

Judicial Review Regarding Sanctions for Notary/Land Deed Officer Who Made Authentic Deeds for Land Based on Private Bequest Deed (Case Study of The Supreme Court's Decision Number 1477 K/PDT/2019)

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ABSTRACT

The existence of land for the community is considered very important because it can be used to build a house. The presence of Notary/Land Deed Officer is very important in order to create a legal certainty of the rights to the land owned. What sanctions can be received by a Notary/Land Deed Officer who made authentic deed for land based on private deed bequest? What is the process of making a good and correct authentic deed made by a Notary/Land Deed Officer? This research uses normative research methods. The data used are primary data and secondary data. Notary/Land Deed Officer who makes an authentic deed regarding land based on private deed bequest can be subjected to sanctions in the form of administrative sanctions, civil sanctions and criminal sanctions. The process of making a good bequest deed must be carried out with the parties and witnesses before a Notary/Land Deed Officer then, the deed of bequest will be read out by Notary/Land Deed Officer to the parties and witnesses. Imposing sanctions against Notary/Land Deed Officer is expected so in order to carry out the work, Notary/Land Deed Officer required being more careful and thoroughful to avoid arises harm to the parties that concerned about the deed.

Keywords: *sanctions, bequest, Land Deed Officer, notary*

1. INTRODUCTION

The increasing of Indonesia population has made all the necessary needs increasing as well, such as human needs clothing, food, and dwelling place. Among the three needs the one that cannot be ruled out from the human needs is the need of dwelling place, where a residence is a place for people to take shelter. To build a house, every human being needs land in order to managed and build their own house. The land is the surface of the earth including the Earth's body beneath it and the space above it [1].

Therefore, the profession of notary and Land Deed Officer is indispensable for the management of documents related to land rights. Notary/Land Deed Officer play a role as a general officer who has the authority to make land accession need to have skills and expertise in the field so that the deed made by them will not cause problems in the future[2].

According to article 33 paragraph (3) of the Constitution of the Republic of Indonesia 1945 states that land also can be managed by human beings based on land rights, rights of property, the right to use, rights of use, rights, and lease rights [1]. Upon the rights of the land, the public requires a legal certainty which is the right to manage the land held and the owner that owns the land. Based on the rights to

the land, in particular, proprietary rights holders may exercise the transfer of rights or the transition of land rights. The title is the right to the hereditary land, this right is not limited to the period of its customs and if the holder of the property deceased, then the right can belongs to the heir of the deceased [1]. The transition of land rights can also be done using trading, swinger, bequest, granting according to customs, becoming company assets or Inbreng, and wills or Legaat bequests. The transition of land rights is one way for a person to release and/or acquire land rights or it can be said the right to land will be transferred to another party [1].

The transition of land rights which will be discussed is bequests and wills. This bequest is called the free agreement which means that only the achievement of the grant, while the grantees are not required to provide Counter-Achievements in return for the bequest [3].

According to article 957 Civil Code is a special testament, in which the heir provides some goods such as moving or stationary goods or granting the right to use the results of all or part of its legacy to the heirs. According to article 938 Civil Code, a will bequest must be performed before a notary in form of an authentic deed.

Bequests are divided into two kinds, bequests for moving objects and bequests for stationary objects. Bequests for moving objects can be carried out without authentic deed

while bequests for stationary objects which involve land must be made in the form of Land Deed Officer deed such as stated in Article 1687 Civil Code Jo. Article 1682 Civil Code.

A land grant is a grant to a grantee committed at the time the grantee is still alive, without requiring any voluntary reimbursement, without the need for a contraction from the grantees, this is different from a testament, which is given after the death of the testator [4].

For land bequests outlined in section 37 paragraph (1) PP No. 24 of 1997, requiring land bequests to be conducted and made in front of Land Deed Officer [3], which is the transfer of land rights such as bequests must be posted and the government has done registration in the land Office which aims to provide more robust and wider evidence than the deed of Land Deed Officer [1].

