Legal Protection for Notaries from Crimes *of Misbruik Van Omstandigheden* in Making Dependency Deeds

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Abstract

In carrying out their duties, notaries often face situations where interested parties try to manipulate the situation in order to gain illegal benefits, which can have legal implications for the validity of the deed made. This research aims to examine legal protection for notaries in dealing with the crime of misbruik van omstandigheden (abuse of circumstances) in making a mortgage deed. This research uses a normative juridical method with a statutory approach to analyze existing legal protection and the effectiveness of its implementation. The findings reveal that Mortgage Rights under Indonesian civil law serve to ensure debt repayment and offer security to creditors. In case of debtor default, creditors can enforce these rights through a public auction in line with UUHT regulations. Authentic deed validity relies on both formal (technical and procedural) and material (agreement substance) aspects. Misuse of circumstances, where one party exploits the other's vulnerability for unfair gain, can lead to agreement annulment. Legal safeguards for notaries are outlined in Law No. 30/2004 and Law No. 2/2014, encompassing evidence generation, users, and notaries' roles as public officials. Oversight by the Notary Honorary Council (MKN) ensures compliance with duties, imposes sanctions for violations, and governs document summoning procedures. The notary's right of recusal upholds document confidentiality and integrity, while administrative sanctions uphold professional conduct. Minister of Law and Human Rights Regulation No. 7/2016 emphasizes transparent and rule-compliant notary summoning procedures, enabling notaries to fulfill their duties securely and calmly while balancing legal scrutiny with notary rights protection.

Keywords: *Legal Protection, Notary, Misbruik Van Omstandigheden, Deed of Dependency.*

A. INTRODUCTION

The position of Notary was born from the public's need for the presence of an official who could assist in producing authentic written evidence. This shows that the position of Notary was not created top-down by the government, but organically grew out of society's need for legal certainty in various legal transactions and events (Afifah, 2017). The function of a notary is to ensure that the deed made has legal force and can be used as valid evidence in the future. Therefore, Notaries are not placed within the structure of the judiciary, executive or legislative institutions, but rather stand as neutral and independent entities (Hendra, 2012). This neutrality is important so that the Notary can carry out his duties objectively and impartially towards any of the parties involved in the agreement or transaction.

Law Number 2 of 2014 regarding the Position of Notaries (UUJNP) now governs the existence and responsibilities of Notaries, updating the provisions of Law Number 30 of 2004. According to Article 1, number 1 of UUJNP, Notaries are defined as public officials authorized to create authentic deeds and possess additional authorities as stipulated by statutory regulations (Mulia et al., 2022). This legislation underscores the pivotal role of Notaries within the Indonesian legal framework, particularly in providing legally binding evidence. UUJNP establishes a robust legal foundation for Notaries to execute their duties with utmost professionalism and integrity. Furthermore, it furnishes legal safeguards to ensure that Notaries can fulfill their functions effectively (Sajadi & Saptanti, 2015).

In Indonesia, the role of a notary is a public position appointed and dismissed by the government. Functioning as a public official, a notary fulfills state duties by creating authentic deeds, where the original deed, or minuta, holds the status of a state document. Notaries play a crucial role in offering legal assurance to the public, acting as neutral intermediaries with the authority to formalize legal agreements among parties (Rizal, 2022). Soesanto (1982) highlights that notaries not only serve the public but also exercise governmental authority entrusted by the state. This underscores that the role of a notary extends beyond mere administrative tasks to that of a legal enforcer responsible for recording and validating state-recognized legal relationships.

A notary possesses the authority to affirm the existence of legal relationships within deeds that reflect the genuine intentions of involved parties. Article 16, letter a of Law Number 2 of 2014 concerning the Position of Notaries (UUJN) underscores the obligation for notaries to act honestly, diligently, independently, impartially, and in the best interests of all parties involved (Sahira et al., 2023). This duty necessitates notaries to consistently uphold professionalism, avoid conflicts of interest, and ensure that their actions are grounded in justice and truth. Hence, notaries bear responsibility not only to the contracting parties but also to the state in upholding the integrity and validity of the legal documents they produce (Widyanto, 2021).

