

THE RESPONSIBILITIES OF THE NOTARY THIRD PARTY SERVICES (REALTOR) TO GET CLIENTS

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Abstract: Notary is a profession with a very noble position (*nobile officium*). because of why a notary is burdened with obligations and prohibitions to obey. sometimes notaries are often negligent in their actions, this is triggered, by the increasing number of new notary graduates, giving rise to unhealthy competition however. This competition sometimes takes the form of ethical violations committed by a notary, such as using the services of other parties (brokers) to get clients. so this needs to be examined further regarding "the responsibility of a notary who uses the services of a third party (broker) to get a client" The rules or norms in positive law. The problem approach uses statutory approaches and approaches, with legal materials consisting of primary, secondary and non-legal materials. In the responsibility of a notary who uses the services of a broker to get a client, it is of course against the principle of decency contained in the laws and regulations for the position of a notary and is not justified and not allowed in the provisions of the notary's code of ethics, there are at least three aspects that can be accounted for by a notary. Moral responsibility, professional technical responsibility, legal responsibility. then in legal consequences for notaries who use brokerage services in finding clients can be charged with imposing sanctions by the honorary council as stated in article 6 of the notary's code of ethics, these sanctions are in the form of, reprimand, warning, scoring (temporary dismissal) from the association association, Onzetting (dismissal) from to members of the association, dishonorable discharge from the association.

Keywords: Notary Responsibilities, Using Broker Services, Clients

1. Introduction

Indonesia is a country based on Pancasila as the source of all sources of law, this is reflected in the Constitution of the state of Indonesia, as explicitly stated in Article 1 Paragraph 3 of the Constitution of 1945 that the state of Indonesia is a state of law. In accordance with that, in the writings of Marcus tullius cicero (Roman) in "*De legibus*" states that the purpose of the law is the highest reason (*the highest reason*) that nature instilled in man to determine what can and what should not be done.¹

Law can also be understood as a system consisting of legal sub-systems that are related to each other and work together to achieve a legal goal, namely Justice (*gerechtigheit*), expediency (*zweckmassigkeit*), legal certainty (*rechtssicherheit*). Each

¹ Johannes Ibrahim dan Lindawati Sewu, *Hukum Bisnis Dalam Persepsi Manusia Moder*, Bandung: Refika Aditama, 2004, hlm 5-8

system consists of sub-systems of law, and so on, so that the sub-systems are in series and together plan to achieve the goal.²

In the legal formulation, E. utrecht argued that the law is the set of rules (Commandments and prohibitions) that take care of the order of a society and therefore must be obeyed by that society.³ So that people must be subject to the agreement rules that have been made together to achieve what they want to go.

As the definition of a notary position, which is basically a notary position was born because the community needs it, not a position that is deliberately created and socialized in the community. The history of the birth of the notary begins with the birth of the profession of *scribae* in ancient Rome.

In the early days of notary birth there are two groups of notaries, namely notaries appointed by the kingdom who have the right to issue authentic deeds, and notaries who are not adopted by the kingdom who only have the right to issue deeds under hand.⁴

Notary is a legal profession so that the notary profession is a noble profession (*officium nobile*). A deed drawn up by a notary can become a legal basis for the property status, rights and obligations of a person. A mistake in the deed made by a notary can lead to the deprivation of one's rights or the burden of one's obligation, therefore notaries in carrying out their duties must comply with the various provisions mentioned in the notary's Office Law.⁵

In Article 1 Paragraph (1) of Law No. 2 of 2014 concerning amendments to Law No. 30 of 2004 concerning the position of notary, that the so-called Notary is a public official who is authorized to make authentic deeds and has other authority as referred to in this law or based on this law others.

In the continuity of the notary profession, which is growing day, both demand, or who have become notaries. In addition, there are also many problems that are revealed, one of which is the promotional activities carried out by notaries which sometimes cause unfair competition. For example, for promotions that are carried out, they must follow the procedures that have been implemented in the provisions of the notary code of ethics, which are such as installing nameplates, and promotions to get clients.

