

The Role of Notaries in Civil Agreements Legality and Validity of Deeds

Ratih Mega Puspa Sari¹, Agus Iskandar PP², Cindy Sandra Lumingkewas³, Mariani⁴

¹ Universitas Islam Sultan Agung, Semarang, Indonesia

² Fakultas Hukum Ilmu Sosial dan Ilmu Politik Universitas Terbuka, Indonesia

³ Politeknik Negeri Manado, Indonesia

⁴ Universitas Islam negeri antasasi Banjarmasin, Indonesia

Email: ratihmega@unissula.ac.id

Received : February 27, 2025

Revised : March 18, 2025

Accepted : April 10, 2025

Published : April 28, 2025

Corresponding Author:

Ratih Mega Puspa Sari

ratihmega@unissula.ac.id



Abstract: *This study aims to analyze the role of notaries in ensuring the legality and validity of deeds as legal instruments in civil agreements. The main focus of this study is how notaries through their authority in making authentic deeds can provide legal protection and create legal certainty for the parties who agree in civil legal relations. The method used is the normative legal research method with a statute approach, a conceptual approach, and a case approach. Data were obtained from primary legal materials such as laws and court decisions, secondary legal materials in the form of literature and scientific articles, and tertiary legal materials as a complement. Data collection techniques were carried out through literature studies and analyzed descriptively-qualitatively. The results of the study show that notaries play a vital role in ensuring the formal and material validity of an agreement through the authentic deeds they make. Notaries not only act as public officials who record the will of the parties, but also as guardians of professionalism, integrity, and legal order in society. Therefore, enforcement of professional standards and supervision of notarial practices are important in ensuring that notarial functions run in accordance with the principles of justice and legal certainty.*

Keywords: *Notary, Civil Agreement, Authentic Deed, Legality, Validity, Civil Law.*

INTRODUCTION

In civil law practice in Indonesia, authentic deeds have a very important role as strong evidence in court. One of the public officials authorized to make authentic deeds is a notary.¹Based on Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, it is stated that a notary is a public official who is authorized to

make authentic deeds regarding all acts, agreements, and provisions required by laws and/or which are desired by the interested parties to be stated in an authentic deed.²This shows that notaries do not only carry out administrative functions, but also play a role as guarantors of legal certainty in community life, especially in the realm of civil law.

¹Moertiono, R. J. (2021). Perjanjian Kredit Pemilikan Rumah Dalam Perspektif Teori Perlindungan Hukum. All Fields Of Science Journal Liaison Academia And Society, 1(3), 252-262.

²Melinda, S., & Djajaputra, G. (2021). Pembuatan Akta Notaris Di Luar Wilayah

Jabatannya Berdasarkan Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris. Syntax Literate; Jurnal Ilmiah Indonesia, 6(7), 3521-3541.

This authority gives notaries an important role in the process of making agreements that have legally binding force.³A deed made by a notary, as an authentic deed, has perfect evidentiary power before the law, so its existence is very crucial in preventing and resolving civil disputes in the future. A notary is obliged to ensure that every deed made has met the formal and material requirements determined by law, including ensuring the agreement of the parties, their legal capacity, and the truth of the contents of the agreement.⁴

In this framework, the notary's position is not only limited to administrative recording, but also a form of preventive supervision of the validity and legality of agreements made by the community. Therefore, the notary's competence, integrity, and compliance with the code of ethics and laws and regulations are non-negotiable to guarantee the validity of the deed made. If the notary is negligent or deviates from legal procedures, the resulting deed can lose its authentic power, and even potentially be canceled by the court.⁵

Thus, it is important to examine in more depth how the role of notaries in guaranteeing the legality and validity of deeds in civil agreements, as well as what the legal position of authentic deeds is in the practice of agreements in society. This study is relevant to assess the extent of the

effectiveness of the role of notaries in guaranteeing legal protection through the deeds they make, as well as identifying potential legal problems that arise due to violations of procedures or abuse of authority.⁶

In the context of civil agreements, the existence of a notarial deed is a strategic and essential legal instrument in ensuring legal certainty, legal protection, and justice for the parties to the agreement. A deed made by a notary has higher evidentiary power than a private deed, because an authentic deed is considered to have met the formal and material requirements as determined by law. Therefore, a notarial deed is not merely a written document, but also functions as a strong and valid evidence in the process of proof in court, and even has perfect evidentiary power as long as it cannot be proven otherwise.⁷

Moreover, the existence of a notarial deed also reflects preventive protection in civil law. A notary has the responsibility to verify the identity of the parties, ensure that there is a free agreement without any coercion, and assess whether the object of the agreement is legally valid. Thus, a notarial deed provides legal assurance that the content and form of an agreement have been prepared in accordance with the provisions of laws and regulations, and minimizes the potential for disputes in the future.⁸

³Moertiono, R. J. (2021). Perjanjian Kredit Pemilikan Rumah Dalam Perspektif Teori Perlindungan Hukum. *All Fields Of Science Journal Liaison Academia And Society*, 1(3), 252-262.

