

Reconstruction of notary's civil-liability in the case of deed-making malpractice based on justice value

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Abstract

The purpose of this research is to analyze the concept of the responsibility of a Notary in the case of malpractice in the making of a deed that are not just on both to the Notary and to the client and to a third party; and the reconstruction of civil liability Notary related to malpractice in making the deed based on the value of justice using the doctrinal legal research method with a sociolegal approach and analyzed using qualitative analysis techniques.

The results of the study shows that the Notary is not responsible and cannot be legally accounted for the material truth in the deed made before him, it does not mean that the Notary in carrying out his duties can as he wishes and not seriously in making an authentic deed. There are other things which must also be considered by the Notary, namely those relating to the legal protection of the Notary himself. With the lack of caution and sincerity committed by the Notary, the Notary has actually brought himself to an act which by law must be accounted for, and the Notary Deed cannot be assessed or stated directly and unilaterally has the power of proof as a deed under the hand or null and void by parties whose names are in the deed or by other people with an interest in the deed. When the parties consider something wrong with the deed, the party concerned must sue the Notary and the plaintiff must be able to prove his claim, whether the Notary Deed does not fulfill the Outward, Formal or Material aspects and and prove the loss. The threat of civil sanctions for Notaries who do not carry out their obligations in accordance with the code of ethics and the Notary Profession Act and cause harm to the person or party concerned, the Notary can be sued civilly according to the provisions of Article 1365 of the Civil Code.

Keywords: Reconstruction, civil liability, justice value

Introduction

In Indonesia, Based on Article 66 paragraph (1) of the Notary Profession Act the Notary who has committed negligence cannot immediately refuse to provide information on the grounds of confidentiality of the Profession, because in this provision determines that for the benefit of the judicial process, photocopy of his or her minutes of deeds and his or her summon to the court may be made to give statement after obtaining approval from the Honorary Notary Council (MKN). In this case the existence of the Honorary Notary Council is very strategic.

Article 66 paragraph (1) of the Notary Profession Act clearly stipulates the institutions that give approval for the calling and / or taking of the Minutes of Deed and / or documents attached to the minutes of the notarial deed or protocol in Notary safekeeping. Article 66A paragraph (3) states that the Honorary Notary Council (MKN) will be regulated by Ministerial Regulation. The Ministerial Regulation governing the Honorary Notary Council (MKN) is the Minister of Law and Human Rights Regulation No. 7 of 2016 concerning the Notary Honor Council. According to Article 1 number 1 of the Regulation of the Minister of Law and Human Rights Number 7 of 2016 concerning Honorary Notary Council stated that: "Honorary Notary Council is a body that has the authority to carry out the guidance of a Public Notary and the obligation to give approval or rejection for the purposes of investigation and judicial process, for taking a photocopy of the minutes of the deed

and summons to the Notary to be present in the examination relating to the notary deed or protocol in the Notary's depository".

Whereas according to Article 20 of the Minister of Law and Human Rights Regulation No. 7 of 2016 concerning the Honorary Notary Council, it is stated that The authority of the Regional Honorary Notary Council is based on the decision of the Regional Notary Honor Council Meeting which includes :

1. Examination of a Notary requested for approval from the Regional Honorary Notary Council by investigators, public prosecutors or judges;
2. Granting approval or rejection of the request for approval to take a photocopy of the minutes of deed and / or letters attached to the minutes of the deed or notary protocol in the depository of Public Notary ; and
3. Granting approval or rejection of the request for approval of Notary Call to be present in the investigation, prosecution and judicial process relating to the notarial deed or protocol that is in the Notary's custody.

Based on the provisions of Article 66A of Notary Profession Act and Article 20 of the Minister of Law and Human Rights Regulation No. 7 of 2016 concerning the Notary Honorary Council, then in the process of giving MKN approval, it must first carry out an examination. The examination is carried out by conducting a session of

carrying out the Profession of a Notary to a Public Notary. After the examination is carried out, the final results of the MKN examination are set forth in the form of a Decree whose contents give approval or reject the request of the Investigator, Public Prosecutor or Judge.