The legal force of the Grant Act lies in the function of the authentic deed itself, namely as a valid instrument of evidence under the Act (Section 1682, section 1867, and article 1868 Civil Code) that can be used as a proving device [4].

There is a case in which, by the private deed, a Land Deed Officer, confirming or signing the sale agreement which after the sale is made that state the right to use the building rights certificate stating that the land under which the hands were granted was transferred over to the person who purchased the land and the building.

This is one of the reason that dispute may emerge because of bequests issued upon the land by the power to sell and buy also the cancellation of the sell deed by the grantees using a testament deed consists of the wills of the testator before a notary so that a will grant that he does become an authentic deed in which there is a statement from a testament grant who reads that the will declare all bequests issued by the grantee shall be revoked and canceled in the presence of this Testament grant deed.

In this case, if the deed of Notary/Land Deed Officer which makes the power certificate to sell and the deed of purchase and operation based on the bequests on land is an act that violates the code of Ethics, the law and regulations, then it is appropriate to the Notary/Land Deed Officer to be penalized according to what they have done.

Concerning of things that had been mentioned above, there is one case that will be discussed which is about the stem of a land bequest that have been done sale and operation of land with a grant deed made in front of Land Deed Officer. The case begins with the rights holders of land where buildings is located at Jalan West Tebet VIII No. 22, Tebet, South Jakarta, which became the object of the dispute in this matter that is to be a grant object by Mrs. Augustha Alexandra Johana Lumanauw hereinafter referred to as Mrs. Augustha. On 20 June 1996, Mrs. Augustha private bequest deed of the land and the building on it to Mrs. Charlotte hereinafter called Mrs. Charlotte.

On 19 October 1999, Mrs. Augustha made a testament deed on the land and the building to Johanna V Lumanauw hereinafter called Johanna and Novie Mandas called Novie which was made before the notary Winar Sianet in the authentic deed No. 14 on October 19, 1999, and in the act of the grant, mentioned that a testament grant deed dated

October 19, 1999, canceled by the private bequest deed made on June 20, 1996.

On 15 November 2000, Mrs. Augustha died, and on April 27, 2001, Mrs. Charlotte along with her daughter Dewi Pingkan hereinafter called Dewi made the power to sell of the land and building that became the object of the dispute in front of notary Budiono Widjaja, S.H., where the power to sell was outlined in the authentic deed No. 11 dated 27 April 2001 based on the private bequests deed dated June 20, 1996, which was canceled by the 14 dated October 19, 1999.

The case was then presented to the South Jakarta District Court on 15 December 2015 by Johanna and Novie as plaintiff and the verdict was born starting from the decision of District Court of South Jakarta number: 776/PDT. G/2015/PN. Jkt. Sel, High Court decision of DKI Jakarta number: 371/PDT/2017/PT. and Supreme Court decision No.: 1477 K/PDT/2019.

Based on the explanation above, the author was interested to write this topic comprehensively and put it this article titled "Judicial Review Regarding Sanctions For Notary/Land Deed Officer Who Made Authentic Deeds for Land Based On Private Bequest Deed (Case Study of The Supreme Court's Decision Number 1477 K/PDT/2019)"

2. FORMULATION OF THE PROBLEM

Based on the explanation above, the problems in this study are:

- 2.1. What sanctions can be given to Notary/Land Deed Officer who made an authentic deed on land based on the private bequest deed (a case study of Supreme Court ruling No.: 1477 K/PDT/2019)?
- 2.2. How to make a good and correct bequest deed made by Notary/Land Deed Officer (a case study of Supreme Court ruling No.: 1477 K/PDT/2019)?

