

MAKING A NOTARY DEED THAT PROVIDES LEGAL CERTAINTY

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Abstract

The purpose of this study is to analyze and understand the level of obedience of a Notary in making a Notary deed. This type of research is empirical legal research. Empirical legal research is oriented to primary data (research results in the field). Empirical legal research is an approach carried out by field research by seeing and observing what is happening in the field, and the application of these regulations in practice in society. All data obtained in the study, both primary data and secondary data, were analyzed using qualitative analysis techniques. After that it is described, by examining the existing problems, describing, describing, and explaining the problems related to this research. The use of this descriptive method is intended to obtain a good, clear picture and can provide as detailed data as possible about the object under study, in this case, to describe how legal certainty and protection is for the community through the making of a Notary deed with legal certainty. Based on these results, a conclusion is drawn which is the answer to the problems formulated in this study and suggestions that aim to provide input for further improvement. The results of this study indicate that in carrying out the duties of office, there are still Notaries who do not carry out the provisions as stipulated in the UUJN, the Notary Code of Ethics, and other laws and regulations. This is because the Notary in carrying out his position is still influenced by internal and external factors, so that due to his disobedience to the procedures and procedures for making the deed results in the degradation of the deed made or produced by the Notary.

Keywords: deed, legal certainty, notary

INTRODUCTION

Notaries play a very large role in accommodating legal actions carried out by the community in accordance with the developments and demands of the times, as stated in Article 1 number 1 of Law Number 2 Year 2014 concerning Amendments to Law Number 30 Year 2004 concerning Notary Positions (UUJN), that a Notary is a public official authorized to make authentic deeds and other authorities. Notaries as public officials who are given the task and responsibility to make authentic deeds and produce authentic deeds that are the strongest and most complete for the fulfillment of perfect evidence needed in the law enforcement process must have legal certainty and can provide justice to the parties.

The Article does not provide clear and firm boundaries regarding General Officials, the Law on Notary Positions only states that Notaries are Public Officials who have the authority to make authentic deeds. If it is associated with an authentic deed he made, then a notary must meet the requirements and criteria as a public official who has the authority to make an authentic deed. Without the fulfillment of the requirements as a public official and the authority he has, the deed produced by a Notary is not authentic.

The position of a Notary is very important and has a strategic role to make an authentic deed whose existence is desired by the community (the parties) to assist him in preparing evidence for the legal acts committed and has perfect evidentiary power in the event of a dispute or dispute between them. To carry out and carry out the duties of this position, people must have integrity, honesty and trust in serving the community (the parties).

The number of people who need the role and services of a Notary to fulfill the interests of legal actions in the civil sector, especially in the business world, both regarding the establishment of business entities and agreements that require or require to be made in the form of a deed by a Notary in order to obtain legal certainty, it is very necessary to have a process of making a deed in accordance with the rules or demands of an authentic deed. This shows that there is a close relationship between Notaries in terms of meeting the needs of the community in the field of civil law and economic activities in fulfilling people's lives.

Starting from this, it can be seen that Notaries have an important role and function in legitimizing legal actions in the form of transactions in the economy in Indonesia, even Notaries are also understood as trusted third parties. The services of a Notary have become a community need, not only in making the deed but also as a witness or mediator of the transactions carried out.¹

The function, position, and authority of a Notary in preparing and creating, and providing legal certainty and protection to the public (the parties) in the form of an authentic deed are considered very important. This can happen if the deed in question is made in accordance with the provisions of the legislation, code of ethics, and oath of office. A notary deed is one form of prevention of legal consequences and becomes evidence in case of legal problems. An authentic deed made by a notary is a frame of legal action that is in the realm of civil law carried out by the community and in the future, the deed can be used as perfect evidence in court.

