

## **The Principle of Notary Negligence in Drafting Sale and Purchase Agreements (PPJB) Containing Elements of Criminal Conspiracy**

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### **Abstract**

*This research investigates the role of notaries in upholding the principle of prudence within the Indonesian legal system, with particular attention to their responsibilities in drafting authentic deeds and the potential consequences of negligence. Employing a normative juridical approach, the study examines statutory provisions, doctrinal interpretations, and judicial decisions to assess the extent of notarial accountability in cases of legal disputes. The analysis highlights the position of the notary as a public official entrusted with ensuring legal certainty, order, and protection in civil transactions. The findings reveal that although notaries are bound by strict professional duties and ethical codes, lapses in prudence can lead to serious legal implications. The case study of the Denpasar District Court Decision No. 422/Pid.B/2018/PN.Dps illustrates this issue, where a notary's failure to exercise due diligence contributed to a criminal dispute involving the falsification of authentic deeds. The court's application of Article 264 paragraph (1) of the Indonesian Criminal Code underscores the potential for notaries to be held criminally liable, not only for direct acts but also for negligence that facilitates unlawful conduct. This study concludes that strengthening the principle of prudence in notarial practice requires both institutional and regulatory reinforcement. Improving supervision, enhancing professional training, and harmonizing procedural safeguards are crucial to preventing future disputes. By providing a doctrinal and practical analysis, this research contributes to the broader discourse on consumer protection, professional ethics, and legal reform in Indonesia, particularly in relation to notarial accountability.*

**Keywords:** *Authentic Deed, Notary, Notary's Responsibility, Principle of Care.*

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## **INTRODUCTION**

The 1945 Constitution of the Republic of Indonesia explicitly stipulates that the Republic of Indonesia is a state based on the rule of law. The principle of the rule of law ensures legal certainty, order, and protection, all of which are rooted in truth and justice. Legal certainty, order, and protection imply, among other things, that legal interactions within society require clear and reliable evidence to determine the rights and obligations of individuals as legal subjects within the community (Rokilah 2020).

Pancasila serves as a guiding principle and a foundation for daily life in Indonesia. The conduct of Indonesian citizens must reflect the values embedded within Pancasila. It functions as the basis for the organization of the state, encompassing legal, political, economic, and social domains. Furthermore, Pancasila is the source of national law, meaning that all legislation must be derived from and aligned with its principles (Ikhlas and Nawawi 2025).

Pancasila constitutes a philosophical system that embodies interrelated values derived from the collective thinking of Indonesia's founding fathers in formulating the philosophical foundations of Indonesian society. One of its core principles is justice. In a speech delivered by Ir. Soekarno on June 1, 1945, he emphasized that the principle of "welfare" is encapsulated in the fifth tenet of Pancasila: "Social justice for all the people of Indonesia." The implementation of human rights as reflected in this final principle involves providing assistance to individuals entitled to it, without violating the broader principle of social justice for the Indonesian people (Manalu, Lubis, and Desiandri 2024).

A notary is a professional officeholder whose role is to provide legal services to the public. These services include the provision of written evidence in the form of authentic deeds

that record legal facts, events, or actions. The role of a Notary or Land Deed Official (PPAT) is of critical importance, particularly in authenticating civil legal documents, as they are appointed by the state to serve the public in this legal capacity (Dwipayani and Dananjaya 2025).

The notarial institution was established within the framework of the Unitary State of the Republic of Indonesia. The notarial office is a legal entity created by the state within the domain of civil law, with the authority to produce written evidence officially recognized by the state. The role of the notary is regulated under Law Number 30 of 2004 concerning the Notary Office, which serves as a legal unification governing notarial practice in Indonesia. This law is the sole legislative instrument specifically regulating the notarial profession in the country, and thus, all matters relating to notaries must refer to Law Number 30 of 2004 (Republik Indonesia 2004).

The notary is a position of trust, with this trust inherently attached to the individual holding the office. In executing their duties and exercising their authority in drafting notarial deeds, notaries are required to act with integrity and accuracy. This is particularly important given that the deeds they produce serve as formal written evidence of legal relationships, such as agreements made by the parties appearing before them (Moechthar 2024).

