THE ROLE AND RESPONSIBILITY OF NOTARIES IN THE MAKING OF AUTHENTIC DEED FOR ELECTRONIC REGISTRATION OF FIDUCIARY ASSURANCE (ONLINE SYSTEM)

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ABSTRACT

In principle, the strength attached to the Authentic Deed made by a Notary is perfect (volledig bewijskracht) and binding (bindende bewijskracht), provided that the deed has met formal and material requirements. Given the importance of the registration function of fiduciary security, the Fiduciary Security Law then regulates it by requiring every fiduciary guarantee to be registered with the competent authority. The problem that exists is that there is often a mismatch between the Fiduciary Guarantee Deed and the condition of the object which is the object of the Fiduciary Guarantee when an electronic registration of the Fiduciary Guarantee is carried out. Based on these problems, the authors identified several problems as follows: 1) What is the legal basis regarding the role of the Notary in making deeds and registering fiduciary security electronically (online system); 2) What is the responsibility of the Notary in issuing authentic deeds for registration of fiduciary security electronically (online system); and 3) What are the obstacles faced by the notary in fulfilling the material truth of the fiduciary guarantee deed. Specifications research in this thesis is done by analytic descriptive illustrates a problem that is then assessed and analyzed with the use of primary law, secondary law and tertiary legal materials. The method used in this research is normative juridical approach, ie testing and reviewing secondary data. With regard to the normative juridical approach is used, the research was conducted in two phases, namely the study of literature and field research are merely supporting, data analysis used is the analysis of qualitative juridical, ie the data obtained, either in the form of secondary data and primary data were analyzed with without using statistical formulas. The results show that the legal basis for the registration process for fiduciary security electronically (online system) refers to the Regulation of the Minister of Law and Human Rights Number 10 of 2013 concerning Electronic Fiduciary Registration Procedures. The responsibility of a notary in issuing authentic deeds for registration of fiduciary guarantees electronically (online system) can be fulfilled by examining the correctness of the material and the formal truth of the deeds he has made. Fulfillment of material truth can be obtained from certainty about the material of a deed, while formal truth can be obtained from certainty that something of the events and facts mentioned in the deed was properly carried out by a notary or explained by the parties who presented it at the time stated in the deed in accordance with the procedures that have been specified in the deed. The obstacle faced by the Notary in fulfilling the material truth of the Fiduciary Guarantee Deed is that the Notary does not give the authority by law to carry out checks / field reviews / investigations on an object of an agreement made in order to fulfill the material truth of the documents from the parties.

Keywords: Deed, Notary, Fiduciary.

INTRODUCTION

The role of law in regulating people's lives has been known since people know the law itself, because the law was made for human life as social beings. This is in accordance with the statement put forward by Hans Kelsen, namely "a legal norm empowers certain individuals to create legal norms or apply legal norms". (Legal norms empower certain individuals to create legal norms or apply legal norms). In a simple society, the law plays a role in creating and maintaining security and order. This role develops in accordance with

the development of society itself which includes various aspects of dynamic community life that require certainty, order and legal protection with the core of truth and justice. Community life requires legal certainty, among others, in the public service sector which is growing along with the increasing public need for a service. This has an impact on increasing the need for services in the field of Notary services. The role of the Notary in the service sector is as an official who is given some authority by the State to serve the community in the civil sector, especially the making of authentic deeds.

The existence of Law Number 30 of 2004 concerning the Position of a Notary, is expected to provide good legal protection for the community and for the Notary himself. The position of a Notary as a functional in society is still respected. A Notary is considered an official from whom a person can obtain reliable advice. Everything that is written and stipulated (constatir) is true that the Notary is a strong document maker in a legal process. The position of a notary is a public official who has the duty and obligation to provide legal services and consultations to people in need. Initially, based on Article 1 of the Notary Position Regulations Staatsblad 1860-3, the Notary was a public official who had the sole authority to make an authentic deed regarding all acts, agreements and provisions required by a general regulation or desired by the interested parties to be stated in a deed. authentic, guarantee the certainty of the date, keep the deed and from that give the grosse, copies and quotations. It's all so far in the making.

