

Criminal Liability of a Notary for Violation of The Principle of Precaution (Study Decision Number 88/PID.B/2022/PN MLG)

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ABSTRACT

Notary Public own authority in matter making deed authentic so notaries also have responsibility on deed in making something deed authentic. Notary Public required always Act in a way Be careful in making deed, must research all true and relevant facts based on applicable laws. However sometimes in room scope There is also a notary rules-based habits that don't contained in the Law Position Applicable notary, p is executed based on law habit like one authority Notary Public that is in make cover note. So far This Notary Public make cover note only based on law habit Because no exists umbrella law to making cover note Notary Public. So that need exists repair rule law related with making cover note notary so that in the future Far Better. Study This use study law normative with use approach used is Approach Law (statute approach), Approach Conceptual (conceptual approach) and Approach Case (case approach). Result of study This i.e. Notary Public stated join in as well as do follow criminal Because has fulfil it elements in Article 378 of the Criminal Code in conjunction with Article 55 paragraph (1) of the Criminal Code and also fulfil elements responsibility criminal that is exists ability responsible for the maker , relationship inner between si maker and his actions in the form intentional (dolus) or negligence (culpa) and not exists reason deletion error or No There is reason forgiving so that Notary Public in case This can be requested accountability criminal on what has been done . Repair law related with cover note can formulated Far Better with fulfil condition justice and power To use as well as connected with 3 (three) objectives law in a way theoretical

Keywords:

Accountability
Criminal Notary,
Principal Caution,
Cover note

INTRODUCTION

Life man related tightly with existence land , land in matter mastery and use for anybody must be based right on land that has been regulated by law land national , however with walking time between increase amount man with availability land No can compare straight , likewise with the drafting process applicable law slow and sometimes no updates follow practice moving business with dynamic cause law as if No capable walk along balance various problem emerging law in practice everyday life in the business world . Indonesia itself is a rule of law as confirmed in Article 1 Paragraph (3) of the Constitution of the Republic of Indonesia Indonesia. As a rule of law, that's it Of course all sectors in Indonesia must be executed based on applicable law as well. Need man in sector service public along walking from time of course more and more increase, incl field service public and officials very general needed moment This is Legal Profession.

In Indonesia, official's general divided becomes 2, the first Non- Civil Servant (Non PNS) officials and officials Civil Servants (PNS). Non-Civil Servants that are consists of Notary, Official Maker Land Deed (PPAT) and Officials Auction class II (PL II). Authorized official in matter this is what is meant is Notaries and Officials Maker Land Deed (next called with PPAT). Notary Public is official general authority in making deed if desired by the obligated parties poured in from deed authentic and owning authority other in accordance with what is meant in Constitution Position Notary Public

or Constitution others (Hutapea et al., 2023; Novitasari et al., 2022) Deed authentically made by a notary have role important in create certainty law in every action and events law, cause deed Notary Public nature authentic and true tool proof strongest and fullest in every related matter with deed Notary Public the. So that through deed authentic can determine in a way clear rights and obligations, guarantee certainty law, and at the same time hopefully you can too avoided happen dispute (Oktavia, 2021; Paschalix Tonggiroh, 2022).

Article 15 paragraph (2) letter (f) of the Law Position Notary Public explain about that's its Notary Public own authority in matter for make related deed with land. By practice, Notary authorized in make deed binding sell buy land. Notary Public own obligations and responsibilities answer in carry out his authority that, because one his authority is make Agreement Sale and Purchase Agreement (PPJB) then Notary Public in in making Agreement This Sale and Purchase Agreement (PPJB). must base on provision regulation applicable laws and Code of Ethics Notary Public. Understanding sell buy land according to our National Land Law is understanding sell buy land according to Customary Law. According to law custom, sell buy land is something deed transfer right on natural land clear and cash (Amini, 2022; Rao, 2022; Rokhmansyah, 2022) .

GHS Lumban tobing mentions that authority about Notary in do his position includes 4 things, namely:

1. Notary Public authorized throughout deed that has been made, in matter This No all deed made by a notary but only to the extent that it has determined by law ;
2. Notary Public must authorized throughout get to know people to interest Who deed That created.
3. Notary Public must be authorized throughout about the place where the deed That created.
4. Notary Public must be authorized throughout about time making deed

That Scope Notary Public sometimes there are too rules-based habits that don't contained in the Law Position Applicable notary, p is executed based on existing habits normal done Notary Public before later followed by the notary who came Then. Habits carried out they can give rise to something problem Because no arranged in something written rules. Related with the explanation above, apart from deed authentic a Notaries can also emit cover note. Cover note is lettering the information it contains ability from Notary affixed sign hand and stamp for ensure still deeds in process and can resolved in period time that has been determined in fill from cover note. Cover notes made by a Notary if Notary Public Not yet finish related work with his authority in publish deed authentic.

