

Implications for the Power of Attorney to Sell Deed Made by a Notary Due to Inaccuracy

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Abstract

The role of a notary is crucial in facilitating legal certainty and protection for the community. In civil law, notaries hold a highly strategic position as their profession deals with fundamental and critical issues in every legal action, particularly within civil law. The public, both as subjects and objects of legal transactions, bear significant burdens regarding legal administration. Violations by notaries can be classified as breaches of professional ethics or breaches of the law, with consequences that may include civil liabilities (compensation), criminal penalties (imprisonment and fines), and administrative sanctions (dismissal from office). Every unlawful action causing harm to others must be accounted for by the perpetrator. In criminal law theory, offenses are categorized into intentional and negligent acts. Any action causing undue harm and violating the law constitutes an illegal act. This study analyzes the juridical implications of drafting a power of attorney for sale from normative and case-based perspectives. The research revealed that a notary's failure to conduct adequate checks on document legality for a Power of Attorney for Sale resulted in unlawful actions that harmed legitimate parties, leading to material losses.

Keywords: Notary, Power of Attorney for Sale, Juridical Implications

I. INTRODUCTION

Notary is a legal profession and therefore, the notary profession is considered a noble profession (*nobile officium*). Notary is called a noble profession because the notary profession is closely related to the humanitarian aspect. This is in accordance with Article 1 of Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN), which has been amended by Law Number 2 of 2014 which states that a notary is a public official who is authorized to make authentic deeds and other authorities as referred to in this law or based on other laws. This is also in accordance with the Code of Ethics made by the Indonesian Notary Association (here in after referred to as INI) which states that a notary is any person who holds and carries out the duties of a public official, as referred to in the UUJN.

A deed made by a notary can be the legal basis for a person's property status, rights, and obligations. Mistakes in making a deed by a notary can result in the loss of a person's rights or burden a person with an obligation, therefore a notary in carrying out his/her functions must comply with various provisions stipulated in the UUJN.¹The role of a notary is very important in helping to create legal certainty and protection for the community. In the field of civil law, a notary has a very strategic position because this profession is related to very basic and important issues in every legal action, especially in the field of civil law. The community, as the subject and object of every legal action, will be very burdened with legal administration matters. Documents related to the legal action to be taken may not be prepared correctly and in accordance with legal procedures if handled by people who are not experts and truly understand the field. Therefore, notaries are present and offer their services to help the community.²

¹Abdul Ghofur Anshori, Indonesian Notary Institution, (Yogyakarta: UII Press, 2010), p. 3

²Anugrah Yustica, Ngadino, Novira Maharani Sukma, "The Role of Notary Professional Ethics as an Effort to Enforce the Law", NOTARIUS, Vol.13 No.1, 2020

Specifically related to land, notaries have the authority to make authentic deeds related to land rights or Ownership Rights for Apartment Units, such as recognition of rights, granting of rights, transfer of rights and other actions related to these rights as stated in Article 15 paragraph (2) letter f UUJN.

In addition, notaries also have the authority to record private letters, validate signatures and date private letters, validate copies of private letters and other documents, provide information regarding facts, make extracts/copies of private deeds, legalize private deeds, provide other legal consultation services, and make auction minutes deeds as stated in Article 15 paragraph (2) letter gn UUJN.

All of these authorities are given to notaries with the aim of providing legal certainty, protecting the interests of the parties involved in the transaction, and maintaining the integrity of the legal system applicable in legal practice in Indonesia. In addition to these authorities, notaries may also have other authorities stipulated in other laws and regulations.³

However, notaries can also make mistakes or violations in carrying out their duties. Notaries who are proven to have violated the obligations and prohibitions stipulated in Articles 16 and 17 of the UUJN can be subject to sanctions ranging from civil, administrative, code of ethics, to criminal sanctions.⁴For example, in making a power of attorney to sell, carelessness in verifying the validity and completeness of the documents can result in losses for the related parties and give rise to legal problems.⁵

