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NOTARY/LAND DEED OFFICIALS RESPONSIBILITY FOR THE DRAFTING OF A HOUSE SALE AND PURCHASE DEED USING A FAKE DIVORCE DEED BY THE APPEARERS

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Abstract

This article examines the legal responsibility of a notary who concurrently acts as a Land Deed Official in the making of a house sale and purchase deed based on a forged divorce certificate submitted by an appearer. The main issue arises when the forged document is used to avoid spousal consent over joint marital property, while the identity card records the seller as divorced. The research applies normative juridical method supported by statutory, conceptual, and case-based approaches. The analysis shows that the authenticity of a deed must be separated from the validity of the underlying legal act. A deed made by an authorized official may retain formal authenticity, yet the sale and purchase may be annulled when the seller lacks authority to dispose of joint property. The notary/Land Deed Officials is not a guarantor of all material truth, but the office requires reasonable verification of identity, marital status, court authority, land documents, and visible irregularities. Civil liability arises when negligence, loss, and causality are proven. Criminal liability requires knowledge, intent, or participation in the use of forged documents. Administrative and ethical sanctions may follow when professional prudence is ignored. This article proposes an integrated verification standard involving courts, civil registration offices, and land offices to protect parties and officials who act in good faith.

KEYWORDS: Notary Responsibility; Land Deed Officials; Forged Divorce Certificate

Introduction

Civil law recognizes evidence as a means to prove the existence of legal relationships, rights, and obligations of parties in the event of a dispute. Article 1866 of the Civil Code stipulates that civil evidence consists of written evidence, witnesses, allegations, confessions, and oaths. Of these various forms of evidence, written evidence occupies a very important position because it can provide a clearer picture of a legal event that has occurred. Written evidence can be in the form of a private deed or an authentic deed made by an authorized public official. The existence of an authentic deed is often chosen by the public because it has perfect evidentiary power and provides legal certainty for the parties involved in a legal relationship.

An authentic deed is a deed drawn up by or before an authorized public official in accordance with the form and procedures determined by statutory regulations. The evidentiary power of an authentic deed lies not only in its formal form but also in the authority of the official who drew it up. The deed serves as written evidence that can be used to prove the existence of a legal act, agreement, or specific legal event. Despite its strong evidentiary power, an authentic deed can still be challenged if there are defects in the process of its creation or if there are supporting documents that do not correspond to the actual situation. Problems often arise when the parties present use inaccurate identities, statements, or documents as the basis for the deed.

Legal certainty in a house transaction is determined not only by the agreed price and the handover of the certificate, but also by the accuracy of identity, capacity to act, marital status, the spouse's consent, and the authority of the deed-making official. A sale and purchase deed that appears administratively orderly can harbor serious problems if one of the supporting documents turns out to be fake. These fake documents are not limited to documents whose contents are entirely falsified, but also include documents created by unauthorized parties, documents whose contents have been altered, or documents that provide information that does not correspond to the actual legal situation. The existence of such documents can affect the validity of legal actions based on them. The problem becomes more acute when the falsified document is a divorce certificate, because this status directly relates to the seller's authority to transfer an object that may be considered joint property. In the research material, the main issues are focused on house sale and purchase transactions involving Notary/Land Deed Officials, fake divorce certificates, the status of ID cards stating that the person is divorced, and the absence of a legal spouse when giving consent. This fact shows that formal examinations cannot be interpreted as simply a mechanical act of accepting photocopies of documents, because marital documents influence the legal validity of the sale of a house.

Notaries and Land Deed Officials are at the intersection of public service, the private interests of the parties, and the state's need to maintain orderly land administration. Notaries are authorized to issue authentic deeds, while Land Deed Officials issue specific deeds concerning legal acts concerning land. In practice, one official often serves as both a notary and a Land Deed Officials, then issues a Preliminary Sale and Purchase Agreement or Land Sale and Purchase Deed as the basis for a house transaction. This authority provides strong legitimacy to the deed, but the power of proof should not be interpreted as immunity from defects in will, authority, or documentation. An authentic deed can still be disputed if there are falsehoods in the testimony of the parties or the documents serving as the basis for the deed. Niken Ariska Handayani and Aminah (2023) explain that the involvement of notaries in disputes often stems from the use of incorrect statements or documents by the parties, which raises issues regarding the notary's accountability and the legal consequences of the deed.[1] Temuan tersebut memperlihatkan bahwa kekuatan pembuktian akta otentik tetap berkaitan erat dengan kualitas informasi dan dokumen yang digunakan saat proses pembuatannya.

[1] Niken Ariska Handayani and Aminah, "Tanggungjawab Notaris Terkait Adanya Keterangan Palsu Di Dalam Akta Yang Dibuatnya" 13, no. 1 (2023): 115–26.

