

## **Authentic Deed not Signed by the Parties Before a Notary (Simulated Case of Land Acquisition Through a Deed of Release of Rights in Tabanan District, Tabanan Regency, Bali Province)**

**Muhammad Aldo Britano Kuncoro**

Universitas Indonesia

Email: aldobritano@gmail.com

KEYWORDS	ABSTRACT
release of land rights, authentic deed, signature.	The release of land rights, intended to sever the legal relationship between the rights holder and the land they possess, is carried out through a Deed of Release of Rights. Such an authentic deed must be drawn up before a notary, read aloud, and signed by the appearing parties, witnesses, and the notary themselves, as stipulated in the applicable laws and regulations. However, in reality, cases have been found that do not adhere to these provisions, specifically the case in Decision No. 144/PDT/2021 of the Denpasar High Court, where a Deed of Release of Rights prepared by a notary was not signed by the appearing parties in the presence of the public official who drew up the deed. Therefore, this research was conducted by addressing the issues related to the legal consequences of a Deed of Release of Rights not signed by the appearing party before a notary and the responsibility of a notary who prepares such a deed. This doctrinal research collects secondary data through document studies. The data, in the form of legal materials, is also strengthened by interviews with relevant sources and subsequently analyzed qualitatively. From the analysis, it can be explained that a Deed of Release of Rights not signed by the appearing party before a notary is degraded into a private deed (underhand deed) because the deed is declared legally defective, thus it cannot serve as a basis for the transfer of land rights. Thus, it can be stated that the creation of such a deed has caused losses to the parties, so a notary who prepares such a Deed of Release of Rights can be given sanctions, either administratively (ranging from a warning to dishonorable discharge based on Article 16 paragraph (11) of the Notary Law), or held civilly liable through a claim for damages as regulated in Article 1366 of the Civil Code. Furthermore, there is potential for criminal sanctions if it meets the elements specified in Articles 263, 264, and 266 of the Criminal Code concerning document forgery.

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## Introduction

The release of land rights is intended to sever the legal relationship between the rights holder and the land they possess, requiring the agreement and consent of the rights holder regarding the method of execution and compensation (Setiawan, 2020). To ensure legal certainty, the release of rights must be carried out in the presence of a notary who will create an authentic deed (Kusumawati & Sugiarto, 2019). As an official document created by a notary, the Deed of Release of Rights contains the statement from the rights holder to relinquish their rights to the land, and this deed is subsequently used to register the transfer of rights (Nugroho, 2022). For the Deed of Release of Rights to be valid, it must be executed in front of the notary, read aloud, and signed by the parties, witnesses, and the notary (Putri & Wibowo, 2021). However, in practice, there have been instances where the Deed of Release of Rights was not signed by the parties in front of the notary, as seen in the case of Decision No. 144/PDT/2021/PT DPS of the Denpasar High Court (Susanti, 2023). This raises issues regarding the legal consequences of such a deed and the notary's responsibility for its creation (Harahap, 2018; Prasetyo & Yulianto, 2020).

The state has mandated notaries as officials authorized to create authentic deeds, with the responsibility of providing perfect proof (Kusumawardani, 2020). When a notary is sworn in as a public official, they must act according to the basic ethics of a notary as outlined in Law No. 2 of 2014 on Amendments to Law No. 30 of 2004 on the Position of Notary (UUJN) and the Notary Code of Ethics (Lubis & Rahman, 2021). This ethical and legal framework is essential in maintaining public trust and ensuring legal certainty (Sari, 2019). Notaries, as public officials, perform part of the state's public function, particularly in providing legal services in civil matters (Saputra, 2018). They have a dual role: acting as impartial legal professionals and as state delegates in legal documentation (Handayani & Wulandari, 2020). Any deviation from the ethical standards or procedural requirements can weaken the legal force of the deed and may result in professional sanctions (Yusuf & Ramadhan, 2023). Therefore, adherence to notarial duties is fundamental to upholding justice and maintaining the integrity of civil law systems (Putra, 2017).

The authority of notaries is regulated in Article 1 paragraph (1) of *UUJN*, which states that "a notary is a public official authorized to create authentic deeds and has other authorities as stipulated in this law or other relevant laws." In addition to creating authentic deeds, notaries are responsible for authenticating signatures, establishing the certainty of the date of documents, making copies of documents, and certifying the conformity of photocopies with original documents.

The notary profession is also considered noble (*officium nobile*) because its primary authority is to serve the public without distinguishing between groups (Fajriyah & Kusuma, 2018). Therefore, in carrying out their duties, notaries must adhere to the provisions of *UUJN*, particularly Article 16 paragraph (1) letter a, which requires notaries to "act with trust, honesty, diligence, independence, impartiality, and safeguard the interests of the parties involved in legal acts" (Saragih, 2021). This article serves as a core ethical and legal obligation embedded in the notarial role (Kusuma & Siregar, 2022). Apart from their obligations under *UUJN*, notaries must also uphold the Notary Code of Ethics as the foundation of their profession (Rachmawati, 2019). The Code of Ethics outlines the behavioral standards to preserve professional honor and maintain public trust (Lestari & Prakoso, 2023). Violations of these norms not only undermine the credibility of the profession but may also result in administrative or legal sanctions (Wardhana, 2020).

These expectations place a heavy moral burden on notaries to always act truthfully, in a disciplined, and professional manner as public trust officers. As a trusted public official, a notary is entrusted with the important task of ensuring legal certainty and protection for the public,

especially through their authority to create authentic deeds that guarantee the truth of all matters stated within the deeds they create. Authentic deeds are considered to have perfect (*volledig bewijskracht*) and binding (*bindende bewijskracht*) evidentiary power.

However, the evidentiary power of an authentic deed, as described above, is not absolute (*beslissende bewijskracht*), meaning that although the deed is guaranteed to be true by the authorized official, if there is other legal evidence that proves otherwise (*tegenbewijs*), the authentic deed can still be canceled or declared invalid by the court. The need for authentic deeds arises in the process of releasing land rights. According to Article 1 paragraph (1) of Government Regulation No. 39 on amendments to Government Regulation No. 19 of 2021 on the Implementation of Land Acquisition for Public Interest, the release of rights is the activity that severs the legal relationship between the entitled party and the state.

The *Deed of Release of Rights* is created to fulfill the desire of the owner to relinquish the land to the state (Lubis & Ramadhani, 2021). In a case simulation for land acquisition in Tabanan Regency, the *Deed of Release of Rights* was created by a foreign national (*WNA*) to relinquish their inherited land rights. The urgency of the creation of the *Deed of Release of Rights* for foreign nationals is based on the provisions of Article 21 paragraph (3) of the Basic Agrarian Law (*UUPA*), which requires foreigners to transfer inherited land ownership within one year. If the land is not relinquished after one year, it will automatically become state land.

