

Entrusted Money Embezzlement by the Notary on the Making of Cooperation Agreement

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ABSTRACT

This article aims to examine the responsibility of the Notary who embezzled entrusted money owned the agreement parties in the District Court Decision No. 29/PID.B/2020/PN PWK. The Notary who received the entrusted money has violated Article 52 Paragraph (1) of the UUJN, because the Notary is indirectly a party to the entrusted agreement. This study showed that if the Notary made the deed for himself, then the authentic deed was degraded its evidentiary strength into an private deed and the Notary could be sued to reimburse fees, interest and losses (Article 52 Paragraph (3) UUJN). In addition, the Judge on Court Decision No. 29/PID.B/2020/PN.Pwk has made a mistake in making a decision, which the Notary should have been punished based on Article 374 of the Criminal Code regarding arduous embezzlement, not the ordinary embezzlement. This conclusion is based on the fact that the Notary has received the money because he holds the position of a Notary who is highly trusted and is considered as a neutral party by the appearers. Besides, based on Article 12 UUJN jo. Article 374 KUHP, the Notary who commits arduous embezzlement can be given office sanctions ranging from a written warning to dishonorable discharge.

Keywords: Notary, Entrusted Money, Arduous Embezzlement, Notary Responsibility

1. INTRODUCTION

The agreement is no longer commonplace in modern society today. An alliance is a situation where two people promise each other or one promises to the other to do a certain thing. [1] When looking at Article 1313 of the Civil Code (KUHP), the agreement is interpreted as a legal act that gives rise to conformity of willing that shall eventually create the a legal consequence. The Agreement may be made privately or in the sense of being made by the party of the agreement itself, or may also be assisted to be made by or before a Notary Public. The making of this agreement is the main task as well as the authority of the Notary Public who has been sworn in by the State to serve the community. This is in accordance with Article 15 Paragraph (1) of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notarial Department (UUJN), which stipulates that notaries have the authority to make authentic deed related to all acts, treaties, and also determinations that have been determined by the law and are also required by each party that has an interest in making such legal acts declared in authentic deed. Against the deed he made, Notary public should ensure legal certainty for every public who receives notarial services as a public official. [2]

Notary public officials obtained their authority from UUJN and other laws to make authentic deed (Article 1 Number 1 UUJN). Notary public is an honorable position given by

the government to someone who can be trusted and considered capable of it (Notary). [3] When referring to the Great Dictionary of The Indonesian Language, a Notary public is a person who obtained the power from the State or government through appointment, which are then given the duty and authority to witness and ratify various letters of agreement and other acts / events that have been determined by the Law. [4] Gandasubrata also gave the understanding of notary public, where he suggested that Notary is interpreted as a public official appointed by the State as one of the law enforcements responsible for serving the community. [5] Thus, it can be concluded that the Notary public official appointed and authorized by the Government to serve the public in relation to the making of the deed, where the deed made by or before the Notary has been determined the form and procedure determined by UUJN. Prof. Subekti stated that an authentic deed is a deed whose form has been determined by the Law made by and or in the presence of a public servant authorized to make it where the deed is made. [6]

Notary position is a position that was born because of a public need about making evidence and not a position that was deliberately formed and then introduced to the community. [7] Tan Thong Kie stated that Notary public is considered as a government official where the public can obtain reliable advice and he is a document maker who has strong evidentiary powers. [8] This is given, Notary is not only a person who is considered right, but when running

his profession, Notary is bound by ethics, where the ethics closest to the human self is conscience (soul). [9] So that in carrying out its authority Notary is also limited by the rules of law, so that the Notary can carry out its profession properly in accordance with the mandate of the Law. With these rules of law, Notary public also understands which things are within the scope of their authority and which things are outside their authority or even prohibited according to the Law. One of the interesting things and at the same time the focus of this research is related to Article 16 paragraph (1) letter a UUJN, when the Notary carries out his position, he is prohibited to behave dishonestly and do not take care of the interests of the confronters. Notary as law enforcement is the enforcer of justice and also the truth, because it is appropriate that he must carry out the position he held with sincerity, good faith and sincere, considering the position of Notary public is an honorable and noble profession (*officium nobile*) in the eyes of the public. [10]