Previous research suggests that a notary's liability is limited to formal accuracy, not material accuracy, of all documents presented by the notary. Rizky Amalia, Musakkir, and Syamsudin Muchtar (2021) place the notary's responsibility on procedural aspects, the form of the deed, and compliance with the position. While false statements from the notary are the responsibility of the notary unless there is active involvement.[2] This formulation is important, but it does not sufficiently address the situation when a forged document has irregularities that can be seen from the issuing agency's authority, for example, a divorce certificate that should have originated from a specific court but was filed from an unauthorized institution. Bunga Mentari Paskadwi (2022) emphasized that identifying the appearing party is an important part of the notary's prudential principle because inadequately verified identities can lead to disputes and reduce the evidentiary power of the deed. This discussion focuses on the identity of the appearing party and the application of the principle of recognizing the service user, so it does not specifically describe the use of a forged divorce certificate that affects the seller's authority to transfer a house as joint property.[3] Meisya Adistia (2024) shows that a Land Deed Official cannot be held responsible for false statements provided by the parties as long as the Land Deed Officials has followed the official procedures and the principle of prudence in accordance with applicable regulations. This study focuses on the limits of the Land Deed Officials's liability for false statements from the parties but does not yet discuss the verification of divorce documents used as the basis for the transfer of rights to the house.[4]

Radhityas Kharisma Nuryasinta (2024) explains that a deed made based on a forged document is, in principle, still considered valid and binding as long as there is no final and binding court decision annulling it. The discussion focuses on the legal status of the deed after a dispute arises and does not examine the preventive measures that a notary or Land Deed Officials must take when discovering discrepancies in marital status documents.[5] Yuwono, Ariyanto, and Sidauruk (2026) stated that notaries can be held accountable for administrative, civil, and criminal matters if they are proven to have committed errors due to negligence or intent that cause losses to the parties. This study discusses the liability of notaries for the contents of deeds that do not correspond to the facts in general and does not specifically link the use of fake divorce certificates to the validity of house sales and purchases and the rights of spouses to joint property.[6] Based on previous research, it appears that the focus of the studies still revolves around the liability of notaries or Land Deed Officials for the use of false identities, false statements, false documents, and the validity of deeds in general. Each study has not specifically examined the use of false divorce certificates as the basis for home sale and purchase transactions related to joint property status, the consent of the legal spouse, and the seller's authority to transfer ownership of the home. This lack of research indicates that there is still room for analysis regarding the limits of the

[2] Rizky Amalia, Musakkir Musakkir, and Syamsudin Muchtar, "Pertanggungjawaban Notaris Terhadap Isi Akta otentik Yang Tidak Sesuai Dengan Fakta," *Al-Ishlah: Jurnal Ilmiah Hukum* 24, no. 2 (2021): 194–96.

[3] Bunga Mentari Paskadwi, "Peran Dan Tanggung Jawab Notaris Terkait Pengenalan Penghadap Serta Akibat Hukum Atas Pembuatan Akta otentik Oleh Notaris (Studi Putusan Pengadilan Negeri Jakarta Selatan Nomor 366/PID.B/2021/PN.JKT.SEL)" 4 (2022).

[4] Meisya Adistia, "Pertanggungjawaban Land Deed Officials Terhadap Akta Jual Beli Berdasarkan Keterangan Palsu Yang Diberikan Oleh Para Pihak" 7, no. 1 (2024): 87–102, https://doi.org/10.20473/ntr.v7i1.54512.

[5] Radhityas Kharisma Nuryasinta, "Autentisitas Akta Notaris Yang Terbukti Palsu Dan Dampaknya Bagi Para Pihak" 9, no. 01 (2024): 190–205.

[6] Tri Yuwono, Dhafin Ramadhan Ariyanto, and Albertus Agung Hagai Beni Parhualar Sidauruk, "Pertanggungjawaban Notaris Terhadap Isi Akta otentik Yang Tidak Sesuai Dengan Fakta" 10, no. 1 (2026): 104–12, https://doi.org/10.33087/wjh.v10i1.2016.

verification obligations that notaries and Land Deed Officials must carry out regarding marital status documents used by the parties in home sale and purchase transactions.

Identification of the person appearing is an important task because an authentic deed is made based on the person's presence, identity, and the statement of the will of the person appearing.[7] This idea reinforces the importance of prudence as a bridge between formal truth and proper verification. In a home transaction, identification of the parties involved goes beyond simply matching their ID card photos to their faces. Officials also need to understand the interrelationships between documents: ID cards, family cards, marriage certificates or divorce certificates, certificates, property tax, and spousal consent. If the document sequence is inconsistent, delaying the issuance of the deed is a safer course of action than rushing the deed for the sake of the transaction.

False information in a Deed of Sale and Purchase of land can give rise to administrative, civil and criminal liability if there is negligence or deliberate action by officials.[8] This position is relevant for home buying and selling because the house is attached to the land title, while the Deed of Sale and Purchase serves as the basis for registering the transfer of rights. The novelty of this discussion lies in the analysis of the legal relationship between the use of a fake divorce certificate as the basis for a home sale and purchase transaction, the validity of the transfer of rights to the house, and the legal responsibility of notaries/Land Deed Officials. This research also offers an assessment of the precautions that notaries and Land Deed Officials must apply in verifying marital status documents when there are indications of inconsistencies that could affect the validity of the transaction.

Alvian Dharmawan, Dwiky Akbar Nugroho, and Azis Akbar Ramadhan (2022) in their research on minutes of deeds prepared based on false statements from the parties showed that notaries are not investigators of every material truth, but officials still bear the obligation to maintain the form of the deed, reading, signing, identity, and supporting documents that can be reasonably examined.[9] Notary liability may arise when formal negligence causes a deed to be legally defective or results in loss.[10] This view reinforces the importance of applying the principle of caution to documents relating to marital status, as these documents determine whether or not a person has the authority to perform legal acts on the property being transacted. The issue becomes more complex when the divorce documents used do not reflect the actual legal situation, as this can impact the validity of the transfer of rights and legal protection for all parties involved.

