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Notary's Responsibility for Delay in Reporting The Deed of Will

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Abstract. *Notaries play a role in making a deed that has an authentic nature, one of the notary's products is the making of a will deed, which is then registered with the Central Will List of the Department whose duties and responsibilities are in the notary field within 5 (five) days in the first week of each following month, and records in the repertorium the date of sending the will list at the end of each month. This thesis aims to 1). Find out the role of a notary in making a will deed. 2). Find out how the notary is responsible for the delay in reporting a will deed. 3). Find out what the form and nature of a will deed are. This research is a normative legal research with the approach of applicable Legislation (statute approach) and case approach. The legal materials used in this legal research are secondary legal materials with the data collection technique used is literature study. The results of this study are that notaries play an active role and are required to notify all wills (testament acte) that they have made to the Central Will Registration Section (DPW) and the Estate Office (BHP) within 5 (five) days in the first week of each following month, and record in the repertory the date of sending the will list at the end of each month, while the notary's responsibility for late reporting of wills is moral responsibility, ethical responsibility, and legal responsibility consisting of formal and material aspects. For wills (testament acte) made in front of him, the notary is responsible for reading them in front of witnesses, after which the notary notifies the will (testament acte) to the Central Will Registration Section, the Civil Directorate, the Directorate General of General Legal Administration, the Department of Law and Human Rights and to the Estate Office (BHP). The forms and nature of a will consist of an open testament (openbaar testament), a written testament (olographis testament), or a closed or secret testament.*

Keywords: *Late Reporting; Notary; Roles and Responsibilities.*

1. Introduction

A last will or testament acte is generally a statement of a person's will to be carried out after his death. The contents of the last will are clearly stipulated in

Article 921 of the Civil Code, which reads:

“To determine the size of the absolute share in an inheritance, it is necessary to first add up all the assets left behind at the time the donor or beneficiary dies; then add to that total the amount of the items donated while the deceased was still alive, which items must still be reviewed in the circumstances when the gift was made, but regarding their value, according to the value at the time the donor or beneficiary died, finally the sum of each is calculated, after which all the debts of the deceased are subtracted, in proportion to the degree of the absolute heirs, the size of their absolute shares, after which all that they have received from the deceased must be reduced, even if they are exempt from the obligation to pay income.”

Making a will (testament) is a legal act, a person determines what happens to his/her assets after death. Inheritance often raises various legal and social problems, therefore it requires orderly and regular arrangement and resolution in accordance with applicable laws and regulations. A will (testament) is also a legal act that unilateral. This is closely related to the “herroepelijkheid” (revocable) nature of the will (testament). This means that a will (testament) cannot be made by more than one person because it will cause difficulties if one of the makers wants to revoke the will (testament). This is as stated in Article 930 of the Civil Code, which states that:

"In a single deed, two or more people are not allowed to express their wills, either to bequeath a third person, or on the basis of joint or reciprocal statements."

The provisions in a will (testament) have 2 (two) characteristics, namely that it can be revoked and is valid due to a person's death[1]. For the provisions of a will that have these two characteristics, the form of the testament is an absolute requirement. There are several types of wills (testament), namely open or general testament (openbaar testament), written testament (olographis testament), and closed or secret testament. In addition, there is also something called a codicil. For the provisions of a will that have these two characteristics, the form of the testament is an absolute requirement.

A notary is a public office that has characteristics, namely as an office, meaning that the UUJN (Notary Office Law) is a unification in the field of regulating the office of a notary, meaning that the only legal regulation in the form of a law that regulates the office of a notary in Indonesia, so that all matters relating to it... notaries in Indonesia must refer to UUJN. The position of Notary is an institution created by the State. Placing a Notary as a position is a field of work or task that

[1] Hartono Soerjopratiknjo, Testamentary Inheritance Law, Notary Section, Faculty of Law, Gadjah Mada University, 1st Edition, Yogyakarta, 1982, p. iv

is deliberately created by legal regulations for certain needs and functions (certain authorities) and is continuous as a permanent work environment[2].