Furthermore, the value of honesty that must be owned by a Notary Public is also clearly stated in Article 3 Number 4 of the Notary Code of Ethics of the Notary Association of Indonesia in 2015, which regulates in essence that:

"Notary public or other persons (as long as they are concerned to carry out the profession of Notary Public) are obliged to be honest, impartial, in accordance with the mandate, independent, thorough, full of responsibility, in accordance with as stipulated in the law and also the contents of the oath when the appointment of the Notary Position"

Moreover, it can be known that the value of honesty is included in the important element in the notary oath in carrying out his office. The Notary Oath reads:

"I swear/promise:

.....

That I will carry out my position with trust, honesty, care, independence and impartiality.

That I maintain my attitude, conduct, and will carry out my duties in accordance with the code of ethics of the profession, honor, dignity, and my responsibilities as a Notary Public.

....."

Thus, it is increasingly clear that honesty is a moral basis that must be owned by every Notary in carrying out his/her position. Notary position is a public official who is required professionally to carry out his duties, he must realize that his professional obligations are independent, honest, impartial and full of responsibility. [11] With a good moral, honest attitude and can uphold integrity as law enforcement, then notary public will not easily enter into professional problems, one of which is embezzlement. Embezzlement is an act that has violated morals and certainly violates the law, especially criminal law.

When looking at the practicality, this embezzlement was also carried out by one of the Notaries in Purwakarta named Nazarudin. In this case, JPU has prosecuted him under Article 372 of the Criminal Code on ordinary embezzlement. In this case, Nazarudin as a Notary public entrusted to make a land acquisition cooperation agreement, at the request of the face receives money that

must be forwarded by the Notary to the first party in the agreement (Yaya), which if Yaya has carried out its obligations in part, then the Notary will give the deposit money also gradually. In addition, in addition to being the recipient of the deposit of money, he certainly also acted as a Notary to conduct the management of the Land Release Letter. But in fact, Nazarudin as the recipient of money (intermediary), has used deposit money from the face for his own benefit. Which, the deposit money should be given to one of the parties if the party has carried out its obligations, namely managing land acquisition and licensing.

When reflecting on UUJN or any law, there is not a single rule of law that gives notary public the authority to receive deposit money from the facet. This means that Notary has done things beyond his authority [12] or have been over service. these acts outside of authority are very vulnerable to lead to violations of the notary code of conduct, one of which is embezzlement. UUJN has not explicitly regulate the sanctions that will be given to notaries who are proven to commit criminal acts of embezzlement. Rather, UUJN only stipulates that notaries who behave dishonestly will be subject to administrative sanctions. According to the Author, dishonesty cannot be equated with criminal embezzlement. A further issue is whether the Notary can or is authorized to receive deposit money from the Penghadap in connection with the deed he made. This problem arises when we look at Article 52 Paragraph (1) UUJN, which basically stipulates that notaries are prohibited to make deed for themselves, his wife or her husband, or others who have a familial relationship with a Notary public either because of a marriage or because of blood relations in a straight down or upward lineage without restrictions on degrees, and also in the line to the side to the third degree, and to be a party to himself, or in a position or by the medium of power.

Thus, it is clearly stipulated that notaries are not allowed to make deed in which there is interest for themselves. Not infrequently in the preparation of this study, the author found that there are still many Notaries who do not know that Notaries are not allowed to receive any deposit. Therefore, clear supervision and guidance are required for notaries. Supervision accompanied by sanctions will provide a conscious effect and a deterrent effect that is very important for notaries. [13]

This research with a similar object was conducted by Aprilia Lusiana Wijaya under the title Embezzlement in the Implementation of Notarial Positions in 2020 published in the Journal of Notary University of Indonesia, which discusses the responsibility for Notaries who violate the LAWJN. [14] Based on the above thoughts, the authors are interested to study more deeply and comprehensively related to some of the following issues:

- a. What are the legal consequences and responsibilities of notary public who receive deposit money in the making of cooperation agreements?
- b. What is the liability of notary public who commit arduous embezzlement in the making of cooperation agreements?

