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### RESEARCH ARTICLE

#### “APPLICATION OF THE PRECAUTIONARY PRINCIPLE IN THE MAKING OF AUTHENTIC DEEDS AND LEGAL CONSEQUENCES FOR NOTARIES WHO VIOLATE THE PRECAUTIONARY PRINCIPLE (Decision Study: 261/Pid.B/2021/PN Idm)”

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#### Abstract

A notary deed, as a product of a public official, must be able to provide certainty regarding an event or fact in the deed actually carried out by a notary. Based on Article 16 of Law Number 2 of 2014 Concerning the Position of Notary Public, paragraph (1) letter (a), in carrying out his position, a notary must apply the principle of prudence. This study examines errors in applying the precautionary principle to the criminal act of forgery in Decision Number 261/Pid.B/2021/PN Idm and the legal consequences for Notaries who violate normative precautionary principles. The results of the study stated that the error in applying the precautionary principle to the crime of forgery in Decision Number 261/Pid.B/2021/PN Idm was intentional; the Defendant as a Notary did not introduce the appearer. The defendant also did not carefully verify the subject and object data against the identity of the appearer. The defendant also did not act carefully and thoroughly in the process of making the deed. A notary who violates the principle of prudence in civil terms can be sued for compensation. A notary who is proven to have falsified a statement as an authentic deed is also criminally responsible. Legal consequences for a notary who violates the principle of disciplinary prudence can be in the form of a written warning, temporary dismissal, honorable discharge, or dishonorable dismissal.

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#### Introduction:-

Making certain authentic deeds is required by laws and regulations in order to create certainty, order and legal protection. Making such deed not only because it is required by law, but also because it is desired by interested parties to ensure the rights and obligations of interested parties as well as for society as a whole and legal protection for the community in public life.

The phenomenon of notaries being involved in legal issues recently, such as summons by the police regarding the deed made, shows that the position of responsibility for the notary's position is still unclear. Various violations committed by Notaries are now being found more and more, both violations caused by violating the code of ethics and the oath of office which of course violate the rules in the Notary Office Law and violate Article 262 and Article 264 Paragraph (1)

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of the Criminal Code which results in criminal violations committed by unscrupulous notaries. Various kinds of cases related to authentic deed falsification, the legal process for this case is a criminal case of authentic deed falsification committed by a Notary. The case has been decided by the Indramayu District Court Case Number 261/Pid. B/2021/PN Idm. The Indramayu District Court has the authority to examine and adjudicate the case of the DSI defendant who committed, ordered to commit, and took part in the act, made a fake letter or forged a letter that could give rise to a right, agreement or debt relief, or which was intended as evidence of something with the intention of using or instructing other people to use the letter as if the contents were true and not fake, if such use could cause harm, if it was done on authentic deeds. The actions of the Defendant as stipulated and punishable under Article 264 Paragraph (1) 1st of the Criminal Code in conjunction with Article 55 Paragraph (1) 1st of the Criminal Code.

It started when the witness H. Casmin met with Mr. OtoSuyoto at his office, and offered 2 (two) plots of paddy fields located in the Saharula Block, Sukra Village, Sukra District with an area of  $\pm$  6635 M2 and in the Kwok Block, Ujunggebang Village, Sukra District with an area of  $\pm$  6960 M2 owned by witness Hj. Sri Aryati, however, the 2 (two) rice fields are currently in a civil dispute at the Bandung High Court. Then the witness H. Casmin offered the price of the land, and was paid in stages, first Rp. 100,000,000.00 (one hundred million rupiahs), then secondly Rp. 200,000,000.00 (two hundred million rupiah) to witness Hj. Sri Aryati and the remaining Rp. 462,000,000.00 (four hundred and sixty two million rupiah) to Mr. OtoSuyoto, up to a total of Rp. 662,000,000.00 (six hundred sixty-two million rupiah). Land owned by witness Hj. Sri Aryati is currently in dispute, but the sale and purchase transaction is still being carried out with the deed of binding sale and purchase between witness H. Casmin and witness Hj. Sri Aryati on the advice of Mr. OtoSuyoto, Deed of Sale Purchase Agreement (APJB) was drawn up by the Defendant DSI with Number 68/2016 and Number 69/2016 dated 25 February 2016. The land that has been paid for by witness H. Casmin is located in the Saharula Block, Sukra Village, Sukra District with an area of  $\pm$  6635 M2 owned by witness Hj. It turned out that Sri Aryati had previously been sold to the witness Siti Fatimah Darica in 2015 for Rp. 500,000,000.00 (five hundred million rupiah) based on the deed of sale and purchase Number 1333/2015 dated 10 June 2015 made before the Defendant as Notary-PPAT, while the land in the Kwok block does not have a certificate because it has been mortgaged to witness Marwi for Rp. 200,000,000.00 (two hundred million rupiah).

