

The Gap Liability of Substitute Notary on the Authentic Deed which is Made based on the Terms of Notary Position

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Abstract. *This study aims to identify and analyze an authentic deed made by a substitute notary has the same power as perfect evidence as made by a notary official, to know and analyze the concept of a substitute notary so that the authentic deed product meets the requirements as perfect evidence like a notary official, and to find out and analyze examples of substitute notarial deeds. The research approach method used in this thesis is a normative juridical law research method. This research specification uses descriptive analysis. The type of data used in this research is primary data which includes the 1945 Constitution; Act No. 2 of 2014; Civil Code; and secondary data containing books, journals and other supporting documents. Collecting research data with techniques literature, laws, government regulations, and regulations under the law, journals, scholarly opinions, and legal cases. The data analysis method used in analyzing the data is a qualitative analysis of the interactive model. The results show that the authentic deed made by the substitute notary has a procedure regarding the provisions, the conditions that must be carried out since the notary official takes leave and the Minister of Law and Human Rights gives a letter of appointment of a substitute notary.*

Keywords: *Authentic; Deed; Perfect; Substitute; Evidence.*

1. Introduction

One of the jobs that offers services in the field of law, especially civil law, is a notary. The role of the Notary in the service sector is as an official who is given

some authority by the State to serve the public in the civil sector¹, especially the making of authentic deeds. Community life requires legal certainty, among others, in the public service sector which is currently growing along with the increasing need for the community itself for the existence of a service. This also has an impact on the improvement in the field of Notary services.

Notaries in the Law on Notary Positions (UUJN) are qualified as public officials, but the qualifications of notaries as public officials are not only for notaries because Land Deed Making Officials (PPAT) are also qualified as public officials and auction officials. The granting of qualifications as public officials to officials other than notaries is contrary to the meaning of the public officials themselves, because such as PPAT only make certain deeds related to land with the type of deed that has been determined, and auction officials are only for auctions.²

Notary in Islam, it is stated in the word of Allah (*Surah Al-Baqarah: 282*): " *O ye who believe! When ye deal with each other, in transactions involving future obligations in a fixed period of time, reduce them to writing Let a scribe write down faithfully as between the parties: let not the scribe refuse to write: as Allah Has taught him, so let him write. Let him who incurs the liability dictate, but let him fear His Lord Allah, and not diminish aught of what he owes. If they party liable is mentally deficient, or weak, or unable Himself to dictate, Let his guardian dictate faithfully, and get two witnesses, out of your own men, and if there are not two men, then a man and two women, such as ye choose, for witnesses, so that if one of them errs, the other can remind her. The witnesses should not refuse when they are called on (For evidence). Disdain not to reduce to writing (your contract) for a future period, whether it be small or big: it is juster in the sight of Allah, More suitable as evidence, and more convenient to prevent doubts among yourselves but if it be a transaction which ye carry out on the spot among yourselves, there is no blame on you if ye reduce it not to writing. But take witness whenever ye make a commercial contract; and let neither scribe nor witness suffer harm. If ye do (such harm), it would be wickedness in you. So fear Allah; For it is Good that teaches you. And Allah is well acquainted with all things. If ye are on a journey, and cannot find a scribe, a pledge with possession (may serve the purpose). And if one of you deposits a thing on trust with another, let the trustee (faithfully) discharge his trust, and let him Fear his Lord conceal not evidence; for whoever conceals it, – his heart is tainted with sin. And Allah knoweth all that ye do."*

¹ Deen, Thaufiq., Ong Argo Victoria & Sumain. (2018). *Public Notary Services In Malaysia*. JURNAL AKTA: Vol. 5, No. 4, 1017-1026. Retrieved from <http://jurnal.unissula.ac.id/index.php/akta/article/view/4135>

²Habib Adjie, (2009), *Sekilas Dunia Notaris & PPAT Indonesia*, Mandar Maju, Bandung, p. 13.

