REVIEW LEGAL AUTHORITY STATE ADMINISTRATIVE COURT IN CANCELLATION DECISION ASSEMBLY HONOR REGIONAL NOTARY REGARDING GIVING AGREEMENT INVESTIGATION , PROSECUTION AND JUDICIAL PROCESS

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ABSTRACT

Based on provisions of Article 66 of the Law Number 2 of 2014 concerning Amendments to the Law Number 30 of 2004 concerning Position Notary Public stated that Assembly Honor Regional Notary (MKNW) has authority For give agreement or reject give agreement to Notary Public in frame investigation , prosecution and judicial process . License approval issued by the Assembly Honor Regional Notary (MKNW) in the reality Lots to injure feeling the law of Notaries who feel No guilty and/ or consider that No should Assembly Honor Regional Notary (MKNW) issues a decision agreement the Because reasons law others , such as ; cases the has There is decision Court previously ; has Once checked in investigation previous / other and / or Already Once rejected even Already Once several times rejected by the Assembly Honor Regional Notary (MKNW) based on letter decision the rejection that has been Once issued by the Assembly Honor Regional Notary (MKNW) and therefore agreement the is final then Notary who objects the can do effort law with submit lawsuit to State Administrative Court (PTUN). Based on results study known that letter permission approval issued by the Assembly Honor Regional Notary (MKNW) based on the authority he has based on provisions of Article 66 of the Law Number 2 of 2014 concerning Amendments to the Law Number 30 of 2004 concerning Position Notary in conjunction with the Minister of Law and Human Rights Regulation Republic of Indonesia Number 17 of 2021 concerning Assembly Honor Notary (MKN) apparently is is a State Administrative Decision (KTUN) which can made into object dispute State Administrative Court (PTUN) as regulated in Article 53 paragraph (1) of the Law Number 5 of 1986 concerning The State Administrative Court stated that that " Someone or a Civil Legal Entity that feels its importance harmed by a State Administrative Decision can submit lawsuit written to the competent court containing demand that the State Administrative Decision be disputed That stated cancelled or No legitimate with or without approved demands change loss and rehabilitation ".

Keywords*:* Notary, Assembly Honor Regional Notary, Authority State Administrative Court

INTRODUCTION

Indonesia as a country of law , of course required giving For certainty law for all Indonesian people. All component nation especially apparatus enforcer law Already should place and uphold tall law the use give guarantee protection law for society . One of the profession much- anticipated law can realize matter the is Notary . Profession Notary Public of course become support for realization certainty the expected law society , considering the Notary given authority as State officials who organize making deed very important authentic its nature For ensure protection law . Many aspects practice related laws with the Notaries related with deed authentic and its use in the process of proof .

Generally, people do not know the importance of a legally binding document because they already trust each other . The public should have been given knowledge about the importance of legal certainty, because with legal certainty, order and legal protection in the implementation of community life can be achieved. implemented well, in achieving the goal of increasing legal certainty in community life, the role of a Notary is one of the most important things.

Related with proof and certainty right as well as obligation law somebody in life society , one of them done with The role played by a Notary . The importance of role Notary Public in create certainty and protection law for society , more nature preventive , or nature prevention the occurrence problem law , with method publishing deed authentic made in front of him related with legal status , rights and obligations somebody in laws , etc. , that function as tool the most perfect evidence in court , in matter happen dispute .

Notary is a public official appointed by the state to carry out state duties in legal services to the community in order to achieve legal certainty, the only one authorized to make authentic deeds regarding all acts of agreement and determination required by a general regulation or by the interested party, required to be stated in an authentic deed, guarantee the certainty of the date, keep the deed and provide grosse, copies and extracts of all of them as long as the making of the deed by a general regulation is not also assigned or excluded to other officials or people .

The consequence is that along with the duties and responsibilities of a Notary to the community, in carrying out his duties he must be guaranteed with There is continuous supervision and coaching so that a Notary can carry out his duties as he should, as stated in the legal regulations and the Notary Law, this aims to ensure that a Notary can avoid misuse of the authority or trust that has been given. Task Notary Public is to constantize connection law between the parties in form written and in a certain format , so that is a deed authentic . He is maker strong document in a legal process .

