

Legal Analysis of the Legal Consequences of Authentic Deeds Made by a Bankrupt Notary/PPAT (Land Deed Official)

Revista Review Index Journal of
Multidisciplinary | e-ISSN: 2583-0031
Double-blind peer-reviewed | Refereed
Quarterly Online Journal
4(1) 82-92, 2024
©The Author(s) 2024
DOI: 10.31305/rrijm2024.v04.n01.010
<https://rrijm.com/>



Date of Publication: 31 Mar, 2024

*¹Raden Ratu Andriany Candrawulan, ²Zainal Asikin and ³Lalu Wira Pria Suhartana

^{1,2,3}Master Program in Notary Studies, Faculty of Law, Mataram University

Abstract: This research aims to determine when a notary/PPAT (Land Deed Official) can be declared bankrupt, the legal consequences of authentic deeds made by a bankrupt notary/PPAT, and the legal protection of the parties to the deed made by a bankrupt notary/PPAT. This research is normative legal research which utilizes legislative approach and conceptual approach. The research findings indicate that a notary is declared bankrupt when determined by a commercial court decision. The legal consequences of authentic deeds made by a bankrupt notary/PPAT are that such deeds become private deeds, whereas deeds made before the declaration of bankruptcy remain authentic deeds. Legal protection for the parties to authentic deeds made by a bankrupt notary/PPAT is provided by the curator to clarify the rights held by creditors so that pre-creditors are aware of the rights that should be obtained by the debtor, namely the notary/PPAT itself.

Keywords: Notary, PPAT, Bankruptcy, Consequences of Bankruptcy, Authentic Deed, Legal Protection.

1 | INTRODUCTION

Notaries in Indonesia are recognized as public officials who create deeds. Deeds made by notaries are authentic deeds with permanent legal force. This is clearly stipulated in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions, where a notary is a public official authorized to create authentic deeds and has other authorities as stipulated by law.

From a normative perspective, a notary is a position, but from an ethical standpoint, a notary is a profession. However, what is certain is their duty to provide services to the public by creating authentic deeds that can be used as strong and perfect evidence. Additionally, a notary is a trusted public official because the notary position is one of trust. Therefore, a notary must have good conduct (Munir Fuady, 2002). This is because notaries stand on their own, not receiving salaries but rather honoraria or gratuities, making them independent of superiors and other interests that may interfere. Therefore,

*Corresponding Author

Raden Ratu Andriany Candrawulan, Master Program in Notary Studies, Faculty of Law, Mataram University
Email: ratuandriany04@gmail.com

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notaries work independently, honestly, impartially, and with a sense of responsibility while providing the best possible service to the community.

Aside from being a public official, a Land Deed Official (PPAT) is also a professional in executing their authority. Therefore, PPATs have their own rules and code of ethics to carry out their duties professionally. Regulations regarding PPATs are stipulated in Government Regulation No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning the Regulations of the Land Deed Official Position.

The bankruptcy of a notary is outlined in Article 12 of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions, regarding being dishonorably dismissed from their position by the Minister upon the recommendation of the Central Supervisory Board.

Bankruptcy means the inability of someone to manage their wealth, and bankruptcy is declared by the Commercial Court. Therefore, a notary can only be declared bankrupt if determined by a commercial court judge, as stated in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions in Article 12 and Government Regulation of the Republic of Indonesia No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning the Regulations of the Land Deed Official Position Article 10 paragraph 2. One of the reasons for a notary/PPAT (Land Deed Official) to be dishonorably dismissed from their position is if declared bankrupt by a commercial court decision, as seen in one of the bankruptcy rulings of a notary/PPAT (Land Deed Official), namely ruling No. 20/Pdt.sus-PKPU/2020/PN Niaga Sby. If a notary/PPAT (Land Deed Official) goes bankrupt and is dishonorably dismissed, it is necessary to examine how the deeds previously made by the notary/PPAT (Land Deed Official) will be handled.

