



Consideration of Judges in the case of notary registering AKTA PKR into the OSS system that does not meet the requirements (Study of Decision Number 25/Pdt.G/2020/PN.Bjb)

Dian Dewi Candrawati¹, Albertus Sentot Sudarwanto², Fatma Ulfatun Najicha²

¹ Faculty of Law, Sebelas Maret University, Indonesia

² Lecturer of Master of Notary, Faculty of Law, Sebelas Maret University, Indonesia

Abstract

Notary issues a deed of statement of meeting decision (PKR) from the holding of a general meeting of shareholders (GMS) to ensure legal certainty that a GMS has been held with its decisions. Problems arise when the PKR deed is issued from the holding of an extraordinary GMS that does not comply with the requirements of the Limited Liability Company Law and is registered with the Online Single Submission (OSS) by Notary R through a power of attorney, as was the extraordinary GMS held by PT Kalimantan Soil Engineering (PT KSE) on August 23, 2019. The focus of this research is to find out the judge's consideration of the issuance of PKR deed from the holding of an extraordinary GMS that is not in accordance with the Company Law with a case approach to Decision Number 25/Pdt.G/2020/PN Bjb and what forms of responsibility can be imposed on Notary. This research is a normative legal research with a case study approach. This research concludes that the issuance of PKR Deed Number 03 from the holding of the extraordinary GMS of PT KSE which was then processed to the Online Single Submission, there was a violation of law to the detriment of shareholders. The liability that can be given to Notary R is administrative liability through MPWN. The Banjarbaru Court judge's consideration in Decision Number 25/Pdt.G/2020/PN Bjb was not in favor of the plaintiff and defendant.

Keywords: Notary responsibility, general meeting of shareholders (GMS), online single submission

Introduction

A limited liability company is a legal entity that is a capital alliance, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares and fulfills the requirements stipulated in the law and its implementing regulations. Limited liability companies have three organs that have their respective duties and responsibilities, the three organs are the General Meeting of Shareholders, the Board of Directors and the Board of Commissioners. The position of the GMS with the board of directors and the board of commissioners is the same and equal. The difference between the three organs of a limited liability company is a matter of division of authority. This is as seen in Article 1 number 4 jo. Article 75 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (Limited Liability Company Law) which stipulates that the GMS has authority not granted to the board of directors or the board of commissioners within the limits specified in this law and/or the articles of association.

Based on Article 78 paragraph (1) of the Limited Liability Company Law, GMS consists of annual GMS and other GMS. Other GMS in practice are often known as extraordinary GMS. Unlike the annual GMS which must be held no later than six months after the financial year ends, an extraordinary GMS can be held at any time based on the need for the interests of the company. Through the GMS, the shareholders as the owners of the Company exercise control over the management carried out by the Board of Directors as well as over the assets and management policies carried out by the management of the Company. The Limited Liability Company Law mandates that the minutes of the GMS must be made or a deed must be made by a notary. The arrangement can be seen in Article 90 of the Limited Liability Company Law.

The non-notarized recording is called "minutes." On the other hand, when it is recorded by the notary himself who is present at the meeting, it is usually entitled "Minutes of the General Meeting of Shareholders." Based on the minutes, the person authorized by the GMS must go to a notary to state what was discussed, occurred, and decided by the GMS in a notarial deed. This kind of deed is called a "Deed of Statement of Meeting Resolutions." This kind of notarial deed is not a "relaas acte," but a "partij acte," which is a deed made before a notary. The issuance of a deed of statement of meeting resolutions (PKR) by a notary does not guarantee the validity of the holding of an extraordinary GMS of a limited liability company. In fact, the issuance of a PKR deed for an extraordinary GMS can cause legal consequences in the form of losses for the shareholders of the limited liability company.

The author found this problem in Decision Number 25/Pdt.G/2020/PN Bjb. The parties to the dispute were the plaintiff IY against the first defendant, namely R, the second defendant, namely YY, the third defendant, namely SN and the fourth defendant, namely NY. The plaintiff is one of the shareholders in PT KSE, namely the owner of 100 shares or in other words the owner of 40% of the shares that have been placed and paid up at PT KSE.

