



## **LEGAL ANALYSIS OF JUDICIAL ASSESSMENT OF NOTARY'S RESPONSIBILITY IN AUTHENTIC DEED DISPUTES IN CRIMINAL COURTS (RESEARCH STUDY OF DECISION NUMBER 1/PID.B/2026/PN.JTH)**

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### **Abstract**

A notary is a public official authorized by the state to create authentic deeds as evidence with absolute probative force. In practice, authentic deeds serve not only as evidence in civil cases but can also be used as evidence in criminal cases if there is a suspected criminal act related to their creation. This situation places the notary at risk of criminal liability, necessitating a judicial assessment by a judge to determine whether or not the notary was involved based on the trial facts, evidence, and applicable legal provisions. This research examines three problem formulations, namely regarding legal regulations regarding judicial assessment of notary responsibility in authentic deed disputes in criminal courts, how to implement judicial assessment of notary responsibility in authentic deed disputes in criminal courts, and what are the obstacles and solutions to judicial assessment of notary responsibility in authentic deed disputes in criminal courts. This study uses a normative-empirical legal research method with a statutory, conceptual, case study, historical, and comparative approach. The data used consists of primary data obtained through interviews and secondary data obtained through literature review of laws and regulations, court decisions, books, and scientific journals. The results of the study indicate that the legal regulations regarding the judicial assessment of notary liability in disputes over authentic deeds in criminal courts are the application of various interrelated legal provisions, including the UUJN, the Criminal Code, the Civil Code, and the UUKK. The implementation of judicial assessment in Decision Number 1/Pid.B/2026/PN.JTH shows that judges assess the notary's criminal liability based on the overall facts of the trial, evidence, and the fulfillment of the elements of the crime, so that criminal liability is not based solely on the notary's position or the existence of an authentic deed. The obstacles found are mainly related to the complexity of proof involving aspects of criminal law and notarial law. Therefore, it is necessary to improve regulations related to the position of notary and the enforcement of criminal law, as well as the development of academic studies on notary criminal liability to support the creation of legal certainty, justice, and legal benefits.

**Keywords :** Authentic Deed, Criminal Proceedings, Judicial Assessment, Notary's Liability

### **INTRODUCTION**

In the civil law system, authentic deeds have been established as a crucial element in guaranteeing legal certainty in interpersonal relationships. An authentic deed is not simply understood as a written document, but as a legal instrument that guarantees that a legal event or act has been carried out in accordance with applicable law. Because of this nature, authentic deeds have absolute evidentiary force and are often used as primary evidence in disputes.

Conceptually, authentic deeds and notaries occupy a central position in civil law. Both are understood as supporting legal certainty and order, not as prolonging the complex legal process for the public. This initial understanding serves as a turning point in examining how these roles are tested when authentic deeds become the subject of disputes in civil courts. Statutory provisions stipulate that a Notary is responsible for documenting the parties' wishes in an authentic deed through specific procedures that must be followed to ensure its legal validity.

This framework demonstrates that the state has, from the outset, placed the Notary's responsibilities within the formal and procedural boundaries of his position. The responsibility of a notary in normative construction relates to fulfilling the formal requirements for drafting a deed, such as the presence of the parties, the reading of the deed, the signing, and the retention of the minutes. In this area, the notary is required to act carefully and orderly to ensure that the deed meets the requirements for authenticity. In other words, the responsibility of a notary is understood as a professional responsibility inherent in the process, not in the content of the parties' wishes.

Under legal norms, parties also have the freedom to determine the content of any agreement or legal statement they desire, as long as it does not conflict with the law, public order, or morality. In this position, a notary is not positioned as a party assessing the material truth of the parties' statements, but rather as an official who ensures that the statements are properly recorded in the deed. This boundary is important to ensure that the notary's role does not shift to that of examining the substance of the parties' legal relationship.

From the legal construction above, the author can conclude that the law has clearly divided the roles between the notary and the parties. The notary is responsible for the formal aspects and procedures for drafting the deed, while the material accuracy of the statements and documents submitted falls within the parties' sole responsibility. This division is intended to create clarity of roles and avoid placing excessive responsibility on the notary.

