



JURIDICAL ANALYSIS OF THE JUDICIAL ASSESSMENT OF NOTARIAL LIABILITY IN AUTHENTIC DEED DISPUTES IN CRIMINAL PROCEEDINGS (A STUDY OF DECISION NUMBER 1/PID.B/2026/PN.JTH)

**Aminul Haqqi¹, Erniyanti², Markus Gunawan³, Agus Siagian⁴, Titik Aminah⁵,
Irpan Husein⁶, Mania H⁷**

^{1,2,3,4,5,6,7} Universitas Batam, Indonesia

E-mail: aminulhaqqi@gmail.com, erniyanti@univbatam.ac.id, markusgunawan@hotmail.com,
siagian.agus76@gmail.com, ghavaro_adista@yahoo.com, irpan@univbatam.ac.id, maniah@univbatam.ac.id

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Abstract

A notary is a public official authorized by the State to execute authentic deeds, which serve as legal instruments possessing the highest evidentiary value in various legal relationships. In practice, authentic deeds function not only as evidence in civil disputes but may also become part of the evidentiary process in criminal proceedings when allegations of criminal conduct arise in connection with their execution. Consequently, a notary may be subject to criminal liability, requiring the court to conduct a judicial assessment in order to determine whether the notary bears criminal responsibility based on the facts established during the trial, the admissible evidence, and the applicable legal provisions. This study examines three principal issues: the legal framework governing judicial assessment of a notary's liability in disputes concerning authentic deeds in criminal proceedings; the implementation of judicial assessment in determining a notary's liability in such disputes; and the obstacles encountered, together with possible solutions, in the judicial assessment of a notary's liability in criminal proceedings involving authentic deeds. This research employs a normative-empirical legal research method using statutory, conceptual, case, historical, and comparative approaches. The research is based on primary data collected through interviews and secondary data obtained from the analysis of statutory regulations, court decisions, legal literature, and scholarly journals. The findings indicate that the legal framework governing judicial assessment of a notary's liability in disputes concerning authentic deeds in criminal proceedings is derived from the integrated application of several legal instruments, including the Law on Notarial Office, the Indonesian Criminal Code, the Indonesian Civil Code, and the Law on Judicial Power. The judicial assessment reflected in Decision Number 1/Pid.B/2026/PN.JTH demonstrates that the court determined the notary's criminal liability by comprehensively evaluating the facts established during the trial, the available evidence, and the fulfilment of the constituent elements of the alleged criminal offence. Accordingly, criminal liability was not imposed solely on the basis of the notary's official capacity or the existence of an authentic deed. The study further reveals that the principal challenge lies in the complexity of proving issues involving both criminal law and notarial law. Therefore, improvements in the legal framework governing the notarial profession and criminal law enforcement, together with further academic research on the criminal liability of notaries, are necessary to strengthen legal certainty, justice, and legal expediency.

Keywords: Authentic Deed; Criminal Proceedings; Judicial Assessment; Notary's Liability.

INTRODUCTION

A. Background of the Study

In the civil law system, authentic deeds are important instruments for guaranteeing legal certainty in relationships between individuals. They record legal events or acts through procedures established by law and

frequently serve as principal evidence when disputes arise.¹ Their substantial evidentiary value nevertheless becomes subject to judicial assessment when the parties contest the contents of a deed or the circumstances of its execution.

Notarial responsibility concerns the formal requirements for executing a deed, including the presence of the parties, reading and signing the deed, and retaining the original. Notaries must act carefully so that their deeds satisfy the requirements of authenticity.² The parties determine the substance of their agreements, provided that it does not conflict with law, public order, or morality. The notary's responsibility for recording their statements must therefore be distinguished from the parties' responsibility for the substantive truth of the information supplied.

Disputes may concern either the truth of the parties' statements or the procedures followed by the notary. These aspects are often combined, obscuring the boundary between the parties' responsibility and official responsibility. Some decisions uphold a deed's full probative force, whereas others identify formal defects and reduce its evidentiary status. Judicial reasoning must therefore explain why the deed remains effective and whether a breach of official duties can be attributed to the notary.

The ratio decidendi rests not only on the existence of an authentic deed, but also on compliance with official duties. Article 16(1) of Law Number 2 of 2014 amending Law Number 30 of 2004 requires integrity, honesty, care, independence, impartiality, and protection of the parties' interests. Articles 38, 39, 40, and 44 concern the deed's form, appearing parties, witnesses, reading, and signing. These provisions inform assessment of formal compliance, while criminal liability requires examination of the facts and the elements of the charged offence.

