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Legal Protection for Notaries in the Creation of Authentic Deeds Which Their Identities Have Been Forged by the Parties (Case Study of Decision Number 782/Pdt.G/2020/PN Jkt. Sel.)

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Abstract. *A notary is a public official authorized to create authentic deeds and has other powers as stipulated in this law or other laws. The creation of authentic deeds by a notary often encounters problems, particularly when interested parties falsify their identities. The purpose of this study is to determine and analyze the legal protections for notaries against the creation of deeds based on falsified identities by parties. The research method used is a normative juridical approach with secondary data sources. The approach employed is a statute approach, utilizing legislation as the initial basis for analysis. Data collection was conducted through literature review in the form of journals, books, and digital documents. Data analysis employed prescriptive methods, while the problems were analyzed using legal protection and legal certainty theories. The results of this study indicate that legal protection for Notaries in the preparation of authentic deeds whose identities have been falsified by the parties includes preventive and repressive protection. Notarial deeds made based on forged documents by the parties automatically violate the objective requirements of an agreement regarding a lawful cause, so that the deed is null and void. In principle, Notaries are not authorized to review the validity of a private power of attorney. Notaries in making deeds are only based on formal evidence and are not obliged to materially investigate the evidence submitted by the parties as the basis for making the deed. In addition, the legal implications for parties who falsify identities in authentic deeds can be subject to criminal sanctions based on the provisions of Article 391 of the Criminal Code, civil lawsuits, and ethical sanctions for Notaries if proven to be involved in the falsification of such identities.*

Keywords: *Authentic; Legal; Notary; Protection.*

1. Introduction

A notary is a public official appointed by the state to carry out state duties in providing legal services to the public in the civil sector, particularly regarding the creation of evidence in the form of authentic deeds in order to achieve legal certainty.[1]

A notary is a public official who is authorized to make authentic deeds and has other powers as referred to in the Notary Law.[2]Another authority related to these provisions is the authority to make authentic deeds regarding all actions, agreements, and provisions required by laws and/or desired by the interested parties to be stated in an authentic deed. This authority begins with guaranteeing the certainty of the date of the deed's creation, storing the deed, providing grosse, copies, and extracts of the deed, as long as the creation of the deeds is not assigned or excluded from other officials determined by law. All of the above decisions have permanent legal force (inkracht).[3]

The scope of a Notary's duties is to prepare evidence required by the parties for a particular legal action, and such evidence falls within the scope of Civil Law. A Notary prepares a deed upon request from the parties appearing before him. Without a request from the parties, a Notary will not prepare any deed. A Notary prepares a deed based on evidence, information, or statements from the parties stated, explained, or presented before the Notary. Furthermore, the Notary frames this information outwardly, formally, and materially in the form of a notarial deed. This process remains based on the procedures and legal regulations pertaining to the legal action in question.

Notaries can always be held accountable for the deeds they make, in this case not only for the main substance of the deeds they make but also for the formal requirements that will be made by the Notary. Often, Notaries in their limitations cannot anticipate parties who want to deliberately carry out actions that are actually prohibited by legal rules and regulations, in which case the duties and functions of the Notary's position are not as investigators of the deeds they make, one of which is the act of falsifying the identities of the parties in order to achieve the desire to cheat other parties with the aim of gaining certain benefits in making the deeds.[4]

The authority to create authentic deeds allows a Notary to be held responsible for his or her actions or work in creating authentic deeds. The Notary's responsibilities

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[1]Herlien Budiono, Collection of Civil Law Writings in the Notary Sector, Second Book, (Bandung: Citra Aditya Bakti, 2013), p. 220.
[2]Endang Purwaningsih, "Law Enforcement of Notary Position in Making Agreements Based on Pancasila in the Framework of Legal Certainty", ADIL: Jurnal Hukum, Vol. 2, No. 3 (2011), p. 323.
[3]Urip Santoso, "Dispute Resolution in Land Acquisition for Public Interest", Airlangga University Perspective Journal, Vol. 21, No. 3 (2016), pp. 188-198.
[4]Sentosa Sembiring, "The Importance of Collateral in Providing Credit in Banking Business Transactions", Gloria Juris, Vol. 7, No. 1 (January-April 2007), pp. 25-26.

as a public official include the Notary's own professional responsibilities related to the deed.[5]A notary's civil liability for the deeds they draft, in this case the responsibility for the material truth of the deed, lies within the framework of an unlawful act. An unlawful act here encompasses both active and passive actions. Active means performing an act that could cause harm to another party. Passive means failing to perform a required act, resulting in the other party suffering harm. Therefore, the elements of an unlawful act here include the unlawful act, the error, and the resulting loss.