Notaries in carrying out their duties to prepare authentic deeds, cannot be separated from legal problems, both those caused by the Notary himself or by the parties and to avoid this a Notary must always obey and obey the orders of the Notary Position Act, code of ethics and oath of office, in order to produce an authentic deed that can provide legal certainty and protection for both Notaries and parties who carry out legal actions, including the community.

In practice, along with the development of the times and the complexity of legal problems that occur in society, sometimes Notaries carrying out their duties and positions are affected by things that cause a Notary to carry out his duties outside the applicable legal provisions or to take actions or things that demean the dignity of the position of a Notary that can harm the legal interests of the parties and/or the public.

The demand for a Notary to obey and obey the law has been regulated in Article 16 paragraph (1) letter of Law Number 2 Year 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary, which stipulates that "in carrying out his position, a Notary must act trustworthy, honest, thorough, independent, impartial, and safeguard the interests of the parties involved in legal actions. In addition, in Article 16 paragraph (1) letter b, the Notary is obliged to keep everything about the Deed he made and all information obtained for the making of the Deed in accordance with the oath/promise of office, unless the law provides otherwise. Notaries are also obliged to "read the deed in front of an audience in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of a private well, and signed at the same time by the

¹ Edmon Makarim, 2020, *Notaris dan Transaksi Elektronik Kajian Hukum Tentang Cybernotary atau Elektronik Notary*, Raja Grafindo Persada, Jakarta, p. 6

appearers, witnesses, and Notary Public". In the notarial world, the process of reading the deed and signing is also called the inauguration of the deed (*verlijden*).

In addition to obligations, there are also prohibitions that must and must be obeyed by Notaries in carrying out their duties, as regulated in Article 17 of the Law on Notary Positions, as in paragraph (1) letter a, namely, Notaries are prohibited from carrying out positions outside their area of the office. If this is violated, it will have consequences on the validity of the deed made.

Notaries in carrying out their duties and positions outside those determined by the Law on Notary Positions, the Code of Ethics, and the oath of office, the deed made can be legally questioned by the appearers. Problems that can occur as a result of errors, mistakes, or mistakes made by the notary in carrying out his duties, the notary must deal with legal issues or at least be legally questioned by the parties (appearing) especially if it causes losses.

In making a deed, so that the deed is authentic, the notary must adhere to the norms determined by the Notary Position Act, the Code of Ethics and the Oath of Office. The authenticity of the deed is determined by the subject (the notary as the authorized official and the interested parties) and the object (the resulting deed). The fulfillment of this subject and object will result in the authenticity or validity of a notary deed.

In terms of the subject (Notary), for example, it is absolutely necessary to have the authority attached to his position, that the Notary must be an authorized official as well as the parties who will carry out legal actions must be capable and authorized to carry out legal actions.

One example is the provision of Article 16 paragraph (1) letter m which obliges a Notary to "read the deed before an audience in the presence of at least 2 (two) witnesses, or 4 (four) witnesses specifically for the making of a private will, and signed at that time by the appearers, witnesses and notaries". The article must be linked to the provisions of Article 39 paragraph (1) letters a and b paragraphs (2) and (3) as well as Article 40 paragraph (1) and paragraph (2) letters a, b, c, d and e as well as paragraphs (3) and paragraph (4) of the Law on Notary Positions, violation of these provisions results in a deed made by a Notary resulting in the deed only having the power of proof as an underhand deed.

From the object side (the resulting deed) must have authentic value so that it has legal force that binds the parties so that it has perfect proof in the event of a legal problem. Thus, legal certainty and protection will be created for the parties or the community.

An authentic deed based on Article 1868 of the Civil Code (hereinafter referred to as the Civil Code), is a deed made in the form determined by law by or in the presence of the authorized official at the place where the deed was made. In line with what is regulated in Article 16 paragraph (1) of the UUJN that one of the obligations of a Notary in carrying out his position is to "read the deed before an audience in the presence of at least 2 (two) witnesses or 4 (four) witnesses specifically for the making of the deed. under the hand, and signed at the same time by the appearers, witnesses, and notaries".

