

Notarial Liability for a Child Acknowledgment Deed Used as a Basis for Adoption

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Abstract. *The Child Acknowledgment Deed examined in this study was executed on 9 January 2002 and was later used as one of the documents supporting an adoption application after the death of the prospective adoptive father. This study analyzes the limits of the Notary's legal responsibility for the making of the deed and determines the legal status and evidentiary force of the deed after the related adoption determination was declared to have no legal force. The research is normative legal research with statutory, conceptual, case, and historical approaches. Legal materials are collected through library research and analyzed qualitatively, while the interview with the Notary who drew up the deed is used only as supporting clarification. The study finds that the Notary's conduct in 2002 must be assessed under the legal rules then in force, especially the former Notarial Office Regulation and the Civil Code. The court decision did not specifically adjudicate the Notary's professional liability because the Notary appeared as a witness. The deed may retain its character and evidentiary function as an authentic deed if the formal requirements applicable in 2002 were fulfilled, but it cannot be a substitute for a court determination of adoption and does not independently create inheritance rights.*

Keywords: Acknowledgment; Adoption; Evidentiary; Liability; Notarial.

1. Introduction

Adoption is a legal institution that directly affects the interests of children, family relations, population administration, and, in certain circumstances, inheritance. A family may have lived for years in a relationship of care and responsibility, yet the legal consequences of that relationship do not arise merely because the adults involved regard the child as part of the family. Previous research on the distribution of inheritance between biological and adopted children illustrates why the legal position of an adopted child must be distinguished carefully from the position of a biological heir, particularly when long-standing family care later intersects with an estate. The same concern appears in the present case, where a relationship of care was recorded in a notarial instrument, later connected with an adoption application, and eventually became relevant to a dispute concerning

Kusen's property. The legal problem is therefore not limited to whether care and affection exist in fact. It concerns the legal function of the document used to record that relationship, the authority of the official who drew it up, and the extent to which the document may be relied upon to establish a legal status or a proprietary consequence. A clear separation of those matters is necessary so that child protection, evidentiary certainty, and inheritance rights are not placed on an uncertain legal foundation.¹

Indonesian legal practice also requires a conceptual distinction between a Child Acknowledgment Deed and the legal act of adoption. A Notary is authorized to record statements, intentions, agreements, and legal acts within the scope of notarial authority, and an authentic deed may provide strong written evidence that particular statements were made before a public official. That authority, however, does not automatically transform the Notary into a judicial authority capable of creating adopted-child status. The problem becomes more complicated when members of the public treat a deed concerning a child as though the deed itself was the final stage of adoption, especially when the instrument is later used for purposes that go beyond the intention expressed when it was drawn up. The thesis identifies this practical misunderstanding as a source of legal uncertainty because the evidentiary strength of an authentic deed may be confused with a constitutive power that belongs to another institution. A document can be authentic as evidence and still be legally insufficient to produce a status that the law places within a judicial procedure. This distinction is central to the analysis because it prevents the legal effect of the deed from being expanded solely by the way the parties later choose to use it.²

The time at which each legal event occurs is equally important. The deed at issue was made on 9 January 2002, when the office of Notary was still governed by the *Reglement op Het Notaris Ambt* in Indonesia, *Staatsblad* 1860 Number 3, while Article 1868 of the Indonesian Civil Code supplied the general requirements of an authentic deed. The later Law Number 30 of 2004 on the Office of Notary, its 2014 amendment, and Government Regulation Number 54 of 2007 on the Implementation of Adoption had not yet been executed into force when the deed was. Their later existence may be relevant to developments in notarial and adoption law or to legal acts performed after their enactment, but they cannot be

¹Rahmawati, Ulfah Dwi. (2023). "Assistance in the Distribution of Inheritance Between Biological and Adopted Children According to Islamic Law in Jatikuwung Village." *Jurnal Dedikasi Hukum*, 3(3), 293–310; Subeitani, Syahrul Mubarak, Nurlaila Isima, & Muhamad Sauki Alhabsyi. (2021). "Dynamics of Adoption in Indonesia." *Al-Mujtahid: Journal of Islamic Family Law*, 1(1), 59–68.

²Anggriawan, Teddy Prima. (2021). "Law on Adoption Through a Deed of Acknowledgment of Adoption Drawn Up by a Notary." *Widya Pranata Hukum: Journal of Legal Studies and Research*, 3(1), 1–14; Girsang, Ruth Tria Enjelina. (2018). "Legal Protection and Legal Certainty for Adopted Children Whose Adoption Process Is Conducted Through a Notarial Deed Outside the Adoption System Requiring a Notarial Deed (Stb. 1917 No. 129)." *Law Review*, 229–249; Nurlina. (2026). "The Legal Existence of Adoption Without a Court Determination Under Indonesian Positive Law." *Sujud: Journal of Religion, Social and Culture*, 2(2), 1054–1065.

applied retroactively as standards for deciding whether the Notary violated a duty in January 2002. The formal validity and professional conduct connected with the 2002 deed must therefore first be measured by the law that actually governed the Notary at that time. This historical approach is not a technical detail; it is the foundation for fair attribution of professional responsibility because a public official should not be judged by obligations that did not yet exist when the act was completed.³

The adoption framework itself also had a legal history before 2002. Law Number 4 of 1979 on Child Welfare placed the welfare of the child at the center of adoption, while Supreme Court Circular Letter Number 2 of 1979 and its refinement through Supreme Court Circular Letter Number 6 of 1983 directed adoption toward examination and determination by a court. These instruments are significant because they demonstrate that, even before Government Regulation Number 54 of 2007, the legal system did not simply equate a private or notarial statement with a judicial determination of adoption. A notarial instrument could document the intention of the parties and the existence of a caregiving relationship, but the legal creation or confirmation of adopted-child status within a judicial process. The later child-protection legislation and Government Regulation Number 54 of 2007 strengthened that procedural structure and became relevant when the adoption application in the present dispute was filed in 2012. Reading the rules according to their respective periods avoids two opposite mistakes: treating the 2002 deed as though it itself was a judicial adoption order, and judging the 2002 Notary by legislation that only governed later events.⁴