Problems often arise when a notarial deed is challenged by parties or third parties. As a result, the notary is suspected of participating in or assisting in committing a crime by creating or inserting information from an unauthorized party or known with a false identity into the deed. The notary, whether intentionally or unintentionally, is considered to be collaborating with one party to benefit one party and harm the other party. This must be proven in court, so the notary must also receive legal protection because a notary's duty is to compile data and all information provided by the parties who appear without investigating the accuracy of the data submitted by the parties.

The essence of a notary's position is that they lack the authority to conduct investigations or verify the material truth of submitted data and information. One example of identity fraud occurred in the jurisdiction of South Jakarta. In this case, a piece of land was sold by a person who did not own it. The seller stole the identity of the original landowner for administrative purposes.

One case involving the creation of an authentic deed with falsified identities by parties occurred in South Jakarta based on Court Decision Number 782/Pdt.G/2020/PN Jkt. Sel. The chronology of the case began when a land object was sold by a non-landowner to another party at a price far below the fair value, with the modus operandi of falsifying identities in the creation of the sale and purchase agreement deed.

2. Research Methods

The approach used in this research is a statute approach. This means that the researcher uses statutory regulations as the initial basis for the analysis.[6]This Legislative Approach is carried out by examining all Legislation related to the legal issue being studied.[7]Furthermore, in this research, the author also employed a conceptual approach. This conceptual approach is intended to analyze legal materials to understand the meanings contained within legal terms. This is done in an effort to derive new meanings from the terms studied, or to test these legal terms in theory and practice.[8]With this approach, it is hoped that it will be possible

[5]M. Nur Rasaid, Civil Procedure Law, (Jakarta: Sinar Grafika, 2005), p. 35.
[6]Ibid., p. 185.
[7]Ibid., p. 186.
[8]Hajar M, 2015, Models of Approach in Legal and Fiqh Research, UIN Suska Riau, Pekanbaru, p. 4.

to complete and thoroughly examine the legal protection for Notaries in carrying out their duties against identity falsification in making deeds.

3. Results and Discussion

3.1 Legal Protection for Notaries in Making Authentic Deeds Identity Falsified by Parties

Based on Article 16 paragraph (1) letter a of Law Number 2 of 2014 concerning the Position of Notary, in carrying out his position, a Notary is obliged to act in a trustworthy, honest, thorough, independent, impartial manner and protect the interests of the parties involved in legal acts.

However, despite a notary's honesty, thoroughness, and impartiality, false documents and statements from witnesses remain a problem and a threat to them. Although notaries are not responsible for false documents and statements made by witnesses, this can still be detrimental to them. In fact, it is not impossible that this could become a loophole for a notary to be prosecuted. When a dispute arises, a notary will be summoned and questioned as a witness.[9]

The discussion reviewed by the promovendus is related to Court Decision Number 782/Pdt.G/2020/PN Jkt.Sel., the chronology of the case began when there was a land object that was sold by a non-land owner to another party at a price far below the fair price, the mode used by the party who falsified the identity in making the Deed of Sale and Purchase Agreement, Deed of Vacancies Agreement, and Deed of Power of Attorney to Sell is by stealing the identity documents belonging to the owner of the land object and his family, then the parties who would falsify the identity came to the Notary's office together to provide false information that they were indeed the people who matched the identity when appearing to sign the documents related to the sale and purchase of the land.

