The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.10053823

LEGAL CONSEQUENCES OF PROCEDURAL DEFECTIVE NOTARIAL DEEDS ON THE DEED OF ESTABLISHMENT OF LIMITED LIABILITY COMPANIES

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Abstract

An authentic deed contains formal truth based on what the parties have notified the Notary. However, the Notary must ensure that what is included in the notarial Deed is genuinely understood by the parties' wishes. Writing errors due to typing errors may occur in doing an authentic deed by a notary. Typical mistakes in notarial acts can be substantive or non-substantive. This research aims to determine the legal consequences of procedurally flawed notarial deeds. The method used is normative research with approaches, a statutory approach and *a* conceptual *approach*. Authentic acts must comply with the provisions regarding the form of deeds stipulated in Article 38 UUJN. Violation of these provisions results in the Deed being formally defective. As a result, the act loses its perfect evidentiary power and only becomes a private deed. Determining a notarial deed whose evidentiary value is degraded as a secret deed must be based on the decision of the District Court; as long as there is no such decision, the relevant act remains valid and binding.

Keywords: Legal consequences; Authentic Deed; Procedural Defects.

INTRODUCTION

Indonesia is a constitutional state that guarantees the right to freedom of association and assembly constitutionally. This can be found in the 1945 Constitution of the Republic of Indonesia (after this referred to as the 1945 Republic of Indonesia Constitution) Article 28, which regulates :

> "Freedom of association and assembly, expressing thoughts verbally and in writing and so on is stipulated by law."

And continued with Article 28 Letter E paragraph (3) of the 1945 Republic of Indonesia Constitution, which regulates:

> "Everyone has the right to freedom of association, assembly, and expression of opinion."

This means that the State, through the 1945 Constitution of the Republic of Indonesia as the highest legal principle, clearly states that it guarantees freedom of association, gathering and expressing opinions. The constitution's freedom of association and assembly guarantees are regulated more specifically through stipulating statutory regulations.

This is because establishing an association or association formed by the community has different objectives, so it has other legal impacts. Therefore, it is essential to strictly regulate the activities and existence of various organizations in society within the framework of an agreement to not give rise to legal abuse or smuggling, which could result in losses to the

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ISSN 1533-9211
DOI: 10.5281/zenodo.10053823

community and the State. In general, agreements are promises between the parties that are "contradictory," in certain agreements, the parties make promises that do not contradict each other, for example, in the agreement to establish a Limited Liability Company (after this referred to as PT) where the parties have the exact wishes. The same, namely depositing money as capital (shares) of the company, and each party expects profits from the PT.[1]

Until now, people active in the business world tend to form associations, commonly known as business entities, with different goals. Whether the aim is to seek profit, partnership, or just prioritizing social and religious matters, Business entities consist of two types of entities: business entities that are not legal entities and business entities that are legal entities. Business entities that are not legal entities are further divided into individual business entities, which include, among others, trading businesses (UD) and partnership business entities, which include *maatschaap*, firms, and limited liability companies (commanditaire *vennootschap).* Business entities that are legal entities can be divided into legal entities that aim to make *a profit*, including limited liability companies and cooperatives, and legal entities with non-profit purposes, including foundations and associations.[2]

Limited Liability Company (Limited Liability Company, Naamloze Vennootschap) is the most popular form of all forms of business entity. Limited Liability Companies (PT) are regulated in the Commercial Law (after this, referred to as the KUHD), which is more than one hundred years old. During this time, there have been many economic and business developments, both national and international.

This results in the KUHD no longer being in line with development demands. To overcome this and fulfill legal needs based on the demands of national development, it is necessary to reform the law regarding PT, namely Law Number 1 of 1995 concerning Limited Liability Companies, which will be replaced by Law Number 40 of 2007 (after this, referred to as UUPT).[3]

Limited Liability Companies as legal entities are born from legal processes, Article 1 UUPT 40/2007 regulates that:

Limited Liability Company, after this referred to as a company, is a legal entity, a capital association established based on an agreement, carries out business activities with authorized capital, which is divided into shares and meets the requirements stipulated in this Law and its implementing regulations.