Whereas the rules on promotion are very clear and contained in Article 4 paragraph (3) of the notary code of ethics of the Indonesian Notary Association that notaries are prohibited from publishing or promoting themselves, either alone or together, by including their names and positions, using printed and/or electronic media, in the form of advertisements, speeches congratulations, condolences, thanks, marketing activities, sponsorship activities, both in the field of social, religious and sports.

The emergence of one of the problems that often occur is also not infrequently notaries use other parties or terms in commercial law, namely realtor services to be able to get clients or notaries themselves who become Realtors.

² Umar Said Sugiarto, *Pengantar Hukum Indonesia*, Jakarta : Sinar Grafika, 2017 hlm 30.

³ CST. *Kansil pengantar ilmu hukum dan tata hukum Indonesia*, Jakarta: Balai pustaka, 2000 hlm 9

⁴ Anke Dwi Saputro, *Jati Diri Notaris Indonesia Dulu, Sekarang dan Di Masa Datang: 100 Tahun Ikatan Notaris Indonesia*..Jakarta : PT. Gramedia Pustaka, 2008, hlm 41-42

⁵ Abdul Ghofur Anshori, *Lembaga Kenotariatan Indonesia*, Perspektif Hukum dan Etika, UII Press, Yogyakarta, 2009, hlm. 46.

One of the cases related to notaries using realtor services, namely two defendants in fraud and embezzlement cases worth Rp 11.6 billion, namely unscrupulous notaries Ketut Neli Asih, 54, and Gunawan Priambodo undergoing trial at Denpasar District Court, Monday (22/4). In the lawsuit, unscrupulous notary Ketut Neli demanded a sentence of 2.5 years, while Gunawan as a realtor demanded 3.5 years.⁶

As previously reported, the defendant Gunawan Priambodo and unscrupulous notary Ketut Neli Asih allegedly involved in fraud cases over the purchase of land in Paradise Loft. Initially the payment was smooth and the witness Santi Raharjo, none other than the victim's wife, Mahendra Anton Inggriyono had already paid in full. But according to witnesses, although there is a full payment, it (the victim's witness) has not received AJB (deed of sale). Because AJB was not made, the couple finally suspected.⁷

Even though explicitly the realtor itself is a profession that has been regulated in the legislation, which is stated in Article 62 of the Commercial Law which reads :

"A broker is an intermediary trader who is appointed by the president or by an authority that the president has declared authorized for that, he violates his company by doing the work as stipulated in Article 64, while receiving certain wages or provisions on the mandate services and the names of people with whom he has no relationship which remains."

So departing from the case, the need for further research related to **"the responsibility of notaries who use the services of third parties (Realtor) to get clients"** in this case, the author raised two formulations of the problem, namely : How the notary responsible for his actions using the services of a realtor to get a client? What are the legal consequences for notaries who use realtor to get clients?

2. Method

The type of research used is normative juridical research. Because this research issues the provisions of the norm absurd (unclear), and in this case the main problems in the study will be examined through the method of normative legal research. Legal research method is interpreted as a scientific research procedure to find the truth based on the logic of legal Science from the normative side.⁸

In connection with this normative juridical research, there will be an assessment of Law No. 2 of 2014 on amendments to Law No. 30 of 2004 on notary positions also associated with positive law. The use of this normative juridical research, the above problems will be studied through a number of legislation and theories related to these problems.