The urgency of this research lies in the multiple risks. For the uninvolved spouse, the use of a forged divorce certificate can result in loss of control over joint assets. For the buyer, the transaction can result in cancellation, lawsuits, or protracted disputes. For notaries/Land Deed Officials, deeds originally processed as a regular service can become the subject of supervisory board examinations, civil lawsuits, and even criminal reports. For land officials, transfers of title based on defective documents create uncertainty in the legal data. The problem formulation of this

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[7] Paskadwi, "Peran Dan Tanggung Jawab Notaris Terkait Pengenalan Penghadap Serta Akibat Hukum Atas Pembuatan Akta otentik Oleh Notaris (Studi Putusan Pengadilan Negeri Jakarta Selatan Nomor 366/PID.B/2021/PN.JKT.SEL)."

[8] Rahmia Rachman, Ahmad Aswar Rowa, and Hasnawati, "Pertanggungjawaban PPAT Atas Keterangan Palsu Dalam Pembuatan Akta Jual Beli Tanah," *DiH: Jurnal Ilmu Hukum* 18, no. 2 (2022): 197–201.

[9] Alvian Dharmawan, Dwiky Akbar Nugroho, and Azis Akbar Ramadhan, "Pertanggungjawaban Notaris Atas Minuta Akta Yang Dibuat Berdasarkan Keterangan Palsu Para Penghadap," *Jurnal Education and Development* 10, no. 3 (2022): 646–48.

[10] Agung Marcelyno, Alusianto Hamonganan, and Onan Purba, "Pertanggungjawaban Notaris Terhadap Akta Otentik Yang Dibuat Dihadapannya: Studi Notaris Di Kecamatan Deli Tua Kabupaten Deli Serdang," *Jurnal Diktum* 1, no. 1 (2022): 53–56.

article is directed at the form of legal responsibility of notaries/Land Deed Officials for authentic deeds in house sale and purchase transactions based on forged divorce certificates, as well as the application of the principle of prudence in verifying the authenticity of divorce certificates and marital status documents.

Methods

The research uses a normative juridical method with a descriptive analytical nature to examine various legal norms related to the responsibilities of notaries and Land Deed Officials in making house sale and purchase deeds based on invalid documents.[11] The study focused on regulations regarding the positions of notaries and Land Deed Officials, as well as provisions regarding authentic deeds, joint property sale and purchase agreements, forgery of documents, unlawful acts, and professional codes of ethics. This method was chosen because the issues discussed relate to the application of legal norms and not the measurement of statistical data.[12] The analysis is aimed at understanding the relationship between the rules governing the authority of the deed-making official and the legal consequences that arise when the documents used as the basis for the deed are found to be inconsistent with the actual legal situation. The use of normative juridical methods also allows for a more in-depth examination of legal doctrine, legal principles, and statutory provisions relevant to the subject matter.[13]

The study was conducted through a legislative approach, a conceptual approach, and a case approach. The legislative approach was used by examining various legal provisions governing the creation of authentic deeds, the authority of notaries, the authority of Land Deed Officials, the falsification of marriage certificates, and the transfer of rights to land and houses.[14] The conceptual approach is used to understand the concept of legal responsibility, prudence, validity of authentic deeds, legal protection and the position of joint property in marriage.[15] A case study approach was used to examine emerging legal issues based on notary interview material provided in the research documents. The use of these approaches aims to obtain a comprehensive picture of the relationship between normative provisions and the legal events under discussion.[16]

The data sources used are primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include the Civil Code, the Notary Law, the Criminal Code, regulations regarding the position of Land Deed Officials, provisions on land registration, and regulations governing marriage and joint property. Secondary legal materials consist of national legal journals, Indonesian legal books, scientific works, and various notarial literature discussing the issue of authentic deeds and the responsibilities of the deed-making official. Tertiary legal materials are used to assist in the search for conceptual terms and understanding of the various legal sources used.[17] All of these legal materials were selected based on their relevance to the problem of using fake divorce certificates in house sale and purchase transactions.

[11] Gunardi, *BUKU AJAR METODE PENELITIAN HUKUM*, 2022.

[12] Tiyas Vika Widyastuti, Achmad Irwan Hamzani, and Fajar Dian Aryani, *METODOLOGI PENELITIAN DAN PENULISAN BIDANG ILMU HUKUM TEORI DAN PRAKTEK*, 2024.

[13] Nur Solikin, *PENGANTAR METODOLOGI PENELITIAN HUKUM*, 2021.

[14] Gunardi, *BUKU AJAR METODE PENELITIAN HUKUM*.

[15] Muhammad Syarif et al., *Metode Penelitian Hukum*, 2022.

[16] Sidi Ahyar Wiraguna, "Metode Normatif Dan Empiris Dalam Penelitian Hukum : Studi Eksploratif Di Indonesia" 3, no. 3 (2024), https://doi.org/10.59818/jps.v3i3.1390.

[17] Wiwik Sri Widiarty, *Buku Ajar Metode Penelitian Hukum*, 2024.