What about the deeds of a notary/PPAT (Land Deed Official) made before the bankruptcy ruling, during the bankruptcy process, and after being declared bankrupt by the commercial court? Because there is a period for the withdrawal of a notary/PPAT's protocol (Land Deed Official) when declared bankrupt and dismissed from their position, there is certainly a time frame. What if, during the protocol withdrawal period of a notary/PPAT (Land Deed Official) after being declared bankrupt, they create a deed? Can that deed be held accountable, and what are the legal consequences if there is negligence? This is not stipulated in Government Regulation of the Republic of Indonesia No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning the Regulations of the Land Deed Official Position and the Government Regulation of the Land Deed Official.

In the Notary Law and the Regulation of the Land Deed Official, the bankruptcy of a notary/PPAT (Land Deed Official) is not clearly mentioned, only one of the reasons for the dismissal of a notary/PPAT (Land Deed Official) from their position is stated as bankruptcy. However, Article 24 paragraph (1) of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations states that the bankruptcy of a debtor is categorized solely due to their incapacity to manage their wealth, but the debtor, in this case, the notary, may still be allowed to carry out other legal actions.

This can be seen as a conflict of norms between Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions, Government Regulation No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning the Regulations of the Land Deed Official Position, and Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. Where in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions and Government Regulation No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning the Regulations of the Land Deed Official Position, a notary/PPAT (Land Deed Official) is dismissed if declared bankrupt, and in Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, bankruptcy only concerns their personal affairs and does not affect their profession.

The bankruptcy of a notary/PPAT (Land Deed Official) leads to their dishonorable dismissal. So, what about the deeds made by that notary, and how is the accountability of the notary/PPAT (Land Deed Official) for those deeds if the parties need them later? And what if a notary/PPAT (Land Deed Official) who has been declared bankrupt still creates deeds? What is the validity of those deeds? This is what will be examined because it is not stipulated in the Notary Law and the Regulation of the Land Deed Official. This forms the basis for the writer to research "Legal Analysis of Authentic Deeds Made by Notaries/PPAT (Land Deed Official) Declared Bankrupt."

The main issues in this study are; when can a notary/PPAT (Land Deed Official) be declared bankrupt, what are the legal consequences of authentic deeds made by a bankrupt notary/PPAT (Land Deed Official), and how is the legal protection of the parties to the deeds made by a bankrupt notary/PPAT (Land Deed Official)?

2 | RESEARCH METHOD

The type of research used in this study is normative legal research. Normative legal research often conceptualizes law as what is written in legislation (law in books) or as norms or rules that serve as standards of human behavior considered appropriate (Amiruddin and Zainal Asikin, 2014). Normative legal research is research that focuses on norms and legal rules (Mukti Fajar ND and Yulianto Achmad, 2017). Normative legal research aims to find clear legal foundations in laying out legal perspectives on issues.

According to Muhaimin in his book "Metode Penelitian Hukum" (Legal Research Method), normative legal research typically involves only document studies, using legal materials such as legislation, court decisions, contracts/agreements, legal theories, and opinions of scholars (Muhaimin, 2020). The methodological approaches used in this research are conceptual approach and statute approach.

3 | DISCUSSION

1. Bankruptcy of Notary/PPAT (Land Deed Official)

Bankruptcy in Indonesia, particularly in legal transactions (especially contract law), involves at least two parties bound by a legal relationship: the debtor and the creditor. Each party naturally has rights and obligations arising from this legal relationship, referred to as performance and counter-performance, giving, making, not doing anything at all, or, as stipulated by the law, onderwerp object. Performance refers to something given, promised, or done in return. The actions, behaviors, or promises of each party are the price for promises purchased by the other party.