After the lawsuit was filed by the legal owner of the land object, the Panel of Judges who examined and tried the case gave the consideration that the preparation of the Deed of Sale and Purchase Agreement, the Deed of Vacate Agreement, and the Deed of Power of Attorney to Sell were carried out based on forged documents, so that the subjective and objective elements were not fulfilled so that as a result the deeds were null and void. Then in the discussion, it was also explained by the researcher that if examined in a criminal context, then the parties who falsify identities could potentially be subject to criminal sanctions under Article 392 of Law Number 1 of 2023 concerning the Criminal Code regarding falsification of letters against authentic deeds, thus the Panel of Judges agreed with the plaintiff, so that the plaintiff's petition for the Deed of Sale and Purchase Agreement Number 12 dated October 9, 2019, the Deed of Vacancies Agreement Number 13 dated October 9, 2019, and the Deed of Power of Attorney to Sell

[9]Abdul Ghofur Anshori, Indonesian Notary Institution: Legal and Ethical Perspective, (Yogyakarta: FH UII Press, 2009), p. 5.

Number 14 dated October 9, 2019, all made before Co-Defendant I, were declared legally flawed and did not have binding legal force, which could be granted.

Authentic or authentiek can be interpreted as general, official in nature, providing perfect proof (from letters), especially in deeds: authentic deeds. Special notaries are appointed to make authentic deeds either upon request or on orders, but also several state officials who have the right to make them regarding matters related to their work.

One more condition that must be added is that an authentic deed has perfect evidentiary power, because the authentic deed includes all elements of evidence:

a. Writing;

b. Witnesses;

c. Suspicions;

d. Recognition; and

e. Oath.[10]

The meaning of the word authentic has perfect evidentiary power and can also be determined that anyone is bound by the deed, as long as it cannot be proven otherwise based on a court decision that has permanent legal force. That an authentic deed is a term given to certain officials who are qualified as Public Officials, such as authentic deeds can not only be made by Notaries, for example also by Land Deed Making Officials (PPAT), Auction Officials, and Civil Registry Office Employees.

A notary must possess good moral integrity, thoroughness, and good skills in creating authentic deeds in accordance with Notary regulations. If the authentic deed is in accordance with the Notary Law, the notary need not fear facing legal proceedings, either civil or criminal, because there are legal consequences from the deed they create. This can actually assist law enforcement in enforcing the law in Indonesia because the basis for the actions of the disputing parties is already stated in all legal provisions in the authentic deed made by the notary. The responsibility of a notary as a profession arises from the obligations and authorities granted to him, these obligations and authorities are legally and bindingly effective from the time the notary takes his oath of office as a notary. This oath that has been taken should control all the actions of the notary in carrying out his office.[11]

[10]M. Luthfan Hadi Darus, Op. Cit., p. 25.
[11]Habib Adjie, Cancellation and Revocation of Notarial Deeds, (Bandung: PT Refika Aditama, 2010), p. 19.

Protection of the duties of a Notary for deeds made based on falsification of identity by the parties is clear that a Notary can only be included as a witness if all procedures and requirements for making the deed have been fulfilled, but if in making the deed there are elements of criminal acts such as fraud and falsification of documents, the Notary concerned can be held criminally responsible, of course in conducting an examination of a Notary who is suspected of committing a crime, there are different procedures from other legal subjects when they have to go through the criminal justice system, the Notary profession is protected by the Notary Honorary Council (MKN), but the Notary Honorary Council only has the role of protecting the Notary profession, not the Notary personally.

If a Notary commits or is suspected of committing a crime unrelated to the Notary's duties, the Investigator does not need to request approval from the Notary Honorary Council to investigate. Conversely, if the Regional Notary Honorary Council (MKNW) receives a request for approval to investigate a Notary for alleged criminal acts outside the scope of the Notary's duties, the Notary Honorary Council must reject it on the grounds that it is "not authorized" to approve or reject the investigation of the case. As a public official, a Notary has the authority to create authentic deeds as strong evidence in legal transactions, including credit deeds secured by certificates. However, in practice, problems often arise when one party denies the contents or signature of the deed, even though the deed has fulfilled legal formalities.

Notaries have several legal protections if the parties to a deed renege on the deed, particularly regarding proof and liability. Notaries can avoid accusations of forgery if they act in accordance with statutory regulations and are not negligent in drafting the deed. However, notaries remain civilly liable if proven to have committed an error or negligence in drafting the deed that results in harm to another party.

Essentially, a notary is not responsible for the contents of a deed drawn up before him, as the deed represents the will and agreement of the parties. The notary merely documents this agreement in the form of an authentic deed. Therefore, the notary is only responsible for the formal form of the deed as stipulated by law.