2. METHOD

This research uses Normative Juridical Research Method, which means a research method conducted by using and analyzing literature materials or only with secondary data. [15] In connection with this writing, the author refers to the provisions of the law relating to notary liability, the code of ethics of notary positions, the relevant Court Decisions and also the opinions of experts (doctrines).

In general, data analysis can be done through 2 (two) ways, namely qualitative or quantitative. [16] Qualitative means processing data that has been obtained based on its quality and can be accounted for, so that it does not care about the amount of data, but based on the quality and validity of the data that the author obtained.

3. DISCUSSION

UUJN provides notary understanding as a public official who has authority in terms of making authentic deed and other authorities in accordance with the established by UUJN and other laws. Gandasubrata suggests notary public official appointed by the State as law enforcement in charge of providing deed-making services to meet the interests of the community. [17] Notary position is not only a professional position, but a noble position that is a position that essentially serves the community, where he also earns a wage / living from his job / position, but the wage is not his main motivation to run the position. The main thing that motivates him is his willingness to serve sesame (society).

According to Ahmad Kohar in his book, Notary is interpreted as a public official in charge of ensuring authority / authenticity in the writings made by him. Notary is appointed by the highest administrator of the state, which then from the appointment of the Notary obtains trust and recognition to serve the interests of the community in terms of making deed. [18]

Notary public has the authority to make authentic deed of agreement, act and provision that has been determined by the laws and/or required by the interested person to be stated in an authentic deed. The notary also has the authority to guarantee the certainty of the date on which a deed is made, to keep the deed made by him, to give grosse and citation of the deed, all of which can be done if the entire deed is also not assigned to other officials or others according to the law. Notary Authority has been explicitly stipulated in Article 15 Paragraph (1) and (2) UUJN. Although it has many authorities, Notary also has restrictions in the use of its authority. These restrictions will be used as a reference to find out whether the Notary has done things outside his authority or even far to have abused his authority. Related to this authority issue, there are interesting problems for the Author to be discussed in this study, where:

3.1. Case Position

PT Hellem Griya Indonesia (PT HGI), a company engaged in the residential business / developer established based on the Deed of Establishment No. 197 dated May 19, 2016 in front of Notary Anna Frida Nurhayati, S.H.. PT HGI wants to hold housing developments in Pasawahan Village and Pasawahan Kidul Village, Pasawahan District, Purwakarta Regency. Therefore, Legal from PT HGI met with Yaya S. Hidayat (Defendant 2/ First Party agreement). Yaya agreed with PT HGI to assist in the management of land supply and acquisition to landowners while managing the permit to change the green zone to a yellow zone with an area of +- 504,000 m².

Thus, there was an agreement between Yaya and PT HGI related to the land acquisition. On February 16, 2017, PT HGI and Yaya made a Deed of Cooperation Agreement No. 03 before Nazarudin, S.H., M.Kn., Notary in Purwakarta Regency, which was agreed:

- a. Land procurement by the First Party (Yaya) covering an area of 100,000 m², by means of payment as follows:

Table 1 Installment Payment: Amount and Payment Date

Installment	Amount	Payment Due Date
1 st Installment	Rp. 1.825.000.000,-	Feb 23, 2017
2 nd Installment	Rp. 912.500.000,-	July 23, 2017
3 th Installment	Rp. 912.500.000,-	Sept 23, 2017
4 th Installment	Rp. 912.500.000,-	April 23, 2018
Grand Total	Rp. 7.300.000.000,-	