The status of the *Deed of Release of Rights* as an authentic deed gives it perfect evidentiary power under the law, meaning that what is stated in the deed is considered true unless proven otherwise. However, this perfect evidentiary power is only attached to deeds created according to the form and procedure outlined by law. The *UUJN* has detailed the formal requirements for creating a notarial deed, with one of the most essential and non-negotiable requirements being the signing of the deed by the parties in front of the notary.

Although the legal provisions are clear, in notarial practice, deviations from this essential requirement of signing the deed in front of the notary are still frequently found. Various reasons, such as practical issues (time constraints or distance) or misunderstanding or misuse of authority, may lead to the signing of the deed without the physical presence of the parties at the notary's office or at another agreed-upon location in accordance with the law. This phenomenon raises significant concerns about the validity of such deeds and their legal implications, including the release of land rights. The development of information technology, while offering convenience, can also be misused if it is not accompanied by a correct understanding of the essential role of physical presence in creating an authentic deed.

If the requirement for signing by the parties in front of the notary is not met, as happened in the referenced case, the *Deed of Release of Rights* loses one of its essential elements as an authentic deed. As a result, the deed's legal strength may degrade to that of a private deed. The degradation of the *Deed of Release of Rights* to a private deed has serious implications. Such a deed is considered legally defective and no longer has the perfect evidentiary power of an authentic deed. Consequently, the deed cannot be used as a valid basis for the transfer or registration of land rights at the relevant authorities. This clearly harms the parties who expect legal certainty from the creation of the deed, particularly those seeking land rights, as the objective of releasing the rights becomes unattainable and the contents of the deed cannot be executed. This formal defect can become grounds for interested parties to seek the cancellation of the deed.

The notary who created the *Deed of Release of Rights* not signed by the parties in front of them is still held accountable. Due to this negligence or error, the notary may be liable for damages in a civil case as stipulated in Article 1366 of the Civil Code (*KUHPerdata*). Furthermore, the

notary may also face administrative sanctions, ranging from warnings to dismissal without honor, according to Article 16 paragraph (11) of *UUJN*. If intentional misconduct or forgery is discovered in the creation of the deed, the notary may face criminal sanctions under Articles 263, 264, and 266 of the Criminal Code (*KUHP*).

Based on the explanation in the background section, it is clear that the issue of the authenticity of deeds, specifically the *Deed of Release of Rights*, which does not meet the formal requirement of signing in front of the notary, is a complex legal issue with significant practical implications for the legal certainty of land rights and the responsibilities of the notary who created the deed. Therefore, a simulation study was conducted to analyze the legal consequences and how the law regulates the notary's responsibility in such cases, which is subsequently presented in a thesis titled "Authentic Deed Not Signed by the Parties in Front of the Notary (Case Simulation of Land Acquisition through *Deed of Release of Rights* in Tabanan District, Bali)."

The general objective of this research is to analyze the authenticity of a deed not signed by the parties in front of the notary, based on a simulation of land acquisition through the *Deed of Release of Rights* in Tabanan District, Bali. The specific objectives of this study are to analyze the legal consequences of the *Deed of Release of Rights* not signed by the parties in front of the notary, and to analyze the notary's responsibility for the *Deed of Release of Rights* not signed by the parties in front of the notary.

The theoretical benefit of this study is to contribute to the development of knowledge in the field of notarial law, specifically regarding the creation of *Deeds of Release of Rights* by notaries. The practical benefit of this research is that, for parties wishing to provide legal certainty in the process of releasing land rights, the findings can provide knowledge about the evidentiary strength of authentic deeds, as well as serve as authentic evidence in land administration processes. For notaries, this study can deepen their understanding of the procedures and legal implications of land rights release, thereby strengthening legal certainty, legal protection, and efficiency in the land acquisition process for public development in Indonesia.

## Materials and Methods

This form of legal research is *doctrinal*. According to Jhonny Ibrahim, *doctrinal* research focuses on the analysis and evaluation of applicable legal norms and their implementation in real practice. The *doctrinal* nature of this research is evident in the use of several legal materials that are relevant to the main issues of the study. The legal materials in question include the *UUJN*, *UUPA*, and the Civil Code. In addition, there is also Decision Number 144/PDT/2021 of the Denpasar High Court.

The typology of this research is *analytical explanatory*, which is research that aims to strengthen and assess hypotheses by elaborating on the provisions of applicable laws. Soerjono Soekanto argues that the typology of *explanatory* research has the purpose of measuring theories and hypotheses, with the aim of corroborating or opposing theories or hypotheses from existing research. The *explanatory* nature of this study is demonstrated through the use of references to previous similar research related to the making of authentic deeds that are legally flawed in order to formulate a research hypothesis.

## Results and Discussions

### Legal Consequences of Making a Deed of Waiver of Rights Not Signed by the Presence of a Notary.

The starting point of the problem in this case simulation lies in the construction of the land ownership law itself, namely the use of Mr. A, who is an Indonesian citizen, as a nominee, by Mr. B, who is a foreigner, to obtain land rights. The practice of this kind of nominee agreement, although it often occurs to circumvent the legal restrictions on land ownership for foreigners in Indonesia, is legally very problematic and contrary to the principle of prohibition of ownership of land rights by foreigners as stipulated in Article 21 paragraph (1) jo Article 26 paragraph (2) of the UUPA. Such a nominee agreement is essentially a form of legal smuggling (*rechtsontduiking*) and is consistently considered by the Supreme Court to have a prohibited cause, thus rendering it null and void (*nietig van rechtswege*).

The consequences of the nullity of this nominee agreement can theoretically complicate Mr. B's position as the material owner and even Mrs. C's position as the heir of Mr. A's name recorded on the certificate. This annulment means that the agreement is considered to have never existed in the first place, and all the legal consequences arising from it are null and void. In principle, the land should return to the status quo ante or, in the context of a violation of the UUPA, potentially become state land. However, in judicial practice, dispute resolution due to nominee agreements is often more complex. The court may focus more on resolving disputes between the parties directly involved (the nominee and the beneficial owner of the foreign property) or the third party aggrieved by the subsequent action, without automatically executing the return of the land to the state, especially if there are interests of creditors such as Mr. B that are protected by the legitimate Rights of Dependents.