The deed by a general regulation is also not assigned or excluded to other officials or people. According to R. Tresna, that a deed is a signed letter, containing information about events or things that are the basis of a right or an agreement, it can be said that the deed is a writing in which a legal act is stated. Regarding the deed made by a Notary, HS Salim is of the opinion that a Notary must be able to provide legal certainty to the public who use Notary services. Andi Prajitno further argues that a notary deed is an authentic deed that has legal force with legal certainty as a perfect written evidence (volledig bewijs), does not require additional evidence, and the judge is bound by it. The deed made by a notary has perfect proof power, unlike the deed under the hand. Underhand deed is a deed made by the parties concerned without the help of a public official. Authentic deeds are notary products that are needed by the community for the creation of legal certainty. Authentic deeds as the strongest and most complete evidence have an important role in every legal relationship in society, whether business relations/cooperation, activities in the land sector, banking, social activities and in other necessities of life.

Based on Article 1871 of the Civil Code (hereinafter referred to as the Civil Code), it is stated that the Authentic Deed is a perfect means of proof for both parties and their heirs as well as all those who have rights from it regarding what is contained in the deed. According to Teguh Samudera, an Authentic Deed which is complete (binding) evidence means that the truth of the things written in the deed is considered to be true as long as the truth is that no other party can prove otherwise. The making of a deed by the parties who are bound in an agreement is intended for future proof, because the Notary Deed is born on the direct involvement of the parties who appear before the Notary, the parties who are the main actors in making a deed, so as to create an authentic deed.

As for what is meant by a Notary Deed based on Law Number 30 of 2004 concerning the Position of a Notary, is an authentic deed made by or before a Notary according to the form and procedure stipulated in the Act. The deed made by a notary describes authentically all actions, agreements and stipulations witnessed by the appearers and witnesses.

Making an authentic deed is required by laws and regulations in order to create certainty, order and legal protection. An authentic deed made by or before a notary is not only required by laws and regulations but is also required by interested parties. This is to ensure the rights and obligations of the parties for the sake of certainty, order and legal protection for interested parties as well as for the community as a whole. The existence of an authentic deed has an important role in the law of material security, including in the provision of fiduciary guarantees, so that the authentic deed is used as a basic requirement in fiduciary guarantees.

CONCEPTUAL FRAMEWORK

Fiduciary was born for the practice of law that is guided by jurisprudence, both in the Netherlands and in Indonesia. The existence of fiduciary guarantees in Indonesia was initially recognized through jurisprudence based on Arrent Hooggerechtshof dated August 18, 1932, which further developed until the enactment of Law Number 42 of 1999 concerning Fiduciary Guarantees. Based on Article 1 number 2 of Law Number 42 of 1999, it is explained that Fiduciary Guarantee is a guarantee right on movable objects, both tangible and intangible and immovable objects, especially Buildings that cannot be encumbered with Mortgage Rights that remain in the control of the Fiduciary Giver, as collateral for the repayment of certain money, which gives priority to the Fiduciary Recipient over other creditors.

Based on Article 5 of Law Number 42 of 1999 it is stated that the loading of objects with fiduciary guarantees is made with a Deed in Indonesian and is a Fiduciary Guarantee Deed. In making the Fiduciary Guarantee Deed, at least it contains the identity of the Fiduciary Giver and Recipient, data on the main agreement guaranteed by the fiduciary, a description of the object that is the object of the Fiduciary Guarantee. Objects that are burdened with fiduciary guarantees must be registered at the Fiduciary Registration Office, which is under the auspices of the Ministry of Law and Human Rights of the Republic of Indonesia, this is to ensure legal certainty for recipients of fiduciary guarantees. Fiduciary guarantees continue to follow the object that is the object of the fiduciary guarantee in the hands of whoever the object is, unless there is a transfer of the object that is the object of the fiduciary guarantee. Through the registration of a fiduciary guarantee, the first fiduciary beneficiary will obtain preferential rights over other creditors.