Apart from carrying out their duties with honesty and impartiality, notaries are also required to have sensitivity and responsiveness to developing legal and social phenomena. This includes sharp analytical skills and the courage to take appropriate action in accordance with statutory regulations (Mughni & Linawati, 2019). The courage referred to includes the courage to refuse a request to make a deed that is contrary to law, morals and ethics. This attitude is important to ensure that the deed made by the notary is not only legally valid but also ethical and fair. Thus, the notary acts as a legal gatekeeper who ensures that every deed produced truly reflects valid wishes and is protected by applicable law (Abdullah, 2017).

As a public official, the notary holds the authority to create authentic deeds, bearing responsibility for their actions and the deeds they produce. The scope of a notary's responsibilities encompasses various aspects of their profession related to deed creation (Rosadi, 2020).Firstly, there's civil responsibility regarding the deeds made, which entails ensuring the material truth of the deed and addressing any unlawful acts, both active (causing harm through actions) and passive (failure to act

resulting in losses). Elements of unlawful acts encompass wrongful acts, errors, and resulting losses (Putri, 2016).

Secondly, notaries are subject to criminal responsibility for their deeds, referring to criminal acts committed in their capacity as public officials with authority to create deeds, rather than as ordinary individuals (Mowoka, 2014). For instance, involvement in document falsification or providing false information in deeds may incur criminal sanctions as per applicable law. This underscores the obligation for notaries to adhere not only to administrative regulations but also to more stringent criminal laws (Enggarwati, 2015). Thirdly, administrative responsibility is imposed on notaries for the deeds they create (Ardiansyah et al., 2022). Governed by Law Number 2 of 2014 concerning the Position of Notaries, there are five types of administrative sanctions for notaries who breach legal provisions: verbal warning, written warning, temporary dismissal, honorable dismissal, and dishonorable dismissal. These sanctions are designed to ensure notaries fulfill their duties in line with established regulations, maintaining the integrity and professionalism of the notarial profession (Kristanto et al., 2020).

In practice, authentic deeds made by notaries sometimes contain elements of uncertainty or injustice due to imbalances in the relationship between the parties involved. This imbalance is often caused by abuse of circumstances or *misbruik van omstandigheden*, where one party is in a stronger or dominant position and takes advantage of the other party's special circumstances to gain an unfair advantage (Gaol, 2021). Abuse of this situation can occur in various forms of agreements or legal actions, which can lead to cancellation of the agreement if it is proven that one party has taken advantage of the other party's special circumstances to force an unequal agreement (Nuraini et al, 2020).

Henry P. Panggabean (1992) quotes Nieuwenhuis who states four conditions that must be met to identify abuse of circumstances: first, the existence of special circumstances such as dependency, unhealthy mental condition, or lack of experience; second, actual knowledge that one of the parties is aware of the other party's special condition and is taking advantage of the situation; third, there is abuse carried out by stronger parties; and fourth, there is a causal relationship between the abuse and the closing of the agreement, where the agreement would not have occurred without the abuse of circumstances. By fulfilling these four conditions, an agreement can be canceled because it is deemed not to meet the principles of justice and propriety that should exist in every legal relationship (Arifin, 2011).

Abuse of circumstances (*misbruik van omstandigheden*) is not explicitly regulated in the Indonesian Civil Code, but this concept is developing and recognized in jurisprudence. Abuse of circumstances is defined as a situation where someone is driven by special circumstances to take legal action, while another party takes advantage of the situation (Judanto & Putra, 2022). These special circumstances may include emergency or compelling circumstances, unstable mental conditions, or lack of experience. The consequence of this kind of abuse is that the agreement stated in an

authentic deed made by a notary does not have legal force and can be canceled (Syahputra et al., 2024).