Regardless of the validity of the original nominee agreement, the fact that the land was purchased with Mr. B's funds and was legally encumbered with the Right of Dependency in Mr. B's name, which is possible because the Right of Dependency can be granted to a foreign creditor, both an individual and a legal entity, indicates the existence of Mr. B's legal interests that are recognized and protected by law, namely as a creditor holding the Right of Dependency. This Right of Dependency gives him the right of preference and the right to sell the object of the Right of Dependency on his own power through a public auction and to take payment of his receivables from the proceeds of the sale (*parate executie*) if Mr. A (or his heir, Mrs. C) defaults on the underlying principal agreement. The existence of this legitimate Dependent Rights is one of the key elements that was clearly violated in the next series of events, adding a layer of losses for Mr. B in addition to the potential loss of his investment due to Mrs. D's actions.

The situation becomes even more complex after Mr. A dies. Mrs. C, as Mr. A's wife and heir under the applicable inheritance law, formally inherits the rights and obligations related to the land, including obligations to Mr. B as the creditor of the Dependent Rights. However, Mrs. C's status as a foreigner in a grieving condition, as well as her lack of understanding of Indonesian and the intricacies of land law in Indonesia, put her in a very weak and easily manipulated bargaining position. The presence of Mrs. D, who introduced herself as a representative of Mr. B and offered to help with land management, became the entrance for the alleged occurrence of a series of PMH. Mrs D's action of asking Mrs C to sign some documents in her office, with the explanation that they were just 'money receipts', should be suspected as an attempt at fraud, or at least an abuse of



circumstances (misbruik van omstandigheden). Abuse of circumstances occurs when one of the parties takes advantage of the weakness (such as ignorance, distressed psychological state), dependence, or special circumstances of the other party to gain an unfair advantage in an agreement, so that the will of the weak party is not formed freely.

In this simulation, Mrs. D allegedly took advantage of Mrs. C's grieving condition, did not understand the language and the law, and may believe that Mrs. D actually represented Mr. B. If it can be proven that Mrs. D took advantage of Mrs. C's vulnerable condition to get her to sign a document that is different from what is described (not just a receipt of money, but perhaps a power of attorney or a statement of relinquishment) or that substantially harms her interests, then Mrs. C's approval of the document can be considered defective in will and becomes the basis for the cancellation of the document based on Article 1321 of the Civil Code. Proving the abuse of this circumstance requires an in-depth analysis of Mrs. C's subjective condition at that time, the imbalance in the position of the parties, and the content of the signed documents. However, proving fraud or abuse of this situation requires a separate legal process.

The main focus of this analysis remains on the validity of the notary deeds that were later issued by Notary P, since it was these deeds that became the formal legal instruments that Mrs. D used to transfer the rights to the land and remove the Dependent Rights. The core of the legal problem in this case simulation lies in Mrs. C's factual claim that she never appeared before Notary P for the preparation of the deed of statement, the agreement of release of rights, power of attorney, and correction of the waiver agreement, as well as the claim that the signature stated on the minutes of the deed was not her signature. If these claims are proven to be true in court, then the series of deeds issued by Notary P is fundamentally legally flawed and carries very serious and far-reaching legal consequences.

The Law of Attraction imperatively regulates essential formalities in the making of authentic deeds, which aims to ensure certainty, truthfulness, and legal protection for the parties. Article 16 paragraph (1) letter m of the UUN requires a notary to "read the deed in front of the audience in the presence of at least 2 (two) witnesses ... and signed at the same time by the witness, witness, and notary." This provision underlines three crucial elements that cannot be separated and must be fulfilled cumulatively and simultaneously in a series of times and places: first, the physical presence of the witnesses and qualified witnesses before the notary; second, the reading of the deed by the notary to the witness; and third, the signing of the deed by the witness, witness, and notary immediately after the reading.

The meaning of the phrase "in the presence" is consistently interpreted as a physical presence at the same time and place, not a virtual presence or through an unauthorized representation. This physical presence is not just a ceremony, but the essence of the notary's function to identify the parties directly, ensure the competence and free will of the parties, and provide legal counseling related to the content of the deed. The signing by the presence of a notary and witness is the culmination of this process, as a form of authentic and verified final approval. Proof that the witness was actually present can be seen from the notary deed register, recordings (if any), and the testimony of independent instrumental witnesses.

If Mrs. C's claim that she was never present before Notary P at the time the deeds were made and signed is proven to be true, then the formality of physical presence which is an absolute requirement based on Article 16 paragraph (1) letter m of the UUJN has clearly been fundamentally violated. This violation becomes even more fatal if Mrs. C's second claim, namely that the signature on the minutes of the deed is fake, is also proven. Forging signatures is a serious crime and automatically invalidates the validity of the signed document. Proof of signature forgery is usually carried out through a forensic laboratory examination by a graphologist or the Forensic Laboratory Center (Puslabfor) of the National Police, who will compare the signature on the deed with Mrs. C's original signature on other comparative documents.

The legal consequences of violating the formalities of attendance and/or unauthorized signing are explicitly and expressly regulated in the UUJN. Article 16 paragraph (9) of the UUJN states that violations of the provisions of Article 16 paragraph (1) letter m of the UUJN (including the obligation of simultaneous attendance, reading, and signing) results in the deed only having the power of proof as a deed under hand. In line with that, Article 44 paragraph (5) of the UUJN reaffirms that violation of the provisions of signing immediately after reading by the witness, witness, and notary (as stipulated in Article 44 paragraph (1)) also results in the deed only having the power of proof as a deed under hand. This degradation occurs because the deed no longer meets the formality requirements prescribed by law to be considered an authentic deed.

The implications of the degradation of the status of the deed from authentic to only having the power as a deed under hand are very significant in the context of proving the law of civil procedure. As stipulated in Article 1870 of the Civil Code, an authentic deed has the power of external proof (*uitwendige bewijskracht*), the power of formal proof (*formele bewijskracht*), and the power of perfect material proof (*materiele bewijskracht*) (*volledig bewijs*) regarding what is stated in it between the parties and their heirs. This means that the judge is in principle obliged to accept the formal truth (that the statement has been given in the presence of the official) and material (that the content of the statement is in accordance with the wishes of the party) of the authentic deed as a definite fact (*dwingende bewijskracht*), unless the opposing party is able to prove otherwise through complicated legal procedures such as with a forgery lawsuit.