In the Bankruptcy Law, bankruptcy itself is defined as the general seizure of all assets of the bankrupt debtor, the management and liquidation of which are carried out by the Curator under the supervision of the supervisory judge. Considering the significant tasks and responsibilities of a Curator and Administrator, their duties and authorities are specified in Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, granting them several powers including:

- a. Securing bankrupt assets;
- b. Recording bankrupt assets;
- c. Selling bankrupt assets;
- d. Filing lawsuits related to bankrupt assets;
- e. Continuing the business of the bankrupt debtor;
- f. Requesting the supervisory judge to detain the directors of bankrupt legal entities or company commissioners.

In the event of a notary's bankruptcy, they will ultimately be under the supervision of a curator to manage their wealth. Determining someone as bankrupt must be based on a court decision as stipulated in Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations. This is in line with the realism theory proposed by Oliver Wendell Holmes, which views law as a lawyer does. For a lawyer, what matters most in viewing law is predicting the outcome of a legal process and the future of that legal rule. Opinions about what the court will decide constitute law.

Based on Article 22 of Law No. 37 of 2004 concerning Bankruptcy and Suspension of Debt Payment Obligations, what is declared bankrupt is the entire wealth of the debtor, not their personal assets, profession, or position. This provision implies that what a notary earns from their work, namely honoraria, is exempt from bankruptcy, meaning it cannot be bankrupted.

The position of a notary/PPAT (Land Deed Official) is an honorary position because their profession is carried out independently and without orders from anyone. Therefore, notaries/PPATs (Land Deed Officials) must maintain the trust of their clients and act with caution. The position of a land deed official is also a profession where both have the authority to create authentic deeds but are regulated by different rules.

Notaries and PPATs (Land Deed Officials) are public officials. The term "public official" itself, according to the General Dictionary of Indonesian Language, means:

1. an official, a government employee holding an important position;
2. office, headquarters, position.

In legal doctrine, the term "public official" comes from the term "openbare ambtenaren," which is translated as public officials, meaning officials entrusted with the task of creating authentic deeds that serve the public interest (Habib Adjie, 2007).

A notary is a public official appointed and dismissed by the Ministry of Law and Human Rights, while a PPAT (Land Deed Official) is a public official appointed and dismissed by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia, who is generally authorized to provide services to the public and specifically tasked with creating deeds as evidence of certain legal acts regarding land rights or Ownership Rights Over Condominium Units. PPATs hold their positions for a certain period but do not receive salaries from the government.

If a notary/PPAT (Land Deed Official) cannot fulfill their duties properly, sanctions may be imposed, ranging from warnings, temporary suspension, honorable dismissal, to dishonorable dismissal. Regarding dishonorable dismissal, it is regulated in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions and Government Regulation No. 24 of 2016 concerning Amendments to Government Regulation No. 37 of 1998 concerning the Regulations of the Land Deed Official Position, where each regulation mentions that one of the reasons for the dishonorable dismissal of notaries and PPATs is bankruptcy determined by a court ruling.

A notary declared bankrupt under Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions, is stipulated in Article 9 of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notaries and Article 12. Article 9 mentions that one of the reasons a notary can be temporarily dismissed from their position is during bankruptcy proceedings or debt payment deferment (Article 9 paragraph (1) letter a of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notaries), where during the trial process in the local commercial court, the notary is temporarily suspended from their position by the Minister of Justice upon the proposal of the body declaring bankruptcy or payment deferment (Habib Adjie, 2008).

Thus, the notary ceases to serve as a notary temporarily for a certain period, usually 3 to 6 months, while awaiting the court's decision. The sanction of temporary dismissal of a notary can end in the form of reinstating the notary to carry out their duties or may be followed up with further sanctions, namely honorable dismissal or dishonorable dismissal (Fenny Sandra Lisa, 2018).