Violations in the notary's position are classified into violations of the Code of Professional Ethics and violations of the law, and the responsibilities can be in the form of civil (compensation), criminal (imprisonment and fines), and administrative (dismissal from office). Every act that is against the law and harms others must be accounted for by the perpetrator. In the theory of error, criminal law recognizes two types of errors, namely intentional and negligent. And actions that harm others improperly and against the law are unlawful acts. The influence of the role of a notary can be positive and negative. This negative impact will damage the credibility of the community towards the notary profession and the legal world in this country, especially in the relationship of interests between one person and another or with a group of people.

The Code of Ethics, hereinafter referred to as the code of ethics, is a collection of moral rules established by the Indonesian Notary Association, which will be referred to as the "Association", based on the decision of the Association Congress and/or as determined by and regulated in the laws and regulations governing such matters and applies to and must be obeyed by each and all members of the Association and all persons who carry out the duties of a Notary, including Temporary Notary Officials, Substitute Notaries and Special Substitute Notaries.⁶

Thus, a notary in carrying out his duties is required to act honestly and fairly for all parties, not only for his personal interests, but also for the interests of the community, and has an obligation to ensure the truth of the deeds he makes. Therefore, in carrying out his duties, a notary must be under the supervision of a neutral and independent institution. The purpose of supervision of Notaries is so that notaries truly meet the requirements and carry out their duties in accordance with applicable laws and regulations and the Notary Code of Ethics for the sake of safeguarding the interests of the general public. The purpose of creating a code of ethics, in this case the Code of Ethics, is basically to maintain the honor and dignity of the Notary's position.⁷However, in fact there are still notaries who are negligent in carrying out their authority. This is as seen in the Denpasar District Court Decision Number 196/Pid.B/2019/PN Dps, where a notary named Ketut Neli Asih, SH was tried for committing the crime of "Intentionally Providing Opportunity or Means in a Criminal Act of Fraud" because he had provided an opportunity, means or information for another person to be able to carry out an act intentionally and unlawfully owning something that is wholly or partly owned by another person. The defendant, a Notary and PPAT, received a visit from Witness Sugiartini on August 8, 2014, to make a sale and purchase agreement between Gunawan Priambodo and the victim, which eventually changed to a Deed of Power of Attorney to Sell. Payment was made through the elimination of the victim's receivables to Gunawan Priambodo. The defendant did not verify the legality of the PPJB and the Deed of Power of Attorney that had been revoked and did not inform the victim about the division of the certificate.

On August 13, 2014, Sugiart took back the HGB Certificate No: 7062 from the Defendant's office, which was to be divided by Gunawan Priambodo. On September 4, 2014, the Defendant made a Deed of Power of Attorney to Sell without checking the PPJB and the previous Deed of Power of Attorney. The victim then did not receive the promised certificate and reported the Defendant to the police.

³*Ibid*

⁴Putri AR, Legal Protection for Notaries; (Indicators of Notary's Job Duties that Have Criminal Implications); (Jakarta: PT. Softmedia, 2011), p. 3

⁵Fikri Ariesta Rahman, "Implementation of the Notary's Principle of Caution in Recognizing Applicants", *Lex Renaissance Journal*, No. 2 Vol. 3, 2018, accessed from: https://journal.uii.ac.id/Lex-Renaissance/article/download/13611/pdf/31813?_cf_chl_tk=7Aes4y4Un9yX5MWTAAi66jHdbmPdpn.kjsetK_tyfzE-1720091036-0.0.1.1-4223 on July 4, 2024, at 6:05 p.m.

⁶Changes to the Notary Code of Ethics of the Extraordinary Congress of the Indonesian Notaries Association, Banten, 29-30 May 2015.

⁷Abdul Gofhur Anshori, Indonesian Notary Institution, Legal and Ethical Perspectives, (Yogyakarta: UII Press, 2009), p. 48.