- b. Procurement of land by the First Party (Yaya) covering an area of 404,000 m², by means of payment as follows:

Table 2 Installment Payment and Amount

Installment	Amount
1 st Installment	Rp. 1.001.000.000,-
2 nd Installment	Rp. 9.009.000.000,-
3 th Installment	Rp. 10.010.000.000,-, which will be paid through 2 (two) installments as follows: 1.Rp. 5.005.000.000,- 2.Rp. 5.005.000.000,-
Grand Total	Rp.20.020.000.000,-

- c. The payment money by the Second Party (PT HGI) to the First Party (Yaya) will be deposited to Nazarudin as notary deed maker and then the money will be handed over gradually to Yaya to be paid to landowners whose land will be waived.
- d. Notary will conduct the management of the Land Release Letter and approval of the change of green zone into a yellow zone, which the management agreement will be completed in September 2017, which against the cost of handling the Land Release Letter (SPH) has

been paid by PT HGI to the Notary of Rp. 200,000,000,-

That, PT HGI has handed over the cheque for land purchase to Nazarudin with the following details:

Table 3 Installment Payment: Amount and Payment Due Date

Amount	Payment Due Date
Feb 23, 2017	Rp. 2.525.000.000,-
Feb 28, 2017	Rp. 300.000.000,-
April 07, 2017	Rp. 250.000.000,-
April 27, 2017	Rp. 100.000.000,-
Juny 22, 2017	Rp. 50.000.000,-
Juny 22, 2017	Rp. 100.000.000,-
July 28, 2017	Rp. 145.000.000,-
August 4, 2017	Rp. 862.000.000,-
Okt 12, 2017	Rp. 912.000.000,-
Grand Total	Rp. 5.244.500.000,-

Which, on March 17, 2017, Nazarudin has sent a Letter offering the Cost of Location Zone Change Management Process to PT HGI amounting to Rp. 1.269.500.000,- which was then agreed by PT HGI based on the Answer Letter dated April 6, 2017 at a value of Rp. 1,267,000,000,-. Then, PT HGI has paid the cost of licensing for zoning changes of the Spatial Plan (green zone to yellow zone) of Rp. 900.000.000,- and the money has been received directly by Saksi Saeful Muluk as a staff of Notary Nazarudin office, which from the money of Rp. 900.000.000,- after deducting the expenditure for land acquisition by Yaya, there is still money of Rp. 91.000.000,- which is still controlled by notary public, which can be detailed as follows:

Table 4 Installment Payment: Date and Amount

Payment Date	Amount
April 09, 2017	Rp. 334.000.000,-
August 29, 2017	Rp. 70.000.000,-
Okt 25, 2017	Rp. 30.000.000,-
Nov 1, 2017	Rp. 100.000.000,-
Jan 16, 2018	Rp. 305.000.000,-
Grand Total	Rp. 809.000.000,-

That as agreed above, Nazarudin and Yaya promised PT HGI that the Land Rights Waiver and permit for the change of green zone to yellow zone will be completed in September 2017. However, in fact, until November 2017, the management was not completed. Until January 30, 2018 PT HGI sent a letter to Nazarudin to collect the promise of progress in the management of land rights

release and licensing. Then, through Letter No. 198/NOT-KET/KNN/I/2018 dated February 9, 2018, Nazarudin promised that the waiver and licensing process will be completed no later than February 21, 2018.

