

Juridical Analysis of the Code of Conduct Violations in Perspective to Determine the Establishment of the Notary Position: A Research Related to the Notary Public in Batam City

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A B S T R A C T

The legal profession in community growing in Indonesia is required related to the developing necessities of society, especially in the domain of law. To assist the community in anticipating legal issues. The notary position was established because the public required them, not the position deliberately composed and later socialized to the general public. The placement of notary or likewise recognized as the notary position formation is the determination of the number of notaries demanded in a Regency/municipality and governed by the Ministry of Law and Human Rights of the Republic of Indonesia. Time and regional growth in Indonesia further impacted the establishment of the notary position, because of the growth of the remaining economic level in the entire territory of Indonesia. The research method used is normative and is supported by juridical research empirical, i.e. research by accompanying regulatory studies and application of regulation as a mechanism of legal policy and associate it with empirical law research that observes how reactions and interactions occur during the norm system works. The research stage is conveyed through literature and field studies. Data collection techniques by document studies and interviews. The analysis of the data used is qualitative juridical, a process in which research generates descriptive-analytic data, data collected both secondary data and primary data.

Keywords: Violation, Code of Ethics, Notary.

1. Introduction

The legal profession in the advancement of society in Indonesia has required compatibility with the growing necessities of the community, especially in the domain of law. To assist the community in anticipating legal problems. One of the legal profession in Indonesia is Notary. In the amendment of Law Number 30 of 2004 concerning Notary Position as amended to Act Number 2 of 2014 concerning Notary Position, hereinafter referred to as UUJN, it is affirmed that Notary Public is the authorized official to compose an authentic deed and has additional authorities as referred to in Law of Notary Position or based on other laws

Placement of a Notary Public or also recognized as a Notary Position Formation is a determination of the number of Notaries required in a regency/city and is regulated by the Ministry of Law and the Human Rights Republic of Indonesia. The expansion of the era and regional growth in Indonesia likewise had an impact on the formation of the position of Notary, because the growth of the level of the economy that was remaining in all sectors of Indonesia, performed the Notary did not require to determine regions amidst sluggish economic growth. As a result, areas with rapid economic growth, such as in big cities and surrounding areas, are highly sought later by prospective Notaries. The impact is the accumulation of the number of Notaries in the major cities and surrounding areas.

Notaries are requested to continually refer to the professional code of ethics and the Law of Notary Position Number 30. The year 2004 which has been amended by Law No. 2 of 2014 concerning Notary Position, because the position of Notary is considered easy to slip on things that are detrimental to and

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violate the Code of Ethics profession. The reality of a Notary Public can be seen as a particularly influential figure and is necessitated by the public because the information held in the Notarial Deed requirement reliable, might provide guarantees as strong evidence, and can present legal protection for those who require it in the future.

2. Formulation of the Problem

- How do the legal arrangements in violation of the code of ethics in the perspective of determining the position of the notary position according to the current legislation?
- How is the Implementation Code of Ethics Violations in the Determination of Notary Position Formation in Batam City?
- What are the factors that cause and the solution to violation of the code of ethics in the perspective of notary position formation in the Batam City area?

3. Discussion

Legal arrangements in violation of the code of ethics in the perspective of determining the position of the notary position according to the current legislation

Notary in Indonesia in conducting out their position as a public official is regulated in Act Number 2 of 2014 in connection with Law Number 30 of 2004. The law is regulated firmly and completely about the position of Notary Public from the Appointment and Dismissal of Notaries, Authority and obligations as well prohibition of a Notary in carrying out their position, and also regulating their position and formation and the area of their position. Before the promulgation of Law Number 30 the Year 2004, the position of Notary Public was regulated based on the Staatsblad Ordinance 1860 Number 3 (Regelement op Het Notaris Ambt in Indonesie) as amended lastly in the State Gazette of 1945 Number 101

Besides, there are also some regulations governing the position of a Notary even though it has been revoked and no longer applies, namely:

- Ordonantie 16 September 1931 concerning Honorarium Notary;
- Law Number 33 of 1954 concerning Deputy Notaries and Provisional Notaries (Statute Book Year 1954 Number 101, Supplement to Statute Book Number 700);
- Government Regulation Number 11 the Year 1949 concerning Oath / Promise of Notary Position.

The notary also swears/promises to control attitudes, behavior, and will carry out obligations following the professional code of ethics, honor, dignity, and responsibility. The notary public must also obey and be loyal to Pancasila, the 1945 Constitution of the Republic of Indonesia, the Law on Notary Position and other Laws, and carry out obligations under the Professional Ethics Code. The Code of Professional Ethics in question is the Notary Code of Ethics.