Denpasar District Court in Decision No. 196/Pid.B/2019/PN Dps declared the Defendant guilty of fraud and sentenced him to 1 year and 4 months in prison. The Defendant appealed, and the Denpasar High Court (Decision No. 27/Pid/2019/PTDPS) revised the sentence but upheld the guilty verdict. The Defendant then filed a judicial review.

In the Supreme Court Decision No. 20 PK/Pid/2020, it was found that the Defendant's mistake was negligence in checking the legality of the document and providing information without adequate checking. However, the Supreme Court decided that the action did not constitute a crime, considering that the Notary does not have investigative authority like the police. The Supreme Court overturned the Denpasar High Court's decision and stated that even though the Defendant committed the alleged act, it did not constitute a crime.

The problem in this case is related to the notary's responsibility to check the legality of documents and provide convincing information, and how the law views the role and authority of a notary. In criminal law, an act can be declared negligence if the perpetrator knows or should have known that his actions could cause harm, but still does it. In the case of a notary, determining whether or not there was negligence can be complicated, because many aspects of a notary's work are related to legal interpretation and subjective judgment. A notary is tasked with making deeds containing statements from interested parties. Notaries do not have the authority to conduct in-depth investigations like law enforcement officers. If a notary is subject to criminal penalties for negligence in checking the legality of documents or other facts, this could raise questions about the extent of the notary's authority and responsibility.

The imposition of criminal penalties on notaries for negligence may raise concerns among notaries about the risk of criminal penalties in carrying out their duties. This may impact the way notaries carry out their duties and ultimately affect the quality and efficiency of the services they provide to the public. In criminal law, sanctions or penalties must be proportionate to the error committed. If a notary is subject to criminal penalties for negligence in carrying out his duties, the question of the proportionality of the penalty may arise.

II. LITERATURE REVIEW

Definition of Power of Attorney to Sell

A power of attorney to sell is a legal document that authorizes an individual (the principal) to sell property on behalf of another party (the principal). It is an important legal instrument in property transactions. Explains the elements that must be included in a power of attorney to sell, such as the identities of the parties, the object represented, and the limitations of the power.

Role and Obligations of Notaries

A notary acts as a legal official who creates and validates deeds, ensuring the validity and legal compliance of documents. It is the notary's responsibility to draft deeds that are accurate and meet legal requirements. This includes ensuring that all information is correct, and that proper procedures are followed.

Contract Theory

According to contract theory, a power of attorney to sell is a legal agreement that must meet the requirements for a valid contract, such as agreement, capacity, and clear object. Explains how the validity of a contract can be affected by inaccuracy in the making of the deed.

Notarial Deed Theory

Deeds made by a notary are considered authentic and have higher evidentiary power compared to private deeds. Notaries have an obligation to ensure that the deeds they make are free from legal defects, in accordance with the provisions of the law and professional ethics.

Validity of Deeds and Legal Impact

Inaccuracies in the deed of power of attorney to sell can cause the deed to be considered invalid or null and void. This has an impact on the validity of property transactions carried out based on the deed. Legal implications include potential disputes between the parties involved, and the possibility of cancellation or change of the transaction.

Rights and Obligations of the Related Parties

Inaccuracies can affect the rights and obligations of both parties in a sales power relationship. Buyers and other third parties may not get the expected legal protection if the power of attorney deed is defective.

Professional Responsibilities of Notaries

The theory of the standards of professionalism and ethics that must be adhered to by a notary, including the obligation to ensure the accuracy and legal compliance of the deed. How a notary can be held accountable for negligence in making a deed, both civilly and criminally.

Law Enforcement and Related Cases

Law enforcement against notaries who are negligent in making deeds, including complaint mechanisms and sanctions applied. A study of relevant legal cases where notaries are considered negligent and their impact on deeds of power of attorney to sell.