If the commercial court has issued a bankruptcy judgment, then the Notary will be dishonorably dismissed from their position by the Minister upon the proposal of the Central Supervisory Board if declared bankrupt based on a court decision that has obtained permanent legal force (Article 12 paragraph (1) letter a of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions). Since there is no explanation in the article regarding the bankruptcy referred to in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions, bankruptcy here is considered to still refer to bankruptcy as stipulated in Law No. 37 of 2004 Bankruptcy and Postponement of Debt Payment Obligations.

Regarding the bankruptcy of PPATs, previously PPATs are given the opportunity to defend themselves to the Minister, in this case, the Minister of ATR/KBPN RI. If the defense submitted by the PPAT is rejected, then the Minister of ATR/KBPN RI will issue a dismissal decision for the respective PPAT. Then the PPAT has completed the entire bankruptcy process until obtaining rehabilitation. The respective PPAT can object to the submission of the dismissal sanction to the Minister of ATR/KBPN RI. If the efforts made by the PPAT are unsatisfactory, then the respective PPAT can file a lawsuit against the dismissal letter issued by the Minister of ATR/KBPN RI to the Administrative Court to annul the decision letter (Zainal Asikin, Lalu Wira Pria Suhartana, and Rahayu Kusuma Astuti, 2017).

It is actually known that notaries and PPATs are closely related to each other in terms of creating authentic deeds, so in practice, the positions of notaries/PPATs (Land Deed Officials) run side by side, and notaries often also hold positions as PPATs and vice versa.

If a Notary/PPAT (Land Deed Official) is declared bankrupt by the court because they are unable to pay compensation to creditors, the Notary/PPAT (Land Deed Official) is indebted to creditors outside of their position as a Notary/PPAT (Land Deed Official) as a person with another business that does not violate their position as stipulated in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions in Article 17 which states that a notary is prohibited from:

- a. Serving in an area outside their jurisdiction;
- b. Leaving their jurisdiction for more than 7 (seven) consecutive working days without valid reasons;
- c. Holding a position as a civil servant;
- d. Holding a position as a state official;
- e. Holding a position as a lawyer;
- f. Holding a position as a leader or employee of a state-owned enterprise, regional-owned enterprise, or private enterprise;
- g. Holding a position as a Land Deed Official and/or Second-Class Auctioneer outside the location of the Notary;
- h. Being a Substitute Notary; or
- i. Engaging in other work that contradicts religious norms, ethics, or decency that can affect the honor and dignity of the Notary's position.

In the case of bankruptcy, both as stipulated in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions or PPATs, or due to their mistakes as Notaries/PPATs (Land Deed Officials) in creating deeds, or due to the inability of the Notary/PPAT (Land Deed Official) personally to pay compensation to creditors, they can be declared bankrupt by the court, which will ultimately affect

their position as a notary even if the bankruptcy is due to personal matters, not because of their position in creating deeds.

Because in Law No. 37 of 2004 on Bankruptcy and Postponement of Debt Payment Obligations, a bankrupt person will lose their right to perform legal actions, in this case, legal actions performed by Notaries/PPATs (Land Deed Officials) regarding creating deeds, namely authentic deeds.

Based on information from one of the notaries/PPATs (Land Deed Officials) in the working area of Mataram City, namely Dr. Hamzan Wahyudi, S.H., M.Kn., there have been no cases of bankruptcy involving notaries/PPATs in West Nusa Tenggara Province. However, according to his statement, this would lead to bankruptcy in the future because there have been many reports about notaries/PPATs (Land Deed Officials) experiencing defaults caused by financial mismanagement and a lack of clients. Consequently, this forced notaries/PPATs (Land Deed Officials) to use clients' tax money to pay for office expenses, but this caused problems when notaries/PPATs (Land Deed Officials) could not immediately replace it. Moreover, during the COVID-19 pandemic, where everything becomes limited and results in fewer deeds made by notaries. It's only limited to this; it hasn't been processed through the courts and a bankruptcy decision hasn't been issued. Thus, in the future, notaries/PPATs (Land Deed Officials) are expected to be more cautious and wise in managing office finances.