Tasks and work Notary Public as official general No limited to making deed authentic but also assigned do registration and validation letter letter under hand , give advice law and explanation Constitution to the parties concerned , make deed

establishment and deed changes to Limited Liability Companies and so on . Products law issued by a notary is in the form of deeds that have characteristic authentic and have strength perfect proof . As definition deed authentic mentioned in Article 1868 of the Civil Code : " Deed authentic is a the deed in form determined by law , created by or in front of employees general in power For That in place Where deed made by him ."

In the Law Number 2 of 2014 Concerning Position Notary , regulated that when Notary Public in operate task his position proven do violation , then Notary Public can charged sanctions , in the form of sanctions civil , sanctions administrative , and code ethics position Notary . In practice normal found a fact that a violation law carried out by a Notary , which is actually only Can sentenced sanctions administrative or sanctions civil even only in the form of sanctions code ethics position Notary . However in practice Lots found If There is deed Notary Public disputed by the parties or party third others , then Notary often withdrawn as the parties involved as well as do or help do a act criminal , namely make or give information false to in deed Notary Public .

Authority Notary Public set up in Article 15 paragraphs (1) and (2) of the Law Position Notary , while in Article 15 paragraph (3) is the authority that will be determined Then based on rule other laws that will came (ius constituendum). Remember roles and authorities Notary is very important for Then cross law in life in society , then behavior and actions Notary Public in operate function authority , vulnerable to abuse that can cause loss for society , so that institution coaching and supervision to Notary Public need made effective . The provisions governing about supervision for Notary Public set up in Constitution Number 30 of 2004 concerning Position Notaries and the Law Number 2 of 2014 concerning change Constitution Number 30 years 2004 Position Notary . Provisions This is one of effort For anticipate weaknesses and deficiencies in system supervision to Notary , so that expected in operate profession his position , Notary can more increase quality service to public

Objectives of the Study:

Based on the problems formulated above, the objectives to be achieved in this research are:

1. Analyze right and authority Notary Public For submit lawsuit on object to decision Assembly Honor Regional Notary .
2. Analyze Notary Efforts sue at the State Administrative Court against decision Assembly Honor Regional Notary .
3. Analyze competence authority State Administrative Court in cancellation decision Assembly Honor Regional Notary for giving agreement investigation , prosecution and judicial process .

LITERATURE REVIEW

Rights and Authorities Notary Public For Submit Lawsuit Against Objection To Decision Assembly Honor Regional Notary

Notary Public can it is said as employee government that does not accept wages from government , Notary retired by the government , will but No accept pension from government . Therefore That is not just Notary who must protected but also its consumers , namely public user service Notary . Notary as official public , in understanding have authority with exceptions , with categorize Notary Public as official public , in matter This meaningful public law . Notary as official public No means The same with official public in field categorized government as a body or state administrative officer , thing This can differentiated from products of each official public the .

Honorable Position and Profession Notary Public have obligations that must be fulfilled implemented Good based on regulation special legislation arrange about Notary , namely UUJN and regulation legislation others that must adhered to by a Notary , for example Constitution Number 40 of 2007 concerning Limited Liability Companies . Notary appointed by the ruler For interest public . Authority from Notary Public granted by law For interest public No For interest self Notary Public myself . Therefore That obligations Notary Public is obligation position .

Authority Notary Public

Notary Public is a State officials or official general that can appointed by the State to do state duties in matter service law to society that aims For achievement certainty law as official maker deed authentic in matter civil . Existence Notary Public is For serve interest general . Notary Public is not civil servants as meant in regulation legislation that regulates about personnel . Notary bound with regulation position government , Notary No accept salary and pension from government , but to obtain wages from honorarium or fee from his client .

As Honorable Position and Profession Notary Public have obligations that must be fulfilled implemented Good based on regulation special legislation arrange about Notary , namely UUJN and regulation legislation others that must adhered to by a Notary , for example Constitution Number 40 of 2007 concerning Limited Liability Companies . Notary appointed by the ruler For interest public . Authority from Notary Public granted by law For interest public No For interest self Notary Public myself . Therefore That obligations Notary Public is obligation position .

Administrative Law share authority or authority into 3 (three) based on method his/her acquisition that is :

- Authority attribution ,
- Delegation or
- Mandate.