Preventive Measures

Recommendations on the importance of good training for notaries and a monitoring system to reduce the possibility of negligence. Preparation and implementation of strict standard operating procedures for the preparation of power of attorney to sell.

Legal Reform

Proposed reform of laws and regulations related to the creation of power of attorney to sell to improve legal certainty and protection for the parties involved. Recommendations for policies that can improve legal protection for third parties in property transactions.

Introduction to the Power of Attorney to Sell Deed and the Role of the Notary:

A power of attorney to sell is a legal document that authorizes a person to sell property on behalf of the owner. A notary plays an important role in the preparation of this deed by ensuring that the document meets the legal requirements and that all parties involved understand and agree to the contents of the document. Negligence or inaccuracy in the preparation of the deed by a notary can result in various legal implications:

- **Legal Certainty and Validity of Deeds:** If the power of attorney to sell is not prepared properly, disputes may arise regarding the validity of the transaction. Inaccuracies in information or procedures may cause the transaction to be considered invalid, which can be detrimental to the parties involved.
- **Third Party Interests:** In many cases, third parties such as buyers or creditors may be involved. If the power of attorney is defective, third parties may not get the legal protection they expect, and they may get caught up in legal disputes.
- **Notary Responsibilities:** Notaries have a professional responsibility to ensure that the documents they create are in accordance with applicable laws. If there is negligence or error in the deed, the notary can be held liable, either civilly or criminally, depending on the laws in force in the country.

Related Literature and Research:

- **Case Studies and Jurisprudential Analysis:** Much of the legal literature discusses case studies in which notary negligence affects the validity of a power of attorney to sell. These studies often evaluate how courts handle such cases and their impact on notarial practice.
- **Notary Legal Theory and Ethics:** Books and articles discussing notary professional ethics and contract law theory can provide insight into notary obligations and the consequences of negligence. For example, literature on professional responsibility often outlines the standards and obligations that notaries must meet.
- **Related Regulations and Laws:** The laws governing notarial practice and the making of deeds of power of attorney provide an important legal framework. Reading the applicable laws, such as the Notary Acts of various countries, can help understand the legal standards that notaries must follow.

III. METHOD

This research is a normative research and the nature of this research is descriptive analytical. Descriptive analytical is to describe the object being studied through data or samples that have been collected.⁸This study uses a statute approach and a case approach. The statute approach is carried out by examining all laws and regulations related to the legal issue being handled. The statute approach in normative legal research has both practical and academic uses. For research for practical activities, this statute approach will open up opportunities for researchers to study whether there is consistency and conformity between a law and another law or between a law and a constitution or regulation and a law. The results of this study are an argument to solve the issue at hand.⁹The nature of the research conducted is legal research using normative legal methods, which involves examining library or secondary materials to analyze cases.

IV. RESULTS AND DISCUSSION

Authorities and Obligations for Notaries and Prohibitions and Responsibilities for Notaries in Carrying Out Their Duties

Notaries as Public Officials have the authority as regulated in Article 15 of the Notary Law Number 2 of 2014, namely as follows: 1) A notary is authorized to make authentic deeds regarding all acts, agreements and determinations required by laws and/or which are desired by the interested party to be stated in an authentic deed, guarantee the certainty of the date of making the deed, store the deed, provide a grosse, copy and extract of the deed, all of which as long as the making of the deed is not also assigned or excluded to another official or other person as determined by law.