B. Research Questions

1. What is the legal framework governing judicial assessment of notarial liability in authentic deed disputes in criminal proceedings?
2. How is judicial assessment of notarial liability implemented in such criminal proceedings?
3. What obstacles arise in judicial assessment, and what solutions can address them?

C. Research Objectives

The study aims to identify and analyse how courts assess authentic deeds and notarial responsibility in civil disputes, using court decisions as the principal object of inquiry. Specifically, it examines the legal framework, the implementation of judicial assessment, and the obstacles and solutions affecting that assessment. Analysis of judicial reasoning seeks to explain the patterns developing in practice.

D. Significance of the Study

Theoretically, the study contributes to notarial law and evidentiary law by examining the relationship between legal norms, the probative force of authentic deeds, and judicial reasoning. Practically, it clarifies the limits of official responsibility for notaries and provides judges and practitioners with an account of the considerations used when deeds are disputed. Such understanding supports prudence, consistent legal reasoning, and protection for interested parties.

For legal practitioners, the findings provide a basis for reflecting on consistency in the application of the law governing the probative force of authentic deeds. For notaries, understanding how courts assess disputed deeds clarifies the limits of the office and reinforces compliance with execution procedures. More systematic understanding of these relationships supports orderly notarial practice and protection of the parties who depend on authentic deeds for legal certainty.

E. Originality of the Study

The study's originality lies in its focus on judicial assessment and the reasoning used to determine the probative force of authentic deeds and the limits of notarial responsibility. The earlier studies reviewed address related forms of responsibility but differ in their objects and analytical emphasis.

¹ Abdillah, Satrio. *Notaris dan Akta: Teori dan Praktik Dalam Hukum*. Henry Bennett Nelson, 2025. p. 133

² Eli, Grace, and Rasji Rasji. *Pembaharuan hukum terhadap kekuatan akta autentik elektronik*. *Jurnal USM Law Review* 8.2 (2025) p. 853.

Table 1. Previous Studies

No.	Author	Year	Title	Research Findings
1.	Aswin Muhammad, Universitas Islam Sultan Agung Semarang	2026	Notarial Responsibility for Deeds Declared Void or Invalid by Court Decision (Decision No. 43/Pdt.Sus-Gugatan Lain-Lain/2023/PN Niaga Smg)	Responsibility depends on fault and breach of prudence. The study concerns consequences following cancellation, whereas the present inquiry emphasises judicial assessment and the limits of responsibility. ³
2.	Muhammad Zuhdi Fakhri, Universitas Islam Indonesia	2025	Notarial Responsibility in the Forgery of a Deed of Power of Attorney to Sell (Supreme Court Decision No. 1209 K/Pid/2022)	Proved violations may produce criminal, civil, and administrative responsibility. The study focuses on forgery and procedural compliance; the present inquiry examines judicial assessment of deeds and responsibility. ⁴
3.	Ridho Aldila, Universitas Islam Sultan Agung Semarang	2024	Responsibility of PPATs in Court Disputes Concerning Their Deeds (Decision No. 32/Pdt.G/2022/PN Pdg)	Examines PPAT responsibility in land disputes and emphasises prudence. It differs in its object and focus from judicial assessment of notarial authentic deeds.

LITERATURE REVIEW

A. Theoretical Foundations

1. Grand Theory

Hans Kelsen's Pure Theory of Law understands law as a hierarchical system of norms, in which each norm derives validity from a higher norm. This framework explains the legal basis of public authority and the relationship between statutory requirements and official legal acts.⁵ A notary's authority to execute authentic deeds is an implementation of that system. Deeds must fulfil legal requirements, and courts assess whether their execution remained within the authority granted by law. The theory therefore provides a normative foundation for examining notarial authority, deed validity, and judicial reasoning.

2. Middle Theory

Gustav Radbruch's theory identifies legal certainty, justice, and expediency as fundamental legal values. Legal certainty provides order and protection, but the application of rules must also consider justice and social benefit.⁶ In this study, Radbruch's approach is compared with Kelsen's emphasis on normative validity. The comparison is relevant because authentic deed disputes may reveal tensions between formal legal certainty and the substantive justice considered by judges. Judicial assessment consequently concerns both the governing norms and their application to the parties' circumstances.

3. Applied Theory

Applied theory connects notarial norms with judicial practice. Respationo, Erniyanti, and other researchers discuss alterations to deeds and the uncertainty surrounding deletion of a party pursuant to Judicial Review Decision Number 689 PK/Pdt/2020. Their study emphasises that alterations must follow the legally prescribed procedures and that procedural violations may reduce the deed's evidentiary status.⁷ This illustrates the relationship between *das sollen* and *das sein*: normative requirements and their implementation in practice.