In his lawsuit, the plaintiff argued that the defendants in the implementation of the Extraordinary GMS on August 23, 2019, which was subsequently set out in the Deed of Meeting Resolution Number 03 dated September 10, 2019, made before notary R (hereinafter referred to as PKR Deed Number 03), had committed unlawful acts, especially against the Limited Liability Company Law, which caused losses to the plaintiff. Some of the things that form the basis of the lawsuit include: a) the invitation to the meeting was made by the Board of Commissioners whose term of office had expired; b) the implementation of the GMS which was

not in accordance with the PT Law and the error in calculating the GMS quorum; c) the minutes of the GMS which violated the PT Law were written in the PKR deed which was then registered with the OSS.

In its decision, the Panel of Judges did not win the plaintiff's claim and did not win the defendant's exception. The legal considerations and decision of the Banjarbaru District Court on this case intrigued the author to examine the actions of the notary to enter the PKR Deed data into the OSS system. The author found that the PKR deed from the EGMS held was not in accordance with the PT Law and was instead registered into the OSS by notary R, while the Banjarbaru District Court did not make the mistake made by Notary R meet the elements of tort. In this research, the author wants to know exactly what forms of liability can be imposed on notaries and what is the basis for the judge's consideration in the case. Problem Formulation what is the basis for the judge's consideration in Decision Case Number 25/Pdt.G/2020/PN.Bjb and how is the form of liability that should be imposed on a Notary who registers a PKR Deed from an EGM that violates the Limited Liability Company Law into the Online Single Submission system.

Research Methodology

The type of research used is normative research. According to Peter Mahmud Marzuki, normative research is a study conducted by examining legislation, court decisions, legal theories, and can also be in the form of opinions of scholars arranged systematically and then drawing conclusions in relation to the problem under study.

The nature of the research used is prescriptive. The nature of this research is intended to obtain suggestions regarding what should be done to overcome certain problems. Its prescriptive nature makes legal science to study legal objectives, the validity of legal rules, legal concepts, values of justice, and legal norms. So that this science can establish provisions, signs in the rule of law, and procedural standards.

This writing uses a statutory approach (statue approach) and a case approach. The statutory approach is carried out by examining laws and regulations related to the legal issues under study, while the case approach is carried out by examining a case that has become a court decision that has permanent legal force. This research uses the case of decision Number 25/Pdt.G/2020/PN.Bjb regarding the Notary registering the PKR Deed based on the EGM in violation of the PT Law into the OSS system.

Results and Discussion

A. Judges' Reasoning

The judges of the Banjarbaru District Court (Banjarbaru District Court) concluded that the subject matter of the case was whether the actions of defendant II and defendant III in holding the EGM on August 23, 2020 on behalf of the Board of Commissioners whose term of office had expired, as well as expressing the results of the meeting in the form of Minutes of Meeting which was subsequently made into PKR deed Number 03 by defendant I and registered with the SABH resulting in losses to the Plaintiff as a minority shareholder, was unlawful or against the law and whether the actions of the defendants who poured the results of the EGM into PKR deed Number 3 of 2019 made by Defendant I were unlawful?

To answer the first question, understanding Article 94 paragraph (3) and Article 111 paragraph (3) of the Company Law, members of the board of directors and board of commissioners are appointed for a certain period of time and can be reappointed. By examining Exhibit P.2 in the form of the articles of association of PT KSE, it is expressly stipulated that the term of office of the board of directors and the board of commissioners is for a period of 5 (five) years, however, until the term of office is due to expire, there has never been a call for a GMS by the board of directors or the board of commissioners of PT KSE, and there has never been a request from shareholders to hold a GMS to appoint a new board of directors or board of commissioners.

The judges of Banjarbaru District Court were of the opinion that the term of office of the directors and commissioners of PT KSE, if referring to Exhibit P.2, had expired on November 7, 2013, resulting in a vacancy in the position of directors and commissioners until the appointment of new members of the board of directors and commissioners by the General Meeting of Shareholders. Thus, both directors and commissioners whose term of office has expired are no longer authorized to summon the GMS and chair the GMS.