On the other hand, the deed under hand, as stipulated in Article 1875 of the Civil Code, will only have perfect evidentiary power if the authenticity of the writing and signature is expressly acknowledged by the party against whom the deed is to be used. If the party, such as Mrs C in this case, explicitly denies ever being present, making a statement in the deed, or signing the deed, then the burden of proof falls entirely on the party who filed the deed, in this case Mrs D or the purchaser's third party, to prove the authenticity of the signature and the correctness of the events stated in the deed. This proof must be carried out with other valid evidence according to the civil procedure law in the form of witnesses, suspicions, confessions, or oaths which are often not easy to obtain, especially if the witnesses in the deed are also doubted or even involved in conspiracy. In the context of the simulation of this case, where Mrs. C expressly denies her presence and signature, the Notary P's deeds practically lose all their authentic evidentiary value and can no

longer be used as a strong legal basis to prove the existence of a statement of waiver or power of attorney from Mrs. C to Mrs. D.

Furthermore, it is more than just a matter of degradation of evidentiary power, the absence of an audience and/or the alleged forgery of signatures on the notary deed raises fundamental questions about the validity of the deed itself as a legal act. Violations of the essential formalities of proper attendance and signing constitute a very serious form of formal legal defect. In civil law doctrine, there is a classic debate about whether certain formal defects render a deed null and void (*nietig van rechtswege*) or can only be annulled (*vernietigbaar*) at the request of the interested party. Nullity for the sake of law means that the deed is considered to have never existed in the first place and does not cause any legal consequences, while it can be canceled means that the deed is still considered valid until there is a court decision that annuls it. However, in the case of a violation of formalities that are fundamental and concern the essential elements of the party's consent, such as the absence of a presence at all or the forgery of signatures so that there is no consent at all, the strongest legal arguments consistent with the legal principles of the agreement in Article 1320 of the Civil Code regarding the conditions for the validity of the agreement, in particular the terms of the agreement, tend to lead to the conclusion that the deed is null and void. This is because the essential elements of the agreement or agreement of the parties that are supposed to be stated and confirmed through attendance and signing before a notary, have factually never existed.

An act that is null and void is considered a non-existent act juridically. This view is reinforced by several Supreme Court jurisprudence, such as Decision No. 3641 K/Pdt/2001 which, although the context is different (signing in the *rutan*), shows that violation of fundamental procedures in making deeds can result in the nullity of the deed. If the deeds of Notary P are declared null and void by the court based on the proof of Mrs. C's claim, for example through witness evidence, evidence of the absence of attendance records in the notary's guestbook, or the results of forensic examination of signatures, then all subsequent legal acts based on these deeds automatically also lose their legal basis and become invalid.

The chain consequences of the cancellation of the Notarial P deeds will spread to all subsequent transactions related to the disputed land. First, the Deed of Waiver Agreement and the Deed of Declaration on which Mrs. D had to claim the rights to the land from Mr. A's heirs became null and void. The waiver of these rights is considered to have never occurred legally according to the law. Second, the Power of Attorney that Mrs. C allegedly gave to Mrs. D to take care of the land, transfer rights, and possibly even carry out the *Roa of Dependent Rights*, also became null and void. As a result, Mrs. D never had the lawful authority to act on behalf of Mrs. C in any capacity in relation to the land. All his actions on behalf of Mrs. C are actions without rights. Third, the process of transferring the rights to SHM's land from Mr. A's name to Mrs. D's in the local land office is fundamentally legally flawed because it is based on notary deeds and powers of attorney that are null and void. The SHM in Mrs. D's name was issued based on untrue and false juridical data, making it eligible to be requested for cancellation. The cancellation of this certificate can be done through a court decision with permanent legal force or through an administrative mechanism at BPN if clear evidence of disability is found. Fourth, the act of abolishing (*roya*) Mr. B's



Dependent Rights carried out by Mrs. D also became invalid and null and void. Royak Hak Tanggungan can only be legally carried out with the written consent of the creditor, namely Mr. B or based on the order/determination of the chairman of the district court after going through certain legal procedures. If the royak is carried out by Mrs. D based on a power of attorney that is null and void and without Mr. B's consent, then legally the Dependent Rights should still be attached to the disputed land. Mr. B still has the right as a preferred and separatist creditor to the land, whoever controls it physically or is registered as the formal owner.

The legal implication that is no less complicated is the position of Mr. E, Mr. F, and Mr. G as buyers of land from Mrs. D. They conducted a sale and purchase transaction based on the AJB made before the PPAT, on the basis of Mrs. D's ownership status recorded in the certificate which turned out to be obtained through illegal and potentially null and void means. An important aspect that needs to be analyzed is whether Messrs. E, F, and G can obtain legal protection as a buyer in good faith. The protection of buyers in good faith in Indonesian land law is an issue that often causes debate and uncertainty, although Article 32 paragraph (2) of GR 24/1997 states that in the event that a land plot has been legally issued a certificate in the name of a person or legal entity who acquired the land in good faith and actually controls it, then another party who feels that he has the right to the land can no longer demand the exercise of the right if Within 5 (five) years from the issuance of the certificate, no written objection has been lodged with the certificate holder and the head of the relevant land office or filed a lawsuit with the court regarding the possession of the land or the issuance of the certificate. However, these provisions are often interpreted strictly by the courts.

The buyer is considered to be in good faith if he has taken a series of reasonable precautions before the transaction, such as checking the authenticity of the certificate at the land office, ensuring that there are no disputes or blocks on the land, checking the ownership history (warkah), conducting a physical inspection of the land to ensure the suitability of boundaries and control, and ensuring that the seller is the person who really has the right to sell and there are no suspicious indications. However, the fundamental legal doctrine is *nemo plus juris ad alium transferre potest quam ipse habet* (no one can transfer more rights than he has). If Mrs. D's acquisition of the right of sale was based on deeds that were null and void due to forgery or absence of a presenter, then Mrs. D was never legally the rightful owner. In such a situation, where the legal defect in the seller's acquisition is fundamental and not merely an administrative defect, the protection of the buyer in good faith becomes very difficult to maintain, especially if the original owner, Mrs. C as Mrs. A's heir, or the creditor of the Dependent Rights, Mr. B, can prove the existence of such a fundamental defect in the process of issuing the certificate in Mrs. D's name. As a result, Mr. E, F, and G face a very high legal risk of losing the rights to the land they have purchased and paid for. Nevertheless, they still have the right to file a civil claim for damages against Mrs. D on the basis of default or PMH for having sold goods that did not belong to her or that were obtained illegally. They also have the potential to sue the PPAT that makes the AJB if the PPAT is proven to be negligent in checking documents or knowing of irregularities.