Sinaga, Wahliati, Gunawan, Erniyanti, and Respationo examine notarial responsibility for deeds recording resolutions of shareholders' meetings. They emphasise verification of the authority of those attending, the validity of powers of attorney, and the legal capacity of persons representing a company. Formal defects may reduce an authentic

³ Muhammad Aswin, *Tanggung Jawab Notaris terhadap Akta yang Dinyatakan Batal atau Tidak Sah Berdasarkan Putusan Pengadilan (Studi Putusan Nomor 43/Pdt.Sus-Gugatan Lain-Lain/2023/PN Niaga Semarang)*, Thesis, Universitas Islam Sultan Agung Semarang, 2026.

⁴ Muhammad Zuhdi Fakhri, *Tanggung Jawab Notaris Terkait Pemalsuan Akta Kuasa Menjual (Analisis Putusan Mahkamah Agung Nomor 1209 K/Pid/2022)*, Thesis, Universitas Islam Indonesia, 2025.

⁵ Nabillah, Tahsyia, et al. "Hakikat Keilmuan Hukum Sistem Civil Law dalam Perspektif Teori Hukum Murni." *Jurnal Hukum Legalita* 7.2 (2025) p. 213.

⁶ Anisyanawati, Anisyanawati, and Hemmalika alyanti Chandra. "Konsep hukum dan keadilan dalam pemikiran Gustav Radbruch." *Praxis: Jurnal Filsafat Terapan* 2.01 (2024). p. 7

⁷ Soerya Respationo, Erniyanti, et al., "Analisis Yuridis Terhadap Pencoretan Pihak dalam Akta Notaris yang Berindikasi Nominee Serta Menimbulkan Ketidakpastian Hukum", *Jurnal Ekonomi Manajemen Sistem Informasi*, Vol. 6, No. 1, September 2023, p. 3528

deed's probative force.⁸ These studies support analysis of notarial care, the validity of the parties' acts, and the legal consequences of disputed deeds.

B. Conceptual Framework

A court decision contains the facts established at trial, legal reasoning, and the operative ruling. Its reasoning explains how the court interprets legal norms and applies them to proved events; the operative part establishes the resulting rights, obligations, or legal orders.⁹ Judicial assessment is the process through which judges evaluate the relevance, validity, and relationship of evidence and connect the established facts with applicable norms. The ratio decidendi identifies the principal legal reason determining the outcome.

Notarial responsibility does not arise automatically whenever a deed becomes disputed. Courts must determine whether the dispute resulted from the notary's fault or negligence in performing official duties, rather than solely from disagreement between the parties. Authentic deed disputes may concern validity, cancellation, damages, or reduced probative force. Their examination requires attention to the executing official's authority, compliance with formal procedures, and the relationship between the alleged breach and its legal consequences.

C. Research Assumptions

The study proceeds from three assumptions: authentic deeds possess full probative force but remain open to judicial examination; notarial responsibility is limited by official duties, prudence, and compliance with the governing law; and differences in judicial reasoning require analysis of the relationship between authority, responsibility, legal certainty, and protection of interested parties.

METHOD

A. Type of Research

This study employs normative juridical research, focusing on legal norms contained in legislation, scholarship, and court decisions.¹⁰ It examines how courts apply the provisions governing notarial authority, authentic deeds, and legal responsibility. Analysis considers the relationship between legislation governing notarial office, the principles of civil evidentiary law, and the legal reasoning contained in decisions, to explain how responsibility is assessed in disputes resolved through judicial mechanisms.

B. Research Approaches

Five approaches are employed. The statutory approach examines the Civil Code, the Law on Notarial Office, and the Law on Judicial Power. The conceptual approach clarifies judicial assessment, probative force, official authority, fault, and responsibility.¹¹ The historical approach traces the development of authentic deeds and notarial office within the Continental European tradition and Indonesian legislation. The comparative approach considers the Netherlands and France to examine similarities in the position of authentic deeds, professional prudence, and the distinction between parties' disputes and official responsibility.

The case approach examines court decisions as an expression of the application of legal norms. It focuses on the disputed deed, the court's reasoning on validity, and the legal basis for imposing or rejecting responsibility. Decision Number 1/Pid.B/2026/PN Jth is the principal object of the criminal case analysis. Relevant parameters include compliance with formal requirements, fault or negligence, and the connection between the official's conduct and the resulting legal consequences.

