

PERTANGGUNGJAWABAN ETIK NOTARIS TERHADAP PENYALAHGUNAAN JABATAN DALAM PRAKTIK KUASA MUTLAK

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Abstrak

Penelitian ini mengkaji pertanggungjawaban etik notaris terhadap penyalahgunaan jabatan dalam praktik kuasa mutlak dalam perspektif hukum positif Indonesia. Secara konseptual, dengan metode penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan perundang-undangan (*statute approach*) dan pendekatan konseptual (*conceptual approach*). kuasa mutlak pada hakikatnya merupakan perjanjian pemberian kuasa sebagaimana diatur dalam Kitab Undang-Undang Hukum Perdata, yang esensinya adalah pelimpahan kewenangan bertindak dan bukan pemindahan hak. Hasil penelitian menegaskan, penggunaan kuasa mutlak sebagai instrumen terselubung untuk pengalihan hak bertentangan dengan hukum, doktrin, dan yurisprudensi Mahkamah Agung. Notaris sebagai pejabat umum bertanggung jawab secara etik dan yuridis untuk bertindak jujur, saksama, memberikan penyuluhan hukum, serta menolak pembuatan akta yang bertentangan dengan peraturan perundang-undangan. Pertanggungjawaban perdata notaris baru dapat dimintakan apabila terbukti adanya pelanggaran kewajiban jabatan yang menimbulkan kerugian, serta terdapat hubungan kausalitas sebagaimana dianalisis melalui teori *conditio sine qua non* (CSQN) dan teori *adequate causality*. bahwa tidak setiap kerugian akibat pelaksanaan kuasa mutlak dapat dibebankan kepada notaris, terutama apabila notaris telah menjalankan kewajibannya secara profesional.

Kata Kunci: Pertanggungjawaban Notaris, Etik, Kuasa Mutlak

***ETHICAL RESPONSIBILITY OF NOTARIES FOR THE ABUSE OF OFFICE IN
THE PRACTICE OF ABSOLUTE POWER OF ATTORNEY***

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Abstract

*This study examines the ethical responsibility of notaries for the abuse of office in the practice of absolute power of attorney from the perspective of Indonesian positive law. Conceptually, this research employs a normative legal research method using a statutory approach and a conceptual approach. In essence, an absolute power of attorney constitutes a mandate agreement as regulated in the Indonesian Civil Code, the substance of which is the delegation of authority to act rather than the transfer of rights. The findings affirm that the use of an absolute power of attorney as a disguised instrument for the transfer of rights is contrary to the law, legal doctrine, and the jurisprudence of the Supreme Court. As public officials, notaries bear ethical and legal responsibilities to act honestly and prudently, to provide legal counseling, and to refuse to draft deeds that clearly contravene statutory regulations. Civil liability may only be imposed on a notary if it is proven that there has been a breach of official duties causing loss and that a causal relationship exists, as analyzed through the theories of *conditio sine qua non* (CSQN) and adequate causality. Accordingly, not every loss arising from the implementation of an absolute power of attorney can be attributed to the notary, particularly where the notary has properly performed their professional duties.*

Keywords: Notary Liability, Ethics, Absolute Power of Attorney