3. METHODOLOGY

This research uses the normative methods of study which is a process of determining a rule of law, legal principle, or legal doctrine to answer the legal problems faced [5]. The nature of the research used in this study is a descriptive study aimed at describing the nature of an individual, circumstance or to determine the spread of a symptom or to determine the presence or absence of the relationship between symptoms in the community [6] with the intention also to strengthen the old theory and to compose a new theory. The type of data used is the primary legal material which includes laws relating to notary and Land Deed Officer, notary and Land Deed Officer Code of conduct, South Jakarta District Court Decision No. 776/PDT. G/2015/PN. Jkt. Sel Jo. The ruling of the DKI Jakarta High Court number 371/PDT/2017/PT. A. Supreme Court ruling No. 1477 K/PDT/2019. Secondary legal materials used include book books, literature related to this study, particularly about bequests, land bequests,

testament bequests. The tertiary legal material used is a legal dictionary. The research also uses data collection techniques with literature studies and qualitative analysis as their data analysis to produce descriptive data [7].

4. RESULTS

4.1. The sanctions that can be given Notary/Land Deed Officer who have made mistakes in making the deed of authentic land-based on private bequest deed (a case study of Supreme Court decision No.: 1477 K/PDT/2019.)

The land is the surface of the earth that is indispensable to its existence by the community to be used to build a shelter or simply managed into farmland and others. Therefore, the certainty of ownership of land rights should be considered by the State because it is necessary for people who have land so that there is no other party that can manage and build on land that has been mastered by someone. In this case, the role of Notary/Land Deed Officer is very important because it is an extension of the country to take care of matters relating to the land.

The transition of land is done by the parties, such as trading, swinger, bequests, wills, and others. The transfer of land rights through this bequest is divided into two namely bequests and testament bequests must be made and signed by the parties before the Land Deed Officer. Bequests for unmoving goods must be carried out with notarial deed which is a condition of absolute validity and becomes a strong evidence as stipulated in article 1682, Jo. Article 1687 Civil Code.

When observing from article 1682 Jo. Article 1687 Civil Code and Bequest theory, then the bequest of land carried out privately is invalid or cannot be said to be valid, in line with the opinion of Mr. Muhammad Iskandar, S.H., a bequest of land must be done in front of Land Deed Officer because its related to the process of renaming from the grantees to the grantees. The purchase of land-buying cases derived from bequests under the hands commenced from Augustha Alexandra Johana Lumanauw as the right holders of the dispute land or private bequest deed of Charlotte as the grantees over the disputed land.

The land of the dispute was then by the grantee, to be given to Johanna Victoria Lumanauw and Novie Mandas as the recipient of Wills on 19 October 1999 made in front of Winar Sianet, S.H., the notary in Manado, which in the Act of the Testament bequests, the grantee states that he revoked and retraced all letters of magnitude as a will and other epistles and then did a will grant on the land of disputes to Johanna Victoria Lumanauw and Novie Mandas.

According to the theory of Testament bequests, the passing of the grantee or Augustha Alexandra Johana Lumanauw on November 15, 2000, means that a testament grant will be given to Johanna Victoria Lumanauw and Novie Mandas. Then under Testament Bequests Act No. 14 dated 19 October 1999, under-handed bequests made on June 20, 1996, to Charlotte became void or invalid. The reason of the revocation of bequests set out in article 1688 Civil

Code because of an incompetent or ineligible grantee given by the grantees, grantees perform deeds to eliminate the life and harm of the bequest and if the grantee refuses to provide a bequest if it falls poor.

Unlike the one described in article 1688 Civil Code, in this case, bequests to the disputed land are carried out by hand. Therefore, the land of dispute that became the object of the bequest was ruled by a testament recipient which are Johanna Victoria Lumanauw and Novie Mandas, as the land of the dispute that was contained in a testament letter, Augustha Alexandra Johana Lumanauw was given to him as well as having canceled a bequest to land under his hands to Charlotte Meity Wairisal

The decision of South Jakarta District Court Number: 776/PDT. G/2015/PN. JKT. SEL said that Charlotte together with her son Dewi Pingkan made the deed of power selling No. 11 dated April 27, 2001, based on the under-hand bequest Letter dated June 20, 1996, before Budiono Widjaja, S.H., Notary/Land Deed Officer in South Jakarta, where the power to sell act is used to buy and sell the disputed land to Indah Setiowati and May Dayanti as defendant I and defendant II, from the sale and purchase of the disputed land, was made the sale agreement No. 08 dated May 09, 2001, by Budiono Widjaja, S.H., which was subsequently published by the National Land Agency a certificate of building rights in the name Indah Setiowati and May Dayanti Number 3252 year 2005.