Although in theory, deeds are created to provide legal certainty, in reality, many authentic deeds become the subject of disputes in civil courts. These disputes can arise from differing interests between the parties, changes in circumstances, or claims that the process or content of the deed does not reflect the true state of affairs. When such disputes reach court, the aggrieved parties often involve notaries in the case, citing negligence or errors in the deed's preparation. In this situation, the validity and legal force of authentic deeds, once viewed as strong evidence, are questioned.

In some deed dispute trials, these disputes have varied patterns. Some cases focus on the veracity of the parties' statements, while others highlight the deed-making procedure. Often, these two aspects are combined in a single case, blurring the boundaries between the parties' responsibilities and those of the notary. This situation means that authentic deeds are no longer understood solely as normative products, but rather as objects of factual and legal debate.

In this context, civil courts become the venue for authentic deeds, and the responsibility of notaries is concretely tested. Court decisions not only determine the fate of the parties' legal relationships but also shape practical understandings regarding the extent to which authentic deeds can be upheld and how notaries are treated in the event of disputes.

In certain cases, judges have held that authentic deeds retain full evidentiary force and that no fault can be attributed to the notary. However, in other cases, under seemingly similar circumstances, judges have found that the deeds suffer from certain defects, diminishing their legal force, and in some cases, even downgrading them to private deeds.

The variety of decisions in authentic deed disputes shows that judges do not always use the same legal reasoning construction in assessing the status of the deed and the responsibility of the Notary. In constructing legal reasoning, judges generally base their assessments on the provisions of Article 1868 of the Civil Code which regulates the requirements for a deed to be categorized as an authentic deed, as well as Article 1870 of the Civil Code which provides perfect evidentiary power for authentic deeds for the parties who make them. Through these provisions, judges assess whether the disputed deed still meets the elements of authenticity and is still worthy of being maintained as evidence with full evidentiary power in court.

The ratio decidendi or the basic legal reason that forms the basis for a judge's decision is not only based on the existence of an authentic deed as evidence, but also on an assessment of the Notary's compliance in carrying out his/her official duties. This assessment refers to Article 16 paragraph (1) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary Public which requires Notaries to act in a trustworthy, honest, thorough, independent, impartial manner, and to safeguard the interests of the parties. In addition, judges also often connect the facts of the trial with the provisions of Articles 38, 39, 40, and 44 of the Notary Law which regulate the form of the deed, the requirements for appearing, the presence of witnesses, and the obligation to read and sign the deed. If these provisions are proven not to have been fulfilled, the judge can conclude that there has been a violation of the formal aspects of the deed's creation which has an impact on the legal standing of the deed.

These conditions indicate that judicial assessments of authentic deeds and notary responsibilities are fundamentally influenced by the legal basis chosen by the judge in constructing the legal reasoning and ratio decidendi of their decision. Differences in emphasis on specific legal provisions can lead to different conclusions

regarding the evidentiary power of the deed and the limits of the notary's responsibilities. This situation demonstrates the importance of examining judges' legal considerations in greater depth to understand the patterns of judicial assessment that develop in disputes over authentic deeds in civil courts. The author sees room for further study, particularly regarding how judges assess the responsibility of Notaries when authentic deeds are challenged in court. Court decisions not only resolve concrete cases but also shape patterns of judicial assessment that impact legal practice broadly. Therefore, the author conducted a study that specifically examines court decisions in authentic deeds disputes to understand the basis and direction of judicial assessments of Notary responsibility. Through a legal analysis of court decisions, this study is expected to provide a clearer picture of how courts position Notaries and authentic deeds in criminal disputes, without first assuming any particular fault or justification.

## **LITERATURE REVIEW**

In legal research, theory serves to assess the suitability of applicable legal norms to their practical application in real life. By using theory, researchers can explain why a norm is applied in a particular way by law enforcement officials, including judges, in deciding a case. Furthermore, theory also helps researchers identify the legal principles underlying a court decision, ensuring that the analysis is not merely descriptive but also able to explain the legal rationale behind a decision.

Research on the judicial assessment of notary responsibility in authentic deed disputes requires a strong theoretical basis because the problem is related to several important aspects in the civil law system, namely the position of legal norms, the authority of public officials in making authentic deeds, and the evidentiary power of the deed in the judicial process. These three aspects cannot be understood separately because each has a close relationship in determining how an authentic deed is assessed by the court when a dispute arises between the parties.