⁴Raihani, N., & Hidayati, N. (2024). Tanggung Jawab Notaris Dalam Akta Otentik Yang Cacat Hukum. *Jurnal Lawnesia (Jurnal Hukum Negara Indonesia)*, 3(2), 519-535.

⁵Damanik, G. Y., Hadiati, M., & Jovian, E. (2023). Perlindungan Hukum Bagi Pemilik Tanah Dari Aparat Yang Tidak Bertanggung Jawab. *Jurnal Kewarganegaraan*, 7(1), 909-917.

⁶Lediana, E., Sailallah, S., & Turhamun, M. S. (2023). Optimalisasi Kewenangan Notaris Dalam Pembuatan Akta Otentik Terhadap Pembagian Warisan Berdasarkan Hukum Waris Adat Sai Batin Buay Pernong Di Lampung Barat. *Jurnal Multidisiplin Indonesia*, 2(8), 2056-2072.

⁷Sutrisno, L. B. (2024). Kekuatan Hukum Akta Perdamaian (Van Dading) Yang Dibuat Oleh Notaris Dalam Penyelesaian Sengketa Pertanahan Di Indonesia (Doctoral Dissertation, Universitas Islam Sultan Agung Semarang).

⁸Fardela, B. (2024). Keabsahan Tanda Tangan Elektronik Pada Pembuatan Akta Notaris Dalam

In addition to being a means of evidence, notarial deeds also have value as a form of legal guidance to the community. Through the process of consultation and making deeds, notaries help the community understand their legal rights and obligations, while preventing them from high-risk or unlawful agreement practices. In this case, notaries act as parties who bridge the legal needs of the community with the provisions of applicable positive law.⁹

However, the effectiveness of this function is highly dependent on the notary's compliance with legal procedures, as well as integrity and professionalism in carrying out his duties. Errors or negligence in making a deed, both in terms of form and material, can have serious implications for the validity of the deed and have a direct impact on the rights of the parties involved in the agreement. Therefore, it is important to review the extent of the notary's role in ensuring that every deed made is not only legally valid, but also truly reflects the will and legal interests of the parties. The legality and validity of the deed made by the notary are crucial, especially when there is a legal dispute that requires proof in court.¹⁰

In practice, issues often arise regarding the validity of a notarial deed, either due to administrative errors, errors in the application of procedures, or deviations from the provisions stipulated in the law. This raises questions about the extent of the notary's role in guaranteeing the legality and validity of the deed, and how the deed can be used as a valid legal basis in a civil agreement. Based on this background, this

study aims to examine in more depth the role of notaries in civil agreements, especially from the aspect of the legality and validity of the deed made. With a comprehensive understanding of the role and responsibilities of notaries, it is hoped that this study can contribute to improving the quality of notarial services and strengthening legal protection for the community in making civil agreements.

METHODOLOGY

This research uses a normative legal research method, namely research conducted by reviewing and analyzing laws and regulations, legal doctrines, and court decisions that are relevant to the role of notaries in civil agreements, especially regarding the legality and validity of deeds.¹¹The approaches used in this study include the statute approach, the conceptual approach, and the case approach. The statutory approach is carried out by examining the legal provisions governing the position of notary, such as Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, the Civil Code (KUHPerdata), and other related regulations. The conceptual approach is used to examine legal concepts regarding authentic deeds, legality of agreements, and validity of deeds from a civil law perspective. Meanwhile, the case approach is carried out by examining several court decisions relating to disputes regarding the validity of notarial deeds in civil agreements.

The data sources in this study consist of primary legal materials,

Perspektif Hukum Positif Di Indonesia (Master's Thesis, Universitas Islam Sultan Agung (Indonesia)).

⁹Kholidah, K., Hasibuan, P. H., Alamsyah, M. R., Ramadani, A. F., & Keramat, A. (2024). Notaris Dan Ppat Di Indonesia: Aplikasi Teori Dan Praktik Dalam Pembuatan Akta.

¹⁰Rahmawati, M. A., & Wahyuni, S. (2025). Kontroversi Layanan Ppat Dalam Keabsahan Proses

Pembuatan Akta Peralihan Hak Atas Tanah. Das Sollen: Jurnal Kajian Kontemporer Hukum Dan Masyarakat, 3(01)..