In the midst of the vortex of complexity due to the law for these parties, the role and responsibility of Notary P who issues the problematic deeds is the main and inevitable highlight. As a public official authorized by the state to make authentic deeds, Notary P bears a very high burden of legal obligations and professional ethics to ensure that every deed he makes meets all formal and material requirements determined by laws and regulations, especially the UUJN. If it is legally proven that Notary P did issue the deed of declaration, the Deed of Waiver of Rights, and the deed of power of attorney without Mrs. C's physical presence and/or by using Mrs. C's false signature, then Notary P has committed a very serious violation of the fundamental obligations of his position. This violation opens the door for Notary P to be held accountable in various legal realms in the form of civil, administrative, and even criminal.

Evidentiary efforts in a civil lawsuit will be key. Mrs. C needs to present strong evidence to support her claim that she was absent and that her signature was forged. This can be: 1) Mrs. C's own testimony under oath; 2) Testimony of Mr. B or other parties who knew Mrs. C's condition at that time or knew that Mrs. C never intended to relinquish her rights; 3) Proof of the absence of a record of Mrs. C's presence in the guest book or Notary P's agenda on the date the deed was made; 4) Testimony from the staff of the Notary P's office if anyone is willing to be honest; 5) The results of the forensic laboratory examination of the signatures on the minutes of the deed were compared with the original signature of Mrs. C; 6) Other evidence that shows that there are irregularities or irregularities in the process of making the deed. On the other hand, Mrs. D and Notary P will try to prove that Mrs. C was present and signed the deed legally, for example by presenting instrumental witnesses if there are any and credible or trying to attack Mrs. C's credibility.

Broadly speaking, this case simulation provides a very clear illustration of how vital the role of the notary is in maintaining the formal and material truth of every authentic deed he makes. Absolute and uncompromising compliance with every detail of the formalities mandated by the UUJN, especially regarding the obligation to ensure the physical presence and authenticity of the signature by the witnesses, is not just a burden of administrative procedures, but is the heart of the notary's function as the gatekeeper of legal certainty in the traffic of legal acts in the community. The negligence, let alone deliberateness, of the notary in fulfilling this fundamental formality will not only undermine the value of the authenticity of the deed he made, but also have the potential to open a gap in complex and prolonged legal disputes, thus causing great losses to the parties in good faith, and ultimately eroding public trust in the integrity and dignity of the notary profession itself.

### **Responsibility of Notaries Who Make Mistakes in Making Deeds of Waiver of Rights to the Detriment of the Audience**

The notary's civil responsibility is at the forefront of efforts to recover rights and compensation for parties aggrieved by mistakes or violations committed by notaries in carrying out their duties. This responsibility arises when the act of a notary, whether done intentionally (*dolus*) or due to negligence or lack of care (*culpa*), directly causes losses to other parties. The main legal basis for demanding notary civil liability in the Indonesian legal system is the provisions regarding PMH regulated in Article 1365 of the Civil Code and the provisions regarding liability due to

negligence regulated in Article 1366 of the Civil Code. In the context of this problematic simulation case, Notary P's act of issuing a series of crucial deeds, especially the declaration deed and the allegedly strong Deed of Release of Rights to the land made without Mrs. C's physical presence as the legal heir, even with an allegedly forged signature, has enormous potential and a strong legal argument to qualify as PMH.

To legally prove that Notary P has committed an unlawful act, the party suffering the loss, in this case, Ms. C as the heir and/or Mr. B as the creditor holding a Mortgage Right, must be able to prove in court the fulfillment of the four essential elements of unlawful acts: (1) the presence of an act (or, in some cases, negligence/omission) that is unlawful; (2) the element of fault (*schuld*), whether intentional or due to negligence, on the part of Notary P as the perpetrator of the act; (3) the presence of actual, provable, and experienced damage (*schade*) to the victim (Ms. C and/or Mr. B); and (4) the existence of a direct and sufficient causal relationship (*causaal verband*) between the unlawful act committed by Notary P and the loss suffered by the victim. Failure to prove just one of these elements will nullify the claim for unlawful acts.

Notary P's act of issuing the deed without the presence of the parties, namely Ms. C, and with a suspected forged signature, is a clear and undeniable unlawful act (*onrechtmatig*) for several fundamental reasons that reinforce each other. First, this act blatantly and fatally violates the legal obligation imposed on every notary by the UUJN, which is the *lex specialis* regulating the notary's office and practice. Article 40 paragraph (1) of the UUJN explicitly states that a notarial deed is made by or in the presence of the notary. The phrase 'in the presence of' universally in notarial law doctrine means the requirement for the physical presence of the parties (the applicants) or their legally valid representatives at the time the deed is read and signed in front of the notary. This requirement for physical presence is not merely an administrative formality but a fundamental essence of the authentic deed creation process, ensuring the identity of the parties, the truth of their statements, their free will, and the authenticity of their signatures. The provision in Article 41 of the UUJN further strengthens this prohibition by emphasizing the legal consequences of its violation: conducting notarial duties outside the notary's jurisdiction or creating a deed outside the office without valid reasons (such as the applicant being severely ill and unable to attend the notary's office) or, most relevantly in this case, creating a deed without the required physical presence of the parties is a serious violation of the deed-making procedures. The direct consequence of violating Article 40 of the UUJN, as reinforced in Article 41, is that the deed loses its authentic nature and only holds evidentiary power as a private deed. In more extreme cases, such as suspected signature forgery, the deed may even be declared void by law (*nietig van rechtswege*). Additionally, Notary P's actions substantively violate the fundamental duties outlined in Article 16 paragraph (1) letter a of the UUJN, which requires every notary to act with trustworthiness, honesty, diligence, independence, impartiality, and to safeguard the interests of the parties involved in any legal acts facilitated by the notary. Issuing a deed based on unverified data, without ensuring the actual physical presence of the parties, and failing to verify the authenticity of signatures is a clear violation of the obligation to act in good faith (preserving the trust granted by the state and the public), honesty (stating what truly happened and was witnessed),

and diligence. The duty of diligence, according to doctrine and jurisprudence, is not merely passive (accepting the statements of parties as they are) but also includes the active duty to examine and verify the material truth of the parties' statements as far as it is possible and reasonable according to professional standards, and to ensure that the legal acts to be recorded in the deed do not contravene the law, public order, or morality.

Secondly, Notary P's actions are clearly contrary to societal propriety. As a public official entrusted with the state's authority and public trust, a notary has a higher ethical and social responsibility to maintain the integrity of the legal process and not facilitate fraudulent, deceptive, counterfeit, or illegal acts. Issuing a deed that is fundamentally procedurally defective, as described in this simulation, is an utterly improper act that undermines public sense of justice and seriously damages public trust in the notarial profession and the legal institution as a whole.