In this study the authors use the statutory approach (*Statute Approach*) is done by examining all the laws and regulations related to the legal issues being faced. In research for practical purposes, this approach to legislation will open up opportunities for researchers to study whether there is consistency and conformity between a law with

⁶<https://www.nusabali.com/berita/50965/oknum-notaris-dituntut-25-tahun-makelar-35-tahun/halaman/1> 11 November 2022

⁷ *ibid*

⁸ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*. Malang, Bayumedia, 2005, hlm 47.

other laws or between laws with the Constitution of the Republic of Indonesia in 1945 or regulations with laws. The result of the study is an argument to solve the issues faced.⁹

Conceptual approach is done by moving from the views and doctrines that develop in the science of law, by studying the views and doctrines in the science of law, researchers will find ideas that give birth to the principles of law that are relevant to the issues at hand. Understanding of these views and doctrines is the basis for researchers in building a legal argument in solving the issues faced.¹⁰

Technique legal materials that the author uses is the material obtained from the study of literature by using the study of law set forth in the legislation that is still in force in Indonesia. As for the secondary legal materials, namely by conducting literature studies, mainly looking for the opinions of legal experts, legal principles and legal theories. And collection techniques tertiary law can also be obtained from the Indonesian dictionary (KBBI), Law Dictionary (*Law Dictionary*).

Analysis of legal materials in question is the processing of legal materials obtained both from the literature and from the opinions of legal experts and the opinions of experts in related fields. From the primary legal material will be studied first clarity and completeness to be arranged systematically in order to facilitate research. Like primary law, this secondary legal material sourced from the opinions of legal experts will also be examined first and must support the nature of the primary legal material itself in accordance with the problems contained in the formulation of the problem above, from the results of legal research literature or from the results of this field discussion is carried out in an analytical descriptive manner. Descriptive is the result of research in order to get a comprehensive picture but systematic, especially about the facts related to the problems to be proposed in this study.

3. Responsibility Of The Notary For His Actions Using The Services Of A Realtor To Obtain A Client

The term notary can be studied in its element, that to give an affirmation that a notary is an official who has certain authority, not another official, can be seen from the element. *First*, notaries are public officials. *Both* notaries are officials authorized to make authentic deeds granted by law. However, there are a number of other officials who also have the authority to make authentic deeds (as specified in the legislation) but not as special as notaries. These other officials are :¹¹

1. Consul (based on Conculair Wet)
2. Regional head Regent or regional secretary appointed by the minister of Justice (Article 2 PJN S1860-3)
3. Replacement notary
4. Bailiff at the District Court
5. Civil registry office employees

⁹ Peter Mahmud Marzuki, *Penelitian Hukum*, Cetakan ke-14, Jakarta: Prenadamedia Group, 2019 hlm. 136.

¹⁰ *Ibid* hlm 177

¹¹ Abdul wahid, Dkk, *Penegakan Kode Etik Profesi Notaris*, nirmana media, tanggerang cet. 3 2017 hlm 115

Meanwhile, according to Izenic, as quoted by Habib Adjie, the form or style of notary can be divided into two main groups, namely:¹²

1. *Notaris Functionnel* in which powers are delegated and this are presumed to have the truth of their contents, to have the power of formal proof, and to have the power of execution. In countries such as these there is a strict separation between “*wettelijke*” and “*niet wettelijke*” werkzaamheden, i.e. work that is based on law and that is not notarized.
2. *Professional notaries*, in this group although the government regulates the organization, the notarial deeds have no special effect on the truth, the strength of the evidence as well as the power of the executor. The concept of development of Notarial laws and regulations in a country should refer to this great concept of the notarial madhhab because each one has a different philosophical foundation of law Regarding behavior as a notary, Ismail Saleh stated that there are four main things that must be considered, namely:¹³

- a. Be honest with clients and yourself (intellectual honesty)

The notary must be honest, not only with his client, but also with himself. The notary must know the limits of his abilities, not give promises just to please his client or so that the client is still willing to use his services. All of them are a separate measure of the level of intellectual honesty of a notary.

- b. Aware of the limits of its authority

The notary must be aware of the limits of his authority. The notary must comply with the provisions of applicable law on how far he can act and what May and may not be done. It is contrary to professional conduct if a notary turns out to be domiciled and residing not in the place of his position as a notary. Or they have a place to stay, and they have a place to stay, and they have a place to stay. A notary is also prohibited from exercising his office outside his area of office. If this provision is violated, the deed in question will lose its authentic force.