C. Data Sources

The study uses primary and secondary data. Interviews provide information from persons with relevant knowledge or experience, while documentary sources include legislation, decisions, books, journals, and theses. The primary legal materials listed comprise the 1945 Constitution, the Civil Code, Law Number 30 of 2004 as amended by Law Number 2 of 2014, Law Number 48 of 2009, HIR, RBg, and court decisions. These materials establish the normative framework; secondary literature explains legal concepts, interpretation, and developments in judicial practice.

D. Data Collection Techniques

Descriptive documentary study is used to organise the relevant norms, legal concepts, and judicial practice. Interviews explore practical understanding of deed-execution procedures, prudence, evidentiary problems, and

⁸ Novalina Estetika Sinaga, Laily Wahliati, Markus Gunawan, Erniyanti, and Soerya Respationo, "Juridical Analysis of The Responsibilities of Notaries in Making Deeds of Statement of General Meeting Decisions Shareholders of Limited Liability Companies", *International Journal of Education, Language, Literature, Arts, Culture, and Social Humanities (IJELLACUSH)*, Vol. 2, No. 4, November 2024, p. 96.

⁹ Arief, M. Irsan. *Pertimbangan yuridis putusan bebas & upaya hukum kasasi perkara pidana*. MCL Publisher, 2021. p. 3

¹⁰ Sukmawan, Yulia Audina, and Dwi Damayanti. "Metode Penelitian Hukum Normatif dan Empiris sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum." *Notary Law Journal* 4.3 (2025) p. 116.

¹¹ Djulaeka, S. H., and S. H. Devi Rahayu. *Buku Ajar: Metode Penelitian Hukum*. Scopindo Media Pustaka, 2020. p. 72

official responsibility. The categories of informants include notaries, academics or legal experts, and legal practitioners; the population also encompasses persons involved in authentic deed disputes. Informants are selected purposively for their competence, experience, and relevance, with the sample guided by the sufficiency of information rather than statistical generalisation.

The study applies the principle of saturation, under which collection continues until further information no longer contributes significantly to the analysis. An interview was also conducted with Tri Purnama, S.H., M.H., Hakim Pratama Madya at the Class IB Jantho District Court, on 7 July 2026, concerning judicial assessment in notarial cases.¹² Interview information is related to the norms and documentary findings to examine correspondence between legal requirements and practice.

E. Data Analysis

Analysis is qualitative. Materials from legislation, decisions, literature, and interviews are inventoried and classified according to notarial authority, official responsibility, the evidentiary status of deeds, and judicial assessment. Interpretation connects the relevant norms with the reasoning in court decisions. Conclusions are drawn deductively to answer the research questions and clarify the boundaries of responsibility and the judicial role in assessing authentic deeds.

RESULTS AND DISCUSSION

A. Legal Framework Governing the Judicial Assessment of Notarial Responsibility in Authentic Deed Disputes in Civil Proceedings

The legal framework consists of interrelated rules governing authentic deeds, the authority and duties of their executing officials, and judicial power. The Civil Code regulates a deed's evidentiary position; notarial and PPAT provisions establish official authority and obligations; and the Law on Judicial Power provides the basis for reasoned judicial assessment. These rules must be read together rather than treating the existence of an authentic document as sufficient to resolve every issue of validity or responsibility.

1. Regulation of Authentic Deeds in the Indonesian Civil Law System

Article 1868 of the Civil Code defines an authentic deed as one executed in the form prescribed by statute, by or before a public official authorised to do so at the place of execution.¹³ It establishes cumulative requirements concerning form, official authority, and the exercise of that authority within the relevant territory. Failure to satisfy a requirement affects the deed's authentic status. The provision protects the legally regulated execution process, not merely the written document or the parties' signatures.

Article 1869 addresses the consequences of defective authenticity. A deed that cannot be treated as authentic because the official lacks authority or its form is defective may nevertheless have the force of a privately executed instrument if signed by the parties.¹⁴ Loss of authentic status therefore does not necessarily remove all evidentiary value. Judges must distinguish a defect affecting authenticity from circumstances eliminating the document's legal effect and identify the consequence appropriate to the particular violation.

Article 1870 provides that an authentic deed constitutes full proof between the parties, their heirs, and persons deriving rights from them.¹⁵ This evidentiary position depends on compliance with the requirements of authenticity. It does not require courts to accept every disputed statement without examining the legal basis of the challenge. Articles 1868, 1869, and 1870 form a connected framework: the first establishes authenticity, the second addresses relevant defects, and the third determines the deed's probative position.

In judicial practice, disputes frequently turn on whether the execution procedures and the official's authority complied with these requirements. The evidentiary force of a deed cannot be assessed independently of the process that produced it. Equally, an objection by one party does not itself remove authenticity. A reasoned assessment must identify the particular requirement challenged, the evidence supporting the challenge, and the resulting consequence for the deed.