The notary's role here is simply to record or document the legal acts committed by the parties or parties appearing in a deed. The notary merely records what occurred, what they saw, and what they experienced with the parties, and complies with the formal requirements for drafting a deed. The notary is not required to investigate the material truth of the deed's contents. This requires the notary to be neutral and impartial and not to provide legal advice to clients seeking guidance.

In the legal framework of notarial law, one of the duties of a notary is to formulate the wishes or actions of the party appearing before him or her into an authentic deed, taking into account applicable legal regulations. This is as stated in the

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jurisprudence of the Supreme Court of the Republic of Indonesia, where the notary's function is only to record or write down what the parties wish and state before him or her. A notary is not obligated to investigate material matters raised by the parties appearing before him or her.[12]

The form of a notarial deed is regulated based on the provisions of Article 38 of the Notary Law, namely as follows:

1. The beginning of the deed/head of the deed is the part of the beginning of the deed which contains the title of the deed, deed number, time, day, date, month and year as well as the full name and domicile of the Notary;

2. The body of the deed contains the full name, place and date of birth, nationality, occupation, position, domicile of the parties and/or the person they represent, information regarding the position of the parties acting, this section is also called the comparison section, namely the name of the parties acting, their occupation/position, and domicile, along with information whether the parties acting for themselves or as representatives/power of others, which is also stated the occupation/position and domicile as representatives or power of attorney. Comparison means information about the parties appearing, the parties appearing themselves are called comparan. Then in the body of the deed also contains the contents of the deed which are the will and desire of the interested parties which state the provisions or agreement desired by the parties appearing. For example, the deed is a sale and purchase deed, then the contents of the deed contain what is agreed upon in the sale and purchase by the parties appearing. The Civil Code in agreements adheres to an open concept, so that the agreements follow whatever is desired by the parties, as long as it does not conflict with the law, public order and morality. The body of the deed also contains the full name, place and date of birth, as well as the job title, position and place of residence of each identifying witness; and

3. End of Closing Deed, includes:

1. Description of the reading of the deed as referred to in Article 16 Paragraph (1) letter m/Article 16 Paragraph (7);

2. Description of the signing and place of signing or translation of the deed, if any;

3. The full name, place and date of birth, occupation, position, status, and residence of each witness to the deed; and the final or closing part of the deed is a fixed form, which also includes the place where the deed was formalized, and the names of the occupations/positions and residences of the witnesses. Usually in the head of the deed the names and witnesses are not mentioned, but only appointed. Meanwhile, their names will be mentioned at the end of this deed. The

[12]Kunni Afifah, "Responsibility and Legal Protection for Notaries in Civil Law for the Deeds They Make", Lex Renaissance 2, No. 1 (2017): 10.

witnesses in this case are expected not to have a family relationship with the Notary.

Thus, from the description of the Notary Law regarding the Notary's liability for deeds where the identity of the appearing party is falsified, it can be stated that the Notary's liability is limited to the initial part (heading of the deed) and the final part (closing of the deed). In these parts, the Notary is fully responsible both formally and materially. Regarding the identity of the appearing party, the Notary is responsible as long as it is supported by an identity card issued by an authorized official, as well as the truth regarding the presence of the appearing party, the existence of witnesses, the day and date of the deed's creation.[13]

A notary is not a party to the deed he or she makes. Article 38 paragraph (2) letter d of the Notary Law states that: "The beginning or head of the deed contains the full name and domicile of the notary; at the end of the deed, the notary's signature must be included." The inclusion of the notary's name and signature is often interpreted to mean that the notary is a party to the deed, so that if the deed is problematic, the notary is often placed as a defendant, co-defendant, witness, suspect, or accused. Interpreting the notary's position in this way is a misconception because this view does not understand the notary's position in the national legal system.

A notary cannot be held responsible for losses arising as a result of the making of a deed or its preparation and implementation, as long as the assistance provided by the notary has been carried out in accordance with the provisions of the Notary Law and other laws and regulations within reasonable limits of accuracy.