The position of a notary is essentially a public official assigned by the general authority to serve the needs of the community in terms of authentic evidence that provides certainty of civil law relationships. So, as long as authentic evidence is still needed by the state legal system, the position of a notary will still need its existence in the community.³In carrying out their profession, Notaries provide legal services to the public as regulated in Act No. 2 of 2014 concerning Amendments to Act No. 30 of 2004 concerning Notary Positions. With the enactment of this Law, the Reglement op Het Notary Ambtin Indonesia/Regulation of Notary Positions in Indonesia (Stb. 1860 Number 3) is revoked and declared invalid.⁴

Notary Position Act, Notaries have guidelines or guidelines in carrying out their positions, namely the Code of Ethics. In the Code of Ethics, every Notary who carries out his position must not conflict with the regulations that have been made by the authorized party. The code of ethics highly respects and respects human dignity in general and the dignity of notaries in particular. On the basis of this respect, the Notary profession has the following characteristics: independent, impartial, not demanding, rationality refers to objective truth, functional specificity and has a positive sense of togetherness among fellow Notaries⁵.

The Notary Code of Ethics regulates obligations that must be carried out, prohibitions, exceptions and sanctions such as warnings, warnings, up to dismissal or dishonorable discharge from association membership. When carrying out his/her position, the substitute Notary must adhere to the Notary Code of Ethics. Notaries and substitute notaries are bound by the code of ethics, so the dignity and professionalism of the notary is maintained. One of the powers of a notary is to make an authentic deed that serves as evidence for the parties to commit an act. The deed made by a notary can be the legal basis for the status of a person's property, rights and obligations.⁶ The deed made by a notary has perfect evidentiary power, unlike a private deed. Underhanded deed is a deed made by the interested parties themselves without the help of a public official.⁷A notarial deed is an authentic deed that has legal force with guaranteed legal certainty as a perfect written evidence (volledig bewijs), does not require

³G.H.S. Lumban Tobing, (1999), *Peraturan Jabatan Notaris*, Erlangga, Jakarta, p. 41.

⁴Ngadino, (2019), *Tugas dan Tanggung Jawab Jabatan Notaris di Indonesia*, UPT Penerbitan Universitas PGRI Semarang Press, Semarang, p. 4.

⁵Hunter, Susan & Bulirwa, Elizabeth & Kisseka, Edward. (1993). AIDS and agricultural production. *Land use policy*. 10. 241-58. 10.1016/0264-8377(93)90018-6.

⁶Abdul Ghofur Anshori, (2009), *Lembaga Kenotariatan Indonesia, Perspektif Hukum dan Etika*, Yogyakarta: UII Press, Yogyakarta, p.46

⁷Taufik Makarao, (2004), *Pokok-pokok Hukum Acara Perdata*, Jakarta: PT. Rineka Cipta, Jakarta, p. 100

additional evidence, and the judge is bound by it.⁸The notary has the right to be responsible if there is a problem regarding the deed he has made. This responsibility can be in the form of criminal, civil, code of ethics and administrative responsibility.⁹

The Notary Profession is one of the professions that takes part in the law enforcement process in Indonesia by providing certainty, order and legal protection in the midst of society. The Notary profession is also required to be sustainable, which means that whoever runs the position of a Notary and is unable to carry out the position is obliged to give his authority to a Substitute Notary. The existence of a Substitute Notary is very important in order to fill the vacancy of a Notary who is on leave, sick, or temporarily unable to carry out his position as a Substitute Notary as regulated in Act No. 2 of 2014 concerning Notary Positions. Therefore, every notary has the right to take leave. This is in accordance with the provisions of Article 25 point 1 of Act No. 2 of 2014 concerning the Position of a Notary (hereinafter referred to as UUJN) which determines as follows:

- Notaries have the right to leave
- The entitlement to leave as referred to in paragraph (1) may be taken after a notary serves for 2 years 3. During his leave, the notary is obliged to appoint a substitute notary.

Notary leave rights can be taken annually or all at once for several years. Every leave taking a maximum of 5 (five) years includes the extension. During the term of office of a Notary, the total leave time is a maximum of 12 (twelve) years (Article 26 paragraph (3) of Act No. 2 of 2014).

Substitute Notary Public According to Article 1 paragraph (3) of Act No. 2 of 2014, Substitute Notary Public is defined as follows:

Substitute Notary is a person who is temporarily appointed as a Notary to replace a Notary who is on leave, sick, or temporarily unable to carry out his position as a Notary.

The requirements to become a substitute notary are contained in Article 33 of Act No. 2 of 2014, which reads as follows:

⁸A.A. Andi Prajitno, (2010), *Apa dan Siapa Notaris di Indonesia?*, Putra Media Nusantara, Surabaya, p. 51.