The contents of the Deed of Sale and Purchase Agreement (APJB) Number 68/2016 and Number 69/2016 made by the Defendant as Notary-PPAT in the Clause explained that the land had never been sold to another person. By having made and signed the Deed of Sale and Purchase Agreement (APJB) Number 68/2016 and Number 69/2016, it has created a new legal status regarding ownership rights through buying and selling, even though the paddy field land in the Saharula block according to SHM Number 808 has been sold to witness Siti Fatimah Darica in 2015 based on Deed of Sale and Purchase Number 1333/2015 before the Defendant as Notary-PPAT. The Panel of Judges of the Indramayu District Court in Decision Number 261/Pid.B/2021/PN.Idm stated that the Deed of Sale and Purchase Agreement Number 68/2016 dated 25 February 2016 and Number 69/2016 dated 25 February 2016 which was made and signed by the defendant DSI, the judge passed a decision on the defendant who had been legally proven and convinced he was guilty of committing the crime of forgery letter as in the indictment of the Public Prosecutor, the defendant shall be sentenced to imprisonment for 4 (four) months. Therefore, it is very interesting to analyze what the actual legal consequences are for authentic deeds made in a way that violates the precautionary principle.

The actions carried out by DSI as a Notary in carrying out his position had done things outside his authority, namely falsifying authentic deeds which resulted in harm to other parties. This is not in accordance with the applicable laws and regulations, namely not carrying out the obligations as a Notary as stipulated in Article 16 paragraph (1) a UUJN, namely "acting trustworthy, honest, thorough, independent, impartial, and safeguarding the interests of the party concerned." involved in legal action".

### **ResearchMethod:-**

This research will be compiled using normative juridical analysis. The methods used in this research are statutory approach, conceptual approach and case approach. The specification of this research is prescriptive, which is research that studies legal objectives, values of justice, validity of legal rules, legal concepts and legal norms. The data needed to be used in this research is by using secondary data. Primary legal materials include the Civil Code, Civil Procedure Law, Jurisprudence (Court decisions with permanent legal force). Then secondary legal materials include legal literature, research results in the field of law, scientific articles, journals, and the internet. Primary and secondary legal materials will be analyzed normatively qualitatively, which is done by describing the data obtained based on legal norms, legal theories and doctrines and rules relevant to the subject matter.

**Results and Discussion:-****1. Mistakes in Applying the Precautionary Principle to the Crime of Counterfeiting in Decision Number 261/Pid.B/2021/PN Idm**

A notary is a public official appointed by the state legal system to meet the public's need for official evidence that provides certainty in civil law relationships. The notary may not make the wrong deed because of unprofessional behavior or take the side of one of the parties. According to Fikri Ariesta Rahman, so that notaries are not involved in legal conflicts, they must apply the principle of prudence more strictly, have good faith when making authentic deeds, and comply with applicable legal regulations, as well as be based on moral and ethical principles. Article 16 of Law Number 2 of 2014 Concerning the Position of Notary Public paragraph (1) letter (a) in carrying out his position, a notary must act in a trustworthy, honest, thorough, independent, impartial manner and protect the interests of the parties involved in legal actions. The meaning of "accurate" in this article can be interpreted (meticulous, careful and careful), in carrying out tasks one must be careful as well as in knowing the appearers. In carrying out a legal action, a notary must always act carefully so that the notary, before making a deed, must examine all relevant facts in his judgment based on the applicable laws and regulations. Examining all the completeness and validity of the evidence or documents shown to the notary, as well as hearing the statements or statements of the appearers must be carried out as a basis for consideration to be set forth in the deed. If the notary is not careful in examining important facts, it means that the notary is acting carelessly.

