known the heirs listed in the deeds. Finally, he was declared legally and convincingly proven to have committed the crime of falsifying authentic documents and was sentenced to 10 months in prison. This case became the focus of research regarding the absolute responsibility of substitute notaries for errors in making deeds, as well as the possible liability of the parties according to positive law in Indonesia.

Based on the UUJN, when a Notary is proven to have committed a violation in carrying out his/her duties, the Notary may be subject to or be subject to sanctions, in the form of civil sanctions, administrative sanctions, and the Notary's code of ethics, and these sanctions have been regulated in the UUJN and the Notary's code of ethics. The notary's code of ethics and UUJN do not regulate criminal sanctions against Notaries. In practice, it has been found that a legal action or violation committed by a Notary could actually be subject to administrative or civil sanctions or the Notary's code of ethics, but was later withdrawn or qualified as a criminal act committed by the Notary. This qualification relates to aspects such as:²¹

1. Certainty of day, date, month, year and time.
2. The party (any person) who appears before the notary.

²⁰Habib Adjie, (2015), *Penafsiran Tematik Hukum Notaris di Indonesia (Berdasarkan UU No. 2 Tahun 2014 tentang perubahan UU No. 30 Tahun 2004)*, Bandung : Refika Aditama, p. 14

²¹Habib Adjie, (2013), *Kebatalan dan Pembatalan Akta Notaris*, Bandung : Refika Aditama, p.25.

3. Facing signature.
4. The copy of the deed does not match the minutes of the deed.
5. A copy of the deed exists, without a deed minute being made.
6. The minutes of the deed were not signed in full, without the minutes the deed was issued.

If these aspects are proven to have been violated by a Notary, then the Notary concerned can be subject to civil or administrative sanctions or these aspects are limitations which if they can be proven can be the basis for imposing administrative sanctions and civil sanctions on the Notary, but it turns out that on the other hand such limitations are taken or resolved criminally or used as the basis for criminalizing the Notary on the basis that the Notary has made a false letter or falsified a deed with the qualification as a criminal act committed by the Notary.²²

The role of a notary in providing legal certainty and protection for the public is crucial. This role is more of a preventative measure, or a preventive measure, against future legal issues by creating authentic deeds regarding a person's legal status, rights and obligations under the law, and so on. These documents serve as the most effective evidence in court, especially in the event of a dispute over these rights and obligations.²³

Criminal sanctions can only be imposed on a Notary if their actions violate the limits stipulated in the UUJN, the Notary's Code of Ethics, and fulfill the elements of a criminal act in the Criminal Code. If an act fulfills the elements of a crime, but according to the UUJN and the assessment of the Notary Supervisory Board does not constitute a violation, then the Notary cannot be subject to criminal penalties. The basis for criminal penalties can arise if the Notary intentionally, with full awareness, and in agreement with the parties to make a deed as a tool to commit a crime, or if the making of the deed does not comply with the external, formal, and material aspects stipulated in the UUJN or the assessment of the Notary Supervisory Board.

Criminal penalties must also consider whether the notary's actions actually violate the provisions of the UUJN. It's possible that a deed complies with the UUJN, but is deemed a criminal offense by investigators. Therefore, prior to the investigation, it's best to seek the opinion of the notary's professional organization or the relevant authorities. Criminal penalties are only appropriate if the violation is legally proven, not solely based on the Criminal Code without considering the specific provisions for deed preparation. Ignoring the UUJN in assessing a deed

²²*Ibid.*, p. 25

²³Erina Permatasari & Lathifah Hanim, (2017), Peran dan Tanggung Jawab Notaris Terhadap Pelaksanaan Pendaftaran Badan Hukum Perseroan Terbatas Melalui Sistem Online, *Jurnal Akta*, Volume 4 Nomor 3, p.401

demonstrates a misunderstanding of the notary's position and the deed as civil evidence.²⁴