According to Mr. Risbert Soelini, S.H., M.H., and Mr. Muhammad Iskandar, S. H, the notary should not or forbidden to make the Power to sell based on the private bequest deed due to its not final rights transferred to the grantees or the absence of ownership evidence of the disputed land. Therefore, the power to sell act which is made before the notary based on the lower hand bequest is to be invalid and has no legal force because the right used is not strong. According to the instruction of Mendagri No. 14 the year, 1982 on the prohibition of the use of absolute power as a transfer of rights to the land, the power to sell is not permitted or prohibited by the Government to be used.

The illegitimate power Act for selling is also an impact on the deeds made based on it, such as the Sale and Operation Act and the building rights certificate to be invalid. This is because the right base that became the first benchmark is not following the procedure. This is due to make an authentic deed required other authentic deeds that can be used as the basis of the creation.

Bequest deed is only applicable to the parties making it the grantee and grantees. For third parties such as Notary/Land Deed Officer and the heir is not valid due to witnesses' unconsciousness. Following the stated by Mr. Muhammad Iskandar, S.H., that Notary/Land Deed Officer as a third party cannot issue an authentic deed of the letter made under the hand. Therefore, the action performed by Notary/Land Deed Officer Budiono Widjaja, S.H., who has made the power Act to sell is a violation of the notary code of conduct and against the ethics of Notary.

The transition of land rights through bequests must be with the Land Deed Officer Act conducted before the

authorized Land Deed Officer and must be attended by the giver and grantees and witnessed by a minimum of two qualified witnesses as witnesses in the act as affirmed in the article 37 paragraph (1) Jo. Article 38 paragraph (1) PP No. 24 of 1997.

Based on the case, a Notary/Land Deed Officer Budiono Widjaja, S.H., has established or signed a land sale between Charlotte and Dewi Pingkan with Indah Setiowati and May Dayanti which have been made in the form of Land Deed Officer deed, namely the deed of purchase and Operation No. 8 dated May 09, 2001. The deed of Sale Agreement No. 8 was made based on the Power Act to sell No. 11 which is the right to the creation of the two authentic deeds is the underhand letter made on 20 June 1996.

Land Deed Officer is also authorized to create a land deed which is an authentic deed of any legal action involving the right to land. The deed made by a Land Deed Officer has a function as a perfect proof because of the transitional Agreement on land, which if the deed of land that is not made before the Land Deed Officer will be difficult to declare that the deed is valid.

According to Mr. Prof. Dr. Amad Sudiro, S.H., M.H., M.M., M.Kn., the deed of sale and operation can be made by a Land Deed Officer with a bequest based on land carried out by hand. However, this may happen during the private bequest deed of land is not denied or not recognized by either party. The creation of the sale agreement Act based on the power of attorney to sell that is made with a lower hand bequest basis must be done carefully by crosscheck to the grantees and grantees, if both parties acknowledge the truth of the bequest letter under the hand, then the purchase of the land can be processed as long as it does not violate the provisions of the bequest itself.

Mr. Risbert Soelini, S.H., M.H., with the view that the sale and purchase of land-based on bequests under the hand should not have the power of proof of law, because the right mat and the parties who did the transactions of the land has no competence in conducting transactions and making deed, they should buy and sell transactions of the land become invalid.

In line with the opinion of Mr. Risbert Soelini, S.H., M.H., Mr. Muhammad Iskandar, S.H., argued that Land Deed Officer must not make the buy and sell act based on the power of Act to sell the basis of the creation is the lower hand because the evidence of its own does not exist, and should if the bequest of land is done under the hands, then the land, it is not possible to buy and sell. The sell and operate act of the land should also be invalid because the right mat that became the first benchmark was not following the procedure. This is because only authentic deeds can be used or made as to the basis of the creation of other authentic deeds.