It is unfortunate if there are still notarial deeds whose legal certainty is questioned and their truth is doubtful, because of the bad behavior of several notary persons who are not responsible in carrying out their functions, duties and authorities. These acts may include forms of negation, deviation and lack of ability of the Notary to carry out their authority and obligations and responsibilities. This happens either because of an error or negligence that can be accounted for by him in carrying out his Profession in accordance with professional standards and professional behavior that has been required in the Law of Notary Profession and Notary Ethics Code. In practice, there are cases of violations of the code of ethics that occurred and committed by Notaries, among others:

1. The making of deed that not in accordance with the Notary Profession Act, such as a deed signed by a Notary, witnesses and the registrar have already been prepared by another Notary so that the concerning notary's duty is only to sign.
2. The signing of the deed which is not performed before a notary
3. the making of a deed outside the jurisdiction
4. Provisions regarding the installation of nameplate in front of or in a Notary office. it is Found that some Notary made the nameplate exceeding of what was specified
5. Unfair tariff competition, where there are notaries who charge very low rates to get clients
6. Publicizing or promoting self by including the name and Profession. Like sending bouquets of flowers at a particular event.
7. Using intermediary services such as service bureaus in finding clients
8. An incomplete arrangement of the deed and inform the client of the completion
9. Withholding someone's file with the intention of forcing people to make a deed to the Notary who holds the file
10. Sending a minuta to the client to be signed by the concerning client
11. Persuading a client to make a deed or persuade someone to change from other Notary
12. The Notary are Vilifying to each other

The issue of the need to reconstruct formal law in order to reconstruct a civil Notary responsibility and Notary Profession Act No. 2 of 2014 related to the alleged malpractice in making the deed is important to study, therefore the writer studies it deeper into this paper with the following main issues:

1. How is the Implementation of Notary Civil Liability and Legal Protection in the Case of Malpractice in the Making of Deed?
2. How is the reconstruction of the responsibility of the Public Notary in the case of malpractice in making a deed based on the value of justice?

Method of Research

The paradigm that is used in the research this is the

paradigm of constructivism which is the antithesis of the understanding that lay observation and objectivity in finding a reality or science knowledge ^[1]. Paradigm also looked at the science of social as an analysis of systematic against *Socially Meaningful Action* through observation directly and in detail to the problem analyzed.

The research in writing this dissertation is a qualitative research. Writing aims to provide a description of a society or a certain group of people or a description of a symptom or between two or more symptoms.

Approach (*approach*) the research is to use the approach of *Socio-Legal* ^[2], which is based on the norms of law and the theory of the existing legal enforceability of a sociological viewpoint as interpretation or interpretation.

As for the source of research used in this study are:

1. Primary Data, is data obtained from information and information from respondents directly obtained through interviews and literature studies.
2. Secondary Data, is an indirect source that is able to provide additional and reinforcement of research data. Sources of secondary data in the form of: Primary Legal Material and Secondary Legal Materials and Tertiary Legal Material.

In this study, researchers used data collection techniques, namely literature study, interviews and documentation. In this study, the researcher is a key instrument that is the researcher himself who plans, collects, and interprets the data ^[3]. Qualitative data analysis is the process of searching for, and systematically compiling data obtained from interviews, field notes and documentation by organizing data into categories, describing it into units, synthesizing, compiling into patterns, selecting important names and what will be studied and make conclusions.

Research Result and Discussion

Implementation of Notary Civil Liability and Legal Protection in The Case of Malpractice in the Making of Deed

The implementation of the notary profession in dealing the profession's main problem in which among others, are the knowledge that must be possessed as a determinant of the quality of notary profession services, the impact of misuse of the notary profession is the tendency for the profession to develop into a business activity, decreased awareness and social care of the bearer of the notary profession.

