



Legal Protection for Notaries After Retirement to the Deed They Have Made

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ABSTRACT

According to the Notary Position Law, notaries are public servants with a duty to execute genuine deeds and other powers. The Notary is responsible and can be held fully accountable for every authentic deed that he makes even though has retired, this has been explained in Article 65 of Law Number 30 of 2004 concerning the Notary Position. Retired notaries are exempt from Article 66, it only applies to notaries who are currently in office. The absence of legal protection for retired Notaries causes a legal vacuum. This study applies the legal protection theory to a particular kind of normative juridical legal research, which looks at laws and regulations that are relevant to or applied to particular issues. The result of this study is that there is a legal void in the absence of rules that protect Notaries from deeds that they have made after retirement.

INTRODUCTION

The legal profession in the development of society in Indonesia is indispensable as the needs of the community increase, especially in the field of law. To be able to assist the community, particularly in the legal field, of course, special expertise is needed. A notary must have special expertise in the field of law so that it can help the community to prevent a legal problem from occurring. One of the legal professions in Indonesia is notary (Qohari, 2022).

According to Law Number 30 of 2004 regulating the Notary Position or other legislation, a notary is a public official with the power to create valid deeds and other powers. The Notary Position Law regulates everything regarding the responsibilities and legal protection of a notary. Notaries have a professional responsibility for the mandate they carry out in order to enforce laws that concern the interests of society in general. The role of the notary is in place in society in accordance with the will of the rule of law in the form of the state as an implementation of the state's services to the community with the goal of helping the community provide genuine written evidence about events, circumstances, and legal acts that is acknowledged by the state (Lotulung, 2003).

The responsibility of notaries related to the legal profession cannot be separated from the opinion that in carrying out their positions cannot be separated from the majesty of the law itself, so notaries are expected to act to reflect it in their service to the community. A notary must always carry out his responsibilities and positions with the utmost integrity, independence, impartiality, and trust in order to genuinely execute his authority (Ahmadi, 2000).

Notaries are appointed and dismissed by the Minister states in Article 2 of UUJN Number 30 of 2004. Notaries when carrying out their positions, in order to perform their duties, notaries must always abide by the notary's oath of office as well as the laws and rules that form the foundation of, enforce, and apply the notary code of ethics (Putri et al., 2016).

Notaries as public officials in carrying out their professions and positions have obligations determined by the Law to provide legal protection and clarity and must provide legal services to the community. All acts related to the notary position have been regulated in the Notary Office Law, one of which is the authentic act. Notary authentic deed is covered by all acts, agreements, and clauses mandated by laws and regulations. In addition, notaries also have the authority to conduct counseling related to the making of deeds and have responsibilities as holders of positions that have been stated in the Notary Position Law.

The responsibility of a notary for the deed he makes is stated in Article 65 of UUJN Number 30 of 2004, while the term of office of a notary is up to the age of 65 years and can extend the term of office for 2 years by considering the health of the person concerned, listed in Article 8 paragraph (1) letter b and paragraph (2) of UUJN Number 2 of 2014 / The provision explains that Article 8 of UUJN Number 30 of 2004 junction Article 65 of UUJN Number 2 of 2014

that Notaries who have retired still have to be responsible for all the deeds they make.

LITERATURE REVIEW

Article 66 paragraph (1) of UUJN Number 2 of 2014 explains that the taking of the deed and the summoning of a notary for examination, must obtain approval from the Notary Honorary Assembly. In order to provide legal protection to notaries who are still in office, this provision applies to them. The notary honorary council does not provide legal production to retiring notaries, while retired notaries must remain responsible for the deeds, they make in accordance with the explanation of Article 65 of UUJN Number 2 of 2014, but there is no legal protection against them.

Based on the description mentioned above, the author is interested in conducting a more in-depth study related to the legal safeguard that retired notaries have again the actions, they have made because it creates a legal void for retired notaries.

METHODOLOGY

This legal research uses a normative juridical research method. Normative juridical research, which is research conducted on how to research literature or secondary data as foundational research resources by searching for laws and literature pertaining to the issue under investigation using the conceptual method and the laws and regulations technique. According to Peter Mahmud Marzuki, applying rules or norms in positive laws is the main topic of the issues brought up, examined, and detailed in this work (Marzuki, 2010).

This research uses primary, secondary and tertiary legal materials that are processed using qualitative research, namely legal materials obtained, then compiled in a systematic, thorough and complete and integrated manner to achieve clarity of the community to be discussed contained in a Regulation, identifying legal materials related to the research (Soekanto, 1984).

RESULTS AND DISCUSSION

Notaries in making deeds must be in accordance with the provisions of applicable laws and regulations to avoid problems that will occur when the notary has retired, because in essence a notary is a public official who has limitations, authority and responsibility for all deeds that he has ever made. Any agreement or contract that is legally entered into is valid as a Law (law) for those who make it, meaning that it has the force to comply with what is contained in the agreement (Sudaryat, 2008).

Notaries must have integrity and morals that are directly tied to ethics and responsibility, when notaries do not have excellent ethics and responsibility, notaries are not considered to have good integrity and morality. Theoretically and practically, a notary must be morally upright and accountable for the actions he takes, even after his tenure is over.

