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Legal Responsibility Of A Notary For Forgery Of The Debtor's Personal Identity In The Deed Of The Credit Agreement In The Bank

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Abstract: The importance of credit agreements being made authentically is as a legal guarantee of strong and legal evidence for the parties entering into the agreement. In making a deed, the Notary must adjust the evidence provided by the person present with other evidence, however, in making the deed, a notary must be thorough and careful so that there is no forgery in making the deed. The formulation of the problem is as follows: What is the responsibility of the notary in the event that the debtor's identity is proven to be falsified in the credit agreement deed at the Bank and what are the legal consequences for the credit agreement deed in the event that the debtor's identity is proven to be falsified. This research is nurmative research with a statutory approach, and a Conceptual Approach and a legal dictionary approach. Results of research on the responsibility of notaries regarding proven falsification of debtors' personal identities in credit agreement deeds at banks. a) If the notary is aware of falsification of identity or participates in it, the responsibility of the notary in the case of proven falsification of the debtor's identity in the credit agreement deed at the bank is that the notary must be held responsible both civilly if there is a loss, and criminally if the notary already knows that there is a falsification of identity. the parties, in addition to administrative sanctions and the notary's code of ethics as regulated in UUJN article 7 paragraph 2. b) If the notary is not aware of the existence of forged documents. And if the falsification was carried out by the parties, the parties must be held absolutely responsible, both civil and criminal, and responsible for their own mistakes. Legal Consequences of a Deed of Credit Agreement Proven to be a Falsification of the Debtor's Personal Identity. If the underlying agreement does not fulfill the legal requirements for an agreement as regulated in Article 1320 and Article 1868 of the Civil Code, it will have legal consequences, including: a) Degradation (loss of perfect evidentiary power) or the deed becoming under the control of hands. b) Nullity by law. This means that if the objective requirements are not met then the agreement is null and void by law. c) Can be cancelled. This means that if the agreement does not meet the subjective requirements, the agreement can be canceled

Key words: responsibility, forgery, notary/parties

1. Introduction

The importance of credit agreements being made authentically is as a legal guarantee of strong and legal evidence for the parties entering into the agreement. In making a deed, the Notary must adjust the evidence provided by the person present with other evidence.

Notaries must always be thorough and careful in carrying out their profession, especially in making authentic deeds. As a public official who has received a position of trust from the public, notaries are required to carry out their profession as well as possible and always uphold legal ethics.1. This is because the legal consequences resulting from an authentic deed bind the parties listed in the deed. In addition, in the event of a dispute between the parties, an authentic deed is evidence that has perfect evidentiary power in the trial process. Perfect evidentiary power means that an authentic deed is the fullest and strongest form of evidence and includes the value of material, formal and external evidential power. Apart from that, authentic deeds are also important in maintaining legal certainty in an agreement. In the world of law, one of the most essential aspects is legal certainty, namely the law aims to guarantee certainty in relations between subjects in society2

In carrying out his duties in making authentic deeds, a Notary is obliged to carry out the provisions in Law Number 2 of 2014 concerning the Position of Notaries. Notaries are required to act honestly, carefully, independently and impartially and safeguard the interests of parties involved in legal actions in accordance with Article 16 number 1 letter (a) of Law Number 2 of 2014 concerning the Position of Notaries. Therefore, the Notary must act carefully and carefully and meticulously in carrying out the procedures for making an authentic deed.

The requirements that must be fulfilled by the presenter are regulated in Article 39 of Law Number 2 of 2014 concerning the Position of Notary Public, namely as follows:

A. Facing must fulfill the following requirements;
   1) At least 18 (eighteen) years old or married and
   2) Capable of carrying out legal actions
B. The presenter must be known to the Notary or introduced to him by 2 (two) identifying witnesses who are at least 18 (eighteen) years old or married and capable of carrying out legal acts or introduced by 2 (two) other presenters
C. The introduction as intended in paragraph (2) is stated expressly in the deed.

Notaries and their deed products can be interpreted as an effort by the state to create legal certainty and protection for the community. But in public life, violations of the law are not uncommon. Legal acts, which have been carried out by parties who have an interest in creating a legal event, will usually be outlined in the form of an agreement made by the parties and to bind them to the legal act, usually the parties wish to make an agreement in the form of an authentic deed. made by an authorized official, namely a Notary.

The notary makes the deed in question based on evidence or information or statements from the parties which have been expressed or shown or explained before the notary3.

Article 264 paragraph (1) of the Criminal Code states that what can be the object of the criminal act of document forgery are authentic deeds. The scope of the power of a deed against forgery of an authentic deed is due to intellectual

[1] Edwar Edwar, Faisal A Rani, and Dahlan Ali, "*Kedudukan Notaris Sebagai Pejabat Umum Ditinjau Dari Konsep Equality Before the Law,"* Jurnal Hukum & Pembangunan 49, no. 1 (2019): 187–201, https://doi.org/10.21143/jhp.vol49.no1.1916. Di akses pada tanggal 15 maret 2023 pukul 09.00wib.