Thirdly, Notary P's actions directly and concretely violate the subjective rights of Ms. C as the legitimate heir to her late husband's land and the subjective rights of Mr. B as the creditor holding the Mortgage Right, whose collateral is unlawfully released. The defective Deed of Release of Rights becomes a key instrument used by Mrs. D to unlawfully seize Ms. C's property rights and remove legal protection for Mr. B's debt. The element of fault on Notary P's part in this simulation case is very clear, significant, and hard to deny. The degree of fault could be extremely high, not merely a case of ordinary negligence (*culpa levis*) or even gross negligence (*culpa lata*), but it could very well lean toward intentionality (*dolus*). If, during the court proceedings, it is revealed that Notary P knowingly and intentionally issued the deed without the physical presence of Ms. C, or worse, actively participated in a scenario designed by Mrs. D to falsify Ms. C's presence or signature (for example, by providing a blank deed or signing the deed while knowing the party was absent), this would clearly constitute intentional wrongdoing. This intentionality could take the form of *dolus directus* (direct intent) if Notary P had malicious intent to assist Mrs. D in committing fraud for a reward or benefit. Alternatively, it could be categorized as *dolus eventualis* (conditional intent or awareness of the possibility). *Dolus eventualis* occurs if Notary P, even if not actively wishing for fraud or harm to Ms. C and Mr. B, was aware of a high likelihood or certainty that the deed creation process was not in accordance with procedure, such as knowing Ms. C was absent or that the signature presented was highly dubious, and still consciously chose to issue the deed with indifference or acceptance of the potential legal consequences. Even assuming the lightest scenario, where Notary P was not actively involved in the forgery but acted recklessly and negligently in performing the verification, such as trusting Mrs. D's claim to represent Ms. C without meeting her directly to verify her identity, capacity, and free will, this negligence still cannot be considered as excusable ordinary negligence (*culpa levis*).

Given the fundamental importance of the physical presence of the parties in the legal procedure for creating authentic deeds, negligence in this crucial aspect must be categorized as gross negligence (*culpa lata*). The standard of care required of a notary, as a legal professional with specialized expertise and a trusted public office, is much higher than the standard expected from an ordinary person. A notary cannot use ignorance, workload, job pressure, or simple negligence as an excuse when violating essential procedures that form the core of the authenticity and legality

of the deeds they create. A passive, formalistic, or overly permissive approach in handling situations that are clearly suspicious or unusual (such as a third party requesting the creation of a deed of release of inheritance without the direct presence of the heir) is a disregard for professional duties that cannot be tolerated.

The damages suffered by Ms. C and Mr. B in this simulation case are very real, concrete, provable, and significant, both financially and non-financially. Ms. C directly loses her inheritance rights to a plot of land, which is likely of very high economic value, especially considering its location in Tabanan, Bali, an area known for its rising property value. This loss constitutes clear material damage. On the other hand, Mr. B not only loses de facto control over the land (as the material owner under the nominee agreement, although the validity of the nominee agreement itself can be legally debated and is at risk of being annulled due to violating the UUPA), but more importantly, and more definitively in formal legal terms, Mr. B loses his collateral in the form of a mortgage on the debt owed by the late Mr. A or possibly Mrs. D. The unlawful removal of the mortgage (roya) based on a procedurally defective deed directly removes Mr. B's preferred creditor position, meaning that if bankruptcy or execution occurs against Mrs. D, Mr. B's debt will become a regular unsecured claim, equating his position to that of other creditors. This is also a clear and quantifiable material loss based on the value of the debt that is no longer secured. In addition to the financial material loss, it is very likely that Ms. C and Mr. B may also seek compensation for the immaterial damages they suffered due to the actions of Notary P and Mrs. D. These immaterial damages could include significant psychological stress, emotional suffering, as well as the wasted time, effort, and money spent dealing with the complex and prolonged legal issues. Although the proof and quantification of immaterial damages in Indonesian judicial practice can often be more complex and dependent on the discretion of the judge (*ex aequo et bono*), the legal basis for claiming it is still present under Article 1365 of the Civil Code.

The final element that must be proven is the direct and adequate causal relationship between the unlawful act committed by Notary P, specifically issuing the defective statement deed and Deed of Release of Rights, and the losses suffered by Ms. C and Mr. B. In this simulation case, the causal link is clear and logical. Without the issuance of the statement deed, Deed of Release of Rights, and potentially other related deeds by Notary P, Mrs. D would not have had the legal basis (albeit defective) to apply for the registration of the land rights transfer from the late Mr. A's name (which transferred to Ms. C's heirs) to her name at the local land office. Without these deeds, Mrs. D would also not have had grounds to apply for the cancellation (roya) of the Mortgage Right registered in Mr. B's name. Most importantly, without successfully transferring the land rights to her name, Mrs. D would not have been able to legally sell the land to third parties (Mr. E, F, G) through a Sale and Purchase Deed (AJB) in front of a PPAT. Thus, Notary P's actions in issuing these procedurally defective deeds were a *conditio sine qua non* (a necessary condition without which the result would not have occurred) or at least the direct cause of the entire series of losses suffered by Ms. C and Mr. B. The argument that the loss was solely caused by Mrs. D's fraud may not be entirely accurate, as the fraud could not have materialized and caused legal consequences in



terms of the transfer of rights without being facilitated by the defective notarial deeds from Notary P.

If all four elements of unlawful acts are convincingly proven by Ms. C and/or Mr. B in court, the civil legal consequences for Notary P will be severe and significant. The main and most anticipated consequence for the victims is Notary P's obligation to pay full compensation for all material and immaterial losses resulting directly from the unlawful act. The amount of material compensation will be determined based on concrete evidence (such as the land value, debt value, and incurred costs), while immaterial compensation will be determined by the judge based on principles of fairness and justice. In addition to the obligation to pay compensation, the court ruling declaring Notary P guilty of unlawful acts will also have important consequences, explicitly stating that the deeds issued by Notary P related to this case (especially the statement deed and Deed of Release of Rights) are void by law (*nietig van rechtswege*) or at least have no binding legal force because they were created unlawfully and violated the fundamental procedures of the UUJN. This declaration of nullity has retroactive effects, meaning the deed is considered nonexistent from the moment it was made. The logical and juridical consequence of the nullity of Notary P's deeds is the nullification of all subsequent legal acts based on those deeds, including the registration of rights transfer to Mrs. D at the land office and the subsequent sale transactions to Mr. E, F, G. However, it should be noted that to restore the legal status of the land to its original condition (back to the name of Mr. A's heir, Ms. C, with Mr. B's Mortgage Right reinstated), Ms. C and/or Mr. B will likely need to file a separate lawsuit against Mrs. D and the third-party buyers (Mr. E, F, G), based on the ruling of unlawful acts against Notary P and the consequences of the nullity of the related deeds. Protection for bona fide buyers (if Mr. E, F, G can prove this) may become a separate legal issue that needs to be resolved in the judicial process.