Based on the provisions of Article 1 point 1 above, the main elements that give rise to a Company as a legal entity (*Rechtspersoon, Legal person, Legal entity*), the following conditions must be met:

a) Is a capital partnership;

b) Established by agreement;

c) Carrying out business activities;

d) The birth of a company goes through a legal process in the form of government approval.

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The establishment of a company is regulated in chapter 2 (two), part one of the Company Law, which consists of Articles 7 to 14. The legal requirements for the establishment of a company, if you examine the provisions regulated in part one, several conditions must be fulfilled for the establishment of a company to be valid. As a legal entity consisting of:

a) Must be established by 2 (two) people or more.

b) Establishment takes the form of a Notarial Deed.

c) Made in Indonesian.

d) Each founder is required to take shares.

e) Received approval from the MENHUK & HAM (Minister).[4]

The second condition, which is also regulated in Article 7 paragraph (1) of UU PT 40/2007, is that the method for establishing a Company must be made "in writing" (*schriftelijk, in writing*) in the form of a deed, namely:

a) In the form of a Notarial Deed (*Notariele Akte, Notarial Deed*), it must not be in the form of an underhand act (*underhandse akte, private instruments*)

b) The Deed of establishment must be in the form of a notarial deed, not only to function as *probationis causa.* This means that the Notary's act does not only function as "evidence" of the agreement to establish the Company. However, the Notarial Deed based on Article 7 Paragraph 1, at the same time has the character and function of *solemnitatis causa* , that is, if it is not made in the form of a Notarial deed, the Deed of establishment of the company does not meet the requirements, so that it cannot be given "ratification" by the government, in this case the Minister of Law & Human Rights.[5]

A notary is a public official who has the authority to serve the public in matters of producing written evidence, for example the Deed of establishment of a limited liability company, this authority is stated expressly in Article 15 Paragraph 1 of Law Number 30 of 2004 concerning the Position of Notaries as amended by Law Number 2 2014 concerning the Position of Notary (after this referred to as UUJN). According to Habib Adjie, [6]a public official is defined as an official who is entrusted with the task of making authentic deeds that serve the public interest. Then Habib explained that *openbare ambtenaren* is also appropriately interpreted as a public official. Meanwhile, according to Ghansham Anand, a public official is a position held or given to those who, by legal provisions, are given authority within the scope of civil law, namely to produce evidence in the form of authentic deeds at the request of the parties who need them . [7]Meanwhile, Sudikno Mertokusumo explained that Notaries (public officials) are government organs representing the government to serve needy people.[8]

In various business relationships, activities in banking, land, social activities, etc., the need for written evidence in the form of authentic deeds is increasing in line with the growing demand for legal certainty in various economic and social relationships, both at the national and regional levels. , as well as globally.[9]

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An authentic deed essentially contains formal truth per what the parties have notified the Notary. However, the Notary must ensure that what is included in the Notarial Deed is genuinely understood and by the wishes of the parties, namely by reading it so that the contents of the Notarial Deed become apparent, as well as providing access to information regarding relevant laws and regulations for the parties in the Deed. Thus, the parties can freely agree or disagree with the contents of the Notarial Deed they will sign. The signature on an authentic deed functions as a sign of agreement to the obligations attached to the Deed.[10]

Writing errors that occur due to typing errors may occur in the process of making an authentic deed by a notary. Typical errors in notarial acts can be substantive or non-substantive. A non-substantive typographical error means that the error does not cause a significant difference in telling in the substance of the Deed or even if there is a difference in the meaning of words. Still, in the context of the sentence it cannot be interpreted differently from what is intended, including errors in spelling, for example the word "negligent" is written "flies" and "basic budget" are written flat budget".