According to the panel of judges, in the event of a vacancy in the position of directors and commissioners, the invitation to the GMS can only be made by shareholders in the event that after the lapse of a certain period of time stipulated in Article 79 of the Company Law since the receipt of a registered letter containing a request for a GMS, the board of directors and the board of commissioners do not make an invitation to the GMS. It is further explained in Article 80 of the Company Law that in the event that a shareholder requests the holding of a GMS, it may submit an application to the chairman of the district court whose jurisdiction covers the domicile of the company to determine the granting of permission to the applicant to conduct the GMS invitation itself. In addition to the invitation being made by the board of commissioners whose term of office has expired, the panel of judges looked at Exhibit P-12 that the invitation to the GMS was made by the board of commissioners on August 15, 2019 and the GMS was held on August 23, 2019, contrary to the provisions as stipulated in Article 82 paragraph (1) of the Company Law which outlines that the invitation to the GMS is made within a period of 14 days before the date of the GMS is held by not taking into account the date of the invitation and the date of the GMS. Thus, the conditions required in Article 9 of the Articles of Association jo. Article 82 of the Limited Liability Company Law which requires a grace period of 14 days from the date of invitation until the extraordinary GMS is held is not fulfilled. However, in the event that the invitation is not in accordance with these provisions, the resolutions of the GMS are still valid if the shareholders with voting rights are present or represented at the GMS and the resolutions are unanimously approved (Article 82 paragraph (5) of the Company Law).

Based on these considerations, the panel of judges concluded that the GMS whose invitation was made by the board of commissioners whose term of office had expired or by shareholders without a court order, as well as the time period for inviting the GMS which was contrary to the Company Law, was invalid and all decisions taken at the meeting were also invalid decisions because of their implementation. does not meet the requirements set out in

the law. The plaintiff in his lawsuit is obliged to prove the arguments of his lawsuit and the defendant is also obliged to prove the arguments of his denial. The plaintiff's arguments in the *petita* and *petitum* are different, in the *posita* the plaintiff asks for the PKR deed to be canceled while in the *petitum* asks for the PKR deed to be null and void. In a lawsuit the relationship between the statement and the *petitum* must be interrelated. The *petitum* must be in line with the legal basis and facts stated in the postulates or arguments of the lawsuit, must not contradict each other or controversy. If they contradict each other, the lawsuit is considered vague.

Defendant I, namely notary R, denied in the main case, explaining that the making of PKR deed Number 03 dated September 10, 2019 only stated the statement of will of the parties, in this case the second defendant and the third defendant. Notary R also testified that he had assisted PT KSE in adjusting the company to PP Number 24 of 2018 concerning electronically integrated business licensing services (PP OSS) by registering it first with SABH and a decree was issued by the Minister of Law and Human Rights Number AHU-0071227.AH.01.02 of 2019 on September 18, 2019 and a decree changing the company data of PT KSE Number AHU-AH.01.03-0333188 dated September 18, 2019. The adjustment here is a change in the company's purpose and objectives to adjust the 2017 KBLI (clarification of Indonesian business field book) narrative, based on the letter of the head of the Investment Coordinating Board of the Republic of Indonesia Number 216 / A.1 / 2019: acceleration of 2017 KBLI adjustment for business actors where if within a period of 1 year from October 11, 2018, business actors do not adjust their purpose and objectives according to KBLI, they will be subject to sanctions for freezing NIB (business identification number) which is a licensing identity for business actors as a national identifier. The issuance is done through OSS (Online Single Submission). Based on the electronically integrated system, the business field narrative data listed in the articles of association must be in accordance with the 2017 KBLI catalog which must be connected or integrated to the OSS system at the Coordinating Ministry for the Economy and the SABH System at the Ministry of Law and Human Rights.

In Government Regulation No. 24 of 2018 and Government Regulation No. 5 of 2021, both regulations do not mention the authority and responsibility of Notary to access OSS, which can access the business actors themselves, while Notary R accesses OSS through a power of attorney from PT.KSE. Notary R has received an administrative sanction from the Banjarbaru City Regional Supervisory Council in the form of an oral reprimand related to the PKR deed that he poured there was a quorum error, but did not mention the act of Notary R entering the PKR deed that violated the PT Law into the OSS, as well as the Banjarbaru Panel of judges did not make new legal facts in the trial that Notary R entered PKR data that did not comply with the PT Law into the OSS as a mistake and did not fulfill the elements of a tort.