A notarial deed is an official document with binding legal force. It serves as written evidence that carries legal weight in the form of an authentic deed. A notary is authorized to draft authentic deeds pertaining to all legal acts, agreements, and determinations as required by statutory regulations and/or as requested by interested parties who wish such matters to be formally documented. The notary is also responsible for certifying the date of execution, safeguarding the deed, and issuing grosse (executory copies), official copies, and excerpts of the deed—provided that such duties are not otherwise assigned to or excluded in favor of another official or individual as stipulated by law (Gangga, Rasmadi, and Putra 2023).

As stipulated in Article 1 paragraph (1) of the Notary Office Law (hereinafter referred to as the UUJN), the primary duty of a notary is to prepare authentic deeds and exercise other authorities as set forth in the law. This is reinforced by Article 1870 of the Indonesian Civil Code (KUHPer), which states that “For the parties concerned, their heirs, and those who acquire rights from them, an authentic deed constitutes conclusive evidence of the contents contained therein” (Wiranata, Tatar, and Sarna 2025).

An authentic deed explicitly defines legal rights and obligations, and it is expected to prevent potential disputes. A deed is a written instrument that bears a signature and records events which form the basis of legal commitments or serve as the foundation for legal rights. From the outset, the deed is intentionally created to serve as legal proof (Setiamandani 2022).

The Indonesian Civil Code, specifically Article 1868, defines an authentic deed as follows: “An authentic deed is a document drawn up in the form prescribed by law, by or before a public official authorized to do so at the place where the deed is executed.” The public officials authorized to issue such deeds include Notaries and Land Deed Officials (PPAT) (Abdal and Handoko 2023).

In preparing a deed, a notary is obligated to carefully examine the intentions and objectives of the parties involved, as well as to ensure the legal standing of those intentions. If a party intends to transfer a right, such intent must be supported by documents that substantiate the existence of the legal relationship (Rachmadi, Sujianto, and Yahya 2022). An authentic deed is said to carry conclusive evidentiary force. This is because, when submitted in court, it stands as valid proof without requiring additional supporting evidence, due to the formal truths it contains that reflect the statements made by the parties before the notary.

The evidentiary strength of an authentic deed is regulated by Article 1870 of the Civil Code. This strength is both conclusive (*volledig bewijskracht*) and binding (*bindende bewijskracht*), meaning that if the authentic deed satisfies formal and material requirements and no valid counter-evidence is presented by the opposing party, it possesses full and binding evidentiary power (*volledig en bindende bewijskracht*). Consequently, the truth of the contents

and declarations contained within the deed is considered absolute and binding on the parties concerning the matters stated therein (Bisyir and Putra 2022).

In the execution of their duties, notaries are expected to perform their roles professionally and with full responsibility in delivering high-quality public services, without bias, in accordance with the standards of office performance as stipulated in the Notary Office Law (UUJN). This includes providing proper legal services to the public while upholding the principles of the notarial code of ethics (Hidayat and Lutfi 2025).

A notary, when conducting legal acts, must always act with due care. Before drafting a deed, the notary is obliged to examine all relevant facts by considering applicable laws and regulations. This includes verifying the completeness and validity of any evidence or documents presented and obtaining statements from the parties involved. These elements form the basis of legal consideration to be recorded in the deed. If a notary fails to properly examine essential facts, such conduct reflects a lack of due diligence (Rahayu, Yoserwan, and Fauzi 2025).

In performing their duties, notaries must maintain professionalism—meaning they must rely on legal expertise grounded in ethical principles and statutory provisions. Their work must be trustworthy, accountable, and carried out in accordance with established Standard Operating Procedures (SOPs) from initiation to completion, ensuring accurate outcomes. Beyond professionalism, notaries are also expected to provide appropriate and accurate legal counsel to the parties appearing before them (Hidayat and Lutfi 2025).

A notarial deed must provide certainty that the events and facts recorded within it were indeed carried out by the notary or were truthfully stated by the parties appearing before the notary at the time indicated in the deed, in accordance with the procedures stipulated for deed drafting. Formally, the deed serves to prove the accuracy and certainty regarding the date, month, year, and time of appearance; the identities of the parties; their initials and signatures; the presence of witnesses and the notary; and to confirm what was seen, witnessed, or heard by the notary (in official deeds or minutes), as well as to record the statements or declarations of the parties (in private deeds) (Pane and Arline 2025).