On the other hand, substantive typographical errors result in differences in meaning or significant differences in intent in the substance of the Deed, so that the importance of the act does not match what is intended to be stated in the Deed by the presenters (in the deed partij) or by the Notary (in *the* deed *relaas*). Substantive typographical errors include errors in writing numbers in the amount of money, time period and area of the object of sale and purchase, for example the thing of sale and purchase of a building covering an area of 200 m2 (two hundred square meters) is written as two square meters or Rp. 100,000.00 .- (one hundred thousand rupiah).[11]

One example is the Deed of establishment of PT Amanah Surya Agung domiciled in Makassar City, whose business activities include construction and trading services (building materials supplier). In the act there are many writing errors, the most crucial of which is the writing error " The authorized capital of the Company is 1,000,000,000 (one billion rupiah), divided into 1,000 (one thousand) shares, each share has a nominal value of Rp. 1,000,000 (one billion rupiah)" authorized capital of 1 billion does not start with "Rp" and the nominal share value of Rp. 1,000,000 is said to be 1 billion rupiah. This is because when the minutes of the Deed have been completed the signing and reading is not read in detail word for word, nor is it done together by the presenters or the Notary.[12] This is not in accordance with the provisions of Article 16 Paragraph 1 letter m UUJN, which require presenters, witnesses, and also the Notary to read the Deed up to signing at one time.

Apart from not being covered by Article 16 Paragraph 1 letter m UUJN, this also contradicts Article 16 Paragraph 8 UUJN, which states that even if the presenter asks for the Deed not to be read, at least the Notary is obliged to read the head of the Deed, comparisons, and explanations of the main points of the Deed briefly and clearly, as well as closing the Deed. As a result, there are errors that the author has described above, which can cause problems in the future if someone has a problem because the situation in the Deed relates to capital, where capital is an essential thing in a company. In this case, the Notary did not fulfill Article 16 Paragraph 1 letter M and Paragraph 8 UUJN requirements.

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In the process of ratifying the company's legal entity, the Deed of establishment of the PT must contain: the name and place of domicile of the company; the period of existence of the company; the aims and objectives and business activities of the company; the amount of authorized capital issued and paid-up capital; as well as the complete address of the company, as determined in Article 9 paragraph (1) of the PT Law. However, if in the Deed of Establishment of the PT above there is a writing error in the part of the company's capital that is an integral part of the Deed of Establishment of the PT, then in the future it could give rise to legal problems.

Research methods

This type of research is normative research with approaches, a statutory approach *and* a *conceptual approach*. [13]The collection of legal materials used in this research uses the literature study method to obtain primary and secondary legal materials. The legal materials that have been collected and inventoried are then processed and synchronized systematically to get a complete picture of the legal problems being studied.

RESEARCH RESULTS AND DISCUSSION

A notarial deed is an authentic deed made by or before a notary according to the form and procedures stipulated in the UUJN. A notarial deed becomes very useful for society if it can be used as evidence in the verification process, both in terms of personal interests and the interests of a particular business. Authentic deeds made by or before a notary are not only due to the necessity stipulated by law but also to the desire of the parties concerned to ensure their rights and obligations related to their legal actions for the sake of certainty, order, and legal protection for the parties . interests as well as for society as a whole.

The perfection of an authentic deed must fulfill the formulation regarding the validity of an agreement; if it does not meet the conditions for the validity of the contract, then the agreement can be canceled (not fulfilling the objective elements) and null and void (not fulfilling the objective factors), based on the provisions of Article 1320 of the Civil Code, which regulates the requirements for the validity of an agreement. The conditions for the agreement's validity are manifested in a notarial deed. Subjective requirements are included at the beginning of the act, so that if at the beginning of the show, especially the needs of the parties appearing before the Notary, do not fulfill the subjective requirements, then at the request of a particular person, the Deed can be cancelled, and the objective conditions are included in the body of the Deed as the content of the act. The Deed's contents embody Article 1338 of the Civil Code regarding freedom of contract and provide legal certainty and protection to the parties regarding the agreement they make. If the contents of the Deed do not fulfill the objective requirements of the deal, then the act is null and void.