The collection of legal materials is carried out through literature studies by tracing legal regulations, scientific literature and research results that are related to the subject matter.[18] The collected legal materials were then classified based on discussion themes, such as the authority of a notary, the authority of a Land Deed Officials, the status of joint property, the validity of authentic deeds, document forgery, and legal liability. The classification stage was carried out so that each legal source could be analyzed according to the focus of the issues discussed. This process also helped identify the relationship between one regulation and another when assessing the validity of a house sale and purchase transaction. The results of the grouping of legal materials served as the basis for systematically developing legal arguments. Analysis of legal materials is carried out qualitatively through systematic interpretation, grammatical interpretation and teleological interpretation.[19] Systematic interpretation is used to understand the relationship between the rules regarding authentic deeds, the authority of officials, their capacity to act, marital status, and the couple's consent to joint property. Grammatical interpretation is used to interpret the meaning of provisions governing the obligation to act honestly, carefully, independently, impartially, and to protect the interests of the parties involved in making the deed. Teleological interpretation is used to examine the purpose of establishing legal norms that regulate the protection of parties in real estate transactions.[20] The analysis is aimed at finding a balance between the legal certainty of the deed of protection for buyers who act in good faith, protection for spouses who do not provide consent, and protection for notaries and Land Deed Officialss who have carried out their duties in accordance with applicable procedures and professional standards.

Result and Discussion

1. Legal Responsibility of Notaries/Land Deed Officials for Making a House Deed of Sale Based on a False Divorce Certificate

The case in question occurred when someone sold a house acquired during their marriage using a forged divorce certificate as the basis for the marital breakup. Based on this document, the seller acted independently without presenting or seeking the consent of their legal spouse. A Deed of Sale and Purchase was then drawn up by the Land Deed Official and became the basis for registering the transfer of ownership of the house. After the entire transaction was completed, the spouse, who was still married, learned of the sale and filed an objection, as the property transferred was jointly held. This issue raises questions about the validity of the legal act and the extent of the liability of the notary or Land Deed Official who drew up the Deed of Sale based on a document that was later proven to be inaccurate.

Authentic deeds hold a crucial position in the civil law evidentiary system because they offer greater evidentiary power than other forms of evidence. The authenticity of a deed is determined by its fulfillment of the format requirements stipulated by statutory regulations and its preparation by or before an authorized public official in their jurisdiction. The Deed of Sale and Purchase prepared by a Land Deed Official not only serves as evidence of an agreement between the seller and buyer but also serves as the basis for land administration for making changes to land and building ownership data. This position makes The Deed of Sale and Purchase crucial in ensuring the legal certainty of housing transactions. Errors in supporting

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[18] Wiraguna, "Metode Normatif Dan Empiris Dalam Penelitian Hukum : Studi Eksploratif Di Indonesia."

[19] Solikin, *PENGANTAR METODOLOGI PENELITIAN HUKUM.*

[20] Gunardi, *BUKU AJAR METODE PENELITIAN HUKUM.*

documents can have far-reaching legal consequences, affecting not only the relationship between the parties but also the accuracy of the data recorded at the land office.[21]

The evidentiary power inherent in an authentic deed does not mean that all information provided by the parties is always materially true. An authentic deed provides assurance regarding formal aspects such as the date of the deed's creation, the identity of the parties present, the reading of the deed, and the signing by the parties. The material truth of the documents or information submitted can still be tested through the evidentiary process if a dispute arises later. This situation becomes important when The Deed of Sale and Purchase is made based on a divorce deed that turns out to be fake because the problem that arises lies not in the form of the deed made by a public official but in the basis of the seller's authority to carry out legal acts on the object being sold. This understanding shows that a deed can still have an authentic form, but the substance of the legal act that underlies it can still be questioned if there are defects in the document used as the basis for the transaction.[22]

The use of a fake divorce certificate in a home transaction directly impacts a person's authority to act on joint property. A home acquired during a marriage essentially creates rights and interests for both spouses, so a transfer cannot be carried out unilaterally. When one party uses a fake divorce document to demonstrate that the marriage has ended, the legitimate consent of the spouse is disregarded. This situation creates a flaw in the authority to act because the seller does not have full rights to transfer all interests in the property being sold. This issue can affect the validity of the agreement that forms the basis for the Deed of Sale and Purchase because the will stated in the deed does not originate from all parties who have rights to the property.[23]

Discussions regarding the liability of notaries or Land Deed Officials cannot be separated from the source of the forgery used in the transaction. Primary responsibility essentially rests with the party who intentionally creates or uses a false divorce deed to gain a specific benefit. However, official liability may arise if there is negligence in carrying out the obligation to examine the submitted documents. The assessment of the existence or absence of liability must consider whether the official was aware of the document discrepancy or at least had reasonable suspicion that the document was problematic. A causal relationship between the official's actions and the resulting loss must also be proven to prevent automatic liability from being placed on the notary or Land Deed Officials who created the deed.[24]

The position of notary and Land Deed Officials does not place the official as an absolute guarantor of the entire material truth of the statements made by the parties. The official's obligation is to conduct a reasonable examination of the identities of the parties and the documents used as the basis for the deed. If a fake divorce certificate is meticulously prepared and shows no signs that could raise suspicion after a proper examination, the primary responsibility remains with the forger. A different assessment may be given if there are obvious discrepancies that are ignored by the official. Ignoring discrepancies in marital status

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[21] I Made Stefanus Teguh Oprandi et al., "Akibat Hukum Akta Yang Dibuat Oleh Notaris Pengganti Berdasarkan Peraturan Perundang-Undangan Jabatan Notaris" 4, no. 6 (2024): 2280–89.