Another point explained by Notary Ermi Purnamasari, S.H., M.Kn., who is one of the Notaries/PPATs (Land Deed Officials) in Mataram City, is that bankruptcy can also be caused by embezzlement of tax money given by clients to the respective Notary/PPAT (Land Deed Official). Where this tax money is transferred to the notary's/PPAT's (Land Deed Official's) account, which also results in an increase in the notary's/PPAT's (Land Deed Official's) bill because it will be included in the income or revenue that will be subject to tax. If this money is embezzled and the respective Notary/PPAT (Land Deed Official) cannot replace the money by selling their assets. If all efforts have been made and still cannot cover the debt, then the respective Notary/PPAT (Land Deed Official) can be reported and declared bankrupt. However, according to Notary/PPAT (Land Deed Official) Ermi Purnamasari, S.H., M.Kn., she has never heard of a notary going bankrupt, but it is indeed possible and stated in the Notary Position Law and Government Regulation No. 24 of 2016 Regarding Amendments to Government Regulation No. 37 of 1998 Regarding Regulations for Land Deed Official Positions, and it is strongly emphasized to perform the duties of a notary/PPAT (Land Deed Official) as well as possible and anticipate potential problems in the future.

In addition, the results of interviews with the Regional Academic Supervisory Board, Prof. Dr. Djumardin, S.H., M.H., stated that bankruptcy only concerns an individual's personal bankruptcy, not their position, but in this case, regarding a notary going bankrupt where the bankruptcy is only personal but renders them incapable of performing legal acts, where the legal acts performed by the notary are creating authentic deeds, so a notary declared bankrupt cannot perform their duties as a notary/PPAT (Land Deed Official), and of course, this will ultimately affect their position as a notary/PPAT (Land Deed Official).

It should be noted here that the Regional Supervisory Board has duties and authorities in carrying out its work. The Regional Supervisory Board can conduct inspections of notaries suspected of violating Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions or the Notary Code of Ethics if there are reports from the public about the respective notary, and the results of the inspection conducted by the inspection team will be documented in a report that will be submitted to the Regional Supervisory Board.

Therefore, it can be concluded that what causes a notary to go bankrupt is both personal and professional. Bankruptcy based on personal reasons is due to mistakes made outside of their duties, for example, while bankruptcy based on professional reasons is due to errors made in their capacity as an official, namely matters related to the creation of deeds and other matters related to their position.

Bankruptcy based on personal and professional reasons will both result in losses for the position and the personal life of the notary/PPAT (Land Deed Official), namely bankruptcy.

As an example, the bankruptcy of a notary/PPAT (Land Deed Official) can be seen in one of the notaries in Surabaya. In carrying out their duties as a notary/PPAT (Land Deed Official).

Based on the Decision of the Panel of Judges of the Commercial Court at the Surabaya District Court No. 20/PDT.SUS-PKPU/2020/PN.Niaga.Sby, dated May 29, 2020, the temporary PKPU has been approved to become Permanent PKPU. Where this notary/PPAT (Land Deed Official) from Surabaya previously filed for a Postponement of Debt Payment Obligations since their business had drastically declined since 2019, so through the submission of a Postponement of Debt Payment Obligations, it is hoped that this notary can settle all their debts to their creditors.

It is known that there are nine creditors who have registered with the management team with a total debt value of Rp 47 billion. However, until the 45-day deadline since the reading of the decision, which was made to provide time for the debtor who is undergoing PKPU to prepare and submit a peace proposal to their Creditors, the creditors, including the notary/PPAT (Land Deed Official), have not settled the proposed reconciliation to pay off their debts to the creditors.

In filing a PKPU application, the notary/PPAT (Land Deed Official) stated private employment and applied for PKPU in their personal name. It is necessary to know beforehand that PKPU is different from bankruptcy. PKPU is a situation where the Debtor can postpone their debt payment obligations to the Creditors by reorganizing their company and restructuring their debts with the approval of the Creditors, with the hope that the Debtor can settle all their debts.