⁹Rizki Nurmayanti, (2017), Peran dan Tanggung Jawab Notaris Dalam Pelaksanaan Pembuatan Akta Koperasi, *Jurnal Akta Universitas Islam Sultan Agung (UNISSULA) Semarang*, vol.4, No. 4

- The requirements to be appointed as a substitute notary notary and temporary notary official are Indonesian citizens who have a law degree certificate and have worked as an employee of a notary office for at least 2 (two) consecutive years.
- The provisions that apply to notaries as referred to in article 4, article 15, article 16, and article 17 apply to substitute notaries and temporary notary officials, unless this law provides otherwise.

Substitute Notary Public is an official who temporarily carries out the duties and positions of a Notary, so that later raises questions about the form and characteristics of the Substitute Notary's authority and responsibility for the deed he made. The existence of a substitute notary is a necessity and is very important in order to fill the vacancy of a notary official, who is on leave, sick, or temporarily unable to carry out his position as a notary, in order to ensure legal certainty for the community. Based on article 65 of Act No. 2 of 2014 concerning the position of a notary, the responsibilities of a notary are the same as the responsibilities of a substitute notary for each authentic deed he makes. This equality of authority and responsibility between a notary and a substitute notary raises juridical and theoretical problems.

Juridically, the definition, requirements, and agency that appoints a notary is different from that of a substitute notary and that a substitute notary only serves temporarily and in Article 65 of Act No. 2 of 2014 concerning the position of a notary there is also a vagueness of norms regarding the responsibilities of a substitute notary to the deed. authentically made. Theoretically, based on the theory of authority, the attribution authority is given to a notary as stated in Article 15 of the UUJN. While the authority of a substitute notary, Even though it is given attribution by the Notary Position Act as stated in Article 33 paragraph (2) of the 2014 Notary Position Law regarding the position of a notary, institutionally a substitute notary is only a temporary official who replaces a notary. Therefore, the powers and responsibilities of a substitute notary should be different from those of a notary and the requirements for a substitute notary should be changed so that the deed made by the substitute notary has the same evidence as the deed made by a notary official.

2. Research Methods

The type of legal research carried out in a normative juridical manner is a normative juridical where the law is conceptualized as what is written in laws and regulations (law in books) or the law is conceptualized as a rule or norm which is a benchmark for human behavior that is considered appropriate.¹⁰This normative legal research is based on primary and secondary legal materials, namely research that refers to the norms contained in statutory regulations.¹¹ In connection with the type of research used is normative juridical, the approach used in this paper is a statutory approach.

3. Results and Discussion

3.1. An authentic deed made by a substitute notary has the same power as perfect evidence as made by a notary official

According to Article 1867 of the Civil Code, the deed is divided into 2 types, namely the authentic deed and the private deed, according to Article 1868 of the Civil Code which provides elements of an authentic deed, namely the form is determined in law. made before a public official who has the power to do so in this case is a Civil Registry Officer, Judge, and so on. The place where the deed was made, that the deed was made by an authorized official in his working area. Not only these elements, an authentic deed also has characteristics, namely¹²:

- A notarial deed is a deed made by and in the presence of an authorized person for it;
 - There is a definite date;
 - There is certainty who signed and identity;
 - The notary gave advice before the deed was made, regarding the legality of the contents of the deed;
 - If there is a denial then he has to prove;
 - The notary deed must be kept confidential by the notary.

An authentic deed clearly determines the rights and obligations of each party related to the deed and provides legal certainty, with the existence of an authentic deed it is expected to avoid problems or disputes between the parties in the future. Article 1870 of the Civil Code An authentic deed provides between

¹⁰Amiruddin & Zainal Asikin, (2012), *Pengantar Metode Penelitian Hukum*, Jakarta, Raja Grafindo Persada, p.118

¹¹Soerjono Soekamto, (1984), *Pengantar Penelitian Hukum*. Jakarta: UI Press, p. 20