The dispute arose from Child Acknowledgment Deed Number 5 dated 9 January 2002, drawn up before Notary Elizabeth Sri Indrawati, SH Kusen had married Musni Nafis Malichah, who already had two children, Nailul Istiqomah and Syamsul Arifin, and the marriage did not produce biological children. Kusen died on 31 May 2012. After his death, Nailul Istiqomah and Syamsul Arifin applied to the Kudus District Court and obtained Determination Number 433/Pdt.P/2012/PN.Kds dated 18 July 2012, which recognized them as Kusen's adopted children. The determination later became intertwined with claims concerning Kusen's estate, which included property acquired before marriage, inherited assets, and marital property. Kusen's siblings challenged the legal position asserted by the defendants and the transfer or control of estate assets through civil proceedings registered as Decision Number 12/Pdt.G/2013/PN.Kds. The litigation therefore involved a sequence of different legal events: the 2002 deed, the 2012 adoption application and determination, later transactions

³Reglement op Het Notaris Ambt in Indonesia, Staatsblad 1860 No. 3, as last amended in State Gazette 1945 No. 101; Indonesian Civil Code (Burgerlijk Wetboek), Article 1868.

⁴Law of the Republic of Indonesia No. 4 of 1979 on Child Welfare; Supreme Court Circular Letter No. 2 of 1979 on Adoption; Supreme Court Circular Letter No. 6 of 1983 refining Supreme Court Circular Letter No. 2 of 1979.

concerning property, and the 2013 civil dispute. Treating those events as though they were a single legal act would obscure who performed each act and under which legal rules it should be assessed.⁵

The position of the Notary in that litigation requires particular care. The Notary was called to explain the process and purpose of the deed and give evidence concerning the documents presented by the parties and the intended function of the instrument. According to the testimony reflected in the thesis and the later interview conducted on 29 June 2026, the deed was connected with the duties of care, maintenance, protection, and education of the children, and the Notary explained that the deed was not intended to operate automatically as an instrument of inheritance. The Notary did not appear in the 2013 case as a defendant whose civil, criminal, administrative, or ethical liability was directly adjudicated. The operative part of the decision likewise did not contain a declaration that the Notary was liable or, conversely, a declaration that every possible form of professional liability had been ruled out. Legal scholarship on the appearance of Notaries as witnesses in civil and investigative proceedings supports the need to distinguish the evidentiary role of a Notary from the legal position of a party against whom professional responsibility is actually claimed. That distinction matters because the mere presence of a Notary in court does not determine the legal basis of liability.⁶

The research problem is accordingly framed through two related ideas: legal responsibility and legal certainty. The thesis uses Satjipto Rahardjo's approach to responsibility to examine whether the Notary acted within authority, complied with official duties, committed an attributable breach, acted intentionally or negligently, caused legally relevant loss, and can be connected to that loss through a sufficient causal relationship. The second framework is legal certainty, which requires the legal position of the deed, the status of the child, the authority of the Notary, and the effect of the court determination to be kept conceptually distinct. Legal certainty is weakened when the authentic character of a document is treated as equivalent to unlimited substantive legal effect, or when an instrument drawn up for one function is later used as though it could independently create another legal consequence. The central research objective is therefore to analyze the limits of the Notary's responsibility for the 2002 Child Acknowledgment Deed and, within the same inquiry, determine the legal status and evidentiary force of that

⁵Kudus District Court Determination No. 433/Pdt.P/2012/PN.Kds; Kudus District Court Decision No. 12/Pdt.G/2013/PN.Kds.

⁶Afiana, Anita. (2020). "The Position and Responsibility of Notaries as Parties in Civil Dispute Resolution in Indonesia Related to Deeds They Have Drawn Up." *Padjadjaran Legal Axis Journal*, 246–261; Abubakar, Karina Raiza. (2024). "The Position of a Notary as a Witness in Court in Relation to the Right of Refusal and the Notary's Responsibility to Maintain the Confidentiality of Authentic Deeds." *Journal*, 4, 95–110; Febiana, Lidya. (2013). "Notaries as Witnesses in Investigations of the Authenticity of Deeds." *University of Surabaya Student Scientific Journal*, 2(1); Goddess, Sandra. (2024). "Police Investigators' Authority to Summon Notaries as Witnesses from the Perspective of Legal Certainty." *Journal*, 7(2), 678–697.

deed after the 2012 adoption determination was declared to have no legal force. The study focuses on these two substantive questions because they represent the principal doctrinal problems developed in the thesis and are the issues most suitable for the journal format.⁷⁸

2. Research Methods

This study is normative legal research with a descriptive-analytical specification. The research uses statutory, conceptual, case, and historical approaches. The statutory approach examines the legal rules governing the office of Notary, authentic deeds, adoption, child protection, civil evidence, and inheritance according to the time at which each legal event occurred. The conceptual approach is used to separate the evidentiary function of a notarial deed from the constitutive legal effect of adoption and to apply the elements of legal responsibility and legal certainty. The case approach analyzes the facts, legal arguments, reasoning, and operative consequences connected with Kudus District Court Determination Number 433/Pdt.P/2012/PN.Kds and Decision Number 12/Pdt.G/2013/PN.Kds. The historical approach is essential because the deed was made on 9 January 2002, so the rules governing the Notary in force at that date must be identified before later legislation is considered. This combination allows the study to analyze the dispute without collapsing legal events from different periods into one standard of assessment.⁹ The legal materials consist of primary, secondary, and tertiary materials. Primary materials include the Reglement op Het Notaris Ambt in Indonesia, the Indonesian Civil Code, Law Number 4 of 1979 on Child Welfare, Supreme Court Circular Letters Number 2 of 1979 and Number 6 of 1983, the child-protection legislation, Government Regulation Number 54 of 2007, the later Notary Law insofar as it is used according to its temporal relevance, and the two Kudus District Court products central to the dispute. Secondary materials consist of books, journal articles, and legal scholarship listed in the thesis, while tertiary materials are used to support terminology and research organization where necessary. The materials are collected through library research and analyzed qualitatively through juridical interpretation, temporal classification of applicable norms, comparison of the functions of the deed and the court determination, and evaluation of the elements required for professional liability. The interview with Notary Elizabeth Sri Indrawati, SH is treated as supporting clarification of factual context and the purpose attributed to the deed; it does not replace binding legal materials and does not change the normative character of the study. This method also requires the author to distinguish carefully between

⁷Rahardjo, Satjipto. (2012). *Legal Science* (7th ed.). Bandung: Citra Aditya Bakti; Wulandari, Nindi. (2025). "Legal Responsibility of Notaries in Drawing Up Deeds." *Journal of Education, Law, Economics and Technology*, 1(1), 20–26.