In its development, fiduciary guarantee registration services can be carried out electronically (online system) whose implementation refers to Government Regulation Number 21 of 2015 concerning Procedures for Registration of Fiduciary Guarantees and Fees for Making Fiduciary Guarantee Deeds jo. Regulation of the Minister of Law and Human Rights Number 10 of 2013 concerning Procedures for Electronic Registration of Fiduciary Guarantees. Based on Article 2 of Government Regulation Number 21 of 2015, states that the application for registration of Fiduciary Guarantee, application for repair of Fiduciary Guarantee certificate, application for change of Fiduciary Guarantee certificate, and notification of deletion of Fiduciary Guarantee certificate shall be submitted by the Fiduciary Recipient, his proxy or his representative to the Minister of Law and Human Rights through the system. Fiduciary Guarantee registration electronically. The application for registration of a fiduciary guarantee electronically contains the identity of the fiduciary giver and fiduciary recipient, date, number of the fiduciary guarantee deed, name, and domicile of the notary who made the fiduciary guarantee deed, data on the main agreement guaranteed by fiduciary, a description of the objects that are the object of fiduciary

guarantee , the value of the guarantee and the value of the object that is the object of the Fiduciary Guarante. The problem in the field is that there is often a discrepancy between the Fiduciary Guarantee Deed and the condition of the object that is the object of the Fiduciary Guarantee when the electronic Fiduciary Guarantee registration will be carried out through the ahu.go.id website, so it seems that there is no certainty and truth in the contents. Fiduciary Guarantee Deed issued by a Notary. Considering that in the process of making a Fiduciary Deed, a Notary has no obligation to conduct a field review of the collateral goods.

In principle, the power attached to an authentic deed made by a Notary is perfect (volledig bewijskracht) and binding (bindende bewijskracht), provided that the deed has met the formal and material requirements. Formally, the Notary Deed must provide certainty that an event and fact stated in the deed was properly carried out by the Notary or explained by the parties appearing at the time stated in the deed in accordance with the procedures specified in the making of the deed, such as truth and certainty about the date of the deed. , date, month, year, time of appearance, and the parties appearing, initials and signatures of the parties/appearing, witnesses and notaries, as well as proving what was seen, witnessed, heard by the notary (in the official deed/minute report)), and record the statements or statements of the parties/appearances (on the deed of parties). If the formal aspect is disputed by the parties, then the formality of the deed must be proven, namely it must be able to prove the untruth of the day, date, month, year, and time of day, prove the untruth of what was seen, witnessed, and heard by the Notary.

As for what is meant by material requirements, namely certainty about the material of a deed. That what is stated in the deed is valid evidence against the parties who made the deed or who have the rights and applies to the public, unless there is evidence to the contrary. Information or statements that are contained/contained in the official deed (or minutes), or the statements of the parties given/delivered before a Notary and the parties must be judged to be true. The words which are then stated/contained in the deed shall be valid as true or every person who comes before the Notary whose statement is then stated/included in the deed must be judged to have correctly said so. If it turns out that the statements / statements of the appearers are not true, then it is the responsibility of the parties themselves. Thus, the contents of the notary deed have certainty as the truth, become valid evidence between the parties and the heirs as well as the recipients of the rights.

Considering how important the registration function of fiduciary security is, the Fiduciary Guarantee Law then regulates it by requiring every fiduciary guarantee to be registered with the authorized official. Here the role of a Notary is now very large, because the position of a Notary in making fiduciary guarantees plays an important role. This can be seen in every fiduciary guarantee agreement made by the creditor and debtor notarial. Notaries have a very important role, namely to serve the community in terms of making authentic deeds as evidence or as legal/absolute requirements for certain legal actions. In carrying out its duties to make an authentic deed, a Notary must examine the formal requirements for issuing an authentic deed, including documents regarding the identity of the debtor, the identity of the business run by the debtor, and documents of ownership of goods. In this case the Notary is not obliged to conduct a field review of the collateral goods, so that legally the Notary is not responsible for the material truth of the goods used as collateral.

According to Abdul Ghofur, the responsibilities of the Notary as a public official related to the material truth of the deed he made there are 4 (four), namely the civil responsibilities of the Notary to the material truth of the deed he made, the criminal responsibility of the Notary to the material truth of the deed he made, Notary based on the Notary Position Regulation on the material truth in the deed he made; and responsibilities of a Notary in carrying out his/her duties based on the Notary Code of Ethics.