1. The first subjective condition is agreement[14]

An agreement in an agreement manifests the will of two or more parties regarding what they want to be carried out, how to carry it out, when it must be carried out, and who must carry it out. If there is no agreement between the parties agreeing, either because there was error,

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coercion or fraud on the part of one of the parties to the agreement when the agreement was made (Articles 1321 to 1328 of the Civil Code) then the agreement can be requested to be annulled.

2. The second subjective requirement is competence[15]

To agree, the parties must be competent. Those who can and may act and bind themselves are competent to act and can carry out legal actions that bring legal consequences. Every person is considered capable of taking legal action as long as it is not otherwise determined by law (Article 1329 of the Civil Code); in other words, those who cannot act (incompetent) are people who are generally unable to take legal action. Competence is a general rule, while incompetence is an exception to it. Legally incompetent are those who are prohibited by law from taking legal action. Those deemed incompetent are minors or minors and those placed under guardianship. All of them, without the permission of representatives, namely parents or guardians, are declared unable to take legal action except through representative institutions.

Article 1868 of the Civil Code provides limitations on the elements of what is meant by an authentic deed, namely:

a. The Deed must be made by (*door*) or in the presence (*ten overstaan)* of a public official.
b. The Deed must be drawn up in the form prescribed by law.
c. The public employee (Public Official) in whose presence the Deed is made must have the authority to make the Deed.[16]

According to CA Kraan, an authentic deed has the following characteristics:

a. A writing, deliberately created solely to serve as evidence or proof of the situation as stated in the writing, is made and stated by an authorized official. The writing is also signed by or only signed by the official concerned.
b. Until there is evidence to the contrary, a writing is considered to come from an authorized official.
c. Legal provisions that must be fulfilled; These provisions regulate the procedures for making it (at a minimum, containing provisions regarding the date, place where a deed of writing is made, the name and position/position of the official who made it cq data where these things can be known).
d. An official who is appointed by the State and has the character and work of being independent (*onafhankelijk-ndependence*) and impartial (*onpartijdigheid-impartiality)* in carrying out his position.
e. Statements of facts or actions mentioned by officials are legal relations in the field of private law.

One of the authentic deeds is a notarial deed. A Notarial Deed is an authentic deed, because it is made in the form determined by UUJN, made by or in the presence of a public official who is authorized and in the place where the Deed is made. From the provisions of Article 1868 of

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the Civil Code mentioned above, there are several requirements for a deed to be authentic. These conditions will be described as follows:

1. The Deed must be made by or in the presence of a public official.[17]

A deed made by a Notary in notarial practice is called a deed of *relaas* or Deed of Minutes, the contents of which are in the form of a description that is seen and witnessed directly by the Notary himself at the request of the parties, to be included in an authentic deed. In practice, a deed made before a notary is called a Parties' Deed, the contents of which are the statements and wishes of the parties, and the parties wish to express this in the notarial Deed.

Making notarial deeds, both *relaas deeds* and party deeds, the main basis for making the Deed is a request from the parties, if there is no request from the parties then the Notary will not make the Deed.

2. The Deed must be drawn up in the form prescribed by law

After the UUJN's birth, the Notarial Deed's existence was confirmed because its form was determined by law, in this case specified in Article 38 UUJN.