The Notary's responsibility for the credit deed he/she made is limited to the initial part (head of the deed) and the final part (closing of the deed), not to its material content, because normatively the Notary's role is only as a medium for the birth of an authentic deed. The Notary is not required to investigate the truth of the identity and material content of the deed, because the authentic deed serves as evidence of the occurrence of an event or legal relationship between the parties. The legal sanctions for the appearer who provides false information in the deed of sale and purchase agreement can be in the form of civil sanctions (demand for compensation) or criminal sanctions based on Article 263 of the Criminal Code (KUHP).

In carrying out their duties in preparing authentic deeds, notaries have complied with applicable procedures. This is because, before preparing the deed, the notary has reviewed the files and documents presented to them. However, if a notary

[13]Desy Haryani, "Legal Consequences of Deeds of Sale and Purchase Agreements Declared Premature Based on Supreme Court Decision Number 680 K/PDT/2017", Indonesian Notary 3, No. 1 (2021): 16.

abuses their authority, thereby contradicting their stated purpose, they may be subject to administrative, civil, and criminal sanctions.[14]

If a party breaches the terms of the deed, the resolution depends largely on the terms of the agreement. Disputes are beyond the jurisdiction of a notary, as they often arise when one party feels aggrieved.

Regarding protection for Notaries in the preparation of authentic deeds whose identities are falsified by the parties, according to Philipus M. Hadjon, legal protection is the protection of the dignity, honor, and recognition of human rights held by legal subjects from arbitrary actions. In this case, Notaries who carry out their duties are protected by the Notary Law. According to Philipus M. Hadjon, there are two types of legal protection facilities, namely:

a. Preventive Legal Protection

Legal subjects in this preventive legal protection are given the opportunity to submit objections or opinions before a government decision. The goal is to prevent disputes from occurring. Preventive legal protection is very important for government actions based on freedom of action because with preventive legal protection the government is encouraged to be careful in making decisions based on discretion. In Law Number 2 of 2014 concerning the Position of Notary Public Article 16 letter (c) states that Notaries are required to attach letters and documents as well as the fingerprints of the appearers to the minutes of the deed, then Article 16 letter (m) states that Notaries are required to read the deed before the appearers in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for making a private will deed, and signed at that time by the appearers, witnesses, and Notary Public, so that in fact preventive protection related to the protection of the Notary's job duties against the creation of authentic deeds whose identities are falsified by the parties has been fulfilled when the Notary has carried out his duties in accordance with legal regulations.

b. Repressive Legal Protection

Repressive legal protection aims to resolve disputes. The handling of legal protection by the General Court and the Administrative Court in Indonesia falls into this category of legal protection. The principle of legal protection against government actions is based on and originates from the concept of recognition and protection of human rights because according to western history, the birth of concepts on recognition and protection of human rights is directed at restrictions and the placement of obligations of society and government. The second principle underlying legal protection against government actions is the principle of the rule of law. Associated with the recognition and protection of human rights, the recognition and protection of human rights have a primary place and can be linked

[14]Bayu Rushadian Hutama, Notary's Carelessness in Carrying Out Notary Position (Master's Thesis in Notary Affairs, University of Indonesia, 2012), pp. 79-81.

to the objectives of the rule of law, the creation of an authentic deed whose identity is falsified by the parties but in which there are elements of a criminal act committed by a Notary in carrying out his/her duties, the legal protection of the duties and position of a Notary is stated in Article 66 Paragraph (1) of Law Number 2 of 2014 concerning the Position of a Notary which states that for the purposes of the judicial process, investigators, public prosecutors, or judges with the approval of the Notary Honorary Council are authorized.

3.2 Legal Status of Deeds Made by Notaries Based on False Identities By the Facer

If a notarial deed is made based on false evidence or information provided by the parties present, this may result in the deed's requirements not being met. Consequently, the deed made based on such information is legally void.

Despite this, a notary is often accused of being involved in fraudulent dealings between parties. However, as an authorized public official, the notary's primary role is simply to act as a bridge in the deed-making process. In serving the parties, the notary's role is passive. The notary merely includes the information submitted by the parties in the deed and has no authority to amend, remove, or add to the information.[15]Therefore, a notary cannot be held a suspect or defendant if a problem arises from a deed they drafted. This applies provided that the notary has fulfilled all the requirements stipulated by applicable laws and regulations in carrying out their duties and office.