2. Regulation of Notarial Authority and Responsibility in the Execution of Authentic Deeds

Article 1, point 1, of Law Number 2 of 2014 identifies a notary as a public official authorised to execute authentic deeds and exercise other powers conferred by law.¹⁶ Article 15(1) authorises deeds concerning legally

¹² Interview with Tri Purnama, S.H., M.H., Hakim Pratama Madya (judicial rank) at the Class IB Jantho District Court, for research on judicial assessment in notarial cases, Jantho District Court, 07 July 2026.

¹³ Civil Code (Burgerlijk Wetboek), Article 1868.

¹⁴ Civil Code (Burgerlijk Wetboek), Article 1869.

¹⁵ Civil Code (Burgerlijk Wetboek), Article 1870.

¹⁶ Law of the Republic of Indonesia Number 2 of 2014 amending Law Number 30 of 2004 on Notarial Office, Article 1, point 1.

required or desired acts, agreements, and determinations, guarantees certainty of their date, and provides for retention and issue of copies or extracts, insofar as the task is not reserved for another official.¹⁷ The authority is statutory and preventive, providing legal certainty before disputes arise.

Article 16(1) links that authority to duties of integrity, honesty, care, independence, impartiality, and protection of the parties' interests. The duties include preparing and retaining original deeds, attaching supporting documents, reading the deed before the parties, and satisfying administrative requirements. These standards establish the official conduct to be assessed when a deed is challenged. Nevertheless, the existence of a dispute does not automatically prove a breach, because responsibility for the parties' statements must be distinguished from responsibility for the execution process.

The deeds examined in this case were executed in the defendant's capacity as a Land Deed Official (PPAT). That office has a distinct legal basis in Government Regulation Number 37 of 1998, subsequently amended by Government Regulation Number 24 of 2016. Article 1, point 1, concerns authority to execute authentic deeds relating to specified legal acts over land rights or ownership rights over apartment units. The particular capacity in which an official acts is therefore relevant to identifying the source and limits of authority.

Under Article 2(1) of Government Regulation Number 37 of 1998, a PPAT performs part of the land registration process by executing deeds evidencing specified land-related legal acts. Those deeds form the basis for changes to registration data. Article 2(2) includes sale and purchase, exchange, gifts, contributions to a company, division of joint rights, and specified grants of rights or security. A Deed of Sale and Purchase thus serves not merely to record agreement, but to evidence a transaction used in registering the transfer of land rights.

The decision states that Deeds of Sale and Purchase Numbers 15 of 2016 and 16 of 2016 were executed by the defendant as PPAT on 11 March 2016. Their legal character therefore requires assessment of PPAT authority and the manner in which it was exercised. The existence of authority to execute the deeds does not establish that every act in their preparation and execution complied with the law. Authority is the starting point of assessment, while performance of the associated duties is a separate question.

3. Legal Basis for Judicial Assessment of Authentic Deeds and Notarial Responsibility

Article 24(1) of the 1945 Constitution establishes judicial power as independent authority exercised to uphold law and justice. Law Number 48 of 2009 further defines that authority and requires judges, under Article 5(1), to explore and understand the legal values and sense of justice prevailing in society. Article 10(1) prohibits refusal to examine a case merely because the law is absent or unclear. Judicial interpretation remains necessary, but it must connect the applicable norms with the proved facts and evidence.

Article 50(1) of Law Number 48 of 2009 requires decisions to contain reasons, legal bases, and the provisions or unwritten sources relied upon. This requirement makes legal reasoning central to judicial assessment. The decision must show how the established facts support the application of particular norms and why those norms justify the result. Through that explanation, the ratio decidendi can be identified and distinguished from a general description of the proceedings.

In the civil evidentiary framework, Article 1865 places the burden of proving an asserted right or event on the person relying upon it.¹⁸ Article 1866 recognises written evidence, witness testimony, presumptions, admissions, and oaths.¹⁹ Written documents do not all have the same evidentiary value. Courts must distinguish authentic deeds, privately executed deeds, and other writings, while assessing the relevance of each item to the parties' assertions.

Judges cannot disregard an authentic deed merely because its contents or execution are denied. The denial must be supported through lawful evidentiary mechanisms. Conversely, recognition of authenticity does not prevent assessment of the official's conduct. Article 15 of the Law on Notarial Office concerns the existence and scope of authority; Article 16 concerns performance of the duties accompanying it. Clear reasoning must distinguish these inquiries before determining whether the relevant conduct produces administrative, civil, or criminal consequences.