¹¹Anggoro, T. D. (2023). Analisis Pemalsuan Pembuatan Akta Jual Beli Oleh Notaris (Tinjauan Putusan Peninjauan Kembali Mahkamah Agung Nomor 20 Pk/Pid/2020). Jurnal Bevinding, 1(07), 52-62..

secondary legal materials, and tertiary legal materials. Primary legal materials include relevant laws and regulations and jurisprudence, while secondary legal materials include books, journals, and scientific articles that discuss the role and authority of notaries. Tertiary legal materials are used as a complement to clarify certain legal terms or concepts. The technique of collecting legal materials is carried out through literature studies by tracing legal documents, literature, and other academic reference sources. All legal materials collected are then analyzed descriptively-qualitatively, by systematically describing and interpreting the contents of the legal materials to draw logical and argumentative conclusions regarding the role of notaries in guaranteeing the legality and validity of deeds in civil agreements.

RESULTS AND DISCUSSION

Definition of Civil Agreement According to the Civil Code.

According to the Indonesian Civil Code (KUH Perdata), a civil agreement is defined in Article 1313 as an act in which one or more persons bind themselves to one or more other persons. In other words, an agreement is an agreement between two or more parties that creates a legal bond, in which the parties promise each other to do or not do something. This legal bond creates rights and obligations that must be fulfilled by each party in accordance with the contents of the agreement.¹²This

definition emphasizes the importance of an agreement or consensus between the parties as the basis for forming a binding legal relationship. In addition, in order for the agreement to be legally valid, the agreement must meet certain requirements as stipulated in Article 1320 of the Civil Code, namely agreement of the parties, capacity of the parties, a certain thing, and a lawful cause. Thus, a civil agreement becomes the main basis for forming a legal relationship that regulates the rights and obligations of the parties in various aspects of life, including in the realm of civil law.¹³

According to Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, a notary is a public official who is authorized to make authentic deeds and has other authorities regulated by law. A notary is tasked with making authentic deeds, namely deeds made by an authorized official in accordance with certain forms and procedures so that they have perfect evidentiary power before the law.¹⁴In addition, notaries also serve to provide legal advice needed in making deeds and safeguard the legal interests of the parties fairly and professionally. Thus, notaries are not just recorders or document makers, but also officials who guarantee certainty, validity, and legal integrity in various transactions and agreements set forth in authentic deeds. The position of notary is also regulated by a code of ethics and regulations that require them to carry out their duties with integrity, professionalism, and impartiality.¹⁵

¹²Ratnaningsih, I. D. A. S., & Dewi, C. I. D. L. (2024). Sahnya Suatu Perjanjian Berdasarkan Kitab Undang-Undang Hukum Perdata. *Jurnal Risalah Kenotariatan*, 5(1), 11-18..

¹³Ratnaningsih, I. D. A. S., & Dewi, C. I. D. L. (2024). Sahnya Suatu Perjanjian Berdasarkan Kitab Undang-Undang Hukum Perdata. *Jurnal Risalah Kenotariatan*, 5(1), 11-18

¹⁴Nurlaela, E. (2020). Status Akta Perbankan Syariah Yang Dibuat Oleh Notaris Dihubungkan Dengan Kewenangan Yang Diatur Oleh Undang-Undang No. 2 Tahun 2014 Sebagai Perubahan Atas Undang-Undang No. 30 Tahun 2004 Tentang Jabatan Notaris. *Aktualita (Jurnal Hukum)*, 3(1), 258-267.

¹⁵Muza, Y. N. (2024). Peran Dan Akibat Hukum Bagi Notaris Terhadap Akta Autentik Yang Di Buat

In civil law, deeds are divided into two main types, namely authentic deeds and private deeds, both of which have different functions and legal force. An authentic deed is a deed made by an authorized public official, such as a notary, by following certain procedures and forms in accordance with legal provisions. This deed has perfect evidentiary power, meaning that the contents and truth of the deed are considered true before the law until there is evidence to the contrary. Because it is made by an authorized official and with strict formal procedures, an authentic deed provides high legal certainty and is usually used in important transactions such as land sale and purchase agreements, marriage agreements, or wills.¹⁶

Meanwhile, a private deed is a written document made and signed directly by the parties without the intervention of a public official. This deed has lower evidentiary power than an authentic deed because it is only considered as ordinary evidence whose truth can be refuted through other evidence. Private deeds are often used in everyday agreements that are not too formal, such as rental agreements, receipts, or simple agreements. However, private deeds still have legal value as long as they meet the requirements for the validity of the agreement, but if a dispute occurs, the proof tends to be more difficult than an authentic deed. Therefore, in legal practice, the making of an authentic deed by

a notary is highly recommended, especially for agreements that require legal certainty and maximum protection for the parties.¹⁷