¹² Laura Notess (WRI) , Peter Veit (WRI), Iliana Monterroso (WRI), Andiko (WRI), Emmanuel Sulle (WRI), Anne M. Larson (WRI), Anne-Sophie Gindroz (WRI), Julia Quaedvlieg (WRI) and Andrew Williams (WRI) - July 2018, The Scramble for Land Rights, Reducing Inequity between Communities and Companies, <https://wri-indonesia.org/en/publication/scramble-land-rights>

the parties and their heirs or persons who have rights from them a perfect proof of what is contained therein. In addition to being an authentic deed, it is a binding evidence, in the sense that something written in the deed must be trusted by the judge, that is, it must be considered true as long as the untruth can be proven. An authentic deed also provides perfect evidence, in the sense that the authentic deed does not require additional evidence. However, there are often falsehoods that may be attached to an authentic deed made before a notary, usually used as an argument or reason to disable the authentic deed and the forms of false claims that can be submitted. Authentic deeds are divided into 2 (two) according to their validity, namely:

- Official Deed (Ambtelijke Acte) or (Verbal Acte)

An official's deed is a deed made by an official who is authorized to do so, in which the official explains what he saw and what he did, so the initiative does not come from the person whose name is explained in the deed. Making an official deed is the full responsibility of a notary, because in the deed the notary official reports what he saw and did when a legal event occurred. Official deeds do not have comparisons as authentic deeds in general, apart from not having comparisons, notaries in making official deeds are also not allowed to make judgments or arguments as long as the official deed is made.

- Deed of parties / appearers (Partij Acte)

The opposite of an official deed, a party deed is a deed made before an official who is authorized to do so and the deed is made at the request of the interested parties, so that the party deed is made by a notary based on what the parties want. The anatomy of the form of a party deed, is a form of authentic deed in general, which has a comparison.

An underhand deed is a letter made and signed by the parties who made it without having to involve the authorized party such as a notary. The making of this deed prioritizes the principle of trust where the contents of the deed under the hand are made by the parties themselves. An underhand deed can be said to have weaker evidentiary power than an authentic deed. Therefore, in making a private deed, usually the parties also require the presence of witnesses. The presence of witnesses in making an underhand deed can strengthen the evidence regarding the existence of an underhand deed. With the presence of witnesses, the parties who make a private deed cannot easily deny the existence of the deed and the legal actions regulated in a deed. A private deed only has formal evidentiary power, that is, if the signature on the deed is recognized (and

the actual contents are already proof of acknowledgment) which means that the statement contained in the deed is recognized and justified¹³.

Article 1 of the UUJN states that a notary is a public official who is authorized to make authentic deeds and other authorities as referred to in this law, so that when we compare there is almost no difference in the definition of a notary in the PJN and UUJN. In general, it can be concluded that what is meant by a notary is a public official who is authorized to make an authentic deed regarding all actions, agreements and stipulations required by a statutory regulation and or desired by the interested parties to be stated in an authentic deed, guaranteeing the certainty of the date making the deed, keeping the deed, providing gross copies and quotations thereof, all as long as the making of the deed is not also assigned or excluded to other officials or other people stipulated by law. As regulated by Article 1868 of the Civil Code in conjunction with Article 1 and Article 15 of the UUJN). Article 15 of the UUJN has explained the authority for a Notary to make an authentic deed in terms of actions, agreements, and provisions required by laws and regulations. An authentic deed clearly defines the rights and obligations of each party related to the deed and provides legal certainty. Based on UUJN, how to become a notary or the requirements to become a notary in Article 3Act No. 2 of 2014 which confirms the following conditions:

- Indonesian citizens;
- fear God Almighty;
- at least 27 years old;
- physically and mentally healthy as stated by a health certificate from a doctor and psychiatrist;
- has a law degree and a bachelor's degree in notarial education;
- has undergone an internship or has actually worked as a notary employee for at least 24 consecutive months at a notary office on his own initiative or on the recommendation of a notary organization after graduating from a notary degree;
- not having the status of a civil servant, state official, advocate, or not currently holding other positions which are prohibited by law from concurrently serving as a notary; and

¹³ Ong Argo Victoria, Ade Riusma Ariyana, Devina Arifani. (2020). *Code of Ethics and Position of Notary in Indonesia*. Sultan Agung Notary Law Review 2 (4), 397-407, <http://lppm-unissula.com/jurnal.unissula.ac.id/index.php/SANLaR/article/view/13536>

- has never been sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a crime punishable by imprisonment of 5 years or more.

