

Notary's Responsibility for Forgery of Authentic Deeds Resulting in Dishonormal Dismissal (Case Study of Ma Decision Number 39 Pk/Pid/2025)

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Abstract. *A Notary is a public official authorized to make authentic deeds and because of this authority is required to carry out his/her position carefully, honestly, impartially, and in accordance with the provisions of laws and regulations. This study aims to analyze the Notary's responsibility for falsifying authentic deeds in the Supreme Court Decision Number 39 PK/Pid/2025, the legal consequences for Notaries who falsify authentic deeds, and the main elements of making a correct Deed of Power of Attorney to Sell according to the Notary Law. The study uses a normative legal research type with a statutory approach. The data used are secondary data obtained through literature studies and analyzed qualitatively and juridically. The results of the study indicate that the actions of a Notary can be categorized as a criminal act of forgery if the deed is made without the presence of the parties, the identity or information of the parties is incorrect, the object agreed upon does not match the facts, there are two deeds with the same number and date but different contents, the signature in the minutes is forged, or the person appearing uses another person's identity. A notary who intentionally commits a crime related to their position may be subject to criminal liability and the sanction of dishonorable dismissal. Such dismissal is considered related to the protection of public trust and the honor of the notary's office. A valid Power of Attorney to Sell must at least contain the identities of the parties, a description of the object, the type and scope of the power of attorney, the legal actions authorized, the duration, and a clause for revocation or cancellation of the power of attorney.*

Keywords: *Authentic; Dishonorable; Forgery; Notary; Responsibility.*

1. Introduction

Authentic deeds hold an important position in legal proceedings because they serve as written evidence with high evidentiary power. Article 1868 of the Civil Code defines an authentic deed as one made in a form prescribed by law by or before an authorized public official at the location where the deed is made. In

notarial practice, the authority to make authentic deeds rests with the Notary Public, as stipulated in the Notary Law.

This position also carries significant responsibilities. Notaries not only document the will of the parties in a deed, but are also obligated to exercise their authority in accordance with procedures, uphold the dignity of their office, and ensure that the formal requirements for the deed are met. Problems become serious when a deed, which should provide legal certainty, is executed under circumstances that are not in accordance with the facts, without the presence of the parties who should appear, using false information, or containing forged signatures.

The case that became the focus of this research was the case that culminated in Supreme Court Decision Number 39 PK/Pid/2025. In this series of cases, Notary Madiyana Herawati faced criminal liability related to the creation of a Deed of Power of Attorney to Sell. The thesis research noted that the party named as the grantor of the power of attorney was never present and signed the four Deeds of Power of Attorney to Sell on the dates stated in the deeds. The deeds were then used in the transfer of rights to several plots of land, resulting in losses for the rights owners.

This case is interesting because the criminal penalty imposed was less than five years, while the notary in question was dishonorably discharged. This raises questions about the relationship between criminal liability, misconduct, professional honor, and administrative authority in dismissing a notary.

Based on this background, this article discusses three issues: how is the Notary's responsibility for falsifying authentic deeds in Decision Number 39 PK/Pid/2025; what are the legal consequences for Notaries who falsify authentic deeds in the decision; and what are the main elements of a correct Deed of Power of Attorney to Sell according to the Notary Law.

2. Research Methods

This research is normative legal research, namely research that places norms, principles, doctrines, and legal materials as the basis for answering legal issues. The approach used is a statutory approach. The type of data used is secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include laws and court decisions related to the position of Notary and the crime of forgery of authentic deeds. Secondary legal materials include books, scientific journals, research results, works of practitioners, and opinions of legal experts. Data collection was carried out through literature study (study document/library research). Data were analyzed qualitatively and juridically, then systematically arranged to obtain conclusions on the problems studied.

3. Results and Discussion

3.1. Notary's Responsibility for Forgery of Authentic Deeds

Forgery of documents can take the form of intellectual forgery or material forgery. Intellectual forgery occurs when part or all of the contents of a letter contradict the truth, while material forgery relates to the origin of the letter or its author, including forgery of signatures. In the context of notarial deeds, aspects that can become the focus of criminal proceedings include the certainty of the day, date, and time of the appearance; the presence of the parties; the signatures of the parties; the conformity of the copy with the minutes; the existence of the minutes; and the completeness of the signatures on the minutes.

The provisions on document forgery in the Criminal Code make the creation or use of a forged document a criminal offense if it meets both objective and subjective elements. For authentic deeds, the criminal penalty is more severe because they have a special evidentiary function and public trust. The thesis also discusses Articles 263, 264, and 266 of the Criminal Code and their relationship to the accompanying provisions in Articles 55 and 56 of the Criminal Code.

In the case analyzed, there were facts that the research deemed to indicate an element of intent. One party stated that he never appeared to draft and sign the four Power of Attorney to Sell deeds as stated on the dates listed. The research also noted a series of deeds used to transfer land rights and the resulting losses for the party who claimed to have never granted the power of attorney to sell.