According to Article 1(13) of the Decree of the Minister of Justice and Human Rights No. M-01.H.T.03.01 of 2003 concerning notarial matters, the only notarial organization officially recognized by the Indonesian government is the Indonesian Notary Association (Ikatan Notaris Indonesia or INI) (Kementerian Kehakiman dan Hak Asasi Manusia Indonesia 2003). The applicable Notarial Code of Ethics is based on the decision of the Extraordinary Congress of INI held on January 27, 2005, in Bandung. Article 1(2) of this Code of Ethics states: “The Notarial Code of Ethics is the body of moral rules established by the Indonesian Notary Association (INI) through Congress decisions and/or as stipulated in legislation, which must be observed by all members of the Association as well as by anyone performing the duties of a notary, acting notary, or special acting notary” (Wiratmodja and Romlan 2022).

A violation of the notarial code of ethics is defined as any act committed by members of INI or other individuals serving as notaries that contravenes the ethical rules and/or organizational discipline. Sanctions related to such violations are understood as forms of enforcement intended to ensure adherence to ethical standards. These sanctions serve as instruments of discipline and coercive measures to uphold professional integrity among notaries (Putri and Marlyna 2021).

In its efforts to uphold the honor and dignity of the notarial profession, the Indonesian Notary Association (Ikatan Notaris Indonesia, INI) has established a notarial code of ethics through its congress, which constitutes a set of moral principles that must be adhered to by all members. The Honorary Council (Dewan Kehormatan) holds the authority to investigate violations of this code and to impose sanctions on violators in accordance with its mandate. It is also tasked with fostering professional development, providing guidance, supervising, and reforming its members to ensure adherence to the code of ethics. The council examines and

makes decisions regarding alleged violations of the ethical code, particularly those of an internal nature or not directly involving the public. Furthermore, it may offer recommendations and opinions to the Notary Supervisory Council (Majelis Pengawas) regarding suspected breaches of the notarial code of ethics and duties (Muhammad and Santoso 2023).

The notary's principle of prudence in fulfilling their primary duties and responsibilities plays a critical role in preventing violations of the ethical code, which are closely related to the moral and ethical integrity of the notary. However, an ethical violation does not necessarily constitute a breach of professional conduct (Nurwulan 2023). When a notary has doubts regarding the information provided by the parties, they are both entitled and obliged to seek further clarification, given that a notary generally only receives formal evidence.

In addition to their authority to prepare authentic deeds in the sense of *verlijden* (drafting, reading aloud, and signing the deed), notaries are also obligated, under Article 16 paragraph (1)(d) of Law Number 30 of 2004 on the Notary Office (UUJN), to “provide services in accordance with the provisions of this Law, unless there are lawful grounds for refusal.” The responsibilities of a notary, as outlined in the UUJN, are therefore closely linked to their professional duties. Besides preparing authentic deeds, notaries are also responsible for registering and certifying (legalizing and *waarmerking*) private documents and agreements executed under hand (Republik Indonesia 2004).

Articles 1 and 15 of the Notary Office Law (UUJN) emphasize that the primary duty of a notary is to draft authentic deeds and to provide the parties involved with conclusive legal evidence. This is reaffirmed in Article 1870 of the Indonesian Civil Code (KUHP), which states that an authentic deed constitutes perfect evidence between the parties, their heirs, or any third parties deriving rights from them, regarding the matters contained therein. This reflects the essential meaning of the notarial profession: the notary is legally authorized to produce instruments of perfect evidentiary value. Accordingly, the contents of an authentic deed are presumed to represent the truth.

A notary's responsibilities are not limited to drafting deeds; they also include safekeeping the deed, issuing *grosse* (executory copies), and providing official copies and excerpts. In practice, a notary merely records what occurs and what is witnessed during the signing, as stipulated in Article 1 of the Notary Office Regulation. Nonetheless, despite the honesty, diligence, and impartiality of a notary, the existence of forged documents and false statements from the parties remains a persistent risk and a significant professional threat. Although notaries are not legally liable for falsified documents or inaccurate declarations made by the parties, such circumstances may still result in professional or even criminal consequences. This raises a critical legal issue regarding the potential impact on notaries when they are misled by forged documents or false statements, highlighting the importance of applying the precautionary principle in verifying the identity and capacity of appearing parties.