The Notary Code of Ethics was established in Bandung on January 27, 2005, which was made by the Indonesian Notary Association. This Notary Code of Ethics is shaped so that the Notary in carrying out his / her official duties must have ethics under the Notary Code of Ethics that has been made. This is very important in maintaining the attitude and behavior of the Notary. Then the latest amendment to the Notary Code of Ethics was carried out in Banten, in May 2015, as outlined in the Amendment to the Notary Code of Extraordinary Congress of the Indonesian Notary Association, Banten, May 29-30, 2015. One of the provisions that necessity be obeyed by notaries in carrying out their duties and his position is the notary code of ethics. This Notary Code of Ethics was formed to uphold the ethics of the Notary profession.

Correlation between Notary Code of Ethics with Notary Position Law number 2 of 2014 Jo Law of Notary Position number 30 of 2004, which is Notary Requirement comply with the Act and adhere to the Notary Code of Ethics. The relationship lies in the provisions of the notary code of ethics that is lifted from the provisions of the Notary Position regulation and the imposition of sanctions against both violators. Both the Law and the Notary Code of Ethics require that the Notary perform their duties properly.

3.1 Implementation Code of Ethics Violations in the Determination of Notary Position Formation in Batam City

To carry out his position as a public official, a Notary must hold fast and be guided by the Law of the Notary's Position and the Notary's Code of Ethics. In Article 15 of Law Number 30 the Year 2004 concerning the Position of Notary, it can be seen the duty and authority of a Notary Public to make an authentic deed. Besides that, the Notary Public can also provide legal advice and explanations regarding the laws and regulations to the parties facing him in connection with making a deed. In essence, the Notary only conveys in writing the legal actions of the parties concerned and faces him.

In carrying out their duties and carrying out their positions, besides Notaries are required to have high and professional capabilities, they must also be required to pay attention to legal norms that are based on moral rules, and professional ethics. So that the confidence in the position of Notary is maintained. This demand can be a determinant of the good and bad image of the Notary in the eyes of the public.

According to Article 21 of Law Number 30 of 2004, as amended to Law Number 2 of 2014 concerning Notary Position, the Minister has the authority to determine the formation of Notary positions in the regions as referred to in Article 18 paragraph (1) with consideration of proposals from Notary Organizations. Inappropriate placement of a notary public can have a wide impact on the legal and social fields, including unhealthy competition in carrying out the notary profession and violation of the Code of Ethics. With an abundant number of Notaries and uneven and piling up placements in cities, competition in the notarial world is getting tougher, resulting in legal signs as the main regulator of the Notary profession, namely the Notary Position Law and Notary Ethics Code, which becomes weaker.

As a result of these regulations cause problems relating to the balance of the Notary Formation or will lead to violations of Law Number 2 of 2014 Jo Law Number 30 of 2004 concerning Notary Position and Notary Ethics Code as a result of the formation of imbalances in general and division of work areas or domicile in particular. The excessive number of notaries with uneven formations results in unhealthy competition among notaries, causing violations of the notary code of ethics and violation of the notary position law.

Inappropriate placement of notaries and uneven economic growth in Indonesia causes notaries in small cities to be lacking, because the interest of notaries is attracted to big cities, and although it has been regulated by the Minister of Law and Human Rights Regulation No. 27 of 2016, Article 7 which stipulates that the appointment of a new notary starts from the Category D area, whereas large cities with high economic growth rates are only for senior notaries or transfers who have been practicing for three years or more, it still does not reduce the interest of notaries to switch practices to large cities. Notaries are also willing to register in small-town formations first but only as a stepping stone, the seriousness of the notary's dedication in carrying out their position is quite lacking due to not a few even though there are offices in small cities, the Notary is rarely in their office to serve the community, the signboards and offices are just formalities.

3.2 Factors that cause and the solution to violation of the code of ethics in the perspective of notary position formation in the Batam City area

The number of Notaries in an area is regulated in Article 22 of Law Number 12 of 2014 in conjunction with Law Number 30 of 2004 concerning Notary Position based on business activities, population, and/or the average number of deeds drawn up by and or before Notary public. the month. Whereas the reality is that currently the number of Notary candidates is increasing every year, and the abundant number of Notaries has led to unfair competition among Notaries, leading to unfair competition among Notaries and causing violations of the Notary Ethics Code and violations of the Law Position of Notary Public.

The newly appointed notary must be placed in an area that is classified as a Regional Category D. The regional D category itself when viewed from the side of economic growth is a region with low economic growth, this causes the Notary who is in the category D area to move to an area whose economic growth height to cause a buildup of Notaries in big cities. This causes a lot of supply and lack of demand for notarial deeds and results in irregularities or unfair competition such as conducting price reduction, in collaboration with the bureau to get clients.

Most notable in the field encountered a Notary who has technical skills education in the field of high law but ignores aspects of one's responsibility towards the person entrusted to him and his profession in general and ignores the values and ethics that should be a guideline in carrying out his profession, so this will only result in producing artisan mere skilled craftsmen in the field of law and their profession without being accompanied by integrity and good morals, according to Johari Notary, one of the Notaries in Batam City, who was the resource person in this study said that this was due to the notary being not ready to be appointed and running the profession Position of Notary, and carry out duties as a person who is trustworthy, honest, fair or impartial, and responsible.