The position of Notary is held or its presence is required by law with the intention of helping and serving the community who need authentic written evidence regarding circumstances, events, or legal acts. Authentic deeds as the strongest and most complete evidence have an important role in every legal relationship in community life. The community's need for written evidence in the form of authentic deeds has been increasing in direct proportion to the community who are already more legally aware, because with authentic deeds, a right and obligation will be clearly stated, guarantee legal certainty, and it is also expected to avoid disputes. If a dispute occurs, an authentic deed will be real written evidence for the resolution of the case quickly.

One of the authorities of a Notary is to make a will as stated in the UUJN, including making a will before witnesses as stipulated in Article 939 paragraph (4) of the Civil Code and making a will without witnesses as stipulated in Article 939 paragraph (2) of the Civil Code. A will is something that cannot be separated from inheritance law. The definition of a will is a statement of will by a person regarding what will be done with his/her assets after death[3]. Such a will is related to the rights of power (responsibilities) that will be carried out after he/she dies, for example a person makes a will to another person to take care of the inheritance, divide it, pay debts or order that it be buried in a certain place. Basically, a will is a moral obligation for a person to fulfill the rights of another person or his/her relatives, while the person is not part of the family that receives a share of the inheritance. According to Article 171 letter (f) of the KHI, what is meant by a will is the giving of something to another person or institution that will be valid after death[4].

Notaries in making and storing wills must comply with statutory provisions. Must always apply the principle of caution, examine all relevant facts, examine all related completeness. Because in the process of making to the implementation of the notary's will is prone to errors or lawsuits that are usually filed by heirs who do not accept the contents of the will. If there is a lawsuit, a notary will indirectly become involved, either as a witness or a suspect. Because there are many legal loopholes that someone will take to fulfill the truth or fulfill their interests. So it is necessary to pay attention from the beginning of the making of the will.

Notaries have the duty and obligation to store and send a list of wills that they

[2] Habib Adjie, 2008, Indonesian Notary Law, Thematic Interpretation of Law No. 30 of 2004 Concerning the Position of Notary, Refika Aditama, Bandung, p. 13
[3] Sajuti, Thalib, 2000, Islamic Inheritance Law in Indonesia, Sinar Grafika, Jakarta, page 104
[4] Amir Hamzah and A. Rachmad Budiono, 1994 Inheritance Law in the Compilation of Islamic Law, IKIP, Malang, p. 180

have made to the Estates Office (BHP) and the Central Wills Register (DPW), as stipulated in Article 36a of the PJN which states that:

"Notaries are required, under the threat of a maximum fine of Rp. 50,- for each violation, to make a list, which records the deeds referred to in Article 1 of the Ordinance on the Central List of Wills that they make in a calendar month."

Notaries are required within the first 5 (five) days of each month to send a registered document to the BHP, in whose jurisdiction the notary's domicile is located, a list relating to the previous calendar month with the threat of a maximum fine.

Rp 50,- for each violation. From each delivery, a record is made in the repertorium on the day of delivery, with the threat of a maximum fine of Rp 50,- for each delay. If in the previous calendar month the notary did not make a deed, then he must send a written statement regarding it to the BHP on one of the days specified for the delivery, with the threat of a maximum fine of Rp 50,- for each delay. From each delivery, a record is made in the repertorium on the day of delivery, with the threat of a maximum fine of Rp 50,- for each day of delay[5].

In carrying out his/her position, a notary is obliged to make a list of deeds relating to wills according to the order of the time of making the deeds every month, send a list of will deeds or a list of nil relating to wills to the Central List of Wills of the Department whose duties and responsibilities are in the field of notary affairs within 5 (five) days in the first week of each following month, and record in the repertorium the date of sending the list of wills at the end of each month[6]. However, in the new Notary Law, there is no mention of fines for each delay, either delays regarding the list of will deeds to the Estates Office and delays regarding the delivery of the repertorium records. Thus, it can be concluded that in making a will deed (testament acte) the notary has a very important role. Article 943 of the Civil Code stipulates that:

"Every notary who keeps the testament letters among the original documents, in whatever form, must notify the interested parties after the testator dies."