The aim of this research is to examine the legal consequences and legal protection provided to notaries against abuse of circumstances (*misbruik van omstandigheden*) in making a deed of liability, by analyzing the effectiveness of implementing existing regulations. The benefit of this research is to provide recommendations that can increase legal protection for notaries, reduce the risk of abuse of circumstances in making deeds, and strengthen monitoring mechanisms and sanctions for violations, so as to increase legal certainty and justice for all parties involved.

B. METHOD

This research uses a normative legal research approach, which is often referred to as doctrinal-normological research. This approach focuses on the study of legal rules as guidelines that regulate behavior. Normative legal research covers several important aspects, including research on legal principles, which are the basic principles that form the foundation of the legal system (Soekanto, 2007). Apart from that, this research also includes an analysis of legal systematics, namely the structuring and grouping of legal rules in a structured manner. This research also pays attention to the synchronization stage, both vertically and horizontally, to ensure consistency and conformity between various existing legal regulations. Comparative law and legal history are also an important part of this research, to understand the evolution and differences in the application of legal rules across jurisdictions and times.

In collecting data, this research used document study and literature study methods. Document study involves examining secondary legal materials, which include literary sources such as books, articles and scientific journals that are relevant to the research topic (Yulianah, 2022). As a complement, interviews with legal experts or legal practitioners are also conducted to gain additional insights and practical perspectives. Data obtained from various sources will be analyzed using qualitative descriptive methods. This approach allows researchers to describe and explain legal phenomena in depth, emphasizing the interpretation and understanding of applicable legal rules and their implications in practice. Thus, it is hoped that this research can make a significant contribution in developing a more comprehensive understanding of legal protection for notaries against abuse of circumstances in making mortgage deeds.

C. RESULTS AND DISCUSSION

1. Legal Consequences of Abuse of Circumstances *(Misbruik Van Omstandigheden)* in Making a Deed of Dependency

A mortgage serves as an ancillary agreement or adjunct to a debt agreement, serving to secure the repayment of debts provided by a creditor to a debtor. Within this framework, mortgage rights act as collateral, offering assurance to creditors that

the debt extended will be reimbursed. Should the debtor default on their obligations or breach the contract, the primary holder of mortgage rights retains the authority to auction off the mortgaged property independently. The proceeds from this auction are then utilized to settle the debtor's outstanding debt to the creditor. These provisions are outlined in the Mortgage Rights Law (UUHT), which establishes the legal framework governing creditors' actions in executing mortgage rights (Mato, 2015).

According to Article 1238 of the Civil Code (Civil Code), breach of contract or breach of contract occurs when the party who owes the debt is declared negligent through a warrant or similar deed, or when based on the agreement, the debtor must be deemed negligent after the specified time has passed. This means that to declare a debtor has defaulted, there must be an official act stating his negligence or the condition must be clear based on the agreement made. For example, if the debt and receivables agreement stipulates that the debtor must make payment on a certain date, then default will occur automatically if payment is not made on that date.

Mortgage rights themselves provide additional legal power to creditors to protect their interests. In the event that the debtor cannot fulfill his obligations, the creditor not only relies on the debtor's good faith, but has strong legal tools to execute the guarantee. The public auction process as a mechanism for executing Mortgage Rights ensures transparency and fairness in the implementation of these rights, so that creditors can collect their receivables from the sale proceeds in a legal and orderly manner. The importance of mortgage rights in the Indonesian civil law system cannot be overstated, because they provide stability and certainty for credit transactions. Creditors will be more confident in providing loans with the existence of a Mortgage, because they have strong legal guarantees that they will be able to execute the object of the Mortgage if a default occurs. On the other hand, debtors also understand the legal consequences if they fail to fulfill their obligations, which can motivate them to comply with the agreements they have made (Gusriadi & El Rahman, 2021).