To anticipate the number of Notaries who have been too many with notary Masters graduates who are increasing every year too, in fact, there is a really significant difference between the number of Notary graduates and the number of Notary candidates appointed, considerably more graduates or Notary candidates compared to the available formation quota. Unbalanced supply and demand. The government should contribute to regulating the number of tertiary institutions that are allowed to open a Notary Master's study program that can generate Notary Candidates so that there are not too many graduates and can control the Notary candidates themselves so that their quality is not doubted. Related to the problem of a large number of Notaries in an area, the Minister should determine the composition of the Notary Public still paying attention to three elements, namely: 1. Business World Activities, determining business activities as referred to using data from banks. 2. Population Number, determination of population as referred to by using data from government agencies dealing with the population sector. 3. The average number of deeds composed by and or before a Notary every month using the database of the Directorate General of General Law Administration.

Equitable economic growth should be a concern of the government so that in the future the Notary is willing and willing to devote himself to the profession of the Notary by providing services to the public throughout the archipelago, wherever the Notary is placed without having to move to other positions on the grounds of seeking a place of high economic growth. The Indonesian Notary Association as a Notary organization should also synergize with the government, in addition to supervising and guiding Notaries, also raising awareness of Notaries who are appointed by the Minister and placed in any region to carry out their duties and positions seriously under the corridor of the Law of Notary Position and the Code of Ethics.

Tightening the requirements for appointing Notary candidates to become Notaries. It is not enough to focus only on his notary skills as stated in Article 3 Letter F, which is the requirement to have undergone an internship or have worked as a Notary employee for a minimum of 24 consecutive months in the Notary's office, but also for prospective Notaries must be given stock and deeper learning about moral ethics in the profession, increasing the awareness of prospective Notaries to be able to have a better nature above the average human being in general. Increase the sense of responsibility in conducting out the profession, honest, trustful, and fair. For notaries who have been appointed, the solution to avoid this proceeding is to reinforce the sanctions imposed on the notary who violates the Code of Ethics and increase oversight carried out by the organization where the task here is to prevent this from happening, and provide more intensive guidance so can improve the image of the Notary public.

4. Conclusion

Legal Regulations of Code of Ethics Violations in the Perspective of Determination of Notary Position Formation According to the Laws and Association regulations which are currently in force are set out in the Notary Ethics Code of the Extraordinary Congress of the Indonesian Notary Association of Banten, 29-30 May 2015 relating to the Law of Notary Position number 2 of 2014 Jo Law Notary Position number 30 of 2004 State Gazette of the Republic of Indonesia Number 3 of 2014, Supplement to the State Gazette Number 5491. Regulation of the Minister of Law and Human Rights of the

Republic of Indonesia Number 27 of 2016 concerning Formation of Notary Position and Determination of Regional Categories. Republic of Indonesia State Gazette Year 2016 Number 1209.

Implementation of Code of Ethics Violations in the Determination of Notary Position Formation in Batam City based on field practices there is still many Notaries who violate the Code of Ethics relating to the determination of Notary Position Formation. Inappropriate placement of a notary public can have a wide impact on the legal and social fields, including unhealthy competition in carrying out the notary profession and violation of the Code of Ethics. This competition between notary professionals causes problems regarding the balance of notary formations and matters that are not under the Law of Notary Position and Notary Ethics Code. This is due to uneven economic growth in Indonesia so that many Notaries who want to move immediately to regions with higher economic growth, so that Notaries many Notaries who are not serving in carrying out their professional professions, by providing services to the people of Indonesia throughout the archipelago.

What are the factors that cause and the solution to violations of the code of ethics in the determination of notary position formation are as follows: The number of notary candidates is increasing every year, and the number of notaries is abundant, causing an unhealthy competition among notaries and become aviolation of the notary code of ethics. violation of the notary code of ethics. Inequality in economic growth results in a Notary whom placement of his office in the Regional Category with low economic growth wants to move to an area with high economic growth, which causes a notary buildup in big cities. Notariat education which only produces skilled craftsmen in the field of law and their profession without being accompanied by integrity and good morals.

5. Suggestion

It is recommended to the Legislature to further improve the quality of the resulting regulatory products and be able to quickly respond to the provisions and social changes and public aspirations. It is recommended that notary not only given notary professional education also be given a briefing or special education so that in the future in carrying out the profession of Notary can be more trustworthy and responsible and comply with the rules of the Notary Position Law and Notary Ethics Code and Oath of Position. It is recommended to the Indonesian Notary Association as supervisor and notary Trustee to play an active role in supervising and fostering notaries to minimize and overcome violations of the Notary Position Law and Notary Ethics Code.

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