To answer the second problem related to unlawful acts, Article 1365 of the Civil Code states that "every unlawful act that causes damage to another person obliges the person who caused the damage through his fault to compensate for the damage". To be said to have committed an unlawful act, all elements of this article must be fulfilled. These elements

are the existence of an unlawful act, the existence of fault, the existence of loss and the existence of a causal relationship between the loss and the act.

The Banjarbaru Panel of Judges was of the opinion that in relation to the element of unlawful conduct, the GMS whose invitation was made by Defendant II and Defendant III as the board of commissioners whose term of office had expired or by shareholders without a court order, as well as the time period for inviting the GMS contrary to the Company Law was invalid and all decisions taken at the meeting were also invalid decisions because the implementation did not meet the requirements set out in the law so that the appointment/position of both plaintiffs as directors of PT. KSE, the panel of judges should have also declared the positions of the second defendant and third defendant as the board of commissioners in the PKR deed invalid. According to the panel of judges, the GMS was not null and void because it was in line with Article 82 number 5 of the PT Law which states "in the event that the summons is not in accordance with the provisions in paragraph (1) and paragraph (2), and the summons is not in accordance with the provisions of paragraph (3), the resolutions of the GMS are still valid if all shareholders with voting rights are present or represented at the GMS and the resolutions are unanimously approved". The fact that the quorum when the GMS took place was only 60% of the shareholders, all of whom were owned by defendant II, so it cannot be said that it was unanimously approved because the plaintiff as a 40% shareholder was not present or represented. The panel of judges did not pay attention to the evidence that Notary R as the defendant I had received an administrative sanction in the form of an oral warning for his negligence in writing the PKR deed which did not comply with the quorum of the PT Law as stated in the MPN decision letter Number UM. MPWN Prov Kal-Sel 12.19.01 dated December 30, 2019. Based on the testimony of Defendant I's witness on page 55 of the decision, namely Prof.Dr.H.M. Hadin, S.H., M.Hum, who is a member of the Regional Supervisory Council (MPD) from academia and is an MPD team to conduct an examination, it was proven that there was 1 (one) mistake of Defendant I, a violation related to the amendment of the company's articles of association where the quorum was not fulfilled, which should have been 2/3 of the shareholders and Defendant I realized that he was not careful in this matter. The panel of judges should have declared the GMS invalid and null and void because it clearly violated the PT Law, Article 86 paragraph 2 of the PT Law in the event that the quorum for the first GMS was not reached, the meeting must still be opened and then closed by making minutes of the meeting explaining that the first GMS could not continue because the quorum was not reached and then a second GMS could be called, then Article 86 paragraph 5 of UU PT in the event that the quorum of the second GMS is not reached, the GMS must still be opened and then closed by making minutes of the GMS explaining that the second GMS cannot be continued because the quorum is not reached and then an application can be submitted to the chairman of the district court to determine the quorum of the third GMS. Notary R clearly violated the Limited Liability Company Law in drafting the PKR Deed.

The Banjarbaru panel of judges also did not consider Notary R's act of entering the PKR deed data in violation of the Limited Liability Company Law into the OSS system as an unlawful act, even though this could be used as aggravating

evidence, according to Arrest H.R January 31, 1919 unlawful acts are contrary to propriety, accuracy and caution. One must weigh one's own interests against the interests of others based on what is considered proper and appropriate in society. Access to the Online Single Submission (OSS) system for business actors, as for business actors who want to ask for Notary assistance, they must use a power of attorney because there is none of its authority in the regulations of PP Number 24 of 2018 and PP Number 5 of 2021. It can be said that Notary R is not suitable and appropriate for a Notary to enter PKR data that violates the PT Law into the OSS system, therefore it can be said that Notary R's actions are against the law.

Regarding the element of fault, in its decision the Banjarbaru Panel of Judges only quoted the denials of defendant II and defendant III who explained that the GMS was taken based on deliberation for consensus. Mulyoto in his book Criminalization of Notaries states that the GMS is a meeting between shareholders, what happened at the LB GMS on 23 August 2019 was only attended by 2 people, namely defendant II as a shareholder and defendant III, namely the board of commissioners whose term of office had expired, not shareholders. Therefore, it was not a decision of the GMS, but a decision of one of the shareholders and therefore it can be said that there was no GMS. In this case, the GMS was still said to exist and was stated in the PKR deed, but the panel of judges did not see this as an element of fault.