The validity of an authentic deed relies on two fundamental aspects: formal and material. The formal aspect pertains to the technical and procedural requisites necessary for the deed to be legally recognized. As per Article 1868 of the Civil Code, an authentic deed must adhere to the prescribed form determined by law and must be executed by or in the presence of an authorized public official at the designated location. These requirements are cumulative, meaning all must be fulfilled simultaneously. Failure to meet any of these criteria renders the deed incapable of authentic status, relegating its evidentiary strength to that of a private deed. For instance, even if parties sign the deed, its validity as an authentic deed is nullified if it doesn't conform to the specified legal form or isn't executed by an authorized official (Tjukup et al., 2016).

The material aspect of a notarial deed pertains to its substance or content, ensuring that the information or statements within accurately reflect the intentions of the involved parties. Material validity encompasses the accuracy of information included in the deed, aligning with the parties' wishes and agreements. Validating the

material aspects involves assessing whether the notary accurately recorded and represented the actual information as per the parties' intentions. If it's proven that the notary misrepresented the truth or if parties later dispute the statements within the deed, the material validity can be questioned.

Moreover, indications of error or falsehood, whether deliberate or unintentional, within the notarial deed can provide grounds for its annulment. Such errors may stem from defects of will, such as coercion, fraud, or dishonesty, leading parties to provide consent falsely. Additionally, unlawful acts embedded within the deed's contents can undermine its material validity. In such cases, the plaintiff must demonstrate that the notary deviated from applicable legal provisions or that the deed contains inaccurate or deceptive information (Ishak, 2021).

An agreement can be canceled if there is a defect of will, namely a condition where the will of the parties involved in the agreement is not fully formed. The will in question must be a free will and not be influenced by pressure, fraud, or unnatural circumstances. One form of defect of will is abuse of circumstances (*misbruik van omstandigheden*). Abuse of circumstances occurs when one party takes advantage of a special situation facing another party to gain an unfair advantage in the agreement. This special situation could be an emergency, dependency, unstable mental state, or lack of experience that forces the other party to agree to the agreement (Martiawan, 2015).

When a will defect is caused by abuse of circumstances, this means that the agreement was made in conditions where one of the parties did not have full freedom to determine his will. The strong or dominant party in this situation takes advantage of the weaknesses or special circumstances of the other party to achieve goals that benefit themselves. As a result, the weak party experiences losses, while the party who abuses this situation enjoys the benefits of the losses experienced by the other party. Agreements resulting from circumstances like this do not cause the contents of the agreement to be prohibited or prohibited, but a person's will becomes not free and is related to the subjective conditions for the validity of an agreement so that it can be canceled (Nuraini et al., 2020).

There are two types of abuse of circumstances: abuse of economic advantages and abuse of psychological advantages. Abuse of economic superiority arises when one party to an agreement possesses considerably greater economic power than the other, compelling the weaker party to consent to the agreement. Two primary conditions must be satisfied for an action to qualify as an abuse of economic advantage. Firstly, the stronger party must wield a substantial economic advantage over the other party. Secondly, the weaker party must be coerced into entering the agreement due to a lack of better alternatives.

According to Setiawan (1992), there are several factors that indicate abuse of power or economic superiority. First, the conditions agreed upon are often unreasonable, inappropriate, or even contrary to humanitarian principles. This is known as *unfair contract terms* or *onredelijke contractsvoorwaarden*, which makes the agreement very one-sided and disadvantages the weaker party. Second, the debtor is

often under pressure when agreeing to the agreement. This pressure can come from an urgent need for money or the threat of losing important assets, which makes the debtor feel they have no choice but to accept the terms proposed by the economically stronger party.

Third, abuse of economic advantage is also characterized by a situation where the debtor has no other alternative except to enter into an agreement with burdensome conditions. When someone is faced with a situation where the only option is to accept unfair terms to avoid greater losses, this is a clear form of exploitation. Fourth, the value of the results of the agreement is very unequal when compared with the mutual achievements of the parties. This imbalance reflects the fundamental injustice of the treaty, where the stronger party gains enormous benefits, while the weaker party gains very little or even suffers losses. Legal protection is very important to ensure that agreements are made fairly and based on the free will of both parties, creating balance in economic relations and preventing exploitation of weaker parties.