[2] Theresia Ngutra, "*Hukum Dan Sumber-Sumber Hukum,"* Jurnal Supremasi 11, no. 2 (2016): 193–211. Di akses pada tanggal 15 maret 2023 pukul 09.00 wib

[3] Krisna Harahap, *Konstitusi Republik Indonesia Menuju Perubahan Ke-5,* Bandung, Grafiti Budi Utami, 2009, hlm, 16.

falsity which occurs in the form of the presenter providing incorrect information in the deed (content of the deed), the Notary providing incorrect information in the head of the deed, the comparison (identity) and the end of the deed, and the Notary changing , adding or deleting the statements of the presenters (outside of the renvoi procedures regulated in the Law on the Office of Notaries) and it is proven that there is material falsification, namely the presence of falsified signatures of the presenters, notaries and witnesses and the existence of falsified deeds, copies of deeds or grosse deed.

Forgery in a Deed is a criminal offense whose criminal provisions are regulated in Article 263 of the Criminal Code, in which anyone who makes falsely or falsifies something which can give rise to a right, an obligation or a debt discharge, or which is intended to prove something in reality, with the intention of use it as a genuine and unforged letter or to cause someone else to use the letter, then if the use of it can cause any loss, because they are guilty of forgery of a letter, they will be punished by imprisonment for a maximum of six years and whoever deliberately uses the letter as a fraudulent letter. genuine and not falsified, and can cause losses, according to the provisions of Article 264 paragraph (1) of the Criminal Code, it is stated that authentic deeds can be the object of the crime of document forgery.

With the fairly brief background explanation above, there are several problems as follows:

A. What is the Notary's Responsibility for Falsifying the Debtor's Personal Identity in the Deed of Credit Agreement at the Bank?
B. What are the legal consequences of a credit agreement deed that is proven to involve falsification of the debtor's identity?

2. Metode

The type of research taken by the author is normative legal research. Normative legal research, also called doctrinal legal research, is a process of finding legal rules, legal principles and legal doctrines to answer the legal issues faced. The approach used is the Legislative Approach, the Conceptual Approach.

The types and sources of legal materials needed and used in this research are as follows:

A. Primary Legal Materials
   Primary legal materials are binding legal materials. In this research the author used 3 (three) primary legal materials consisting of:
   1) Civil Code (Staatsblad 1847 Number 23);
   2) Law no. 1 of 1946 concerning Regulations on Criminal Law;
   3) Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (State Gazette of the Republic of Indonesia of 2014 Number 3, Supplement to the State Gazette of the Republic of Indonesia Number 5491);
B. Secondary Legal Materials
   Secondary legal materials are materials that are closely related to primary legal materials, and can help analyze and understand primary legal materials.

Secondary legal materials in this research are books, literature, papers, research results, articles and other scientific works related to this research, such as: research results, scientific works of legal experts, legal reading books or textbooks, Journals, including books by Mr Suratman, Mrs Nafisa and Mr Sunardi.

C. Tertiary Legal Materials

Tertiary legal materials are materials that provide information about primary legal materials and secondary legal materials. Tertiary legal materials in this research consist of: Big Indonesian Dictionary, English-Indonesian Dictionary.

Analysis of legal materials is carried out descriptively which is used to study normative or juridical aspects through analytical descriptive methods

3. Discussion

A. Responsibility of the Notary for Falsification of the Debtor's Personal Identity in the Deed of Credit Agreement at the Bank

The Notarial Deed was born because of the direct involvement of the party facing the Notary, they are the main actors in making a deed so that an authentic deed is created. A Notarial Deed is an authentic deed made by or before a Notary in accordance with the form and procedures stipulated in the Law. The deed made by a Notary authentically describes all actions, agreements and stipulations witnessed by the presenters and witnesses.

A deed made by a Notary must contain the conditions necessary to achieve the authentic nature of the deed, for example, when reading the deed, it is explained that the parties must state their identity, sign the deed and so on. The purpose of reading the deed by a Notary is so that the parties know the contents of the deed because the contents of the deed are the wishes of the parties. The reading of this deed is also carried out so that one party does not feel disadvantaged if there is information or redaction in the deed that is burdensome or detrimental to the other party.

The role of the Notary is so important given by the state, where the Notary as a public official is required to be responsible for the deeds he or she makes. An authentic deed, not because of the stipulation of law but because it was made by or in the presence of a public official, as intended in Article 1868 of the Civil Code is as follows:

1) That the deed is drawn up and formalized in a form according to law
2) That the deed was made by or before a public official
3) That the deed is made before the person authorized to make it at the place where it is made.

Apart from the authority contained in the Civil Code, it is also contained in the UUJN, namely in making notarial deeds, authority is given in accordance with UUJNP article 15 which reads:

1) The Notary has the authority to make authentic Deeds regarding all acts, agreements and stipulations which are required by statutory regulations and/or which are desired by interested parties to be stated in authentic Deeds, guarantee the certainty of the date of making the Deed, store the Deed, provide grosses, copies and quotation of the Deed, all of this as long as

the making of the Deed is not also assigned or excluded to another official or other person as determined by law.