The panel of judges led by M. Fadjarisman ultimately ruled that the debtor's bankruptcy in the application for postponement of debt payment obligations (PKPU) did not submit a reconciliation proposal to their creditors. In addition to filing for bankruptcy, it is also known that the debtor is also criminally charged by their creditors with allegations of fraud and embezzlement.

Based on the above description, it can be seen that a notary/PPAT (Land Deed Official) in their personal capacity, namely outside of their official duties but still carrying the honor of their position, commits acts of embezzlement and fraud. In essence, a notary/PPAT (Land Deed Official) should uphold their dignity and honor, so in this case, although leniency had been given to fulfill their debt payment obligations, they did not fulfill their obligations, leading the Surabaya commercial court to declare the notary/PPAT (Land Deed Official) bankrupt. According to legal realism theory, a judge's decision, in this case, the commercial court's decision, declares the debtor bankrupt.

However, it is important to note that bankruptcy is not a definitive verdict for a person's position, in this case, a notary/PPAT (Land Deed Official). Even though the notary/PPAT (Land Deed Official) is temporarily suspended during the bankruptcy process, starting from when the case enters the trial until bankruptcy is declared, and according to the regulations, they are dismissed dishonorably from their position if bankruptcy is declared. However, after the debtor settles all their debts under the supervision of a curator, the bankruptcy ends, and the debtor's name is cleared from the bankruptcy list.

2. Legal Consequences of Authentic Deeds Made by Notaries/PPATs (Land Deed Officials) Declared Bankrupt

When discussing deeds made by notaries/PPATs (Land Deed Officials), there are three scenarios regarding the time of making authentic deeds: making authentic deeds before the notary/PPAT (Land Deed Official) is declared bankrupt, making authentic deeds while the notary/PPAT (Land Deed Official) is in the bankruptcy process, and making authentic deeds after the notary/PPAT (Land Deed Official) is declared bankrupt.

If seen according to the rules, what is legitimate and correct for a notary/PPAT (Land Deed Official) as a deed maker is when they have not been declared bankrupt by the court yet. This is because it is the primary authority of a notary/PPAT (Land Deed Official), and there is no legal act that causes the notary/PPAT (Land Deed Official) to lose their authority. However, even at that time, the notary/PPAT (Land Deed Official) must be careful in making authentic deeds, not commit illegal acts, and it should be noted that if there are problems with the deed made before the Notary/PPAT (Land Deed Official) due to the statements provided by the parties themselves, and the notary has been very careful, then it is the responsibility of the parties themselves. The Notary can be sued civilly if the parties breach:

1. Date and time of appointment;
2. Time of the appointment;
3. Signatures in the minute;
4. Feeling never attended;
5. Deed not signed in front of the Notary;
6. Deed not read; and
7. Other reasons based on the formality of the deed.

The above description discusses a notary/PPAT (Land Deed Official) who makes authentic deeds before being temporarily suspended or dishonorably discharged due to bankruptcy. During the bankruptcy process of the notary/PPAT (Land Deed Official), they have been temporarily suspended, so they temporarily lose their authority and cannot perform their duties as a notary/PPAT (Land Deed Official).

Regarding temporary suspension during the bankruptcy process or during the trial process, which is temporary suspension as stipulated in Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions, Government Regulation No. 24 of 2016 Regarding Amendments to Government Regulation No. 37 of 1998 Regarding Regulations for Land Deed Official Positions, and also in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 25 of 2014 Article 66:

Notaries are temporarily suspended from their positions because they are:

1. In the bankruptcy or debt payment suspension process;
2. Under guardianship;
3. Committing disgraceful acts;
4. Violating duties and prohibitions of the position and the Notary code of ethics, or
5. Undergoing detention.