Next is Abuse of mental superiority. Abuse of psychological superiority occurs when one party in a relationship takes advantage of the relative dependency or special mental state of the other party. Classic examples of this relative dependence are the relationships between doctors and patients, advocates and clients, or other relationships of trust such as between parents and children, husband and wife, or pastor and congregation. In these relationships, one party usually has an advantage in knowledge, expertise, or authority that gives them greater power than the other party. This dependency creates a dynamic in which the weaker party relies heavily on the wisdom and integrity of the stronger party.

To be declared an abuse of psychological superiority, there are two main conditions that must be met. First, one of the parties must abuse the existing relative dependence. This relative dependence can take the form of a very special and close relationship of trust, as often occurs between doctor and patient or advocate and client. In these relationships, the weaker party often relies completely on the stronger party's advice and guidance, leaving them vulnerable to exploitation if the stronger party does not act with integrity.

Second, abuse of mental superiority can also occur when one party takes advantage of the special mental state of another party. This special mental state can include various conditions, such as mental disorders, lack of experience, recklessness, lack of knowledge, or unhealthy physical conditions. For example, a doctor who knows that a patient has a mental disorder may try to manipulate the patient into agreeing to unnecessary treatment or procedures for financial gain. Likewise, an advocate may take advantage of his client's lack of legal knowledge to impose unfair terms in an agreement.

Abuse of circumstances poses a significant concern in the realm of agreement-making. When one party exploits specific circumstances to coerce another into entering an agreement, it can warrant the nullification of the agreement. Article 1869 of the Civil Code stipulates that an authentic deed may lose its authoritative status if the creator lacks authorization or competence, or if there are deficiencies in its form.

In such instances, the deed retains only the validity of a private deed, forfeiting its full evidentiary power. However, when a Notary ensures that all involved parties enter the agreement willingly, possess the capacity to do so, and adhere to legal terms, the resulting deed maintains its status as an authentic deed, recognized as valid evidence under the law.

Regarding the Notary's responsibility for the authentic deed, if one party exploits circumstances leading to the deed's annulment by the court, the Notary may be subject to compensation claims. In cases involving the creation of authentic deeds like mortgage deeds, if there are indications or evidence of circumstance abuse, the annulment of the agreement can only be pursued through a judicial process. This necessitates the aggrieved party to substantiate in court that circumstance abuse rendered the agreement invalid. This underscores the significance of legal protection for parties vulnerable to circumstance abuse and emphasizes the role of courts as impartial forums for fairly resolving such legal disputes. It also highlights the critical role of the Notary in ensuring that every agreement is founded on integrity and the voluntary consent of all parties, devoid of any exploitation of circumstances or power.

2. Legal Protection for Notaries from Crimes *of Misbruik Van Omstandigheden* in Making Dependency Deeds

Detailed regulations concerning legal protection for Notaries in their capacity as Public Officials have been established in Law Number 30 of 2004 regarding the Position of Notaries (UUJN) and its 2014 amendment, Law Number 2. These laws provide a robust legal framework for Notaries, ensuring that actions conducted in compliance with legal provisions are appropriately safeguarded. Particularly, Law Number 2 of 2014 underscores the significance of legal protection for Notaries in deed preparation, mandating that every deed executed by a Notary holds legal validity and warrants respect from all parties (Ayuningtyas, 2020).

