

The Role of a Notary in Resolving Disputes with a Peace Deed: Case Study of Court Decision Number: 2879 K/Pdt/2018

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Abstract: *The Deed of Settlement that has been made by the disputing parties, in the presence of a Notary with an authentic deed, is expected to end the dispute, provide legal certainty between those who are in dispute. In the case of Court Decision Number: 2879 K/Pdt/2018, after a deed of reconciliation was made by the parties before a Notary, to resolve the dispute but in reality it did not end the dispute of the parties.*

Key Words: *Notary, Dispute Resolution, Deed, Peace Deed.*

1. INTRODUCTION:

In the 1945 Constitution it is expressly stated that the Republic of Indonesia is a state based on law, in which the state and government provide and guarantee a sense of legal certainty for members of the public in certain fields, this task through law is given and entrusted to Notaries and vice versa, the public must also believe that the notary deed that was made provides legal certainty for its citizens in accordance with Article 15 paragraph (1) of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (UUJN). The notary has the authority to make authentic deeds regarding all actions, agreements and stipulations that are required by laws and regulations and or that are desired by interested parties to be stated in authentic deeds, guarantee the certainty of the date of making the deed, save the deed, provide grosse, copies and quotations deed. Legal certainty apart from the authenticity of a deed also has the power of proof, namely physically, formally and materially.

2. THEORITICAL FRAMEWORK:

a. 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.[1]

b. Law Enforcement Theory

According to Soerjono Soekanto, law enforcement is an activity of harmonizing the relationship of values that are described in solid principles and attitudes as a series of final stages of value translation. To create, maintain and maintain social peace of life.[2]

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.[3]

According to R. Tresna, an authentic deed is a signed letter containing information about events or things which form the basis of a right or an agreement. It can be said that the deed is a writing by which a legal action is stated.[4]

In the peace deed there are two terms *acta van dading* and *acta van vergelijk*. Among judges, they tend to use *acta van dading* for deed of reconciliation made by the parties without or have not yet received confirmation from a judge, while *acta van vergelijk* is a deed that has received confirmation from a judge.

4. METHOD:

The method used in this study is a normative juridical approach, namely a legal approach that is only aimed at written regulations so that this research is very closely related to libraries because it will require secondary data from libraries, or normative legal research can be limited to the use of document studies or library materials only, namely on secondary data. [5]

5. DISCUSSION:

The deed made by the parties regarding civil law relations or settlement of civil cases made in an authentic deed before a notary is a deed of peace agreement that takes place outside the court. With the deed of agreement or peace, the dispute that occurred between the parties is declared over and the parties will not continue the dispute to court. However, if the case is submitted to court, the parties can also make the deed made before a Notary as authentic evidence.

6. ANALYSIS:

A. Legal Position of Peace Deed Made by Notary

The position of a Notary Deed that has the power of proof as an authentic Deed is the value of a proof that cannot be sued for compensation in any form. When the appearers come to the Notary so that their actions or actions are formulated in an authentic Deed in accordance with the Notary's authority, and then the Notary makes the Deed at the request or desire of the appearers, then in this case it provides a basis between the Notary and the appearers a legal relationship has occurred. A legal relationship is a relationship whose consequences are regulated by law.

B. Judge's Considerations in Court Decision Number 2879 K/Pdt/2018

If the decision of the Padang High Court in this case is not contrary to the law and/or the law, the cassation request submitted by the cassist is rejected.

C. The Role of a Notary in Resolving Disputes with a Peace Deed

The authority of a notary in making an authentic deed in the form of a peace deed is regulated in article 1851 of the Civil Code, a reconciliation deed is generally made before or when the subject matter is heard in court and set forth in written form. the authority of a notary is an *Attribution* originating from the laws and regulations that regulate it. Arrangements for a peace deed made before a Notary after a court reconciliation decision is not regulated in Article 1851 of the Civil Code. But basically the peace deed is an authentic deed, the authority of which can be made by a Notary. In addition, peace was born from the agreement of the parties which is part of the agreement. So that the peace deed is part of the Notary's authority in making authentic deeds even though there has been a district court reconciliation decision.

7. CONCLUSION

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

- 1) Legal position The deed of reconciliation made by the parties before a Notary is correct and valid as an authentic deed.
- 2) Based on the judge's legal considerations referring to 3 court decisions that at the first level the peace deed was canceled by the panel of judges then at the appeal level the panel of judges canceled the first level decision and at the cassation level the panel of judges agreed with the appeal level decision so that the peace deed was valid.
- 3) The role of a Notary in making a peace deed is to make an authentic deed in accordance with the Notary's authority contained in Article 15 UUJN and to formulate the wishes or actions of the parties into an authentic deed, taking into account the applicable legal provisions. The Notary's responsibility to the parties is to express their will in a form of peace deed, because the parties want the peace deed made by the Notary to guarantee that

the peace deed made is in accordance with predetermined legal rules, so that the interests of the parties are protected by the peace deed.

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