In the explanation of Article 16 paragraph (1) of the Notary Position Act, it is explained that an authentic deed essentially contains the formal truth in accordance with what the parties have notified the Notary. However, the Notary has the obligation to include that what is contained in the Notary deed has truly been understood and in accordance with the wishes of the parties, namely by reading it so that the contents of the Notary deed become clear, as well as providing access to information, including access to laws and regulations. related to the parties who signed the deed. Thus, the parties can freely determine whether or not to agree with the contents of the Notary deed that they signed.

This is confirmed and re-arranged in Article 44 UUJN, which:

- (1) Immediately after the Deed is read, the Deed is signed by each appeared, witness, and Notary, unless there are appearers who are unable to affix a signature by stating the reasons.
- (2) The reasons as referred to in paragraph (1) are stated explicitly at the end of the Deed.
- (3) The deed as referred to in Article 43 paragraph (3) shall be signed by the appeared, Notary, witness, and official interpreter.
- (4) The reading, translation or explanation, and signing as referred to in paragraph (1) and paragraph (3) as well as in Article 43 paragraph (3) are stated expressly at the end of the Deed.
- (5) Violation of the provisions as referred to in paragraph (1), paragraph (2), and paragraph (4) results in a Deed only having the power of proof of part of the deed under the hand and can be a reason for the party suffering the loss to demand reimbursement of costs, compensation, and interest to the Notary.

These problems were initially not directly related to the notary deed, but because one of the parties felt aggrieved from the substance of the deed desired by the presenters themselves, it came to

the procedure for making the deed, where the reporting party could prove it.

Article 16 paragraph (9) in conjunction with Article 44 paragraph (5) UUJN, stipulates that this "resulting in a deed only having the power of proof as a deed under the hand". This, which is often called a deed, has been relegated to a private deed. The cause of this degradation is generally if the Notary who made the deed does not have the authority or is incompetent and/or there is a defect in the making of the deed so that the authentic deed only has power under the hand. So that it can be a reason for parties who feel aggrieved to demand reimbursement of costs, compensation, and interest to a Notary.

In its rules, the UUJN itself has demanded a Notary to act professionally both towards his profession and to legal products, namely the deed he made, as Article 4 of the UUJN stipulates that before carrying out his position, the Notary is asked to take an oath/promise of office according to his religion before the Minister or other official. designated, which includes.

1. Promise/oath to obey and be loyal to the Republic of Indonesia, Pancasila, and the 1945 Constitution of the Republic of Indonesia, the Law on Notary Positions, and other laws and regulations.
2. Promise/oath to carry out the position in a trustworthy, honest, thorough, independent, and impartial manner.
3. Promise/oath to maintain the attitude, and behavior and will carry out obligations in accordance with the professional code of ethics, honor, dignity, and responsibility as a Notary.
4. Promise/oath to keep the contents of the deed and information obtained in the exercise of the position confidential.
5. A statement that a Notary can be appointed to this position, either directly or indirectly, under any name or pretext, has never and will not give or promise anything to anyone.

It has been explained earlier that the occurrence of legal problems or being legally questioned against a Notary deed can be caused by the actions or actions of the Notary itself either because of his mistake, intentional or due to his negligence in making a Notary deed, or because the parties deliberately question it because for example one of the parties is in default. or commit acts against the law that have absolutely nothing to do with the authenticity of the notary deed.