In accordance with applicable laws, the assistance of a notary from the beginning to the end of the process of making a will (testament acte) is very necessary so that it obtains binding legal force. The notary's responsibility in making a will (testament acte) includes all of the notary's duties, obligations, and authorities in handling the issue of making a will (testament acte), including protecting and storing authentic letters or deeds. The notary's responsibility in making a will

[5] 3 GHS Lumban Tobing, Notary Regulations, Erlangga Publisher, Jakarta, 1982, p. 237- 238

[6] Law Number 30 of 2004 concerning the Position of Notary, Publisher BP.Cipta Jaya, Jakarta, 2004

(testament acte) includes all of the notary's duties, obligations, and authorities in handling the issue of making a will (testament acte), including protecting and storing authentic letters or deeds.

2. Research Methods

The approach used by the author in this research is the Juridical Sociological approach. The Juridical Sociological approach emphasizes research that aims to obtain legal knowledge empirically by going directly to the object[7].

Sociological Legal Research is legal research using secondary data as its initial data, which is then continued with primary data in the field or on the community, examining the effectiveness of a Ministerial Regulation and research that wants to find a relationship (correlation) between various symptoms or variables, as a data collection tool consisting of document studies or library materials and interviews (questionnaires)[8].

3. Results and Discussion

3.1. The Role of Notaries in Making Wills

The inheritance of a testator by appointing an executor of the will (executeur testamentair) must only be proven by the recording or details made by the executor of the will in the presence of his heirs in accordance with the provisions of Article 1007 of the Civil Code. A will made under hand is null and void, because it does not meet the requirements for a valid will according to Islamic law in Indonesia, as regulated in Articles 194 and 195 of the Compilation of Islamic Law. A will statement can be used as support for the submission of a Letter of Application for Determination of Heirs on the condition that before the Inheritance Statement or Determination of Heirs is made, the Notary is obliged to check whether or not there is a will that has been made by the testator (a person who died leaving behind an inheritance) because the will is the basis for making the inheritance statement. As long as there is a will, the calculation of the distribution of the inheritance will be issued first, the portion that has been determined in the will in question.

Santosa, SH, MH, as the Legislation Drafter at the Directorate General of AHU, Kemenkumham, Bandar Lampung regional office, said that every 5th at the latest, Notaries are required to report wills to the Central Will List (DPW) in accordance with Permenkumham No. 60/2016 which will soon be changed from the head office, the procedure for registering and reporting wills can also be seen in Permenkumham No. 60/2016. If the Notary does not report the will past

[7] Soerjono Soekanto, Pengantar Penelitian Hukum, Jakarta: Penerbit Universitas Indonesia Press, 2005, hlm. 51
[8] Amiruddin, Pengantar Metode Penelitian Hukum, Jakarta: PT. Raja Grafindo Persada, 2012, hlm. 34.

the 5th, then the Notary can report it in the following month, including wills that are abroad are also required reported. Furthermore, for will deeds that have been submitted before the enactment of Permenkumham No. 60/2016 can be processed manually and must be completed no later than 6 (six) months from the date this Ministerial Regulation is enacted. If there is negligence by the Notary in terms of registration or reporting of will deeds, the Notary must fully accept the risk responsibility, be it criminal or civil sanctions as legal consequences. Article 10 of Permenkumha Number 60 of 2016, that all legal consequences arising in connection with Will Reporting are the responsibility of the Notary concerned. Notaries who do not report the List of Deeds or the Nil List, will be subject to sanctions in accordance with the provisions of the laws and regulations. Regarding the registration of will deeds which are the obligation of the Notary and anything that is violated will have a loss. For the community, especially the parties, namely the lack of legal certainty. For Notaries, legal problems will arise not directly, but for the future.

The focus of the study of the theory of authority is related to the source of authority of the government in carrying out legal acts, both in relation to Public Law and in relation to All will deeds (testament acte) made before a Notary must be notified to the Central Will Registration Section, both open testaments (openbaar testament), written testaments (olographis testament), and closed or secret testaments. If the will deed (testament acte) is not notified, the will will not be binding. In a written testament (olographis testament), if a person is still alive and makes a will and submits it to a Notary, the Notary must first store the will deed (testament acte). To notify a will deed (testament acte), it is required to meet the requirements, namely it must be in accordance with the columns provided by the Central Will Registration (DPW). If only 1 (one) column is not filled in, the meaning will be unclear. Revocation of a will (testament acte) must also be reported to the Central Register of Wills (DPW) because if someone makes another will without revoking the previous will, then the valid will is the previous will.