According to Habib Adjie (2014), Notaries anticipate proportional protection while executing their duties as public officials. This encompasses the expectation that examinations conducted by the Regional Notary Honorary Council, especially when prompted by law enforcement agencies or the judiciary, are conducted equitably, transparently, and grounded in scientific methodologies. The aim is to ensure that every accusation or suspected violation by a Notary is scrutinized with utmost objectivity and integrity. Through this fair and transparent examination mechanism, Notaries can feel assured and adequately protected in carrying out their duties, enabling them to deliver optimal legal services to the community without apprehension regarding unfair treatment or misuse of authority by authorized parties. This proportional protection is pivotal for upholding the integrity and professionalism of Notaries and ensuring that legal processes involving Notaries adhere to principles of justice and transparency.

Legal protection for notaries is normatively regulated through various laws and regulations. Firstly, the establishment of a Notary Honorary Council is mandated in Article 66 of Law Number 2 of 2014, which amends Law Number 30 of 2004

concerning the Position of Notaries. This council oversees the implementation of notarial duties, ensuring adherence to applicable regulations and ethical standards. Secondly, procedures for recording deed minutes and summoning notaries are delineated in Article 66 Paragraph (1) of Law Number 2 of 2014. This provision allows investigators, public prosecutors, or judges, with approval from the Notary Honorary Council, to obtain photocopies of deed minutes and summon notaries for judicial proceedings related to the deed or protocol.

Thirdly, the notary's right of refusal is enshrined in Article 170 of the Criminal Procedure Code, Article 1909 Number 3 of the Civil Code, Article 4 Paragraph (2) of Law Number 30 of 2004 concerning Notary Positions, and Article 16 Paragraph (1) Letter F of Law Number 2 of 2014. This right empowers notaries to decline to disclose information that could harm their clients, except as mandated by law. Fourth, the Memorandum of Understanding between the National Police of the Republic of Indonesia and the Indonesian Notary Association, documented as Number 01/MOU/PP-INI/V/2006, focuses on enhancing notarial professionalism in law enforcement and shielding notaries from improper actions that deviate from established procedures.

Fifth, the Central Supervisory Council Decree Number C-MPPN.03.10-15 outlines the criteria for granting or refusing approval to summon a notary by investigators, public prosecutors, and judges. This decree establishes clear guidelines and procedures for summoning notaries to provide information, ensuring a fair and transparent process. Sixth, Minister of Law and Human Rights Regulation Number 7 of 2016 addresses the conditions and procedures for summoning notaries. This regulation sets forth the steps to be followed in summoning a notary, safeguarding the notary's rights throughout the legal process.

According to the provisions of Law Number 2 of 2012, which amends Law Number 30 of 2004 concerning the Position of Notaries, three main elements receive legal protection. Firstly, evidence produced by notaries in legal acts or events is protected. This encompasses various authentic deeds essential in legal transactions, ensuring certainty and validity for involved parties. Secondly, members of the public holding evidence produced by notaries receive protection. This includes documents required by law as well as those voluntarily obtained. Individuals or parties possessing notarial deeds are assured of their validity and legal recognition, enhancing confidence in legal transactions. Thirdly, notaries as institutions or public officials producing evidence for the public are also protected. Notaries, authorized to create authentic deeds, must execute their duties with integrity and in compliance with relevant laws. This protection upholds the reputation and trust in the notary profession, preventing potential abuse of authority harmful to society. Thus, notaries who fulfill their duties lawfully deserve protection from various threats and harassment, safeguarding them from individuals with malicious intent.

In terms of legal protection for notaries from abuse of circumstances or *Misbruik Van Omstandigheden* in Making a Deed of Dependency there are several forms of protection which can be described as follows:

a. Supervision by the Notary Honorary Council (MKN)

The Notary Honorary Council (MKN) plays a crucial role in upholding the integrity and professionalism of notaries by overseeing their performance and authority. As a supervisory body, MKN is tasked with monitoring and evaluating notaries' execution of their duties. In instances of alleged abuse of circumstances or other criminal acts, MKN serves as the competent authority to conduct investigations. This process involves collecting evidence, interviewing witnesses, and evaluating all pertinent information to ascertain the veracity of the allegations.