METHODOLOGY

The research specification used in conducting this research is descriptive analytical, which is a research method intended to describe facts in the form of data with primary legal materials in the form of laws and regulations related to the responsibilities of a Notary in making authentic deeds for registration of fiduciary guarantees. electronically and secondary legal materials (doctrine, opinions of leading legal experts) as well as tertiary legal materials related to the implementation of the suspension of detention. The approach method used by the researcher is a normative juridical approach. The normative juridical approach is carried out by researching library materials which are secondary data and also known as library law research.

DISCUSSION

Responsibilities of Notaries in Issuing Authentic Deeds For Registration of Fiduciary Guarantees Electronically (Online System)

As a public official who is authorized to make an authentic deed, a Notary is burdened with the responsibility to guarantee the truth of the deed he made. A responsibility that is carried out by a Notary is born from the authority and obligations given to him. Each of these authorities and obligations is legally and bound to come into effect when a Notary takes the oath of office. The oath that has been taken is the one who should control all the actions of the Notary in carrying out his position. According to Abdul Kadir Muhammad, that a Notary in carrying out his duties both in terms of authority and obligations, of course, must be responsible for the following matters:

a) Notaries are required to make the deed properly and correctly, meaning that the deed made fulfills the legal will and the request of the interested party because of his position.
b) Notaries are required to produce a quality deed, meaning that the deed made is in accordance with the rule of law and the will of the interested party in the true sense not making it up. The notary must also explain to interested parties the truth of the contents and procedures of the deed he made.
c) It has a positive impact, meaning that anyone will admit that the notary deed has perfect evidence.

Notaries in carrying out their duties are divided into 3 (three) forms, namely:

1. Responsibilities of a Notary in Civil Law
   The Notary's responsibility in this case is the responsibility for the material truth of the deed, in the construction of an unlawful act. Acts against the law here in the nature of active or passive. Active in the sense of carrying out actions that cause harm to the other party, while passive means not doing actions that are mandatory, so that the other party suffers losses.
2. Responsibilities of a Notary Criminally
   Crime in this case is a criminal act committed by a Notary in his capacity as a public official authorized to make a deed, not in the context of an individual as a citizen in general. Elements in a criminal act. Notaries are required to be responsible for the

authenticity of the deed they have made, however, in the examination of criminal cases, the Notary cannot necessarily be presented in the examination, because Article 66 of the Law on Notary Positions provides protection for the Notary as a public official. Without strong initial evidence that the deed indicates a criminal act and or on the suspicion that the Notary has participated in a criminal act related to the deed he has made, the Notary Honorary Council may refuse the investigator's request to grant permission to examine the Notary. Usually the articles that are often used to sue Notaries in carrying out their duties are articles that regulate the crime of forgery of letters, namely: Article 263 of the Criminal Code concerning the crime of forging letters, Article 264 of the Criminal Code on forgery of authentic deeds, and Article 266 of the Criminal Code. about ordering to include false information in an authentic deed.

3. Administrative Responsibilities of Notaries
   Administrative responsibility for a Notary who commits an unlawful act in making an authentic deed may be subject to administrative sanctions. Administrative sanctions based on the Notary Position Act states that there are 5 (five) types of administrative sanctions given if a Notary violates the provisions of the Notary Position Act, namely verbal warnings, written warnings, temporary dismissal, respectful dismissal and dishonorable discharge. The sanctions apply in stages, starting from a verbal warning to dishonorable dismissal.

In addition to the above legal responsibilities, of course, a Notary is also morally responsible and responsible for the Notary Code of Ethics. These forms of responsibility are none other than the burden of the profession of public officials who are in charge of making authentic deeds, so as not to act arbitrarily without regard to the limits that have been set on them. electronic (online system), it is necessary to know in advance what is meant by the Authentic Deed. Based on Article 1868 of the Civil Code, it states that "An authentic deed is a deed made in the form determined by law by or before a public official authorized for that at the place where the deed was made". From the provisions of Article 1868 of the Civil Code, a deed in order to be used as an authentic deed must meet 3 (three) requirements as follows:

a. The deed must be made “by” or “in the presence of” a public official;
b. The deed must be made in the form prescribed by law;
c. Public officials by or before whom the deed was made, must have the authority to make the deed.