Notaries are also required to report or notify a person's will on the first 5 (five) Sundays of each month. If they do not report it, then the deed is not valid as an authentic deed, or in other words the deed is only valid as a private deed, and can even be declared null and void by law. This is in accordance with the provisions of Article 84 and Article 85 of the UUJN. Inheritance in general is regulated in Article 830 of the Civil Code which states that inheritance occurs due to death. As we know, the definition of inheritance law is the law that regulates the transfer of assets left behind someone who dies and the consequences for his heirs[9].

The Civil Code itself views inheritance rights as property rights over the assets of

[9] Efendi Perangin, Inheritance Law (Jakarta: Raja Grafindo, 2001), p. 31.

a deceased person. Regarding the definition of a testament according to Article 875 of the Civil Code, it is "a deed containing a person's statement about what he wants to happen after he dies, and which can be revoked by him."

The requirements that a person must have in making a will include:

a. Being of sound mind, in article 896 of the Civil Code states that in order to be able to make or revoke a will, a person must have sound mind. And in article 896 of the Civil Code states that everyone can make or enjoy Everyone can make or enjoy the benefits of a will, except those who according to the provisions in this section, are declared incompetent to do so;

b. Already 18 years old or who are married even though they have not reached that age, as in Article 897 of the Civil Code;

c. Must fulfill the requirements for a valid agreement in accordance with Article 1320 of the Civil Code, namely that they agree to bind themselves, the capacity to make a contract, a certain thing, and a lawful cause;

d. The parties must have a sincere will without coercion and only based on their own will, as stated in Article 930 of the Civil Code, which states that "In a single deed, two or more people are not permitted to state their will, either to grant a third person, or on the basis of a joint or reciprocal statement.

e. The person appearing must clearly and explicitly state his will, stating the form of the will which does not conflict with norms and laws,

The premise of the will deed to be made by a notary must be adjusted to the form of the will, whether it is a general, written, or secret will. The type of premise can be written as:

a. Openbaar Testament Deed of Will

This testament is made before a notary, the applicant faces the notary, then the notary makes the deed and is attended by 2 (two) witnesses. The premise is as follows:

"The person appearing is known to me, the notary explained that at that time the witnesses who would be mentioned were also present - that the person appearing intended to make a will and to state briefly but clearly and firmly his last wishes."

b. Olographis Testament Deed

This testament must be written by the hand of the person who will leave the inheritance, and must be submitted to the notary to be kept. The submission must also be witnessed by 2 (two) witnesses. The submission can be done privately or publicly. If submitted privately, then when the testator dies, the

testament must be submitted by the notary to the Inheritance Office, who will then open the testament. With the following premises:

"The person who was known to me, the notary, in the presence of the witnesses who will be mentioned, handed over openly to me, the notary, a letter which according to his statement was a will written and signed by himself (olographic)"

c. Secret or Closed Will

This testament is made by the testator himself, but it is not necessary for him to write it with his own hand. This testament must always be closed and sealed. The submission to the notary is attended by 4 (four) witnesses.

"The person who was known to me, the notary, in the presence of 4 (four) witnesses who will be mentioned, handed over in a closed condition to me, the notary, a letter and sealed it, which according to his statement was a will written and signed by himself (olographic)."

Written testament (olographis testament), if a person is still alive and makes a will and submits it to a Notary, then the Notary is required to first store the will deed (testament acte). To notify the will deed (testament acte), it is required to meet the requirements, namely it must be in accordance with the columns provided by the Central Will Register (DPW). If only 1 (one) column is not filled in, then the meaning will be unclear. The revocation of the will deed (testament acte) must also be reported to the Central Will Register (DPW) because if someone makes another will without revoking the previous will, then the will that applies is the previous will.