The legal product of a Notary is an authentic deed in the form of a Notarial deed, which is only made by a Notary and not all public officials have such authority, unless it is expressly excluded from and becomes the authority of another official or by General Regulations, it is also emphasized that the authority to do so (make an authentic deed) is given to another official. An authentic deed basically records the formal truth according to the information submitted by the parties to the Notary. However, the Notary has an obligation to ensure that the contents of the deed are truly understood and in accordance with the wishes of the parties. This is done by reading the deed so that its contents are clear. In addition, the Notary must provide access to information, including relevant laws and regulations, to the parties who sign the deed. In carrying out his duties, the Notary must act impartially and independently (unpartiality and Independency).¹⁰

Another form of Notary legal product is a Deed of Power of Attorney to Sell where in the Sale and Purchase Agreement and Deed of Power of Attorney to Sell are terms used in the sale and purchase transaction process, especially in the case of land or immovable property. Although both are agreements, both have different legal consequences. In the case of an Authentic Deed, Article 1870 of the Civil Code states that a deed made before a Notary has absolute evidentiary power, "An Authentic Deed provides irrefutable evidence between the parties involved and their heirs, or parties who receive rights from them, regarding the contents contained therein."

The granting of power of attorney, as regulated in Article 1792 BW, refers to an agreement in which a person gives authority to another individual to carry out an action on behalf of the person giving the power of attorney. In other terms, a grant of power of attorney is an agreement in which a person gives authority to another individual to act on his behalf in carrying out an affair. Based on Article 1792 BW, there are four elements that must be fulfilled in granting a power of attorney: (1) there is an agreement between the person giving the power of attorney and the recipient of the power of attorney; (2) clear identity of the power of attorney and recipient of the power of attorney; (3) the content of the power is in the form of granting power to another individual; (4) the purpose of granting the power of attorney is to carry out a legal action on behalf of the person giving the power of attorney.

Based on the elements above, it can be concluded that the relationship between the principal and the principal is similar to the relationship between a superior and a subordinate. The principal is an individual who has absolute legal authority over the tasks given to the principal, while the principal is responsible for carrying out the tasks of the principal. The principal provides or assigns a representative to the principal to take care of the interests of the principal in accordance with the functions and authorities stipulated in the power of attorney. The principal has full authority to act on behalf of the principal towards third parties on behalf of the principal. The principal is also fully responsible for all actions taken by the principal, as long as the actions do not exceed the authority granted by the principal as stated in the power of attorney.¹¹

⁸Sugiyono, *Qualitative Quantitative Research Methods and R&D*, (Bandung: Alfabeta, 2009), p. 29.

⁹Amiruddin, Zainal Asikin, *Introduction to Legal Research Methods*, (Depok: Rajawali Pers, 2018), p. 164.

¹⁰Herlin Budiono, *Collection of Civil Law Writings in the Notary Sector*, (Bandung: Citra Aditya Bakti, 2007), p. 22.

¹¹Raskita JF Surbakti, "Legal Analysis of the Use of Power of Attorney That Exceeds Its Purpose (Study of the Decision of the Supreme Court of the Republic of Indonesia Number 1189K/PDT/2017 and the Decision of the Cibinong District Court Number 104//PDT.G/2012/PN. CBN)", *Journal of the Master of Law Postgraduate Program, HKBP Nommensen University*, Vol. 03 No.01, 2022, accessed from: <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://ejournal.uhn.ac.id/index.php/opinion/article/download/414/640/4169&ved=2ahUKEwig3JOvoY2HAXVCwzGHaLKCCkQFnoECAUQAO&usq=AOvVaw2Ljqa8V6WRxxUGiqWNd> th

on July 4, 2024 at 18.17 WIB

A deed of power of attorney to sell is an absolute power of attorney, namely a power of attorney to sell that cannot be revoked (onherroepelijk), which is a form of legal discovery by a Notary as an effort to provide legal certainty, namely an initial measure of security/protection for buyers who have paid in full for a land object.¹²