In the context of the requirements to become a notary in letter f, what is meant by "own initiative" is that the prospective notary can choose the desired office by himself while still getting a recommendation from the notary organization. As for "undergoing an internship or has actually worked" is determined based on a certificate of the first date of internship/work at the notary's office. Regarding the authority of a notary, it is regulated in Article 15 paragraph (1) of Act No. 2 of 2014, a notary is authorized to make an authentic deed regarding all actions, agreements, and stipulations required by laws and/or desired by the interested parties to be stated in the authentic deed, guaranteeing the certainty of the date of making the deed, keeping the deed, providing grosse, copies and quotations of the deed¹⁴.

In Article 15 paragraph (2) of Act No. 2 of 2014, a notary is also authorized to:

- ratify the signature and determine the certainty of the date of the letter under the hand by registering it in a special book (legalization);
- book a letter under the hand by registering in a special book;
- make a copy of the original handwritten letter in the form of a copy containing the description as written and described in the letter concerned;
- validate the compatibility of the photocopy with the original letter;
- provide legal counseling in connection with the making of the deed;
- make a deed related to land; or
- make a deed of auction minutes.

Then in Article 15 paragraph (3) of Act No. 2 of 2014 it reads that in addition to the powers mentioned above, a notary has other powers as regulated in laws and regulations. Notaries who have been appointed as state officials have the right to leave, this right applies as long as the notary holds office as a state official, in article 25 paragraph (3) of Act No. 30 of 2004 it is stated that as long as the notary is on leave, the notary is obliged to appoint a substitute notary.

¹⁴ Rizki Nurmayanti, (2017), Peran dan Tanggung Jawab Notaris Dalam Pelaksanaan Pembuatan Akta Koperasi, *Jurnal Akta Universitas Islam Sultan Agung (UNISSULA) Semarang*, vol.4, No. 4

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The method of appointment as a substitute notary or the conditions for being appointed as a substitute notary is contained in Article 33 of the UUJN which reads:

- Requirements to be appointed as Substitute Notary and Temporary Notary Officials are Indonesian citizens who hold a law degree and have worked as a Notary's office employee for at least 2 (two) consecutive years.
- 2. The provisions that apply to Notaries as referred to in Article 4, Article 15, Article 16, and Article 17 apply to Substitute Notaries and Temporary Notary Officials, unless this Law provides otherwise.

In carrying out his duties and positions, the substitute notary has the same authority and responsibility as the notary he replaces. There is only a slight difference, namely that in the so-called comparative section of the deed made by the Substitute Notary, there must be an official who appointed him along with the date and number of the Decree that appointed him, the responsibility given to the Notary Public shall apply the same as the Substitute Notary. Provision of the basis of the Substitute Notary's responsibility due to the authority by the Notary he replaces to take leave and appoint or propose a Substitute Notary to temporarily replace the Notary's leave. So at that time the Substitute Notary Public replaces the position and all tasks carried out by the Notary he replaces, and the legal responsibility is the same as the Notary he replaces. Notaries are obliged and responsible especially for making authentic deeds that have been entrusted to him, keeping the minutes of the deed including all Notary Protocols and providing grosse, copies and quotations of the deed¹⁵.

Notary deed is an official document issued by Notary Public according to the Civil Code chapter 1870 and HIR Article 165 (Rbg 285) which has absolute and binding evidentiary power. The Notary Deed is perfect evidence so that it no longer needs to be proven by other evidence as long as the untruth cannot be proven. Based on Civil Code Article 1866 and HIR 165, a notary deed is the main written

¹⁵ Sri Ahyani, Land Registration As A Legal Construction Of Law In Order To Facing Asean Economic Communities, *International Journal of Nusantara Islam* Vol. 06 No. 02 2017: (198-207), DOI: 10.15575/ijni.v6i2.6227

evidence or letter of proof, so that this document is evidence of a trial that has a very important position.

A notarial deed is perfect evidence and becomes law for interested parties and must contain elements of legal certainty. It is clear in the sense that it does not cause doubt (multi-interpretation) and is logical. It is clear in the sense that it becomes a system of norms with other norms so that they do not clash or cause conflicting norms¹⁶.

According to Utrecht, legal certainty contains two meanings, namely first, the existence of general rules that make individuals know what actions may or may not be done, and second, in the form of legal security for individuals from government arbitrariness because with the existence of general rules individuals can know what the State may charge or do to individuals.