- c. Not solely based on money

Although the skills of a notary can be used as a straight forward attempt to get money, but in carrying out the duties of his profession he is not solely driven by considerations of money. A notary must stick to the sense of justice that is essential, not affected by the amount of money, and not merely create a formal instrument of evidence in pursuit of legal certainty, but ignore the sense of Justice

- d. Have a strong moral integrity

In carrying out his professional duties, a notary must have a steady moral integrity. In this case, any moral considerations should underlie the performance of professional duties. Although it will get a high reward for services, but something that is contrary to good morals should be avoided.

Article 82 paragraph 1-5 of Law No. 30 of 2004 on the amendment of Law No. 2 of 2014 on notary position :

- 1) Notaries assemble in one container notary organization.
- 2) The notarial Organization referred to in Paragraph (1) is the Indonesian Notary Association.

¹² Habib Adjie, *Meneropong Khazanah Notaris & PPAT Indonesia ,Kumpulan Notaris Dan PPAT*, Citra aditya bakti, Bandung, 2009, hlm 1-2

¹³Supridi, *Etika dan Tanggung Jawab Profesi Hukum di Indonesia*, Jakarta:Sinar Grafika,2006, hlm 51.

3) The notary organization as referred to in Paragraph (1) is the only free and independent notary professional forum established with the intention and purpose of improving the quality of the notary profession.

4) Provisions regarding the objectives, duties, powers, procedures, and organizational structure are set out in the Articles of Association and By laws of the notary organization.

5) Provisions regarding the establishment, development, and supervision of Notary organizations are regulated by Ministerial Regulation.

In this case, the notary is firmly bound by the Indonesian Notary Association organization, so that whatever is done by the notary, his actions are always supervised by the organization. then there are some prohibitions that should be able to be done by a Notary, the prohibition is contained in Article 17 of Law Number 30 of 2004 on amendments to Law Number 2 of 2014 on notary positions.

(1) Notary prohibited

- a. carry out work outside the territory of the Department;
- b. leave the territory of his position for more than 7 (seven) consecutive working days without a valid reason;
- c. served as a civil servant;
- d. serve as a State Department official;
- e. served as an advocate;
- f. concurrently holding positions as leaders or employees of state-owned enterprises, regional-owned enterprises or private enterprises;
- g. concurrently serving as a land deed-making office and / or Class II auction office outside the notary's place of residence;
- h. become a substitute notary; or
- i. perform other work that is contrary to the norms of religion, decency, or propriety that may affect the honor and dignity of the post of Notary.

(2) Notaries who violate the provisions as meant in Paragraph (1) may be subject to sanctions in the form of:

- a. written warning;
- b. temporary dismissal;
- c. respectfully terminated; or
- d. dismissal with disrespect.

As stated in Article 17 paragraph (1) letter i, that the notary in carrying out his office must not conflict with religious norms, decency, or propriety that can affect the honor and dignity of his position. What is meant by propriety here is as conformity or suitability, appropriateness of action with the limits that apply in society. Propriety itself is often paired with good faith, where good faith is the juridical framework of propriety.¹⁴ Furthermore, good faith can be categorized into two, namely subjective good faith and objective good faith.¹⁵

a. Good faith is subjectively that the person concerned is himself aware of his actions contrary to good faith.

¹⁴ Yano Mahendra, *Makna Larangan Pekerjaan Lain Yang Bertentangan Dengan Kepatutan Dalam Jabatan Notaris Sebagai Pejabat Umum*, tesis : Universitas Jember 2017 hlm 51

¹⁵ *Ibid* hlm 54

b. Objectively good faith is good faith if public opinion considers such action to be contrary to good faith.

Then further, in the treasury of existing developments, that the notary in carrying out his office can not be separated from the name of the propriety. However, with the increasing need for the notary profession, it is vulnerable to violations of the propriety, such as in terms of using the services of other parties (realtor) to get clients. even though it is very clear that there is a ban related to cooperation with other parties, these rules are contained in the code of ethics of notaries in selanggarakan in banten, 29-30 May 2015.