As an example of a case is the Verdict Review of Civil Case No.49.PK/PDT/2009 dated September 16, 2009, where in terms of the sale and purchase deed made by a Notary, in this case who has made a Deed of Purchase without seeing the original Documents, actually the concerning Notary has made a mistake and neglected its obligations as stipulated in Article 39 paragraph (1) letters a and b, Government Regulation Number 24 of 1997 concerning Land Registration, which stipulates that the Land Certificate maker (PPAT) must refuse to make a deed if the original certificate and / or original land certificate isn't present.

Because the concerning three Notaries / PPAT have violated

¹ Faisal, (2010), *Menerobos Positivisme Hukum*, Rangkang Education, Yogyakarta.

² Johnny Ibrahim, (2005), *Teori dan Metodologi Penelitian Hukum Normatif*, Bayumedia, Surabaya.

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the existing regulations, the Court's decision on the sale and purchase deed that they have made was canceled because the drafting of the sale and purchase agreement has caused losses to other parties, especially to the Plaintiff. This is in accordance with the last Judge's decision by canceling the sale and purchase deed made by Notary / PPAT Hatma Wigati Kartono, SH, Tuti Rahmawati Lalo, SH and Anita Magdalena, SH (respectively as Defendant V, Defendant VI, Defendant VII).

The act of PPAT is included in the act against the law in the presence of a party who is harmed by their actions. That is, the sale and purchase deed is made without regard to existing regulations. A PPAT can be said to have the responsibility in carrying out his obligations under applicable legislation, in addition to legal responsibilities PPAT also has moral responsibilities related to the behavior of PPAT both inside and outside his Profession. As an official who is authorized to make a deed of transferring rights over land, the PPAT is responsible for examining the conditions that must be carried out by the PPAT before making the deed of sale and purchase. Thus the PPAT must have accuracy and thoroughness, ability and extensive knowledge in the field of land law because inaccuracy and this inaccuracy or ignorance is fatal.

The party that are at loss can request compensation from the concerned Notary / PPAT, in this case the injured party is PT. Putri Selaka Kencana as the land owner and the Plaintiff. Therefore, the three Notaries and PPAT can be asked for civil liability, where the court's ruling has decided that the deed of sale and purchase is canceled and a Resale must be made with PT. Putri Selaka Kencana (Plaintiff). As a result of the notary / PPAT's actions, the three Notaries / PPAT must also bear the compensation of PT. Putri Selaka Kencana in the amount of Rp. 16,892,790,000 (sixteen billion eight hundred Ninety-two million seven queens ninety thousand Rupiah).

In this case, the writer is of the opinion that Notary / PPAT in this case respectively as Defendant V, Defendant VI, Defendant VII, did not make a deed of sale and purchase of the housing complex of the Park Marchelia, the Notary / PPAT should carefully examine each data / document that given, must check where the original existence of the certificate of land is, and all supporting documents that exist must also be original. Because the sale and purchase carried out without showing / seeing the original document is an act against the law and not in accordance with existing legal procedures. Whereas for the three Notaries / PPAT who made the sale and purchase deed was notified by the Notary / PPAT Yondri Darto, SH Notary in Batam verbally to not make the sale and purchase deed again, but those three notaries / PPAT were not heeded and continue to make the sale and purchase deeds, and also the three Notaries and PPAT should not make a sale and purchase deed based only on photocopy documents and based on trust. This case does not really show the dedication of a public official who has a good image in the eyes of the public.

The rule of law is a prerequisite for a rule of law, for that law enforcement is needed to create order and order in achieving justice which is the essence of law itself. In addition, in order to regulate the relations of community life so that people feel protected and protected their rights and obligations.

In the framework of the rule of law, the rule of law is needed as a driver, regulator and direct renewal and change

so that an orderly law can be held.