Based on the research results, a Notary in making an authentic deed can be categorized as committing a criminal act of forgery if the deed is made when the parties are not face to face; the identity data of one of the parties is incorrect or contains false information; the data of the object of the agreement does not match the facts; the data from one or both parties is incorrect so that the deed issued is fake; there are two deeds with the same number and date but different contents; the signature of one of the parties in the minutes is forged; or the person appearing uses another person's identity.

Criminal liability does not arise solely from a disputed deed. Research places the elements of intent, the notary's actions regarding the formal aspects of the deed, the act's non-compliance with the UUJN, and the assessment of the authorized agency as crucial elements in determining whether the act has progressed from a breach of office to a criminal offense.

3.2. Legal Consequences and Dishonorable Dismissal

Notaries may face several types of liability, each within its own jurisdiction, including civil, administrative, ethical, and criminal liability. The imposition of criminal sanctions does not eliminate the possibility of professional consequences

if the act violates the obligations or demeans the honor and dignity of the notary office.

The UUJN recognizes sanctions in the form of written warnings, temporary dismissal, honorable dismissal, and dishonorable dismissal. Article 13 of the UUJN regulates dishonorable dismissal for Notaries sentenced to prison based on a legally binding court decision for committing a crime punishable by imprisonment of five years or more. Furthermore, this thesis research places acts that undermine the honor and dignity of the position as an important basis for understanding the dismissal of Notaries.

The research concludes that a notary who intentionally commits a criminal act related to their position may be subject to dishonorable dismissal. The argument developed in this thesis emphasizes that criminal acts committed by a notary can undermine public and state trust in the position authorized to issue authentic deeds. Therefore, dishonorable dismissal is also seen as serving to uphold the honor of the profession and provide a deterrent effect.

In the case of Decision Number 39 PK/Pid/2025, this issue becomes crucial because the sentence imposed on the Notary was less than five years, yet the Notary was still dishonorably discharged. This thesis views criminal acts directly related to the performance of their duties as demeaning to the honor and dignity of the Notary as a public official. Therefore, the analysis of dismissal is based not only on the length of the sentence imposed, but also on the nature of the act and its relationship to the integrity of the position.

Dishonorable dismissal carries very serious consequences because it precludes the dismissed notary from returning to his/her position. Therefore, the examination and sanctioning process must still be carried out based on statutory provisions, the facts of the examination, and the authority of the relevant supervisory agency.

3.3. Correct Power of Attorney Deed as a Preventive Measure

A Power of Attorney to Sell is an instrument that authorizes the authorized party to perform certain legal actions on an object owned by the grantor. Because it can serve as the basis for legal action that directly impacts the rights to an object, the deed must be prepared carefully and in accordance with notary procedures.

Based on the research results, a correct Power of Attorney to Sell must at least contain the complete identity of the grantor and grantee of the power of attorney; a complete description of the object, for example the land address and certificate number; the type of power of attorney, whether full or limited; the legal actions expressly authorized, such as signing the Deed of Sale and Purchase, receiving payment, or processing the change of name; the term of the power of attorney; and a clause regarding the revocation or cancellation of the power of attorney.

Fulfillment of these elements must be accompanied by assurance regarding the presence of the parties and the accuracy of the formal aspects of the deed. Identity verification, examination of supporting documents, reading of the deed, signing according to procedure, and retaining the minutes are essential to preventing the emergence of a deed whose validity or authenticity is later questioned.

3.4. Relevance of the Development of National Criminal Law

The thesis also compares the provisions on forgery of letters in the old Criminal Code with the National Criminal Code based on Law Number 1 of 2023. Article 391 regulates the creation or use of letters whose contents are false or forged; Article 392 provides regulations regarding the forgery and use of authentic deeds; while Article 394 relates to the inclusion of false information in authentic deeds and their use.

These developments emphasize the importance of the principle of prudence in notarial practice. Research emphasizes that notaries need to be more proactive in verifying documents and identities and not solely rely on recording statements from witnesses. At the same time, the element of *mens rea*, or intent, remains crucial for criminal liability. Notaries who perform their duties honestly and in accordance with procedures cannot necessarily be punished simply because one party provides false information without the notary's involvement or collusion.

4. Conclusion

A notary can be held criminally responsible for falsifying an authentic deed if his actions fulfill the elements of a criminal act, including when the deed is made without the presence of the party, contains an incorrect identity or information, the object does not match the facts, there are differences in the contents of deeds with the same number and date, the signature in the minutes is falsified, or the person appearing uses another person's identity. Notaries who intentionally commit crimes related to their position may face both criminal consequences and the consequences of dishonorable dismissal. In the context of this research, such dismissal is related to the protection of public trust, the honor and dignity of the position, and the preventive function to ensure that the authority to issue authentic deeds is exercised professionally. A proper Power of Attorney to Sell must clearly state the identities of the parties, a description of the object, the type and limits of the power of attorney, the legal actions authorized, the term of the power of attorney, and a revocation or cancellation clause. The procedure for creating the deed must be accompanied by verification of identity and documents, as well as confirmation of the presence and signature of the parties appearing.

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