A notary can be released from legal responsibility and liability if there are defects in the deeds he has made, as long as the defects are caused by the error of the party appearing before or information and written evidence from the client. Examples of causes of legal defects that are not the Notary's fault are the use of genuine but fake (aspal) identities such as KTP, KK, passport, SKW, certificates, marriage certificates, or birth certificates that are used as the Notary's reference in making authentic deeds.

The issues outlined above demonstrate a connection with the theory of legal certainty. This theory is used because every action must have legal certainty, which is also the primary purpose of law itself. Legal certainty allows a notary to anticipate all consequences of any legal action they may take. Regarding deeds drawn up by a notary, the process must comply with legal provisions for the deed to be valid and binding on the parties. Meanwhile, a deed drawn up based on a forged document will be void by law because it violates the objective terms of the agreement.

The status of a notarial deed made based on false information from the parties appearing before him is not automatically null and void. This is because the creation of the deed violates the objective requirements in an agreement which is

[15]R. Subekti, Law of Evidence, (Jakarta: Pradnya Paramita, 1987), p. 35.

one of the requirements for a valid agreement. The notary in this case is not a party to the deed, so if there is false information used by the parties appearing in the creation of the deed, this becomes the responsibility of the parties appearing, and criminal responsibility cannot be imposed on the notary as long as the notary in question carries out his duties in accordance with official procedures.

In line with this description, legal certainty regarding the status of the parties and the object of the dispute must be prioritized because the creation of a deed involves falsification of identity. Legal certainty means that a person can obtain what is expected under certain conditions. This certainty can be interpreted as clear norms that serve as guidelines for society, as well as providing clarity and firmness in the application of the law to avoid misunderstandings. Legal certainty includes clarity of general behavior that is binding on all citizens and its legal consequences. This requires the creation of firm general rules to foster a safe and peaceful atmosphere in society.

That in the case based on Decision Number 782/Pdt.G/2020/PN Jkt.Sel., legal certainty was created because the Panel of Judges who examined and tried the case stated that the deed of sale and purchase agreement based on falsification of identity by the parties did not have binding legal force.

3.3 Legal Implications for Parties Who Falsify Their Identities in Deeds Authentic Notary Made

Identity falsification in notarial deeds also has the potential to drag notaries into legal trouble. Although notaries are obligated to ensure the validity of the parties' identities, limitations in the verification system can increase the risk of errors in the authentication process. If negligence or deliberate disregard for strict verification procedures is proven, notaries can be subject to administrative, civil, and even criminal sanctions in accordance with the provisions of the Notary Law and the Criminal Code (KUHP). Therefore, identity falsification in notarial deeds is a crucial issue that requires further study to ensure legal certainty, protection for the parties, and the responsibility of notaries within the notarial system.

This definition of an authentic deed has perfect evidentiary force for anyone listed in it, as long as it is not proven otherwise by a legally binding court decision. The formal requirements for an authentic deed include a form that complies with statutory regulations, is drawn up before an authorized public official, and is drawn up in the official's jurisdiction. Adami Chazawi states that forgery is a criminal act that contains an element of untruth in an object.[16]

The actions of a Notary who commits the crime of forgery on an authentic deed he has made cannot be justified and will certainly harm the interests of the parties involved. Parties who feel their rights have been harmed due to this violation have

[16]Soerjono Soekanto, & Sri Mamudji, Normative Legal Research (A Brief Review), (Jakarta: RajaGrafindo Persada, 2001), p. 23.

the right to take legal action by filing a lawsuit with the District Court to cancel the authentic deed. Forgery of an authentic deed is regulated in Article 392 of the Criminal Code with a criminal penalty of 8 (eight) years in prison. This criminal threat is more severe than forgery of documents in general because authentic deeds have a much more important nature and legal force.

When a deed drawn up by a notary contains legal defects or constitutes a criminal act of forgery, the parties involved can request the annulment of the deed through the District Court. Based on a legally binding court decision, the deed is declared non-binding to the parties. The notary and related parties can be held accountable administratively, civilly, or criminally. The sanctions for a notary who falsifies data in the preparation of an authentic deed include:

a. Sanctions according to Civil Code;

b. Sanctions according to the Criminal Code;

c. Administrative Sanctions or Notary Code of Ethics.