Law enforcement is basically an activity to harmonize the relations of values spread within the established rules and the embodiment of the attitude of action as a series of translation of the final stages of value to create, maintain and maintain peace in life in the community^[4].

Law enforcement in today's society is not only interpreted in a narrow sense but also in a broad sense, just as law enforcement is associated with the human element and its social environment. Satjipto Raharjo states that:

"Law enforcement is a process to make legal desires come true. The so-called legal desires here are none other than the thoughts of the legislature formulated in those legal regulations. The need for discussion regarding the process of law enforcement also reaches up to the law as outlined in the rule of law will also determine how law enforcement is carried out"^[5].

Law enforcement efforts actually lie in the factors that might influence it. These factors have a neutral meaning, so the positive or negative impact lies in the contents of these factors. According to Soerjono Soekanto these factors are as follows :

- a. The legal factors themselves, that is the written law.
- b. Law enforcement factors, that is those who form and implement the law.
- c. Factors of facilities that support law enforcement.
- d. Community factors, that is the environment in which the law applies or is applied to.
- e. Cultural factors, namely as a result of human work in the association of life^[6].

The substance of the law are the rules that are used by legal actors when carrying out legal acts and relationships. Notaries are bound by the provisions in the Notary Profession Act, Notary Ethics Code, Civil Code and other regulations relating to the scope of the Profession.

Notary profession is a profession that provides services to the community to produce evidence in the form of deed so that the notary may not side with either party and must be fair to both parties and explain the consequences of the agreement made to both parties, especially those who are weak.

The Public Notary is also the only public official appointed to produce the evidence, so that the notary does not commit the actions of the parties but only makes evidence for both parties, but due to lack of understanding from the police and prosecutors, it is often considered those who carry out the law are notaries.

Now there are many criminal complaints arising from falsifying deeds, malpractice, and so on, it does not rule out the possibility of malpractice.

On the basis of various possibilities, malpractice can be intentional as intent (*als oogmerk*), intentionally possible (*dolus eventualis*) and on the basis of negligence (*bewuste schuld*). The act of a notary who is prosecuted for a crime and there is an element of intent that tends to have done "offense" and "violation" which can be said to have committed a crime.

⁴ Soerjono Soekanto, (2002), *Faktor-faktor yang Mempengaruhi Penegakkan Hukum*, Jakarta: Raja Grafindo Persada, p.2.

⁵ Satjipto Rahardjo, (1983), *Masalah Penegakkan Hukum: Suatu Tinjauan Sosiologis Hukum*, Bandung: Sinar Baru, p.24.

⁶ Soerjono Soekanto, (2002), *Faktor-faktor yang Mempengaruhi Penegakkan Hukum*, Jakarta: Raja Grafindo Persada, p.5.

With this accusation in criminal court, it is necessary to have a standard of criminal law enforcement in this notary profession. Practically, the standard of criminal law enforcement against professional malpractice will be related to thinking about the elements of the formulation of offense and science related to the profession.

In the malpractice indictment must first be proved the existence of acts that meet the formulation of offense and must be proven that these actions are against the law both formal and material. In this material matter the role of expert testimony is very important, because expert testimony based on actual scientific standards can be both positive and negative.

By being positive if the testimony can conclude that what a professional is doing is completely contrary to standard and actual professional standards, maybe even contrary to the professional code of ethics. Thus the element of unlawful nature can be further strengthened and convinced the judge in the criminal process, if the relevant error can later be proven.

Is negative, if the expert testimony can explain the reasons for the basic professional science, that the actions of a professional can be justified on the basis of existing professional standards. This will become more stable, if the ethical code of the profession concerned also provides justification. Thus even though formally an act can be against the law, but this element can be erased, because the act is materially no longer illegal.