Therefore, the author looks in line with Mr. Risbert Soelini, S.H., M.H., and Mr. Muhammad Iskandar, S.H., that the bequest of land should not be carried out underhand due to bequests on the ground of the grantees and grantees must be carried behind the name directly in front of the Land Deed Officer which then by Land Deed

Officer will be registered to the Land Office that the bequest is true and will soon be carried out the name reversal of the grantee

When Reexamining article 37 paragraph (1) and section 38 clause (1) PP No. 24 of 1997 on land registration stating that for grant of land should be conducted in front of Land Deed Officer. Thus, it is supposed that the land bequests conducted under the hand become invalid and the Land Deed Officer which has made the Power Act to sell No. 11 and the act of buying and selling and operation No. 08 with the under-hand letter of Bequest dated June 20, 1996, which has also been canceled with the validity of the deed No. 14, which was made before the notary Winar Sianet can be penalized because it caused harm to the parties.

Based on the theory of responsibility whereas responsibility is a consequence of a necessity for a person as a result of his or her moral and ethical actions that give birth to the legal obligation to him as a form of a consequence of his actions. The act of Notary/Land Deed Officer Budiono Widjaja, S.H., which makes the power act to sell and sale agreement act based on the private bequest deed which has been canceled by the Testament Bequest Act is wrong, which raises a personal responsibility for the Notary/Land Deed Officer itself. Notary/Land Deed Officer is responsible for sanctions such as administrative sanctions, civil penalties and even criminal penalties.

According to the legislation and the results of interviews with all three speakers, the Notary/Land Deed Officer Budiono Widjaja, S.H., is subject to sanctions in the form of:

4.1.1. Administrative sanctions

Administrative sanctions for Notary/Land Deed Officer according to Mr. Prof. Dr. Amad Sudiro, S.H., M.H., M.M., M.Kn., and Mr. Risbert Soelini, S.H., M.H., i.e. for the parties who were harmed for the action performed by Notary/Land Deed Officer can report to the MPD/MPP Land Deed Officer which would then be made a call to Notary/Land Deed Officer to be asked for clarification on the authentic deed made by him which was submitted and acknowledged truthfulness Sanctions against Notary/Land Deed Officer will be determined by the MPD after the proceeding and decide the appropriate Notary/Land Deed Officer action or not with the code of Ethics and other legal regulations.

While Mr. Muhammad Iskandar, S.H., on Notary/Land Deed Officer who committed acts of violations against UUJN and PP Land Deed Officer may be subject to sanctions set out in the code of ethics such as reprimand, warnings, dismissal, temporary dismissal and so forth.

From the explanation above and by noting article 85 UUJN Jo. Article 6 paragraph (1) of the notarial Code of ethics Jo. Article 6 paragraph (1) of the Land Deed Officer code of Conduct, then the administrative sanction acceptable to Budiono Widjaja, S.H., as a Notary/Land Deed Officer who has made an authentic deed on land based on the bequest under the hand is a disrespectful termination of membership.

4.1.2. Civil sanctions

In article 84 UUJN reads that notaries that commit acts of infringement to make an authentic deed to be only the

strength of proof as a deed under the hands or be a deed that is null and void, then against the party that is wronged for the action of the notary may claim reimbursement, damages, and interest to the notary who has committed an action that harms the parties

While in article 10 PP PPAT Jo. Article 28 paragraph (1) and (2) No. 1 of 2006, act by notary Budiono Widjaja who has created an authentic deed based on land bequests carried out underhand including having committed a serious offense which is included in the classification in which Land Deed Officer makes authentic deeds on land to the parties who are not authorized to perform legal acts according to the deed he made.

The power to sell act was made by the notary Budiono Widjaja at the request of Charlotte to authorize the Dewi Pingkan as her child is invalid, in which Charlotte was not entitled to authorize the Dewi Pingkan, as the rightful mat used by Charlotte to make the power certificate to sell it is invalid which is a bequest under the hand that has been canceled by the Testament Bequest Act No. 14 which Made before the notary Winar Sianet. The invalidity of the Power Act for selling is also for the sale and Operation Act conducted between Dewi Pingkan and Indah Setiowati and May Dayanti, in which the sale and operation act becomes invalid or void by law.