A relevant case in Denpasar highlights the issue of notarial accountability, involving a notary who failed to exercise adequate due diligence in preparing an authentic deed. Article 38 paragraph (3)(d) of the Indonesian Notary Law (UUJN) stipulates that the body of a deed must include, among other elements, the full name, place and date of birth, occupation, position, status, and address of each identifying witness. Moreover, the deed must reflect the genuine intention of the interested parties. However, in the Deed of Sale and Purchase Agreement No. 4 dated April 4, 2017, drafted by Notary I Putu Hamirtha, S.H., the notary relied solely on a photocopy of a land title certificate submitted by the prospective buyer. Despite the absence of the original owner's consent, the notary executed an authentic deed that resulted in the unlawful transfer of land ownership (Tunggadewi et al., 2021).

When the rightful owner became aware of the unauthorized transfer, the incident was reported as a criminal offense. The case proceeded to trial, where the notary was charged with drafting a deed containing elements of criminal forgery. The case, adjudicated under criminal

case number 89/Pid.B/2020/PN.Dps at the Denpasar District Court, concluded that Notary I Putu Hamirtha, S.H., was legally and convincingly proven guilty of conspiracy in drafting a falsified authentic deed. The ruling was based on Article 264 paragraph (1) of the Indonesian Criminal Code (KUHP) in conjunction with Article 88 KUHP. Consequently, the notary was sentenced to imprisonment (Muammar et al., 2022). In practice, the signing of such agreements often occurs without the presence of witnesses. Their findings indicate that even in the absence of witnesses, a sale and purchase agreement deed still meets the formal requirements under Article 1868 of the Indonesian Civil Code (KUHPer), thereby retaining its legal certainty and authentic character for the contracting parties.

The precautionary principles that notaries are expected to uphold when drafting authentic deeds include verifying the identities of the appearing parties, conducting due diligence on the legal status of both subject and object, allocating sufficient time for deed preparation, and exercising caution, accuracy, and diligence throughout the process. Should a sale and purchase agreement result in harm to any of the parties, the notary may be held civilly liable and obliged to compensate for the losses. Additionally, administrative sanctions may apply, ranging from written warnings and temporary suspension to dismissal with or without honor.

## RESEARCH METHODS

This study primarily employs a normative juridical research method, which aims to examine and analyze written legal norms or to derive legal principles from positive written law. This involves selecting and analyzing specific articles within statutory regulations, particularly those found in the Indonesian Civil Code (KUHPer), the Notary Office Law (UUJN), and relevant provisions of criminal law concerning forgery (Efendi and Rijadi 2022). The research is descriptive-analytical in nature, meaning it focuses on problems as they exist at the time of the study, and the findings are subsequently processed and analyzed to draw conclusions (Sholihin and Anggraini 2021).

The data used in this study is secondary data, obtained from pre-existing sources such as legal literature and other documentary materials (Antriyandarti et al. 2024). The secondary data is categorized into three types: primary legal materials, secondary legal materials, and tertiary legal materials.

The data presentation technique involves a descriptive approach, whereby the issues under investigation are analyzed and presented in the form of coherent and straightforward narratives. Technically, this process entails the systematic organization and interpretation of legal materials, or the detailed explanation of a legal concept and the relationships between concepts (Firmanto et al. 2024). This study applies a qualitative analytical method, which involves summarizing and interpreting the collected data and information from the beginning of the research process through to its final presentation (Prawiyogi et al. 2021).

## RESULT AND DISCUSSION

### Case Background

This case began in early April 2017, when a witness named I Made Kartika visited the office of Notary I Putu Hamirta, located at Jalan Tukad Melangit No. 5, Panjer Sub-district, South Denpasar District, Denpasar City. I Made Kartika intended to carry out a land sale transaction involving a parcel of land located in Kuta Sub-district, Kuta District, Badung Regency. During the meeting, the witness explained that the seller could only present a photocopy of the land title certificate (*Sertifikat Hak Milik*, SHM), as the original certificate had reportedly been pledged as

collateral for a loan with an unknown party and could not be located. Moreover, it was mentioned that the seller was undergoing medical treatment in Jakarta and was unlikely to return to Bali in the near future.