⁸Manullang, E. Fernando M. (2019). *Legalism, Legality, and Legal Certainty*. Jakarta: Kencana; Munib, Ali, & Samsul Huda. (2025). "Legal Certainty of Electronic Notarial Deeds as Authentic Evidence in the Indonesian Civil Evidence System." *Policy and Law Journal*, 2, 54–65.

⁹Ali, Zainuddin. (2021). *Legal Research Methods*. Jakarta: Sinar Grafika.

facts expressly contained in the judicial materials and doctrinal conclusions reached through legal analysis.

3. Results and Discussion

3.1. Limits of Notarial Liability for the Child Acknowledgment Deed

The civil dispute began within the family of the late Kasno Waridjan and Saginah, whose children included Samiun, Suparno, Kusen, and Khusaeri. Kusen later married Musni Nafis Malichah, also referred to in the case materials as Aniek Nafis Malikhah, on 30 June 1991. Musni entered the marriage with two children from a previous relationship, Nailul Istiqomah and Syamsul Arifin. Kusen and Musni did not have biological children together, and Kusen died on 31 May 2012. Before and during the marriage, Kusen possessed different categories of property, including property acquired before marriage or inherited from his parents as well as property obtained during the marriage. The thesis records that the disputed assets included agricultural land, yard land, buildings, machinery, vehicles, and other property that the parties classified either as Kusen's separate property or as marital property. The later inheritance dispute cannot therefore be understood simply as a disagreement over a single document. It arose within a broader contest over the legal identity of the heirs, the character of the estate, and the legal basis on which particular parties claimed the authority to control or transfer property.¹⁰

After Kusen's death, Nailul Istiqomah and Syamsul Arifin filed an application for adoption with the Kudus District Court and obtained Determination Number 433/Pdt.P/2012/PN.Kds on 18 July 2012. Sill's lifetime. The determination was then used in a legal context involving Kusen's estate, which caused the siblings to bring civil proceedings. They claim did not challenge the 2002 death in isolation. It also questioned the validity and consequences of the later adoption determination and challenged transfers of property that, according to the plaintiffs, affected their rights in Kusen's separate and marital assets. This chronology is essential because the legal consequences attributed to the Notary cannot be assessed without separating the act of drawing up the deed from the independent decisions of the parties to seek a judicial determination, rely on that determination, and undertake later property transactions. A sequence of causally connected events is not the same as a single act performed by one legal actor.

The first requirement in determining the Notary's responsibility is temporal separation. On 9 January 2002, the Notary's office remained governed by the Regulation op Het Notaris Ambt in Indonesia, commonly referred to in the thesis as the former Notarial Office Regulation or PJN. The Law on the Office of Notaries enacted in 2004 and amended in 2014 cannot be treated as the direct normative basis for judging a deed made before those statutes existed. The same principle applies to Government Regulation Number 54 of 2007: it may govern or help

¹⁰Kudus District Court Decision No. 12/Pdt.G/2013/PN.Kds.

explain the adoption framework applicable to the 2012 petition, but it is not a retroactive measure of the Notary's formal conduct in 2002. The 2002 deed and the 2012 adoption application are therefore legally distinct events that must be matched with the rules in force at their respective times. This temporal approach is particularly important in professional-liability analysis because a finding of fault requires the identification of a concrete duty that actually bound the professional when the conduct occurred. Without that step, later legislative developments could be turned improperly into retrospective professional obligations.¹¹

The legal development of adoption reinforces the same separation of functions. Indonesian adoption law moved away from an older colonial model in which notarial documentation had a different place in the legal process, and post-independence regulation increasingly emphasized judicial examination. Supreme Court Circular Letter Number 2 of 1979 and its refinement through Supreme Court Circular Letter Number 6 of 1983 directed adoption toward a court process and were already part of the legal environment before the 2002 deed was made. Law Number 4 of 1979 on Child Welfare describes the child's welfare as the basic consideration, while later child-protection legislation and Government Regulation Number 54 of 2007 supplied a more detailed framework for adoption when the 2012 application was filed. Legal scholarship cited in the thesis similarly describes adoption as a legal act with consequences beyond private caregiving arrangements, including consequences for identity, protection, administration, and family relations. The importance of this development is not that every later rule should be read backwards into 2002, but that the legal system has already created a meaningful distinction between a private statement before a Notary and the judicial process through which adopted-child status is recognized. That distinction determines the outer boundary of what the Notary can legally achieve by drawing up the deed.¹²¹³

The term Child Acknowledgment Deed must also be understood according to the context in which the thesis uses it. The instrument in the case records a declaration concerning the children and the responsibilities accepted toward them, but it should not automatically be equated with the Civil Code concept of recognizing a

¹¹Law of the Republic of Indonesia No. 30 of 2004 on the Office of Notary, as amended by Law No. 2 of 2014; Government Regulation of the Republic of Indonesia No. 54 of 2007 on the Implementation of Adoption.

¹²Subeitan, Syahrul Mubarak, Nurlaila Isima, & Muhamad Sauki Alhabsyi. (2021). "Dynamics of Adoption in Indonesia." *Al-Mujtahid: Journal of Islamic Family Law*, 1(1), 59–68; Upstream, Klaudius Ilkam. (2018). "Juridical Analysis of the Protection of Adopted Children in Relation to Government Regulation No. 54 of 2007 on Adoption." *Journal of Education and Development*, 5(1), 75; Junaidi. (2020). "Motives and Legal Consequences of Adoption from the Perspective of Customary Law and Positive Law." *Law and Civil Society*, 10(2), 192–201.