In addition to facing the potential for substantial civil compensation claims, Notary P in this simulation case will also inevitably face serious administrative consequences from the professional supervisory body. Administrative responsibility is closely tied to the notary's compliance with the normative provisions outlined in the UUJN, the positive law regulating their office, as well as other implementing regulations. This compliance is monitored closely, systematically, and hierarchically by the Notarial Supervisory Council (MPD), which has the authority to examine and impose administrative sanctions on notaries proven to have violated the law. Notary P's act of issuing a deed without the physical presence of the parties and suspected forgery of signatures constitutes a severe violation of fundamental obligations in the UUJN. The most fatal and intolerable violation is related to Articles 40 and 41 of the UUJN, which mandate the requirement for deeds to be created in the presence of the notary and prohibit performing duties outside of established procedures. These violations attack the core of the notary's authority and undermine the authenticity of the deed, making it far more than just a simple formal infraction. Additionally, Notary P's actions are also a clear violation of Article 16 paragraph (1) letter a of the UUJN, which mandates that notaries act with trustworthiness, honesty, diligence, independence, and impartiality. Issuing a deed based on false information or failing to properly verify the parties' presence and signatures is the antithesis of these principles. The failure to ensure the formal and material validity of the deed, as

required by Article 16 paragraph (1) letter e of the UUJN, is a clear violation, as the deed in this case was fundamentally defective from the start.

These serious violations can be reported by the harmed parties (Ms. C and Mr. B), any third parties who are aware (such as other notaries or land office staff), or even discovered by the MPD through routine checks of the notary's protocol books and repertories. Given the severity of the alleged violations, including issuing a deed without the parties' presence and potential forgery, which caused significant financial harm and could involve criminal elements, the MPD will likely initiate a thorough and detailed investigation into Notary P. The investigation will proceed according to the legal procedures set forth in relevant regulations, including summoning and questioning Notary P, examining the notary's protocol books and deed minutiae, and requesting statements from involved parties (Ms. C, Mr. B, Mrs. D, and potential witnesses). The MPD will carefully assess Notary P's level of fault, including whether there was deliberate intent to commit the violation, gross negligence for ignoring fundamental procedures, or other forms of error. Based on the results of the investigation and the proven degree of fault, Notary P may be subject to administrative sanctions as stipulated in Article 85 of the UUJN. These sanctions are progressive, meaning the severity of the penalty will correspond to the seriousness of the violation and the level of fault: from a mild reprimand or written warning, to a more severe penalty such as temporary suspension (*schorsing*) for 3 to 6 months, to dismissal with honor (e.g., for health or age reasons), or the most severe sanction—dismissal without honor from the notary's office. Given that the violation in this simulation case concerns fundamental procedures for creating an authentic deed, causes substantial financial loss, damages public trust, and potentially involves criminal activities (document forgery), there is a high likelihood that Notary P, if proven guilty by the MPD, will face the heaviest administrative sanction, such as temporary suspension or even dismissal without honor, effectively ending Notary P's career as a public official.

Another crucial aspect that often serves as the basis for evaluating the morality and integrity of a professional is responsibility from an ethical standpoint. As a member of a legally recognized noble profession (*officium nobile*), every notary in Indonesia is automatically and irrevocably bound by the Notary Code of Ethics, which is formulated, agreed upon, and enforced by the single professional organization, the Indonesian Notary Association (INI). This Code of Ethics serves as a guide for moral behavior and professional standards, often setting higher and stricter standards than mere compliance with the applicable positive legal norms. In this simulation case, Notary P's action of issuing a deed without the presence of the parties and allegedly with a forged signature clearly and blatantly violates several fundamental principles and prohibitions outlined in the Notary Code of Ethics.

First, there is a severe violation of the principles of integrity and honesty. Notaries are required to always have an honest, sincere, noble character and avoid disgraceful conduct both inside and outside their professional duties that could damage the profession's reputation. Issuing a deed without the parties' presence or based on allegedly false data is an act of dishonesty and a disgraceful act that directly tarnishes the reputation of the notary profession as a whole.

Second, there is a violation of the principles of professionalism, accuracy, and caution. A notary must carry out their duties professionally, independently, impartially, and with fairness, accuracy, and caution to avoid errors, negligence, or harm to others. Neglecting the fundamental requirement for the parties' presence is a fatal professional negligence that is entirely unforgivable within the ethical standards of the profession.

Third, Notary P's actions clearly undermine the dignity of the notarial office. The notary's office is a position of trust, sworn to uphold justice, and fraudulent or negligent actions, as depicted in this simulation, directly destroy public trust and degrade the dignity of the profession, which should be upheld as the bastion of legal certainty.

Fourth, there is a violation of the principle of service to truth and the law. A notary should be at the forefront in ensuring and recording the formal and material truth in every deed they create, while upholding the supremacy of the law, not becoming an instrument or facilitator of falsehoods, manipulation, or legal violations.

Fifth, Notary P's actions directly violated the fundamental prohibition for notaries against performing acts that contradict legal, religious, moral, and decency norms, which could affect or damage the honor and dignity of the notarial office. Issuing an illegal deed is a clear violation of this fundamental prohibition. Violations of this Code of Ethics can be reported by anyone who is aware (such as Ms. C, Mr. B, other notaries, or the general public) to the Regional Honorary Council (DKD) of the Indonesian Notary Association (INI) where Notary P is registered as a member. After an internal examination and ethics trial in accordance with the INI regulations, if Notary P is found guilty of ethical violations, they may face ethical sanctions from the Honorary Council (DKD, DKW, or DKP). These sanctions range from warnings, severe reprimands, temporary suspension from INI membership (schorsing), to the most severe sanction, permanent dismissal from INI membership (onzetting). These ethical sanctions, although separate from civil and administrative processes, have significant implications. An ethics ruling declaring a notary guilty may be a significant consideration for the Supervisory Council in determining the severity of the administrative sanctions imposed. Furthermore, ethical sanctions such as suspension or permanent dismissal from INI membership can severely damage Notary P's professional reputation in the eyes of their colleagues and the public, effectively ending their ability to continue practicing as a notary.