Therefore, to gain a more systematic understanding of the research problem, this study uses a hierarchical theoretical approach. This approach begins with a fundamental theory that explains the basic concepts of the legal norm system, then continues with more specific theories related to legal responsibility and the position of public officials in the legal system, until finally arriving at a theory that is directly related to the research object, namely the position of authentic deeds and the judge's assessment of evidence in civil court proceedings.

## **Grand Theory**

Law is essentially not simply a collection of stand-alone rules, but rather a structured system with hierarchical relationships between norms. Understanding the structure of these legal norms is crucial because every legal action, the authority of a public official, and the decision of a judicial institution derives its legitimacy from the legal norms within that system.

One theory that provides a systematic explanation of the structure of legal norms is the theory put forward by Hans Kelsen through the concept of Pure Theory of Law. In Kelsen's view, law is understood as a hierarchically structured system of norms, where each norm derives its validity from norms at a higher level. In other words, the validity of a legal norm is not determined by extralegal factors such as morality or social values, but rather by the normative relationship between one rule and another within the applicable legal structure.

According to Kelsen, the legal system can be likened to a multi-level building. At the topmost level, there are basic norms that serve as a source of legitimacy for the norms below them. These basic norms then give rise to more concrete norms, such as laws, implementing regulations, and various forms of legal action carried out by officials with legal authority. Therefore, every legal action taken by individuals or state officials must have a clear basis for legitimacy within the applicable legal system.

Based on Kelsen's conceptual framework, a notary's authority to create authentic deeds is essentially a concrete manifestation of the implementation of legal norms within the broader legal system. Every deed created by a notary must comply with the provisions established by law for it to be legally binding as valid evidence. If any violation of applicable legal provisions occurs during the creation process, the deed may lose its evidentiary force or even be declared invalid by the court.

In civil court practice, the validation process for authentic deeds often arises when disputes arise between parties regarding the contents or defects in the deed's creation. In such cases, the judge has the authority to assess whether the deed submitted as evidence meets the legal requirements and whether the notary's actions in creating the deed were in accordance with the authority granted by law.

Thus, the author can conclude that the theory of legal norm system proposed by Hans Kelsen provides an important conceptual foundation in this research, especially in understanding the relationship between legal norms that regulate the authority of a notary, legal actions taken in making authentic deeds, and the authority of the court

in assessing the validity of the deed in the process of resolving civil disputes. Through this theoretical framework, the analysis of court decisions that are the object of research can be carried out more systematically by placing the judge's considerations as part of the mechanism for implementing legal norms in the judicial system.

### **Middle Theory (Middle Theory)**

Middle theory plays an important role as a connecting theory used to compare the ideal concepts in grand theory with the reality of legal implementation in practice. If the grand theory used is Hans Kelsen's pure legal theory, which emphasizes law as a hierarchical norm that must be formally obeyed, then middle theory is needed to see how law is not only understood as written rules, but also as a means to realize the value of justice in law enforcement practices. In this context, the theory proposed by Gustav Radbruch is relevant for use as a middle theory because it provides a perspective on the relationship between legal certainty, justice, and utility in the application of law by law enforcement officials, including judges in deciding a case.

The theory put forward by Gustav Radbruch is known as the teaching of the three basic values of law (die drei Grundwerte des Rechts), namely legal certainty (rechtssicherheit), justice (gerechtigkeit), and benefit (zweckmäßigkeit). According to Radbruch, law is not enough to be understood only as written rules that apply formally, but must be able to bring justice and provide benefits to society. Legal certainty is necessary for the law to provide protection and order, but the application of law that is too rigid without considering the sense of justice can give rise to injustice in society. Therefore, Radbruch places justice as a very important value in law enforcement, especially when there is a conflict between positive law and the sense of justice that exists in society.

In this study, the author uses Gustav Radbruch's theory as a comparative theory to Hans Kelsen's grand theory. Hans Kelsen views law as a system of norms whose validity is determined by higher norms and must be applied objectively without being influenced by moral or social considerations. Meanwhile, Gustav Radbruch views law as inseparable from the values of justice and utility. This difference in perspective is relevant in this study because disputes regarding authentic deeds and notary responsibilities often demonstrate a difference between formal legal certainty and the sense of substantive justice considered by judges in court decisions.