Article 4 paragraph (4), states that "in cooperation with a service bureau/person/legal entity that essentially acts as an intermediary to find or obtain clients". So *that mutatis mutandis* form of cooperation either in writing or unwritten violates the propriety contained in the legislation and may be subject to sanctions as in the notary regulations.

From this article it is clear that notaries are not allowed to use third party services to get clients. the impact will have an impact on unfair competition, as stated in Article 4 paragraph 9 that notaries make efforts either directly or indirectly leading to the emergence of unfair competition with fellow notaries.

related to the responsibility of notaries as public officials in relation to the truth of the matter, can be divided into four points, namely:¹⁶

1. Civil liability of the notary for the material correctness of the deed drawn up by him;
2. Criminal liability of the notary to the material truth in the deed drawn up by him;
3. The responsibility of the notary based on the regulation of the notary position to the truth of the material in the deed made by him;
4. The responsibility of the notary in carrying out the duties of his position based on the notary code of ethics.

From the description emphasized by Neco, related to point four, notaries in carrying out their duties must be responsible based on the notary's code of ethics without exception as well as using third parties (brokers) or other services to get clients. So if the responsibility is deliberately violated or negligent in carrying out a notary profession, the notary will be subject to sanctions in accordance with those contained in the notary legislation.

A concept related to the concept of legal liability is the concept of legal responsibility, in the sense of being responsible for the sanctions imposed for actions contrary to the law. In the definition of responsibility contained " the cause of responsibility can be done directly or indirectly in the case done by others but under his control or supervision".¹⁷

Furthermore, in the concept of Professional Responsibility,¹⁸ not least the responsibility of the notary profession in carrying out a notary profession if using the services of a third party (realtor), then the notary must be responsible ;

¹⁶ Nico, *Tanggungjawab Notaris Selaku Pejabat Umum*, Yogyakarta: Center for Documentation and Studies of Business Law, 2003, hlm. 250

¹⁷ Evie Murniaty, *Tanggung Jawab Notaris Dalam Hal Terjadi Pelanggaran Kode Etik*, Tesis Program Studi Magister Kenotariatan Program Pascasarjana Universitas Diponegoro Semarang, 2010 Hlm 5

¹⁸ Valerine Jl. Kriekhoff, *Tanggung Jawab Profesi*, Fakultas Hukum Universitas Indonesia, Jakarta, 2007 hlm 2

1. Moral responsibility
2. Technical responsibilities of the profession
3. Legal responsibility

Related to moral responsibility is the responsibility according to the values of the norms in force in the life of the profession in question (code of ethics of the notary profession), which can be personal or institutional. As for personal responsibility is conscience, while institutional moral responsibility is the sanction of the organization of the institution concerned.¹⁹

Then in the technical responsibility, notaries who violate the provisions contained in the code of ethics, shall be responsible for all kinds of good deeds that are administrative against the victim. As well as legal responsibility, of course, it is clear that notaries must submit and accept the sanctions and policies that have been contained in the notary position regulations.

In relation to the notary's responsibility for his actions that make it possible to open up opportunities for discrimination or injustice. Sidharta argued that regarding justice it belongs to everyone without exception (*there is no discrimination*) or the obligation to act in accordance with what is required of him by law.²⁰ The logic built by this sidharta indirectly reminds the bearer of the legal profession, that justice is determined by the obligations that are carried out or implemented. If the notary tries to carry out his profession in accordance with the applicable juridical norms, then the act is clearly in contact with Justice.

The notary is obliged to realize that the code of professional ethics, which has been outlined in a juridical manner, is actually an order for him, that the profession carried out is related to the interests or rights of the service requester, which if enforced, the notary is not just proving himself capable of applying legal disciplines or laws and regulations that bind him, but also show his commitment in upholding human rights in obtaining justice.²¹

4. Legal Consequences For Notaries Who Use Realtor Services To Get Clients.

Notary as an authentic deed maker has a very large contribution in its development. along with the existing developments, it is also not spared from the weakening or weakness that often occurs violations, whether the violation arises from internal notary or because of external factors. As we all know that most notaries violate the existing code of ethics.