According to the results of the interview with the three speakers, that the parties who feel harmed by the action and deed from Notary/Land Deed Officer Budiono Widjaja can report or submit a civil lawsuit to a local court where later Notary/Land Deed Officer Budiono Widjaja also can be a defendant or co-defendant in civil litigation proceedings with the defendant in the form of the fee and the compensation in the event of the absence of attention and thoroughness that causes harm to the parties following the sound of the court verdict.

As so for his actions that have committed a serious offense, the civil sanction that can be imposed against Notary/Land Deed Officer Budiono Widjaja is dismissed with no respect from the post because it has committed a serious violation of the prohibition or obligation as a Notary/Land Deed Officer and shall carry out the fee, damages, and interest to the party that has been harmed by the authentic deed that has been made by him and also become the defendant or the defendant in a civil litigation trial whose claim was entered by the injured party.

4.1.3. Criminal sanctions

In the above case, it can be concluded that Notary/Land Deed Officer Budiono Widjaja knew that the right mat used to create the Power Act for Selling and the sale agreement based on a private bequest deed that cannot be used as the basis for the creation of an authentic deed as said by Mr. Muhammad Iskandar, S.H., however, the Notary/Land Deed Officer Budiono Widjaja still make an authentic deed based on the deed under the hands of which is governed in article 55 paragraph (1) number 1, Jo. Article 264 paragraph (1) of the Criminal code which reads that each Notary/Land Deed Officer who performs, orders and participates in the counterfeit letter committed to the authentic deed is threatened to be locked up in prison at most eight years.

4.2. The process of making a good and correct bequest deed made by Notary/Land Deed Officer (a case study of Supreme Court ruling No.: 1477 K/PDT/2019.)

The process of making a bequest deed or a wills deed before a notary in the opinion of Mr. Risbert Soelini, S.H., M.H., is the bequest-giving and the recipient of the mandatory testament facing to the notary office. Then the testifier tells his will and share to the notary, that the beneficiary of wills would be entered into a bequest deed or a Wills bequest deed. Following the case in the act of the bequest will be listed statements such as "I retract the same power letters as wills and give a wit a will of a wills bequest to a testament beneficiary. Wills should be made in the form of an authentic deed or olographic testament Act. Then the act of bequest will be checked into the list of wills. After a testament bequest deed is made then it must be signed by a Will and Testament grantees, in which the bequest deed, the act of wills and Wills shall be registered by the notary on the fifth of each month to Indonesia Ministry of Law and Human Rights. The execution of a testament bequest deed must be made by implementers of wills or a person whose name is referred to as a testament grantee.

The process of making land bequest deed, namely:

4.2.1. By Land Deed Officer the certificate of land must be adjusted to the register in the land Office by carrying the original certificate which must be done for each making of the deed by Land Deed Officer. (Section 97 paragraph (1) No. 3 of 1997 Jo. Article 54 paragraph (2) No. 1 of 2006).

4.2.2. Once the certificate is matched, the certificate is stamped or written with the sentence "checked and corresponding to the register at the Land Office" and was pared and given the date of checking by the head of the land office. (Section 97 paragraph (3) No. 3 of 1997).

4.2.3. The creation of a bequest deed must be attended by grantee, grantees and at least two qualified witnesses. (Article 38 PP No. 24 of 1997).

4.2.4. Land Deed Officer must read the deed to the grantee and grantees by explaining the contents and intent of the deed and the subsequent registration procedure. (Section 101 paragraph (2) to No. 3 of 1997).

4.2.5. The Land Deed Officer Bequest Act is made of two original copies as one will be stored in Land Deed Officer office and other will submitted to land offices for registration purposes while for the grantees and grantees are given copies. (Article 102 No. 3 of 1997).