Gustav Radbruch's thinking is relevant to this research because the author believes that this research focuses not only on the existence of legal norms governing the authority and responsibilities of notaries, but also on how judges assess and apply these norms in court decisions. In disputes related to authentic deeds, judges do not merely examine whether or not the formal requirements of a deed are met based on the provisions of the Notary Law, but also consider aspects of justice for the disputing parties.

### **Applied Theory**

In legal research, applied theory is used to examine how legal norms are concretely applied in law enforcement practices in Indonesia. Applied theory no longer merely discusses law as an abstract norm or a philosophical concept, but rather positions law as something that is implemented, applied, and assessed in practice by law enforcement officers and public officials. In this study, applied theory is used to analyze the application of notary responsibility to authentic deeds in judicial practice, particularly regarding judges' assessments of the validity of deeds and the limits of notary responsibility in civil disputes.

The application of this theory can be seen in the research conducted by Mr. Soerya Respationo, Mrs. Erniyanti, and other research teams in a journal entitled "Juridical Analysis of the Deletion of Parties in Notarial Deeds Indicating Nominees and Causing Legal Uncertainty". In the research it is explained that changes or deletions in notarial deeds cannot be done carelessly because the Notary Law strictly prohibits the contents of the deed from being changed by replacing, adding, crossing out, inserting, deleting, or overwriting without following the specified legal procedures. The research also emphasizes that violations of the deed change procedure can cause the deed to lose its evidentiary power as an authentic deed and only have value as a private deed.

The study further explains that in practice there is still a gap in regulations regarding the deletion of parties in notarial deeds based on court decisions, thus creating legal uncertainty in their application. This is evident from the analysis of the Judicial Review Decision Number 689 PK/Pdt/2020 which was the object of the study, in which the court ordered the deletion of one of the parties in a notarial deed even though the Notary Law does not specifically regulate the procedure for such deletion after a copy of the deed is issued. The study states that this condition indicates a discrepancy between *das sollen* and *das sein*, namely between normative provisions and legal practices that occur in the field.

## **METHOD**

Determining the type of research is a crucial methodological step because it will determine how the researcher understands the object of study and the methods used to analyze the legal issues that are the focus of the study. The type of research is fundamentally related to the approach used in studying law, whether law is understood as norms contained in legislation or court decisions, or as behavior that develops in social practices. Therefore, the determination of the type of research must be tailored to the nature of the problem to be analyzed in the research.

This research uses a normative juridical research method. Normative juridical research positions law as a norm or guideline for regulating human behavior in social life. The primary focus of normative juridical research lies in the analysis of legal norms contained in various legal sources, such as statutory regulations, legal expert doctrines, and court decisions relevant to the issues under study.

The use of normative juridical research in this study is based on the nature of the problem being studied, namely the court's assessment of notary responsibility in disputes related to authentic deeds. This problem is fundamentally related to how legal norms governing notary authority, the evidentiary power of authentic deeds, and the principle of legal accountability are applied by judges in the dispute resolution process in court. Therefore, this study emphasizes the analysis of legal norms contained in the legislation governing the office of notary and the law of evidence in civil cases.

This type of normative juridical research also allows for a more systematic analysis of various legal sources related to the problem under study. This analysis is conducted by examining the relationship between the provisions of laws and regulations governing the office of notary, the principles of evidence in civil cases, and the legal considerations contained in court decisions. Through this process, this research can provide a more comprehensive understanding of how the law regulates the status of authentic deeds and how notary responsibilities are assessed in the context of disputes resolved through judicial mechanisms.

## **Approach Method**

This research also uses several approaches to conduct a study of court decisions as the primary object of analysis. Court decisions are viewed as an important source of law because they reveal how judges interpret and apply legal norms in concrete cases. Analysis of court decisions allows researchers to understand the legal considerations used by judges in assessing the validity of an authentic deed and determining whether a notary can be held accountable for disputes arising from the deed. This approach allows researchers to examine in depth how the law provides a regulatory framework for notary authority and assess how courts apply these provisions in decisions related to disputes over authentic deeds.