The Profession of justification in relation to the element of unlawful nature can be examined in the views of Sudarto^[7] below. The reason for a criminal offense can be in the form of justification and forgiveness (reason for erasing a mistake), for example:

- a. The right of parents, or teachers to discipline children or their students (*tuchtrecht*);
- b. Rights arising from work (*beroepsrecht*) a nurse, pharmacist, midwife, and scientific investigator (for example for *vivisectie*);
- c. Permission or approval from the injured person to another person regarding an act which can be convicted, if done without permission or consent (consent of the victim);
- d. Right to Represent other people's business (*zaakwaarneming*);
- e. The absence of elements of unlawful nature (remember: arrest by a veterinarian);
- f. No errors at all (*taxi* or *avas*) (remember: milk and water arrest).

The reasons for the aforementioned criminal offenses, especially number a through e, are justification reasons, while the aforementioned number f is the reason for forgiveness (eraser).

The absence of material unlawful nature which is part of the principle of criminal law originating in unwritten law or outside the Criminal Law Act can be used as a justification to protect the profession of Public Notary and expand law enforcement standards in the field of criminal justice.

Reconstruction of the responsibility of the public notary in the case of malpractice in making a deed based on justice value

Provisions related to sanctions contained in Act Number 2 of 2014 are regulated in Article 84 which determines 2 (two) types of civil sanctions namely :

- a. Notarial Deed which has the power of proof as a deed under the hand (official); and
- b. Notary Deed that is null and void.

As a result of such a notary deed, it can be a reason for the party suffering losses to demand for compensation and interest to the notary. Notarial Deed which has the power of proof as under the hand deed and Notarial Deed is null and void by law are two different terms. Article 84 of Law Number 2 of 2014 does not explicitly stipulate the provisions of articles categorized as such. Article 84 of Law Number 2 of 2014 mixes or does not provide limits to the two sanctions. Notarial Deed which has the power of proof as a deed under the hand can be seen and determined from :

- a. Contents in certain articles which directly confirm if the Public Public Notary has violated the law, then the concerning deed includes a deed that has the power of proof as a deed under the hand;
- b. If it is not explicitly mentioned in the concerning article as a deed that has the strength of proof of part of the deed under the hand, then other articles are categorized as violating according to Article 84 of Law Number 2 of 2014, including the deed is null and void by law.

Based on Article 84, the Deed will be null and void if it is not explicitly stated in the relevant article and the Notary Deed has the power of proof as a deed under the hand, if explicitly stated in the relevant article.

Limitation of notary deed which has the Power of Proof under the Hand. Article 1869 of the Civil Code determines the limitation of a notary deed which has the power of proof as a deed under the hand can occur if it does not meet the provisions, namely because:

- a. The authority of the related official is not authorized;
- b. The inability of the related official; or
- c. Defect in its form.

Nevertheless such deeds still have the power of proof as a deed under the hand if the deed is signed by the parties. One example of an article in Law Number 2 of 2014 is Article 16 regulating the obligations of a Public Notary. If the Notary does not carry out the obligations as mentioned in Article 16 paragraph (1) letters a through k, then the Notary will be subjected to administrative sanctions as regulated in Article 84 of the Notary Profession Act, while those stipulated in Article 84 of the Notary Profession Act, Notaries who do not carry out the obligations as regulated in Article 16 paragraph (1) letter i, then the deed made before or by the Notary concerned, resulting in the deed only has the strength of proof as a deed under the hand or the deed becomes null and void by law can be a reason for the party suffering losses to demand compensation, compensation and interest from the notary concerned.

In the event that the relevant party sues a civil suit against the Public Notary, and the plaintiff is required to prove the physical, formal or material aspects violated by the Notary, the lawsuit is accompanied by claims for reimbursement,

⁷ Sudarto,(2010), *Kapita Selektta Hukum Pidana*, Fourth Edition, Bandung: Alumni, p.27

compensation and interest ^[8]. If the court decides and is proven that the notarial deed has violated the physical, formal or material aspects as mentioned in Article 84 of the Notary Profession Act, and the parties can prove to suffer loss as a result of the deed, then the notary may be burdened with compensation, compensation and interest to the Public Notary. concerned. These sanctions are called Civil Sanctions and are External, because sanctions are imposed relating to other parties. The notary in an effort to protect himself must be able to prove that the deed he made is in accordance with the procedures established by the law, if it turns out that the notary deed is null and void, then the cancellation of the deed cannot be used as a basis for submitting claims and claims for compensation, fines and the cost to the Public Notary, because the notarial deed is null and void by law, therefore the deed is considered to never exist, and the deed deemed to never exist, cannot be used as a basis for making demands in the form of compensation, fees and interest.