2) Apart from the authority as intended in paragraph (1), the Notary also has the authority to:
   a. Validate the signature and determine the certainty of the date of the letter under the hand by registering it in a special book;
   b. Record letters privately by registering them in a special book;
   c. Make a copy of the original letter under your hand in the form of a copy containing the description as written and depicted in the letter concerned;
   d. Validate the suitability of the photocopy with the original letter;
   e. Providing legal counseling regarding the making of deeds;
   f. Make deeds related to land; or
   g. Make a deed of auction minutes.
3) In article 15 paragraph 2 point d the notary has the authority to validate the suitability of the photocopy to the original document;

Apart from that, when a notary carries out his duties in making authentic deeds, a Notary is obliged to carry out the provisions in the UUJN. Notaries are required to act honestly, carefully, independently and impartially and safeguard the interests of parties involved in legal actions in accordance with Article 16 number 1 letter (a) UUJN. Therefore, the Notary must act carefully and carefully and meticulously in carrying out the procedures for making an authentic deed.

The requirements that must be fulfilled by the applicant are regulated in Article 39 UUJN, namely as follows:

1) Facing must fulfill the following requirements;
   a. At least 18 (eighteen) years old or married and
   b. Capable of carrying out legal actions
2) The presenter must be known to the Notary or introduced to him by 2 (two) identifying witnesses who are at least 18 (eighteen) years old or married and capable of carrying out legal acts or introduced by 2 (two) other presenters
3) The introduction as intended in paragraph (2) is stated expressly in the deed.

In connection with this authority, the Notary can be burdened with responsibility for his actions/work in making authentic deeds. The responsibilities of a Notary as a public official include the responsibilities of the Notary's profession itself in relation to deeds4

The notary's civil responsibility for the deed he or she makes, in this case is the responsibility for the material truth of the deed, in the construction of an unlawful act. Acts against the law here are active or passive. Active means carrying out actions that can cause harm to other parties. Meanwhile, passive means not carrying out actions that are necessary, so that the other party suffers losses. So the elements of an unlawful act here are the existence of an unlawful act, a mistake and the loss caused. An unlawful act here is interpreted broadly, namely an act that not only violates the law, but also violates propriety, decency or the rights of other people causing harm.

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[4] M. Nur Rasaid, *Hukum Acara Perdata*, Jakarta, Sinar Grafika, 2005, hlm.35-49

A notary is seen as a figure whose statements are reliable, trustworthy, whose signature and seal (stamp) provide guarantees and strong evidence in the authentic deed he makes[5].

The results of the author's analysis are to prevent notaries from being entangled in legal problems, and must be held accountable if it is proven that there is falsification of the debtor's identity in the credit agreement deed at the bank, a notary must have the precautionary principle criteria as a public official in carrying out his duties in reading and signing According to the author, the deeds include:

1) Introduction to the identity of the person facing it
   The application of the notary's principle of prudence in getting to know the presenters begins with providing legal counseling and legal education to the presenters. Expressing the wishes of the presenters in an authentic deed, in making the deed it must not conflict with applicable regulations, all requirements must be fulfilled by the presenters, then they must be researched, inspected, checking the documents with the relevant agencies. Check documents directly online into the relevant government agency system. for example, in checking the Resident's Identity Card through the online system of the Population and Civil Registry Service. Ask and directly check the correctness of biodata, such as the date and address on the Resident's Identity Card, to the applicant. This method is one way to apply the principle of caution in getting to know the visitors. The presenters have fulfilled all the formal requirements, so that is sufficient basis for the notary to carry out the legal action desired by the presenters. The notary is not burdened with seeking material truth, but when there are doubts and oddities about the documents which are a requirement for making a deed of appearance, the notary should seek material truth regarding the presenting document, in order to achieve the notary's principle of prudence in recognizing the faces.
2) Verify subject and facing object data
   The purpose and objective of verification is to check the subject data of the parties whether they are authorized and competent or not in carrying out legal actions so that they can fulfill the legal requirements of a deed, such as whether the party acting is at least 18 years old or married according to Article 39 paragraph 1 letter a of the Law on the Position of Notaries. Carefully verifying the subject and object data of the person present, namely by the notary being more critical in looking at the data of the parties, one of which is regarding the ages of the parties, apart from that the notary must be more careful in examining the object documents brought by the party. The applicant, for example, checks the land certificate at the National Land Agency to see whether the certificate is a genuine certificate or a fake and whether the certificate and related documents really belong to the applicant.