The code of ethics of the legal profession is a form of realization of the ethics of the legal profession that must be adhered to by every profesional legal professional yang concerned. Notohamidjojo in his book states that, in carrying out their obligations, profesional legal professionals need to have :²²

- (1) human attitude, which means not responding formally to the law, but to the truth that is in accordance with conscience;
- (2) a fair attitude, that is to say, the search for feasibility that corresponds to the

¹⁹ Cipto Suenaryo, *Peran dan tanggung jawab notaris dalam pelayanan kepada public sesuai dengan moral etika profesi dan Undang-undang*, <https://mkn.usu.ac.id/images/8.pdf> Hlm 12 di akses pada tanggal 8 Desember 2022

²⁰ B. Arief Sidharta, *Moralitas Profesi Hukum*, Aditama : bandung, 2006 hlm 7

²¹ Abdul wahid, *Dkk Op.Cit* hlm 155

²² O. Notohamidjojo, *Op.Cit* hal.35

feelings of the community;

(3) proper attitude, which means seeking consideration to determine justice in a concrete case;

(4) to be honest, it means to declare that something is true according to what it is, and to stay away from what is not true and inappropriate.

Professional ethics is a norm established and accepted by professional groups, which directs or instructs its members how to act and at the same time ensures the moral quality of the profession in the eyes of the community. If one member of the professional group deviates from the code of ethics, then the professional group will be polluted in the eyes of the community. Therefore, the professional group must solve it based on its own power.

A code of professional ethics is always written in an orderly, neat, complete, flawless, in good language, so that it attracts attention and pleases its readers. All I see is good behavior. Sumaryono stated the reasons why the Professional Code of ethics needs to be formulated in writing, namely:²³

(a) as a means of social control;

(b) as a deterrent to interference by other parties;

(c) as a prevention of misunderstandings and conflicts.

Furthermore, because the notary is a professional who exercises some of the powers of the state in the field of private law and has an important role in making authentic deeds that have perfect evidentiary power, and because the position of notary is a position of trust, notary must have good behavior. Good notary behavior can be obtained based on the notary Code of ethics. Thus, the notary Code of ethics regulates the matters that must be obeyed by a notary in carrying out his position and also outside his position.²⁴

There are many types of complaints, including unsigned clients before notaries, payment reductions, not reading the deed, wrong in providing legal action, carrying out tasks outside the work area, using intermediary services and bad-mouthing fellow notaries.

There are at least two factors behind the actions of notaries who use realtor services:²⁵

1. Internal factors, in the violation itself is done because of the personality that encourages someone to commit violations, it is more to the nature and attitude and character of the notary itself, seen from the behavior of the notary after being reprimanded whether to repeat the violation.

2. External factors, someone commits more violations due to environmental factors, where external factors are due to competition among notaries.

²³ Virany Inkiriwang, *Op.Cit* hlm 54

²⁴ Ketentuan dan Kode Etik Notaris" <http://ucupneptune.blogspot.com/2007/11/ketentuan-dan-kode-etik-notaris.html>, diunduh tanggal 22 November 2022

²⁵ Chika anissa, *Tanggungjawab hukum notaris yang bekerjasama dengan pihak lain di tinjau dari Undang-undang jabatan notaris dan kode etik notari*, Jurnal : Officium Notarium No. 3 Vol 1 Desember 2021 Hlm 508

In contained in a code of ethics is sometimes not heeded by the notary. The neglect of the notary code of ethics is certainly due to the negative influence both as an individual in society and in labor relations in professional organizations. Internally, namely within the individual notary itself may be due to its human nature, such as the nature of consumerism or the value *of the salary* obtained in carrying out the profession as a notary. While external factors may be due to the cultural environment that surrounds the notary. The following is stated about the basic reasons why notaries tend to ignore and even violate the notary code of ethics.