Based on the theory of legal responsibility, the case of Notary Abdul Moethalib Wahab above is an individual responsibility, the notary's actions are proven to have committed the crime of forgery of documents. Criminal responsibility for notaries is regulated in the Criminal Code, if a notary commits the crime of forgery of documents, as referred to in the criminal provisions regulated in Article 263 paragraph (1) and Article 264 paragraph (1) of the Criminal Code "the intention is to use it as an original and unforged document or to make another person use the document." And the provisions in Article 266 paragraph (1) in conjunction with Article 55 of the Criminal Code "participating in entering false information into an authentic deed by a Notary must be done intentionally." Therefore, the notary must be criminally responsible.²⁵

Criminal accountability is an assessment made after all elements of a crime have been met or a crime has been proven. The assessment is conducted objectively and subjectively. The objective assessment relates to the perpetrator and the legal norms they violated, and thus relates to the actions and moral values they violated.²⁶ Criminal responsibility arises from the continuation of objective condemnation (*verwijbaardheid*) against an act declared as a criminal act based on applicable criminal law, and subjectively to the perpetrator who fulfills the requirements to be subject to criminal punishment for his act.²⁷ Criminal responsibility as a concept is different from the conditions of criminal responsibility which include the inability to take responsibility, error and the absence of excuses.²⁸

4. Conclusion

The duties and authorities of a Substitute Notary are that a substitute Notary has the same duties and authorities as the replaced Notary or the Appointing Notary. Article 2 Paragraph 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, which states that a Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws. The authority that

²⁴*Ibid.*, p. 30

²⁵Mochamad Syafrizal Bashori, (2016), *Pertanggungjawaban Pidana Bagi Notaris Yang Melakukan Tindak Pidana Pemalsuan Surat Dalam Pembuatan Akta Otentik*, *Jurnal Supremasi*, Volume 6, Nomor 2, p.39-40.

²⁶Agus Rusianto, (2016), *Tindak Pidana dan Pertanggungjawaban Pidana (Tinjauan Kritis Melalui Konsistensi antara Asas, Teori dan Penerapannya)*, Jakarta : Prenamedia Group, p. 14.

²⁷H. Dwidja Priyanto, (2017), *Sistem Pertanggungjawaban Pidana Korporasi Dalam Kebijakan Legalitas*, Depok : Kencana, p. 29.

²⁸Fahmi Tanjung, (2019), *Konstruksi Pertanggungjawaban Pidana Paguyuban (Analisis Melalui Pendekatan Teori-teori Korporasi)*, Surabaya : Media Sahabat Cendikia, p. 14.

exists in a Notary does not come from other government institutions, but rather the authority that is based on and granted by the Law. The responsibility of the Substitute Notary if there is an error in the making of the deed he made is the same as the appointed notary. Notary Abdul Moethalib Wahab above is an individual responsibility, the notary's actions are proven to have committed the crime of forgery of documents. Criminal responsibility for notaries is regulated in the Criminal Code, if the notary commits the crime of forgery of documents, as referred to in the criminal provisions regulated in Article 263 paragraph (1) and Article 264 paragraph (1) of the Criminal Code. Notary Abdul Moethalib Wahab must be criminally responsible for 10 months in prison. This proves that Notaries are not immune from the law, Notaries are the same as ordinary people who must obey the Law and the Constitution. Notaries who are proven guilty of a crime and have permanent legal force cannot be immediately dismissed dishonorably by the Minister of Law and Human Rights due to uncertainty in the regulations of the Law on the Position of Notary. as contained in Articles 12 and 13 of the Law on the Position of Notary. This is because in the Notary Law there are no regulations explaining the sanctions if a Notary is sentenced to a criminal sentence of less than five years, thus providing an opportunity for Notaries to become Notaries again.

5. References

Journals:

- Ariy Yandillah, Sihabudin, & Herlin Wijayanti. (2015), "Tanggung Jawab Notaris Pengganti Terkait Pembuatan Akta Notaris Yang Merugikan Para Pihak Akibat." *Jurnal hukum*
- Ary Yuniastuti & Jawade Hafidz, (2017), Tinjauan Yuridis Kebatalan Akta dan Pertanggungjawaban Notaris, *Jurnal Akta*, Volume 4 Nomor 2
- Erina Permatasari & Lathifah Hanim, (2017), Peran dan Tanggung Jawab Notaris Terhadap Pelaksanaan Pendaftaran Badan Hukum Perseroan Terbatas Melalui Sistem Online, *Jurnal Akta*, Volume 4 Nomor 3
- Mochamad Syafrizal Bashori, (2016), Pertanggungjawaban Pidana Bagi Notaris Yang Melakukan Tindak Pidana Pemalsuan Surat Dalam Pembuatan Akta Otentik, *Jurnal Supremasi*, Volume 6, Nomor 2
- Mudofir Hadi, Pembatalan Isi Akta Notaris Dengan Putusan Hakim, *Jurnal Varia Peradilan*, Tahun VI Nomor 72
- Nawaaf Abdullah & Munsyarif Abdul Chalim, (2017), Kedudukan Dan Kewenangan Notaris Dalam Membuat Akta Otentik, *Jurnal Akta*, Vol. 4 No. 4
- Rizki Nurmayanti & Akhmad Khisni, Peran Dan Tanggung Jawab Notaris Dalam Pelaksanaan Pembuatan Akta Koperasi, *Jurnal Akta*, Vol. 4 No. 4 December 2017

Books:

- Adjie, Habib, (2007), *Hukum Notariat Indonesia, Tafsir Tematik Terhadap UU No.30 Tahun (2004 Tentang Jabatan Notaris*, Bandung : Refika Aditama
- Adjie, Habib, (2011), *Kebatalan dan Pembatalan Akta Notaris*, Bandung : Refika Aditama
- Agus Rusianto, (2016), *Tindak Pidana dan Pertanggungjawaban Pidana (Tinjauan Kritis Melalui Konsistensi antara Asas, Teori dan Penerapannya)*, Jakarta : Prenamedia Group
- Fahmi Tanjung, (2019), *Konstruksi Pertanggungjawaban Pidana Paguyuban (Analisis Melalui Pendekatan Teori-teori Korporasi)*, Surabaya : Media Sahabat Cendikia
- Ghofur, Abdul, (2009), *Lembaga Kenotariatan Indonesia*, Ull Press. Yogyakarta
- H. Dwidja Priyanto, (2017), *Sistem Pertanggungjawaban Pidana Korporasi Dalam Kebijakan Legalitas*, Depok : Kencana
- Habib Adjie, (2013), *Kebatalan dan Pembatalan Akta Notaris*, Bandung : Refika Aditama
- Habib Adjie, (2015), *Penafsiran Tematik Hukum Notaris di Indonesia (Berdasarkan UU No. 2 Tahun (2014 tentang perubahan UU No. 30 Tahun (2004)*, Bandung : Refika Aditama
- Hadi Darus, M. Lutfhan, (2017), *Hukum Notariat dan tanggung jawab jabatan notaris*, Yogyakarta : Ull Press
- Jaifurrachman & Habib Adjie, (2011), *Aspek Pertanggungjawaban Notaris dalam Pembuatan Akta*, Bandung : Mandar Maju
- Liliana Tedjasaputro, (1995), *Etika Profesi Notaris (Dalam Penegakan Hukum Pidana)*, Yogyakarta : Bigraf Publishing
- Ngadino. (2019), *Tugas Dan Tanggung Jawab Jabatan Notaris Di Indonesia*, Semarang : UPT Penerbitan Universitas PGRI Semarang Press
- Nico, (2003), *Tanggung Jawab Notaris Selaku Pejabat Umum*, Yogyakarta : Center for Documentation and Studies of Business Law
- Paulus Efendi Lotulung, (2002), *Perlindungan Hukum Bagi Notaris Selaku Pejabat Umum dalam Menjalankan Tugasnya*, Media Notariat : Ikatan Notaris Indonesia, Edisi April
- Tan Thong Kie, (2011), *Studi Notariat dan Serba-Serbi Praktek Notaris* (Cetakan Kedua), Jakarta : Ichtiar Baru van Hoeve
- Tedjosaputro, Liliana, (1995), *Etika Profesi Notaris Dalam Penegakan Hukum Pidana*, Yogyakarta : Bayu Grafika

Regulation:

- Article 67 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN)
- Civil Code (KUHPperdata).
- Criminal Code (KUHP).

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

The 1945 Constitution of the Republic of Indonesia

Interview:

Interview with Mr. Suyanto, SH. Chairman of the Semarang City Notary Supervisory Board, November 2, 2023.