In practice, for example, in the last 2 (two) years, many facts show that the Notary deed is problematic or becomes a legal issue or is legally disputed by the parties. This can be seen from the reports that were submitted to the Makassar City Notary Regional Supervisory Council (Majelis Pengawas Daerah/MPD), in 2019 there were 17 reports from the public who felt aggrieved against the deed made by the Notary. Among other things, the deed made by the Notary is often questioned by one party or by another party because it is considered detrimental to its interests, either by denying or denying the contents of the deed, signature, or presence of the party before the Notary, even the existence of allegations in the authentic deed. false information found.²

In 2020 and 2021, each year there will be 12 reports from the public regarding legal products made by Notaries. Even though there is a decrease in the number of reports in 2020, this is still a concern for the Notary and is proof that the product of the deed made by the Notary has not been able to free him from all legal loopholes that can arise from the deed, the problem is either because of the Notary himself or because of the contents of the deed. so that it can be the basis for complaints by parties who feel aggrieved.³

In today's legal developments, reports or public complaints can not only be addressed to the Regional Supervisory Council but can also be summoned or examined first by the Regional Notary Honorary Council (Majelis Kehormatan Notaris Wilayah/MKNW) before being questioned by investigators.

Regulation of the Minister of Law and Human Rights Number 15 Year 2020 concerning Procedures for Examination of the Supervisory Council Against Notaries, replaces the Regulation of the Minister of Law and Human Rights Number M.02.PR.08.10 of 2004 which regulates examinations in which the MPD authority conducts examinations of alleged violations implementation of the position and behavior of the Notary Public submitted to the complaint offense. In the Permenkumham, the MPD in addition to examining complaints reports from the public is also authorized to conduct examinations originating from the results of periodic inspections, legal facts on alleged violations of the implementation of office, and the behavior of a Notary. This change is intended to strengthen the duties

² Data from the Office of the Ministry of Law and Human Rights of the Republic of Indonesia, South Sulawesi Province

³ *Ibid.*

and authorities of the Notary Supervisory Council, in particular, the Regional Supervisory Council as the spearhead of supervision at the forefront. In this way, the Supervisory Council can provide legal certainty and protection to the public as users of Notary services in making authentic deeds, as well as increasing compliance monitoring of the implementation of Notary positions.⁴

This is expressly regulated in Article 66 paragraph (1) letters a and b, namely "for the interest of the judicial process, investigators, public prosecutors, or judges with the approval of the Notary Honorary Council are authorized to take a photocopy of the Minutes of Deed and/or documents attached to the Minutes of Deed. Notary deed or protocol in the Notary's storage and summoning the Notary to attend the examination related to the Notary deed or protocol that is in the Notary's storage.

Talking about complaints or reports from parties who feel aggrieved, it is not uncommon for a Notary to be summoned by investigators, public prosecutors, and/or judges, either as witnesses, suspects, or even convicts, in connection with the deed he made. These cases include:⁵

1. The deed is made with the condition that the parties do not face each other, where the Notary makes the deed even though the Notary knows that the parties are not facing each other or are not present. One or both parties are not present when the deed is made and signed, and the aggrieved party is usually the one who reports the Notary concerned.
2. Identity data from one of the parties in the deed is deemed to be incorrect or deemed to provide false information. This problem can be used as an excuse by the parties to legally question the notary deed. Complaints to the police are usually made after the agreement between the two parties is not resolved or someone breaks a promise, where one party tries to find a loophole to criminalize and usually the legal loophole is found during field inspections.
3. Data regarding the object of the agreement does not match the actual facts. So that one of the parties is considered to provide false information. This can also involve a Notary as the party who made the deed due to his lack of caution in examining documents.
4. The data provided by one or both parties are incorrect, so that the issued Notary deed is considered a fake deed. The notary concerned may be subject to a complaint that he entered false data into an authentic deed or falsified documents.
5. There are two deeds circulating among the parties, which have the same number and date but different contents. When there is a problem in the future, the Notary can be complained and even become a gap for him to be questioned by the parties, which are considered to have harmed him.
6. The signature of one of the parties in the minutes is forged. This could happen because the making of the deed was pressed by time and one of the parties was not in place, or there was an element of intent to forge signatures.
7. The appeared uses the identity of another person and a Notary does not necessarily know personally the person who comes before him. Notaries are not in a position to trace a person's track record, let alone to ensure that the identity in the official identity document of the appeared is true or false.