Recorded throughout 2007, the Central notary Supervisory Council (MPP) has decided two cases regarding violations of this code of ethics. The two cases are cases that come from MPN Riau and West Java. The decision given by the MPN of each region is written and also guidance. The violation committed by one of the notaries in West Java (Bekasi) is when reading and signing the minutes of the deed of binding sale and sale and the deed of power of attorney, the notary concerned does not present the buyer and seller, nor is it attended by two witnesses. And their names are written in the deed, but still read and certified by the notary concerned. While the violation committed by one of the notaries in Riau, namely the deed containing the sale and purchase of land on the last page is not accompanied by the signatures of the parties, witnesses, and also the notary himself, not even affixed with a notary stamp.²⁶

However, in its development, notaries carrying out their positions sometimes get such a great temptation for personal gain because most people in general want a form of public service that is fast and without the need to mess with bureaucratic and administrative matters. It can be seen from the tendency of people who prefer to use the services of a realtor in document management, rather than doing it themselves.²⁷

In relation to the realtor is the party that is looking for a client for a notary, whereas the realtor in his position is the the rights of a trade intermediary in a business relationship. Then the realtor conceptually should not bind himself in the performance of his duties either to the grantor or to third parties. Thus, the legal relationship between the realtor and the notary does not exist and is not allowed to exist either in the regulations in the KUHD or UUJN.

Legal consequences for notaries who violate will be penalized according to the provisions in the notary Professional Code of ethics, the code of ethics in force and recognized now is the Indonesian Notary Association Code of ethics (INI). The Code of ethics enforced by the Indonesian Notary Association is the result of The Extraordinary Congress of the Indonesian Notary Association held in Bandung, 27 January 27 , 2005. This code of ethics is a refinement of the previous notary Code of ethics . Notary Code of Ethics was first decided in this Congress in Surabaya when 1974.

In the event of legal consequences for violation of the notary code of ethics if using the services of another party (realtor) in finding clients committed by a notary, sanctions will be imposed. the sanctions are contained in the original P 6 notary code of ethics in banten, 29-30 May 2015.

²⁶ Putusan Teguran Kepada Notaris Tidak Bisa Naik Banding, dalam www.hukumonline.com Di unduh 22 November 2022

²⁷ Poppy Almira, *Akibat Hukum Notaris Bertindak Sebagai Makelar Tanah Di Kota Padang*, Tesis, Program Studi Magister Kenotariatan Pascasarjana Fakultas Hukum Universitas Andalas, 2022 hlm 2

a. The sanctions used against members who commit violations of the code of ethics can be :

- a. Reprimand
- b. Memorial
- c. Temporary dismissal
- d. Respectful dismissal from membership of the society.

Dishonorable discharge from membership of the society

b. The imposition of sanctions as described above against members who violate the code of ethics is adjusted to the quantity and quality of violations committed by these members.

c. The Central Board of Honor is authorized to decide and impose sanctions against violations committed by ordinary members (from active notaries) of the association against violations of moral norms or behavior that degrades the dignity of notaries, or actions that reduce public confidence in notaries.

d. Violations of the code of ethics committed by others (who are running for office) can be sanctioned with a reprimand and/or warning.

e. The decision of the board of Honor in the form of a reprimand or warning that can not be appealed.

f. The decision of the regional honorary council / honorary council in the form of temporary dismissal or dismissal with respect or disrespectful dismissal from the membership of the association can be appealed to the central honorary council.

g. Decisions of the first-degree Central Board of Honor in the form of temporary dismissal or honorable discharge or dishonorable discharge from membership of the society may be appealed to Congress.

h. The Central Executive Council is also authorized to provide recommendations accompanied by a proposal for dismissal as a notary to the minister of law and human rights of the Republic of Indonesia.

The imposition of further authorized sanctions is regulated in the regulation of the minister of law and human rights of the Republic of Indonesia number 61 of 2016 concerning procedures for the imposition of administrative sanctions against notaries. That in the imposition of sanctions in the form of administration is contained in the regulation of the minister of law and human rights of the Republic of Indonesia number 61 of 2016 on procedures for the imposition of administrative sanctions against notaries Article 1 Paragraph (1) administrative sanctions are penalties imposed by authorized officials to notaries for committing violations that are required or legislation.