Function position cover note as well as authority Notary Public For make cover note No arranged in a way specific inside Constitution Number 2 of 2014 concerning Position Notary (UUJN), so can happen know for sure law on he took it out cover note to medium object processed by a Notary. That means deep matter This can said that the notary's cover notes different with notarial deed, OK from facet characteristic nor strength the proof. By law, cover note just letter information from Notary Public on deed the law has carried out by the parties. Cover note No including into the instrument deed authentic and deed under hand, legality cover notes proper questioned and can stated No as product law issued by a notary. Arrangement covers note No found in instrument or regulation legislation in Indonesia (Knežić-Popović, 2017).

Notary Public in operate his position must For Act in a way trustworthy , thorough , honest , independent , no the side in question No siding in matter This is No defending one party just and try guard all over interest from the parties who have related in deed laws made matter the listed in Article 16 paragraph 1 letter (a) of the Law Position Notary , the contents stated in chapter the is embodiment from principle caution Notary Public . If Notary Public not enough thorough in inspect facts important, that is means Notary Public Act No Be careful so that if proven the deed pregnant dispute later day so Notary Public can ask accountability. (Agustianto, 2023; Erwinsyahbana & Melinda, 2018; Safira & Salam, 2022; Triwahyuni, 2020) Notary Public own responsibility on deed that has been made, the authority it has Notary Public in make something deed authentic No can denied that's it will arise exists abuse authority carried out by a Notary. Not often Notary Public become witness in court Because related with duties and positions, so necessity Notary Public Act Be careful in operate position, because Notary Public Can sentenced law criminal with on purpose nor no done deliberately together with the opposing parties with own aims and objectives for profit their self, one of them party nor potential harm party other. That matter if proven so Notary Public must be responsible on his actions.

Not all Notary Public apply principal caution in operate authority, such as in case Binding Sale and Purchase Agreement (PPJB) based on covernote based on follow criminal fraud by existing defendants in Decision Number 88/ Pid.B /2022/PN MLG. Chronology from Decision Number 88/ Pid.B /2022/PN Mlg . that is , it exists transaction sell buy the Bluebells Hotel owned by Mr. M. Rudiono Kusumo who has for sale to Mr. Darmawan Cahyadi and that's it done payment in a way paid off and done done Agreement Sale and Purchase Agreement (PPJB) with Mr. Darmawan Cahyadi in front Notary Public Widyawati B. Ntutu , SH, M.Kn with legality of rights from the Bluebells Hotel being in the conversion process at BPN. But Not yet until the selling process buy Hotel Bluebells done between Mr. Rudiono Kusumo and Mr. Darmawan Cahyadi at the end of the Bluebells Hotel has offered by Mr. Sofyan Wahyudi to buyer new namely Mr. Indra Soedjoko with more price tall from the price has been agreed by the buyer previously namely Mr. Darmawan Cahyadi and owner from the Bluebells Hotel (Renhoat, 2021) , namely Mr. Rudiono Kusumo agree with the price offered by Mr. Indra Soedjoko with down payment moreover formerly . In the process of selling buy This is Mr. Indra Soedjoko Mr. Lie Dwi Laksana was convinced that it was the Bluebells Hotel has SHM status.

Furthermore related management sell buy the Bluebells Hotel between Mr. Rudiono Kusumo and Mr. Indra Soedjoko done in front of Notary DI, SH, M.Kn , so Notary DI, SH, M.Kn contact The notary takes care of it sell buy previously For request files related sell buy the remaining Bluebells Hotel brought by the Notary Widyawati B. Ntutu , SH , M.Kn. So that in matter This Notary Public Widyawati B. Ntutu , SH , M.Kn. inform that need exists cancellation Agreement Sales and Purchase Agreement (PPJB) especially first done by the buyer First namely Mr Darmawan. Notary Public Widyawati B. Ntutu , SH , M.Kn. send files that have been requested by Notary DI, SH, M.Kn , one of them is a draft Cover note containing information that's it object the currently in the application process conversion (publishing certificate) but the draft yep There is stamp but Not yet There is number , date and sign hand .