When viewed from Act No. 2 of 2014 authentic deeds made by a notary substitute are legal or can be used as evidence in civil courts, but in theory legal certainty refers to clear and logical implementation of the law. It is clear in the sense that it does not cause doubt (multi-interpretation) and is logical. It is clear in the sense that it becomes a system of norms with other norms so that they do not clash or cause conflicting norms, are permanent, consistent and consequent whose implementation cannot be influenced by subjective conditions. Certainty and justice are not merely moral demands, but factually characterize the law. Of course it will be a very big problem and be a loss for the parties who feel that their rights have been harmed, both the losses received by the parties and the notary profession because it becomes a very bad phenomenon if the product used cannot be used as perfect evidence where people really believe in the profession of notary and certainly threatens the notary profession itself. Of course, to see the contents of the deed in its entirety and can be a perfect evidence, one must also see how the official was born or has the authority to make an authentic deed. To become a notary, one must meet the quality, namely the academic requirements of a minimum of two notarial strata graduate levels and meet the quantity, namely having undergo an internship or become a notary employee for a minimum of 24 (twenty four) months, being a member of the ALB (Extraordinary member) of the Indonesian Notary Association (INI) taking connotational exams organized by INI organization, attending seminars held by regional and central administrators, and undergoing exams held by the Ministry of Law and Human Rights. Meanwhile, a substitute notary based on article 33 of the UUJN only fulfills the quantity, namely being a notary employee for a minimum of 24 (twenty four) months regardless of the quality or academic

¹⁶ Yaya Kareng, Ong Argo Victoria, R. Juli Moertiyono. (2019). How Notary's Service in Thailand. Sultan Agung Notary Law Review, 1 (1), 46-56, <http://jurnal.unissula.ac.id/index.php/SANLaR/article/view/4435>

requirements, and the substitute notary is also not a member of the ALB (extraordinary member) of the Indonesian Notary Association (INI). It is the only forum for notaries and is recorded in the register of members, does not participate in joint internships, does not take exams held by organizations or by the ministry of law and human rights, the same as a notary, especially in making an authentic deed as stated in Article 65 of the UUJN. So to make an authentic deed as perfect evidence, you must amend article 33 of the UUJN regarding the appointment of a substitute notary to better provide the quality needed by the community so that the deed product made by a substitute notary is the same as that made by a notary official can be used as perfect evidence and certainly does not threaten the notary profession.

3.2. The Substitute Notary Concept So that the Authentic Deed Products Qualify as Perfect Evidence Like Notary Officials

An authentic deed is perfect evidence if it is made in accordance with the rules and made by an authorized public official, but an authentic deed can be said to be a toolproof of strength as written under the hand because the official who made the deed is not authorized or incompetent of the public official concerned in accordance with Article 1869The Civil Code, meaning that in the element of proof an authentic deed as perfect evidence of course there are several elements, the first is made by an authorized and capable public official, the second is not deformed in shape, the third is not fake Authentic deed according to Article 1868 of the Book Civil law deed are:

"An authentic deed is a deed made in the form determined by law, made by or before a public official who is authorized for that at the place where the deed was made."

Authentic deeds made by public officials also have the following characteristics:

- A notarial deed is a deed made by and in the presence of an authorized person for it;
- There is a definite date;
- and certainty of who signs and identity;
- The notary gave advice before the deed was made, regarding the legality of the contents of the deed;
- If there is a denial then he has to prove;
- The notary deed must be kept confidential by the notary.

How is the position of the deed made by the substitute notary, by looking at article 33 paragraph 2 of the UUJN of course the position of the deed made by the substitute notary is the same as that made by a notary official, a substitute notary who has fulfilled the requirements according to the UUJN has the right to

make a deed in accordance with his authority in article 65 UUJN explained about the responsibility of a substitute notary, namely a substitute notary is responsible for every deed he made until the end of his life, regarding the issue of responsibility for a position, according to Krenenburg and Vegtig, there are two underlying theories, namely:¹⁷

- The theory of *Fautes Personnelles*, namely the theory which states that third party losses are borne by officials who because of their actions have caused losses. In this theory the burden of responsibility is shown to humans as individuals.
- The theory of *Fautes de Services*, namely the theory which states that third party losses are borne by the official agency concerned. According to this theory, responsibilities are assigned to positions. In its application, the losses incurred are also adjusted whether the mistakes made are serious mistakes or minor mistakes, where the weight and severity of an error has implications for the responsibility that must be borne.