Judicial freedom to consider justice does not permit unlimited departure from legislation or admissible evidence. The assessment must balance legal certainty, justice, and expediency through a demonstrable connection between rules and facts. In criminal proceedings involving an authentic deed, the deed's civil-law character must also be considered alongside the criminal evidentiary framework. Its official form is relevant, but it cannot independently establish or exclude the defendant's criminal responsibility.

¹⁷ Law of the Republic of Indonesia Number 2 of 2014 amending Law Number 30 of 2004 on Notarial Office, Article 15(1).

¹⁸ Civil Code (Burgerlijk Wetboek), Article 1865.

¹⁹ Civil Code (Burgerlijk Wetboek), Article 1866.

B. Implementation of Judicial Assessment of Notarial Liability in Authentic Deed Disputes in Criminal Proceedings in Decision Number 1/Pid.B/2026/PN Jth

1. The Position of the Notary and Authentic Deeds in Case Number 1/Pid.B/2026/PN Jth

Decision Number 1/Pid.B/2026/PN Jth was examined by the Jantho District Court. The defendant, Husnaina Aflinda binti M. Husen Ali, was a notary who also held office as PPAT. Her involvement arose from the execution of documents transferring land rights, rather than ownership of the land. The case therefore concerned the relationship between the exercise of official authority, the authentic deeds produced, and the legal consequences of their use.²⁰

Siti Aminah and Budi Mulia were the owners of the two plots. Supian D. bin M. Daud initially requested their ownership certificates, Antoni bin Ibrahim subsequently held them, and Ricky Fernandez was named as purchaser in both Deeds of Sale and Purchase. These different positions required the court to examine the relationships among the landowners, those handling their certificates, and the official who executed the transfer documents.

The sequence began when Supian D. asked the owners to hand over their certificates as security for a bank loan. He assured them that this would not transfer ownership. Relying on that assurance and their relationship of trust, the owners surrendered the certificates. The documents later passed to Antoni bin Ibrahim for the land administration process, moving beyond the owners' immediate control and into the process that led to execution of the deeds.

The certificates and supporting documents were submitted to the PPAT's office as administrative requirements for preparing the Deeds of Sale and Purchase. Siti Aminah and Budi Mulia subsequently attended to sign documents, believing that they were completing the loan application secured by their certificates. Their understanding was central to the case because the documents ultimately produced a transfer of land rights rather than the security arrangement they described.²¹

Deed of Sale and Purchase Number 15 of 2016 named Budi Mulia as seller and Ricky Fernandez as purchaser. Deed Number 16 of 2016 named Siti Aminah as seller and Ricky Fernandez as purchaser. Both became the basis for the administrative transfer of land rights. The owners learned of the change after discovering that the certificates had been transferred into another person's name and then pursued legal remedies through law enforcement authorities.

The owners' reports initiated inquiries and investigations into the sequence of events, the preparation of the deeds, and the involvement of the parties. The investigation findings formed the basis for the prosecutor to bring the defendant to trial. The proceedings tested whether witness testimony, documentary evidence, and other evidence established a sufficient factual basis for criminal responsibility. This procedural sequence is important because the existence of a disputed transfer did not itself settle the question of the executing official's guilt.

At trial, Siti Aminah stated that the certificate had been handed over only as loan security and that she had not understood the signed document to be a Deed of Sale and Purchase. Budi Mulia similarly stated that he had not negotiated a sale price, received payment for a sale, or dealt directly with Ricky Fernandez. He described signing documents without an explanation of their contents and consequences.²² Their accounts identified a discrepancy between the transaction they understood and the transfer recorded in the deeds.

Irawati gave testimony consistent with the owners' account of the original loan-related purpose. The panel also heard evidence concerning land administration and compared the testimony with the deeds, certificates, supporting documents, exhibits, and the defendant's testimony. The evidentiary exercise sought a connected account of how the documents came into existence and how they produced a change in ownership. No single item was treated as a sufficient substitute for assessing the relationship among the available evidence.

Documentary evidence revealed the relationship between the ownership certificates, the deeds executed by the defendant, and the administrative records underpinning the change in ownership. The court compared those documents with the witnesses' accounts to connect the events described at trial with the formal land administration process. The defendant's testimony was also examined alongside the other evidence, enabling the panel to identify consistency or inconsistency rather than relying on an isolated account of the transaction.