Authority Notary Public obtained through attribution from UUJN. The reason seen from understanding giving authority in a way attribution happen if set up in The 1945 Constitution of the Republic of Indonesia and/ or Law (Article 12 paragraph (1)

and Constitution Number 30 of 2014 Concerning Administration Government . In giving attribution the means source authority attribution Can originate from The 1945 Republic of Indonesia State Law and/ or from Constitution only , which is in matter authority Notary Public is UUJN.

The authority held Notary Public That set up in Article 15 UUJN is divided into 3 namely
- Authority general
- Authority special , and
- The authority to be determined Then

With revocation of Article 66 paragraph (1), especially the phrase about Obligation For get agreement from MPD, very vulnerable Notary Public violate the rights of others, namely dismantle confidential position , which is regulated in Article 4 paragraph (2) UUJN and Article 16 paragraph (1) letter e UUJN, regarding confidential position . The risk Notary Public can sued by interested parties direct or who is harmed . Violation on oath position That can charged sanctions under Article 84 UUJN and Article 322 paragraph (1) and (2) of the Criminal Code about provision dismantle secret . As a result No There is Again umbrella law protection for Notary Public For give information to investigator , prosecutor general , or judge, because before Constitutional Court Decision Number : 49/PUU-X/2012, Notary can give explanation If Already get agreement from MPD, so that There is umbrella the law , namely MPD decision

Court Decision Constitution number : 49/PUU-X/ 2012 decided For to abolish or end authority Assembly Regional Supervisors (MPD) listed in Article 66 paragraph (1) of the Law Number 30 of 2004 concerning Position Notary . So in other words, no required Again MPD approval in call Notary Public or take photocopy minutes deed and/ or protocol Notary Public

Notary Public authorized :

1. Validate sign hands and set certainty date letter below hand with register in book special .
2. Bookkeeping letter below hand with register in book special
3. Making coffee from original letter below hand in the form of copy containing description . as written and illustrated in the letter in question .
4. Do validation compatibility photocopy with letter the original .
5. Give counseling law in connection with making deed .
6. Make Related Acts with land .
7. Make Act treatise auction **.**

Notaries also have authority special as regulated in Article 51 UUJN, namely For to fix error write or error type that is there in Minutes the deed that has been signed , with method make a Correction Minutes and a copy of the Correction Minutes and are mandatory For convey it to the parties in carrying out task his position , Notary must notice the authority , obligations and prohibitions listed in UUJN and code ethics Notary Public in give service to people in need his services in the field civil especially in making deed authentic . Authority Notary Public is UUJN mandate that must be implemented in accordance with existing provisions . Authority Notary Public given through UUJN in Article 15 paragraph (1), paragraph (2) and paragraph (3). Paragraph (1) explains that " Notary authorized make Act authentic about all acts , agreements , and stipulations required by regulations legislation and / or what is desired by the interested parties For stated in Act authentic , guaranteed certainty date making Act , save Act , giving grosse , copies and quotes Deed ".

Assembly Honor Regional Notary

Court Decision Constitution number : 49/PUU-X/ 2012 decided For to abolish or end authority Assembly Regional Supervisors (MPD) listed in Article 66 paragraph (1) of the Law Number 30 of 2004 concerning Position Notary . So in other words, no required Again MPD approval in call Notary Public or take photocopy minutes deed and/ or protocol Notary . Related with matter mentioned above This make confusion among Notary . In one side , Notary required guard confidential Contents deed , but the other side of the investigator with easy call Notary Public For interest investigation in inspection related investigators with minutes deed .

Validation Constitution Number 2 The year 2014 created institution new replacement Assembly Regional Supervisor with the same function . In Article 66 of the UUJN it is written that :

1. For interests of the judicial process , investigators , prosecutors general , or judge with agreement Assembly Honor Notary Public authorized :
   a. Take photocopy minutes Deed and / or letters attached to Minuta Act or Protocol Notary Public in storage Notary ; and
   b. Call Notary Public For present in related examination with Act or Protocol Notary who is located in storage Notary Public .
2. Retrieval photocopy Minutes Act or letters as referred to in paragraph (1) letter a, is made minutes of handover .
3. Assembly Honor Notary Public in maximum time 30 (three) days twenty) days Work counted since received letter request agreement as meant in paragraph (1) it is mandatory give answer accept or reject request agreement .
4. In terms of Assembly Honor Notary Public No give answer in term time as referred to in paragraph (3), the Assembly Honor Notary Public considered accept request agreement .