Based on the description above, there are indications that there are notary deeds that are questioned and have legal problems because in the process and procedure of making them the Notary does not comply with the principles of the Notary Position Act, code of ethics, and oath of office. These legal problems can be caused by ignorance, intentional, negligence, or oversight of the Notary itself and can also be caused by errors from the parties (appearers). Thus, in-depth research is needed on the process of making the deed so that it becomes an authentic deed that has legal certainty and legal protection as well as perfect evidentiary power according to the demands of the Notary Position Act.

METHOD

This type of research is empirical legal research. Empirical legal research is oriented to primary data (research results in the field). Empirical legal research is an approach carried out by field research by seeing and observing what is happening in the field, and the application of these regulations in practice in society.⁶ To support this empirical research, normative research is also used, namely examining legal concepts related to the process and procedure for making a notary deed so that it has legal certainty, using a legal approach, namely reviewing, and analyzing laws and

⁴ *Ibid.*

⁵ See <https://www.hukumonline.com/berita/baca/lt573298b2a4142/7-hal-yang-sering-menyeret-Notaris-ke-pusaran-kasus/>

⁶ Soerjono Soekanto dan Sri Mamudji, 2015, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Rajawali Pers, Jakarta, p. 12

regulations related to the position of a notary in Indonesia. The types and sources of data that will be used by the author in the process of implementing this research are (a) Primary data in the form of data that the author obtained in the field or in the community through the respondents or resource persons. This data can be seen as data which is the legal behavior of Notaries, and (b) Secondary data is data obtained through the results of a literature review or a review of various kinds of literature or other written materials related to the problems to be discussed in the study.⁷

All data obtained in the study, both primary data and secondary data, were analyzed using qualitative analysis techniques.⁸ After that it is described, by examining the existing problems, describing, describing, and explaining the problems related to this research. The use of this descriptive method is intended to obtain a good, clear picture and can provide as detailed data as possible about the object under study, in this case, to describe how legal certainty and protection is for the community through the making of a Notary deed with legal certainty. Based on these results, a conclusion is drawn which is the answer to the problems formulated in this study and suggestions that aim to provide input for further improvement.

DISCUSSION

Notary Obedience in Making Notary Deed

The position held by a Notary is a profession. The Notary Profession is a dignified profession because the State appoints a Notary in a certain legal area⁹ Notaries act on behalf of the State in providing legal services, as in the considerations of the UUJN, points (a) to (d) which read:

- a. Whereas the Republic of Indonesia as a state based on Pancasila and the 1945 Constitution of the Republic of Indonesia guarantees certainty, order and legal protection, which are based on truth and justice;
- b. Whereas in order to guarantee certainty, order and legal protection, authentic written evidence is needed regarding legal conditions, events, or actions carried out through certain positions;
- c. Whereas a Notary is a certain position that carries out a profession in legal services to the public, it is necessary to obtain protection and guarantees in order to achieve legal certainty;
- d. That the services of a Notary in the development process are increasing as one of the legal needs of the community.

The position of Notary "was born because the community needed it, not a position that was deliberately created and then socialized to the public. The history of the birth of a Notary begins with the birth of the Scribe profession in ancient Roman times (second and third centuries AD). Scribe is an educated person who is in charge of recording notes and minutes of an activity or decision and then making copies of the documents, both public and private. The Scribe profession was needed at that time because most of the people were illiterate".¹⁰ Law orders make the position of a Notary not easy, there are many processes that must be passed to become a professional Notary. With the increasing number of applications for the appointment of Notaries at this time, the Government has also made increasingly stringent regulations. A notary is a position of trust, whose responsibility is not only for the community but also for God Almighty. Based on this, it is very important for a Notary to prepare himself carefully, seriously, and competently to arrive at the time someone is appointed as a Notary Public official so that he can become a trustworthy, competent, and professional office.¹¹