The factual inquiry therefore linked the original submission of the certificates, their subsequent use, the signing at the PPAT's office, the execution of the two deeds, and the administrative transfer. It also identified the defendant's role within that sequence. These established facts supplied the basis for legal assessment; they did not

²⁰ Jantho District Court Decision Number 1/Pid.B/2026/PN Jth, sections on the Identity of the Defendant and the Account of Facts Established at Trial.

²¹ Jantho District Court Decision Number 1/Pid.B/2026/PN Jth, sections on the Identity of the Defendant and the Account of Facts Established at Trial.

²² Jantho District Court Decision Number 1/Pid.B/2026/PN Jth, sections on the Identity of the Defendant and the Account of Facts Established at Trial.

dispense with the further requirement to determine whether the defendant's conduct fulfilled the elements of the offence charged.

2. Implementation of Judicial Assessment of Authentic Deeds in Decision Number 1/Pid.B/2026/PN Jth

After examining the evidence, the panel assessed the relationship between the proved facts and the two Deeds of Sale and Purchase. It did not treat the deeds' authentic form as establishing the truth of every aspect of the transaction. Their contents and execution were compared with the owners' stated purpose in surrendering the certificates, their understanding when signing, and the subsequent transfer of ownership. Judicial assessment thus extended beyond formal appearance to the correspondence between the deeds and the facts established at trial.

This reasoning relates to Article 183 of the Criminal Procedure Code (KUHP), under which a criminal sentence requires judicial conviction based on at least two admissible items of evidence. Judicial conviction was not derived solely from the deeds, but from their relationship with witness testimony and other evidence. Articles 183 and 184 are therefore used in the study to explain why an authentic deed must be assessed within the criminal evidentiary process rather than treated as immune from examination.

The panel's assessment did not remove the deeds' status as authentic instruments. The deeds were executed by an official holding PPAT authority and remained subject to assessment of their evidentiary value. Recognition under Articles 1868 and 1870 of the Civil Code was therefore considered together with the criminal evidentiary requirements. The central question was the extent to which the contents and execution of the deeds could be relied upon after comparison with the proved facts.

The defendant's PPAT capacity also required attention to the provisions governing that office. This assessment relates to Government Regulation Number 37 of 1998 and Government Regulation Number 24 of 2016, alongside Articles 15(1) and 16(1)(a) of the Law on Notarial Office as professional standards concerning public authority, care, and impartiality. The reasoning connects the official's authority with the procedures and duties accompanying execution of deeds that produce legal consequences for the parties.

This part of the reasoning concerns the evidentiary status of the deeds before the separate assessment of criminal liability. It demonstrates that authenticity and the reliability of a deed within the complete evidence are related but distinct matters. The panel could continue to recognise the deeds as authentic while examining whether their contents corresponded with the transaction established at trial. That distinction underpins judicial assessment of authentic deeds in the criminal proceedings.

3. Implementation of Judicial Assessment of Notarial Responsibility in Decision Number 1/Pid.B/2026/PN Jth

Assessment then shifted from the deeds to the defendant's conduct as a notary and PPAT. The panel did not impose responsibility merely because the official had executed documents that later became disputed. It examined the execution process, the involvement of the appearing parties, the documents relied upon, and the defendant's actions in performing the office. The question was whether the official duties were fulfilled and whether the proved conduct could be connected with the alleged criminal offence.

The panel related the facts concerning delivery of the certificates, appearance before the PPAT, signing, and transfer of rights as an interconnected sequence. This reasoning is linked with Article 16(1)(a), concerning integrity, honesty, care, independence, impartiality, and protection of the parties' interests. It also considers PPAT authority under Article 2(1) of Government Regulation Number 37 of 1998. The legal inquiry therefore examined both the existence of authority and the manner in which the defendant used it.

On the evidence, the panel concluded that the conduct could not be regarded simply as the exercise of official authority. It assessed whether the preparation and execution of the deeds formed part of acts satisfying the elements of the offence charged. Criminal responsibility consequently rested on the relationship between concrete conduct, the legal facts, and the offence, rather than the defendant's occupational title or the mere existence of the deeds.

The court found Husnaina Aflinda binti M. Husen Ali legally and convincingly guilty and imposed five months' imprisonment. The sentence was not to be served unless, during a probationary period of ten months, the defendant committed another criminal offence established by a final and binding judgment. The ruling thus combined a finding of guilt with a conditional sentence; the finding of criminal responsibility must be distinguished from the manner in which the punishment was to be executed.

The ratio decidendi lies in the panel's conclusion that the facts and evidence established the defendant's involvement in conduct fulfilling the elements of the charged offence. Official authority supplied the context of the acts, but did not itself establish guilt or provide immunity. The study therefore emphasises a sequence of reasoning that begins with the facts and evidence, identifies the relevant official duties, and proceeds to the criminal-law assessment before determining responsibility and punishment.