## **Statutory Approach**

The statutory approach is a method that places statutory regulations as the primary basis for analyzing legal issues by identifying, interpreting, and constructing norms relevant to the problem under study. This approach is used to explore the normative legal basis for the status of authentic deeds, the authority and responsibilities of notaries, and the scope of judges' assessments in the evidentiary process in court.

The provisions regarding authentic deeds in the Indonesian legal system are fundamentally derived from the Civil Code. Article 1868 of the Civil Code stipulates that an authentic deed is a deed drawn up by or before an authorized public official in a form prescribed by law. This provision contains three main elements: the authority of the official making the deed, the formal form of the deed, and the procedure for its preparation. These three elements are cumulative, so the failure to fulfill any one element will impact the authenticity of the deed.

Article 1870 of the Civil Code stipulates that an authentic deed has perfect evidentiary force for the parties who make it. This evidentiary force encompasses the formal truth of what is stated in the deed, as long as it cannot be proven otherwise through evidentiary mechanisms in court. Therefore, although an authentic deed holds a high position in the evidentiary system, this norm does not preclude judges from assessing its validity and evidentiary force under certain circumstances.

The provisions regarding the authority and obligations of Notaries are regulated in Law Number 30 of 2004 concerning the Position of Notaries as amended by Law Number 2 of 2014. This law stipulates that Notaries are public officials who are authorized to make authentic deeds and have the obligation to carry out their duties honestly, carefully, independently, impartially, and to protect the interests of the parties involved in legal acts.

The provisions of this law also regulate in detail the formal aspects of deed preparation, including the obligation to read the deed in the presence of the parties, the presence of witnesses, and the clarity of the identities

and intentions of the parties. Fulfillment of these aspects is the primary indicator in assessing whether a deed has been prepared in accordance with applicable law. Violation of these provisions can result in a decrease in the evidentiary value of the deed and, under certain circumstances, can even be grounds for an assessment of notary negligence.

The judge's authority to assess evidence, including authentic deeds, is rooted in Law Number 48 of 2009 concerning Judicial Power. This law states that judges have an obligation to adjudicate and decide cases based on law and justice, while taking into account prevailing societal values. In this context, the assessment of deeds is not merely formalistic, but also involves considering the facts revealed during the trial.

Through a legal approach, it can be constructed that the position of an authentic deed as evidence does not stand absolutely, but is bound by the fulfillment of the normative provisions governing its creation. At the same time, the responsibility of a Notary does not arise simply because of a dispute regarding the deed, but must be linked to a violation of legal obligations stipulated in statutory regulations. Thus, the transition from a deed as evidence to a Notary's personal responsibility is the result of an assessment process based on applicable legal norms, not solely due to a dispute between the parties.

## **RESULTS AND DISCUSSION**

### **Legal Regulations Concerning Judicial Assessment of Notary's Responsibility in Disputes Regarding Authentic Deeds in Civil Courts**

Judicial assessment of authentic deeds and the responsibility of notaries in civil disputes are essentially inseparable from the legal system that regulates the status of authentic deeds as evidence and the authority of notaries as public officials. These provisions are contained in the Civil Code, the Notary Law, and regulations governing judicial authority. All of these provisions form the legal framework used by judges to assess the validity of authentic deeds, their evidentiary power, and the potential legal liability that may be imposed on notaries when the deeds they create become the object of a court dispute.

However, the evidentiary power of an authentic deed does not preclude a judge's authority to assess the deed presented in court. In civil or criminal disputes, the judge retains the authority to assess whether the deed was prepared in accordance with applicable law and whether there are any circumstances that cause the deed to be lost or to have its evidentiary power reduced. This authority is part of the judicial function of upholding law and justice, as stipulated in Law Number 48 of 2009 concerning Judicial Power.

### **Regulation of Authentic Deeds in the Indonesian Civil Law System**

The provisions for authentic deeds in Indonesian civil law are set out in Book IV of the Civil Code (KUHPerdata) concerning evidence. This provision serves as the legal basis for determining the status of authentic deeds as evidence in civil cases. The provisions regarding authentic deeds begin in Article 1868 of the Civil Code, which states:

"An authentic deed is a deed made in the form determined by law by or before a public official authorized to do so at the place where the deed is made."

