

THE IMPLEMENTATION OF DELIVERED NOTARY PROTOCOL DELIVERY BASED ON NOTARY POSITION LAW IN PADANG CITY

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Abstract: *A notary is a public official who is entrusted with the authority to make a deed as a perfect evidence for those who need it in a legal act. However, there are times when a Notary ends his rights and obligations in carrying out the profession. One of them is when a Notary dies. In the event that a notary dies, the protocol of the notary must be maintained properly as a state document. For this reason, UUJN requires the heirs of the deceased notary to submit to the Notary the recipient of the protocol appointed through the Regional Supervisory Council (MPD).*

Key Words: *Implementation; Protocol of Notary Who Died; And Law On The Position Of a Notary In Padang City.*

1. INTRODUCTION:

An authentic deed has perfect and strong evidentiary power, therefore anyone who declares the deed is wrong or not true, must be able to prove it through a district court trial. If the validity of the deed cannot be proven, the deed in question remains valid and binding on the parties or other parties with an interest in the deed as described in the Explanation of the General Section of the Law on Notary Positions that: Notary deed must be accepted unless the interested party can prove the contrary satisfactorily before a court session.

If the deed is canceled by the court or only has the power of proof as an underhand deed, by itself the deed has lost its authenticity. The position of the Notary deed is the value of a proof that cannot be sued for compensation in any form. A claim against a Notary will arise where there is a causal relationship between negligence or infringement and the losses suffered by the parties as well as the existence of the Notary concerned making mistakes or omissions that can be held accountable to him.

2. THEORITICAL FRAMEWORK:

a. Responsibility Theory

According to Hans Kelsen, the concept of legal responsibility that a person is legally responsible for a certain act or that he bears legal responsibility, the subject means that he is responsible for a sanction in the event of a conflicting act.[1]

b. Legal Certainty Theory

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is enforced, that those entitled by law can obtain their rights and that decisions can be enforced.[2]

c. Theory of Authority

Juridically the notion of authority is the ability given by laws and regulations to cause legal consequences.[3]

3. LITERATURE REVIEW:

According to Harlien Budiono, a notary is a public official who is responsible for making a written statement which is intended as evidence of legal actions.[4]

The duties and authorities that exist in the Notary will relate to all actions, agreements, engagements, and all provisions that can give rise to rights and obligations to the parties, and when the Notary is appointed, the Notary can carry out his duties freely, without affecting the executive body and other bodies and can act neutrally and independently.[5]

4. METHOD:

The method used in this study is an empirical juridical approach, namely an approach based on field research methods, namely examining applicable legal provisions and what is happening in people's lives.[6]

5. DISCUSSION:

With the transfer of the protocol of the deceased notary to another notary or notary recipient of the protocol, the responsibility for the deed made by the deceased notary is not immediately transferred to the notary who is the recipient of the protocol, the responsibility remains with the notary who transfers the protocol. In keeping a notary protocol, a notary must do it as well as possible and be as careful as possible because the notary protocol functions or is used for life. Notary protocol storage is carried out with the aim that in the future one of the parties to the agreement defaults and a lawsuit arises after the signing of the deed. Such things may arise either from the parties or from other third parties related to the contents of the deed. In such circumstances, the minutes of the notary deed that are part of the notary protocol can be used as one of the strongest and most complete evidences in every case related to the notary in court.

6. ANALYSIS:

A. Implementation of the Submission of the Protocol of a Notary Who Dies in the City of Padang

The Notary is responsible for every deed made or before him even though the Notary protocol has been submitted or transferred to the custodian of the protocol, namely another Notary in accordance with the provisions of Article 63 of the Law on Notary Positions in the case of conditions as referred to in Article 62 of the Law on Notary Positions occur. In such case as referred to in Article 62 of this Notary Position Law, the submission of the Notary Protocol is carried out by a Notary or the heirs of a deceased Notary to another Notary appointed by the Minister of Law and Human Rights of the Republic of Indonesia at the suggestion of the Regional Supervisory Council.

B. Obstacles and Efforts in Submission of Notary Protocols Who Died in Padang City

In practice in the city of Padang, there is also a problem regarding notification of the acceptance of the protocol of the deceased notary. Who is obliged to notify the parties about the submission of a notary protocol that has died. Actually, according to the law, there is no obligation of the receiving notary to notify other third parties of his position to act as the notary recipient of the deceased notary protocol.

7. CONCLUSION

From the discussion as explained earlier, several conclusions can be drawn, including:

- 1) Normatively, in Article 62 letter a of the UUJN, it is determined that the submission of a notary protocol is carried out in the event that the notary dies.
- 2) In the practice of submitting the protocol of a notary who died in Padang City, several obstacles were found.

REFERENCES:

1. Hans Kelsen, 2007, General Theory of Law and State, *Teori Umum Hukum dan Negara, Dasar-Dasar Ilmu Hukum Normatif sebagai Ilmu Hukum, Deskriptif dan Empirik*, BEE Media Indonesia, Jakarta, Alih Bahasa oleh Somardi, page 81.
2. Sudikno Mertokusumo, 2007, *Mengenal Hukum Suatu Pengantar*, Liberty, Yogyakarta, page 160.

3. Indrohato, 1994, Asas-Asas Umum Pemerintahan yang baik, dalam Paulus Efendie Lotulung, Himpunan Makalah Asas-Asas Umum Pemerintahan yang baik, Citra Aditya Bakti, Bandung, page 65.
4. Harlien Budiono, 2006, *Asas-asas Keseimbangan Bagi Hukum Perjanjian Indonesia, Hukum Perjanjian Berlandaskan Asas-asas Wiganti Indonesia*, Citra Aditya Bakti, Bandung, page 256.
5. Hartanti Sulihandri dan Nisya Rifiani, 2013, *Prinsip-Prinsip Dasar Profesi Notaris*, Dunia Cerdas, Jakarta, page 6.
6. Bambang Waluyo, 2002, *Penelitian Hukum Dalam Praktek*, Sinar Grafika, Jakarta, page 15.