A notarial deed as a product of a public official must be able to provide certainty regarding an event and fact in the deed actually carried out by a notary or explained by the parties who appear in accordance with the procedures specified in making the deed. Formally the notary deed aims to prove the truth and certainty regarding the day, date, month, year, time of appearance, and the parties appearing, initials and signatures of appearers, witnesses and notaries, as well as proving what was seen, witnessed, heard by the notary (in the official deed or minutes), and record the statements or statements of the appearers (in the parties' deed). Therefore, the notary in preparing the deed must always act carefully so that the notary before making the deed. The precautionary principle is a principle which states that a notary is obliged to follow the precautionary principle when carrying out his duties to protect the interests of the people entrusted to him. By applying the precautionary principle, it is hoped that the public's trust in the notary will remain high, so that the public is willing and does not hesitate to use the services of a notary. An action must be taken and carefully planned.

Formulation of Article 16 Paragraph (1) letter a of Law Number 2 of 2014 Concerning the Office of a Notary Public, in carrying out his/her position, a Notary must act in a trustworthy, honest, thorough, independent, impartial manner and protect the interests of the parties involved in legal actions. The meaning of "carefully" in the intended article can be interpreted (meticulous, careful and careful), in carrying out the duties of his position he must act carefully as well as in knowing the appearers or service users. The application of this precautionary principle must be carried out in making notarial deeds, namely by:

- a. Conduct identification of appearers based on their identities shown to the Notary.
- b. Inquire, then listen and examine the wishes or wishes of the parties.
- c. Examining the evidence of letters relating to the wishes or wishes of the parties.
- d. Provide advice and make a framework deed to fulfill the wishes or wishes of the parties.
- e. Fulfill all administrative techniques for making notarial deeds, such as reading, signing, providing copies and filing for minutes.
- f. Carry out other obligations related to the implementation of the duties and positions of a notary.

Dheanda Chairunnisa, et al stated that, the forms of prudence principle that should be carried out by a notary in the process of making a deed also include:

**a. Implementation of Identity Matching of Parties/Clients**

Before entering the identity of the client in the deed, the notary first checks the identity of the client such as a KK, KTP or Passport and equates the photo of the owner of the identity with the client who made the authentic deed. This method is intended so that the Notary avoids negligence which can result in falsification of identity in the deed.

**b. Checking / Checking the Client's Object and Subject Data**

This is done to check all subject data from clients in terms of competence in carrying out legal actions so that the legal requirements of a deed are fulfilled. For example, is the client acting at least 18 years old or married according to Article 39 paragraph 1 letter a UUJN.

**c. Provides a Period for Making an Authentic Deed.**

In order to produce a perfect deed, a notary should give a period of time so that he is not in a hurry and can work carefully and thoroughly, so that there are no mistakes in making the notary's deed. This can increase the effectiveness and work ethic of the Notary.

**d. Act Carefully, Accurately and Thoroughly in the Process of Making the Deed.**

The words set forth in the deed must be examined carefully and carefully, because in practice problems often occur in the deed made by a Notary because the words made are unclear or lead to interpretation. To fulfill these elements, the Notary is obliged to examine word for word what is stated in the deed to minimize errors in writing the deed, because basically what is stated in an authentic deed must be true, so that the strength of an authentic deed as evidence can be maintained. The notary in the process of making an authentic deed may not side with one of the people or the service user parties in making an authentic deed. The case that can be related to this is the Notary Agatha who assisted her client's application in the matter of making a letter of inheritance for the land that had been sold. Notary Agatha without thinking twice legalized the statement as if the land had not been certified and ownership had not been transferred to another party. So, according to the author, the actions taken by Notary Agatha were careless and sided with/only sided with one of the parties, namely his own client, so that the other party who was the original owner of the land felt annoyed and hurt.

**e. Fulfilling all the Technical Requirements for Making a Notary Deed**

The technical requirements for making a notarial deed, such as reading, signing, providing copies and filing for minutes. 5 Provisions regarding formal requirements for making a deed are regulated in article 38 UUJN, while the material requirements that must be met in making an authentic deed are regulated in article 1320 of the Civil Code.

**f. Report to the Authorized Party If There Are Indications Of Money Laundering/Embracement In Transactions At A Notary.**

At present, there are many criminal acts of money laundering by using a notary through the sale and purchase of land and buildings. Apart from that, there is also a lot of embezzlement committed by clients by misusing the deed submitted to the Notary in order to generate personal gain.

**g. Signing and affixing the Thumb of the Deed**

At the time of signing the deed, the Notary first explains the contents of the deed, when it has been read out, and the clients understand and understand the deed, the clients sign the authentic deed that has been made and imprint their fingerprints on a separate sheet, but one unit of the authentic deed the.