[22] Dwi Putri Cahyani and Made Gede Subha Karma Resen, "Keabsahan Akta Notaris Yang Dibuat Berdasarkan Keterangan Palsu Para Pihak," *Kertha Semaya* 9, no. 5 (2021): 803–7.

[23] Endang Suprapti and Arihta Esther Iarigan, "Itikad Baik Dalam Perjanjian Suatu Perspektif Hukum Dan Keadilan" 8, no. 1 (2021): 147–58, https://doi.org/10.15408/sjsbs.v8i1.19377.

[24] Fitria Dewi Navisa, "Tanggung Jawab Notaris Dalam Pembuatan Akta otentik Berdasarkan Keterangan Palsu," *Jurnal Yuridika* 36, no. 2 (2021): 344–48.

or other supporting documents could indicate professional negligence that could potentially give rise to legal liability.[25]

Professional negligence can arise when officials fail to match data between ID cards, family cards, and submitted divorce documents. Negligence can also occur if there are discrepancies in identity documents or court decision numbers, but the Land Sale and Purchase Deed process continues without further clarification. Caution is crucial because home transactions have high economic value and have far-reaching legal consequences. Simple steps such as requesting a certified copy of the divorce decree or confirming this with the relevant authorities can be part of preventative measures. Failure to take reasonable action could potentially strengthen the element of culpability on the part of the official concerned.[26]

Official negligence can be even more apparent if verification of the status of joint property is not carried out before the deed is drawn up, considering that land derived from marriage requires the consent of both parties after the divorce. Officials should verify the authenticity of the divorce certificate through the Religious Court or District Court that issued it, including matching the case number, decision date, and permanent legal force (inkracht). Ignored administrative data discrepancies can result in lawsuits for cancellation of the Land Sale and Purchase Deed, claims for compensation from the injured party, and even administrative sanctions in the form of warnings or dismissal from office, in accordance with the principle of prudence stipulated in the Land Deed Officials job regulations.

Civil liability can arise when a notary's or Land Deed Officials's negligence is proven to have caused harm to another party. The injured party can be a legal spouse who never gave consent to the sale of a house or a buyer who suffered a loss due to a cancelled transaction. To impose civil liability, there must be evidence of an unlawful act, fault, and a causal relationship between the official's actions and the resulting loss. Not every Land Sale and Purchase Deed created based on forged documents automatically gives rise to civil liability for a notary or Land Deed Officials. Liability can only be sought if the official is proven to have failed to fulfill the professional obligations that should have been performed during the deed-making process.[27]

A Deed of Sale and Purchase made based on a forged divorce certificate does not automatically lose its status as an authentic deed. The demotion of the deed's status is usually related to formal defects concerning the authority of the official to form the deed or the preparation procedures required by law. In the case of a forged divorce certificate, the main problem lies in the substance of the legal act carried out by the parties. The judge may determine that the sale and purchase act can be canceled because the seller does not have full authority over the transferred object. This situation indicates that the authentic form of the deed can be maintained, but the legal consequences of the actions recorded in the deed can be canceled by a court decision.[28]

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[25] Marsudi Utoyo, "Pertanggungjawaban Notaris Dalam Kasus Akta Yang Dinyatakan Batal Demi Hukum" 30, no. 3 (2024): 109–18.

[26] Sri Endah Wahyuningsih, "Rekonstruksi Pertanggungjawaban Pidana Pejabat Umum Dalam Pemalsuan Akta otentik ," *Jurnal Pembaharuan Hukum* 8, no. 3 (2021): 415–21.

[27] Dian Latifiani, "Akibat Hukum Akta Jual Beli Tanah Yang Dibuat Berdasarkan Data Tidak Benar," *Pandecta Research Law Journal* 16, no. 2 (2021): 319–24.

[28] Mochamad Januar Rizki, "Kedudukan Akta Otentik Sebagai Alat Bukti Dalam Sengketa Perdata," *Jurnal Hukum Ius Quia Iustum* 28, no. 3 (2021): 582–86.

Legal protection for buyers in good faith also requires attention. Buyers who have checked the certificate, paid the market value and followed the applicable procedures should not be immediately considered the guilty party. Assessment of good faith must be conducted objectively, taking into account the steps taken by the buyer prior to the transaction. This protection must be balanced with the rights of a legal spouse who never gave consent to the sale of joint property. This balance is necessary to ensure legal certainty for the transaction while simultaneously protecting the party whose rights have been violated.[29]

From a criminal perspective, the liability of a notary or Land Deed Officials requires stricter proof. A party who creates or uses a fake divorce certificate can be held accountable for the crime of document falsification and providing false information. Officials can only be held criminally responsible if they are proven to have knowledge of the falsity of the document or to have assisted in its use to facilitate the transaction. Knowledge and intent are the primary factors in determining whether or not criminal liability exists. Administrative negligence without the intent to assist in the falsification cannot be directly equated with involvement in a crime.[30]

Normatively, the legal basis for falsifying a divorce certificate can be linked to Article 263 of the Criminal Code concerning falsification of documents and Article 266 of the Criminal Code concerning inserting false information into an authentic deed, which carries a heavier criminal penalty because it concerns documents that have perfect evidentiary power. The party who submits a false divorce certificate to a notary or Land Deed Officials to be used in making a deed of sale, gift, or division of joint assets can be charged with these articles, both as the maker and user of the false document.