[5] Suhartati, "*Penerapan Prinsip Kehati-Hatian Pembuatan Akta Otentik Pada Kantor Notaris Kabupaten Gowa,*" *Petitum* 8, no. 2 (2020): 187, https://uit.e-journal.id/JPetitum/article/view/819. diakses pada tanggal 24 mei 2023pukul 20.16 Wib

3) Deadline for processing an authentic deed
   In order to produce a good deed, the notary should give a grace period in the process of making the deed so that he is not rushed and can work carefully and meticulously so as not to cause errors in the execution of the notarial deed.
   Authentic deed, as we know, the content of an authentic deed is an explanation of the rights and obligations of the parties to obtain legal certainty, so as to minimize disputes, because of this the notary needs time to work on a deed so as not to cause errors in writing the deed in this case. one of which is referred to as deed comparison. If it is in a deed comparison, the strength of the deed becomes inauthentic because it conflicts with the terms and conditions imposed by law.
4) Act carefully, carefully and thoroughly
   Act carefully, carefully and meticulously in the process of making a deed with the words stated in the deed, because in its implementation it very often happens that deeds made by a notary are often questioned because the words made are unclear or give rise to many interpretations. To fulfill this element, the notary is obliged to check word for word what is stated in the deed to minimize errors in writing the deed, because in principle what is stated in the authentic deed must be correct, so that the strength of the authentic deed as evidence can be maintained. Notaries in making authentic deeds must not take sides with one of the communities or service users in making authentic deeds.
5) Meet the requirements
   To make a notarial deed that is far from indicative of legal problems, of course the notary must fulfill the formal requirements and material requirements for making a notarial deed based on the Law on the Position of Notaries. The provisions regarding formal requirements for making a deed are regulated in Article 38 of the Law on the Position of Notaries, Meanwhile, the material requirements that must be fulfilled in making an authentic deed are regulated in Article 1320 of the Civil Code.
6) Reading, signing and affixing a thumbprint
   When signing the deed, the notary first explains what the contents of the deed are, when it has been read, nd the presenters understand and understand the deed, then the presenters sign the authentic deed that has been made and put their fingerprints on a separate sheet, but one unit on the deed authentic.

All notaries must be knowledgeable, Integrity and Professionalism are things that Notaries must have, Notaries must understand all the legal actions desired by the parties. Having the ability and knowledge in the field of law, when the notary does not understand the legal actions that will be requested by the court, then the Notary does not understand the knowledge that he must have. If the Notary has the ability to take the legal actions desired by the presenters, it will minimize the risk of losses and disputes that will be experienced by the presenters or the Notary himself.

The question is how the Notary and the parties can avoid all risks, whether in the form of sanctions or cancellation of the authentic deed, so in the process of making an authentic deed before a notary, the Notary and the parties must implement the precautionary principle in a more thorough manner and have good faith in making the deed. authentic and comply with applicable legal provisions and are based on morals and ethics.

In reality what happens in the field is that the Notary when making the deed no longer checks the person's personal identity/Residential Identity Card as evidence when making the deed, even though basically in the credit agreement regarding the personal identity data/residential Identity Card of the facing person a survey has been carried out by the Bank. as a Creditor, as a result the Notary must bear responsibility for the actions of the debtor if it turns out that the debtor has attached a personal identity/Residency Card that does not match the original.

Sometimes the Notary is busy and the Notary's employees do not understand the consequences if the deed turns out to be using a fake identity card, for example to deal with counterfeiting of the person's identity/Resident Identity Card. It is not wrong if the Notary asks for an original Identity Card. with a National Identity Card with a photocopy and ask the person present to attach the husband and wife's passport or if necessary, the Notary asks for a Family Card and Marriage Book issued by the District Head or other authorized party. If it turns out that the personal identity/KTP attached by the person appearing is fake then the Notary is no longer responsible for the forgery, because the Notary has carried out the procedures regulated by Law in the process of making the deed.

The Form of Notary Accountability in Making Deeds is Article 16 Paragraph (1) Letter M of the Notary Position Law

If a notary is proven to have committed an unlawful act in carrying out his profession, he must be held accountable for his actions. In imposing sanctions on a notary, there are several conditions that must be met, namely fulfilling the formulation that the act is prohibited by law, there is loss resulting from the act and the act must be unlawful, both formally and materially. Formal in the sense that it meets the formulation in the law, the material meets the test according to the code of ethics and the Law on the Position of Notaries. Aspects of limitations in terms of violations by notaries are measured based on the Law on Notary Positions. The threat of sanctions for violations by notaries is given based on the Law on the Position of Notaries so that in carrying out their duties and positions, a notary is required to be responsible to himself, his clients and also to God Almighty.

Thus, if the author analyzes the theory of responsibility, a Notary as a public official who has the authority to make authentic deeds can be burdened with responsibility for his actions in connection with his work in making deeds. Therefore, the responsibility of a notary in the case of proven falsification of the debtor's identity in the credit agreement deed at the bank. The legal responsibility of a Notary in carrying out his profession is classified as follows:

1) Civil Law Responsibility, namely if the Notary makes a mistake because he breaks a promise as stipulated in the provisions of Article 1234 of the Civil Code or violates the law as specified in the provisions of Article 1365 of the Civil Code. This error has caused losses to the client or other parties.