Based on Decision Number 261/Pid.B/2021/PN Idm there were several actions by Notary DSI who was a defendant in this case. Notary actions include:

a. The defendant made a sale and purchase deed number 1333/2015 dated 10 June 2015 between H. Casmin and Hj. Sri Aryati for the object located in the Saharula block, Sukra Village, Sukra District with an area of + 6635 M2 which apparently was previously sold to the witness Siti Fatimah Darica in 2015 for Rp.500,000,000.00 (five hundred million rupiah).

b. The defendant made a sale and purchase agreement number 68/2016 between H. Casmin and Hj. Sri Aryati for the object located in the Kwok Block even though there was no certificate because it had been mortgaged to witness Marwi for Rp. 200,000,000.00 (two hundred million rupiah) with a production sharing agreement every 6 (six) months (harvest);

Of course, this action can be analyzed whether the act was intentional or was it a mistake that occurred because it did not take into account the precautionary principle. Based on the defendant's confession in Decision Number 261/Pid.B/2021/PN Idm it was stated that the Defendant signed PAJB Numbers 68/2016 and 69/2016 at the Defendant's own office. This means that the Defendant as a Notary should have introduced the appearer based on his identity shown to the Notary and asked, then listened and examined the wishes or wishes of the parties. The fact was

that the witness Siti Fatimah Darica was facing the Defendant in the process of buying and selling rice fields according to AJB Number 1333/2015, while witness Sri Aryati was not present.

The precautionary principle relating to problems in the form of appearers using fake identities will be very relevant to be studied by a Notary in relation to the form of the precautionary principle, namely carefully verifying subject and object data against the identity of appearers. The fact is, the reason for the Defendant's willingness to sign a private document at the request of Mr. OtoSuyoto was due to the friendship between the Defendant and Br. Auto Suyoto. Thus the intention is not to carry out the implementation of matching the identities of the parties/clients, not to check/check the object and subject data of the clients. This was also acknowledged by the defendant, that as a Notary had obligations that had to be fulfilled in accordance with the provisions, but this was not done by the Defendant. The surprising thing was that it was acknowledged that the Defendant signed PAJB Number 68/2016 and number 69/2016 obtained from witness Nasir. PAJB number 68/2016 and number 69/2016 which witness Nasir offered to the Defendant at night and the clauses had been read beforehand. Nasir is an employee of the OtoSuyoto Lawyer's Office, while the draft Sale and Purchase Agreement Agreement in 2016 was drawn up by Adnan Subekhan who is a Notary employee at the Defendant's office. Sri Aryati with witness Hj. Siti Fatimah Darica. This means that there was an order from the defendant to assign Adnan Subekhan who is a notary employee to draw up the deed, even though it was in the form of a deed of the warmeking party, but the initiative for making it was the responsibility of the defendant. Based on this, it is clear that the Notary did not act carefully, carefully and thoroughly in the process of making the deed.

The Panel of Judges at the Indramayu District Court who gave their Considerations in Decision Number 261/Pid.B/2021/PN Idm stated that:

Considering, that after examining the Defendant's reasons for being acquitted of all lawsuits because he felt that he had been lied to by Br. OtoSuyoto, S.H for this criminal incident, because it was OtoSuyoto, S.H who had the idea to draw up the deeds, according to the Panel of Judges the material of his defense was not based on clear legal reasons, because the Defendant as Notary-PPAT in holding his position had sworn an oath which has consequences and responsibilities, so that the Defendant as a Notary Officer already knows how to draw up the correct deed in accordance with applicable legal provisions by upholding the principles of accuracy and prudence, then everything that gives rise to rights based on a deed drawn up by a Notary can be considered correct, so that therefore the deed made by the Defendant as Notary-PPAT has caused harm to other people, therefore the Panel of Judges does not agree with the Defendant's defense;

Based on these considerations, it is clear that the panel of judges does not agree that the actions taken by the defendant were negligence, the result of being lied to by Mr. Auto Suyoto. The mistake in applying the precautionary principle to the crime of forgery in Decision Number 261/Pid.B/2021/PN Idm was intentional, the Defendant as a Notary did not recognize the appearer. The defendant also did not carefully verify the subject and object data against the identity of the appearer. The defendant also did not act carefully, carefully and thoroughly in the process of making the deed. Based on this, there was an intention whereby the Defendant was willing to sign a private document at the request of Mr. OtoSuyoto is due to friendly relations.