3. The public official by - or before whom the Deed is made, must have the authority to make the Deed

The authority of a notary includes 4 (four) things, namely:[18]

a. The Notary must be authorized as far as the Deed that must be made is concerned;

The Notary's authority in making authentic deeds as long as other parties or officials do not exclude it, or the Notary also has the authority to make it in addition to being able to make it by other parties or officials, means that the Notary's authority in making authentic deeds has general authority. In contrast, other parties have limited authority.

b. The Notary must be authorized as far as the person(s) for whose benefit the Deed is made is concerned;

Even though a notary can make a deed for any person, in carrying out his/her position, the Notary is limited by the provisions of Article 52 UUJN, which stipulates that "a notary is not permitted to make a deed for himself, his wife/husband or other person who has a family relationship with the notary, either because of marriage or blood relationship in a straight downward and/or upward line of descent without limitation of degrees, as well as in a lateral line up to the third degree, as well as being a party for oneself or through proxy."

c. The Notary must be authorized as far as the place where the Deed is made;

Article 18 UUJN stipulates that a notary must be domiciled in a district or city area. Each Notary, according to his wishes, has a domicile and office in a district or city area (Article 19 paragraph (1) UUJN). Notaries have an area of office covering the entire province of their place of residence (Article 19 paragraph (2) UUJN). The purpose of these articles is that a notary carrying out his official duties must not only be in his office, because a notary has an office area throughout the province.

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d. The Notary must be authorized throughout the time the Deed is made;

When carrying out his official duties, a notary must be an active notary, which means he is not on leave or temporarily dismissed.

The juridical character of a notarial deed, namely:

1. Notarial deeds must be made in the form determined by law (UUJN);
2. A notarial deed is made at the request of the parties, and not the Notary's wishes;
3. Even though the notarial Deed contains the name of the Notary, in this case, the Notary does not have the status of a party together with the parties or persons whose names are listed in the Deed;
4. Has perfect evidentiary power. A notarial deed binds anyone and it cannot be interpreted otherwise, other than as stated in the Deed;
5. Cancellation of the binding force of a notarial deed can only be done with the agreement of the parties whose names are listed in the Deed. If someone does not agree, the party who disagrees must submit a request to the general court so that the Deed in question is no longer binding for certain reasons that can be proven.

A notary in making a deed has been determined by law regarding the form for each Deed he will make, as stated in Article 1868 Civil Code states that "an authentic deed is a deed that is in a form determined by law", a Notary in carrying out his/her office in making an authentic deed, is also obliged to follow the form of the Deed by what is stipulated by the Law. Regarding the nature and form of deeds regulated in the Law in Article 38 UUJN are as follows:[19]

1) "Every notarial Deed consists of:
   a. Beginning of the Deed or head of the Deed;
   b. Deed body; And
   c. The end or closing of the Deed.
2) The beginning of the Deed or head of the Deed contains:
   a. title;
   b. number;
   c. Hour, day, date, month and year;
   d. Full name and domicile of the Notary.
3) The body of the Deed contains:
   a. Full name, place and date of birth, nationality, occupation, title, position, place of residence of the presenters and/or the person they represent;
   b. Information regarding the acting position of the facing person;

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DOI: 10.5281/zenodo.10053823

c. The contents of the Deed constitute the wishes and desires of the interested parties;

d. Full name, place and date of birth, and occupation, title, position and residence of each identifying witness.

4) The end or closing of the Deed contains:

a. Description of the reading of the Deed as intended in Article 16 paragraph (1) letter m or Article 16 paragraph (7) UUJN;

b. Description of the signing and place of signing or translation of the Deed, if any;

c. Full name, date of birth, employment, title, position and residence of each witness to the Deed;

d. A description of the absence of changes that occurred in the making of the Deed or any changes which may be in the form of additions, deletions or replacements and the number of changes."

With these provisions, in every Deed, the Notary must comply with the provisions regarding the form of the Deed that have been stipulated in Article 38 UUJN. Violating these provisions results in the Deed only having the strength of proof like a private deed.