MKN's inspection procedures are designed to ensure fairness and transparency. Notaries under scrutiny are afforded the opportunity to defend themselves and provide explanations regarding the accusations leveled against them. Throughout this process, MKN must ensure that every action taken aligns with relevant legal and ethical provisions. If sufficient evidence is uncovered during the investigation indicating that a notary has violated regulations or abused their authority, MKN may impose disciplinary measures. These measures can range from verbal or written warnings, aimed at cautioning the notary against repeating similar errors in the future.

Apart from giving warnings, MKN also has the authority to recommend more severe sanctions, such as temporary dismissal or permanent dismissal from the position of notary. Temporary suspension is usually applied when the violation is not too serious but is serious enough to require time for the notary to correct the error. On the other hand, dismissal is still applied in cases where the notary is proven to have committed serious violations that cannot be tolerated and have the potential to damage the integrity of the notary profession as a whole. Through clear monitoring and sanctions mechanisms, MKN plays a vital role in maintaining standards of professionalism and public trust in notaries.

b. MKN Approval for Taking Deed Minutes and Summoning Notaries

Article 66 Paragraph (1) of Law Number 2 of 2014 mandates that investigators, public prosecutors, or judges seeking a photocopy of deed minutes or summoning a notary for examination must obtain prior approval from the Notary Honorary Council (MKN). This regulation is designed to guarantee that actions taken against notaries are grounded in valid and lawful reasons and are conducted in accordance with proper procedures. By implementing this provision, notaries are afforded substantial legal protection in the execution of their duties, mitigating the risk of unauthorized parties abusing their authority.

The approval process by MKN provides a very important layer of protection. Without this approval, investigators, public prosecutors, or judges cannot carelessly take documents or summon a notary. This ensures that every action against a notary must go through an initial examination by the competent authority, namely MKN. Apart from protecting notaries from unwarranted interference, this mechanism also maintains the integrity and confidentiality of highly sensitive notary documents. Thus, this legal protection is not only beneficial for notaries, but also for the parties involved in agreements notarized by notaries, because they can be assured that the

legal process related to their documents is carried out with care and in accordance with applicable legal procedures.

c. Notary's Right to Refuse

Notaries possess the right to refuse, which is outlined in various laws and regulations, including Article 170 of the Criminal Procedure Code, Article 1909 of the Civil Code, and Article 16 Paragraph (1) Letter f of the Law on the Position of Notaries (UUJN). This right empowers notaries to decline to disclose information or release documents entrusted to them unless authorized by the Notary Honorary Council (MKN) or the competent court. By exercising this right, notaries can uphold the confidentiality of information and documents entrusted by their clients, ensuring that access is granted only to duly authorized parties through valid legal procedures. This is particularly crucial given that documents held by notaries frequently contain sensitive information pertaining to legal agreements, property, or substantial business interests.

The notary's right of recusal plays a crucial role in protecting the integrity of the notary profession and public trust. Without this right, notaries may be forced to disclose information that should be kept confidential, which could damage the relationship of trust between notaries and their clients. Apart from that, this right to refuse also ensures that documents are not misused or accessed without permission by unauthorized parties. Thus, the right of recusal helps ensure that notaries can carry out their duties with a high degree of independence and prudence, as well as safeguarding the trust and interests of the parties involved in various legal transactions that require notarial deeds. Through this mechanism, notaries can function optimally as neutral and reliable public officials, providing assurance that the documents and information they manage remain safe and confidential.

d. Clear Administrative Sanctions

Law Number 2 of 2014, amending Law Number 30 of 2004 regarding Notary Positions, outlines administrative penalties for notaries found in violation of legal provisions. These penalties range from verbal and written warnings to temporary or dishonorable dismissal. The implementation of these sanctions is intended to uphold discipline and professionalism among notaries in their capacity as public officials. Through stringent penalties, it is anticipated that notaries will exercise greater caution and responsibility in fulfilling their obligations, thereby ensuring the continued high quality of legal services offered to the public.