The legal implications of a notarial deed containing the crime of identity falsification by the parties can be requested to have its annulment requested. Based on a district court decision that has permanent legal force, the notarial deed can be annulled and declared non-binding for the parties. The notary concerned can be held accountable administratively, civilly, or criminally. Sanctions for perpetrators of data falsification in the preparation of authentic deeds are regulated in the Civil Code (KUHPerdata) and the Criminal Code (KUHP). A notary can also be sued for damages if their error results in the deed being degraded to a private deed. If the use of false data is done unintentionally because the notary is unaware of its falsity, the liability imposed is civil. Conversely, if the notary knows and intentionally uses the false data, he can be held criminally responsible.

An example of a case in Decision Number 782/Pdt.G/2020/PN Jkt.Sel., concerning identity falsification in the preparation of an authentic deed, was carried out by the complainant stealing the identity and falsifying the land owner's population documents. This also included documents related to the land sale and purchase agreement before the signing process.

The landowner believes the entire transfer of his land was fabricated. This action clearly fulfills the elements of an unlawful act by the parties who stole his identity to create the deed of sale, either individually or jointly.

Identity falsification in notarial deeds can be subject to criminal sanctions based on various legal provisions. Under the Criminal Code, identity falsification resulting in fraud or misuse of documents can be prosecuted under Article 263 of the Criminal Code concerning Document Forgery, which carries a prison sentence of up to 6 (six) years. This sanction demonstrates that identity falsification in notarial deeds is a serious offense that can have severe legal consequences for the perpetrator. If a deed drawn up by a notary contains legal defects or contains elements of a criminal act of forgery, the interested party in the deed may file a request for cancellation with the District Court. If the court issues a final and binding decision declaring the deed invalid, the deed will no longer have binding legal force for the parties involved in its creation. Thus, materially, any false identity in the notarial deed is the responsibility of the parties present before the notary. This is because, in carrying out their duties, the notary is only formally responsible for the preparation of the deed.[17]

Legal certainty can be interpreted as ensuring that a person will obtain what they expect under certain conditions. This certainty translates into clear norms that can serve as guidelines for society. The definition of legal certainty also encompasses the firmness of the law's application in society to avoid misunderstandings. Legal certainty means clarity regarding general behavior, binding all citizens, and regulating its legal consequences. This requires the existence of general regulations to ensure the legal task of achieving public order. In this regard, falsifying an identity in an authentic deed has significant legal implications. From a civil perspective, the deed is invalid because it violates the requirements for a valid deed. Furthermore, any party who intentionally falsifies an identity can be charged with forgery under Article 392 of the Criminal Code.

4. Conclusion

Legal protection for Notaries in the preparation of authentic deeds whose identities have been falsified by the parties includes preventive and repressive protection. Based on Law Number 2 of 2014 concerning the Position of Notary, in the preparation of deeds, Notaries are required to include the identities of the parties that have been previously verified. Protection must be provided to Notaries who have prepared deeds in accordance with legal provisions through the Notary Honorary Council. Notarial deeds prepared based on forged documents by the parties automatically violate the objective requirements of an agreement regarding lawful causes, so that the notarial deed is null and void. However, in principle, Notaries are not authorized to review the validity of a private power of attorney. Notaries in preparing deeds are only based on formal evidence and are not obliged to materially investigate the evidence submitted by the parties. Notaries are not parties to the deed. Therefore, if there is false evidence used by the person appearing and legal problems arise, this is entirely the responsibility of the person appearing, and criminal responsibility cannot be imposed on the Notary, and the legal implications for the party who falsifies the identity in the authentic deed made by the Notary can be in the form of criminal sanctions based on the provisions of Article 263 or Article 266 of the Criminal Code (KUHP), civil lawsuits, and ethical sanctions for the Notary if proven to be involved in falsifying

[17]Abdul Jalal, Suwitno, & Sri Endah Wahyuningsih, “Notary Officials’ Involvement in Unlawful Acts and Participation in Criminal Acts of Document Forgery”, Jurnal Akta, Vol. 5, No. 1 (2018), pp. 227-233.

the identity of the party when making the deed. The author's suggestion that can be given by the author in this research is that the Government should create an official channel or forum so that Notaries can check the authenticity of the documents of the parties who will sign the deed and the parties should be honest in the entire legal process of signing the credit deed with a certificate guarantee so as not to harm other parties.

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