¹³Supreme Court Circular Letter No. 2 of 1979 on Adoption; Supreme Court Circular Letter No. 6 of 1983 refining Supreme Court Circular Letter No. 2 of 1979; Law of the Republic of Indonesia No. 23 of 2002 on Child Protection, as amended by Law No. 35 of 2014; Government Regulation of the Republic of Indonesia No. 54 of 2007 on the Implementation of Adoption.

child born outside marriage. The thesis repeatedly distinguishes between a notarial declaration of acknowledgment, care, maintenance, education, or protection and the separate legal act of adoption that changes the child's position within a legally recognized adoptive relationship. Scholarship on notarial adoption documents and the protection of adopted children confirms that an authentic deed may provide reliable proof of what the appearing parties declared, while the broader legal status of adoption depends on the procedure required by the applicable law. The same distinction protects against a second conceptual error: using the terminology of acknowledgment to infer biological paternity where the factual relationship in the dispute concerns stepchildren and intended adoption. The instrument should therefore be read for what it actually evidences rather than for a legal label later assigned to it. Its legal effect cannot be expanded simply because a later proceeding relied on it as a supporting document.¹⁴

Under the former Notarial Office Regulation, the Notary's authority and formal duties provided the first concrete standard for evaluating the deed. Article 1 of the PJN empowered a Notary to draw up authentic deeds concerning acts, agreements, and determinations desired by interested parties where the authority was not assigned exclusively to another official. The thesis therefore places the Notary's authority at the level of recording the statements and intentions of the appearers, not at the level of exercising judicial power to establish adopted-child status. The relevant formal provisions also include Articles 22 and 23 concerning instrumental witnesses, Article 24 concerning identification of the appearers, Article 25 concerning required elements of the deed, Article 28 concerning reading and signing, and Article 35 concerning the original deed or minute. Articles 37a and 37c further demonstrate that acknowledgment and adoption were not identical legal categories within the older regulatory environment. The judgment materials do not record a specific finding that these formal requirements were violated in the making of Deed Number 5. That absence does not prove that every formality was affirmatively examined by the court, but it prevents the researcher

¹⁴Anggriawan, Teddy Prima. (2021). "Law on Adoption Through a Deed of Acknowledgment of Adoption Drawn Up by a Notary." *Widya Pranata Hukum: Journal of Legal Studies and Research*, 3(1), 1–14; Girsang, Ruth Tria Enjelina. (2018). "Legal Protection and Legal Certainty for Adopted Children Whose Adoption Process Is Conducted Through a Notarial Deed Outside the Adoption System Requiring a Notarial Deed (Stb. 1917 No. 129)." *Law Review*, 229–249; Kholis Sulung, P., Abdul Rokhim, Elvi Yanti Dwi Mas, et al. (2024). "A Juridical Review of the Legitimacy of Children Born Outside Marriage." *LEGALITAS: Scientific Journal of Legal Studies*, 7(2), 63–72.

from treating a formal defect as an established fact when the case materials do not support it.¹⁵¹⁶

The theory of legal responsibility used in the thesis requires more than the existence of a disputed deed. The analysis is organized around several connected indicators: the existence and scope of the Notary's authority, the official duties attached to that authority, a breach of authority or duty, intention or negligence, legally relevant loss, a causal connection between the professional act and the loss, and the type of sanction that may follow if the relevant elements are proven. This framework is important because professional responsibility cannot be inferred solely from the fact that a document later appears in litigation. A deed can become relevant to a dispute for many reasons, including a party's later interpretation, a subsequent application to another institution, or a later transaction that the Notary did not perform. The thesis consequently treats the question of liability as an attribution problem: which conduct includes the Notary, which conduct includes the parties, what legal duty applied to each actor, and which act can legally be connected to the loss alleged in court. Scholarship on notarial responsibility similarly emphasizes that civil or professional liability requires a legally recognizable error rather than an automatic transfer of responsibility from the parties to the drafter of the instrument.¹⁷

Applying those indicators to the available case materials produces a limited conclusion. The 2013 judgment does not contain a direct finding that Deed Number 5 was formally defective, that the Notary exceeded her authority when the deed was drawn up, or that she knowingly included false information for the purpose of creating inheritance rights. The Notary appears as a witness, and the dispute primarily concerns the legal position asserted by the litigating parties, the adoption determination, and the consequences of property transfers. The thesis also notes that the complete minutes were not examined in the judgment as part of a professional disciplinary proceeding, so the research cannot claim that every requirement of the PJN was judicially verified. The proper conclusion is therefore narrower than an absolute statement that the Notary was legally flawless. The materials do not provide a direct factual basis for imposing liability solely because

¹⁵Anggraini, Puspa, & Aju Putrijanti. (2023). "A Juridical Review of Notarial Rights and Obligations in the Making of Authentic Deeds." *UNES Law Review*, 6(1), 1817–1824; Arsy, Eudea Adeli, Hanif Nur Widhiyanti, & Patricia Audrey Ruslijanto. (2021). "Notarial Liability for Legally Defective Deeds and Deeds Not Complying with the Requirements of the Notary Office Law." *Journal of Bina Mulia Hukum*, 6(1), 130–140; Arifandy, Muhammad Yusfi. (2022). "Law Enforcement Against Violations of Notarial Authority and Obligations Not Regulated in the Notary Office Law by the Notary Supervisory Council." *Officium Notarium*, 2(3), 557–565.

¹⁶Reglement op Het Notaris Ambt in Indonesia, Staatsblad 1860 No. 3, especially Articles 1, 22, 23, 24, 25, 28, 35, 37a, and 37c; Indonesian Civil Code (*Burgerlijk Wetboek*), Article 1868.