In addition to civil liability, a notary can also be charged with administrative sanctions. Broadly speaking, administrative sanctions can be divided into 3 types, namely, reparative sanctions are sanctions aimed at improving violations of the rule of law. Punitive sanctions are punitive sanctions, are additional sanctions that are punitive. Regressive sanctions are sanctions as a reaction to something disobedient.

Law Number 30 Year 2004 concerning the Notary Profession does not specifically regulate criminal acts committed by notaries or criminal acts related to the position of Public Notary. The law has been amended by Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Public Notary Profession. In Law Number 2 of 2014 there are also no provisions governing criminal acts committed by notaries or criminal acts related to the position of Public Notary. This means that notaries who commit crimes related to their profession are linked with Criminal Code provisions.

Lawmakers may not feel the need to specifically regulate criminal acts committed by notaries related to their positions ^[9]. When compared with other professions stipulated in the law, such as doctors, etc., there are already arrangements regarding criminal acts related to his profession. Based on this it can be said that, the Notary Profession Act should also regulate criminal acts committed by notaries related to his profession because notaries are an important profession.

In relation to his profession, a Public Notary may commit a criminal act, especially a falsification of a legal deed or official deed, that is, a deed made by a notary based on observations made by the notary. If a public notary commits a forgery in the context of his duties, then the notary may be held liable for criminal liability. In this case, it can happen that the notary intentionally made a deed to be used as a means of committing a crime that he knew was an unlawful act.

The need for specific regulation of criminal acts related to

the position of notary in Notary Profession Act, is based on the fact that there are often differences in interpretation between notaries and law enforcement officials. Therefore, Notary Profession Act must be used as a guideline in determining criminal acts related to the position of Public notary. The limit of a criminal act committed by a notary must be measured based on Notary Profession Act, meaning that the act carried out by a notary violates certain provisions in Notary Profession Act. This is important because there is a possibility that according to Notary Profession Act, a notarial deed is in accordance with the provisions of Notary Profession Act, while according to law enforcement officials (police, prosecutors, and judges), the act is a criminal offense.

Thus, criminal liability against a notary can be done with restriction as follows :

- a. There is a legal action from a notary on the outward, formal, and material aspects of the deed which are intentional, made with awareness, conscious and planned, and the deed made by or in front of a notary together (agreement between parties) and used as the basis for prosecution should a criminal act occur from it;
- b. There is a legal action from a notary in making a deed by or in front of a notary who if measured according to Notary Profession Act, is not in accordance with it; and
- c. The notary action is also deemed not appropriate according to the authorized institution to judge the actions of a public notary, in this case the Notary Supervisory Board.

The need for notary criminal liability regulation in The Notary Profession Act, is also based on the consideration that the imposition of criminal sanctions against notaries can be carried out as long as the limitations as stated above, meet the formulation of violations in the Notary Profession Act, and of course the Criminal Code as a *lex generalist*. If the notary's act fulfills the formulation of a criminal act, but according to Notary Profession Act it is not a violation, then the notary cannot be held liable for criminal liability, because the measurement to judge a notary deed must be based on the Notary Profession Act.

A criminal liability against a notary related to the notarial deed he or she produced, which so far has only been based on the Criminal Code, needs to be reorganized. However, criminal liability towards a notary related to the deed he made as a product of the implementation of his official duties or notary authority, must pay attention to the rules relating to the procedures / procedures and conditions for making the deed, namely The Notary Profession Act. The use of the Penal Code as a rule used to criminalize a notary related to the deed he made, shows there has been a misunderstanding or interpretation of the position of the notary and notary deed as evidence in civil law ^[10].