Notary DI, SH, M.Kn in matter This also convinced Mr. Indra Soedjoko that's it file from object the Still in the SHM processing process carried out by a Notary

Widyawati B. Ntutu , SH , M.Kn. and if file the No submitted so Notary DI, SH, M.Kn will responsible on the loss . But after hose a number of months did it down payment by Mr. Indra Soedjoko Not, yet he gave Agreement Sales and Purchase Agreement (PPJB) that has been completed promised until exists letter statement from Mr. Rudiono Kusuma that in essence will do purchase return over the Bluebells Hotel. Purchase return the done with use check given by Mr. Rudiono Kusuma to Mr. Indra Soedjoko but check the No can melted so that on deed Notary DI, SH, M.Kn , together with Mr. Sofyan Wahydui and Mr. Lie Dwi Laksana Budiman and Mr. Rudiona Kusuma resulted in Mr. Indra Soedjoko experience loss on advance payment made the . In the decision This Notary concerned and proven has do follow criminal fraud worn penalty prison.

As it goes time of course need exists development law, in matter This there is emptiness law Because not yet exists arrangement law related with cover note made by a notary in the manufacturing process (Hijriyani et al., 2019; Iskhak & Witasari, 2019) Agreement the Sales and Purchase Agreement (PPJB) is based on follow fraud without notice principal caution Notary Public. Therefore that, this aim for answer problem the that is with analyses accountability punishment and consequences law involvement Notary Public Because there is follow criminal in matter making cover note and Agreement Sale and Purchase Agreement (PPJB).

METHOD

Deep method study This used is method study law normative. Election method This, focuses on inventory law positive, principles and doctrine law, discovery law in case in concrete, systematic law, level synchronization, comparison law and history law. Approach used is Approach Law (statute approach), Approach Conceptual (conceptual approach) and Approach Case (case approach) (Januarsyah et al., 2022; Saefudin et al., 2023). Analysis techniques in study This that is using analytical techniques material law with gather material law Then writer start analysing problem regulated law in the Legislation and decisions court will be studied and analysed with rules and theories relevant laws with problem this, so you can answer problem with scientific, objective, comprehensive and capable insured answer. that process done with method presentation, study, systematization, interpretation and evaluation material law in a way comprehensive.

RESULTS AND DISCUSSION

Notary Public in operate his position That must done in a way professional, notary own authority in matter making deed authentic so notaries also have responsibility on deed in making something deed authentic. In the making articles in something deed agreement, notary role For direct not to contradictory with law, order publicity and morality. In doing his authority a notary must also notice principle prudence, deep do something action law Notary Public must behave Be careful before take something determination, researching all relevant facts and include all of them relevant interests to in consideration. Principle caution Notary Public as it has been explained in Article 16 paragraph (1) letter a of the Law Number 2 of 2014 concerning Position Notary, namely:

1) In running his position Notary Public must:

- a. Acting trustworthy, honest, thorough, independent, no side and look after interest stakeholders indeed law.

Principle caution Notary Public No explained in a way specific, but in Article 16 paragraph (1) letter a is embodiment from principal caution notary, deed made a notary must also can give guarantee and can made as tool proof if something day happen dispute so that with exists deed the can prevent exists a problem. In terms of This It means before do something deed law Notary Public must notice principle existing caution in Article 16 paragraph (1) letter a UUJN to be in operate his position can minimize exists problems later day:

1. Do introduction to facing based on identity shown to Notary Public.
2. Inspect in a way careful and thorough documents good subject nor future object will enter indeed authentically made by a notary.
3. Do checking certificate in a way direct to the Land Agency in matter diversion right on land, for ensure is object existing laws in certificate the No in dispute and safe to do something deed law.
4. Notary Public entitled report if happen transaction suspicious from the parties if the funds are forthcoming transacted from crime corruption.
5. Act be careful, careful and thorough in progress deed authentic made Notary Public so that No give rise to interpretation to the words spoken indeed authentic.
6. Give grace time in making deed so that in the manufacturing process deed No hurry to get it Work in a way thorough in the manufacturing process deed authentic.
7. Fulfil all technique administration making deed notary, like reading deed, signing, thumbprint and giving copy minute deed.