Fulfilling the formal requirements of a notarial deed is an important thing that makes the Deed an authentic deed or not an authentic deed and only has the power of private evidence, or even the Deed becomes null and void. Formal requirements include:[20]

a. Made before an authorized official, namely a notary;

Notaries, as public officials whomto the government has given authority, have the authority to make authentic deeds that aim to serve the interests of the general public.

b. Attended by the parties;

The parties to the Deed (facers) must be present when the Deed is drawn up. If the parties are unable or unable to attend, they can make a power of attorney giving power of attorney to another party to make the Deed.

c. Both parties are known or introduced to the Notary. There are at least 3 (three) ways to introduce the Notary to the presenter, namely:

1. Before the purpose of making the Deed, the Notary and the presenter have known each other personally, so that the relationship between the two has been deeply established both before the purpose of making the Deed and at the time the purpose of making the Deed.
2. The Notary and the presenter know each other based on the identity they provide, so that to make a deed the presenter is known to the Notary based on the identity of the presenter.
3. The Notary and the presenter do not previously know each other, and the Notary gets to know the presenter by being introduced by an identifying witness or by another presenter who introduces the presenter to the Notary.

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d. Attended by two witnesses;

The two witnesses who are present when making a deed are intended as deed witnesses or instrument witnesses. These namely witnesses witness the formality of a deed, whether the formal requirements of a deed have been carried out as well as possible or not.

e. State the identity of the Notary, presenter and witnesses ;

The identity of the Notary, presenter and witnesses in a deed must be stated and stated explicitly in the notarial Deed, this aims to ensure that the parties to the notarial Deed know the truth of their identity so that if there is a mistake in their identity they can immediately notify the Notary to have it corrected.

f. Mention the place, day, month and year of making the Deed;

The purpose of mentioning the place, day, month and year when the Deed was made is to provide clarity and truth regarding the birth of a notarial deed, so that by reading a notarial deed we can find out when and where the notarial Deed was born.

g. The Notary reads the Deed in front of the audience and witnesses ;

The purpose of reading a deed by a notary in the presence of the presenter and witnesses is so that the presenter who wishes to make a deed before the Notary, who has conveyed his wishes to the Notary, and has formulated his wishes by the Notary or consolidated his wishes into a notarial deed, actually knows all the contents of the notarial Deed and is fully aware of the contents of the notarial Deed, whether it is by the wishes he wishes to achieve or not. However, in certain cases the Deed may not be read, namely if the parties themselves have read the Deed they are about to sign and understand the contents of the Deed. This must be stated explicitly at the end of the Deed.

h. Signed by all parties, witnesses and Notary;

A notarial deed must contain signatures from all parties, namely the presenter, witnesses and Notary. Scientifically, it is said that the aim and purpose of signing is a statement of the will of the signatory (signatory), that by affixing his signature under a writing he wishes that the writing be considered in law as his writing. By signing a notarial deed, the party signing it acknowledges and agrees to everything stated in the notarial Deed.

If even one of these formal requirements is not fulfilled, it will result in the relevant notarial Deed containing formal defects. As a result, the Deed loses its perfect evidentiary power and only becomes a private deed that can only be accepted as evidence if the parties who signed the Deed admit it. It does not have perfect evidentiary power to prove the disputed case. The evidentiary value of the authentic Deed is:[21]

1. Externally, this means that the Deed itself proves its validity as an authentic deed until it is proven otherwise, which means until someone proves that the Deed is not an authentic deed outwardly. In this case, the burden of proof is on the party who denies the authenticity of the Deed. The parameters for determining a notarial deed as an authentic deed are the

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signature of the Notary concerned, both in the minutes and a copy of the Deed, as well as the beginning of the Deed from the title to the end of the Deed.

2. Formally, a notarial deed should provide certainty that the Notary actually carried out the events in the Deed. Ensure the correctness and certainty of the day, date, month, year, time of appearance, and the identity of the parties appearing, initials and signatures of the parties appearing, witnesses and notaries, as well as the place where the Deed was made.
3. Materially, this material evidentiary value confirms the materiality of the Deed. The contents of the Deed are valid evidence for the parties who made the Deed, unless a party can prove otherwise that the contents of the Deed written down by the Notary at the request of the parties are not true.