The position of a substitute notary ends when the period of leave from a notary official ends means that a notary who temporarily serves as a public official must become a notary employee again, then what is the form of responsibility imposed by a substitute notary who must be responsible for the deed he has made, isn't the authority given by a notary? Notary employees are only to replace their superior positions, namely notary officials, not as if they were public officials, and what about the position of an authentic deed made by a substitute notary to become perfect evidence in making an authentic deed, of course, it must meet the requirements of both academics and have qualities such as notary office, a substitute notary must be proficient. The meaning of proficient here is to meet the quality requirements or academic requirements and the quantity requirements mean knowledge and understanding of the deed he made.

A substitute notary who makes a mistake in making a deed because of his lack of understanding in making a deed is certainly detrimental to the community and the notary profession itself, so that this problem does not occur, it is necessary to amend article 33 of the UUJN regarding the requirements to become a substitute notary. A notary official must meet the requirements of article 3 of the UUJN, while to become a notary substitute the conditions that must be met are very easy, it is found in article 33 paragraph 1 which only graduates from a law degree and becomes a notary employee for 2 (two) years, of course, there is a very large gap. Is it enough to see that the requirement to become a substitute

¹⁷Erwinsyahbana, T., & Melinda, M. (2018), Kewenangan dan Tanggung Jawab Notaris Pengganti setelah Pelaksanaan Tugas dan Jabatan Berakhir. *Lentera Hukum*, 5 (2), 323–340.

notary is enough to make an authentic deed that can be used as perfect evidence? whether the substitute notary is proficient and already has extensive knowledge of the deed he made, of course, do not let the deed made by the substitute notary only as evidence or handwritten only because of the incompetence of the substitute notary and cause losses by people who believe in the notary profession. The concept of a substitute notary, so that the deed product can be used as perfect evidence, of course, must reconstruct article 33 paragraph 1, the first requirement to be appointed as a substitute notary must meet the requirements of academics or notary degree two graduates, the second is to become an Extraordinary Member (ALB) of the Notary Association. Indonesia (INI) as the only Notary organization, as a concept related to the legal obligation of a person who is legally responsible for certain actions that he can be subject to a sanction in case his actions are contrary to the law. Of course also by changing article 33 paragraph 1 of the UUJN so that notaries can also avoid cases or problems due to lack of knowledge and maturity in making authentic deeds that they make.

4. Conclusion

Based on the provisions of Article 33 paragraph (2) of the UUJN, the authority of a substitute notary is the same as that of a notary. Based on Article 65 of the UUJN, the responsibility of a notary is the same as that of a substitute notary for any authentic deed he makes. This equality of authority and responsibility between a notary and a substitute notary raises juridical and theoretical problems. Juridically, the definition, requirements, and agency that appoints a notary is different from a substitute notary and a substitute notary only serves for a time and in Article 65 of the UUJN there is also a vagueness of norms regarding the responsibilities of a substitute notary for the authentic deed he made. Theoretically, based on the theory of authority, the attribution authority is given to a notary as stated in Article 15 of the UUJN. While the authority of a substitute notary, although it is given attribution by UUJN as referred to in Article 33 paragraph (2) of the UUJN, institutionally a substitute notary is only a temporary official who replaces a notary. Therefore, the authority and responsibility of a substitute notary should be different from that of a notary. To become a substitute Notary, of course, you must be competent or understand the form of the deed in depth because if you look at the requirements to be a substitute notary, it is certainly not the same as a notary official, so the deed made by the substitute notary becomes imperfect evidence or only as evidence of writing under the hand because it is lacking skill or knowledge of the deed he made. The concept of a substitute notary so that the authentic deed product meets the requirements as perfect evidence such as a notary official must reconstruct article 33 paragraph 1 regarding the requirements for the appointment of a substitute notary, so that the substitute notary has the same

skills or knowledge as a notary official, because being a notary official must meet the requirements which is very difficult in order to get quality and quantity and be accepted in the midst of society and so that the deed product made can be used as perfect evidence.

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