¹⁷Rahardjo, Satjipto. (2012). *Legal Science* (7th ed.). Bandung: Citra Aditya Bakti; Wulandari, Nindi. (2025). "Legal Responsibility of Notaries in Drawing Up Deeds." *Pelita Journal of Education, Law, Economics and Technology*, 1(1), 20–26; Afriana, Anita. (2020). "The Position and Responsibility of Notaries as Parties in Civil Dispute Resolution in Indonesia Related to Deeds They Have Drawn Up." *Journal of the Padjadjaran Law Axis*, 246–261.

the deed was later used in the adoption and inheritance context. Any stronger conclusion would require evidence of a specific breach in the making of the deed or another attributable act by the Notary.¹⁸

The Notary's evidence in court and the later interview add factual context to that assessment. The thesis records that the parties came before the Notary with identity and family documents, including identity cards, family documentation, marriage documentation, and documents concerning the children. The Notary explained that the purpose of the deed concerned the obligation to care for, maintain, protect, educate, and support the children and that the instrument was not presented as a direct legal basis for inheriting the adoptive parent's estate. She also stated that Kusen did not discuss his property with her when the deed was made. Those statements support the thesis's conclusion that the Notary did not intend the instrument to operate as a substitute for a court determination or as an automatic instrument of succession. At the same time, the interview cannot independently establish the legal validity of the deed or eliminate every possible form of professional responsibility because a professional's own later explanation is not a substitute for the applicable legal requirements. It is appropriately used as corroborative material that helps explain the intended function of the deed and the Notary's understanding of the transaction.¹⁹

The causal relationship between the 2002 death and the later loss alleged by Kusen's siblings is another decisive issue. Approximately ten years separated the making of the deed from the adoption application. Between those events, the parties themselves decided to rely on the document, submitted a petition to the court, obtained Determination Number 433/Pdt.P/2012/PN.Kds, and later became involved in acts concerning Kusen's estate. The plaintiffs' alleged losses relate to control and transfer of property, not simply to the existence of the deed in the Notary's protocol. The causal chain therefore contains several independent legal decisions and actors, including the applicant, the court process, and the parties involved in later property transactions. Legal responsibility cannot be simplified by treating the earliest document in the chronology as the legal cause of every consequence that followed. The more defensible analysis asks whether the Notary committed a specific wrongful act that was quite connected to the loss, rather than assuming causation because the deed was eventually cited as part of the later process. On the record described in the thesis, that direct causal link is not established.²⁰ The fact that the Notary appeared as a witness should also not be confused with a finding of professional liability. A Notary may be required to explain the formal circumstances surrounding a deed because the deed has

¹⁸Kudus District Court Decision No. 12/Pdt.G/2013/PN.Kds.

¹⁹Rahmawati, Ulfah Dwi. (2026). Interview with Notary Elizabeth Sri Indrawati, SH, June 29, 2026; Kudus District Court Decision No. 12/Pdt.G/2013/PN.Kds.

²⁰Rahardjo, Satjipto. (2012). *Legal Science* (7th ed.). Bandung: Citra Aditya Bakti; Wulandari, Nindi. (2025). "Legal Responsibility of Notaries in Drawing Up Deeds." *Journal of Education, Law, Economics and Technology*, 1(1), 20–26.

become relevant to a civil dispute, and legal scholarship has long discussed the complex position of Notaries who are summoned as witnesses in proceedings involving instruments they drew up. The evidentiary relevance of the Notary's testimony does not itself transform the Notary into a defendant, nor does it mean that every legal consequence of the underlying transaction is attributable to the Notary. In the present case, the court did not conduct a separate civil-liability analysis of the Notary, a criminal examination, a Notary Supervisory Council proceeding, or an ethical disciplinary hearing. The thesis is therefore careful to state that the judgment neither convicted nor formally exonerated the Notary across all possible fields of responsibility. What can be stated is that the operative dispute concerns the litigating parties and the legal consequences of the adoption determination and property transfers, while the Notary's professional liability remains a doctrinal issue that must be tested through the elements of authority, breach, fault, damage, and causation.²¹

Different forms of notarial responsibility may theoretically arise if their respective elements are established. A civil claim may become relevant where an attributable professional error causes loss; administrative or professional sanctions may arise where the Notary violates binding duties of office; criminal responsibility requires proof of conduct satisfying the elements of a criminal offense; and ethical responsibility depends on the professional code and the competent disciplinary mechanism. The present civil judgment was not a proceeding designed to decide all of those forms of responsibility. This distinction is important because the language of accountability should not be broader than the forum and evidence permits. The thesis uses the case to identify the boundary of responsibility, not to declare that Notaries are immune whenever parties misuse an instrument. If evidence had shown that the Notary acted outside authority, ignored mandatory formalities, knew falsely recorded information, or cooperated in using the deed for an unlawful purpose, the legal assessment would have been different. The absence of such a finding in the materials reviewed is the reason the conclusion remains conditional and fact-specific rather than categorical.²²

²¹Abubakar, Karina Raiza. (2024). "The Position of a Notary as a Witness in Court in Relation to the Right of Refusal and the Notary's Responsibility to Maintain the Confidentiality of Authentic Deeds." *Journal*, 4, 95–110; Afriana, Anita. (2020). "The Position and Responsibility of Notaries as Parties in Civil Dispute Resolution in Indonesia Related to Deeds They Have Drawn Up." *Padjadjaran Legal Axis Journal*, 246–261; Goddess, Sandra. (2024). "Police Investigators' Authority to Summon Notaries as Witnesses from the Perspective of Legal Certainty." *Journal*, 7(2), 678–697; Febiana, Lidya. (2013). "Notaries as Witnesses in Investigations of the Authenticity of Deeds." *Student Scientific Journal of Surabaya University*, 2(1).

²²Anggraini, Puspa, & Aju Putrijanti. (2023). "A Juridical Review of Notarial Rights and Obligations in the Making of Authentic Deeds." *UNES Law Review*, 6(1), 1817–1824; Arsy, Eudea Adeli, Hanif Nur Widhiyanti, & Patricia Audrey Ruslijanto. (2021). "Notarial Liability for Legally Defective Deeds and Deeds Not Complying with the Requirements of the Notary Office Law." *Journal of Bina Mulia Hukum*, 6(1), 130–140; Arifandy, Muhammad Yusfi. (2022). "Law Enforcement Against Violations of Notarial Authority and Obligations Not Regulated in the Notary Office Law by the Notary Supervisory Council." *Officium Notarium*, 2(3), 557–565.