The three aspects mentioned above constitute the perfection of a notarial deed as an authentic deed. If it can be proven in a court trial that any one aspect is incorrect, then the Deed does not have perfect evidentiary power.

One of the obligations of a notary in making a deed is regulated by Article 16 paragraph (1) letter m of the UUJN which states that: "in carrying out his office, a notary is obliged to read the deed in the presence of at least two witnesses and to be signed at the same time by the presenter, the witness and Notary Public". Furthermore, in the explanation of the provisions of Article 16 paragraph (1) letter m UUJN emphasizes that: "the notary must be physically present and sign the deed in the presence of the person present and witnesses". If the formal requirements for making a deed are not met, then the Deed made by a notary only has the power of proof as a private deed.[22]

It is regulated in Article 16 paragraph (1) letter m UUJN that the reading of the Deed up to the signing of the Deed must be done in the presence of a notary. This provision is reaffirmed in Article 44 UUJN, which regulates that:

(1) As soon as the Deed is read, the Deed is signed by each presenter, witness and Notary, unless there is a presenter who cannot sign and state the reason.

(2) The reasons, as intended in paragraph (1), are stated explicitly at the end of the Deed.

(3) The Deed as intended in Article 43 paragraph (3) is signed by the presenter, Notary, witness and official translator.

(4) The reading, translation or explanation and signing as intended in paragraph (1) and paragraph (3) as well as in Article 43 paragraph (3) are stated expressly at the end of the Deed.

The provisions for reading and signing are an integral part of the inauguration of a deed, so if these rules are violated then the Deed that was originally made as an authentic deed will cause the Deed to have the power of proof as a private deed.

A notarial deed is a means of evidence that has perfect evidentiary power if all procedural provisions or procedures for making the Deed are fulfilled. If there are procedures that are not fulfilled, and the procedures that are not fulfilled can be proven, then the Deed through court

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proceedings can be declared a deed with the power of proof as a private deed. If it is in such a position, then the value of the evidence is handed over to the judge.[23] Thus, a Notary in making an authentic deed must adhere to the principle of notarial prudence (*principle of prudent notarius*), the principle of not exceeding the limits of authority (*principle of ultra vires*), the principle *of knowing your customer* , and the principle identify documents in the form of writing, content, legality (*principle of identity for validity*). [24]

A decrease in the strength of the notarial Deed's evidentiary status can occur if the requirements are violated under applicable law during its preparation. One form of violation is making deeds that are not by the facts, there are even notaries who falsify deeds that are made by containing provisions and events that are not desired by one of the parties involved in the Deed. Other violations can occur if the Notary in making the Deed does not guarantee the formal correctness of the Deed, meaning that there is a procedural violation in making the Deed. Apart from that, this is also due to parties who never appeared before the Notary or the parties did not appear simultaneously, or the Deed was not read by the Notary to the presenters and witnesses, or the Deed was not signed on the same date by the presenters. Violations can also occur if the party appearing in the Deed is not known or introduced to the Notary.[25]

Determining a notarial deed whose evidentiary value has been degraded as a private deed is not necessarily done by the parties themselves, by the Notary who made it, or by another party, but must be based on the decision of the District Court by first submitting the matter to the Notary who made the Deed. As long as there is no such decision, the Deed remains valid and binding. In this case, the Notary must be sure that the Deed made in front of and by the Notary meets the physical, material, and formal requirements.

