Jurnal Multidisiplin Sahombu
Volume 5, Number 01, 2025, DOI 10.58471/jms.v5i01
ESSN 2809-8587 (Online)
https://ejournal.seaninstitute.or.id/index.php/JMS/index

Authority Of A Notary To Issue A Deed

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Article Info
Keywords:
Law,
Authority,
Deed

ABSTRACT
In order to determine heirs to ensure legal certainty, a Notary is the only party authorized to issue birth certificates for all Indonesian citizens regardless of their ethnic origin. This is based on the UUJN (Notary Position Law) which stipulates that a notary has the authority to determine evidence in the form of general letters, including a statement of heirs. A Notary is appointed by law as the sole owner or institution that has the right to issue Notaries for all Indonesians, as referred to in Article 15 paragraph. (1) UUJN, based on the authority of a Notary to determine the actual deed. The authority of a Notary is a personal authority and its own function must have legal meaning, be binding, so that its function can run well and not conflict with the authority of other functions. The issuance of inheritance deeds by a notary to all Indonesian citizens without discrimination is in accordance with the principles of law and upholds the law on safety and equality before the law. Likewise, the right of a Notary to provide evidence as an heir or as a statement of heirs is protected by the UUJN, a step that is in line with the concept of development law.

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INTRODUCTION

The constitution adopted by Indonesia is in line with the concept of a new constitution that aims to ensure the welfare of the people. (Kartini & Kusyandi, 2021) The government is able to quickly control and regulate every area or part of its citizens' lives, only for the welfare of its citizens. (Administration & Untag, 2019) In community life, the purpose of law is to determine regulations. (cnn, 2018) In addition to the need for other things that also want to be regulated by law, the main purpose of law is order. This is a practical fact that affects all aspects of human society. (Anita Sinaga, 2020) Justice as the purpose of law behind order. (Faisal Santiago, 2017) to realize order in society, truth (law) is needed in relationships between members of society. (Al Isra, 2017) Without legal certainty and social order, society will not be able to effectively develop the talents bestowed by God in the society in which they live. In this case, legal certainty is the most measurable legal objective to ensure the establishment of order and justice in society. (Rasinus et al., 2021)

Legal certainty is one of the most important legal principles. Basic law is a general legal principle that is the basis for legal norms. The most important thing for legal certainty is the existence of regulations (regulations) that actually exist in the law. (Hanifah, 2020) The question of whether this law is fair and beneficial to society is not just the value of the law itself. A general law must be a general law or a law of necessity. (Suhardin, 2007)

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In order to create a general and peaceful atmosphere in society, this law must be enforced and implemented strictly. For that, the legal requirements must be known first. (Farida, 2016). An idea that should be applied in appointing heirs consistently and in accordance with legal principles is to ensure that the notary is one of the few officials who has the right to provide heirs to all levels of Indonesian society, regardless of race or ethnicity. (Taofik, 2021) In accordance with the reasons and legal basis stated and explained later. Citizens recognize Notaries as public officials and have the right to make real decisions on all actions, agreements and decisions required by laws and general regulations, especially those desired by those who handle them. Declared authenticity confirms the date and is not obligatory or exclusive to the administrator or anyone else. (Ratangin, 2017)

Notary as a Civil Servant is the application of a Notary as a government tool that is legally authorized to provide public services to the community, including the preparation of public letters as final deeds for legal work in the civil field. (Prayitno, 2017) Jurisdiction is the basis for legal actions that are determined and given status based on legal rules or the constitution. Therefore, each jurisdiction has its own scope of jurisdiction, which is determined by the Constitution. (Safitri & Wibowo, 2023)

METHOD

Basically there are three ways to obtain power from the constitution, namely:

1. Contribution
   Contribution is the delegation of government power by lawmakers to government agencies. The budget is the granting of new government powers according to the constitution (new powers are created). (Mz, 2019) In this case, the recipient of power can create new powers or expand existing powers. Internal and external responsibility for the implementation of the authority entrusted to the person in charge. (Rahman, 2017)
2. Decentralization
   Decentralization is the transfer of government power from one government unit to another. (Aini, 2022) Assignment is the transfer of existing power (by the party receiving the transfer to another person), so that the assignment is effective before the assignment. (Wijaya, 2017) Delegation does not create power, but transfers power from one owner to another. The legal responsibility is not on the giver, but on the recipient of the gift. (GOOD, 2015)
3. Jurisdiction
   Jurisdiction occurs when a government agency allows another agency to exercise its authority on its behalf. (Ramlah, 2018) There is no transfer of power or delegation of power in a trust. The seller only acts on behalf of the authorized distributor. (Hasan Harinanto Sugiono, 2015) The final responsibility for decisions made by the client remains with the administrator (without liability). Guarantees do not have to be made under the law, but can be made in writing or orally. The position of a Notary as a public official is a state agency that is entrusted with various government functions and authorities, including the nature of duties, obligations, rights and responsibilities when

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working in public in their field. in public work, especially in the preparation and confirmation of work. (Nardo, 2023)

The government as a public official appoints a Notary to assist the public who wish to submit written evidence regarding the occurrence of a legal event. (Kurniawati, 2017) Written evidence or letters are anything that contains writings to express feelings or express someone's thoughts and is used as evidence. Editing has 2 (two) functions:

1. Formality (formality causa), namely the law which is a formal requirement for the existence of a right is complete or perfect (not valid), the law must be changed into a statute.
2. As evidence (probationis causa). In the future, action will be taken as evidence. This presentation is the most important part of the work. In the article of the Civil Code of 1868, there is a definition of permanent law: "Permanent law is a law made by law or before a public official who exercises that right if there is a law. the action will occur. the work is done.

Therefore, to qualify as a permanent job, you must meet the following 3 (three) criteria:

1. Must be done “near” (number) or “before” (more than ten) public works.
2. The law must be enforced in the manner prescribed by law.
3. Public officials who have or are authorized to carry out work must be authorized.

That an act of honor is an act carried out by an official assigned by an authorized and appointed official. The source of notary power is obtained through a sign, while the notary's power to carry out general acts is carried out through a legal act, namely UUJN. In filing a claim, the notary's right to make an actual deed for evidentiary purposes must be considered. (Rosadi, 2020)

Discussion

Because the Notary's book as a true deed is the strongest and most complete evidence, then the ÚUJN adjusts the form and style of the book, original, draft, copy of the book, copy of the textbook. In his daily work related to the making of authentic deeds for all documents, agreements and arrangements required by law or required by interested parties, Notaries are divided into 2 (two) groups consisting of deeds entered into the manuscript. 1 number 7 UUJN. , namely:

1. Deed of delivery or notarial note (ambtelijke akten), a deed written by a notary "door". In a voluntary act, the Notary explains/gives as a public official as a witness everything that the Notary sees, writes, experiences and what others do on his/her side.
2. Deed of party (partij deen), a deed carried out “before” (at least ten) notaries.

The party deed contains information from the parties who are parties to this deed, in addition to that, a notary's statement is also included stating that those present have expressed their wishes as stated in the side deed. work. work. Therefore, according to the ÚUJN concept, there are 2 (two) types of activities that are the authority of a Notary, namely activities related to activities and activities of the parties. The notary's minutes must be approved if the interested parties cannot provide testimony in court. The actions of officials who do not have the authority, are not competent to act, or do not meet the requirements

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cannot be considered as acts of good faith, but become effective with the signing of the parties who made the agreement. anxiety.