Regarding the element of loss, the panel of judges was of the opinion that the plaintiff did not prove the existence of a loss by detailing and explaining what kind of loss the plaintiff had suffered, the panel of judges assessed the plaintiff's loss of Rp 3,000,000,000.00 (three billion rupiah) by relying on the non-existence / non-operation of PT KSE since October 25, 2019, then the second defendant as a shareholder also suffered the same loss.

The element of a causal relationship between the loss and the action, the Panel of Judges considered that the plaintiff could not prove the arguments of his lawsuit. In the *posita* which states that the EGM as outlined in the Minutes of Meeting is invalid so that it should be canceled, but in the *petitum* of the lawsuit the plaintiff in relation to the *posita* does not request cancellation, while the basis for the Deed of Statement of Meeting Resolution Number 3 dated September 10, 2019 made by defendant I is the results of the EGM itself as well as the Minutes of Meeting dated August 23, 2019.

The court is a place to seek justice, certainty and legal benefits. The Panel of Judges should not only decide cases based on the judge's beliefs. The *ratio decidendi* theory, as stated by MacKenzie, explains that when imposing a decision, the judge must uphold the law and provide justice for the parties related to the subject matter of the lawsuit. The *ratio decidendi* theory also requires judges to pay attention to the factors of education (education), humanity, expediency, law enforcement, and legal certainty in every decision they make.

B. Forms of Liability for Notaries

In making an authentic deed, the Notary must be responsible if the deed he makes contains errors or violations that are intentional by the Notary. Conversely, if the element of error or violation occurs from the confronting parties, then as long as the Notary exercises his authority in accordance

with the regulations. The Notary concerned cannot be held liable, because the Notary only records what is conveyed by the parties to be poured into the deed. False information submitted by the parties is the responsibility of the parties. Notaries as public officials authorized to make authentic deeds can be held liable for their actions in connection with the work of making the deed. Notaries can be held civilly liable, criminally liable, administratively liable and ethically liable.

a. Civil Liability

The juridical construction used in civil liability for deeds made by notaries is the construction of unlawful acts (Article 1365 of the Civil Code). At first, what was meant by unlawful acts was only acts that violated the law, but after the 1919 Hoge Decision on the Lindenbaum-Cohen case, a new criterion was made regarding unlawful acts, which included acts that violated the rights of others, contrary to obligations under the law, contrary to decency, and contrary to propriety in considering the interests of themselves and the property of others in everyday life (Marian Darus Badruzaman, 2001). In more detail, an unlawful act in a broad sense is when the act:

1. Violates the rights of others, meaning that it injures the subjective rights of others, namely the rights granted by law to a person to protect his interests, for example the right to freedom, the right to honor and good name and the right to property.
2. Contrary to a legal obligation, meaning an obligation to do or not to do according to the law.
3. Contrary to decency, which is a norm of perspective recognized in everyday social life. Decency norms are relative, meaning that they are appropriate to a particular time and place.
4. Contrary to propriety in taking into account the interests of themselves and the property of others in everyday life, namely actions that ignore and violate the interests of others.

In the Civil Code, the model of legal responsibility that arises from unlawful acts are:

1. Liability with elements of fault (intent and negligence), as contained in Article 1365 of the Civil Code.
2. Liability with the element of fault, especially the element of negligence, as contained in Article 1366 of the Civil Code;
3. Absolute liability (without fault) in a very limited sense found in Article 1367 of the Civil Code. In addition to those who must be held accountable, there are also civil sanctions that must be received, namely sanctions imposed for errors that occur due to default or unlawful acts *onrechtmatige daad*. Civil sanctions can be in the form of reimbursement of costs, compensation and interest.
4. This interpretation means that a notary is liable for mistakes that have been made in relation to his or her work, not only those listed in the laws and regulations, but also for acts of carelessness that are considered reasonable in society. Such imprudence includes the notary's failure to scrutinize the incompetence of the confronter, the authority of the parties, or the marital status of the parties.