The task given by the State to the Notary profession is to produce authentic legal products with legal certainty. The explanation of the UUJN regarding the position of a Notary is that a Notary is a public official authorized to make an authentic deed, as long as the making of a certain authentic deed is not reserved for other public officials. Making an authentic deed is required by laws and regulations in order to create certainty, order, and legal protection.¹²

The authority referred to has been regulated in Article 1 Number 1 and Article 15 of the UUJN,

⁷ Kadarudin, *Penelitian di Bidang Ilmu Hukum (Sebuah Pemahaman Awal)*, Formaci Press, Semarang, 2021, p. 171

⁸ Irwansyah, *Penelitian Hukum, Pilihan Metode dan Praktik Penulisan Artikel*, Mirra Buana Media, Yogyakarta, 2020, p. 158

⁹ Johannes Ibrahim Kosasih and Hassanain Haykal, 2021, *Kasus Hukum Notaris di Bidang Kredit Perbankan*, Sinar Grafika, Jakarta, p. 115

¹⁰ Central Board of the Indonesian Notary Association, 100 Years of the Indonesian Notary Association: The Identity of Indonesian Notaries Past, Present, and in the Future, Ed. Anke Dwi Saputro, 2008, PT. Gramedia Pustaka, Jakarta, p. 40

¹¹ Shidqi Noer Salsa, 2020, *Hukum Pengawasan Notaris di Indonesia dan Belanda*, Kencana, Jakarta, p. 34

¹² Johannes Ibrahim Kosasih dan Hassanain Haykal, *Op.cit.*, p. 76

that a Notary is a public official authorized to make authentic deeds and has other authorities as referred to in this law or based on other laws.

Article 15 stipulates that:

- (1) "Notaries are authorized to make authentic Deeds regarding all actions, agreements, and stipulations required by laws and regulations and/or desired by interested parties to be stated in authentic Deeds, guarantee the certainty of the date of making the Deed, keep the Deed, provide Grosse, copies, and quotations of the Deed, all of which are as long as the making of the Deed is not assigned or excluded to other officials or other people stipulated by law.
- (2) In addition to the authority as referred to in paragraph (1), a Notary is also authorized to:
 1. ratify the signature and determine the certainty of the date of the letter under the hand by registering it in a special book;
 2. to record a letter under the hand by registering in a special book;
 3. make a copy of the original underhand letter in the form of a copy containing the description as written and described in the letter concerned;
 4. validate the compatibility of the photocopy with the original letter;
 5. provide legal counseling in connection with the making of the Deed;
 6. make a deed related to land; or
 7. make a deed of auction minutes.
- (3) In addition to the authority as referred to in paragraph (1) and paragraph (2), a Notary has other powers as regulated in the laws and regulations".

The word notary itself comes from the words notarius and notariul which means people who carry out writing work. While the word notariat comes from the Latin word notariaat. In Roman times, it was given to people who did writing work. The term notary actually comes from the word "notarius" in accordance with the name of his service, namely notary which existed in Roman times. This name is meant to denote a class of people who do a certain form of writing. Another opinion states that the term notary comes from the word notaliteraria, which means a sign or character (letter mark) which states a word.¹³ The explanations of Article 1 point 1 and Article 15 paragraph (1) have been stated quite clearly. Elucidation of Article 15 paragraph (3) states that what is meant by other authorities regulated in laws and regulations, among others, are the authority to certify transactions conducted electronically (cyber notary), make waqf pledge deeds, and aircraft mortgages.

A notary is a public official who is only authorized to make an authentic deed regarding all actions, agreements, and stipulations required by general regulation or by those who are interested in it being stated in an authentic deed, guaranteeing the certainty of the date, keeping the deed and providing Grosse, copies and the quote, all of which are as long as the making of the deed is not assigned or excluded to other officials or people.¹⁴ The authority of a Notary has been determined by the UUJN as mentioned above, especially in making a deed, namely for legal acts or actions ordered by:¹⁵

- a. Laws/statutory regulations or
- b. The parties themselves who come before the Notary are desired in the form of a Notary deed.