In addition to the three requirements above, in this case G.H.S. Lumban Tobing, is of the opinion that a new Notary Deed can be said to be authentic if it meets the following requirements:

a. The deed must be made "by" (door) or "in front of" (teri overstaan) a public official;
b. The deed must be made in the form prescribed by law;
c. The public official who made the deed must have the authority to make the deed; and
d. The deed is made within its jurisdiction

Differences of opinion regarding the requirements of an authentic deed above, are based on the legal basis of the provisions used. G.H.S. Lumban Tobing provides an opinion regarding the requirements of an authentic deed based on the provisions for making a notarial deed as regulated in the Law on Notary Positions. After knowing the requirements for making an authentic deed, then it is necessary to further note that there are 2 (two) kinds of Notary Deeds, namely:

1. Deed made by an official, which is called a Deed of Relaas or an Official Deed

(Ambtelijke Akten), for example: Deed of Minutes of Meeting of a Limited Liability Company made by a Notary; Minutes of the opening of a Safe-deposit box from a Banking Limited Company; Minutes of the drawing of the Sweepstakes. The relaas deed or official deed describes an action taken or a situation seen or witnessed and experienced by the maker of the deed, namely the notary himself, in carrying out his position as a notary. The deed which contains a description of the things seen and witnessed and experienced is called a deed made by a notary (as a public official).

2. Deed made before an official, which is often referred to as a Party Deed (Partij Acten), for example a lease agreement on a plot of land and buildings from community members, deed of sale and purchase, deed of grant money, deed of will, power of attorney and others. other. In this party deed, the statements of the people acting as parties to the deed are included. The party deed contains the story of the things that happened because of the actions committed by the other party before the Notary, meaning that the other party explained or told the Notary in carrying out his position and for that purpose, the party concerned deliberately came before the Notary and gave that information or perform the legal action before a Notary, so that the statement or act is stated by the Notary in an authentic deed. In relation to the matters described above, what is authentically certain in the party deed against the other party is:
   a. The date of the deed;
   b. The signatures contained in the deed;
   c. Identity of the people present;
   d. That the things listed in the deed are in accordance with the conditions at the time explained by the appearers to the notary, so that they are included in the deed, while the truth of the statements themselves is only certain between the parties concerned themselves.

Making a party deed (acte partij) initiative does not come from officials, but from interested parties providing information, while for official deeds (acte ambtelijk), it is the official who actively makes the deed at the request of the interested parties. Therefore, the official's deed contains information that has been seen and heard and written by the official concerned. Meanwhile, the party deed contains the statements of the parties themselves which are formulated and submitted to the official, so that the official completes the intent and statement in an authentic deed.

Of the two kinds of Notary Deed above, the Fiduciary Guarantee Deed is included in the type of Party Deed (Partij Acten), because the deed is made before a Notary. This means that a Notary is passive, because in this case the content of the deed to be made comes from the direct information of the parties who appear before the Notary. In the provisions of Article 1870 of the Civil Code, it is regulated that an authentic deed provides the most perfect evidence for both parties and their heirs and at the same time the person who has rights thereof, regarding all matters written in it. An authentic deed is sufficient evidence, or also called perfect evidence, meaning that the contents of the deed must be considered true by the judge, as long as the untruth is not proven. However, the perfect strength of evidence can still be invalidated if there is strong opposing evidence by alleging that the deed is fake, and it turns out that the notary deed whose minutes are kept by the notary contains falsehood, for example there is a party who puts a fake signature and the case of the falsification of the signature. can be proven, so that the authentic strength of the evidence from the notary deed falls.