Professional responsibility nevertheless includes a preventive dimension. A Notary who is asked to record statements concerning a child should use clear language, verify the formal identity and capacity of the appearers, explain the legal function of the instrument, and avoid wording that may reasonably be understood as a judicial determination of adoption. Scholarship on the duties and authority of Notaries emphasizes that the formal strength of an authentic deed depends on disciplined compliance with the requirements of office, while child-related legal scholarship highlights the importance of protecting the child from uncertainty produced by ambiguous documentation. The thesis also stresses the value of legal counseling so that parties understand that an authentic deed is not an unlimited legal instrument and that adoption, where the law requires it, must be completed through the competent procedure. This preventive responsibility is different from retroactively imposing liability simply because the parties later used a document improperly. It is a forward-looking professional standard intended to reduce misunderstanding and litigation by ensuring that the function and limits of the deed are apparent from the beginning.²³ On that basis, the limit of the Notary's liability in the present case should be stated carefully. The making of Deed Number 5 must be assessed under the PJN and the Civil Code as they applied on 9 January 2002. The available judicial materials do not directly establish a formal defect, an intentional attempt by the Notary to create adopted-child status, participation in the 2012 petition, or involvement in the later use of the deed to obtain inheritance rights. The 2013 decision also did not specifically adjudicate the Notary's civil, criminal, administrative, or ethical responsibility because she appeared as a witness rather than as a party whose professional liability was the object of the claim. The author's conclusion that there is insufficient basis to impose liability is therefore a doctrinal conclusion derived from authority, duty, breach, fault, loss, and causation, not an operative finding of the court. The conclusion would remain open to reconsideration if independent evidence demonstrated a defect in the deed or other attributable professional violation. This formulation preserves accountability while preventing liability from being imposed simply because an authentic deed later becomes part of a contentious legal strategy.

3.2. Legal Status and Evidentiary Force of the Child Acknowledgment Deed

The second research problem concerns the legal status and evidentiary force of Deed Number 5 after Determination Number 433/Pdt.P/2012/PN.Kds was declared to have no legal force. The analysis begins with legal certainty because the dispute illustrates how uncertainty can arise when different legal instruments are assigned functions that exceed their proper scope. In the thesis, legal certainty is understood not merely as the existence of written rules but as the ability of the

²³Najihah, Isna Amiratun, Mimi Melisa, & Nandito Prabu Widoto. (2026). "Behind the Validity of a Deed: Notarial Responsibility and Child Protection in the Sale and Purchase of a Minor's Property." *Jurnal*, 5471–5484; Kholis Sulung, P., Abdul Rokhim, Elvi Yanti Dwi Mas, et al. (2024). "A Juridical Review of the Legitimacy of Children Born Outside Marriage." *LEGALITAS: Jurnal Ilmu Hukum*, 7(2), 63–72.

legal system to provide a predictable relationship between authority, procedure, legal status, and legal consequence. Gustav Radbruch's formulation of legal values places certainty alongside justice and utility, while contemporary scholarship on notarial evidence emphasizes that certainty depends on respecting the function of the authentic deed within the civil evidence system. The issue is therefore not solved simply by saying that the deed is authentic or that the adoption determination later lost legal force. It requires a layered inquiry into what the deed proves, what it does not prove, which legal status could only arise through another procedure, and what part of the later judicial outcome directly affected the deed.²⁴²⁵ For a deed executed on 9 January 2002, authenticity must be assessed under the legal requirements then applicable. Article 1868 of the Indonesian Civil Code describes an authentic deed as one drawn up in the form prescribed by law by or before a competent public official within the official's authority. The PJN supplied the more specific notarial framework governing the office at the time, including the authority of the Notary, the identification of appearers, witnesses, the required elements of the deed, reading, signing, and preservation of the original instrument. The thesis therefore rejects an analysis that treats the 2004 or 2014 Notary Law as though it supplied the formal conditions of a deed made in 2002. Later legislation may help explain the modern development of the institution, but the authenticity of Deed Number 5 depends on the law that governed its formation. The 2013 civil decision does not contain an operative declaration that the deed was degraded into a private document because of a formal PJN violation. The absence of such a declaration does not make the deed immune from challenge, but it means that loss of authenticity cannot be assumed solely from the invalidation of the later adoption determination.²⁶²⁷

The evidentiary force of an authentic deed is also not a single, indivisible concept. The thesis distinguishes the deed's external, formal, and material evidentiary dimensions. External evidentiary force concerns the ability of the instrument to present itself as an authentic deed until a legally sufficient challenge proves otherwise. Formal evidentiary force concerns the certainty that the acts, declarations, dates, signatures, and formal occurrences recorded by the Notary took place in the manner stated in the deed. Material evidentiary force requires greater caution because a party deed principally proves that the appearers made

²⁴Manullang, E. Fernando M. (2019). *Legalism, Legality, and Legal Certainty*. Jakarta: Kencana; Munib, Ali, & Samsul Huda. (2025). "Legal Certainty of Electronic Notarial Deeds as Authentic Evidence in the Indonesian Civil Evidence System." *Policy and Law Journal*, 2, 54–65.

²⁵Manullang, E. Fernando M. (2019). *Legalism, Legality, and Legal Certainty*. Jakarta: Kencana; Munib, Ali, & Samsul Huda. (2025). "Legal Certainty of Electronic Notarial Deeds as Authentic Evidence in the Indonesian Civil Evidence System." *Policy and Law Journal*, 2, 54–65; Rahmi, Ita. (2025). "Recognition of Adopted Children as Heirs under Indonesian Civil Law." *Journal of Law*, 9(1), 111–121.

²⁶Reglement op Het Notaris Ambt in Indonesia, Staatsblad 1860 No. 3, as last amended in State Gazette 1945 No. 101; Indonesian Civil Code (Burgerlijk Wetboek), Article 1868.

²⁷Reglement op Het Notaris Ambt in Indonesia, Staatsblad 1860 No. 3, especially Articles 1, 22, 23, 24, 25, 28, 35, 37a, and 37c; Indonesian Civil Code (Burgerlijk Wetboek), Article 1868.

the statements recorded before the Notary; the Notary does not automatically guarantee the truth of every external factual assertion supplied by those parties. In this dispute, Deed Number 5 may therefore be relevant to prove that Kusen and the other appearers made certain declarations concerning the children and accepted responsibilities connected with their care. That evidentiary function does not, by itself, prove that every substantive requirement of adoption has been fulfilled or that adopted-child status has already arisen. The distinction allows the authentic character of the deed to be respected without attributing to it a legal effect that belongs to a separate substantive process.²⁸ This distinction between evidentiary authenticity and substantive legal effect is decisive. An instrument can be valid as an authentic record of a declaration even where the legal consequences desired by a party require an additional legal act or a decision from another authority. Adoption is precisely such a context. The Notary may record an intention to accept responsibility for a child, the consent of relevant family members, or commitments concerning care and support. The deed can provide strong evidence that those statements were made. The creation or confirmation of adopted-child status, however, is not transformed into a notarial power merely because the declaration was placed in authentic form. The thesis repeatedly emphasizes that the authority of the Notary ends where the exclusive authority of the court begins. Treating authenticity as equivalent to unlimited constitutive effect would create the very uncertainty that the law of authenticity deeds is intended to prevent because parties would be unable to distinguish between evidence of a statement and the legal source of a status.²⁹³⁰