C. Obstacles to and Solutions for Judicial Assessment of Notarial Liability in Authentic Deed Disputes in Criminal Proceedings

1. Obstacles in Judicial Assessment of Notarial Responsibility

The first obstacle is distinguishing conduct within official authority from conduct giving rise to criminal liability. A PPAT is authorised to execute land-transfer deeds, so the official nature of an act cannot be equated immediately with an offence. The Law on Notarial Office and PPAT provisions mainly regulate authority, duties, prohibitions, and administrative matters. Criminal liability requires proof of the elements of the charged offence. Judges must therefore connect these regimes through the concrete facts rather than assume that an official breach is necessarily criminal.

The second obstacle concerns the evidentiary position of authentic deeds. Civil law accords them substantial probative force, while criminal proceedings require examination of substantive truth through the KUHAP evidentiary process described in the study. The deed must be respected as the product of an authorised official without preventing scrutiny of its contents and execution. Failure to maintain that distinction risks either treating the deed as immune from examination or disregarding its authentic character without sufficient legal grounds.

The simultaneous operation of civil law, notarial and PPAT law, criminal law, and criminal procedure makes the reasoning complex. The study identifies a need for clearer guidance connecting these rules, rather than describing the problem simply as a legal vacuum. The decisive difficulty is developing consistent parameters that relate the deed's formal position, the executing official's conduct, the evidence, and the elements necessary for criminal responsibility.

2. Solutions for Judicial Assessment of Notarial Responsibility

The proposed solution is to clarify the analytical stages of judicial assessment. Judges should identify the capacity and authority under which the disputed act was performed, assess compliance with official duties, and determine the legal consequences of any departure. Where criminal liability is alleged, the reasoning must separately establish whether all elements of the charged offence are supported by admissible evidence. This prevents administrative or civil consequences from being converted automatically into criminal responsibility.

Legal reasoning should explicitly connect the proved facts with the applicable official norms. The ratio decidendi should explain the principal reason why the particular conduct fulfils the elements of criminal liability, rather than rely on the notary's or PPAT's status. A coherent sequence integrating authority, duties, trial facts, and offence elements supports the quality of the decision and provides a clearer reference for similar cases.

Assessment of the deed should likewise connect its formal requirements with the criminal evidentiary process. Examination of authenticity provides the initial legal position, followed by comparison of the contents and execution with other evidence. The proposed improvement is therefore not a restriction of judicial power or a new form of liability, but clearer and more comprehensive reasoning that preserves legal certainty, justice, and expediency.

CONCLUSION AND RECOMMENDATIONS

A. Conclusions

1. Judicial assessment of notarial liability in authentic deed disputes is governed by interrelated provisions of the Law on Notarial Office, the Criminal Code, KUHAP, the Civil Code, and the Law on Judicial Power, together with the PPAT provisions relevant to the deeds examined. Liability depends on proof connecting official conduct with the charged offence, not solely on the existence of an authentic deed.
2. Decision Number 1/Pid.B/2026/PN Jth illustrates comprehensive assessment of trial facts, evidence, official duties, and the applicable provisions. The court considered the deeds' formal position together with the defendant's conduct and the elements of the offence. The court imposed five months' imprisonment subject to a ten-month probationary period. The finding demonstrates responsibility based on proved involvement, rather than official status alone.
3. The principal obstacles concern proof across criminal law, notarial law, PPAT rules, and evidentiary law. The response is to strengthen understanding of official authority, clarify the status of authentic deeds in criminal proceedings, and develop systematic legal reasoning. Improvements should support judicial assessment that maintains legal certainty, justice, and expediency without automatically equating a professional breach with criminal liability.

B. Recommendations

1. Legislators should evaluate provisions intersecting with criminal law enforcement to reduce differing interpretations of notarial authority and responsibility. Investigators, prosecutors, and judges should assess the official's distinctive role while requiring proof of conduct satisfying the elements of an offence, balancing protection of the profession with protection of the public.

2. Notaries should strengthen prudence, accountability, and knowledge of criminal-law risks associated with official duties. Documentation of each stage of deed execution should be maintained as professional accountability and to support subsequent evidentiary examination. Understanding notarial legislation alone is insufficient without attention to the potential legal consequences of the execution process.
3. Academics should develop further research connecting notarial law with criminal judicial practice, particularly the assessment of authentic deeds and the reasoning used to determine criminal liability. Such inquiry can enrich notarial scholarship and contribute to more consistent, higher-quality law enforcement.

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