Notarial deeds are the product of public officials, so the assessment of notarial deeds must be carried out based on the principle of presumption of validity (Vermoeden van Rechtmatigheid). This principle can be used to assess notarial deeds, namely that notarial deeds must be considered valid until a party declares the Deed invalid. To declare or judge the Deed invalid, you must file a lawsuit in a general court. As long as the lawsuit continues until there is a court decision that has permanent legal force, the notarial Deed remains valid and binding on the parties or anyone who has an interest in the Deed.[26]

CONCLUSION

When a notary makes a deed, he does not guarantee the formal correctness of the Deed, meaning there is a procedural violation in making the Deed. Authentic deeds must comply with the provisions regarding the form of deeds stipulated in Article 38 UUJN. Violation of these provisions results in the Deed being formally defective. As a result, the Deed loses its perfect evidentiary power and only becomes a private deed, which can only be accepted as evidence if the parties who signed the Deed admit it and do not have perfect evidentiary power to prove the disputed case. Determining a notarial deed whose evidentiary value has been degraded as a private deed is not necessarily done by the parties themselves, by the Notary who made it, or by another party. Still, it must be based on the decision of the District Court by first submitting the matter to the Notary who made the Deed. As long as there is no such decision, the Deed

The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.10053823

remains valid and binding. In this case, the Notary must be sure that the Deed made in front of and by the Notary meets the physical, material, and formal requirements.

Notes

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2) Law Number 40 of 2007 concerning Limited Liability Companies after this referred to as UUPT.
3) M. Yahya Harahap, Limited Liability Company Law 7th Edition, Sinar Graphics, Jakarta, 2019, Page 161.
4) Achmad Ichsan, Commercial Law of the Securities Association, Transportation Rules, Gramedia Digital, 1987, Page 146
5) Habib Adjie, Civil and Administrative Sanctions Against Notaries as Public Officials Relating to Deeds Based on the Law on Notary Positions, Dissertation, Airlangga University Postgraduate Program, Surabaya, 2007, Page 55.
6) Fahrawi, AM, Nur, S., & Mirzana, H. (2023). Responsibilities of Notaries with Suspect Status in Making Authentic Deeds. PETITUM, 10(2),. H 193 https://doi.org/10.36090/jh.v10i2.1275
7) Muhammad Ali Marzuki , Notary's Responsibility for Typical Errors in the Minutes of a Deed that Has Already Issued a Copy of the Deed , Volume 4, Number 2, August 2018,
8) This statement is based on information from the Director of PT. Surya Agung's mandate obtained by the author from pre-research.
9) Handayani, H., Ilmar, A., & Aswan, M. . (2023). Arrangement of Honorarium for Land Deed Officials. *Amanna Gappa* , *31* (2), p. 85
10) Indah Juwita, *in Thesis on the Legal Strength of Notarial Deeds That Don't Have Stamps* , Master of Notary, Hasanuddin University, Makassar, 2017, p.68
11) *Ibid* , p. 69
12) Habib Adjie, *Invalidity and Cancellation of Notarial Deeds, (Habib Adjie III),* Refika Aditama, Bandung, 2015, p. 6.
13) Habib Adjie (III *), Op. Cit.,* p. 10
14) *ibid,* p. 13
15) Article 38, Law of the Republic of Indonesia Number 30 of 2004 concerning the Position of Notary as amended by Law Number 02 of 2014 .
16) Sjaifurrachman and Habib Adjie, *Aspects of Notary Responsibility in Making Deeds* . Mandar Maju , 2011 , p. 116
17) *Ibid* , p.120
18) Habib Adjie, Civil and Administrative Sanctions Against Notaries as Public Officials, (Habib Adjie IV), Refika Aditama, Bandung, 2008, p. 35
19) Amalia, R., Musakkir, M., & Muchtar, S. (2021). Notary's Responsibility for Contents of an Authentic Deed that Are Not by the Facts. *Al-Islah: Legal Scientific Journal* , *24* (1), p. 197 https://doi.org/10.56087/aijih.v24i1.77
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The Seybold Report
ISSN 1533-9211
DOI: 10.5281/zenodo.10053823

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