## **2. Legal Consequences for Notaries Violating the Precautionary Principle**

The responsibility of the Notary adheres to the principle of responsibility based on fault (based on fault of liability). In making an authentic deed, the Notary must be responsible if the deed he made contains an intentional error or violation by the Notary. Conversely, if the element of error or violation occurs from the parties appearing, then as long as the Notary carries out his authority according to the regulations. The notary concerned cannot be held accountable, because the notary only records what was conveyed by the parties to be included in the deed. False statements submitted by the parties are the responsibility of the parties. In the process of making a deed, the Notary is responsible if it can be proven that the Notary is guilty and violates the applicable legal provisions. Juridically, errors can be distinguished between, usage in the sense of explaining the psyche of a person who commits an act in such a way that the act can be accounted for to him, and the use in the sense that the form of error in the law is intentional and negligent. In the view of criminal law experts, the definition of error turns out to be a diversity of opinions regarding what is meant by the definition of error. In Jonkers' opinion as quoted by BambangPoernomo, in his statement on "schuldhegrip" he made a division into 3 (three) parts in the sense of error, namely:

- a. Intentional or negligent (opzet of schuld);
- b. Nature against the law (de wederrechtelijkheid);

c. Responsible ability (de toerekenbaarheid).

The notary as the official who makes the authentic deed, if an error occurs either intentionally or due to negligence causes another person (as a result of the deed) to suffer a loss, which means that the notary has committed an unlawful act. If an error committed by a Notary can be proven, the Notary may be subject to sanctions in the form of threats as determined by law. As referred to in Article 84 UUJN which stipulates that "can be a reason for parties who suffer losses to demand reimbursement of costs, compensation and interest from the Notary."

If there is a violation of Article 16 paragraph (1) letter (a) professionally the notary concerned must be responsible for the incomplete deed drawn up. Various forms of responsibility of a notary in carrying out his duties and positions include moral responsibility. Problems with the potential for punishment that often occur in the duties of a Notary include:

- a. The deed is made with the condition that the parties do not face each other;
- b. Identity data from one of the parties in the deed is deemed incorrect or deemed to provide false information;
- c. The data regarding the object promised is not in accordance with the actual facts;
- d. The data provided by one or both parties is incorrect, so that the notarial deed issued is considered a fake deed;
- e. There are two outstanding deeds between the parties, which have the same number and date but different contents;
- f. The signature of one of the parties in the minutes is falsified; or
- g. The appearer uses someone else's identity.

Defects in a deed certainly cause a separate legal consequence for the deed. An authentic deed can be degraded into a deed under the hand, namely an authentic deed experiencing a decrease in quality or decline or a decline in status, in the sense that its position is lower in strength as a means of evidence, from the strength of complete and perfect evidence to the beginning of proof such as a deed under the hand and can have defects law that causes the cancellation or invalidity of the deed. Notaries in making authentic deeds are included in the authority by attribution, based on the provisions of Article 15 Paragraph (1) of the Amendment Law on UUJN. The occurrence of a legal consequence, namely in the form of an authentic deed becomes an underhanded deed and the deed is canceled due to the abuse of authority committed by a Notary, where the Notary in exercising his authority has violated statutory provisions which has resulted in losses for the parties and resulted in changes in the strength of proof of the deed and the cancellation of the authentic deed by the court.

Notary deed can also have implications null and void, i.e. as a result the legal action taken has no effect since the occurrence of said law or retroactive, null and void based on a Court Decision which has permanent legal force. While it can be canceled as a result the legal action taken has no legal consequences since the cancellation occurred and where the cancellation or legal action depends on a particular party, which causes the legal action to be canceled. Deeds whose sanctions can be canceled remain valid and binding as long as there is no court decision that has permanent legal force to cancel the deed. Notarial deed which is null and void cannot be asked to provide reimbursement of costs, compensation and interest. Reimbursement of costs, compensation and interest can be sued against a notary based on the notary's legal relationship with the parties against the notary. so that the Notary can be held responsible civilly for the deed he made. Claims for reimbursement of costs, compensation and interest against the Notary, are not based on the position of evidence that changes because it violates certain provisions in UUJN, but is based on the legal relationship that occurs between the Notary and the the party facing the Notary. Even though the Notary has retired, the Notary still has to be responsible civilly for the deed he has made.