Notaries also have authority other than make deed authentic, for one is authorized in make cover note. cover note is letter a statement made and issued by a notary containing statement ability Notary Public For ensure deed or documents still in the publishing process. cover note Not yet arranged in a way specific, but in use cover note This notary also remains must apply principle be careful , because covernote so far This only based on law engagement and conditions it's legal agreement contained in Article 1320 of the Civil Code . Covernote can give to the party in need precede before exists copy the deed that will be given , because at the same time No can given deed except deed the is deed in original . So that if there is the violating notary principle caution in operate position and proven guilty so can be requested his responsibility .

Notary Public as official general sued For responsible to deed that has been made , if deed made later day contain dispute so matter This need questionable , whether deed This is error Notary Public with on purpose benefit one party facing or the fault of the parties is not give document Actually . If deed made / issued Notary Public contain disabled law Because error Notary Public Good Because negligence nor Because deliberate Notary Public That Alone so Notary Public must give accountability morally and spiritually law, and of course matter This must moreover formerly can prove .

Responsibility according to Moegni Djodirjo give explanation about responsibility as following:

" Understanding term not quite enough answer is For more put forward that Because exists not quite enough answer someone perpetrator deed violate law , then si perpetrator must responsible answer on his actions and because responsibility answer the si perpetrator the perpetrator must bear responsibility answer the action submitted in front of trial by the sufferer to si perpetrator "

Explanation more carry on about responsibility the including For losses caused Because deed violate law by others, means draft not quite enough answer based on error the perpetrator did it deed , person who does it error must responsible answer on the error , however can just If arise loss charged to others for replace it . If in case criminal , deed Notary Public often questioned from aspect material so that The Public Prosecutor will enter Notary Public follow involved in action :

1. Make letter fake / forged and use letter fake / falsified (Article 263 paragraph 1, paragraph 2, Criminal Code)
2. Do forgery (Article 264 of the Criminal Code)
3. Ordered enter information false in deed authentic (Article 266 of the Criminal Code)
4. To do , to order did , who participated as well as commit (Article 55 of the Criminal Code)
5. Help make letter fake / or worn and used letter fake / falsified (Article 56 of the Criminal Code).

Like in example case decision Supreme Court Number 88/ Pid.B /2022/PN Mlg . Defendant I Notary DI SH, M.Kn make results Photo covernote that hasn't yet there is number , date and sign hand from Notary Public Widyawati B. Ntutu , SH, M.Kn then printed and made material For convincing victim witness Indra Soedjoko to be sure in continue the selling process buy the Bluebells Hotel, which is basically it material For made base in the process of selling buy the not a draft covernote original but only results photo sent through whatsapp then printed by Defendant I Notary DI SH, M.Kn , via matter here it is victim witness Indra Soedjoko become Certain that's it transaction sell buy that will done the safe .

Actions Defendant I Notary DI SH, M.Kn in convincing victim witness Indra Soedjoko with use reason the so that in matter This indicted with Article 378 of the Criminal Code in conjunction with Article 55 paragraph (1) 1st of the Criminal Code , namely join in as well as do follow criminal that is fraud . Article 378 of the Criminal Code explains that fraud is conditions carried out by anyone with Meaning For profitable self Alone or anyone else oppose law , with use Name false or dignity fake , with hoax trick , or even a series lies , moving others to deliver goods something to him , or so give debt nor abolish receivables . In terms of this , the deed Notary Public must own clarity on a law , where at the time deed the will made Notary Public must explained to the audience about certainty about the facers / facing parties , apart from That notaries also have role important in give counseling law towards the observers related with the deed will made .

Article 15 paragraph (2) letter e of the Law Position Notary (UUJN) provides authority for Notary Public For give counseling law connection with making deed , meaning that Notary Public authorized give counseling laws and explanations to interested parties connection with making deed authentic which will be , is and/ or made until its perfect deed . Meaning giving counseling law by a notary connection

with making deed authentic in provision Article 15 paragraph (2) letter e UUJN , namely not to result happen vagueness / vagueness norm about authority Notary Public . So that if linked with case This should in accordance with Article 15 paragraph (2) letter e of the Law Position Notary (UUJN) ie give authority for Notary Public For give counseling law , however in matter This Defendant I Notary DI SH, M.Kn No give counseling law For minimize exists vagueness / vagueness norm regarding the sales process buy to the parties appearing that's it to sell purchase is done between witness M. Rudiono Kusuma with victim witness Indra Soedjoko required there is a cancellation step sell buy Bluebells Hotel between witness M. Rudiono Kusuma with witness Darmawan Cahyadi especially first , but in matter This Defendant I Notary DI SH, M.Kn still continue the selling process buy until happen payment and availability sign hand wet him on the receipt the .