In this case, researchers can conclude several important things related to the main formulation of the problem in this study. The role of a notary is only to make an authentic deed in accordance with the duties of a notary as stated in Article 15 of the UUJN and to formulate the wishes or actions of the parties into an authentic deed, by paying attention to the applicable legal provisions. Notaries in carrying out their duties must prioritize the principle of caution first, because notaries are very open to the opportunity to become witnesses, co-defendants, or suspects if they are not careful in carrying out their positions, especially in making authentic deeds. In addition to the principle of caution, notaries also continue to pay attention to the theory of authority, because in their position they must always comply with the laws that are used as a reference so as not to get caught in the criminal realm.

Notaries who make or do not make a will must still report to the Central Will Register, if a notary makes a will but does not report it, the deed is not binding, only valid as a private deed, and can even be declared null and void according to the provisions of Articles 84 and 85 of the UUJN. Wills are in the form of open wills or closed wills, so that notaries must really make them carefully and

examine the contents of the deed they make.

3.2. Responsibilities of a Notary in Making a Deed of Will

The use of the above theories in the author's research in looking at the roles and responsibilities of wills made before a notary, is expected to help direct the author's research.

The theory of responsibility is used in research in relation to wills made before a notary, that the notary is responsible for the formal form of the authentic deed as stipulated by law.

According to Hans Kelsem in his theory of legal responsibility which states that a person is legally responsible for a certain act or that he bears legal responsibility, the subject means that he is responsible for a sanction in the event of a conflicting act.

The role of a Notary here is only to record or write down a legal act carried out by the parties/applicants into a deed. The Notary only records what happened, what was seen, and what he experienced from the parties/applicants, and adjusts the formal requirements for making an authentic deed and then writes it into the deed. The Notary is not required to investigate the truth of the material content of the authentic deed. This requires the Notary to be neutral and impartial and to provide a kind of legal advice for clients who ask for legal guidance from the Notary concerned. Except for the contents of the deed, every act carried out by a Notary can be held accountable if there is a violation committed by him and the act causes losses to the parties. The Notary must be responsible for the material truth of a deed if the legal advice he gave later turns out to be wrong.

A notary can be held accountable if there are elements of error that he/she has made and it is necessary to provide evidence of the elements of error made by the notary, namely:

a. Day, date, month, and year facing;

b. The signature stated in the minutes of the deed; and

c. Time (o'clock) facing.

The deed of will is related to material truth, so the responsibility of the notary as a public official, namely96: Civil responsibility is seen from unlawful acts, which can be distinguished based on the active nature, namely carrying out acts that cause losses to other parties. Unlawful acts that are passive in nature in the sense of not carrying out an act which is an act which is a requirement, so that the other party suffers a loss. Therefore, in this case the elements of an unlawful act are the existence of an unlawful act, the existence of an error and the

existence of a loss incurred.

The civil liability of a Notary has been regulated in the Civil Code as an unlawful act arising from laws or agreements. Therefore, the legal liability model that arises due to unlawful acts according to the Civil Code is:

a. Responsibility with elements of error (intention and negligence), as contained in Article 1365 of the Civil Code;

b. Responsibility with an element of error, especially the element of negligence, as contained in Article 1366 of the Civil Code;

c. Absolute liability (without fault) in a very limited sense is found in Article 1367 of the Civil Code.

Civil sanctions that must be accepted if there is an error that occurs due to default or unlawful acts onrechtmatige daad can be in the form of reimbursement of costs, damages and interest. Sanctions can be imposed on a notary who receives a lawsuit from the parties who feel aggrieved so that the deed has the power of proof as a private deed or is null and void due to the deed in question being defective.

The explanation of UUJN shows that a notary is only responsible for the formalities of an authentic deed and not for the material of the authentic deed. This requires a notary to be neutral and impartial and to provide a kind of legal advice for clients who ask for legal guidance from a notary.