The Role of Notaries in Making Civil Agreements

Notaries play an important role as public officials who are authorized to make authentic deeds in accordance with applicable laws and regulations. As the maker of authentic deeds, notaries are responsible for compiling documents that have perfect evidentiary power before the law, so that the contents and form of the deed are legally recognized and binding on the parties involved.¹⁸In carrying out their duties, notaries must ensure that the deeds made meet formal and material requirements, such as compliance with the law, the truth of the identities of the parties, and agreements that actually occur without any elements of coercion or fraud. Notaries also function as official witnesses who state that the deed has been made with the correct procedure and in accordance with the law.¹⁹

In addition, notaries have an obligation to provide explanations and legal advice to the parties so that they understand the contents and consequences of the deed to be signed. Thus, the role of a notary is not only limited to making documents, but also as a guarantor of legal certainty and protection for all parties involved in a legal agreement or transaction. This authority and responsibility requires notaries to carry

(Doctoral Dissertation, Universitas Islam Sultan Agung Semarang).

¹⁶Wonggo, W. W., Widyanti, A. N., & Karya, W. (2025). Perlindungan Hukum Bagi Para Pihak Dalam Perkara Pemalsuan Data Untuk Pembuatan Akta Otentik Oleh Notaris Dan Karyawannya. *Journal Of Innovation Research And Knowledge*, 4(10), 7879-7892.

¹⁷Wirasari, F. (2021). Kekuatan Pembuktian Surat Dibawah Tangan Yang Dilegalisasi Oleh Notaris Menurut Undang-Undang Nomor 2 Tahun 2014 (Master's Thesis, Universitas Islam Sultan Agung (Indonesia)).

¹⁸Abady, A. R. P., & Rahayu, M. I. F. (2023). Penyuluhan Hukum Pembuatan Akta Oleh Notaris Berdasarkan Undang-Undang Nomor 2 Tahun 2014 Tentang Jabatan Notaris. *Journal On Education*, 5(2), 4248-4258..

¹⁹Firdaus, D. R. (2020). Akibat Hukum Dan Tanggung Jawab Notaris Terhadap Akta Yang Mengandung Unsur Penyalahgunaan Keadaan Berdasarkan Putusan Pengadilan Negeri Surabaya Nomor 77/Pdt. G/2020/Pn. Sby. *Indonesian Notary*, 4(1), 12.

out their profession with integrity, professionalism, and neutrality so that the deeds made truly reflect the will and legal interests of the parties fairly and legally. Therefore, the existence of a notary as a maker of authentic deeds is very vital in the civil law system, especially in preventing legal disputes arising from the ambiguity or invalidity of the agreement document.²⁰

Notaries play a very important role as a neutral and independent party in every process of making authentic deeds. As a public official appointed and regulated by law, notaries must carry out their duties without siding with either party in a legal agreement or transaction. This neutral attitude is the main basis for notaries to act as fair and objective mediators, so that all parties involved feel that their rights and obligations are protected in a balanced manner. By maintaining neutrality, notaries also contribute to building public trust in the legal system, especially in the civil realm.²¹

In addition, a notary serves as a guarantor of legal certainty, namely ensuring that the deed made truly meets all applicable legal provisions, starting from the validity of the identity of the parties, a valid agreement, to the fulfillment of the formal requirements of the deed. This legal certainty is very important to avoid disputes in the future, because an authentic deed prepared by a notary has perfect evidentiary power in court. Thus, a notary does not only record or create documents, but also provides preventive legal protection for the

parties by preventing any ambiguity or deviation in the contents of the agreement. This role requires a notary to always carry out his profession with integrity, professionalism, and caution, so that his presence can guarantee the creation of a strong legal relationship that can be legally accounted for.²²

One of the main functions of a notary is to provide a comprehensive legal explanation to the parties who will make an agreement or authentic deed document. In this role, the notary is tasked with ensuring that each party clearly understands the contents, rights, and obligations stated in the deed, including the legal consequences that will arise from the agreement. The explanation provided by the notary is not only technical or formal, but also includes substantial aspects so that the parties can make the right decisions and based on adequate information. This function is very important to prevent misunderstandings or disputes that may arise in the future due to a lack of understanding of the contents of the agreement.²³

In addition to providing legal explanations, notaries also play a role in channeling and recording the will of the parties objectively and accurately into a valid deed. Notaries must ensure that the deed made truly reflects the agreement and will of the parties freely without any coercion, fraud, or pressure from any party. Thus, notaries function as guardians of integrity and honesty in the deed-making process, so that the resulting documents can