The unlawful act can be active or passive. Active means intentionally committing an act that causes harm to another party. Passive means not doing an act, but in fact the act is an obligation for him. By not doing certain actions that are mandatory for him, the other party can suffer losses. An example of a notary's passivity or silence that is included in an unlawful act is if the notary in his duty to provide services to the public or people who need his services in the legalization of a deed, the making of a deed does not notify the parties of the existence of a clause that is contrary to the law so as to cause harm to others, while the parties themselves do not know about it. This can occur because the notary has less knowledge, less experience and/or less understanding.

Nevertheless, as stated by Dr. Herlien Budiono, S.H., a notary is neither a party to the deed nor a party to the deed. The task of assistance provided by a notary in this case, in addition to having special characteristics that characterize a notary, namely impartial and independent, also provides a strong basis for public liability for mistakes made by notaries in carrying out their positions (Herline Budiono, 2015).

b. Criminal Liability

Criminal provisions are not regulated in the UUJN, but criminal liability of notaries will be imposed if the notary commits criminal acts that are regulated in general in the Criminal Code (hereinafter referred to as the Criminal Code) or in other laws and regulations specifically outside the Criminal Code. Criminal acts are acts that are prohibited by a rule of law and threatened with sanctions in the form of certain punishment for those who violate the prohibition. Criminal acts in this case are criminal acts committed by notaries in their capacity as public officials authorized to make deeds, and not in the context of individuals as citizens in general (Abdul Ghofir Ansori, 2016). The formulation of the Criminal Code regarding criminal acts that are closely related to the notary profession includes criminal acts related to forgery of letters (Articles 263-264 of the Criminal Code), entering false information (Article 266 of the Criminal Code), official secrets (Article 322 paragraph 1 of the Criminal Code) and fraud (Article 378 of the Criminal Code). The notarial act must have fulfilled the following 3 conditions

1. There must be a notarial act that can be punished for violating the elements in the making of an authentic deed which are expressly formulated by law.
2. The act of the notary is contrary to the law, and the act is committed with fault (either an element of intent or negligence) of the notary.
3. Error or negligence in a criminal offense includes elements that are contrary to the law and there must be an act against criminal law. (Chandra, 2017).

In relation to the above, to request a notary's testimony on a certain party's report according to Article 66 of the UUJN, if the notary is summoned by the Police, Prosecutor's Office, or Judge, the agency that wants to summon must request approval from the Notary Honor Council.

c. Administrative Responsibility

Administrative liability of notaries can be requested through notary institutions/organizations, in contrast to criminal and civil liability which must be carried out through the courts.

However, the court through its verdict can forward it to the notary organization to follow up on the verdict issued by the court. Determining the existence of a notary's administrative liability is that there must be an act of the notary that can be punished or an act that has violated the elements expressly regulated in the UUJN. Holding notaries accountable is done by imposing or giving notaries administrative sanctions to account for the violations they have committed. Administrative sanctions for notaries regulated in the UUJN have been determined as follows:

1. Oral reprimand;
2. Written reprimand;
3. Temporary dismissal;
4. Honorable dismissal;
5. Dishonorable dismissal.

d. Ethical Responsibility

Notaries have an organization that houses Notaries called the Indonesian Notary Association which is abbreviated as INI which is mandatory to follow. The organization holds a congress to create a code of ethics that must be adhered to and become a guideline by Notaries. In Article 3 of the Amendment to the Code of Ethics of Notaries of the Extraordinary Congress of the Indonesian Notary Association Banten May 29-30, 2015 (hereinafter referred to as the Code of Ethics of Notaries) states that Notaries and other people (as long as they carry out the position of Notary) have obligations stipulated in the Code of Ethics of Notaries. In Chapter IV Article 6 of the Notary Code of Ethics explains that there are sanctions imposed on members who violate the Code of Ethics in the form of:

1. Reprimand
2. Warning
3. Temporary dismissal from membership of the association
4. Honorable dismissal from membership of the association
5. Dismissal with dishonor from membership of the association