That until February 21, 2018, the process of waiver and licensing was not completed and then PT HGI learned that the money handed over by Nazarudin to Yaya was Rp. 4,599,500,000,-, and not Rp. 5,244,500,000,-, which can be detailed as follows:

Table 5 Installment Payment: Date and Amount

Payment Date	Amount
Feb 23, 2017	Rp. 2.525.000.000,-
Feb 28, 2017	Rp. 300.000.000,-
August 04, 2017	Rp. 862.000.000,-
Okt 12, 2017	Rp. 912.500.000,-
Grand Total	Rp. 4.599.500.000,-

Which, on March 17, 2017, Nazarudin has sent a Letter of Depositor of Location Zone Change Management Process to PT HGI amounting to Rp. 1.269.500.000,- which was then agreed by PT HGI based on the Answer Letter dated April 6, 2017 at a value of Rp. 1,267,000,000,-. Then, PT HGI has paid the cost of licensing for zoning changes of the Regional Spatial Plan (green zone to yellow zone) amounting to Rp. 900.000.000,- and the money has been received directly by Saksi Saeful Muluk as a staff of Nazarudin Notary office.

3.1.1. Proceedings

On January 20, 2020, the Public Prosecutor (JPU) arrested Nazarudin as Defendant I and Yaya as Defendant II. Then, the proceedings were held at the Purwakarta District Court. JPU then prosecuted both defendants with 2 (two) charges, namely:

The first indictment is based on Article 378 of the Criminal Code on Fraud; and/or Alternative charges under Article 372 of the Criminal Code on Embezzlement.

That based on the Decision of purwakarta District Court Number 29/PID. B/2020/PN PWK, The Panel of Judges then handed down a warning verdict in the form of a prison sentence of 3 (three) years to Defendant I Nazarudin, S.H., M.Kn. Amar the verdict was handed down based on several considerations that are essentially as follows:

Defendant I Nazarudin, S.H., M.Kn. never completed its responsibility to manage the permit to change the location zone to the Bappeda Purwakarta Regency in accordance with the specified time, as evidenced by the Letter dated June 12, 2017, October 10, 2017, and February 9, 2018, signed by Defendant I Nazarudin, S.H., M.Kn. So the Panel of Judges held that PT HGI had been harmed.

That there is still money remaining amounting to Rp. 91.000.000,- which is still in the power of Defendant I

Nazarudin, S.H., M.Kn. and has not been returned to PT HGI.

That there are circumstances that relieve Defendant I Nazarudin, S.H., M.Kn., namely the defendant has never been convicted, the defendant still has professional responsibilities as a Notary / PPAT, the defendant is the backbone of the family.

That there are circumstances that incriminate Defendant I Nazarudin, S.H., M.Kn., namely the defendant's actions resulted in losses for PT HGI and the defendant has not returned the remaining money that is still in the defendant's power.

3.1.2. Results of Interview with Mr. Widyo Hapsoro, S.H. M.Kn., Notary and PPAT in Purwakarta Regency [Online interview via email on June 03, 2021]

According to Mr. Widyo, if it refers to UUJN, then it is clear that notaries do not have the authority to receive deposit money in any order. Based on UUJN, Notary only has the main authority, namely making a deed. However, in practice, the receipt of deposit money has become a habit of the clients for the sake of efficiency and practicality of time, without considering the risks that may occur, namely the deposit money can be misused by the Notary. Even not infrequently when the Notary receives deposit money, notary does not provide a receipt of money, so the money is considered his own and used for his personal benefit. Supposedly, notaries should adhere to the Notary Code of Conduct, which has governed all prohibitions, all permitted and all exceptions. Notary public must also have a good personality, morals and morals as stipulated in the Notary Code of Ethics. According to Mr. Widyo, if you stick to these things, then the Notary must dare to reject things that are not in accordance with the applicable provisions and not affected by the lure of Notary Fees. In addition, notaries should also be able to measure the extent of the legal impact on it in the next few years. Based on the above cases, there are several problems that need to be examined, namely:

3.1. Notary responsibility and legal consequences of deed made by Notary public who receive deposit money in the making of cooperation agreements

Based on Article 52 Paragraph (1) UUJN, Notary public is prohibited to make deed directed to himself. When the Notary receives deposit money from the face on the basis of the trust of the non-notary, then indirectly there has been a custody agreement between the Notary and the face. In general, the legal basis of the custody agreement may refer to Chapter XI of the KuHPer on The Storage of Goods, namely in Articles 1694 - 1734 KUHP. A custody agreement is a condition in which a person receives an item from another person in order for the goods to be stored and will be returned in their original state at a predetermined time (Article 1694 kuhper).