²⁰Putri, K. M., Anwary, I., & Haiti, D. (2022). Kewajiban Notaris Melakukan Pembacaan Dan Penandatanganan Akta Di Depan Semua Pihak Secara Bersama-Sama. *Notary Law Journal*, 1(2), 157-175

²¹Bondi, A. J., Aradoni, E. B., Naif, M. Y., & Rabawati, D. W. (2024). Peran Dan Tanggung Jawab Notaris Dalam Pelayanan Kepada Publik Sesuai Dengan Moral Etika Profesi Dan Undang-Undang. *Socius: Jurnal Penelitian Ilmu-Ilmu Sosial*, 1(6)

²²Purwanto, P. (2025). Peran Dan Tanggung Jawab Notaris Dalam Pembuatan Akta Wasiat Yang Berpotensi Melanggar Hak Ahli Waris Berdasarkan Hukum Waris Islam Di Kecamatan Jepara (Doctoral Dissertation, Universitas Islam Sultan Agung Semarang)..

²³Muza, Y. N. (2024). Peran Dan Akibat Hukum Bagi Notaris Terhadap Akta Autentik Yang Di Buat (Doctoral Dissertation, Universitas Islam Sultan Agung Semarang)

be legally accounted for and meet the principles of justice. This function strengthens the position of notaries as legal mediators who provide protection and certainty for all parties involved in civil agreements.²⁴

Legal protection for parties who make agreements through a notary is one of the most crucial aspects in civil law practice. By involving a notary as an official authorized to make authentic deeds, the parties are guaranteed that the agreement they make has been drawn up formally and materially in accordance with applicable legal provisions. Notarial deeds have perfect evidentiary power, so that if a dispute occurs, the document will be a very strong evidence in court. This provides significant preventive protection, because the notary ensures that every clause and content of the agreement has met the requirements for the validity of the agreement and does not conflict with the law and public order.²⁵

In addition, the legal protection provided by a notary also includes aspects of verifying the identity and will of the parties as a whole. The notary is obliged to ensure that all parties who sign the deed are truly competent and act without any pressure, coercion, or fraud. Thus, the parties are protected from the risk of a legally flawed or invalid agreement due to procedural or substantive errors. The notary also acts as a legal consultant who provides explanations and advice so that the parties understand the legal consequences of the agreement they make, so that the decisions

taken are truly based on mature legal awareness. Overall, the involvement of a notary in making an agreement strengthens legal certainty and justice and provides a sense of security for the parties in exercising their rights and obligations according to the agreement.²⁶

Legality of Notarial Deeds

The legality of a notarial deed is highly dependent on the fulfillment of the legal requirements, which include formal and material aspects. From a formal perspective, a notarial deed must be made by an authorized official, namely a notary, who carries out his duties in accordance with statutory provisions. The procedure for making a deed must follow strictly regulated procedures, including the inclusion of the date, the identity of the parties clearly and completely, and the use of language that is understood by all parties. In addition, the deed must be made in written form, signed by the parties and the notary, and prepared in duplicate according to legal requirements. Fulfillment of these formal aspects ensures that the deed has a legally valid structure and format so that it can be accepted as authentic evidence in court.²⁷

Meanwhile, from a material perspective, the legality of a notarial deed requires that the contents or substance of the agreement in the deed must meet the requirements for a valid agreement as stipulated in the Civil Code. This means that the contents of the deed must reflect an agreement that is free from elements of

²⁴Firmanda, Y. (2023). *Perlindungan Hukum Terhadap Debitur Yang Melakukan Kredit Kepemilikan Rumah Sebelum Perkawinan*.

²⁵Naufaldy, M. B., & Bonaparta, G. L. (2023). *Peran Notaris Sebagai Pihak Pelapor Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang*. *Unes Law Review*, 6(2), 4802-4816..

²⁶Fahmi, M. E. (2024). *Peran Dan Tanggungjawab Saksi Instrumentair Sebagai Pegawai Notaris Dalam Hukum Kenotariatan*. *Jurnal Hukum Bisnis*, 8(3), 1374-1388.