Notaries have responsibilities that are originated as a consequence of the community's power. Authority is a legal act that is granted to a position in

accordance with the rules and regulations that are relevant to that position. The responsibility owned by the notary follows the Javanese responsibility principles, which is founded on the error principle. Principles based on mistakes comprise the presence of actions, the presence of error-related components, the existence of losses incurred, and the existence of a causal link between errors and losses. These offences are elements that are contrary to laws and regulations. Notaries actions that directly violate the law as well as other regulations are considered violations of the law (Adjie, 2009).

In the course of their work, notaries must adhere to all applicable legal requirements and regulations regarding the implementation of notary duties and positions as stipulated in the UUJN. Another measure taken to safeguard the public from unfavorable notary behavior is the imposition of penalties on notaries. Since a violation of the notary might erode public trust, the sanction is also one way to preserve the notary institution's honor as a trust institution. The following are the obligations of a notary during his or her term of office:

- a. Civil liability: Although the notary deed has absolute evidential authority, its evidentiary value will be diminished if violates specific provisions. Depending on the notary's legal connection with the parties before the notary, the notary may sue for reimbursement of fees, damages, and interest. The parties must prove the items they wish to reject, and the notary must uphold these elements. Denial can be accomplished by bringing a civil case against the notary before the court. In this instance, it is important to comprehend that a notary deed has perfect evidential power and is considered a valid deed under the notary's legal rule.
- b. Administrative responsibilities: The UUJN regulates administrative sanctions, including interim dismissals, respectful dismissal, spoken reprimands, and written reprimands. Temporary dismissal sanctions are real coercion, while dismissal with respect or dishonorable dismissal falls into the realm of favorable decision revocation sanctions.
- c. Criminal liability: Article 66 of the UUJN explain about the notary deed in question until the police and prosecutor's office summon the notary, or judge who wants to call a notary, the agency asks for a notary's information by being obliged to ask for the notary's information by being obliged to ask for approval of the Notary Honorary Assembly. Criminal penalties against notaries are not governed by the UUJN, instead, the criminal code's penalties may apply if a notary commits a crime.

The UUJN regulates all actions pertaining to the notary role. The UUJN is a type of preventive legal protection granted to notaries, meaning that the government offers legal protection prior to the infraction taking place. The rules found in laws and regulations are intended to avoid violations, as well as to restrict the use of authority and regulate the responsibilities associated with it.

Article 66 of UUJN Number 2 of 2014 contains ambiguity in norms related to the limitation of accountability time for notaries who are no longer in office. The article does not specifically explain the expiration of the time limit for notaries to be accountable for deeds that have been made, so the article does

not have legal certainty. The deadline for notary liability is as long as the notary continues to perform his or her duties and positions until the notary retires at his own desire or because he reaches the age restriction of 67.

Legal protection for notaries who are still in office is contained in Article 66 of UUJN Number 2 of 2014 which explains that the Notary Honorary Assembly must grant permission for investigators, public prosecutors, and judges who require photocopies of notary protocol or the minute deed and/or documents related to it that are in the notary's custody in order to support the legal process. Notaries in carrying out their obligations must be with the principle of prudence, but nevertheless notaries are ordinary human beings who are certainly not immune from negligence so they have to deal with the law because they are considered to violate the rules, so it is necessary to provide protection for retired notaries (Damayanti, 2020).

The above article does not apply to retired notaries or who are no longer in office. In this case, it can be interpreted that there is no legal protection for a retired notary, despite the fact that he is nonetheless accountable for the action he took. Distributive justice, or justice pertaining to equal rights, is not granted to retired notaries because, although they are still accountable for the deed they formerly committed when it was problematic, they no longer have the legal protections that come with their position (Erwin, 2010).

Keeping the deed information confidential to safeguard the interests of the parties involved in the deed; maintaining the minute or papers attached to the minute deed, as well as notary protocols in its storage; and upholding the dignity of their positions, including when testifying and conducting proceedings in examinations and trials, are all important aspects of legal protection for notaries. In order to create legal certainty for the community in accordance with the underpins the notary's authority, it will be more assured if all summoning, examination, and detention actions are carried out with permission from the professional organization that examines it first.

CONCLUSIONS AND RECOMMENDATIONS

Based on the results of the analysis and discussion conducted by the author, it can be concluded that notaries as public officials have the power outlined in the relevant laws and regulations in order to establish accountability for their actions even after their tenure has ended or they have resigned, as specified in Article 65 of UUJN Number 2 of 2014. The ambiguous time limit for retired notaries responsibility to uphold the nobility and dignity of their positions-including when rectifying or conducting proceedings in examinations and trials, maintaining the confidentiality of the deed information to protect the interests of the parties involved in the deed, and maintaining the deed minute or the papers attached to the deed, as well as notary protocols in its storage-makes legal protection for retired notaries imperative.

FURTHER STUDY

This research still has limitations so further research is still needed on this topic “Legal Protection for Notaries After Retirement to the Deed They Have Made”.

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