When reviewing the provisions regarding the making of a Notary Deed as regulated in CHAPTER VII of Law Number 30 of 2004 concerning the Position of a Notary as amended by Law Number 2 of 2014, then the requirements for the authenticity of a Notary Deed are 6 (six), namely:

1. The appearers shall appear before the Notary;
2. The presenters make their point;
3. The notary establishes the intent of the parties in a deed;
4. The notary reads the deed to the appearers;
5. The appearers put their signatures, which means confirming the things contained in the deed, and the signing must be done at the same time; and
6. Attended by at least 2 (two) witnesses, unless otherwise stipulated by law.

In the event that a Notary Deed does not meet the requirements of authenticity as referred to above, then the deed only has the power of proof as a private deed. Even though the letter signed by the parties under their own hands is one of the written evidence, the strength of the legal evidence is rather weak, because if there are parties who doubt the veracity of the letter, then this signature letter cannot guarantee the date of the letter. definitely the writing of the letter. Apart from that, an underhand letter also does not have the power of execution and if the underhand letter is lost, either the original or a copy, then it is very difficult for the parties who have signed the letter to prove that between them there is an agreement or there is an agreement between them. a legally binding act.

According to Habib Adjie, that an authentic deed made by a Notary has 3 (three) kinds of proof, namely:

a. The Power of Outward Proof

The physical ability of a notary deed is the deed itself to prove its validity as an authentic deed. If viewed from the outside (its birth) as an authentic deed and in accordance with the legal rules that have been determined regarding the terms of an authentic deed, then the deed is valid as an authentic deed until proven otherwise, meaning that until someone proves that the deed is not outwardly authentic. In this case, the burden of proof is on the party who denies the authenticity of the notarial deed in question, both in the Minuta and Copies as well as the beginning of the deed (starting from the title) to the end of the deed.

b. The Power of Formal Proof

The notary deed must provide certainty that the events and facts mentioned in the deed were properly carried out by the notary or explained by the parties appearing at the time stated in the deed in accordance with the procedures specified in the making of the deed. Formally to prove the truth and certainty about the day, date, month, year, at (time) to appear, and the parties who appear, initials and signatures of the parties/appearing, witnesses and notaries, as well as to prove what is seen, witnessed, heard by a Notary (on the official deed/minutes), and record the statements or statements of the parties/appearers (on the parties' deed). If the formal aspect is disputed by the parties, then the formality of the deed must be proven, namely it must be able to prove the untruth of the day, date, month, year, and time of day, prove the untruth of what was seen, witnessed, and heard by the Notary.

In addition, it must also be able to prove the untruth of the statements or statements of the parties given/delivered before the Notary, and the untruth of the signatures of the witnesses, and the Notary or there is a procedure for making the deed that was not carried out. In other words, the party who disputed the deed must perform reverse proof to deny the formal aspects of the Notary Deed. If you are unable to prove the untruth,

then the deed must be accepted by anyone.

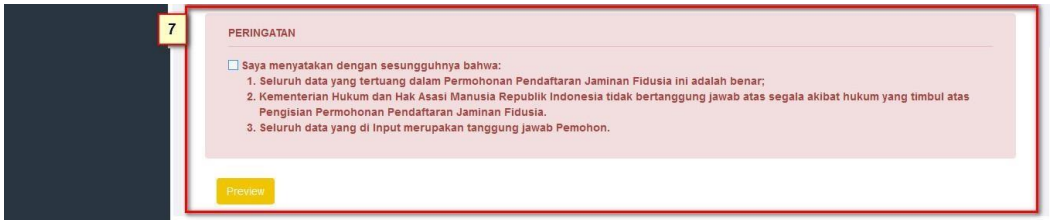
C. The Power of Material Evidence

Certainty about the material of a deed is very important, that what is stated in the deed is valid evidence against the parties who made the deed or those who have rights and applies to the public, unless there is evidence to the contrary. Information or statements contained/contained in the official deed (or minutes), or statements of the parties given/delivered before a Notary and the parties must be thoroughly assessed.

The words that are later/contained in the deed apply as true or everyone who comes to adapt does not have to be pronounced correctly. If it turns out that the statements / statements of the presenters are not true, then it is the responsibility of the parties themselves. Thus, the contents of the Notary Deed have certainty as true, become valid evidence between the parties and the heirs and beneficiaries of their rights.