The custody agreement between notary public and the counter-protesters is included in the type of secretary custody agreement, which means the storage of goods that

occurs because of an agreement or because of a judge's decision. Thus, the authority and obligation of notary public as the recipient of deposit goods are sourced from an agreement. Based on Article 1734 to Article 1736 kuhper, the secretary storage agreement arises when the deposit is left to the recipient of the deposit willingly, without any coercion. Thus, there is a secretary custody agreement. As a result, the secretary agreement is subject to the provisions of the pure custody agreement.

As a result, when a Notary causes a loss to the face, then the Notary is obliged to reimburse the loss, considering he has become the party that receives the deposit money, so that in this case he acts as the beneficiary of the deposit, not as a Notary Public. This provision is in line with Article 52 Paragraph (3) UUJN, which stipulates that if the Notary violates the provisions of Article 52 Paragraph (1), then the Notary may be held liable to pay compensation, costs and interest.

Thus, UUJN has stated that for a Notary who has made a deed for himself (being the beneficiary of the deposit in the custody agreement), then he is responsible for paying costs and damages to the opponents, this payment can be demanded by the face if the Notary is proven to have caused losses to the opponents, either through a lawsuit or a lawsuit against the law. As a result of the receipt of the deposit, the authentic Act, which was once of perfect legal force, will decrease its evidentiary power to be properly proven as a private deed, even if the deed is made authentically. As such, the deed no longer has the force of law as possessed by the authentic deed.

In fact, it should be when a Notary makes a person a deed, then the deed is known as an authentic deed. Under Article 1870 of the KuhPer, the authentic Act is the only evidence tool that has the perfect evidentiary power, which means that this authentic deed will be the perfect evidence of what is done or stated in the deed. The authentic act has the force of evidence attached to the act itself, which then against the deed does not need to be proven again. Then, on the side of the judge the authentic deed is a "Mandatory Proof" (Verplicht Bewijs).

Therefore, if there is someone who states that the authentic deed is false, then it is he who must prove that the deed is indeed false. [19] Such a strong force of authentic proof, but because of an abuse of authority from the Notary Public, the deed is no longer a deed of perfect legal force, but rather a private deed

3.2. Notary Liability for Embezzlement by Force in the Making of Cooperation Agreements

3.2.1. Criminal Liability

According to Henny Hartati and Habib Adjie, accountability is basically determined based on the nature of the violation itself and also the legal consequences caused. [20] In carrying out his/her position, notary public may be held accountable administratively, civilly and criminally.[21] Criminal liability itself is the responsibility

of a person for a criminal act that has been committed, which is a mechanism established by criminal law in reaction to an agreement to reject a particular act (crime *dana tau* violation). [22]

According to Abdul Ghofur Anshori, Notary who has been proven to commit criminal acts should be punished in order to uphold and create legal justice for the entire community, this is certainly in accordance with one of the legal principles that states that the law should not be impartial and anyone is treated equally before the court (equity before the law). Moreover, Notary public officials should be an example in the observance of the law for the community, especially service users of Notary Public. [23] One of the crimes that is often committed by some Notaries is embezzlement. Embezzlement comes from the word *dark or dark* which means not light, darkening means making it dark or in the sense of stealing or using the goods entrusted to him. [24] The term embezzlement is a Dutch term translated from the word "verduistering". C.B. Van Haeringen defines the word "verduistering" as "geheel donker maken" or "blocking the radiating of light". [25] Based on the Criminal Code, embezzlement can be distinguished into several kinds, namely: 1) Ordinary Embezzlement; 2) Mild Embezzlement; 3) Arduous Embezzlement; 4) Embezzlement in the Family.