RESEARCH METHOD

According to Soejono Soekanto methodology in essence give guidelines about the procedure a scientist in study , analyze and understand the environments they face . Furthermore Sumadi Suryabrata say that there are two approaches For to obtain truth , namely First approach scientific , and non- scientific approaches . So that can it is said method study is a orderly manner in do A research . Research is means For develop knowledge knowledge and technology For disclose the truth that happened factually.

1. Types and Nature of Research

In accordance with the problem that will be discussed and objectives from This research then type research used is method study law normative . Research This is study normative juridical . Research normative is study scientific For find truth based on logic the science being researched from side normative . Research like This also often called as doctrinal research cause in study This researching judge's decision or legislation and materials bibliography . So that also called research literature or studies documents that compare written rules or material existing law with material other laws . In addition , it also looks at the synchronization of a rule with other rules in a hierarchy.

2. Source of Legal Material

Source material the necessary laws in study law normative consists of from material primary law , material law secondary and materials law tertiary . In general , the type of data required in a study law directed at secondary data and primary data research . Sources and types of research data from writing thesis This is :

a. Primary Legal Materials
   That is material binding law as runway main used in frame study This between that is :
   1) Civil Code .
   2) Constitution Number 30 of 2004 Concerning Position Notary Public .
   3) Constitution Number 2 of 2014 concerning Amendments to Constitution Number 30 of 2004 concerning Position Notary Public .
   4) Regulation of the Minister of Law and Human Rights Republic of Indonesia Number : 17 of 2021 Concerning Duties and Functions , Requirements and Procedures for Appointment and Dismissal, Organizational Structure , Work Procedures and Budget Assembly Honor Notary Public .
   5) Constitution Number 5 of 1986 concerning State Administrative Court .
   6) Constitution Number 5 of 2009 concerning the Second Amendment on Constitution Number 5 of 1986 concerning State Administrative Court .
b. Material Law Secondary It is data obtained from the Material Library (Library data). Data This secondary consists of an explanation and also instruction against primary data originating from various literature, Magazine, Journal, Design Constitution, Results Study And Paper in Seminars related to this scientific research .
c. Material Law Tertiary is material - material the law that gives information or instruction about primary legal materials and secondary legal materials such as the Indonesian Dictionary and the Indonesian Dictionary Law

3. Data collection technique

1. Study literature that is research conducted with method researching material library For obtaining secondary data . Stages data collection through studies library is as following :
   a. Do collection law positive and material law other related with object study .
   b. Do study library through , print media articles and also electronics , documents and regulations legislation .
   c. Grouping the appropriate data with main problem .
   d. Analyzing relevant data the For finish problem become object study

Data analysis

Data analysis was performed with use method approach qualitative . Data analysis is activity in research in the form of do study or review to results assisted data processing with theories that have been obtained previously . Data analysis contains description about ways analysis that describes How some data is analyzed and what benefits of collected data For used solve the problem that is made object research . Research This use qualitative data analysis that is data analysis with grouping the data obtained from results research , with method grouping and investigating according to quality and truth , then furthermore after grouped and selected then the data will analyzed in accordance applicable laws For see facts that occur . Furthermore, conclusions are drawn using the deductive thinking method, namely a way of thinking that starts from general things to then draw conclusions about specific facts in order to answer the problems that have been formulated in this study .

Analysis qualitative used For study qualitative and data used is qualitative data namely data that is not characterized by number but in form text , visual, and oral . Qualitative data obtained from data collection that is not standardized , so that need classification and analysis through conceptualization

RESULT

After existence change regulation legislation position Notary , namely Constitution Number 2 of 2014 concerning Amendments to the Law Number 30 of 2004 Concerning Position Notary , especially Article 66, authority For give agreement to investigators , judges and prosecutors on taking photocopy minutes deed and summons Notary , given to Assembly Honor Notary . Definition Assembly Honor Notary , no found in UUJN-P, but after issuance Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning Assembly Honor Notary as

stated in Article 1 number 1 defines " Council" Honor Notary Public is a body that has authority For carry out coaching Notary and obligations give agreement or rejection For interest investigation and trial process on taking photocopy minutes deed and summons Notary Public For present in related examination with deed or protocol Notary who is located in storage Notary Public ."