Article 1868 of the Civil Code stipulates three requirements that must be met for a deed to be categorized as an authentic deed. First, the deed must be drawn up in a form prescribed by law. Second, the deed must be drawn up by or before an authorized public official. Third, this authority must be exercised in accordance with the jurisdiction in which the official holds office. These three requirements are cumulative and cannot be met in part. Failure to meet any one of these requirements will affect the deed's legal standing as an authentic deed.

These provisions demonstrate that the law protects the deed-making process, not merely the resulting document. This means that the legal force of an authentic deed does not arise from the signatures of the parties or from the contents of the deed containing an agreement, but rather from the deed being created through a predetermined legal procedure. From a legal evidentiary perspective, these provisions provide certainty regarding the standards that must be met before a deed can be considered valid as an authentic deed. These standards also serve as the initial criterion for assessing the validity of a deed when presented as evidence in court.

In practice, the provisions of Article 1868 of the Civil Code do not always raise issues regarding the form of the deed, but more often give rise to differences in interpretation regarding the fulfillment of the requirements for the authority of public officials and the implementation of the deed-making procedure. Research in the field of notaries shows that disputes regarding authentic deeds generally do not originate from the contents of Article 1868 itself, but from differences in assessments regarding whether the deed-making procedure has been carried out in

accordance with legal provisions. This condition shows that Article 1868 is not only the basis for the birth of authentic deeds, but also the starting point in assessing the formal validity of a deed when a dispute arises.

The relationship between the requirements of authenticity and their legal consequences is regulated in Article 1869 of the Civil Code which states:

"A deed which cannot be treated as an authentic deed, either because the public official concerned is not authorized or because of a defect in its form, has the force of a private writing if it is signed by the parties."

Article 1869 of the Civil Code provides clear boundaries regarding the legal protection of authentic deeds. A deed does not automatically lose all its evidentiary value simply because it no longer meets the requirements for authenticity. The law still allows for the deed to be treated as a private deed as long as it meets the specified requirements. This regulation demonstrates that civil evidence law not only considers compliance with formal procedures but also takes into account the existence of a legal relationship that has been outlined by the parties in a written document.

Article 1869 serves as the basis for distinguishing between defects that eliminate the authentic status and defects that eliminate the evidentiary value of a deed. This distinction often becomes a key issue in civil disputes, especially when the parties argue that a procedural violation automatically renders the deed legally void. However, the provisions of Article 1869 indicate that the resulting legal consequences are not always so. The assessment of these legal consequences must still be based on the form of violation that occurred and the legal provisions that govern it. Furthermore, Article 1870 of the Civil Code stipulates:

"An authentic deed provides perfect proof between the parties and their heirs or those who receive rights from them of what is contained therein."

The phrase "perfect evidence" in Article 1870 of the Civil Code is the primary basis for the position of authentic deeds in the civil evidence system. However, this provision cannot be interpreted to mean that every content of the deed must be accepted without further evaluation. What is guaranteed by law is the evidentiary force of deeds made in accordance with legal provisions. Therefore, before assigning perfect evidentiary value to a deed, it must first be ensured that the conditions stipulated in Articles 1868 and 1869 have been met. The relationship between these three articles shows that the evidentiary force of authentic deeds does not stand alone, but depends on the fulfillment of the authenticity requirements stipulated by the Civil Code.

#### Regulation of the Authority and Responsibilities of Notaries in Making Authentic Deeds

The role of a Notary as a public official in the Indonesian legal system not only aims to provide legal services to the public but also to ensure that every deed they create complies with applicable legal provisions. This authority is not granted by virtue of the Notary profession but is granted directly by law. Consequently, every authority held by a Notary is accompanied by legal responsibility in its implementation. The broader the authority granted, the greater the responsibility that must be fulfilled to ensure that the resulting deed remains legally protected as an authentic deed.

The basis of the Notary's authority is regulated in Article 1 number 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary which states:

"A notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws."

As a public official, a notary public, specifically under the law, does not have a direct civil relationship with the parties before him. Therefore, every deed executed by a notary public is an exercise of official authority established to provide legal certainty for the legal relationship between the parties. This distinguishes notaries from other legal professions, which operate through power of attorney or service agreements.