That matter should No happen Because Notary Public in operate profession and position must be No deviate from Constitution Position Notary (UUJN), because if Notary Public deviate from provision the so there is possibility the deed he made stated exists element follow criminal nor exists disabled formal , p the can happen if Notary Public proven follow as well as in do follow criminal , and in decision Supreme Court Number 88/ Pid.B /2022/PN Mlg . state Defendant I Notary DI SH, M.Kn has proven in a way valid and convincing guilty do follow criminal fraud so that annoying loss to other people.

Article 378 of the Criminal Code concerning fraud explain that :

" Whoever with Meaning For profitable self Alone or anyone else oppose law , with use Name false or dignity fake , with hoax trick , or Suite lies , moving others to deliver goods something to him , or so give debt nor abolish receivables , threatened Because fraud with criminal maximum imprisonment of 4 years ."

According to R. Soesilo there is a number of element in Article 378 of the Criminal Code concerning fraud these , namely :

- a. Persuade people to do so give goods , create debt or abolish receivables ;
- b. The meaning of persuasion That namely : want to profitable self Alone or anyone else with oppose right ;
- c. Persuade him That with use Name false ata circumstances fake and deceptive trick .

Notary DI SH, M.Kn in case This has deviate from provisions that have been arranged in Constitution Position Notary and have fulfill one element the that is own intention persuade somebody For profitable self himself , that is in matter reassured victim Indra Soedjoko continue payment Agreement Buy and Sell Bindings without exists cancellation from Agreement Buying and selling binding buy the first one that is between witness M. Rudiono Kusuma with witness Darmawan Cahyadi, as well without exists files supporter from the Bluebells Hotel which became object sell buy . Therefore that , deep matter This Defendant Notary Public DI SH, M.Kn can stated has do something follow criminal . If Notary Public do something follow criminal so Notary Public must be responsible or can asked accountability in a way criminal on what has done .

According to Vos theory is related with base from accountability criminal is exists absolute mistake carried out by the perpetrator, so in accountability criminal must fulfilled a number of element namely the first there is ability responsible answer . In terms of This Defendant Notary Public DI SH, M.Kn stated capable responsible Because own circumstances normal psychology and abilities in understand

consequence from the act carried out the contradictory with law . Second element is connection deed si perpetrator with attitude inner si perpetrator in the form of intentionally (dolus) or forgetfulness (culpa), deep matter This attitude inner from Defendant Notary Public DI SH, M.Kn very influential to the act carried out . Element third is No there is possible reasons abolish accountability that has been done by the perpetrator , so if third element the has fulfilled so Notary Public DI SH, M.Kn can stated guilty and capable asked accountability the crime .

Accountability Notary Public in a way criminal can done if has fulfil 3 (three) conditions , namely :

1. There must be deed Notary who can punished Because violate elements in making something deed truly authentic firm formulated by law .
2. Actions Notary Public the contradictory with laws and actions the done with error (okay That element deliberate nor negligence) of Notary Public the .
3. Error or negligence in follow criminal covers conflicting elements with law and must There is deed oppose law criminal.

Action taken Notary DI SH, M.Kn has fulfil to three element that is , namely the first there is deed Notary DI SH, M.Kn in matter No do cancellation Agreement Sales and Purchase Agreement (PPJB) especially formerly between to Agreement The first Sale and Purchase Agreement (PPJB). that is sell buy between witness M. Rudiono Kusuma with witness Darmawan Cahyadi in front Notary Public Widyawati Ntutu S,H., M.Kn , but direct continue to Agreement Sale and Purchase Agreement (PPJB) between witness M. Rudiono Kusuma with victim witness Indra Soedjoko , Because should if object sell buy has been agreed and done done payment by the buyer else , then Agreement Sales and Purchase Agreement (PPJB) that has been created previously must done cancellation moreover first for certainty law of the parties .

Furthermore has fulfillment the third element two that is , there is contradictory actions with law and deliberately by Notary DI SH, M.Kn in matter use covernote results from print Photo covernote that has been sent by the Notary Widyawati B. Ntutu , SH, M.Kn through whatsapp which are already clear Not yet there is number , date and sign hand from Notary Public Widyawati B. Ntutu , SH, M.Kn but by Notary DI SH, M.Kn still used as a medium for reassured victim Indra Soedjoko For continue the selling process buy the Bluebells Hotel. Furthermore has fulfillment the third element three that is there is intention from Notary Public DI SH, M.Kn For persuade victim witness Indra Soedjoko do payments and agreements Sale and Purchase Agreement (PPJB) with only showing covernote fake and without exists files supporter related object sell buy the .