What happens if a notary/PPAT (Land Deed Official) is temporarily suspended from their position, then how does it affect the deeds made by the notary? Certainly, the notary/PPAT (Land Deed Official) cannot create authentic deeds because they are temporarily not performing their duties due to not meeting the requirements to be a notary, namely not being under guardianship, as in the case of bankruptcy where a notary is under the supervision of a curator. Therefore, when a notary is temporarily suspended, the Central Supervisory Board will propose another notary as the protocol holder to the Minister within a maximum of 30 (thirty) days from the date of the temporary suspension decision.

A notary who is temporarily suspended from their position and another notary as the protocol holder must hand over the protocol in front of the Central Supervisory Board within a maximum of 14 (fourteen) days from the end of the temporary suspension.

In the event that the protocol handover is not carried out without valid reasons, the Central Supervisory Board will propose to the Minister to dishonorably discharge the Notary as referred to in paragraph (1) or propose another Notary as the protocol holder.

Article 67 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 25 of 2014 states that if a notary resigns or is discharged from their position, from the date of the notary's dismissal decision, they are no longer authorized to create deeds. A notary who is proposed for dishonorable discharge, concerning the deeds they have made, is still considered authentic, because the dismissal proposal letter does not automatically mean that they have lost their authority as a Notary. Similarly, with the appointment of a notary, the dismissal of a notary must also be accompanied by a dismissal decision letter issued by the Minister.

According to an interview conducted by the author with Notary/PPAT (Land Deed Official) Ermi Purnamasari, S.H., M.Kn., a notary/PPAT (Land Deed Official) who is temporarily suspended from their position cannot create authentic deeds even if they still perform such actions during the temporary suspension. If they are not proven to have committed such acts and are not reinstated, then the authentic deed does not meet the requirements and can be canceled, and the notary must be responsible for any resulting losses.

3. Legal Protection for Parties Regarding Deeds of Notaries/PPATs (Land Deed Officials) Declared Bankrupt

In terms of creating authentic deeds by notaries/PPATs (Land Deed Officials), the parties are entitled to legal protection against any mistakes made by the notaries/PPATs (Land Deed Officials), and the notaries must be responsible for their negligence. This is because, in essence, Notaries/PPATs (Land Deed Officials) as public officials are authorized to create deeds that contain formal truths according to what the parties inform the Notary. Notarial deeds can be used as evidence in a legal dispute, serving as a tool to recall past events, and thus can be used for evidentiary purposes, which is what the parties need when appearing before a notary/PPAT (Land Deed Official).

Professional responsibility is a legal responsibility in relation to the professional services provided to clients. This professional responsibility arises because service providers do not fulfill the agreements they make with their clients or because of the negligence of the service providers resulting in unlawful acts. Notaries/PPATs (Land Deed Officials) in performing their duties must always adhere to the law and code of ethics by observing professional behavior as a form of accountability, namely:

- a) Having solid moral integrity
- b) Being honest with clients and oneself
- c) Being aware of the limits of authority
- d) Not purely based on material considerations (Liliana Tedjosaputro, 2003)

In reality, we are aware that problems often arise regarding the existence of notarial deeds/PPAT (Land Deed Official). This is not something new, as notarial deeds/PPAT (Land Deed Official) often become sources of disputes for the parties questioning those deeds, as it is found that the notaries/PPATs (Land Deed Officials) involved have problems or disputes related to the deeds they have made, which have been declared null and void by court decisions due to legal defects in their creation, for example, due to their negligence and failure to carefully examine documents and provide legal counseling to the parties before proceeding with the notarial deeds.

Therefore, to minimize future problems, there needs to be good and open communication regarding everything to be included in the authentic deed, and of course, beforehand, the notary/PPAT (Land Deed Official) should provide legal counseling so that the parties can better understand what they are doing.

Regarding the deeds made, notaries/PPATs (Land Deed Officials) are obliged to keep them in a collection of documents bound by deed number, called the minute deed, which is kept as the original document, while the copies issued to the parties in the deed are exact duplicates of the minute deed kept in the notary's office.