The scope of a Notary's authority is then regulated in Article 15 paragraph (1) of the Notary Law which states:

"Notaries are authorized to make Authentic Deeds regarding all acts, agreements, and stipulations required by legislation and/or desired by interested parties to be stated in the Authentic Deed, guarantee the certainty of the date of making the deed, store the deed, provide grosses, copies and excerpts of the deed, as long as the making of the deed is not assigned or excluded to other officials or other persons stipulated by law."

This regulation demonstrates that a notary's authority is preventive in nature. This means that the authority granted is not solely to produce an authentic document, but also to prevent disputes by drafting a deed that complies with legal requirements. This view is widely expressed in notarial studies, which position notaries as preventive legal officers, officials whose role is to provide legal protection before a dispute arises. Therefore, each stage in drafting a deed is an integral part of the notary's responsibilities.

The implementation of this authority is then followed by the obligations of the position regulated in Article 16 paragraph (1) of the Notary Public Law. This provision contains various obligations that must be fulfilled by a

Notary in carrying out his/her position, including acting with trust, honestly, carefully, independently, impartially, and protecting the interests of the parties. In addition, the Notary is also required to make a deed in the form of minutes, attach supporting documents, read the deed before the parties, and fulfill other administrative obligations that are directly related to the process of creating an authentic deed.

The relationship between a Notary's authority and responsibility demonstrates that legal responsibility essentially arises as a consequence of the exercise of authority granted by law. However, the law also provides clear boundaries regarding the scope of this responsibility. A Notary's obligations focus on fulfilling the formal aspects of the deed-making process, while the material truth regarding the identity, will, and information provided by the parties remains, in principle, the responsibility of the party providing the information. This distinction is important because it demonstrates that not every dispute arising from an authentic deed automatically gives rise to legal responsibility for a Notary.

In addition to the Notary's position, the assessment of the Deed of Sale and Purchase in this case also needs to be placed within the authority framework of the Land Deed Making Official (PPAT). The PPAT's position has its own legal basis because the PPAT is a public official authorized to draw up authentic deeds regarding certain legal acts related to land rights. This regulation is contained in Government Regulation Number 37 of 1998 concerning the Regulations on the Position of Land Deed Making Officials, which was later amended by Government Regulation Number 24 of 2016.

Based on Article 1 number 1 of Government Regulation Number 37 of 1998, a Land Deed Official (PPAT) is a public official authorized to draw up authentic deeds concerning certain legal acts concerning land rights or Ownership Rights for Apartment Units. This provision positions a PPAT as an official whose authority is specifically related to land legal acts. Thus, the authority of a PPAT differs from that of a Notary, whose scope is broader as stipulated in the Notary Law. This distinction is important because the type of deed drawn up and the resulting legal consequences determine the basis of the authority of the official who draws it up.

The scope of this authority is emphasized in Article 2 paragraph (1) of PP Number 37 of 1998, which stipulates that the PPAT is primarily responsible for carrying out some land registration activities by making deeds as evidence of certain legal acts concerning land rights or Ownership Rights for Apartment Units, which will be used as the basis for registering changes to land registration data resulting from these legal acts. Furthermore, Article 2 paragraph (2) stipulates that the legal acts in question include buying and selling, exchanging, granting, entering into a company, sharing joint rights, granting Building Use Rights/Use Rights over Land Ownership Rights, granting Mortgage Rights, and granting authority to encumber Mortgage Rights.

These provisions indicate that a Deed of Sale and Purchase is a deed directly within the authority of a Land Deed Official (PPAT). The deed's function is not merely to document the parties' agreement in written form, but also to serve as evidence of the legal act of sale and purchase, which is then used as the basis for registering changes to land data. Therefore, the PPAT's authority in drafting a Deed of Sale and Purchase is directly related to the certainty of the legal status of the land rights that are the subject of the legal act.

This authority is also related to the PPAT's work area. Article 12 of Government Regulation Number 37 of 1998 stipulates that a PPAT's work area is the work area of the Regency/Municipal Land Office. This provision regarding the work area indicates that the PPAT's authority is not only determined by the type of legal act that can be executed in the form of a PPAT deed, but is also limited by the work area determined by statutory regulations.