Responsibility Notary Public in a way criminal unregulated in Constitution Position Notary and code ethics notary (Retno Wahyu Nickent Cassy et al., 2023; ROBA, 2019), but responsibility Notary Public in a way criminal can worn if Notary Public has proven do deed criminal and can worn penalty criminal under the Criminal Code, because accountability criminal No Enough only with exists deed criminal just but must be there is error or intention despicable and deep case This Notary DI SH, M.Kn has been indicted with Article 378 of the Criminal Code in conjunction with Article 55 paragraph (1) of the Criminal Code, because has fulfil the elements contained in chapter the that is :

1. Whoever
2. With Meaning For profitable self Alone or anyone else oppose law ;

3. With use Name false or dignity fake , with hoax trick , or Suite lies , moving others to deliver goods something to him , or so give debt nor abolish receivables ;

4. Those who do it , who order it doing , and participating as well as do action ;

If explained according to element in Article indicted to Defendant I Notary DI SH, M.Kn that is Article 378 of the Criminal Code in conjunction with Article 55 paragraph (1) 1 of the Criminal Code is the first exists element goods Who has fulfilled in a way formal , that is subject the law has ability For responsible based on circumstances and abilities his soul of course Correct that was proposed as defendant in trial is one of them is Defendant I Notary DI SH, M.Kn in accordance with deciphered and proven identity in do his actions the done in circumstances conscious or not deep influence nor pressure from party wherever so in matter This considered capable For responsible on what has done .

The third element two and three that is with Meaning profitable self Alone or anyone else oppose law with use Name false or dignity false with hoax *muslihaat* or Suite lies , deep matter This Defendant I Notary DI SH, M.Kn has proven do element the Because do Suite lies and there are facts that's it the defendants has know exists sell buy and have Agreement Sale and Purchase Agreement (PPJB) between witness Darmawan Cahyadi and witness M. Rudiono Kusumo but Defendant I Notary DI SH, M.Kn still proceed and sign the draft Agreement Sale and Purchase Agreement (PPJB) between victim witness Indra Seodjoko with M. Rudiono Kusumo with without exists cancellation Agreement Sale and Purchase Agreement (PPJB) between witness Darmawan Cahyadi and witness M. Rudiono Kusumo especially formerly .

Next fact is after done transaction payment against Bluebells Hotel Defendant I Notary DI SH, M.Kn to deed Agreement Sale and Purchase Agreement (PPJB) between witness M. Rudiono Kusumo did not visit go out with reason covernote official Not yet given to Defendant I Notary DI SH, M.Kn , that should in matter This Defendant I Notary DI SH, M.Kn know that's it Agreement Official Sale and Purchase Agreement (PPJB). No can processed if original covernote Not yet issued Because No exists cancellation with help witness Notary Public Widyawati Ntutu SH M.Kn , necessary exists cancellation Agreement Sale and Purchase Agreement (PPJB) because Agreement The Sale and Purchase Agreement (PPJB) is an agreement based on conditions legitimate agreement in Article 1320 Civil Code that is :

- 1) Agreed those who tie it himself
- 2) Skills For make something deed
- 3) Something matter certain
- 4) Something lawful reasons

So that from exists engagement the so has happen deed existing laws offer and acceptance based on an agreement between two people or more mutually relate For give rise to consequence law , therefore That Because has through stage offer and acceptance so need exists stage implementation agreement , in matter This victim witness Indra Seodjoko has carry out agreement with pay down payment moreover formerly but related with object sell buy Not yet Can fully become his Because Agreement The Sale and Purchase Agreement was made by the Defendant DI SH, M.Kn Not yet Can given number Because files previously Not yet exists cancellation Agreement Buying and Selling Engagement from the sales process previously . Then deep matter This necessity cancellation of the Agreement Previous Purchase and Sale Agreement if There is buyer new Because condition objective in matter This No fulfilled

that is No exists something related legitimate reasons with object sell buy the Still said in dispute . The third element four that is Those who do it , who order it doing , and participating as well as do deeds have also been done fulfilled Because in matter This Notary Public DI SH, M.Kn has proven follow share in do transaction sell buy against the Bluebells hotel without exists files supporting and without exists covernote original.