Assembly Honor Notary Public given authority special as the in Article 66 of UUJN-P. Already existence Assembly Honor Notary Public must respected by everyone Because his presence ordered by UUJN-P. When investigators , judges, and prosecutors will call Notary Public related with deed made by the relevant Notary , summons the must through Assembly Honor Notary Public Because authorized moreover formerly For check it out . With thus , out of place if investigators , judges and prosecutors feel most powerful For call Notary Public without ask for permission from Assembly Honor Notary . Procedure like This Already is part from criminal procedure law and filing permission the nature imperative or must so that if investigators , judges and prosecutors , procedures the can categorized has violates UUJN-P and can reported to agency supervisor investigators and prosecutors . Likewise when Notary Public get calling investigators , judges and prosecutors must wait results inspection from Assembly Honor Notary Public .

Roles and authorities Assembly Honor Notary Public that is give or No give it to him agreement For interests of the judicial process , investigators , prosecutors general , or Judge in matter take photocopy minutes deed and/ or letters attached to the minuta deed or protocol Notary Public in storage Notary and summons Notary Public For present in related examination with deed or protocol Notary who is located in storage Notary . Assembly Honor Regional Notary provides agreement inspection Notary Public as suspect If error professionalism is error as element act criminal But on the contrary If error professionalism No is error as element act criminal so Assembly Honor Regional Notary is required For reject . Assembly Honor in position as a Body or The State Administrative Department has authority For make or issue a Decree or Related provisions with results supervision , inspection or the fall sanctions are aimed at to The notary concerned . Against decision Assembly Honor Notary Public based on provisions of Article 66 UUJN -P, if The notary concerned feel harmed , on decision the No There is effort object administrative or object administrative , but The notary concerned can direct sue Assembly Honor Notary Public to State Administrative Court .

Protection law for the people against action law government in its capacity as a representative of a legal entity public done through institution judiciary . Position government or state administration in matter This No different with somebody or legal entity civil , namely parallel so that in matter This government can become defendant and also plaintiff . In the context this is it principle same position in front law (equality before the law) which is one of the element law will implemented. In other words, the law civil give equal protection Good to government and also somebody or legal entity .

Protection law as consequence issued a State Administrative Decision can taken through 2 (two) ways that is through effort effort administrative (administratieve beroep) and justice administrative (administratieve administrative efforts are divided Again into administrative appeals and objections . If settlement state administrative disputes are carried out by agencies superior or other agencies that issue decision so procedure the called an administrative appeal , whereas if according to relevant legislation someone who is affected a state administrative decisions that are not approved may submit object to issuing agency decision the so procedure This named object .

Loss consequence from a action violate law can in the form of loss wealth (vermogensschade) or losses of a nature idiol . Action Breaking the law besides can result in loss of money, but also can cause moral loss or idyllic . In the arrest of the Hoge Raad in the case of WP Kreuningen vs. Van Bessum et al. has not yet been resolved decide that perpetrator Actions Breaking the Law in General based on Article 1365 of the Civil Code . required replace loss idyllic . So the consequences from the arrest according to Rutten is that in implementing Article 1365 of the Civil Code . can also sued replacement loss idyllic with notes will calculated ex aequo et bono (according to suitability and fairness). What is meant by with loss in Article 1365 of the Civil Code is losses incurred in action violate law . such as has explained that action violate law can cause losses of a nature material and immaterial losses . Regarding the loss in question can explained as following :

1. Loss Material consequence action violate law the can cause loss for party others . Losses material This is Loss treasure object or treasure riches for someone . Loss This can in the form of destruction goods owned by somebody become reduce as consequence a fraud or part consequence a embezzlement . All loss the can counted the amount . So what is meant with loss material that is losses that can occur rated with money, and the amount can estimated .
2. Loss Immaterial Actions violate law can also cause immaterial losses . Losses that are idyllic No located in treasure riches someone . At a loss the Possible in the form of growing pains heart . decrease pleasure life , loss consequence pleasure life physical .