For notaries or Land Deed Officialss, criminal liability is only relevant if law enforcement can prove the element of dolus, namely intent or awareness that the document used is invalid, as regulated in the concept of participation in Articles 55 and 56 of the Criminal Code regarding participation or assistance in committing a crime. Conversely, if officials only carry out formal obligations according to the Notary Law, namely checking the completeness of documents administratively without the obligation to conduct an in-depth investigation into the validity of the document's substance, then the error is more appropriately categorized as administrative negligence that has the potential to be subject to sanctions through the Notary Honorary Council, rather than criminal sanctions. Proving the element of intent is a crucial point in distinguishing violations of the code of ethics or administrative from actual criminal involvement.

Beyond civil and criminal liability, there are also administrative responsibilities inherent in the positions of notary and Land Deed Officials. Officials are required to act honestly, carefully, independently, and safeguard the interests of the parties using their services. Violation of these obligations can be grounds for administrative sanctions, although they may not necessarily constitute civil or criminal liability. Administrative audits focus on compliance with applicable procedures and standards. Sanctions can range from written warnings to temporary suspensions to dismissal from office, depending on the severity of the violation.[31]

[29] Nur Hidayah and Rr. Yuliana Puspitasari, "Perlindungan Hukum Bagi Pembeli Beritikad Baik Dalam Jual Beli Tanah," *Jurnal Hukum Progresif* 10, no. 1 (2022): 77–82.
[30] Wahyuningsih, "Rekonstruksi Pertanggungjawaban Pidana Pejabat Umum Dalam Pemalsuan Akta otentik ."
[31] Utoyo, "Pertanggungjawaban Notaris Dalam Kasus Akta Yang Dinyatakan Batal Demi Hukum."

The administrative audit mechanism for notaries is carried out by the Notary Supervisory Board, which consists of the Regional Supervisory Board, the Regional Supervisory Board, and the Central Supervisory Board, as stipulated in the Notary Law. Supervision of Land Deed Officials falls under the authority of the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency, as Land Deed Officials are appointed and supervised by that agency. The audit process typically begins with a public report, a complaint from an aggrieved party, or findings from routine audits of protocols and deeds.

Administrative sanctions vary according to the severity of the violation. Written warnings are typically issued for relatively minor procedural violations, such as administrative negligence without serious legal repercussions. Temporary suspension may be imposed for repeated violations or for third-party losses, with a specified period of time remaining before the official can return to office. Honorable or dishonorable dismissal is the most severe sanction, usually associated with serious violations of the code of ethics or involvement in actions detrimental to the public interest. Administrative liability is independent and can run concurrently with civil and criminal proceedings, as the object of the investigation is different compliance with professional standards, not material loss or criminal wrongdoing alone.

The existence of the Deed of Sale and Purchase as the basis for registering transfers of rights also makes this issue relevant to orderly land administration. Legal data recorded at the land office must reflect the actual legal situation to avoid new disputes in the future. A fake divorce certificate used as the basis for a transaction has the potential to cause changes in ownership data that do not reflect the actual situation. This impact can extend to other parties such as banks, mortgage holders, heirs, and subsequent buyers. The accuracy of Land Deed Officials in examining supporting documents is crucial to maintaining the reliability of the land registration system and the legal certainty of land rights.[32]; [33]

Based on the above description, it can be understood that the legal responsibility of a notary or Land Deed Officials for the preparation of a house Land Sale and Purchase Deed based on a forged divorce certificate cannot be determined solely from the fact that the document used is inaccurate. The assessment must be made by considering the source of the forgery, the level of care taken by the official, the causal relationship with the loss, and the form of involvement that can be proven. The perpetrator who uses a forged document still bears primary responsibility for the actions committed. A notary or Land Deed Officials can be held accountable if proven to have neglected the professional obligations that should have been carried out or intentionally assisted in the occurrence of a transaction that is contrary to the law. This assessment pattern provides balanced protection for the injured spouse, the buyer in good faith, and public officials who carry out their duties according to the standards of their position.

2. Implementation of the Notary/Land Deed Officials Principle of Caution in Verifying Divorce Certificates and Marital Status Documents

The principle of prudence is a measure of the professionalism of notaries and Land Deed Officials in exercising their authority. Prudence does not mean viewing all parties as suspect, but rather requires officials to conduct investigations commensurate with the level of risk of a transaction. Buying and selling a house carries a high level of risk because it involves the

[32] Muhammad Ilham Arisaputra, *Hukum Pertanahan Indonesia: Teori Dan Praktik* (Jakarta: Kencana, 2021).

[33] M. Khoidin, *Hukum Jaminan: Hak Tanggungan Dan Eksekusi Hak Tanggungan* (Yogyakarta: LaksBang Justitia, 2022).

transfer of rights to immovable property of significant value and impacts legal land records. The seller's marital status is a crucial factor that must be ascertained because it directly relates to the spouse's consent to the property being sold. If this status is not adequately verified, the resulting disputes will not only impact the parties but can also raise liability issues for the notary or Land Deed Official who prepared the deed.