Apart from maintaining discipline, the application of administrative sanctions also functions as a form of protection against actions that are detrimental to other parties. For example, if a notary commits a violation that causes harm to clients or third parties, administrative sanctions provide certainty that there is a mechanism that can take action against unprofessional behavior. This provides a sense of security and trust for the public in the notary profession. Thus, the existence of administrative sanctions regulated in Law Number 2 of 2014 is not only aimed at enforcing discipline among notaries, but also to protect the public interest and maintain the integrity of the notary profession as a whole.

e. Terms and Procedures for Calling a Notary

Minister of Law and Human Rights Regulation Number 7 of 2016 meticulously governs the conditions and procedures for summoning notaries by investigators, public prosecutors, or judges. This regulation was devised to guarantee that each summons to a notary adheres to transparent and well-defined procedures. Among its provisions are formal prerequisites that must be met prior to summoning a notary, such as an official summons letter delineating the reason for the summons and the purpose of the inquiry. Additionally, notary summons necessitate approval from the Notary Honorary Council (MKN), serving as a supervisory entity to ensure that the summons is not exploited and is conducted in compliance with relevant laws. Consequently, notaries are shielded from arbitrary actions that could compromise their reputation and integrity.

The procedures regulated in Minister of Law and Human Rights Regulation Number 7 of 2016 also function to maintain a balance between the need for legal investigations and the protection of notary rights. This structured procedure ensures that investigators, public prosecutors, or judges cannot summon notaries carelessly without strong grounds and without going through a transparent process. In this case, MKN has an important role in assessing and giving approval whether the summons is feasible. With this regulation, notaries can carry out their duties calmly and safely, without worrying about facing unwarranted summons or legal action. Apart from that, this regulation also ensures that the legal process runs fairly, considering that notaries often hold important documents and information that are confidential and very sensitive.

D. CONCLUSION

Mortgage rights in the Indonesian civil law system function as a guarantee for debt repayment which provides security to creditors that the debt given will be repaid. If the debtor fails to fulfill his obligations or defaults, the creditor has the right to execute the mortgage right through a public auction, in accordance with the provisions of the Mortgage Rights Law (UUHT). The validity of an authentic deed requires the fulfillment of formal and material aspects. The formal aspect relates to technical and procedural requirements, such as making it by an authorized official, while the material aspect relates to the substance of the deed which accurately reflects the wishes of the parties. If these aspects are not fulfilled, the authentic deed can lose its legal force and be considered equivalent to a private deed. Defects of will, including abuse of circumstances (*misbruik van omstandigheden*), can be a basis for canceling the agreement. Abuse of circumstances occurs when one party takes advantage of a special situation facing another party, such as an emergency or mental dependency, to gain an unfair advantage. Legal protection for notaries is regulated comprehensively in Law Number 30 of 2004 and its amendments in Law Number 2 of 2014. This protection includes three main elements: evidence produced by the notary, members of the public who use the evidence, and the notary as a general official. The Notary Honorary Council (MKN) functions as a supervisor of the implementation of

notary duties and has the authority to carry out inspections and provide sanctions if there are violations. Procedures for summoning and retrieving documents by investigators, public prosecutors, or judges must be approved by the MKN, providing an additional layer of protection for notaries so that they do not experience arbitrary treatment. Notary recusal rights regulated in various laws give notaries the authority to refuse to provide information or submit documents without approval from MKN or the competent court, maintaining the confidentiality and integrity of the documents. In addition, administrative sanctions regulated in law aim to maintain the discipline and professionalism of notaries, as well as provide protection against actions that could harm other parties. Minister of Law and Human Rights Regulation Number 7 of 2016 ensures that summons to notaries are carried out transparently and in accordance with applicable regulations, so that notaries do not experience arbitrary treatment. This overall legal protection ensures that notaries can carry out their duties safely and calmly, as well as maintaining a balance between the need for legal investigations and the protection of notary rights.

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