In notarial practice in Indonesia, the statement of heirs is usually made in a separate deed. Contains personal information from the notary who believes that the person mentioned there is a descendant of the deceased. True or not, an act is void if it is believed to have been carried out by or before a public official; In addition, after a person dies, the procedure for carrying out legal acts must be followed, and efforts must be made to determine the identity (identity) of the person who will certainly inherit the deceased's job. a document must be made and must meet the requirements set by law. In the court process it becomes a statement of descendants. Submission of information from the heirs in advance and/or to a notary can be the legal basis for Article 15 paragraph of the interested party recording it to a reliable device. According to the evidence, the deed of statement of heirs made by a notary has a determining value, because it is made before a public official who is authorized to carry out general acts. Unlike the statement of heirs which is merely a statement, even though it is made by a notary, it does not have legal force because it does not meet the ideals of its demands. Certificate of Authenticity, Notary checks the authenticity of the material to prove the truth of the information provided by the parties. Of course, the notary must ensure the truth regarding the house and its descendants.

Notaries have the duty to ensure legal certainty by carrying out their duties based on examination and research of existing documents, such as death certificates, marriage certificates, birth certificates of children, statements of domicile or extramarital agreements, certificates of residence or absence. Marriage certificates, adopted children and information on whether they are wanted or not. The existence of a will is known by checking the will section at the Central Registry of the Ministry of Law and Human Rights. This is what makes the making of inheritance deeds by a notary different from other offices. The making of birth certificates for all legal entities should be completely handed over to a notary. This case will be referred to the local court or Sharia Court only if there is a dispute. According to these conditions, the act is correct, namely not being carried out. The form is required by law. The importance of having time for coordination between the parties involved in the development of national legislation must be considered so that the process of making birth certificates in Indonesia does not continue to be based on the law.

With the development of today's society where more and more people are making wills, there are good benefits from notary journalism, namely making wills through the main list of wills. Ministry of Law and Human Rights. The inheritance process does not exist in other institutions that issue inheritance deeds other than notaries, for example at regional offices, district and ecclesiastical courts or district courts.

The statement of heirs is made by a notary.

For legal certainty, the statement of heirs must be announced in the form of real estate in accordance with Article 15 par. (1) UJN. The statement of heirs made by a notary refers to the identity of the heirs and the method of explanation or declaration regarding the creation of the heirs before the notary. The portion or rights of each heir depend on the will law that he wants to use, according to the will law based on the Civil Code, Islamic will law, will law or inheritance, and its distribution. of inheritance. a special will letter can be made to represent

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part of the inheritance. Therefore, the Notary must know well how to report to his successor and must also pay attention to the steps needed so that no mistakes occur in the future that can harm the heirs and the Notary.

It is important to make a certificate of inheritance, which is clearly stated in Article 14 of the Wet op de Grootboeken der Nationale Schuld and it is stated that in the Certificate of Inheritance that must be maintained at this time, the principles that must be used in making a Certificate of Inheritance in Indonesia are:

a. Name, surname and last name of the applicant.
b. Name, surname, place of residence and, in the case of minors, date and year of birth of those who have the legal right to declare their share by will or letter of distribution and revocation of inheritance rights (boedelscheiding).
c. It is possible to specify the name, surname and address of the representative of the minor (i.e. guardian, main body), including a special administrator (protected from the air).
d. The true sign of a valid will or inheritance is the relationship between the giver and the heirs who will inherit it.
e. The obligations of the heirs regarding the right to transfer what they receive, by stating the name, surname and address of the object, as well as who can receive it and help if necessary to make changes to the management.
f. Including statements from leaders sharing stories of their descendants to confirm the veracity of their documents.

The procedure for writing a deed of inheritance carried out by a notary is as follows:

The first stage

a. The notary requests a stamp application from the applicant/donor or his representative;
b. Requests a death certificate from the heirs;
c. Recording a will in the Central Will Register, whether it has been made or not, is closely related to the distribution of inheritance, both inheritance and will, so that problems do not arise.

Second Stage

a. Notary who validates the inheritance deed Brings the inheritance deed that provides a guarantee of its legal authenticity, besides that it also requires the rights of the notary who prepared it, cooperation of descendants to prove the validity of a person's deed. participation of the government which is responsible for: - correct/reliable data provided in the citizenship certificate.
b. Information and direct orders from the Ministry of Law and Human Rights for the registration of wills which are administered directly and nationally (throughout Indonesia) in collaboration with Notaries throughout Indonesia in connection with Article 16 (1) letter h of the UUJN requires Notaries to make and register wills no later than the 5th (fifth) of each month.