²⁷Widyastuti, T. (2023). *Tanggungjawab Pejabat Pembuat Akta Tanah (Ppat) Terhadap Akta Jual Beli Tanah Yang Dibatalkan Dengan Akta Jual Beli (Master's Thesis, Universitas Islam Sultan Agung (Indonesia))*.

coercion, fraud, or error, and must have a clear object and not conflict with the law, morality, or public order. The parties making the deed must be legally competent and have the ability to bind themselves to the agreement. Thus, a notarial deed that is legally valid is a reflection of the will of the parties that is truly valid and can be legally accounted for.²⁸Fulfillment of these formal and material requirements together provides strong legal force for a notarial deed, so that the deed can function as perfect evidence and become a solid basis in guaranteeing legal certainty for the parties. The authority of a notary in making a deed (Article 15 UUJN).²⁹

The procedure and procedure for making an authentic deed is an important aspect that determines the legality and legal force of a notarial deed. The process of making an authentic deed must be carried out by a notary as an authorized public official in accordance with the provisions of the Notary Law. In the initial stage, the notary is required to identify and verify the parties who will make the deed, including ensuring legal capacity and valid identity, and explaining the contents and legal consequences of the deed to be made. After that, the notary prepares the deed in writing based on the information and agreements submitted by the parties, paying attention to the clarity and accuracy of the legal language used so as not to cause confusion or misinterpretation.³⁰

Next, the deed must be read in full before the parties to obtain their approval and ensure that the contents of the deed are

in accordance with their wishes. After the parties have agreed, the deed is signed by the parties and the notary as proof of the authenticity of the document. The notary then records and stores the original deed in his archive neatly and safely, and provides a copy of the deed to the parties as needed. This procedure ensures that the deed is made in a transparent, accountable manner, and in accordance with legal standards, so that the deed has perfect evidentiary power in court. Thus, compliance with the procedures and procedures for making authentic deeds is the main foundation in guaranteeing the legality and validity of notarial deeds as legal instruments that are valid and accountable.³¹

Validity of Deeds from a Legal Perspective

The formal validity of a deed is one of the absolute requirements that must be met so that the deed is legally recognized and can be used as valid evidence. The aspect of formal validity includes several important elements, namely the identity of the parties, the time of making, the place of making, and the format of writing the deed. The identities of the parties must be stated clearly and completely, including the name, address, and other information that can prove the existence and legal capacity of each party. This is important to ensure that the deed is made by a legal subject who is

²⁸Theixar, R. N., & Dharmawan, N. K. S. (2021). Tanggung Jawab Notaris Dalam Menjaga Keamanan Digitalisasi Akta. *Acta Comitas: Jurnal Hukum Kenotariatan*, 6(01), 1-15.

²⁹Hernawan, F. A. (2024). *Kedudukan Hukum Akta Perjanjian Perkawinan Yang Dibuat Dihadapan Notaris Tanpa Diregistrasi Pada Kantor Pencatatan Perkawinan* (Doctoral Dissertation, Universitas Islam Sultan Agung Semarang).

³⁰Sirait, G. N. A., & Djaja, B. (2023). Pertanggungjawaban Akta Notaris Sebagai Akta Autentik Sesuai Dengan Undang-Undang Jabatan Notaris. *Unes Law Review*, 5(4), 3363-3378.

³¹Sari, D. R. (2025). *Keabsahan Akta Notaris Yang Tidak Dibacakan Oleh Notaris Di Depan Para Penghadap Dan Saksi Saat Penandatanganan Akta* (Doctoral Dissertation, Universitas Islam Sultan Agung Semarang)

legitimate and can be responsible for the contents of the agreement.³²

In addition, the time and place of the deed must be stated in detail in order to provide certainty regarding when and where the agreement was made. This information is very important in determining the validity period or relevance of the deed in relation to other legal events. The format for writing the deed must also follow applicable provisions, such as the use of clear, systematic, and formal language, and contain the main elements required by law. The correct format helps prevent confusion or different interpretations of the contents of the deed and ensures that the document is easily understood by all parties, including judges if necessary in the dispute resolution process. By fulfilling this formal validity, the deed not only becomes a legally valid document, but also provides protection and legal certainty for the parties involved. Material validity: free will, does not violate the law, agreement.³³

A deed that does not meet the requirements of validity, both formally and materially, can have various serious legal consequences for the parties involved. One of the main consequences is that the deed can be declared annulable if there are certain defects such as elements of coercion, fraud, or errors in the making of the deed that are not yet absolute. In this case, the injured party can file for cancellation of the deed through legal process, but as long as it has not been

canceled, the deed still has temporary legal force. On the other hand, if the deed contains very fundamental defects, such as being contrary to law or public order, the deed can be considered null and void, which means that the deed never had legal force from the start and cannot be restored.³⁴

In addition, deeds that are not formally or materially valid are often only considered as private deeds, which have lower evidentiary power than authentic deeds. These private deeds can be disputed by the opposing party and require additional evidence to prove the contents of the agreement. This condition is certainly very detrimental to the parties because it reduces legal certainty and increases the risk of disputes. Therefore, it is important for the parties to ensure that the deeds made meet all legal requirements in order to avoid these legal consequences. By understanding the consequences of invalid deeds, the parties can be more careful and choose to make notarial deeds that meet legal standards in order to obtain maximum legal protection and certainty.³⁵

In legal practice, there are various examples of violations that cause a deed to be declared invalid and lose its legal force. One example that is often encountered is when a deed is made without any actual agreement between the parties, for example there is coercion or pressure so that one party signs the deed without free will. Cases like this violate the principle of free will in contract law and can be the basis for the

³²Fardela, B. (2024). Keabsahan Tanda Tangan Elektronik Pada Pembuatan Akta Notaris Dalam Perspektif Hukum Positif Di Indonesia (Master's Thesis, Universitas Islam Sultan Agung (Indonesia)).