This situation gave rise to a fundamental legal issue. As a public official, the notary was aware that the legal execution of a land sale transaction must be supported by the presence of the original land certificate, which serves as valid proof of ownership. Nevertheless, the Defendant proceeded with the transaction and drafted two key documents: the Deed of Sale and Purchase Agreement (PPJB) No. 4 dated April 4, 2017, and the Deed of Power of Attorney to Sell No. 5 dated the same day. Both deeds were prepared and signed without the original certificate and without adequate verification of the legal status of the object of the transaction.

During the deed preparation process, the Defendant even traveled to Jakarta to meet an individual claiming to be Anak Agung Ketut Gede, the registered owner of SHM No. 8842/Kuta. The deeds were signed on the same date, April 4, 2017. However, this action was taken without confirming the identity and legal capacity of the seller, nor was there any inquiry made to the Land Office (*Kantor Pertanahan*) of Badung Regency regarding the status of the property. In drafting the deed, the Defendant included a clause in Article 4 of the Deed of Sale and Purchase Agreement stating that the land was free from any legal disputes, unencumbered by mortgage rights, and wholly owned by the first party.

Subsequent findings revealed that all statements contained in the deed were inconsistent with the actual facts. According to an excerpt of the Death Certificate issued by the Department of Population and Civil Registration of Badung Regency, it was confirmed that Anak Agung Ketut Gede had passed away on October 15, 2016—several months before the sale and purchase transaction was executed. As a result of his death, all rights and obligations over the land in question had legally transferred to his heirs, meaning that the rightful legal subject of the property had changed prior to the transaction.

Furthermore, testimony from witness Herwin Adi Arjana Putra revealed that the land had in fact been legally sold to Kho Tjauw Tiam (the witness's father) on February 24, 2014. The transaction was carried out formally before Notary I Gusti Ngurah Putra Wijaya and supported by a sale and purchase agreement deed, a power of attorney deed, proof of installment payments, and safekeeping of the original certificate at the notary's office. The transaction had been approved by all heirs, leaving no doubt as to the validity of the transfer of rights.

Problems arose in 2018 when witness Herwin discovered a sale notice installed at the land location, under the name ERA Galaxy. Upon further investigation, it was found that I Made Kartika claimed to be the rightful owner of the land based on the deeds prepared by the Defendant. This claim was strengthened by the issuance of a Replacement Land Title Certificate (*Sertifikat Hak Milik Pengganti*) by the Badung Land Office at the request of I Made Kartika, under the pretext that the original certificate was lost. Ironically, the original certificate was still in the possession of Notary I Gusti Ngurah Putra Wijaya, indicating that the request for the replacement certificate was unlawfully made.

Based on the investigation, the sale transaction between I Made Kartika and the individual falsely claiming to be Anak Agung Ketut Gede, along with the preparation of the authentic deeds by the Defendant, were key elements in an attempt to unlawfully seize the land. This fraudulent act resulted in a potential financial loss of IDR 7,000,000,000 (seven billion rupiah) for the rightful owner.

In Decision No. 89/Pid.B/2020/PN.Dps of the Denpasar District Court, which was upheld by the Supreme Court of the Republic of Indonesia, the Defendant was found guilty of committing the criminal offense of conspiracy to falsify an authentic deed, as stipulated under Article 264 paragraph (1) of the Indonesian Criminal Code (KUHP) in conjunction with Article 88 KUHP. The Panel of Judges concluded that the element of criminal conspiracy was fulfilled, given the demonstrated collaboration between the Defendant and witness I Made Kartika in

preparing fraudulent deeds that resulted in the creation of rights and legal consequences. The elements of forgery, use of forged documents, and the involvement of an authentic deed were all proven based on evidence presented during trial proceedings.

Although the Panel recognized that the Defendant was not the principal actor in the offense, his negligence in applying the principle of due care (*prudentia*) as a public official (notary) was deemed a crucial factor contributing to the commission of the crime. In its legal reasoning, the Court emphasized that while notaries are not required to conduct a full material truth investigation (*materiële waarheid*), they are nonetheless expected to exercise a minimum standard of due diligence. This includes verifying the authenticity of documents and the identities of the parties involved.