After a notary/PPAT (Land Deed Official) is declared bankrupt, they can still perform their duties as a public official as long as they have not been dismissed by the Minister, but this certainly concerns the legal status of the notary, which has changed after being declared bankrupt by the court, namely being under the curatorship.

The court decision on the bankruptcy declaration application must be pronounced no later than 60 (sixty) days after the date the bankruptcy declaration application is registered. The court decision must include:

Specific articles of the relevant regulations and/or unwritten legal sources used as the basis for judgment; and Legal considerations and differing opinions from panel members or the chairman.

If a notary/PPAT (Land Deed Official) creates a deed after being declared bankrupt, then that deed is considered invalid and only has the legal force of a private deed because it was issued after being terminated as a notary/PPAT (Land Deed Official), and the responsibility for that deed is personal.

Looking at it based on the theory of legal protection, where protection is the dignity, respect, and recognition of human rights possessed by legal subjects in a rule of law state based on the applicable laws in that country to prevent arbitrariness, it can be said that the law functions as protection for human interests. In line with this, parties appearing before a notary/PPAT (Land Deed Official) to create an authentic deed must be protected in their dignity and respect, where the creation of authentic deeds is served to the best of their abilities and legal counseling is provided.

Regarding deeds made by notaries/PPATs (Land Deed Officials) before bankruptcy is declared, in essence, their protocols have been transferred to the replacement notary/PPAT (Land Deed Official). However, even so, the notaries/PPATs (Land Deed Officials) still have to be responsible for their negligence. This is stipulated in Article 65 of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions, which states that a Notary is responsible for any deed they make even though the Notary's Protocol has been handed over and transferred to the Protocol holder. Therefore, the notary can still be held accountable for any deed they make. Meanwhile, the PPAT protocol, which consists of a collection of documents that must be kept and maintained by the PPAT, including deed lists, original deeds, supporting deed documents, archive reports, agendas, and other letters, when the PPAT is temporarily suspended from their position, the PPAT protocol is handed over to the temporary PPAT who serves in their jurisdiction.

In this case, parties can seek protection from the curator, who will later explain the rights obtained by the parties from the bankrupt debtor's assets.

4 | CONCLUSION

A notary/PPAT (Land Deed Official) is declared bankrupt when the notary/PPAT (Land Deed Official) commits errors either within or outside their official capacity, causing them to be unable to pay their debts or compensate for losses, resulting in them being sued in commercial court and declared bankrupt.

A notary/PPAT (Land Deed Official) declared bankrupt has certainly lost their rights or *persona standi in iudicio*, because the consequence of their bankruptcy affects their position as a public official, as stated in Article 9 of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning Notary Positions and Article 10 paragraph 2 of Government Regulation of the Republic of Indonesia Number

24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 Concerning the Regulations on Land Deed Official Positions, which states that a notary/PPAT (Land Deed Official) during the bankruptcy process and Debt Payment Obligation Suspension is temporarily suspended from their position, so a notary temporarily suspended from their position cannot create authentic deeds, and their deeds can be considered private deeds. Likewise, with a notary declared bankrupt, they no longer have the authority to create authentic deeds. Moreover, bankruptcy is a reason for dishonorable discharge.

Legal protection from creditors will certainly be provided by the curator to explain the rights held by the creditors so that the creditors can later demand the rights that should be obtained by the debtor, namely the notary/PPAT (Land Deed Official) themselves.

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How Cite this article?

Candrawulan, R. R. A., Asikin, Z., & Suhartana, L. W. P. (2024). Legal Analysis of the Legal Consequences of Authentic Deeds Made by a Bankrupt Notary/PPAT (Land Deed Official). *Revista Review Index Journal of Multidisciplinary*, 4(1), 82-92.
<https://doi.org/10.31305/rrijm2024.v04.n01.010>