Legal consequences because the object promised is not in accordance with the actual facts is a forgery of letters. Counterfeiting is in the form of a crime which contains an element of untruth or fakeness of something (object) that looks from the outside as if it were true even though in fact it is contrary to what is actually true. The crime of counterfeiting is a crime which certainly contains elements of a state of untruth or fake in an object which of course looks from the outside as if it were true, while the act of forgery is an act of changing in any way by a person who is not entitled to a a letter which results in part or all of its contents being different or different from the full contents in the original letter. If there is a Notary's action indicating participation in a crime, it must be proven. Because the position of a Notary in a deed is not as a party. The notary is only tasked with checking the events that occur in the relaas of the deed and/or expressing the wishes of the parties in the deed. The act of a notary making an authentic deed can be categorized as fulfilling the "whosoever" element. Criminal threats as stipulated in Article 266 of the Criminal Code are criminal threats for parties who request or order a Notary to include false information in their deed.

Based on Decision Number 261/Pid.B/2021/PN Idm was intentional, the Defendant as Notary did not introduce the appearer. The defendant also did not carefully verify the subject and object data against the identity of the appearer. The defendant also did not act carefully, carefully and thoroughly in the process of making the deed. Based on this, there was an intention whereby the Defendant was willing to sign a private document at the request of Mr. OtoSuyoto is due to friendly relations. So it is clear that there was an act in the form of criminal intent in the Notary's actions. Law enforcement according to Te Berge states that law enforcement instruments include monitoring and enforcing sanctions, supervision is a preventive step to enforce compliance, and the application of sanctions is a repressive step to enforce compliance. In enforcing administrative sanctions against Notaries who are supervisory instruments, namely the Supervisory Board which takes preventive steps, to enforce compliance, to apply repressive sanctions, and to enforce compliance so that these sanctions can be implemented. Article 70 letter b UUJN and Article 15 Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 Year 2004 Preventive steps are carried out by carrying out periodic inspections 1 (one) time in a year or at any time deemed necessary it is necessary to check the obedience of the Notary in carrying out his/her duties as seen from the examination of the protocol by the Regional Supervisory Council (MPD). then the MPD can notify the Regional Supervisory Council (MPW), if the report received by the MPD finds a criminal element, Then it can also hold a hearing to examine allegations of violations of the Notary Code of Ethics or Violations of the Implementation of the Notary's Office. as in Article 70 letter a UUJN If the results of an MPD examination find a violation, then the MPD cannot impose repressive sanctions on the Notary but can only report to the MPW.

Article 73 letters a and b of the UUJN explained that the MPW can take preventive steps by holding a hearing to examine and make decisions on public reports submitted through the MPW and summon a Notary as the reported party for examination, MPW also examines and decides on the results of the MPD's examination as in Article 79 letters h, article 71 letter e UUJN. Article 73 paragraph (1) letter e, paragraph (2) UUJN explained MPW can take repressive steps, namely imposing sanctions in the form of verbal or written warnings and these sanctions are final, and proposing sanctions against Notaries to the central Supervisory Council (MPP) in the form of:

- (1) temporary dismissal for 3 (three) months up to 6 (six) months, or
- (2) dishonorable dismissal as referred to in Article 73 paragraph (1) letter f UUJN.

The Central Supervisory Council does not take preventive action, but organizes to examine taking and decisions at the appeal level against imposing.

Sanctions and refusing to leave Article 77 letter a UUJN, but repressive actions in the form of imposing sanctions on temporary dismissal, and proposing sanctions in the form of dismissal with dishonor to Minister.

Administrative sanctions as Article 77 letters c and D UUJN explained: Broadly speaking, administrative sanctions can be divided into 3 (three) types, namely:

- 1) Reactive Witness This sanction is intended to improve the violation of the rule of law. It can be in the form of cessation of prohibited actions, the obligation to change attitudes/actions so that the original state is determined, the act of correcting something that is contrary to the rules. For example coercion to do something for the government and forced payment of money determined as punishment.
- 2) Punitive Witness Penal sanctions are an additional burden. Punishment sanctions are included in retaliation, and preventive actions that create fear of other violations. For example paying fines to the government, harsh reprimands.
- 3) Regressive Sanctions Sanctions as a reaction to disobedience, revocation of the right to something that is decided according to law, as if it were returned to the actual legal situation before the decision was made. For example revocation, change or suspension of a decision.