In context dispute between Notary Public with Assembly Honor Notary , Permenkumham No. 7 Th. 2016 no arrange existence effort administrative in settlement dispute on publication decision Assembly Honor Notary who provides permission taking minutes deed and summons Notary Public so that in matter This No There is a form protection law preventive measures obtained by the Notary . The absence of effort administrative the result in Notary Public For can to obtain protection law must done in a way repressive through lawsuit to State Administrative Court .

The basis of a process litigation in the State Administrative Court is existence a decision issued by a body or state administrative officials felt by individuals or legal entities civil harm interests . The existence of interests is a minimum requirements for can made into reason submit lawsuit in the TUN court . So that base submission a lawsuit in the TUN court not only based on on the existence of a TUN Decision as object dispute , will but must fulfil condition existence element interests . Necessity will existence element This can seen in Article 53 (1) of the Amended PTUN Law which states :

"A person or body law civil servants who feel its importance harmed by a State Administrative Decision can submit lawsuit written to competent court containing demands that the disputed State Administrative Decision be overturned That stated cancelled or No valid , with or without accompanied by demands change loss and or rehabilitation ."

DISCUSSION

As a democratic country , Indonesia has system state administration with own institution executive , legislative and judiciary . One of form control judicial on action administration government is through institution justice . In the context of this is it then the PTUN was formed with Constitution Number 5 of 1986 concerning State Administrative Court on December 29 , 1986, in consideration of " weighing up " the law the mentioned that one of objective the formation of PTUN is For to realize a prosperous , safe and peaceful state and national life as well as order that guarantees position inhabitant public in law and guarantee maintenance harmonious , balanced relationship as well as in harmony between apparatus in the field of TUN and residents society . With Thus PTUN also becomes proof that Indonesia is a country of law , which upholds tall values justice , certainty law and rights basic human rights (HAM).

court State administration is known with term State Administrative Court (PTUN) as set up in Constitution Number 5 of 1986 concerning State Administrative Court . As for the explanation of the PTUN Law explained objective The formation of PTUN is:

a. Give protection to people's rights that originate from from right right individual ;
b. Give protection to rights society based on to interest together from living individual in public From the explanation above . on can concluded court state administration (PTUN) is absolute thing there is , with Meaning besides as means of control over actions taken by officials state administration as well as a form protection law for public .

State Administrative Court was first regulated in Constitution Number 5 of 1986 concerning The State Administrative Court which then experience change twice , namely , First , the Law Number 9 of 2004 concerning Amendments to the Law Number 5 of 1986 concerning State Administrative Court . Second , the Law Number 51 of 2009 concerning Second Amendment to the Law Number 5 of 1986 concerning State Administrative Court . Definition State Administrative Court , according to Koesoemahatmadja is justice to case pure state administration and matters civil law concerning state administration , namely matters civil as consequence from action state administration.9 In Article 4 of the Law Number 5 of 1986 concerning The State Administrative Court is said to that The State Administrative Court is one of the executor power judiciary for the people seeking justice to State Administrative Dispute .

State Administrative Court has experience development authority . The authority granted by the maker early laws the establishment of PTUN is For check , decide and complete disputes that arise in field of state administration between individuals or legal entities civil with the Agency or State Administrative Officials both at the Central and Regional levels as consequence issuance of State Administrative Decisions, including dispute personnel based on regulation applicable laws and regulations .

CONCLUSION

1. The efforts that done Notary Public regarding the MKNW Decree that Gives Cause TUN disputes can submitted lawsuit to the PTUN. MKNW Decision Letter regarding agreement giving permission taking minutes deed and summons Notary Public which become object dispute will tested at the PTUN regarding its validity . Submission TUN lawsuit regarding the MKNW Decree submitted by a Notary who feels its importance harmed by the existence of the MKNW Decree . The lawsuit submitted by the Notary concerned
2. Competence authority administrative court state efforts in cancellation decision Assembly Honor Regional Notary for giving agreement Investigation , Prosecution and Judicial Process based on Constitution Number . 5 of 1986 as final changed with Law No. 51 of 2003 2009 about The State Administrative Court is to judge State Administrative Disputes between Individuals or Civil Legal Entities against State Administrative Agencies/ Officials .

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