³³Faulina, J., Barkatullah, Ah, & Gozali, Ds (2022). Legal Position Of Notarial Deeds Implementing The Cyber Notary Concept During The Covid-19 Pandemic In Indonesia. *Notary Law Journal*, 1(3), 247-262.

³⁴Fahreza, R. F., Purba, H., & Sutiarnoto, S. (2024). Pertanggung Jawaban Pejabat Pembuat Akta Tanah (Ppat) Dalam Pembuatan Akta Jual Beli Dengan Menggunakan Blangko Kosong (Studi Putusan Mahkamah Agung Nomor 2082 K/Pdt/2017). *Law Jurnal*, 5(1), 71-82.

³⁵Adriansa, M. Z., Dewi, I. G. S., & Priyono, E. A. A. (2022). Kekuatan Hukum Perjanjian Pengikatan Jual Beli Tanah Dibuat Dibawah Tangan. *Progresif: Jurnal Hukum*, 16(2), 130-148.

cancellation of the deed by the court. In addition, a deed can be invalid if the notary fails to verify the identity of the parties properly, so that the deed is made in the name of someone who is not actually authorized or even uses a fake identity.³⁶

Another example is when a deed is made for an agreement with an object that is prohibited by law, such as an illegal sale and purchase agreement or an agreement that is contrary to public order and morality. In this case, the deed is not only null and void by law but can also result in criminal sanctions for the parties involved. Furthermore, procedural errors, such as the absence of signatures from the parties or a notary, and not stating the time and place of the deed in full, can also cause the deed to not meet formal requirements and therefore be invalid. These cases show how important it is to comply with legal provisions in making a deed so that the legal document has valid force and can be accounted for in the eyes of the law.

Legal Position of Notarial Deeds in Court

An authentic deed made by a notary has perfect evidentiary power (*volledig bewijs*) in the legal process in court. This power is inherent because the authentic deed is made by an authorized public official, in this case a notary, who carries out his duties in accordance with the legal procedures stipulated by laws and regulations. According to Article 1870 of the Civil Code and Article 165 of the HIR, an authentic deed has absolute evidentiary power against what is formally stated and stated in the deed, as long as it cannot be

proven otherwise through a lawsuit for cancellation or legal objection. Thus, in a civil dispute, the party submitting an authentic deed as evidence is not burdened with the obligation to re-prove the validity or material truth of the contents of the deed, because the law has automatically recognized its power and validity.³⁷

Furthermore, an authentic deed also provides a guarantee of legal certainty, because it contains facts and statements of the parties witnessed directly by a notary as a neutral and independent official. This provides legal protection for all interested parties, while minimizing the risk of disputes due to differences in perception of the contents of the agreement. In court, judges usually give high weight to authentic deeds, so that they often become the main consideration in civil case decisions. However, if there is an accusation that the authentic deed is fake or legally flawed, then the accusing party must submit explicit evidence through legitimate legal channels. Therefore, the legal position of a notarial deed in court is very strategic and strong, making it the main evidence relied on in proving civil legal relations.³⁸

In the civil law system in Indonesia, the fundamental difference between an authentic deed and a private deed lies in its evidentiary power before the court. An authentic deed, as regulated in Article 1868 of the Civil Code, is a deed made by or before an authorized public official and meets the formal requirements as stipulated by law. Therefore, an authentic deed has perfect evidentiary power regarding matters formally stated therein. This means that the

³⁶Nurlete, M. (2020). Tanggung Jawab Notaris Terhadap Akta Palsu Berdasarkan Pelanggaran Jenis Norma Dan Sanksinya.(Studi Kasus Putusan Pengadilan Negeri Tanjung Karang Nomor 244/Pid. B/Pn. Tjk). Indonesian Notary, 2(3), 18.

³⁷Taliwongso, C. A. A. (2022). Kedudukan Akta Otentik Sebagai Alat Bukti Dalam Persidangan Perdata Di Tinjau Dari Pasal 1870 Kuh Perdata (Studi

Kasus Putusan Nomor 347/Pdt. G/2012/Pn. Mdn). Lex Administratum, 10(2).