The Indonesian Notary Association (I.N.I) in an effort to maintain the honor and nobility of the position of Notary, has a Notary code of ethics established by the congress and is a moral code that must be obeyed by every member of I.N.I. The Honorary Council is an I.N.I auxiliary organ consisting of members selected from I.N.I members and Werda Notaries, who are highly dedicated and loyal to the association, have good personalities, are wise and prudent, so that they can become role models for members and are appointed by the congress for longer terms of office. the same as the term of office. The Honorary Council has the authority to examine violations of the code of ethics and impose sanctions on violators according to their authority and is tasked with coaching, guiding, supervising, improving members in upholding the code of ethics. Examine and make decisions on alleged violations of the provisions of the code of ethics that are internal or that do not directly belong to the community. Provide suggestions and opinions to the supervisory board on alleged violations of the code of ethics and position of Notary.

Article 3 paragraph (4) Amendments to the Notary Code of Ethics at the Extraordinary Congress of the Indonesian Notary Association Banten, 29-30 May 2015 states that, Notaries and other people (as long as the person concerned holds the position of Notary) are required to:

Be honest, independent, impartial, trustworthy, thorough, full of responsibility, based on laws and regulations and the contents of the Notary's oath of office;

Based on the code of ethics, violations of the code of ethics are related to the morals/ethics of a notary which requires a notary to behave honestly, independently, impartially, trustfully, thoroughly, full of responsibility, based on laws and regulations and the content of the notary's oath of office. The DSI Notary in Indramayu has behaved dishonestly and sideways because the Defendant was willing to sign a private document at the request of Mr. OtoSuyoto is due to friendly relations. On the other hand, the attitude of the DSI Notary is also not trustworthy, not thorough, and without a full sense of responsibility. This is because it does not carry out a thorough study of the data regarding the object that was promised not in accordance with the actual facts.

Sanctions imposed on the Notary (position) in the UUJN are in the form of written warnings, temporary dismissals, respectful discharges, and dishonorable discharges. Against the Notary (because the position of the Notary Deed becomes a Deed that only has the power of proof as a private deed) can be a reason for clients who suffer losses to demand reimbursement of costs, compensation and interest from the Notary. A notary who is proven to have participated in falsifying information as an authentic deed is also criminally responsible. Indication of a Notary having participation in a crime can be proven.

### **Conclusion:-**

1. The legal consideration of the judge in Decision Number 217/Pdt.G/2017/PN.Mlg in accepting and granting the merger of the tort lawsuit and the default lawsuit is correct, because the two lawsuits have a close relationship between one lawsuit and another, besides that the merger of lawsuits in order to achieve a simple, fast and low-cost justice, and avoid conflicting decisions, on the basis of which the judge decided to accept and grant the merger of tort lawsuits and default lawsuits.
2. The responsibility of the PPAT in Decision Number 217/Pdt.G/2017/PN.Mlg who is proven to have deliberately used the sale and purchase deed in a way that violates the law so that the AJB becomes null and void is in the form of civil liability, where the PPAT must return the certificate to the rightful owner, in this case the plaintiff. The juridical construction used in civil liability for the material truth of deeds made by PPATs is the construction of tort (Article 1365 of the Civil Code). What is called an unlawful act has an active or passive nature. Active in the sense of committing an act that causes harm to the other party, thus the unlawful act is an active act. Passive in the sense of not doing a certain action or a necessity, then the other party can suffer a loss. The elements of this unlawful act include the existence of an unlawful act, the existence of fault and the loss caused.

### **Suggestion:-**

1. The mistake in applying the precautionary principle to the crime of forgery in Decision Number 261/Pid.B/2021/PN Idm was intentional, the Defendant as a Notary did not recognize the appearer. The defendant also did not carefully verify the subject and object data against the identity of the appearer. The defendant also did not act carefully, carefully and thoroughly in the process of making the deed. Based on this, there was an intention whereby the Defendant was willing to sign a private document at the request of Mr. OtoSuyoto is due to friendly relations.
2. Legal consequences for a notary who violates the principle of prudence in civil terms can be sued for compensation. This is because the position of a notary deed becomes a deed that only has the power of proof as a private deed) can be a reason for clients who suffer losses to demand reimbursement of costs, compensation and interest from the notary civilly. A notary who is proven to have participated in falsifying information as an authentic deed is also criminally responsible. Legal consequences for a notary who violates the principle of disciplinary prudence can be in the form of a written warning, temporary dismissal, honorable discharge, and dishonorable dismissal.

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