In exercising their authority, PPATs not only have the right to issue deeds, but are also burdened with the obligation to ensure that the implementation of their duties is carried out in accordance with applicable provisions. Article 3 of Government Regulation Number 37 of 1998 places PPATs as the implementers of the main task of land registration in order to provide legal certainty and protection through the creation of deeds as the basis for changes to land data. Thus, the authority of PPATs has the nature of a position that carries legal responsibility, because the deeds they issue are used in the land administration process and can have legal consequences for land rights.

In the context of this research, the provisions regarding the authority are relevant because the defendant is a PPAT who made the Sale and Purchase Deeds Number 15 of 2016 and Number 16 of 2016. The decision states that the defendant made both deeds as a PPAT on March 11, 2016. This fact is sufficient to show that the deeds that are the object of the examination are within the scope of the PPAT's authority as regulated in PP Number 37 of 1998.

Thus, the PPAT's authority in this case must be understood as the basis of his position granting the defendant the authority to draw up a Deed of Sale and Purchase, while assessing the exercise of that authority is a separate matter. This distinction is important in judicial review because the existence of the authority to draw up a deed does not in itself indicate that all actions in the deed-making process are in accordance with the law. This authority serves

as the starting point for assessing whether the PPAT has carried out his duties within the limits of his authority and obligations as stipulated in statutory regulations.

### **Legal Basis for Judicial Assessment of Authentic Deeds and Notary Responsibilities**

Judicial assessment of authentic deeds and the responsibility of Notaries is part of the implementation of judicial power carried out by judges in examining, trying, and deciding cases. This authority has a constitutional basis in Article 24 paragraph (1) of the 1945 Constitution of the Republic of Indonesia, which emphasizes that judicial power is an independent power to administer justice to uphold law and justice. This provision provides the basis that judges have the authority to conduct examinations and legal assessments of cases submitted to them, including assessing evidence in the form of authentic deeds and the actions of officials related to the issuance of these deeds.

### **CONCLUSION**

Based on the results of research and discussion regarding the Judicial Analysis of the Judicial Assessment of Notary Responsibility in Authentic Deed Disputes in Criminal Courts (Research Study of Decision Number 1/Pid.B/2026/PN.JTH), the following conclusions can be drawn:

The legal provisions regarding the judicial assessment of a notary's liability in disputes over authentic deeds in criminal courts are not regulated in a single, stand-alone legal provision, but rather are the application of various interrelated legal provisions, including the Notary Law, the Criminal Code, the Criminal Procedure Code, the Civil Code, and the Law on Judicial Power. Within this framework, judicial assessment is the judge's authority to assess all evidence and facts revealed in court to determine whether or not a notary is criminally liable. Thus, the assessment of a notary is not only based on the existence of an authentic deed as evidence, but also on proving the relationship between the performance of the notary's office and the elements of the crime charged.

The implementation of judicial assessment of notary responsibility in authentic deed disputes in criminal courts, as reflected in Decision Number 1/Pid.B/2026/PN.JTH, shows that judges exercise their judicial authority through a comprehensive assessment of the trial facts, evidence, and applicable legal provisions before issuing a decision. The judge's legal considerations not only assess the formal aspects of the authentic deed, but also assess the role, actions, and level of culpability of the notary in relation to the elements of the crime charged. This shows that the criminal responsibility of a notary does not arise solely because of the position attached to him, but because of the existence of evidence showing the notary's involvement in actions that fulfill the elements of a crime in accordance with the legal facts revealed in court.

Obstacles in the judicial assessment of notary liability in disputes over authentic deeds in criminal courts generally lie in the complexity of the evidentiary process, which involves both criminal law and notarial law simultaneously. Assessing notary liability requires a comprehensive understanding of the limits of the notary's authority, the evidentiary power of authentic deeds, and the relationship between the notary's actions and the elements of the criminal offense charged. Therefore, efforts that need to be made are not to limit the judge's authority in conducting judicial assessments, but rather to strengthen understanding of the legal provisions governing the notary's office, increase the professionalism of notaries in exercising their authority, and encourage the application of comprehensive legal considerations so that the decisions rendered continue to reflect legal certainty, justice, and legal benefit.

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