³⁸Syaifuddin, D. M. (2022). Perlindungan Hukum Terhadap Masyarakat Atas Kepastian Hukum Akta Otentik Notaris Terhadap Akta Yang Tidak Dibacakan Dan Diterangkan Kepada Para Pihak (Master's Thesis, Universitas Islam Sultan Agung (Indonesia)).

contents of an authentic deed are considered true and valid until proven otherwise through a strict legal process. In court practice, an authentic deed is usually immediately used as the basis for the judge's consideration because it is considered strong, credible, and difficult to refute evidence, except with very convincing counter-evidence.³⁹

Meanwhile, a private deed is a deed made without involving public officials, usually only signed by the parties concerned. This deed is still valid and can be used as evidence, but its legal force is much weaker compared to an authentic deed. In court, a private deed can still be denied or its validity can be disputed by a party who does not acknowledge its contents or signature. In other words, the burden of proof to justify a private deed lies with the party using it as evidence. In addition, if a dispute occurs, the court will be more careful in assessing the evidentiary weight of a private deed compared to an authentic deed.⁴⁰

With these differences, authentic deeds have a much stronger and more strategic legal standing in court. This makes the involvement of a notary in the making of agreements or legal documents a wise step to ensure legal certainty, protection of rights, and ease in the process of proof in the future if a dispute occurs.⁴¹

In the settlement of civil disputes, notarial deeds have a central role as the main evidence that greatly determines the

direction and results of the evidentiary process in court. Deeds made by notaries are included in the category of authentic deeds, namely deeds that have perfect evidentiary power against what is formally stated in them, as regulated in Article 1870 of the Civil Code and Article 165 of the HIR. When a dispute occurs between parties who have made an agreement or legal statement before a notary, the notarial deed becomes an official document that describes legal facts objectively and legally. The judge will use the deed as the main basis for evidence without having to re-prove the formal truth of the contents of the deed, as long as there is no evidence of forgery or serious legal defects.⁴²

Furthermore, the role of a notarial deed also includes legal protection for the parties, because the notary has ensured that the agreement or statement was made consciously, voluntarily, and in accordance with the provisions of the laws and regulations. Therefore, a notarial deed not only records the legal will of the parties, but also serves as a guarantee that the legal procedures have been carried out correctly. In this context, a notarial deed provides strong legal certainty and reduces the possibility of disputes in the future. Even if a dispute still occurs, the existence of a notarial deed simplifies the evidence process, speeds up the examination of the case, and increases the chances of a fair and balanced settlement. Therefore, in the civil justice system, a notarial deed is seen as

³⁹Taliwongso, C. A. A. (2022). Kedudukan Akta Otentik Sebagai Alat Bukti Dalam Persidangan Perdata Di Tinjau Dari Pasal 1870 Kuh Perdata (Studi Kasus Putusan Nomor 347/Pdt. G/2012/Pn. Mdn). *Lex Administratum*, 10(2).

⁴⁰Levania, A., Aolia, Z., & Andri, G. Y. (2025). Efektivitas Legalisasi Notaris Dalam Melindungi Kekuatan Perjanjian Sewa Menyewa Rumah. *Jurnal Pendidikan Sosial Dan Humaniora*, 4(2), 3443-3459.

⁴¹Jamil, A. (2020). Peran Notaris Dalam Membuat Akta Wasiat Yang Bertentangan Dengan

Ketentuan Kompilasi Hukum Islam (Studi Akta Notaris Nomor 12 Tanggal 27 Oktober 1984 Tentang Wasiat).

⁴²Syaifuddin, D. M. (2022). Perlindungan Hukum Terhadap Masyarakat Atas Kepastian Hukum Akta Otentik Notaris Terhadap Akta Yang Tidak Dibacakan Dan Diterangkan Kepada Para Pihak (Master's Thesis, Universitas Islam Sultan Agung (Indonesia))

evidence that has a special position and is highly relied upon in enforcing the legal rights and obligations of the parties.⁴³

CONCLUSION

Notaries have a very important role in maintaining the legality and validity of civil agreements through authentic deeds. Through this role, notaries not only contribute to legal certainty, but also to legal protection for the parties making the agreement. Therefore, professionalism, integrity, and a deep understanding of the law are essential in notarial practice. Enforcing professional standards and supervising notarial practices are key to maintaining the notarial function as an instrument of justice in society.

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⁴³Hernawan, F. A. (2024). Kedudukan Hukum Akta Perjanjian Perkawinan Yang Dibuat Dihadapan Notaris Tanpa Diregistrasi Pada Kantor Pencatatan

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