Referring to Article 1366 , then deed Notary Public that , fine intentional nor No intentional , he must still responsible on losses suffered by creditors . Negligence Notary Public in publish covernote containing contain statement or information that is not Correct cause He must shoulder not quite enough answer law on his actions , namely not quite enough answer criminal nor not quite enough answer civil . In terms of This Notary DISH, M.Kn must give accountability criminal offenses that have been handed down by the judge , namely with criminal prison for 2 (two) months as well as accountability civil that is Notary DISH, M.Kn give change make a loss to Indra Soedjoko in the form of land and building assets . Even in context This , Notary DISH, M.Kn also bears this not quite enough moral responsibility towards the position he holds , as follows has outlined previously that If a Notary Public violate something provision law related with implementation position , then UUJN has determine possible sanctions worn to notary , that is form reprimand verbal , reprimand written , dismissal temporary , stop with respect , or dismissal with No respect .

Related with covernote , is one of them products issued by a Notary but role as well as function and position covernote No arranged in instrument regulation legislation , so happen emptiness norm law in formation and production covernote by notary . Created and published covernote based on habit based on and guided by aspects law engagement as well as agreement that is not harm for the parties , then covernote No forbidden in regulation legislation . Notary Public responsible direct to content and information conveyed in covernote . Information Notary submitted in covernote , if cause loss to something party , then Notary Public can asked accountability law In context This is accountability the law can charged to Notary Public is accountability criminal and civil . By criminal , responsibility borne by the notary to covernote he published is in matter convey information that is not true and even can allegedly do fraud .

Covernote in the business world can own role important (Wijaya, 2019), because Covernotes are also possible just made something tool evidence , however fact its jurisdiction covernote No including into the instrument deed authentic and deed under hand , meaning covernote in a way law and legality No is product law Notary Public so that legality covernote proper questioned and can stated No as product law issued by a notary . Covernote No found in instrument or regulation legislation in Indonesia. Covernote can believed and made as something grip / guarantee temporary in operate something transaction , so can said has happen something emptiness law (vacuum of law) in society , because of course until moment This Still Not yet arranged in law positive Indonesia.

Emptiness existing law walk a long time inside practice daily in a way more real can We find in practice replacement certificate land in something transaction sell buy still land in process at the land agency (Agustina et al., 2023; Ananda & Mertha, 2020) , so covernote can be as something document underwriting , This Already become best practice/ norm as well as possible agreement applied between the parties concerned . So that in making covernote This Notary Public must still operate principle caution

remember covernote too important in something deed law , caution the with see in Article 16 paragraph (1) letter (a) of the Law Position Notary Public namely “ Notary in operate his position must Act honest , thorough , independent , no take sides and look after interest stakeholders in making law ”. Chapter This is something embodiment from Notary Public must be still be careful in operate his position like in publish covernote , though covernote No something deed authentic nor No product law from notary and not yet own umbrella law , however covernote stay is letter information issued by a notary or only notary who owns capacity For publish something covernote

Notary Public in making covernote so far This only based on principle freedom contract (Sembiring, 2022; Zahro et al., 2023), which is contained in Article 1338 paragraph (1) of the Civil Code which states that all contract (agreement) made in a way legitimate applies as Constitution for they made it . Use covernote in practice everyday life and that's it become something law customs (customary law) in something transaction business . Covenote in matter This Already clear that of course No arranged in law positive Indonesia and also not product law Notary Public Because Covernote issued by a Notary it's not deed authentic and not is product law Notary Public as arranged in regulation applicable laws in Indonesia. So that in matter This has happen emptiness law , Emptiness the law that occurred will bring consequences and consequences on certainty law , and certainty law is component absolute in thinking law positivistic as adopted every State of Law as it still is applies in Indonesia. Related with emptiness law on Covernote Notary / PPAT who has not yet arranged in regulation existing legislation , then matter This will very vulnerable when happen problem specifically in matter give certainty law to party related , so For ensure implementation certainty law in corridor law in Indonesia, then emptiness law on use Covernote This need as soon as possible Possible thought and made umbrella the law For protect all party related .

It is hoped that through the Criminal Law Policy Theory put forward by Marc Ancel capable (Chouliaras, 2014; Zahro et al., 2023)For fill in emptiness law related with Covernote , because through Marc Ancel's thoughts really are arrangement about making More covernotes well in the future will materialized with still notice principle caution Notary Public in making Covernote , so certainty underlying law its publication Covernote This can guaranteed . Marc Ancel stated that “modern criminal science” consists of 3 (three) components namely "Criminology", "Criminal Law" and "Penal Policy". “ Penal Policy ” is something knowledge that has objective For possible exists regulation law positive formulated in a way more kind and giving guidelines No only to maker law , but also to implementing court laws and also to the organizers or executor decision court .