As a result, the Defendant was sentenced to seven months of imprisonment, suspended for a probationary period of one year, with the time already served in custody deducted from the sentence. This case sets an important legal precedent regarding the application of the principle of prudence in notarial practice, particularly in property transactions, and reinforces the notion that failure to observe such a principle may lead to criminal liability.

### **The Role of Notarial Negligence in Drafting a Sale and Purchase Agreement (PPJB) Involving Criminal Conspiracy Elements: A Case Study of Decision No. 89/Pid.B/2020/PN.Dps**

The Sale and Purchase Agreement (*Perjanjian Pengikatan Jual Beli*, PPJB) serves as a preliminary binding agreement between parties prior to the execution of the Deed of Sale and Purchase (*Akta Jual Beli*, AJB), which legally transfers property rights. The PPJB functions as an initial commitment that binds the rights and obligations of the parties while the requirements for a full sale transaction are still being fulfilled. In practice, PPJBs are frequently executed before a notary to ensure legal certainty for the parties involved in property transactions.

As a public official, a notary bears a legal responsibility to verify the legitimacy of both the subject and object of legal actions stated in the deed. According to Habib Adjie, the notary's office is a position of trust that demands professional integrity, dignity, and accountability in ensuring legal certainty. Consequently, the principle of prudence (*prinsip kehati-hatian*) is a fundamental standard that must consistently guide notarial practice in the drafting of deeds.

In relation to Decision No. 89/Pid.B/2020/PN.Dps, the negligence of Notary I Putu Hamirta in applying the principle of prudence became the root of the legal issue. In this case, the Defendant prepared the PPJB and the Deed of Power of Attorney to Sell solely based on a photocopy of the Certificate of Land Ownership (*Sertifikat Hak Milik*, SHM), without the presence of the original document. However, in line with the principle of prudence, a notary is obligated to verify the authenticity of all documents and the identity of the appearing parties.

The Notary Office Law (UUJN) clearly stipulates in Articles 15 and 16 that notaries must act honestly, thoroughly, carefully, impartially, and in good faith to safeguard the interests of all parties. Although the principle of prudence is not explicitly mentioned in the UUJN, it can be derived from the notary's duty to provide services as regulated in Article 16 paragraph (1)(a) and (d), which obliges the notary to refuse the execution of a deed when there are lawful grounds to do so—such as unclear party identities or the inauthenticity of documents.

According to Salsa (2020), the notarial profession in both Indonesia and the Netherlands places significant emphasis on the importance of strict supervision over notarial conduct in order to safeguard the integrity of deed execution. In this case, the Defendant's negligence constitutes a serious violation of the principle of prudence (*prinsip kehati-hatian*), particularly in the failure to verify both the legal subject and object of the transaction, and in the absence of any inquiry into the land's status with the National Land Agency (Badan Pertanahan Nasional, BPN).

Specifically, the Defendant's violations of the prudential principle are reflected in the following actions:

1. Failure to Verify the Identity of the Appearing Parties

Under the principle of prudence, a notary is obligated to authenticate the identity of the appearing parties by cross-referencing physical appearances with official documents such as national identity cards (KTP) or passports.

## 2. Failure to Examine the Authenticity of the Land Certificate

The original land certificate was in fact in the custody of another notary, yet the Defendant did not attempt to verify its authenticity with the National Land Agency, which is a standard practice in notarial transactions.

## 3. Failure to Ensure the Object Was Free from Legal Disputes

The Defendant failed to confirm whether the land was currently under dispute, mortgaged, or subject to any encumbrances, an essential step in ensuring the legal certainty of the transaction.

## 4. Drafting the Deed Based on Invalid Documentation

Drafting an authentic deed based solely on photocopies, without any supporting original documents, constitutes a grave breach of the notary's duty of prudence and due diligence.

Khesly (2025) emphasizes that land transactions frequently serve as a *modus operandi* for criminal offenses such as money laundering and fraud, thereby underscoring the critical role of notaries as the first line of defense. Accordingly, the application of the prudential principle (*principle of prudence*) serves as a primary safeguard against criminal activity in the land sector.

Based on the legal facts established during trial, the Panel of Judges concluded that the elements of Article 264 paragraph (1) of the Indonesian Criminal Code (KUHP) in conjunction with Article 88 KUHP concerning criminal conspiracy to falsify an authentic deed had been fulfilled. The Defendant was found guilty of drafting an authentic deed in bad faith, failing to observe the principle of prudence, and causing financial harm to the rightful landowner amounting to IDR 7,000,000,000.