    The form of responsibility for a Notary who commits an unlawful act in making an authentic deed is that a Notary can be subject to civil liability in the form of sanctions to reimburse costs or compensate the injured party for the unlawful act committed by the Notary. Administrative accountability takes the form of giving verbal warnings, written warnings, temporary dismissal, honorable dismissal and dishonorable dismissal as a Notary. Accountability for the Notary's professional code of ethics takes the form of sanctions such as reprimands, warnings, temporary dismissal (schorsing), dismissal (onzetting) and dishonorable dismissal from association membership. Meanwhile, a person's criminal responsibility can take the form of a prison sentence or imprisonment for an unlawful act he or she commits. These matters are based on findings in jurisprudence regarding the responsibility of Notaries who commit acts against the law.

2) Criminal Law Responsibility

    The legal basis for Article 263-264 of the Criminal Code is if a Notary has committed a legal act that is prohibited by law or committed a mistake/act against the law either intentionally or negligently which causes harm to another party[6]

    Apart from that, notaries also still have to face the threat of sanctions in the form of ethical sanctions if the Notary violates the notary's code of ethics, and can even be subject to criminal sanctions. However, criminal sanctions against notaries must be seen in the context of carrying out their official duties, and are subject to general criminal provisions, namely the Criminal Code, the Law on the Position of Notaries and the Law on Amendments to the Law on the Position of Notaries does not regulate regarding special criminal offense for notaries.

    An offense or act that is prohibited by law and is punishable by criminal sanctions has an objective element (elements that exist outside of humans which can take the form of an action or behavior that is prohibited and is threatened with criminal sanctions, such as falsifying letters, perjuring , theft) and the subjective element of toereken¬ingsvatbaarheid and error (schuld).

    The limits of punishment for acts committed by a Notary are in the form of legal action from the Notary regarding the formal aspects of the deed that is deliberate, full of awareness and awareness and planned, that the deed is made before the Notary or by the Notary together (in agreement) to be used as the basis for commit a criminal act. There are legal actions by a Notary in making a deed in front of or by a Notary which, if measured based on the UUJN, is not in accordance with the UUJN. The Notary's actions are not appropriate according to the agency authorized to assess the actions of a Notary, in this case the Notary Supervisory Board.

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[6] Lanny Kusumawati, *Tanggung Jawab Jabatan Notaris,* Bandung, Refika Aditama, 2006, hlm, 65

The imposition of criminal sanctions against a Notary can be carried out as long as the limitations mentioned above are violated, meaning that apart from fulfilling the violation formula stated in the UUJN and the Notary's code of ethics, they must also fulfill the formulation stated in the Criminal Code. If the violation committed by the Notary meets the formulation of a criminal offense, but if it turns out that it is based on the UUJN and according to the assessment of the Regional Supervisory Council, it is not a violation. So the Notary concerned cannot be sentenced to a criminal sentence, because the standard for assessing a deed must be based on UUJN and the Notary's code of ethics.

This is one example of what can lead to a notary ending up in prison and must be held accountable, including:

a) The deed is made under the condition that the parties do not face each other. The notary made a deed even though he knew the parties were not facing each other or were not present. One or both parties were not present when the deed was drawn up. The aggrieved party usually reports the notary.
b) The identity data of one of the parties in the deed is considered incorrect, or is deemed to provide false information.
c) Data regarding the agreed object does not correspond to actual facts.
d) The data provided by one or both parties is incorrect, so the notarial deed issued is considered a fake deed.
e) There are two deeds circulating between the parties, the number and date of which are the same but the contents are different. "This often happens, the number, date and title are the same, but in one deed there is only one facer, and in the other deed there are two facers.
f) The signature of one of the parties in the minutes is forged.
g) The person using the identity of another person.

3) Administrative responsibilities and code of ethics for the position of Notary.

The legal basis of article 7 paragraph 2 UUJNP, administrative responsibility, civil and notary code of ethics are subject to sanctions that refer to the actions carried out by the person concerned, while criminal responsibility that is subject to criminal sanctions targets the perpetrator (person) who carries out the legal action. Administrative sanctions and civil sanctions are reparatory or corrective, meaning to improve a situation so that it is not repeated by the person concerned or by another notary. Regressive means that everything is returned to the state it was in before the violation occurred. In certain legal regulations, apart from being subject to administrative sanctions, criminal sanctions (cumulatively) which are comdemnatoir (punitive) or punitive can also be imposed, in this connection the Law on the Position of Notaries does not regulate criminal sanctions for Notaries who violate the UUJN. If something like that happens then the Notary is subject to general criminal offenses.

B. Legal Consequences of the Deed of Credit Agreement which is proven to involve falsification of the debtor's identity.

Legal consequences are the consequences that arise from an action that occurs from all legal actions that have been carried out by the legal subject against the legal object[7]. In civil and criminal legal consequences, the actions that arise are null and void, the meaning of null and void in civil law is that an agreement that has been made from the start is considered to have never existed, whereas in criminal law null and void is found in a court decision, which means that the decision was handed down from the start. is deemed to have never existed and has no legal force and consequences and the decision has no power for execution.