Prof. Sudarto also conveyed related with implementation policy law that is with stage election For reach results legislation the best punishment in the sense of fulfilling condition justice and power use , so if connected with 3 (three) objectives law in a way theoretical that is must fulfillment justice , certainty law and expediency , so if Criminal Law Policy Theory is combined with 3 (three) objectives law the so will walk in harmony , because life man related with all its interests needs to be grounded with exists certainty law , with presence repair more laws Good related with covernote will can give certainty law to the parties who wish its publication covernote that will used in something transaction business .

Furthermore importance equality rights and obligations obtained by the parties in something Covernote , p the aligned with one objective law that is justice law , if in

publishing covernote No exists justice underlying laws and regulations so will there is a feeling of dissatisfaction justice between the parties in operate rights and obligations in accordance with respective capacities . Related with objective law need exists something benefits obtained from exists something applicable law , with exists something more benefits Good from previously so will give rise to a sense of security in implementation , so in application exists rule law For covernote Already clear has there is expediency law in use covernote only just related umbrella law For covernote Not yet arranged in a way explicit , then with There is a Criminal Law Policy Theory and it is connected with 3 (three) objectives law expected can and can attempted or formulate For realize something repair arrangement law related distant covernote more Good Again . In other words, the desired goal achieved with exists policy law criminal is regulation legislation good crime.

Repair arrangement law distant covernote more it's good too see there is a policy line in its application , A. Mulder provides thinker related with “ Strafrechtspolitiek ” ie a policy line in determine :

- a) How much Far provisions applicable criminal law need changed or updated
- b) What can done For prevent happen follow criminal , way How investigation , prosecution , trial and implementation criminal must held .

Something repair the law to be more Good from before of course need something efforts and policies that do not regardless from exists objective countermeasures something problems and crimes , because policy law criminal is part from politics criminal or identical with “ policy countermeasures crime with law criminal ”, so in do repair law For covernote of course must through something approach policy because basically something repair law just part from something step policy . Therefore That if done repair rule law to covernote so Notary Public in publish covernote and the parties who wish making covernote will own weight proof Because has exists something umbrella law for the underlying covernote the.

CONCLUSION

Accountability criminal Notary Public in making covernote and Agreement Sale and Purchase Agreement (PPJB) in Decision Supreme Court Number 88/ Pid.B /2022/PN Mlg ., Defendant Notary Public DI SH, M.Kn in making covernote and Agreement The Sale and Purchase Agreement (PPJB) has been implemented proven do follow criminal so that detrimental to the victim Indra Soedjoko , then Defendant Notary Public DI SH, M.Kn can asked accountability criminal Because has fulfil elements in Article 378 of the Criminal Code in conjunction with Article 55 paragraph (1) of the Criminal Code and provides accountability in a way civil with provide land and building assets to Indra Soedjoko . Consequence law from involvement Notary DI SH, M.Kn in making deed based on authenticity follow criminal fraud , that is deed Agreement Sales and Purchase Agreement (PPJB) that has been completed made degraded become deed under hands and there are penalty civil form faith Good with give change make a loss in the form of house and building assets to the victims as well exists penalty criminal that is drop criminal prison for 2 months .

Through case Decision Supreme Court Number 88/ Pid.B /2022/PN Mlg there is problem because exists emptiness law on covernotes made by a notary , because That required repair arrangement law related covernote , so when analyzed through theory policy law criminal and 3 (three) objectives law that is certainty , justice and expediency law as well as with still notice principle caution notary , then emptiness law

the can filled through policy law related with covernote that is with exists regulation legislation good crime For arrange covernote in Century coming to be more Good . For perfect regulation law about covernote in a way significant , it also needs to be there guidelines its implementation . Therefore policy law criminal is part from political criminal or identical with “ policy prevention crime through law criminal ”, then repair law become more Good from previously need efforts and policies that do not regardless from objective handling problems and crime . Therefore that 's necessary done approach political in carry out repair law on the covernote , because repair law basically only part from action politics . If regulation legislation about covernote has set , then will There is base underlying law cover note , which has mark proof for the issuing notary cover note and parties who make efforts make cover note.

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