Embezzlement by force is stipulated in Article 374 of the Criminal Code which formulates that "Embezzlement committed by a person whose possession of goods is caused by a working relationship or because of a search or because of a reward for it, is threatened with a maximum imprisonment of five years". The ballast factors referred to in Article 374 of the Penal Code are essentially based on the magnitude of the trust given to the person who receives the object and then controls the darkened object (Notary). In practice, Notary public is a party that is considered neutral and trusted by its clients, it is what makes the client *datng* to use the services of Notary Public. The sense of trust is formed because Notary public is one of the law enforcement officers who are considered to have good morals and represent the presence of a fair State according to the law. Thus, notaries who commit embezzlement should be prosecuted by Article 374 of the Criminal Code which is the specificity of Article 372 of the Criminal Code governing the ordinary embezzlement. This is because Notary public is not an ordinary person but one of the law enforcement officers trusted by notary public. Thus, when a Notary receives the deposit of the face and then embezzles the money, then he cannot be prosecuted based on the usual embezzlement clause, but rather embezzlement by force. This is based on the trust of the notary who should be a neutral party and believe in the position of notary public.

Looking at the legal considerations of the Panel of Judges in the Decision of the Purwakarta District Court No. 29/PID. B/2020/PN Pwk, the Panel of Judges instead used the position of Notary Public as a consideration to ease the liability of funding demanded by JPU to Notary Public. According to the Panel of Judges, Notary still has professional responsibilities, so it is a consideration of the Judge to impose a warning verdict that criminal sanctions

are lower. This is certainly not in line with Article 374 of the Criminal Code which reveals that a person who has a position then uses that position to embezzle an object, should be charged with embezzlement by force. This is because such notary actions will threaten the credibility of the profession of a Notary Public and will make the public no longer reluctant and trust in the profession of a Notary Public. [26]

In this case the Panel of Judges has erred in dropping the warning of the verdict, which should be a factor of notary position to be a ballast factor in the sentencing of the verdict, instead being a factor that relieves the accused. According to the Author, the reason for "the absence of Notary Responsibility" should be used as an excuse to ease the punishment of Notary Public. Rather, it should be a ballast reason, because the confronters who deposit objects that are then darkened by the Notary, given because of the trust of the face to the position of Notary Public as the maker of deed. 3.2.3 Notary responsibility administratively Decision of Purwakarta District Court Number 29/PID. B/2020/PN Pwk who handed down the warning verdict that notary has been proven to commit embezzlement. When referring to UUJN, there are still no provisions related to notary responsibility if the Notary commits a criminal act. However, in relation to embezzlement, the Author refers to Article 16 Paragraph (1) letter a UUJN which stipulates that in carrying out his/her position, notary public is prohibited to act dishonestly. Notary as law enforcement is one of the defenders of truth and justice, so he should have run the position in good faith and sincerely, considering the profession of Notary is an honorable and noble profession (*officium nobile*). The value of honesty should not only be merely a formality, but also must be based on a sense of professionalism that will ultimately provide benefits for the community. [27]

Then, when referring to Article 3 Number 4 of the Notary Code of Conduct of the Indonesian Notary Association issued in 2015, it is stated that:

"Notary public and other persons (as long as they are concerned to carry out the notary profession) must be honest, impartial, in accordance with the mandate, independent, thorough, full of responsibility, in accordance with as stipulated in the law and also the contents of the oath when the appointment of notary position"

Thus, it is clear that Notary public as a respected and noble profession, must have good moral values in him. When a Notary Public violates the Notary Code of Conduct, there are sanctions that must be carried out. Sanctions are a means of government in the form of coercion based on the law, in the framework of awareness to notaries who have manifestly and convincingly violated the prohibitions of Notary Public in carrying out their positions. In addition, the sanctioning of Notary Public is done is to maintain the dignity and dignity of the Notary Association which is an institution that is respected and trusted by the public.