A power of attorney to sell, in essence, functions as an agreement or deed under hand that aims to protect the buyer's position and facilitate the Notary's task if the seller is no longer able to attend or faces obstacles in signing the deed of sale and purchase. In this context, a power of attorney to sell is an agreement between the seller and the buyer regarding the price and object of the sale and purchase agreement, which is usually land and/or buildings. With the agreement on the object of the agreement and the payment of the price by the buyer to the seller, as well as the handover of the object to the buyer, all elements of the sale and purchase are fulfilled, allowing the Notary to replace the pre-sale and purchase agreement (PPJB) with a Notary's statement and power of attorney to sell.¹³ With the existence of a power of attorney to sell, the principal has the authority to carry out the tasks given by the principal. However, the principal must ensure that his actions do not exceed the limits set by the principal. Because basically, the actions of the principal are a representation of the principal, the principal has the right to file a direct lawsuit and sue the third party with whom the principal has interacted in his capacity, to ensure that the related agreement is fulfilled in accordance with the provisions that have been set.

Criminal Acts of Fraud in the Making of Deeds by Notaries and Unlawful Acts

According to M. Sudrajat Bassar, fraud is a form of tweeting, "the general nature of the act of tweeting is that people are made to be mistaken, and therefore they are willing to hand over their goods or money."¹⁴ The core parts of the crime (delicts bestand delen) of fraud are:

- a. With the intention of benefiting oneself or others,
- b. Unlawfully,
- c. By using a false name or false dignity, by deception, or by a series of false statements,
- d. Moving others,

To hand over an item to him or to give a loan or write off a receivable. In Article 1365 of the Civil Code, what is meant by an unlawful act is an unlawful act committed by a person who, due to his fault, has caused harm to another person. Legal science recognizes 3 (three) categories of unlawful acts, namely:

- a. Unlawful acts due to intent;
- b. Unlawful acts without fault (without elements of intent or negligence);
- c. An unlawful act due to negligence.¹⁵

Thus, any act that violates, whether intentionally or unintentionally, is still considered a violation. This means that the elements of intent and negligence have been fulfilled. In this case, the notary in question, Ketut Neli Asih, committed an act that was considered to be careless in the process of making the deed. The defendant, a notary, had made a Deed of Power of Attorney to Sell a plot of Paradise Loft land based on Gunawan Priambodo's request, without carefully checking the legality of the documents that were the basis for the transaction, such as the PPJB (Sales and Purchase Agreement) and the status of the land certificate.

The Supreme Court considered that a notary has an obligation to ensure that all documents used in the notarial deed making process are valid and in accordance with the law. In this case, the notary did not conduct adequate checks on the validity of the documents, such as not verifying the existence of the original certificate and the status of the PPJB that was still valid. This notary's careless actions allowed Gunawan Priambodo to commit unlawful acts, namely selling land that was not partly or wholly his and using the Deed of Power of Attorney to Sell for purposes that were not in accordance with the law.

Notaries should exercise their authority carefully and cautiously, but in this case, the notary did not meet these standards. This caused losses to the aggrieved party because they believed that the transaction carried out through the

¹²Yosita Erva Yantia, Agus Trisaka, "Transfer of Land Rights Using Absolute Power of Attorney: Follow-up to Land Sale and Purchase Agreement", Repertorium: Scientific Journal of Notary Law, Vol.12 No.2, 2023, accessed from: <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=http://journal.fh.unsri.ac.id/index.php/repertorium/article/download/3335/717&ved=2ahUKEwizvdfCoY2HAXWZzDgGHW6SCdkQFnoECBgQAO&usg=AOvVaw0qoFy5Him6BgfFCdmBHdiV> on July 4, 2024 at 18.18 WIB

¹³Moch. Syamsudin, Dwi Nensy Permata Soeyoto, "Notary's Authority Regarding the Deed of Power of Attorney for Sale as a Follow-up in the Sale and Purchase Agreement", Salam: Jurnal Sosial dan Budaya Syar-i, Vol. 9 No. 3, 2022, accessed from: https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://journal.uinjkt.ac.id/index.php/salam/article/view/26167&ved=2ahUKEwiFzszRoY2HAXUAYzgGHSHAC6EQFnoECBMQAO&usg=AOvVaw0PP15U5KESHsb_qZuRyjV4v on July 4, 2024 at 18.18 WIB

¹⁴Sudrajat Bassar, Criminal Acts in the Criminal Code, (Jakarta: CV. Remaja Karya, 1986), p. 78.