If a notary provides legal advice, the notary can be held responsible for the material truth of a deed if the legal advice he gave turns out to be wrong later. Through the construction of the explanation of the UUJN, it can be concluded that a notary can be held responsible for the material truth of a deed he made if it turns out that the notary did not provide access to a certain law related to the deed he made so that one party feels deceived by his ignorance. For this reason, it is recommended for notaries to provide important legal information that clients should know as long as they are dealing with legal matters. It is further explained that there are other things that must also be considered by notaries, namely those related to the legal protection of the notary himself, with the carelessness and seriousness of the notary, the notary has actually led himself to an act that must be accounted for by law. If a mistake made by a notary can be proven, the notary can be subject to sanctions in the form of threats as determined by law[10]. If a party feels disadvantaged by a deed made by a notary, they can directly file a civil lawsuit against the notary for the deed they made.

[10] Ima Erlie Yuana, Notary's Responsibility After the End of His Term of Office for the Deeds He Made Reviewed from Law Number 30 of 2004 concerning the Position of Notary, Thesis, pp. 79-80

Claims for reimbursement of costs, damages and interest against a notary are not based on the position of evidence that has changed due to violating certain provisions in the UUJN, but are based on the legal relationship that occurs between the notary and the parties who appear before the notary. Even though the notary has retired,

The notary must remain civilly responsible for the deeds he has made.

Testaments made before a notary must be read out in front of witnesses according to the form of the will made. After that, the notary notifies the will to the Central Will Register section, the Civil Directorate, the Directorate General of Legal Administration, the Department of Law and Human Rights, and the Estate Office, so that the notary's responsibility ends with the notification of the will. However, if there is an error in making the will and the error is the notary's fault, then the notary is obliged to be responsible in court. If that happens, the Central Will Register and the Estate Office are not jointly responsible.

Notaries are also required to make a list of deeds related to wills according to the chronology of the deed maker every month. This responsibility is important to provide assurance to the heirs of the will's subject. Notaries must report or notify a person's will on the first 5 (five) Sundays of every month. If the notary does not report, then the deed is not valid as an authentic deed, or in other words the deed is only valid as a private deed, and can even be declared null and void by law, this is in accordance with Article 84 and Article 85 of the UUJN.

The Central Will Register is one of the sections of the sub-directorate of inheritance which is under and directly responsible to the Directorate General of General Legal Administration through the Civil Directorate. The Sub-Directorate of Inheritance is tasked with carrying out the preparation of policy drafts, technical guidance and supervision of the implementation of the duties of the Inheritance Office as well as handling the list of wills and providing will certificates and management of archives and documents. To carry out these tasks, the Inheritance Subdirectorate carries out the following functions:

a. Preparation and creation of a list of wills reported by a notary and research of formal data on the list of wills and the issuance of a will certificate;

b. Preparation and creation of a list of wills reported by a notary and research of formal data on the list of wills and the issuance of a will certificate;

c. Preparation of draft policies, technical guidance and supervision of the implementation of the duties of the Estate Office as well as receiving registration and preparing the issuance of Registered Certificates for Curators and Administrators.

The Central Will List Section has the task of compiling a list of wills (testaments)

reported by notaries, both open testaments, written testaments and closed or secret testaments, as well as examining the formal list of wills and preparing materials for completing applications for will certificates[11].

The Inheritance Hall was initially established with the entry of the Dutch East Indies into Indonesia in 1596 as traders. With the increasing number of Dutch people and the resulting wealth/property, in order to manage these assets for the benefit of their heirs in the Netherlands, an institution was formed called West En Boedel Kamer (Inheritance Hall) on October 1, 1624, which was based in Jakarta. To reach the vast territory of Indonesia, the Medan Inheritance Hall was formed again, the Medan Inheritance Hall, the Medan Inheritance Hall, and the Semarang Heritage Office, Surabaya Heritage Office and Makasar Heritage Office. Even in almost every Residency/Regency at that time, Heritage Offices were formed again which were Representative Offices.