As referred to in Article 84 of the Notary Profession Act which stipulates that "may be a reason for the party suffering losses to demand for compensation, compensation and interest to the notary". Compensation based on unlawful acts in civil law is regulated in Article 1365 of the Civil Code, which determines that : "Every act that violates the

⁸ Pratiwi, Sastri & Fendri, Azmi & Benni, Beatrix. (2019). Authority and Position of Notary Deed in the Land Sector. *International Journal of Multicultural and Multireligious Understanding*. 6. 391. 10.18415/ijmmu.v6i5.1111.

⁹ Khairul, Annisa & Danil, Elwi & Zurnetti, Aria. (2019). Case Study of False Statement in Notarial Deed in the Perspective of the Law on Notary Position. *International Journal of Multicultural and Multireligious Understanding*. 6. 524. 10.18415/ijmmu.v6i2.740.

¹⁰ Adinugraha, Calvin & Sudarwanto, Albertus & Amiruddin, Novendri. (2018). A review on Notarial Deed Restriction Regulation based on Law on Office of Notary Public. *International Journal of Multicultural and Multireligious Understanding*. 5. 318. 10.18415/ijmmu.v5i2.380.

law that brings harm to others, obliges the person who due to wrongly issued the loss, replaces the loss. If he observes the provisions of Article 1365 Civil Code above, contained in the elements as follows: 1. Acts that violate the law 2. There must be mistakes 3. There must be a loss incurred 4. There is a causal relationship between actions and losses.

Article 41 The amendment law to the Notary Profession Act stipulates the existence of civil sanctions, if the Public Notary commits an act against the law or violates Article 38, Article 39, and Article 40 of the amendment Law to the Notary Profession Act, the notary deed will only have proof as a deed under the hand. As a result of such a notary deed, it can become a reason for the party suffering losses to demand for compensation, compensation and interest to the notary.

Conclusion

1. The implementation of notary Private Liability and legal protection is based on a notary code of ethics. The foundation of the notary code of ethics is at least based on a moral, practical and spiritual foundation. Notary as profession bearer is a person who has scientific expertise in the field of notary, so that he is able to meet the needs of the people who need services in that field. Personally the notary is responsible for the quality of the services provided. Between the notary as the profession bearer and his client a personal relationship occurs between subjects who are formally juridical in the same position. However, the substance of the relationship between the notary and the client is socio-psychologically imbalanced. This is because basically the client has no other choice but to give trust to the notary in the hope that the bearer of the profession will provide professional service with quality and dignity. Basically, the Notary is not responsible and cannot be legally accounted for the material truth in the deed made before him, it does not mean that the Notary in carrying out his / her office duties can be as he wishes and not seriously in making an authentic deed. There are other things which must also be considered by the Notary, namely those relating to the legal protection of the Notary himself. With the lack of caution and sincerity committed by the Notary, the Notary actually has brought himself to an act which by law must be accounted for. If a mistake made by a notary can be proven, then the notary may be subject to sanctions in the form of a penalty as determined in the law. Of course, in such a situation the Notary himself in question no longer provides protection for himself.

2. The Reconstruction of notary's civil liability in the case of malpractice in making a deed based on the value of justice is to carry out Reconstruction of Article 84 of Law Number 30 Year 2004 concerning Notary Position, namely by adding the sentence "by proving that they suffer losses as a result of the deed". To provide limits on Article 84 of Law Number 30 Year 2004 concerning the Position of Notary, related to two types of civil sanctions, namely Notary Deed which has the power of proof and as a deed under the hand; A Notary Deed becomes null and void, if the provisions of the article included in the category only have the strength of proof as a deed under the hand to which the deed becomes null and void.

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