One example of the legal consequences carried out by the subject of court decision number 952/Pid.B/2019/PN.Jkt.Brt is a credit agreement with a fake letter. A credit agreement is a process of lending and borrowing agreement between a bank acting as a creditor and another party acting as a debtor. The debtor will then have the obligation to pay off all his debts after a predetermined period of time with interest payments.[8] In making a credit agreement, there must be authentic evidence, where this authentic evidence is to indicate that the parties concerned have used real identities and have not been faked, however, in this court decision, the party who entered into the credit agreement was Daud Martin. Then Daud Martin committed a civil and criminal violation which gave rise to legal consequences for the credit agreement by using a fake letter.

According to Article 263 paragraph (1) which reads that:

"Anyone who makes a fake document or falsifies a letter which can give rise to a right, obligation or discharge of debt, or which is intended as proof of something with the intention of using or ordering another person to use the document as if its contents were true and not fake, is threatened with use This can result in losses due to falsification of documents, with a maximum prison sentence of six years"9

Furthermore, according to Article 264 of the Criminal Code, it states that:

1) Forgery of documents is punishable by a maximum imprisonment of eight years, if committed against:
    a) authentic deeds;
    b) debt securities or debt certificates from a country or part thereof or from an institution;
    c) certificate of holding or debt or certificate of holding or debt from an association, foundation, company or airline;
    d) talon, proof of dividends or interest from one of the letters described in 2 and 3, or proof issued in lieu of those letters;
    e) letters of credit or trade letters intended for circulation.

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[7] Anonim, "*Akibat Hukum*", http://hukum.untan.ac.id/akibat-hukum/, diakses pada tanggal 24 mei 2023pukul 20.16 Wib.

[8] Hukum Online, "*Yuk Pahami Hukum Jaminan dan Perjanjian Kredit di Indonesia*", https://www.hukumonline.com/berita/baca/lt5d9b211828b1e/yuk-pahami-hukum-jaminandan-perjanjian-kredit-di-indonesia/, diakses pada tanggal 24 mei 2023pukul 20.16 Wib

[9] Tim Pustaka Buana, *KUH Perdata, KUH Acara Perdata, KUH Pidana, KUH Acara Pidana*, Cetakan ke-1 Bandung, Pustaka Buana, 2016, hal,702.

2) The same penalty shall be imposed on anyone who deliberately uses the letter mentioned in the first paragraph, the contents of which are not genuine or which are falsified as if they were true and not falsified, if the falsification of the letter could result in losses.

The factors that lead to credit agreements using fake letters or fake documents are as follows[10]

a) There is bad faith on the part of the defendant as a credit provider;
b) Employees as credit providers do not carry out their duties in accordance with operational standards determined by the bank;
c) There is an opportunity due to the negligence of other employees, so that the defendant can easily carry out his actions;
d) Lack of supervision from the center meant that the incident took a very long time and caused huge losses.

The explanation above is a point of view of the criminal legal consequences. However, what if the legal consequences of a credit agreement with a fake letter are seen from a civil perspective based on Article 1 paragraph 11 of Law Number 10 of 1998 concerning Amendments to Law Number 7 of 1992 concerning Banking, which will hereinafter be referred to as the Banking Law, The definition of credit is a provision of money or a bill that can be equivalent to it, based on an agreement or lending agreement between the bank and another party which requires the borrowing party to pay off the debt after a certain period of time with interest.11

Based on the description above, the author can conclude that credit is a loan that has been given by the Bank to someone to be used and to be returned with interest within a time period determined by both parties as stated in the agreement and Article 1320 of the Civil Code.

Meanwhile, according to Article 1313 of the Civil Code, the definition of an agreement is an act in which one or more people bind themselves to one or more other people. If we look carefully, the meaning of an agreement contained in Article 1313 of the Civil Code shows that in fact an agreement has given rise to obligations or achievements on the part of one or more people, who have the right to such performance[12].

Each of these parties consists of one or more people, with the development of legal knowledge the parties contained in the agreement can also be in the form of one or more legal entities. A credit agreement is an agreement made between the Bank and another party as a loan, the party who wants to borrow or owe money, the party must provide a guarantee to the Bank. The loan repayment period has been determined and is contained in the agreement.

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[10] Putu Dila Parmila, I Nyoman Putu Budiartha, Ni Gusti Ketut Sri Astiti, *Akibat Hukum Perjanjian Hutang Piutang Dengan Persyaratan Dokumen Palsu (Studi Kasus Putusan Pengadilan Negeri Denpasar*, Jurnal Interpretasi Hukum, Volume. 1, Nomor 2 (September2020), hlm, 172.

[11] Indonesia, *Undang-Undang Nomor 10 Tahun 1998, Op.cit.*, Pasal 1 angka 11.

[12] Subekti, R. dan R. Tjitrosudibio, *Kitab Undang-Undang Hukum Perdata*, Cetakan ke-41. Jakarta: PT Balai Pustaka, 2014. hal. 338.

The elements contained in this agreement can be classified into two main elements which involve the subject or party involved in the agreement and two other main elements which have a direct relationship with the object of the agreement. The subjective element includes the existence of an element of free agreement from the party who has promised and the skills of both parties who have implemented the agreement.