Along with the development and changes in the legal system in Indonesia, in 1987 all BHP representatives throughout Indonesia were abolished according to the Decree of the Minister of Justice of the Republic of Indonesia Number: M.06-PR.07.01 of 1987. Currently there are only 5 (five) Estate Agents in Indonesia, namely Jakarta, Semarang, Surabaya, Medan and Makassar, and each Estate Agent has a working area in the following level I and level II regions:

a. Jakarta Inheritance Office, with its working area covering 9 (nine) provinces, including: DKI Jakarta, West Java, Banten, Lampung, South Sumatra, Bangka Belitung, Jambi and West Kalimantan;

b. Surabaya Heritage Office, with its working area covering 4 (four) regions, namely: East Java, East Kalimantan, South Kalimantan, Central Kalimantan;

c. Semarang Heritage Hall, with its working area covering 2 (two) regions, namely: Central Java and the Special Region of Yogyakarta;

d. Medan Heritage Center, with its working area covering 8 (eight) regions, namely: North Sumatra, Jambi, Nangroe Aceh Darussallam, Riau, Riau Islands, West Sumatra, Bengkulu and Bangka Belitung; and

e. Makassar Heritage Center, with its working area covering 13 (thirteen) regions, namely: South Sulawesi, Central Sulawesi, West Sulawesi, North Sulawesi, Southeast Sulawesi, Bali, Papua, West Papua, East Nusa Tenggara, West Nusa Tenggara, Gorontalo, Maluku and North Maluku.

[11] Department of Law and Human Rights of the Republic of Indonesia, Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M.03-PR.07.10 of 2005,

4. Conclusion

Based on the results of the research related to the Role and Responsibilities of Notaries in making wills, it can be concluded that several important things related to the main formulation of the problem in this research are: 1. The role of a notary is only to make an authentic deed in accordance with the duties of a notary as stated in Article 15 of the UUJN and to formulate the wishes or actions of the parties into an authentic deed, taking into account the applicable legal provisions. This notary's responsibility arises from the obligations and authorities given to him, these obligations and authorities are legally and bindingly effective since the notary took his oath of office as a notary. The oath that has been taken is what should control all actions of the notary in carrying out his office. 2.

Notaries are responsible for the formal form of authentic deeds as stipulated by law. However, notaries are not only authorized to make wills in the sense of Verlijden, namely to compile, read and sign and which in the sense of making deeds in the form determined by law as referred to in Article 1868 of the Civil Code, but also based on the provisions contained in Article 16 paragraph (1) letter d UUJN, namely the obligation for notaries to provide services in accordance with the provisions of this law, unless there is a reason to refuse it. Notaries also provide legal advice and explanations regarding the provisions of the law to the parties appearing. After the will is made, the notary must help register it with the Central Will Register. A will deed made by a notary but not registered remains valid as authentic and is not legally void because it still meets the requirements. elements of an authentic deed and also does not apply as a private deed. The loss of the authenticity of the will deed if there is a judge's decision based on which the plaintiff can prove that the deed is not true and prove his assessment or statement in accordance with applicable legal regulations through the court process. Notaries who do not carry out their obligations to register and report wills to the Central Will Register are subject to sanctions in the form of written warnings, temporary dismissal, honorable dismissal and dishonorable dismissal, but these sanctions are rarely applied because there is still a lack of supervision and intensity of supervision by the Supervisory Board itself. Meanwhile, parties who feel they have suffered losses have the right to demand reimbursement of costs, compensation, and interest from the Notary through the courts. 3. Form and Nature of Wills Wills can be divided into 3 (three) types, namely: a. Open will for the public (Openbaar Testament), this will is made before a notary. By facing a notary, a will deed will be made in the form of an authentic deed, where all the contents of the will must be in writing, and affixed and signed by 2 (two) witnesses. b. Written will (Ologrhapis Testament), is a will that is entirely handwritten and signed by the testator himself, then the will is entrusted to a notary for safekeeping. The notary is then required to make a deed of safekeeping signed by the notary himself, the testator, and the witnesses. c. The form of a Will is open to the public (Openbaar Testament), Written Will (Ologrhapis Testament), Secret Will.

The nature of the Will Deed made before a notary must be notified to the Central Will Registration Section, both open testament (openbaar testament), written testament (olographic testament), or closed or secret testament. If the testamentary deed is not notified then the will will not be binding, so if the testamentary deed is notified then the testamentary deed will have binding properties.

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