From the explanation regarding the strength of the Notary Deed above, it can be concluded that there are at least 2 (two) truths that must be fulfilled in order for a Notary Deed to be called an Authentic Deed, namely there must be a Material Truth related to the certainty of the material of a deed. This means that every statement or statement that is contained/contained in the official deed (minutes), or the statements of the parties given/delivered before a Notary must be judged to be true, and there must be a Formal Truth that provides certainty that an event and fact stated in the deed is properly carried out. by a notary or explained by the parties who appear at the time stated in the deed in accordance with the procedures that have been determined in the making of the deed, such as the truth and certainty about the day, date, month, year, time (time) to appear, and the parties facing , initials and signatures, witnesses and Notaries, as well as proving what the Notary saw, witnessed, heard and recorded the statements or statements of the parties. From these two truths, in carrying out his profession a Notary automatically has both material and formal responsibility for the deed he made, including in the matter of issuing authentic deeds for registration of fiduciary guarantees electronically (online system).

In the electronic fiduciary registration process, there is a big responsibility on the Notary, because after completing filling in the data to continue the next access, the Notary is asked to first agree to the "Warning Disclaimer" that all data contained in the form is correct by marking the Warning column. After the warning is approved, the Notary as the applicant is responsible for all the data he inputs, in this case the contents of the data as contained in the Fiduciary Guarantee Deed he has made. For more details regarding the contents of the Warning Disclaimer contained in the electronic fiduciary registration display, see the image below.:



Picture 1. Disclaimer Warning

From the Warning Disclaimer above, it is very clear that a Notary (as the applicant) is responsible for all the data he inputs, but please note that the data contained in the registration form that the Notary inputs is the data provided by the parties who appear

before the Notary (Fiducia Giver). and Fiduciary Recipients), so that in conditions like this the Notary can assign his responsibilities to the parties regarding the authenticity of the data that has been contained both in the registration form and in his own Fiduciary Guarantee Deed. Practices like this often occur in the financing company PT. Sinarmas Multifinance, which is located at Jl. Abdul Rifai. No. 1, Bandung. The form of the problem is that there is often a discrepancy between the Fiduciary Guarantee Deed and the condition of the object that is the object of the Fiduciary Guarantee when the electronic fiduciary guarantee registration will be carried out, so it seems. There is no certainty and truth in the contents of the Fiduciary Guarantee Deed issued by a Notary. With such problems, it is necessary to have legal clarity regarding the responsibilities of a Notary in issuing an authentic deed for registration of fiduciary guarantees electronically (online system), because if this is not resolved it will certainly harm a Notary himself as a public official.

Before answering this problem, the author cites the opinion of Sudikno Mertokusumo, which states that a Notary may make mistakes regarding the contents of the deed because of incorrect information (intentionally or unintentionally) obtained by the parties. the deed has been confirmed to the parties by a notary. From the expert opinion above, it can be used as a reference that when there is a discrepancy between the Fiduciary Guarantee Deed and the condition of the object that is the object of the Fiduciary Guarantee when the electronic fiduciary registration will be carried out, the error cannot be accounted for to the Notary, because from the beginning the contents of the deed have been confirmed to the parties by a Notary. There is a limitation regarding these responsibilities, because in making a Fiduciary Guarantee Deed which belongs to the type of Party Deed (Partij Acten), the role of a Notary is very passive. This means that the Notary only plays a role in recording the contents of the deed in accordance with the statements of the parties when facing the Notary, while regarding the truth of these statements it is the responsibility of the parties concerned.