In addition, the Defendant was found to have violated his notarial oath of office, the Notary Code of Ethics, as well as Article 16 paragraph (1)(a) of the Notary Office Law (UUJN). Under Article 85 of the UUJN, such violations are subject to both administrative and criminal sanctions.

Therefore, the application of the principle of prudence is not merely a matter of professional ethics—it constitutes a binding legal obligation for notaries. Failure to uphold this principle, as exemplified in Decision No. 89/Pid.B/2020/PN.Dps, not only renders the deed legally defective but may also expose the notary to criminal liability.

### **The Notary's Legal Responsibility in Relation to Criminal Conspiracy Elements Based on Decision No. 89/Pid.B/2020/PN.Dps**

In carrying out their duties, a notary holds responsibilities that are inherently moral, professional, and legal in nature. According to Saly et al. (2023), professional responsibility is closely tied to the trust granted by the public, representing an honor and ultimately a mandate that must be upheld. A notary must be accountable for every action taken, whether toward clients, professional organizations, society, or the state.

The legal responsibility of a notary is explicitly regulated in Article 65 of the Notary Office Law (UUJN), which states that a notary is responsible for every deed they draw up, even after the notarial protocol has been transferred or handed over to another party. In this context, such responsibility includes the formal validity of the deed as well as the legal consequences that may arise from it in the future.

According to Bondi et al. (2024), responsibility is the obligation of an individual to carry out what has become their duty, whether based on legal norms or moral standards. Therefore, a notary is not only administratively responsible for the drafting of deeds, but also for the material truth of the contents of the deed, especially when it causes harm to third parties.

In relation to clients, Sectiona (2025) emphasizes that a notary must provide the best possible legal services, offer legal counseling to the public to raise legal awareness, and deliver

services without discrimination, including to underprivileged individuals. This relationship is founded on the principles of trust, professionalism, and justice.

In the case of Supreme Court Decision No. 89/Pid.B/2020/PN.Dps, Notary I Putu Hamirtha was proven to have been negligent in applying the principle of prudence, which constitutes an integral part of professional responsibility. The act of drafting a Sale and Purchase Agreement (PPJB) and a Deed of Power of Attorney to Sell based solely on a photocopy of the Certificate of Land Ownership, without verifying the authenticity of the document or confirming the presence of the original certificate at the Land Office, constitutes a serious violation of these principles.

According to Articles 84 and 85 of the Notary Office Law (UUJN), violations by a notary that result in the deed being downgraded to a deed under private signature or rendered legally null and void may serve as a basis for the aggrieved party to claim compensation, costs, and interest from the notary. Furthermore, the notary may also be subject to administrative sanctions, including temporary suspension or dismissal with dishonor, in accordance with the procedures established by the Notary Supervisory Council.

From a criminal law perspective, a notary may also bear legal liability if proven to have committed an unlawful act that fulfills the elements stipulated in Articles 263, 264, and 266 of the Indonesian Criminal Code concerning the falsification of letters and authentic deeds. Criminal liability arises when there is malicious intent or gross negligence in drafting a deed, which is subsequently used to harm another party.

Deni and Fuziah (2023), in their journal, state that in cases involving forged deeds, a notary is not only civilly liable but may also be subject to criminal punishment if the elements of unlawful conduct are fulfilled. These elements include fault, an unlawful act, loss or damage, and a causal relationship between the act and the resulting harm.

The notary's responsibility under the perspective of the Notary Office Law (UUJN) is emphasized in Article 16 paragraph (1), which mandates that a notary must act with integrity, honesty, accuracy, impartiality, and in good faith while safeguarding the interests of the concerned parties. Negligence toward these provisions opens the door to civil, criminal, and administrative liability.

Pratama et al. (2022) further argue that in the exercise of their duties, notaries must adhere to the principle of prudence as a form of legal protection for the public. This principle requires notaries not only to examine formalities but also to conduct material verification when necessary to ensure that the deed does not contain fraud or falsehoods.