Meanwhile, objective elements such as the existence of an object that has been agreed upon and the object that has been agreed upon must be something that is justified according to law. If one of these elements is not fulfilled, it could cause the agreement to be defective.

The conditions that must be met for making an agreement are contained in Article 1320 of the Civil Code, namely as follows[13]

1) Those who bind themselves agree;
2) Ability to create an agreement;
3) A certain thing;
4) A lawful cause;

The validity of an agreement is determined by the fulfillment or non-fulfillment of the conditions determined by law. If these conditions are not fulfilled in the agreement, then the agreement is threatened with being null and void. This could result in cancellation. Each party entering into the agreement needs to be aware of this. An agreement can be said to be null and void if there is a violation of the conditions for the validity of an agreement. The obligation to have an object in an agreement is stated in Article 1332 to Article 1334 of the Civil Code, as well as Article 1335 and Article 1336 of the Civil Code which regulates halal clauses.14

From the explanation above, the author can draw a conclusion regarding the types of cancellation in agreements, namely as follows:

1) Cancelled due to failure to fulfill one of the conditions for the validity of the agreement

   An agreement can be said to be void if it relates to the issue of failure to fulfill the legal requirements of an agreement contained in Article 1320 of the Civil Code which consists of four conditions, namely as follows[15].

   a. Those who bind themselves agree;
   b. Ability to create an engagement;
   c. A certain thing;
   d. A legitimate cause

   Points 1 and 2 are requirements relating to the parties making the agreement, namely the agreement between the parties and the parties' abilities to carry out legal actions. These terms regarding parties are also known as subjective terms. Meanwhile, points 3 and 4 regulate the object of the agreement which must be specific and the reason for the

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[13] *Ibid.*, hal. 339.
[14] *Ibid*., hal. 341.
[15] *Ibid.*, hal. 339.

agreement which must be in accordance with applicable laws and regulations. These conditions are also called objective conditions.

If an agreement does not meet subjective requirements, then the agreement can be canceled (voidable). An agreement that does not fulfill one of the subjective requirements will result in the agreement being invalid and can be requested to be canceled by one of the parties16 This means that the party who feels aggrieved can ask the judge to cancel the agreement through a court process17

Meanwhile, if an agreement does not meet objective requirements, then the agreement is null and void and is deemed to have never existed, without the need for a request for cancellation to the court.

The inclusion of a false identity in an agreement can be categorized as fraud as intended in Article 1321 of the Civil Code. As a result, this fraud violated the subjective requirements of Article 1320 of the Civil Code, point 1 regarding the agreement between the parties. Subekti defines the word agreement as a free will in making an agreement. An agreement based on free will as the first condition for a valid agreement is deemed not fulfilled if the agreement arises based on coercion (dwang), mistake (dwaling), or fraud.[18] This is in accordance with the provisions of Article 1321 of the Civil Code which states that an agreement is considered invalid if the agreement is given or obtained due to mistake, coercion or fraud.[19]

2) Void by law due to the terms and conditions that the Agreement fulfills.

With the existence of a void condition, it becomes null and void because the void conditions have been fulfilled and can result in the return of the situation to its original condition when the agreement arose or it could be said that the agreement is null and void as such has retroactive effect to the point at which the agreement was originally made.[20]. Article 1265 of the Civil Code states that "a condition for cancellation is a condition which, if fulfilled, terminates the agreement and brings everything back to its original state as if there had never been an agreement."[21]

Cancellation of an agreement that has been regulated in the agreement can be done for reasons of termination of the agreement, in this case the agreement is detailed for reasons so that one or both parties can terminate the agreement. So, not all defaults can cause one

[16] Tesalonika Marta Ayuning Tyas and Adi Sulistiyono Pranoto, "*Pembatalan Akta Perjanjian Kredit Karena Objek Jaminan Tidak Sah (Analisis Putusan Pengadilan Negeri Bandung Nomor 496/Pdt.G/2014/PN Bdg),*" *Jurnal Repertorium* 4, no. 2 (2017): 103–9

[17] *ibid*

[18] Subekti, *Pokok-Pokok Hukum Perdata*.

[19] Subekti and Tjitrosudibio, *Kitab Undang-Undang Hukum Perdata Burgerlijk Wetboek,* Jakarta, Pradnya Paramita, 2009. Hlm, 328

[20] Elly Erawati dan Herlien Budiono, *Penjelasan Hukum Tentang Kebatalan Perjanjian* Jakarta, Gramedia, 2010, hlm, 6-14

[21] R. Subekti dan R. Tjitrosudibio, *Ibid*

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of the parties to terminate the agreement, but only defaults that have been mentioned in the agreement.