3.2.2. Administrative Liability

If you look at UUJN or notary code of ethics, there is no regulation related to notary responsibility for his position if he commits embezzlement. UUJN only regulates administrative sanctions that can be imposed if the Notary violates the provisions of Article 16 Paragraph (1) letter a UUJN, which if the Notary behaves dishonestly. The provision can be found in Article 85 UUJN, which regulates violations of Article 16 Paragraph (1) letter a can be sanctioned in the form of: 1) verbal reprimand; 2) written reprimand; 3) temporary termination; 4) disrespectful dismissal; or 5) disrespectful dismissal.

According to the Author, Notary who commits embezzlement cannot be equated with sanctions if the Notary is dishonest. Because basically, embezzlement cannot be equated simply with dishonesty. Both UUJN and the Notary Code of Ethics have not clearly stated the sanctions that will be given to notaries if the Notary is proven to have committed criminal acts of embezzlement.

As is known, Notary public officials whose authority is obtained from the law (attribution). Therefore, the Notary in carrying out his office does not do what is not his authority so that there are no legal problems.

When referring to the sanctions stipulated in Article 85 of the UUJN, we can focus on 2 (two) sanctions, namely temporary dismissal and disrespectful dismissal. Article 9 Paragraph (1) letter c, letter d, and letter e UUJN stipulate that temporary dismissal can be given to a Notary Public if the Notary commits a misproach, violates the obligation and prohibition of the notary code of ethics and/or is being detained.

Thus, notaries who violate the notary code of ethics and even commit a despicable act (embezzlement), it is possible to be sanctioned in the form of temporary dismissal. Furthermore, under Article 13 of the UUJN, Notaries can be dismissed disrespectfully when a Notary Public is sentenced to prison for allegedly committing a crime that is threatened with a prison sentence of 5 (five) years or more based on a court ruling. Whereas when associated with Article 374 of the Criminal Code, it has been stipulated that the perpetrators of embezzlement with a burden are threatened with a maximum prison sentence of 5 (five) years.

Thus, based on Article 13 UUJN jo. Article 374 of the Criminal Code, Notary public who commit embezzlement by force can be sanctioned in the form of written warning up to disrespectful dismissal, which the decision can be requested by the Central Supervisory Assembly to the Minister of Law and Human Rights. This authority is clearly regulated under Article 77 of the UUJN. Nevertheless, according to the Author, there needs to be an update to the UUJN related to the provisions of sanctions against Notaries who commit criminal acts, this is in order to achieve a legal certainty and a sense of benefit for the community.

4. CONCLUSION AND SUGGESTION

Notary who receives deposit money from indirectly becomes a party to the deed made by himself, because there is a custody agreement between the Notary and the face-to-face. As a result, referring to Article 52 Paragraph (3) UUJN, it has been regulated if the Notary does the act as stipulated in Paragraph (1), then he can be sued to compensate for damages. Then, the deed which was once an authentic deed that initially had the power of perfect proof, degraded the power of proof to be proper private deed. Embezzlement committed by Notary Public cannot simply be categorized as Ordinary Embezzlement but should be categorized as embezzlement by force as stipulated in Article 374 of the Criminal Code. This is because the embezzlement can occur due to the position factor owned by the Notary Public. Therefore, the Panel of Judges in the Purwakarta Court Decision No. 29/PID. B/2020/PN PWK has been wrong in making the factor "there is still notary responsibility" as the reason for the easing in the decision. UUJN and the Notary Code of Conduct have not set concretely related to sanctions that can be imposed on Notaries who commit embezzlement. When referring to Article 85 of the UUJN, there is a sanction in the form of disrespectful dismissal. Based on Article 13 Paragraph (1) UUJN jo. Article 374 of the Criminal Code, the Notary may be sanctioned from a written warning to a disrespectful dismissal by the Minister. Nevertheless, UUJN is expected to be refined by regulating provisions related to sanctions for notaries who commit criminal acts.

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