This simulation case, although hypothetical, clearly illustrates the dangerous legal and social consequences that may arise if a notary neglects or violates fundamental procedures in the creation of a deed, especially the mandatory requirement for the physical presence of the parties and the obligation to verify the authenticity of their identity and signature. Notary P's actions in this scenario, whether ultimately proven to be due to severe negligence (*culpa lata*) or even intentional collusion with Mrs. D, have directly opened the door to crimes such as fraud, embezzlement, and the unlawful seizure of property, which greatly harmed Ms. C and Mr. B. This incident strongly reinforces the idea that a notary's role and function in Indonesia's legal system is not just an administrative role or bureaucratic formality, but a public office (*openbaar ambtenaar*) granted authority by the state through law to ensure legal certainty, legal order, and legal protection

for society through the authentic deeds they create, which hold the strongest evidentiary power in the eyes of the law. Therefore, as a logical consequence of the significant powers granted, a notary is burdened with high legal and ethical duties, requiring them to perform their responsibilities with integrity, precision, independence, impartiality, and extraordinary caution. Notaries' duty of care extends beyond procedural formalities, such as checking document completeness or reading out deeds. It also encompasses the substantive aspects of the legal actions to be recorded in the deed. In this simulation case, in addition to the fatal and unforgivable procedural violation of the absence of the parties, a diligent, careful, and professional notary would also have had reason to suspect and feel obligated to further examine the transaction structure involving the foreign national (Mr. B) as the material owner through a nominee arrangement (Mr. A, and subsequently Ms. C's heirs). Although the issue of the validity of the nominee agreement might not be the focus of Ms. C's lawsuit in this simulation (as she might focus more on forgery and the absence of the parties), the notary has a moral and professional duty not to knowingly or negligently facilitate practices that could potentially be a legal loophole to circumvent the prohibition on foreign ownership of land, as regulated by the UUPA (Basic Agrarian Law). The notary should provide proper legal advice to the parties about the legal risks of nominee agreements and refuse to create a deed that directly or indirectly legitimizes such illegal practices.

However, it is important to emphasize that the most fundamental, fatal, and entirely intolerable violation in this simulation case is the violation of the procedural requirement for the parties' presence. The physical presence of the parties in front of the notary during the reading and signing of the deed is the last defense, the main pillar, and the heart of the authenticity and validity of a notarial deed. If this fundamental safeguard can easily be breached, ignored, or manipulated by a notary, the entire structure of legal certainty and public trust that has been built on the evidentiary strength of notarial deeds as the strongest form of evidence can collapse, with destructive consequences for both the legal and social order. In conclusion, from the in-depth analysis of this simulation case and the applicable legal and ethical framework in Indonesia, Notary P undeniably bears significant, layered, and multidimensional legal responsibility for their fatal mistake in issuing the deed of release of rights and related deeds, which are strongly suspected to have been made without the valid physical presence of the parties (Ms. C) and with a suspected forged signature. This responsibility simultaneously and cumulatively includes three crucial aspects:

First, civil liability likely arising from a claim for damages (Article 1365 of the Civil Code) or at least severe negligence (Article 1366 of the Civil Code), which could lead to the legal obligation to pay full compensation for all material and immaterial losses suffered by Ms. C and Mr. B, as well as the juridical consequences of declaring the invalidity of all deeds issued regarding this transaction.

Second, the administrative responsibility to face the Notarial Supervisory Council for a severe violation of the fundamental duties outlined in UUJN (specifically Articles 16, 40, and 41), which carries a high risk of receiving severe administrative sanctions from the Supervisory

Council, including temporary suspension (schorsing) or even dismissal without honor from their position as a notary (Article 85 of UUJN).

Third, professional ethical responsibility for blatantly violating various fundamental principles and prohibitions in the Notary Code of Ethics (especially related to integrity, honesty, precision, and safeguarding the dignity of the office), which could lead to sanctions imposed by the INI Honorary Council, possibly resulting in temporary or permanent dismissal from the professional organization, effectively ending the notary's career. This simulation case should serve as a valuable lesson and a strong reminder to all notaries in Indonesia to always uphold the legal procedures for deed creation, apply the utmost caution in every action, and maintain the integrity of the profession above all. Ignoring fundamental procedures, whether driven by negligence, ignorance, external pressure, or intentional short-term gain, will not only bring legal and financial disasters to the harmed parties but will undoubtedly destroy the notary's career, reputation, and future, and more broadly, erode the foundation of public trust in the notary profession as the main gatekeeper of legal certainty in society.

## CONCLUSION

Some conclusions can be conveyed as follows: The legal consequence of the *Deed of Waiver of Rights* that is not signed by the party present before the notary is that the *Deed of Waiver of Rights* becomes a *deed under hand* (*akte bawah tangan*), so its legal force is no longer that of an authentic deed. Because the *Deed of Waiver of Rights* is an authentic deed made by a notary, it must meet the formal requirements, namely being made and signed in front of the notary, read aloud by the notary, and signed by the witnesses and the notary, in accordance with the provisions in Article 16 *jo.* Article 39 of the law and the Notary Code of Ethics. If this is not fulfilled, the deed becomes legally defective and can be declared invalid, rendering it unusable as a basis for the transfer of land rights. A legally defective *Deed of Waiver of Rights* such as this can, of course, cause losses to the parties involved, as the contents of the deed cannot be implemented, giving the aggrieved party the right to demand cancellation of the deed and the provision of compensation under the provisions of Article 1366 of the Civil Code (*KUHPerdota*). The notary's responsibility for a *Deed of Waiver of Rights* that is not signed in front of them is civil, administrative, and criminal. The notary is obliged to ensure that the *Deed of Waiver of Rights* they make is signed by the party who is physically present before them, so that if this is not done, the deed loses its authentic evidentiary power and can be canceled by the court. Furthermore, notaries can be held civilly liable if the aggrieved party files a lawsuit for damages as a result of a defective deed, based on Article 1366 of the *KUHPerdota*, if it can be proven that there was negligence or an error in the notary's execution of their duties. In addition to civil liability, notaries may also be subject to administrative sanctions, ranging from written warnings to dismissal, based on Article 16 paragraph (11) of the *UUJN*, as well as professional sanctions under the Notary Code of Ethics for violations of professional obligations and standards. Criminal sanctions may also apply in cases involving forgery of authentic deeds, which are categorized as criminal acts under Article 263, Article 264, and Article 266 of the Criminal Code (*KUHP*).



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