Marital status examinations are not sufficient based solely on the verbal confession of the parties, but must be supported by authentic documents such as a valid ID card, family card, marriage certificate, or divorce certificate. If the seller is married and the object being sold is considered joint property as stipulated in Articles 35 and 36 of Law Number 1 of 1974 concerning Marriage, then written consent from the husband or wife is a prerequisite for the validity of the legal act. Without such consent, the non-signing spouse can file a lawsuit to annul the sale and purchase deed at a later date, so that a transaction that was initially considered complete can actually become a source of prolonged dispute.

Notaries or Land Deed Officials also need to check whether there is a prenuptial agreement that separates assets. If there is, each party's authority over the assets will be different and could change the need for such approval. Negligence in this aspect has the potential to give rise to a lawsuit to annul the deed of sale from the non-consenting spouse, thereby declaring the transaction invalid. In addition to impacting the parties, such negligence can be the basis for civil liability claims against the notary or Land Deed Officials, as well as administrative and ethical sanctions from professional organizations such as the Indonesian Notary Association or the Association of Land Deed Officials, for failing to fulfill their duty of care as stipulated in their respective job regulations.

The need to apply the principle of prudence aligns with the character of a notary's position as a public official tasked with ensuring the certainty of evidence and not acting as an attorney for either party. This duty demands an independent, meticulous attitude and ethical responsibility at every stage of the deed preparation. Checking marital status is not sufficient by simply reading the information on an ID card, as any change in status must have a clear legal basis. Divorce certificates submitted must be examined through examination of the case number, date of the decision, the identities of the parties, and the authority of the issuing court. This step is part of the official's obligation to ensure that the data used as the basis for the Deed of Sale and Purchase are related and consistent with each other.[34]

The implementation of the principle of prudence is reflected in the document inspection procedures carried out before the deed is signed. Interviews show that notaries and Land Deed Officials generally request electronic ID cards, family cards, tax identification numbers, marriage certificates or divorce certificates, land certificates, and tax documents related to the transaction object. The inspection does not stop at document availability but also includes verifying marital status and data consistency between documents. Interviews with the parties are conducted to obtain clarification regarding the legal relationship between the parties and the ownership history of the object to be transferred. If discrepancies are found, officials can request document legalization, request additional information, or postpone the deed preparation until clarity is obtained.

Examination of a divorce certificate requires more detailed steps than a regular administrative document. The first step involves a physical inspection of the document, such as

[34] Kholidah et al., *Notaris Dan Land Deed Officials Di Indonesia Aplikasi Teori Dan Praktik Dalam Pembuatan Akta*, 2023.

the signature stamps, decision number, and the identities of the parties listed therein. The next step involves comparing this data with the ID cards and Family Cards submitted by the parties. The examination must also ensure that the court issuing the decision has the authority to comply with the parties' religious beliefs and legal status. If discrepancies or information raises doubts, further clarification is necessary before the transaction proceeds. This obligation is part of the principle of prudence inherent in the position of notary and Land Deed Officials in the preparation of authentic deeds.[35]

Limited access to population databases and court records remains a frequent obstacle in the verification process. Notaries and Land Deed Officials have not yet obtained direct access to verify the validity of all data submitted by the applicant. This situation often results in the examination process relying on legalized physical documents or manual confirmation with the relevant agencies. Access constraints do not eliminate the obligation of officials to conduct proper examinations, as their official responsibilities still require verification efforts within available capabilities. Evidence of requests for clarification, examination records, and correspondence archives are important because they can demonstrate that the duty of care has been carried out professionally.

This limitation is often addressed by requiring the applicant to provide a written statement or declaration regarding their marital status, which is then attached to the minutes of the deed. While this statement does not replace the authentic document, its presence still provides evidentiary value that the notary or Land Deed Officials has attempted to clarify the matter to the best of their ability at the time the deed was drawn up. Recording the inspection process, including the date of document requests, correspondence with relevant agencies, and internal records regarding the verification steps taken, is an essential part of office operational standards. Such records serve as evidence that due care has been properly exercised should a dispute arise in the future.

A distinction needs to be made between counterfeit documents that are difficult to identify and those that show red flags from the outset. A well-formed document that displays no discrepancies is often difficult to distinguish from a genuine document, even after a reasonable examination. In such situations, the perpetrator of the forgery is more appropriately charged, as the official has fulfilled his or her duties according to applicable standards. A different assessment applies if there are discrepancies in identity, discrepancies in decision dates, unusual case numbers, or marital statuses that contradict population data. Ignoring these signs could indicate professional negligence, which could impact the legal liability of the notary or Land Deed Officials.

This distinction is important because the standard of care does not require a notary or Land Deed Officials to be an absolute guarantor of the authenticity of every document, but rather requires reasonable care consistent with ordinary professional skills. Forged documents created with sophisticated techniques, using official formats, legitimate-looking registration numbers, and data consistent with the parties' statements are difficult to detect without access to the relevant agency's verification system. In such circumstances, criminal and civil liability should be more appropriately directed at the perpetrator of the forgery, rather than the official who has followed standard inspection procedures.

[35] Desya Qotrannadha and Hanafi Tanawijaya, "PENERAPAN PRINSIP KEHATI-HATIAN NOTARIS DALAM PEMBUATAN AKTA OTENTIK YANG PENGHADAPNYA MENGGUNAKAN IDENTITAS PALSU" 8, no. 5 (2023).