¹⁵Munir Fuady, Unlawful Acts, (Bandung: Citra Aditya Bakti, 2002), p.3

Deed of Power of Attorney to Sell was valid and binding. The Supreme Court ultimately ruled that the notary was legally responsible for the losses incurred as a result of his careless actions in making the Deed of Power of Attorney to Sell.

In the case raised by the author, the Defendant as a Notary has the responsibility to ensure the legality of the documents that form the basis of the agreement made in his office. The responsibility of a Notary to ensure the legality of the documents that form the basis of the agreement can be found in Article 43 paragraph (1) of the UUJN which states:

"Notaries are required to: Article (1) Ensure that the deed he makes meets formal and material requirements, and does not conflict with laws and regulations."

The defendant is suspected of not conducting adequate checks on the legality of documents such as the PPJB and the Deed of Power of Attorney to Sell, which ultimately made it easier for Gunawan Priambodo to commit unlawful acts. As a notary, the defendant has clear legal responsibilities, which are regulated in applicable laws and regulations. A notary is legally responsible for ensuring the truth and validity of every legal document signed or in which he is involved in the process. The legal basis is contained in Article 1868 of the Civil Code which states that a notary is responsible for knowing that the documents made, signed, or authorized are true and valid.

Notaries have an obligation to conduct a thorough examination of the identities of the parties involved in a legal transaction and verify their legal capacity as stated in Article 16 of the UUJN which confirms the obligation of notaries to ensure that the parties involved in the transaction have sufficient legal capacity.

Notaries are also required to provide clear, accurate, and comprehensive information to parties involved in legal transactions as regulated in Article 29 of the UUJN which states that notaries must provide a clear explanation of the legal consequences of documents signed or approved. And notaries have an obligation to prevent criminal acts, such as fraud or embezzlement, in transactions that they facilitate in accordance with Article 10 of the UUJN which states that notaries are required to protect public interests and not use their position for personal or group interests.

In addition to formal legal obligations, there is a principle of good faith that applies in civil transactions. Notaries or PPATs are expected to act in good faith in checking the documents they handle, to prevent unlawful acts by irresponsible parties.

The principle of good faith is stated in Article 1338 of the Civil Code which reads:

"All agreements made in accordance with the law apply as law for those who make them. This agreement cannot be withdrawn except by agreement of both parties, or for reasons determined by law. Agreements must be carried out in good faith."

When viewed from the provisions of the article, good faith is a principle that must be fulfilled by the parties agreeing in the agreement. The definition of good faith has 2 (two) meanings, namely:

- 1) The objective meaning is that the agreement made must be implemented with due regard to norms of propriety and morality.
- 2) Subjective meaning, namely the meaning of good faith which lies in a person's inner attitude.

The purpose of implementing an agreement in good faith is that the parties to the agreement have an obligation not to do anything that is unreasonable, that is, not contrary to norms of propriety and morality, so that it can create justice for both parties and not harm either party.¹⁶ This principle shows that notaries have an obligation to ensure that all documents they handle meet legal requirements and do not conflict with applicable norms. Notaries or PPATs are expected to carry out their duties in good faith, namely with the intention of ensuring that all transactions they handle are carried out legally and in accordance with applicable legal regulations.