If the above problems are studied based on the theory of responsibility as expressed by Endang Saefullah that there are 3 (three) principles or theories about responsibility, namely:

1. The principle of responsibility based on fault (the based on fault, liability based on fault principle)
   Responsibility for wrongdoing is a commonly held principle. This principle states that a person can only be held legally responsible if there is an element of wrongdoing. The responsibility on the basis of this error must be proven by the plaintiff of the person who was harmed.
   If this principle is applied to the problems that occur, then basically the Notary in this case has made a mistake, namely "an error in inputting the data contained in the electronic fiduciary registration form". However, this error must be proven by the plaintiff in this case the Fiduciary Guarantee Recipient (as the party affected by the failure of the electronic fiduciary registration) who originally provided information regarding the truth of the contents of the deed (material truth) when making the Fiduciary Guarantee Deed and of course in In this case, the Notary will transfer his responsibility to the Fiduciary Guarantee Recipient, because he has made a mistake in providing his statement when making the Fiduciary Guarantee Deed prior to electronic registration.
2. The principle of rebuttable presumption of liability principle
   The principle of presumption by some experts is categorized into 2 (two) types, namely 1) The principle of presumption to always be responsible, namely the principle which states that the Defendant is always considered responsible, until he can prove his

innocence. Thus, the evidence is borne by the Defendant. 2) The principle of presumption is the principle of presumption not to always be responsible. This principle is the opposite of the principle of presumption to always be responsible, where the burden of proof is borne by the Plaintiff.

If this principle is applied to the problems that occur, then when there is a discrepancy between the Fiduciary Guarantee Deed and the condition of the object that is the object of the Fiduciary Guarantee when the electronic fiduciary registration will be carried out, then the error cannot be accounted for to the Notary, because from the beginning the contents of the deed have been confirmed to the parties by a Notary. In this case, the Notary cannot be held accountable.

3. The principle of absolute liability (no-fault liability, strict liability absolute liability principle).

   In the principle of absolute responsibility (strict liability) it provides the understanding that the Defendant is always responsible regardless of whether or not there is an error or does not see who is at fault, the responsibility that views "error" as something that is irrelevant to be questioned whether in fact exists or does not exist. .

   This principle cannot be applied to the problem of incompatibility between the Fiduciary Guarantee Deed and the condition of the object that is the object of the Fiduciary Guarantee when an electronic fiduciary guarantee registration will be carried out, because the problem is a civil law domain, while strict liability is only known in criminal law, for example in law enforcement. environmental criminal law.

With the above problems, then in the future to avoid incompatibility of objects that are guaranteed in making a Fiduciary Guarantee Deed, a Notary must pay attention to the provisions contained in Article 38, Article 39, and Article 40 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, especially when reading the contents of the Fiduciary Guarantee Deed to the parties and their witnesses must be clear, so that the parties can make corrections if there are errors in the deed.

CONCLUSION

1. The legal basis regarding the role of Notaries in making deeds and registering fiduciary guarantees electronically (online system) is regulated in Article 15 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary jo. Article 11 of Law Number 42 of 1999 concerning Fiduciary Guarantees. The process of registering fiduciary guarantees electronically (online system) refers to the Regulation of the Minister of Law and Human Rights Number 10 of 2013 concerning Procedures for Registration of Electronic Fiduciary Guarantees. With this legal basis, it certainly becomes a strong basis that a Notary has a role in making and registering a Fiduciary Guarantee Deed electronically.
2. The responsibility of a Notary in issuing an authentic deed for registration of a fiduciary guarantee electronically (online system) can be fulfilled by checking the material truth and the formal truth of the deed he made. Fulfillment of material truth can be obtained from certainty about the material of a deed. This means that every statement or statement that is set forth/contained in the official deed (minutes), or the statements of the parties given/delivered before a Notary must be judged to be true, while the formal truth can be obtained from the certainty that the events and facts mentioned in the deed were properly carried

out by the Notary. Notary or explained by the parties who appear at the time stated in the deed in accordance with the procedures that have been determined in the making of the deed, such as the truth and certainty about the day, date, month, year, time (time) to appear, and the parties facing, initials and signatures, witnesses and notaries, as well as proving what the notary saw, witnessed, heard and recorded the statements or statements of the parties.

3. Obstacles faced by Notaries in fulfilling the material truth of the Fiduciary Guarantee Deed, namely the Notary is not authorized by law to conduct checks/field reviews/investigations on an object of agreement made in order to fulfill the material truth of documents from the appearers. Although juridically the authority of a Notary in making an Authentic Deed has been regulated in Article 15 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of a Notary. However, this authority is not perfect, this often results in dragging Notaries into legal problems, both criminal and civil.

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