This is different if the submitted documents contain irregularities that can be identified through a routine inspection, such as differences in the spelling of names on the marriage certificate and the identity card, court case numbers that are not formatted according to applicable regulations, a decision date that is inconsistent with the divorce certificate registration date, or marital status information in the documents that contradicts the information on the Family Card. Such irregularities should raise additional concerns and prompt further investigation before the deed is signed.

The obligation to verify marital status documents also relates to the Land Deed Officials role as an official who ensures the transfer of land rights can be legally registered. Verification of the parties' identities, legal status, certificate subjects, and other administrative requirements is an integral part of the deed-making process. Divorce certificates directly impact the need for spouse consent for objects considered joint property. Mistakes in assessing marital status can result in the transfer of rights being carried out by a party lacking full authority over the property being sold. This rationale places marital status verification as part of the legal examination required before a Deed of Sale is drawn up.[36]

Dispute prevention efforts require more structured verification standards for housing transactions. Verification should begin with the requirement to present original documents, including an ID card, family card, marriage certificate or divorce certificate, land certificate, and other supporting documents. The data listed on each document must be verified to ensure identity, address, marital status, and the basis for acquiring land rights. If the property is suspected of being jointly owned, the spouse's consent should be sought to protect the couple's inherent rights. Postponing the deed is a legitimate measure if discrepancies in the data are found that cannot be adequately explained.

Verification standards also require complete documentation. All examined documents, interview notes, certificate verification evidence, and a statement confirming the validity of the documents must be retained in the transaction file. This documentation serves as evidence in the event of a future dispute regarding the deed creation process. A complete archive demonstrates that officials have carried out their duties properly and professionally. Protection for notaries and land certificate holders comes not only from legal provisions but also from a credible audit track record.

The need for an electronic verification system is becoming increasingly important as land transactions involve high economic value and a significant risk of dispute. Integration between the Civil Registration Department and the land office can facilitate the verification process without requiring disclosure of all citizens' personal data. The system simply confirms the validity of the National Identity Number, marital status, divorce decree number, and the identity of the parties. Such a verification mechanism can reduce the scope for the use of forged documents, which have been difficult to detect through manual inspection. A similar idea was also put forward by Retno Sulistyaningsih, who emphasized the importance of accurate legal data as a basis for orderly land administration.[37]

Legal protection for parties and officials needs to be balanced. Couples whose rights have been violated require assurance that joint assets cannot be transferred unilaterally through the use of fraudulent documents. Buyers need assurance that their transactions are free from legal

[36] Rizki Namira and Erlina B, “Tanggung Jawab Notaris/Pejabat Pembuat Akta Tanah (PPAT) Dalam Pembuatan Akta Tanah” 2, no. 1 (2025): 330–37.
[37] Retno Sulistyaningsih, “Reforma Agraria Di Indonesia” 26 (2021): 57–64.

flaws that could lead to future cancellation. Notaries and Land Deed Officials also deserve protection when they have carried out all inspection procedures according to applicable standards but still fall victim to difficult-to-detect document forgery. This balance of protection can only be achieved if the verification obligations and responsibilities of each party are carried out proportionally.

The application of the precautionary principle can be strengthened through the use of a risk matrix in the document review process. Low risk occurs in transactions that demonstrate full compliance between marital status and submitted land documents. Medium risk arises when there is spousal consent through a power of attorney or other supporting documents that still require additional review. High risk arises when the seller claims to be divorced but the spouse is not present or there are discrepancies between the ID card, Family Card, and the submitted divorce certificate. In high-risk categories, officials need to legalize or seek clarification from the relevant authorities before the Deed of Sale and Purchase is signed. The use of a risk matrix helps demonstrate that each review is based on the level of vulnerability identified from the outset.

Future regulatory direction should prioritize the verification process as the primary measure for assessing notary and land deed holder compliance. Assessment should not be based solely on the emergence of disputes after the deed is drawn up, but also on the steps taken before the deed is signed. Officials who can demonstrate identity verification, verification of clarifying documents, and complete documentation should receive adequate legal protection. Conversely, neglecting verification procedures should be grounds for sanctions, as it demonstrates a violation of official obligations. A strong deed ultimately results from an orderly audit process, accountable data, and the professionalism of officials who exercise their authority diligently.

Conclusion

Future regulatory direction should prioritize the verification process as the primary measure for assessing notary and land deed holder compliance. Assessment should not be based solely on the emergence of disputes after the deed is drawn up, but also on the steps taken before the deed is signed. Officials who can demonstrate identity verification, verification of clarifying documents, and complete documentation should receive adequate legal protection. Conversely, neglecting verification procedures should be grounds for sanctions, as it demonstrates a violation of official obligations. A strong deed ultimately results from an orderly audit process, accountable data, and the professionalism of officials who exercise their authority diligently.

The application of the principle of prudence requires that notaries/Land Deed Officialss conduct adequate checks on the parties' identities, marital status, ID cards, family cards, divorce certificates, spousal consent, certificates, and other supporting documents related to the house transaction. Verification is not simply a matter of checking the existence of documents it must also ensure the data conformity and the authority of the issuing agency. When discrepancies in information or indications of inconsistencies are found, officials should request clarification, additional documents, or postpone the issuance of the deed until legal certainty is obtained. Strengthening risk-based verification standards, comprehensive recording of inspection results, and supporting data confirmation systems with relevant agencies are necessary to prevent the use of forged documents and provide balanced protection for interested couples, buyers in good faith, and notaries/Land Deed Officials who have carried out their duties professionally.

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