Obligation to verify wills in the Central Register before publication of information about descendants.

In making a deed of inheritance, the notary must always pay attention to the list of wills, because if an examination is not carried out, there is a high risk of lawsuits from the

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descendants of the deceased, which will harm the heirs in the future. The beneficiary controls the distribution of assets if the beneficiary dies. The existence of a will affects the contents of the inheritance letter that is legalized by the Notary, because one or more heirs can be removed as heirs due to the will or part or from the inheritance of the heirs or not. get a share of it. It is known that the husband or wife of the heir can inherit the house without receiving a share of the inheritance, because the husband or wife of the person cannot hand over the keys to the actual part (the legal part) of the municipality. (30)

At this time, blood relatives in a straight line from top to bottom, if their share is divided, still receive the real share and place of inheritance from the heirs. If left unchecked, it can have fatal consequences because it is an important part that must be obtained and cannot be underestimated. According to Article 15 par. 1 UUJN, a Notary has the right to announce information about the heirs in the form of real letters, which are not intended for those who are entitled according to the Civil Code, but for all of Indonesia. The division of assets before the legal merger of the will is carried out according to the law regarding the "population group" of the heir. Which type of trusted tool is most similar to UUJN because it can be studied together in legal discovery. To eliminate and eliminate discrimination in traditional information, a Notary can act as a person authorized to announce traditional information. Notaries must be able to use the values of independence in real actions, namely making Notaries and making them the only officials authorized to issue information to all Indian citizens without distinguishing between groups/races/ethnicities or religions. Notary as a foundation has its own power and the same status must have legal rules, bound so that its function can run well, not conflict with the authority of other functions, then the law must have such power. basis. Authority is a limitation on who may act and is limited to a position according to the legal rules governing the position.

The issuance of inheritance certificates for all Indian citizens by a notary is carried out in accordance with the procedures related to the supremacy of law by fulfilling the requirements of legal certainty and equality before the law, and giving the notary the authority to prove as an heir, heir. . The statement of descent is also protected by UUJN, in accordance with the principles of the theory of legal development of Mochtara Kusumaatmadja, so far the theory of law in Indonesia because it was created by the mastery of Indonesian people. the size and culture of Indonesian society. Thus, by measuring the dimensions of these developments, the concept of law was born, grew and developed according to the different conditions currently in Indonesia, and its application is in accordance with the terms and conditions of Indonesia.

CONCLUSION

In practice, the inheritance deed is written by the descendants and legalized by the village head and regent for Indonesian citizens, by a notary for Chinese Indonesian citizens, and by the BHP for other communities in the eastern part of Indonesia. and different legal bases, so that the concept of legal certainty in the legal concept is not respected. Determination of heirs is very important in inheritance law, because the law that regulates it must be the same as Mochtara Kusumaatmadja's theory of legal development, a method or method is needed in the development process. the role of law guarantees safety and welfare. The law of oaths in

Indonesia is still numerous, and the unity of the law of oaths cannot always be used and applied fully throughout Indonesia; However, to issue a deed of succession can be done through a notarized deed of succession, because although there are many provisions in the law of succession in family law and the law of succession for Indian citizens, it is not necessary to get it. traditional certificate. or authority to make a will. the information is different. The number of traditional certificates is a form of illegality and Indonesia is avoided as a country of law. As a country, Indonesia states that its state law requires the law of one oath. However, since the current national will law has not been put forward, the relevant issues in will law, namely the statement of heirs, must be the same for all Indian people, without distinction. The power of a notary to declare inheritance for all Indonesian people regardless of class can eliminate the existence of pluralistic law in the statement of inheritance and the law applied to the theory of development lawMochtar Kusumaatmadja.

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