As with the authority of a Notary in making a deed, it is not possible for a Notary to make a deed based on his will, everything has been regulated based on the UUJN. During the process of making the deed, what the Notary should do is introduce the identity of the appeared, carefully verify the data of the subject and object of the appeared, give a grace period in the processing of the deed, act carefully, carefully and thoroughly in the process of working on the deed, comply with all techniques. the requirements for making a deed, things like this should be carried out by a Notary so that later a Notary can prevent legal problems from arising against an authentic deed he makes in the future.

The author also argues and comments on one of the results of his interview with a Notary in Maros Regency, who is also a Member of the Regional Supervisory Council, regarding the obedience of a Notary in making a deed, it must be seen from 3 processes, where the first process is the process before entering into the making of the deed. itself. The second process is the process when the deed is made. Then the third is the process that a Notary must continue to pay attention to after the deed is completed.

¹³ R. Soegondo Notodisoerjo, 1993, *Hukum Notariat di Indonesia (Suatu Penjelasan)*, Raja Grafindo Persada, Jakarta, p. 13

¹⁴ Lumban Tobing, 1999, *Peraturan Jabatan Notaris*, Penerbit Erlangga, Jakarta, p. 30

¹⁵ Habib Adjie dan Rusdianto Sesung, 2020, Tafsir, *Penjelasan dan Komentar atas Undang-Undang Jabatan Notaris*, PT. Refika Aditama, Bandung, p. 173

In the first stage, before the deed is made, the Notary must first know and understand the intent and purpose as well as the will of the parties or appearers, examine the documents related to the making of the deed, provide legal counseling regarding the deed to be made, ensure that the parties or appearers is a person who is capable and authorized to carry out the legal act.

A Notary must have knowledge, integrity, and professionalism. Notaries must understand all legal actions desired by the appearers. Having the ability and knowledge in the field of law, when the Notary does not understand the legal actions desired by the appearers, the Notary does not understand the knowledge that must be stated in the deed. If the Notary has the ability in terms of legal actions desired by the appearers, it will minimize the risk of losses and disputes that will be experienced by the appearers or the Notary himself.

The appearers have fulfilled all the formal requirements, so it is sufficient to become the basis for the notary to carry out the legal actions desired by the appearers. Notaries are not burdened with finding the truth materially, but when there are doubts and oddities from the documents that are a requirement for the making of the deed of the appearers. So the Notary should seek material truth on the documents appearing before. If there are doubts and errors in the documents of the appearers, the Notary should refuse to make an authentic deed, so as not to become a dispute in the future.

Achmad Ali argues that among legal practitioners, there is a tendency to always see the judicial system as merely a legal institution, which is full of normative content, followed by a number of judicial principles which are very ideal and normative, which in reality are completely different. with the use of moral studies and legal studies (normative).¹⁶ One of the Notaries in Gowa Regency is of the opinion that Notaries must be careful in recognizing the appearers starting from providing legal counseling and legal education to the appearers. Expressing the wishes of the appearers in an authentic deed, in making the deed it must not conflict with the applicable rules, all requirements must be met by the appearers, then they must be investigated, examined, and checked with the relevant agencies. Checking documents directly online to the government agency system. As in the case of checking Resident Identity Cards through the online system of the Population and Civil Registry Office. Asking and directly matching the correctness of biodata, such as the date and address on the Identity Card to the appearers. This method is one that can be done by a Notary in getting to know the appearers who come to him. It is not the duty of the Notary to ensure the material truth of the data submitted by the appearer. However, it does not mean that the Notary does not take precautionary measures to avoid negligence. If the person facing you is not the appropriate person on the Identity Card, it will be seen physically and in behavior that can be seen immediately there are irregularities and differences. A Notary must be able to recognize this.