Furthermore, paal 2 Paragraph (2) confirms that the authority in imposing sanctions is "the minister is authorized to impose administrative sanction to notaries who have committed violations or obligations under the provisions of laws and regulations."

Article 3 Paragraph (1) the administrative sanctions in question are :

- a. Written warning;
- b. Temporary dismissal;
- c. Respectfully terminated; or
- d. Dismissal with disrespect.

For the procedure for imposing sanctions contained in Article 4 :

- 1) In the event of a violation committed by the report or based on the results of the examination, the regional Supervisory Council calls the notary concerned.
- 2) The regional supervisory council makes the minutes of the examination of the reported and the minutes of the findings of the notary protocol examination.
- 3) The regional supervisory council submits the report as referred to in Paragraph (2) to the regional Supervisory Council.
- 4) The regional supervisory council shall examine the report as referred to in paragraph (3).

Article 5 Paragraph (1) letter C the regional Supervisory Council may impose a written warning sanction to the notary in the event that the notary:

"Prohibited from exercising his position as a notary in accordance with the provisions of Article 17 paragraph (1) of the law"

Article 7 temporary dismissal

- 1) Temporary dismissal as meant in Article 6 paragraph (1) shall be imposed for a period of 3 (three) months to 6 (six) months.
- 2) In the decision on temporary dismissal as meant in Paragraph (1), the Central Supervisory Board of Notaries stipulates the obligations that must be fulfilled by notaries during the period of temporary dismissal.
- 3) In the period of temporary dismissal has ended and the Notary has not yet carried out its obligations as referred to in Paragraph (2), The Supervisory Board of the notary Center may propose to the minister in the form of:
 - a. respectfully terminated; or
 - b. dismissal with disrespect.
- 4) Based on the proposal of the Supervisory Board of the notary Center as referred to in paragraph (3), the minister may dismiss with respect or with disrespect.

Article 13

In the event that the notary commits a criminal offense punishable by imprisonment of 5 (five) years and has been found guilty by the court and obtained permanent legal force, the minister may impose administrative sanctions in the form of dismissal with disrespect.

5. Conclusion

From the results of research and discussion above, it can be concluded as follows :

1. Responsibility of notaries in carrying out their duties notaries are obliged to be responsible based on the notary code of ethics without exception. So that the notary in the use of third parties (*realtor*) to find clients goods certainly violate the principle of propriety contained in the laws and regulations of the notary position and is not allowed and not allowed in the provisions of the notary code of ethics. the act has been very firmly explicitly stated in the notary code of ethics that in Article 4 paragraph (4) notaries are prohibited from cooperating with service bureaus/persons/legal entities that essentially act as intermediaries to find or get clients. So if the responsibility is deliberately violated, the notary will be subject to sanctions in accordance with those contained in the applicable laws and regulations. In his responsibility to the notary who uses a realtor can be asked for at least three responsibilities. Moral responsibility, technical responsibility of the profession, legal responsibility.

2. Legal consequences against notaries who use realtor services can be asked for Responsibility, such responsibility can be in the form of sanctions by the honorary board as contained in Article 6 of the notary code of ethics, such sanctions in the form of, reprimand, warning, scorsing (temporary dismissal) from association membership, dismissal from to association membership, dishonorable discharge from membership of the society. Further, it is also regulated in the " regulation of the minister of law and human rights of the Republic of Indonesia number 61 of 2016 on procedures for the imposition of administrative sanctions. in his concept, the broker in his position is a trading intermediary in a business relationship in which the realtor conceptually cannot bind himself in carrying out his duties either to the grantor or to third parties. So that the legal relationship between the realtor and the notary does not exist and is not allowed to exist either in the regulations in the KUHD or UUJN

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Conflict of Interest Statement: The author(s) declares that the research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest.

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