3) Cancelled due to default

   The term default comes from Dutch which means bad performance. A person who has promised but does not do or keep what he has promised, then that person is negligent, negligent, breaks his promise or he has violated the agreement, if he has done or done something that he is not allowed to do so it can be said to be a default[22]

4) Unilateral cancellation of the agreement

   Cancellation of an agreement carried out unilaterally means the unwillingness of one of the parties to the agreement to fulfill the achievements agreed between the two parties in the agreement that will be entered into when the other party intends to fulfill the achievements he has promised and wishes to continue to obtain counter-performance from the other party. contained in the agreement.

   If you look at the explanation above, it can be concluded that the legal consequences of a credit agreement with a fake letter in civil law can be said to be null and void because in making a credit agreement you must use an authentic deed, personal identity and other documents which are original, not fake. Meanwhile, the legal consequences of a credit agreement in the presence of a criminally false letter are an act that can give rise to legal consequences if the act fulfills the elements of the article that has been imposed on the perpetrator of the criminal act. If the agreement fulfills the elements of Article 263 of the Criminal Code, then the legal consequences of a credit agreement with a criminally false letter are that the agreement can be canceled by law and the person who has committed the act can be subject to criminal penalties from Article 263 of the Criminal Code.

   Thus, the legal consequences of a credit agreement deed if it is proven that there is falsification of the debtor's personal identity in an authentic deed can be invalidated in two forms, namely degradation (loss of perfect evidentiary power) or null and void/can be cancelled. Degradation occurs when a deed has defects in its form or is made by an unauthorized or incompetent notary. Article 1869 of the Civil Code states that a deed cannot be considered an authentic deed if the official who made the deed is incapacitated or incompetent, or if there is a defect in its form, but the deed remains valid as a private deed if signed by the parties.[23] Meanwhile, an authentic deed is null and void/can be canceled if the underlying agreement does not fulfill the legal requirements of the agreement as regulated in Article 1320 of the Civil Code, both objective requirements (null and void) and subjective requirements (can be cancelled).

[22] R. Subekti, *Op.Cit.*, hal. 45.
[23] Subekti and Tjitrosudibio. *Op cit,* hlm, 328.

The legal consequences of forgery of authentic deeds carried out by notaries are basically a case where a public official, namely a notary, has sought profit and abused the authority regulated in the Notary Position Law and a client/other party feels disadvantaged by the making of a notary. If a deed contains false information by a notary, the deed becomes a private deed and does not have perfect proof.

Regarding the cancellation of the deed, it is within the authority of the civil judge, namely by filing a civil lawsuit in court. If the aggrieved party (victim) requests an annulment of the deed during the trial, then the notarial deed can be annulled by a civil judge if there is opposing evidence. The consequences of canceling a deed can give rise to uncertain situations, therefore the law provides a limited time for suing where according to the law it can be canceled if someone wants to protect themselves. Thus, in a decision by a civil judge, as long as an annulment is not requested, the legal action/agreement stated in the deed will remain valid or valid. After there is a civil judge's decision which has permanent legal force regarding the prosecution's lawsuit to cancel the deed, the deed no longer has legal force as authentic evidence because it contains juridical defects/legal flaws, then in his decision the civil judge will declare that the deed is null and void. by law. The cancellation of the deed takes effect retroactively, namely from the time the legal act/agreement was made.

Apart from that, the cancellation of an authentic deed can also be carried out by a notary if the parties/presenters are aware of any errors or mistakes that have been stated in the deed, so that it can create doubts about the agreement/agreement of the parties/presenters, then the deed can be canceled by Notary Public. If a notary is involved in a case of forgery of a deed in which he or she is an intellectual actor or the notary participates in forgery of a document which can be categorized as a criminal act, then legally it cannot be tolerated, not only based on criminal provisions, but also by Civil Code Regulations and Law Regulations. Notary Position (UUJN). Therefore, if a notary makes a deed then pay attention to the elements and obligations and prohibitions in making a deed for a notary so that later the deed will have perfect proof.

4. Conclusion

A. Notary's Responsibility for Falsifying the Debtor's Personal Identity in the Deed of Credit Agreement at the Bank.

1) If the notary is aware of falsification of identity or participates in it, then the notary's responsibility in the case of proven falsification of the debtor's identity in the credit agreement deed at the bank is that the notary must be held responsible both civilly if there is a loss and criminally if the notary already knows that there has been a falsification of the identity of the parties. , apart from that, there are also administrative sanctions and the code of ethics for the position of notary as regulated in UUJN article 7 paragraph 2.

2) If the notary is not aware of the existence of forged documents. And if the falsification was carried out by the parties, the parties must be held absolutely responsible, both civil and criminal, and responsible for their own mistakes.

B. Legal consequences of the credit agreement deed which is proven to involve falsification of the debtor's identity

Legal Consequences of a Credit Agreement Deed that is Proven to Have Falsified Debtor's Personal Identity in an authentic deed can experience invalidity in two forms, namely degradation (loss of perfect evidentiary power) or null and void/can be cancelled. Degradation occurs when a deed has defects in its form or is made by a notary who is not authorized or incompetent and in making it is not in accordance with the UUJN so that the deed becomes an underhanded deed. If the notary finds out there is a forgery and the deed has already been completed then the notary must apply to the District Court to cancel it. the deed.

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