In the second stage, namely at the time of making the deed. The notary is obliged to read the deed, explain the main and important matters regarding the contents of the deed, ensure that the minutes of the deed are signed by the appearer/appearers before the witness and the notary and the appearers/appearances affix their fingerprints, and at that time the witness and the notary signed the minutes of deed.

The Maros district notary and also a Member of the MPD also believes that, the use of fingerprints in the face also needs to be considered, which is attached to the minutes of the deed as stated in Article 16 paragraph (1) letter c of the UUJN has the intention of avoiding denials regarding attendance and signatures. made by the plaintiff. If this fingerprint is not present, the deed does not lose its authenticity. Because it is not part of the minutes of the deed, this fingerprint sheet is separate from the minutes of the deed and is only a supporting document. Although it does not result in the deed, it is natural for the Notary to continue to carry out the mandate of the law because the Notary is a public official who has been sworn in to comply with the provisions of the UUJN and the Notary Code of Ethics.

Some Notaries also argue, although ensuring the correctness of the identity of the appearers who come before a Notary is not the duty of a Notary, but a Notary still needs to check the identity shown or submitted to him. Notaries must be observant in checking and knowing the identity shown or submitted by the appearer is true. Likewise with other related documents according to the needs of the appearers who come before a Notary.

The author comments on this opinion, this is always contrary to the duties of a Notary's position which should be carried out in accordance with the UUJN. Practices in banking is one that often becomes a "boomerang" for Notaries in carrying out their duties. Where when carrying out the process of making the deed, there are several things that the Notary must pay attention to, as explained previously. However, based on the results of the author's research, under certain conditions, there are 5 (five) Notaries who answer that they usually do not read the deed in front of the parties due to certain

¹⁶ Achmad Ali, *Menguak Tabir Hukum*, Gunung Agung, Jakarta, 2002, p. 46

conditions, namely the appearers themselves have read the deed, in certain contracts the Notary concerned is only represented by staff, and the Notary only mentions certain points in the deed.

Reading the deed before an audience is closely related to the implementation of the engagement between the debtor and creditor which generally occurs in banking practice. Notaries often do not read the deed or the deed is read by Notary staff. The exception article for the reading of the notary deed is provided that the appearers have read it themselves, know it, and understand the contents of the deed made, but the article, it does not explain explicitly the role of the notary staff in reading the deed before the appearers, which then becomes the reason for the notary to did not read the deed before the public. Meanwhile, in the explanation of UUJN, in the explanation of Article 16 paragraph (1) letter (m) that the Notary must be physically present and sign the deed in front of the appearers and witnesses. Article 16 also explains that the exception is exempted from the reading of the head of the deed, comparison, explanation of the main deed briefly and clearly, and closing of the deed.

The reading of the deed has benefits not only for the participants but also for the Notary as a public official who is responsible for the authentic deed he makes. Muhammad Tiantanik Citra Mido, I Nyoman Nurjaya, and Rachmad safat in their research describe that there are several benefits from reading the deed by a Notary, including Notaries still having the opportunity to correct mistakes that were previously unseen. The reading of the deed is the last possibility for a Notary to check the deed that has been made. The reading of the deed gives the Notary and the appearers the opportunity at the last second before the deed is completed with the signatures of the appearers, witnesses, and the Notary to rethink in other words revise the contents of the agreement so that there are no problems in the future.¹⁷

CONCLUSION

In carrying out the duties of office, there are still Notaries who do not carry out the provisions as stipulated in the UUJN, the Notary Code of Ethics, and other laws and regulations. This is because the Notary in carrying out his position is still influenced by internal and external factors, so that due to his disobedience to the procedures and procedures for making the deed results in the degradation of the deed made or produced by the Notary.

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¹⁷ Johanes Ibrahim Kosasih dan Hassanain Haykal, *Op.Cit.*, p. 87