The consequence of Decision Number 12/Pdt.G/2013/PN.Kds must therefore be read from what the judgment actually addressed. According to the thesis, the court declared Determination Number 433/Pdt.P/2012/PN.Kds to have no legal force and also addressed the validity of certain transfers of Kusen's separate and marital property. The decision did not contain a specific operative order declaring Deed Number 5 false, void, formally defective, or stripped of its authentic character. The invalidation of the judicial determination therefore cannot be

²⁸Salim HS. (2015). *Techniques for Drafting Deeds, Volume One: Theoretical Concepts, Notarial Authority, Form and Original Deed*. Jakarta: Rajawali Pers; Septianingsih, Komang Ayuk, I Nyoman Putu Budiarta, & Anak Agung Sagung Laksmi Dewi. (2020). "Evidentiary Strength of Authentic Deeds in Civil Proceedings." *Journal of Legal Analogy*, 2(3), 336–340.

²⁹Anggriawan, Teddy Prima. (2021). "Law on Adoption Through a Deed of Acknowledgment of Adoption Drawn Up by a Notary." *Widya Pranata Hukum: Journal of Legal Studies and Research*, 3(1), 1–14; Girsang, Ruth Tria Enjelina. (2018). "Legal Protection and Legal Certainty for Adopted Children Whose Adoption Process Is Conducted Through a Notarial Deed Outside the Adoption System Requiring a Notarial Deed (Stb. 1917 No. 129)." *Law Review*, 229–249; Nurlina. (2026). "The Legal Existence of Adoption Without a Court Determination Under Indonesian Positive Law." *Sujud: Journal of Religion, Social and Culture*, 2(2), 1054–1065.

³⁰Supreme Court Circular Letter No. 2 of 1979 on Adoption; Supreme Court Circular Letter No. 6 of 1983 refining Supreme Court Circular Letter No. 2 of 1979; Law of the Republic of Indonesia No. 23 of 2002 on Child Protection, as amended by Law No. 35 of 2014; Government Regulation of the Republic of Indonesia No. 54 of 2007 on the Implementation of Adoption.

treated automatically as the cancellation of every document that had previously been used in the adoption application. Each legal product has its own source of authority and its own requirements of validity. The direct consequence of the judgment attaches to the court determination and the legal relationships expressly decided in the case, while any challenge to the deed itself must be based on a defect in the deed's formation, content, or evidentiary status. This separation is essential to avoid a chain reaction in which the invalidity of one legal product is assumed, without legal analysis, to erase all preceding documents in the file.³¹

The Notary's testimony further clarifies the proper scope of the deed. The thesis records that the Notary described the instrument as concerning the responsibilities of care, maintenance, protection, education, and support of the children. She also explained that the deed was not intended to give the children an automatic right to inherit Kusen's property and that other legal acts, such as gifts or other transfers, would be required if Kusen wished to provide them with specific property. This explanation is consistent with the distinction between an authentic record of family intentions and a constitutive legal act of adoption or inheritance. It also supports the conclusion that the deed's legal certainty is limited to what the Notary was authorized to record. The interview conducted in 2026 provides the same factual orientation, but, as with the liability analysis, it remains supporting material rather than the source of the deed's legal force. The legal status of the instrument must continue to be determined from the law of evidence, the PJN applicable in 2002, and the judicial materials.³² The distinction between adopted-child status and inherited status must also remain clear. The thesis notes that a claim of adoption does not automatically answer the separate question of who inherits a particular estate, especially where the disputed property includes both separate property and marital property and where different inheritance rules may apply. Supreme Court Circular Letter Number 6 of 1983 itself illustrates the need to keep adoption and heirship conceptually separate rather than combining them into one request. Legal scholarship cited in the thesis further shows that the position of adopted children in inheritance varies according to the applicable legal system and the legal basis of the transfer, including statutory inheritance, wills, gifts, and other recognized mechanisms. Research concerning children born outside marriage also demonstrates more broadly that legal status and inheritance consequences depend on the specific legal category and evidentiary basis involved; those doctrines should not be transferred mechanically to stepchildren or intended adoptees. In this case, Deed Number 5 cannot become an independent basis for including that Nailul Istiqomah and Syamsul Arifin automatically inherited the whole of Kusen's estate. Even a

³¹Kudus District Court Decision No. 12/Pdt.G/2013/PN.Kds.

³²Rahmawati, Ulfah Dwi. (2026). Interview with Notary Elizabeth Sri Indrawati, SH, June 29, 2026.

valid adoptive relationship would still require inheritance consequences to be examined under the applicable law and the status of the disputed property.³³

Child protection does not require the legal function of the deed to be expanded beyond the authority of the Notary. The protection of a child is strengthened by clear status, reliable information about origin and identity, legal procedures, and certainty regarding the duties of the adult who assumes care. Ambiguous documentation can create the opposite result by leaving the child and the wider family dependent on an instrument whose evidentiary function is later mistaken for a complete source of legal status. Scholarship in the thesis on child protection, legitimacy, and the role of authentic deeds emphasizes the importance of ensuring that legal documentation corresponds with the legal relationship it is intended to support. A court-based adoption procedure serves a protective function because the competent authority can examine the circumstances of the proposed adoption and the requirements established by law. The notarial deed may support that process by recording declarations and consent, but it should not be drafted or interpreted in a way that conceals the need for judicial determination where the law requires it. The more precise the boundary between the deed and the court process, the stronger the protection against later disputes over status and property.³⁴ The legal framework applicable to the 2012 application reinforces this conclusion. By the time Nailul Istiqomah and Syamsul Arifin submitted the adoption petition, the Child Protection Law and Government Regulation Number 54 of 2007 were already in force and provided a more developed procedural framework for adoption. Those rules could govern the later application without being used retroactively to judge the Notary's conduct in 2002. This two-stage approach gives each legal event the correct normative context: the 2002 deed is examined under the PJN and Civil Code, while the 2012 adoption process is examined under the rules then applicable to adoption. The adoption determination initially provided a formal judicial basis for the status asserted by the applicant, but that judicial basis was later removed when Decision Number 12/Pdt.G/2013/PN.Kds declared the determination to have no legal force. Once that occurred, the earlier notarial deed could not stand alone as a substitute for the constitutive judicial foundation that had been lost. It remained a separate