In the context of Decision No. 89/Pid.B/2020/PN.Dps, the act of Notary I Putu Hamirtha in issuing a Sale and Purchase Agreement (PPJB) and a Deed of Power of Attorney to Sell without verifying the original documents and relying solely on unverifiable information was deemed gross negligence. This resulted in the issuance of a duplicate Certificate of Land Ownership, causing harm to another party.

In its consideration, the Panel of Judges declared that the elements of criminal conspiracy and falsification of an authentic deed, as stipulated in Article 264 paragraph (1) of the Criminal Code in conjunction with Article 88 of the Criminal Code, had been met. Consequently, the Defendant was sentenced to seven months of imprisonment, although the sentence did not have to be served unless another offense was committed during a one-year probationary period.

The sanction imposed on the notary in this case aligns with the provision of Article 13 of the UUJN, which allows for dismissal with dishonor if a notary is sentenced to imprisonment based on a court decision with permanent legal force involving a penalty of five years or more.

Setyowati and Huda <sup>(2024)</sup> note that the notarial profession possesses a high moral dimension; thus, errors in carrying out notarial duties impact not only the individual notary but also the professional organization and public trust at large. Therefore, preventive actions through

the application of the prudential principle, data verification, and reinforcement of the code of ethics are crucial.

In this case, the issuance of a PPJB deed without proper verification of the certificate resulted in the creation of two ownership documents for the same land object. This led to legal uncertainty in the land sector and the potential for prolonged disputes. The recommended resolution involves civil proceedings to annul the deed and file a claim for damages against the notary.

Based on the foregoing, it is clear that the responsibility borne by a notary in drafting deeds is significant. Even minor negligence, particularly related to the principle of prudence and material truth can result in serious legal consequences, whether civil, administrative, or criminal. Therefore, in every official act, a notary must ensure that all formal and material requirements of a deed are fulfilled to uphold the dignity of the profession and provide legal protection for the public.

## CONCLUSION

Based on the findings and analysis of Supreme Court Decision No. 89/Pid.B/2020/PN.Dps, it can be concluded that Notary I Putu Hamirtha was legally and convincingly proven to have committed the criminal offense of conspiracy in connection with the falsification of a document within an authentic deed. This violation occurred as a result of negligence in carrying out his official duties, particularly in the application of the principle of prudence during the drafting of the Deed of Sale and Purchase Agreement (PPJB). The negligence included accepting clients without identifying the parties involved, failing to verify the data of the subject and object of the transaction, and failing to check the authenticity of documents with the relevant agencies, such as the National Land Agency (BPN).

As a public official, a notary is obligated to identify the parties appearing before them, verify the authenticity of ownership certificates, and carefully examine every supporting document related to the transaction. Whenever there is any indication of irregularity or doubt concerning the accuracy of the data, the notary is required to apply the principle of prudence to prevent legal harm to others and to themselves.

A notary's responsibility over the deeds they draft encompasses civil, criminal, and ethical responsibilities, in accordance with the Notary Code of Ethics and the provisions of the Notary Office Law (UUJN). In this case, Notary I Putu Hamirtha was held criminally liable for his involvement in a conspiracy to falsify documents, which resulted in losses to other parties. The Panel of Judges sentenced him to seven months in prison, with the provision that the sentence would not be executed unless he committed another criminal offense during a one-year probationary period.

As a result of the notary's actions, the PPJB deed he drafted became the basis for the issuance of duplicate certificates of land ownership, ultimately undermining legal certainty over the disputed land. This highlights the importance of the prudential principle in every notarial act to ensure that the legal protection function inherent in authentic deeds can be realized optimally.

Based on these findings, several recommendations are proposed for future improvements. First, notaries are expected to consistently uphold professionalism, comply with applicable legal provisions, and rigorously apply the principle of prudence in every stage of the deed-making process. The application of this principle aims to prevent legal issues that could harm all parties involved, including the notary.

Second, the institutions responsible for the development and supervision of notaries—namely, the Notary Supervisory Council and the Notarial Honorary Council—should strengthen their synergy and enhance the effectiveness of their oversight functions. Not only should the

formal legal aspects be emphasized, but also the cultivation of ethical values among all notaries. Support and exemplary conduct from professional organizations such as the Indonesian Notary Association (INI) at both central and regional levels, as well as active involvement of senior notaries in mentoring junior members, are crucial for building a notarial practice that is both responsible and rooted in integrity.

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