4.2.6. Land Deed Officer is obliged to register and convey the deed of bequests that takes up to seven working days since the bequest deed signed with the relevant documents to the Land office. Bequests and grantees must be submitted by Land Deed Officer with a written notice that the bequest deed has been submitted to the Land Office. (Article 40 PP No. 24 of 1997).

Indonesia Ministry of Law and Human Rights. The execution of a testament bequest deed must be made by implementers of wills or a person whose name is referred to as a testament grantees.

After the creation of the bequest deed conducted following the procedure, then done behind the name of the grantee to

the grantees following the procedures stipulated in the No. 1 of 2010, namely:

4.2.1. Application form that have been filled and signed by grantees.

4.2.2. Copies of grantee identification

4.2.3. Original certificate of the land rights.

4.2.4. Bequests act of Land Deed Officer.

4.2.5. If in the certificate is listed as a token stating the right to be transferable only after obtaining permission for the transfer of rights from the authorities shall submit the permission to transfer of rights.

4.2.6. Copy of tax payable on Earth and Building Tax (SPPT) in the year adjusted to the original by the counter attendant.

4.2.7. Submit proof of payment of customs duties on land and/or building (SSB BPHTB) and proof of tax income tax (SSP/PPh) for the acquisition of land from 60m rupiah.

After the register of land rights transfer through bequests to the land office which takes 5 days, then the object of the bequest has moved its ownership to the grantees, which is following those mentioned by Prof. Dr. Amad Sudiro, S. H, M.H., M.M., M.Kn, in which the grantees can already conduct buy and sell transactions against the land.

5. CONCLUSION

5.1. Bequests on land carried out under the hands are not valid, because bequests on land should be done by the authentic notarial deed/Land Deed Officer. The act underhand applies only to the parties and does not apply to third parties such as Notary/Land Deed Officer. Notary/Land Deed Officer should not be able to make an authentic deed on land-based on bequests conducted underhand because the proof of ownership of land is still not transferred to the grantee where the grantee is not the authority in transferring rights to the land. For the act of Notary/Land Deed Officer that has been detrimental to the parties by creating an authentic deed which is the same magnitude as the deed under the hands can be penalized:

5.1.1. Administrative sanctions: Notary/Land Deed Officer is subject to sanction by disrespect for violating the notary code of conduct and Land Deed Officer.

5.1.2. Civil sanction: For serious Violations committed by Notary/Land Deed Officer, it will be penalized by the disrespect of the position and shall be reimbursed for charges, damages, and interest to the party to be wronged as a form of responsibility.

5.1.3. Criminal sanction: Notary/Land Deed Officer which is proven to commit violations of law that meets the element of a criminal act which in this case is a forgery of authentic deed then Notary/Land Deed Officer is threatened with a criminal at most eight years according to article 55 paragraph (1) Number 1 Jo. Article 264 paragraph (1) of the Criminal code.

5.2. The process of making a bequest deed and a testament bequest deed must be conducted before the notary with the parties to come facing the notary office, the grantee tells the will to enter the name of the grantee in the Act of the grant of the deed and then signed by the parties and after

the copy of the deed, the notary must register a will of While the process of making a good land bequest deed must be done in front of Land Deed Officer through the parties and two witnesses are present and signed a grant deed before Land Deed Officer. After the bequest deed is completed, Land Deed Officer is obliged to register a bequest deed to the land Office then it is then the transition of rights or better known in the practice in return. After the process behind the land name is done, then the grantee has been able to perform the transition on land rights such as purchasing.

6. ACKNOWLEDGMENT

6.1. Notary/Land Deed Officer In carrying out its duties must be based on the principle of prudence, thoroughness, and responsibility and must comply with the laws and regulations and the Code of Ethics of each department.

6.2. Assembly of considerations and supervision shall conduct periodic supervision on the duties of Notary/Land Deed Officer, receive complaints or reports from the parties, socialize the Notary/Land Deed Officer, and require Notary/Land Deed Officer to report any bequest deed, deed of wills, and wills on the fifth of each month to Indonesia Ministry of Law and Human Rights.

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