³³Yassin, Iqbal, & Prasetya Sanjaya. (2025). "Integration of the Concept of Adopted Children in Inheritance Distribution in Indonesia: A Juridical Analysis of the Dynamics of Positive Law." *Lex Stricta: Journal of Legal Studies*, 4(2); Rahmi, Ita. (2025). "Recognition of Adopted Children as Heirs under Indonesian Civil Law." *Journal of Law*, 9(1), 111–121; Aminuddin, Moh. (2019). "Determination of Heirs and Distribution of Inheritance." *Scientific Development Media*, 13(6), 1293–1302; Setyawan, Rahmad, Nur Sholikin, & Al Robin. (2024). "Implications of Constitutional Court Decision No. 46/PUU-VIII/2010 for the Legal Position of Children Born Outside Marriage." *Journal*, 5(1), 318–337.

³⁴Najihah, Isna Amiratun, Mimi Melisa, & Nandito Prabu Widoto. (2026). "Behind the Validity of a Deed: Notarial Responsibility and Child Protection in the Sale and Purchase of a Minor's Property." *Jurnal*, 5471–5484; Kholis Sulung, P., Abdul Rokhim, Elvi Yanti Dwi Mas, et al. (2024). "A Juridical Review of the Legitimacy of Children Born Outside Marriage." *LEGALITAS: Jurnal Ilmu Hukum*, 7(2), 63–72.

document with its own possible evidentiary value, but its legal function was not enlarged simply because the later determination failed.³⁵

The thesis therefore identifies a form of limited legal certainty attached to Deed Number 5. If the deed is satisfied the applicable formal requirements, it may continue to establish with authentic evidentiary force that particular persons appear before the Notary and made the declarations recorded in the instrument. It may also form part of the historical evidence of the family relationship and of Kusen's willingness to assume responsibilities toward the children. The deed does not, however, establish adopted-child status by its own force, does not determine who the legal heirs are, and does not independently authorize the control or transfer of Kusen's estate. These limitations do not diminish the importance of the authentic deed; they define its proper legal function. Legal certainty is not achieved by providing one document as many consequences as possible. It is achieved by ensuring that each institution performs the function assigned to it and that parties can predict which procedure, document, or decision is required for each legal consequence.³⁶ According to the declaration that Determination Number 433/Pdt.P/2012/PN.Kds had no legal force did not automatically extinguish the separate evidentiary existence of the Child Acknowledgment Deed. The deed must still be judged on its own formation and on the legal function of the statements contained in it. A party remains free to challenge the deed by proving a formal defect, a false material statement, lack of authority, or other legally recognized ground, but that challenge must concern the deed itself. conversely, the fact that the deed was once accepted as one document in the 2012 application does not prove that every statement in it was materially true or that the legal consequences of adoption and inheritance necessarily followed. The legally sustainable position is therefore a middle one: the deed may retain authentic evidentiary force within its proper sphere, while the loss of force of the adoption determination removes the separate judicial basis on which the asserted adopted-child status had been placed. This layered approach best reflects the thesis because it preserves both the integrity of authentic evidence and the principle that legal status must arise from the authority and procedure designated by law.

4. Conclusion

³⁵Supreme Court Circular Letter No. 2 of 1979 on Adoption; Supreme Court Circular Letter No. 6 of 1983 refining Supreme Court Circular Letter No. 2 of 1979; Law of the Republic of Indonesia No. 23 of 2002 on Child Protection, as amended by Law No. 35 of 2014; Government Regulation of the Republic of Indonesia No. 54 of 2007 on the Implementation of Adoption.

³⁶Manullang, E. Fernando M. (2019). *Legalism, Legality, and Legal Certainty*. Jakarta: Kencana; Munib, Ali, & Samsul Huda. (2025). "Legal Certainty of Electronic Notarial Deeds as Authentic Evidence in the Indonesian Civil Evidence System." *Policy and Law Journal*, 2, 54–65; Rahmi, Ita. (2025). "Recognition of Adopted Children as Heirs under Indonesian Civil Law." *Journal of Law*, 9(1), 111–121.

The limits of notarial liability in this case must be determined from the Notary's own conduct when Deed Number 5 was drawn up on 9 January 2002. That conduct must first be measured against the Reglement op Het Notaris Ambt in Indonesia and the Indonesian Civil Code, not against later legislation applied retroactively. Based on the facts described in Decision Number 12/Pdt.G/2013/PN.Kds, the materials do not directly establish a formal defect in the deed, an intentional or negligent act by the Notary aimed at creating inheritance rights, or the Notary's participation in the later adoption application and property transfers. The judgment did not specifically adjudicate the Notary's civil, criminal, administrative, or ethical liability because the Notary appeared as a witness. The conclusion that there is insufficient basis to impose liability is therefore the author's doctrinal conclusion based on authority, duty, breach, fault, loss, and causation. The Child Acknowledgment Deed may retain its status and evidentiary function as an authentic deed if it is satisfied the formal requirements applicable in 2002, but its force is limited to the statements and legal acts that the Notary was authorized to record. It cannot substitute for a judicial determination of adoption and does not by itself create inheritance rights. The later declaration that the adoption determination had no legal force did not automatically annul the deed because the two instruments are separate legal products with different functions. Notaries should therefore place particular emphasis on preventive legal clarity when drawing up instruments concerning the care of children or an intended adoption. The deed should identify the parties accurately, comply with the formal requirements of office, describe its purpose in language that cannot reasonably be read as a judicial adoption determination, and be accompanied by clear legal counseling about the need to follow the competent adoption procedure and about the separate inheritance rules governing.

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