This legal basis confirms that a Notary has an obligation to ensure that every deed he makes must meet formal requirements and material requirements. These requirements include the validity and propriety of the documents that form the basis of agreements or transactions carried out in his office. Therefore, accuracy and caution in checking the legality of documents are part of a Notary's responsibility to prevent violations of the law or misuse of documents by irresponsible parties.¹⁷

Because the defendant in this case did not carefully check the legality of the documents, the defendant is required to be responsible for his actions. The defendant in this case has responsibility for his actions as a notary who did not fulfill his obligations carefully and cautiously. In the process, the defendant gave Gunawan Priambodo the opportunity to commit an unlawful act by not conducting adequate checks on the legality of the documents used in the property transaction. Due to his carelessness, the defendant did not inform the victim of important facts regarding the status of the land certificate used in the transaction. This resulted in the victim experiencing material losses of Rp. 11,673,500,000, -

¹⁶I Gede Krisna Wahyu Wijaya and Nyoman Satyayudha Dananjaya, "Implementation of the Principle of Good Faith in Online Sales and Purchase Agreements", Kertha Semaya: Journal of Legal Studies, Vol. 6 No. 8, 2018, Accessed from: <https://www.google.com/url?sa=t&source=web&rct=j&opi=89978449&url=https://ojs.unud.ac.id/index.php/kerthasemaya/article/download/37212/22525&ved=2ahUKewilkJ2jjI2HAXXEUGwGHa2HDmUQFnoECBIQAQ&usq=AOvVaw3D1uol2psg-IIOh-6Eeg9> on July 4, 2024 at 16.44 WIB

because he could not return or collect the payments that had been made. As a notary, the defendant has a moral and legal responsibility to ensure that all transactions facilitated comply with the law and do not harm other parties.

The legal consequences received by the Defendant for not being careful in carrying out his obligations based on the Denpasar District Court Decision Number 196/PID.B/2019/PN DPS are imprisonment for 1 year and 4 months. The Defendant must pay court costs of Rp. 2,000. The entire period of arrest and detention that the Defendant has served is deducted from the sentence imposed. The Defendant is declared to remain in detention. Meanwhile, the legal consequences based on the Denpasar High Court Decision Number 27/PID/2019/PT DPS are to strengthen the decision of the Denpasar District Court. The appeal filed by the Defendant was not granted, so the District Court decision remains in effect.

V. CONCLUSIONS

The legal responsibility of a notary in making a deed of power of attorney to sell can be seen from the Defendant, a notary, who was convicted for not conducting adequate checks on the legality of documents such as PPJB and the status of the land certificate in making the Deed of Power of Attorney to Sell. This resulted in an unlawful act that was detrimental to the legitimate party, and caused significant material losses. The Supreme Court's decision confirms that a notary has an obligation to ensure the validity of the documents used in every transaction he handles, and failure in this regard can result in serious legal consequences for the notary concerned. The conclusion of the research on the implications of the power of attorney to sell made by a notary due to carelessness usually involves several important aspects. Here are some key points that are often found in this kind of research:

1. **Validity of Power of Attorney to Sell:** Inaccuracy in making a deed of power of attorney to sell by a notary can affect the validity and legality of the deed. If the notary does not carefully check the identities of the parties involved or the applicable legal provisions, the deed may not meet the legal requirements.
2. **Legal Risks for Related Parties:** Parties involved in a transaction using a defective power of attorney to sell may face legal risks. This includes potential disputes regarding ownership or rights to the goods sold, as well as potential lawsuits from parties who feel aggrieved.
3. **Notary Responsibilities:** Notaries have a responsibility to ensure that the deeds they create are in accordance with applicable law and accurately reflect the wishes of the parties concerned. Carelessness or negligence in this regard can result in legal liability for the notary, including the possibility of a claim for damages from the injured party.
4. **Impact on Public Trust:** Carelessness in the making of deeds by notaries can reduce public trust in the notary profession. This trust is important because notaries play a key role in ensuring the validity of legal documents and transactions.
5. **Corrective and Preventive Efforts:** To prevent similar problems in the future, there needs to be an effort to improve notary practices, such as additional training and stricter supervision. In addition, improving the monitoring and evaluation system for the quality of notary work can help reduce the possibility of inaccuracy.

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