Dissecting one by one the mistakes made by the Notary. First, Notary R did not carefully examine the deed of establishment of PT.KSE and the articles of association of PT.KSE, because if Notary R was careful then Notary R could see the irregularities in the summoning of the GMS by the board of commissioners whose term of office had expired. Notary R should have provided legal counseling to the plaintiffs that the minutes of the EGMS held violated the Limited Liability Company Law. This is regulated in Article 15 paragraph (2) letter e "Notaries are authorized to provide legal counseling in connection with the making of Deeds". Second, Notary R did not pay attention to the quorum of the EGM. For the validity of the GMS, a quorum must be met, the quorum for ordinary events is more than 50%, the quorum for amendments to the Articles of Association is 66.66% or 2/3 of all shareholders entitled to vote. Whereas meetings regarding merger, consolidation, acquisition, or separation (Article 89 UUPT) or submission of a request for the company to be declared bankrupt, or extension of the company's time or dissolution of the company, the GMS is attended by at least 75% or 3/4 of all shareholders entitled to vote along with the decision. In the case that occurred, the EGM with the agenda of amending the articles of association was only attended by 1 60% shareholder and 1

commissioner. Notary R's actions should have fulfilled the elements of guilt in the article of tort and could be subject to civil liability by compensating the plaintiff jointly and severally with the other defendants, but the Banjarbaru District Court Judges erred in their interpretation of the Limited Liability Company Law regarding the quorum for the EGM and did not include the literacy of PP Regulation Number 24 of 2018 and PP Number 5 of 2021.

Third, Notary R entered the PKR Deed data that violated the Limited Liability Company Law into the OSS system, which there are no regulations for Notaries, if the plaintiff brings this case to the criminal realm, Notary R could be charged with Article 266 of the Criminal Code for entering false information. Notary R's inaccuracy has received administrative sanctions from MPWN in the form of a verbal reprimand for inaccurately checking the calculation of the quorum for the EGM of PT.KSE, as for the ethical responsibility of Notary R in violation of Chapter III Article 3 number 4 "Notaries are obliged to behave honestly, independently, impartially, carefully trustworthy, with a sense of responsibility based on laws and regulations and the contents of the Notary's oath of office" and Chapter III Article 3 number 5 "Notaries are obliged to improve their knowledge and professional expertise, not limited to legal and notarial knowledge".

Conclusion

The Banjarbaru District Court judges in handling this case tended to be less careful and less thorough in determining the main issues at issue. The Banjarbaru District Court judges did not declare the actions of the defendants in the Extraordinary GMS which were then set out in PKR Deed No. 03 as unlawful, and declared the invitation and decision of the EGM invalid, However, it did not nullify the EGM by law because the Banjarbaru District Court Judges erred and were not careful in interpreting the quorum of the EGM in Article 82 number 5 of the Company Law and the actions of Notary R in registering the PKR Deed into the OSS system were not used as new evidence that could incriminate the sentence because in the civil sphere the plaintiff must be able to prove his claim but the petitum and posita of the plaintiff are not the same.

The responsibility imposed on Notary R is administrative responsibility by MPWN South Kalimantan in the form of an oral reprimand because Notary R did not pay attention to the quorum of the EGM, although the PKR Deed is a Partij deed made based on the confronting information, but in making the PKR Deed the Notary is obliged to pay attention and check the requirements that must be met in accordance with statutory provisions because it will determine whether the GMS decision is valid or not. The Notary is also obliged to provide legal counseling to the relevant confrontants if there are documents that are not in accordance with the requirements requested by the laws and regulations.

Suggestion

The panel of judges must pay attention to the subject matter of the case submitted to them, the Limited Liability Company Law and Regulations regarding Online Single Submission PP Number 24 of 2018 and PP Number 5 of 2021 in order to create legal certainty for the plaintiff and defendant.

In pouring the minutes of the GMS into the PKR deed of a limited liability company, a notary must use the

precautionary principle. The notary must carefully examine all documents submitted by the party appearing before him. If in the process of examining these documents, actions that violate the Limited Liability Company Law or the company's articles of association are found, the notary must firmly refuse to include the minutes of the GMS in the PKR deed. The refusal is of course accompanied by the provision of understanding and explanation from the notary regarding the legal action and its legal consequences. Conversely, if the GMS has been held in accordance with the Limited Liability Company Law and the company's articles of association, then the notary is obliged to pour the GMS minutes into the PKR deed and process it to the Ministry of Law and Human Rights (for certain GMS decisions). The provisions that must be considered by notaries in pouring the GMS minutes into the PKR deed include the Limited Liability Company Law, the company's articles of association, the Notary Office Law, the notary code of ethics and other related implementing regulations.

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