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## NOTARY LIABILITY IN CRIMINAL ACTS OF FRAUD BASED ON A POWER OF BUYING DEED

Poppy Agustina Panduwinata<sup>1</sup>, Hary Purwadi<sup>2</sup>, Widodo Tresno Novianto<sup>3</sup>

Universitas Negeri Sebelas Maret Surakarta<sup>1,2,3</sup>

poppyagustina08@gmail.com<sup>1</sup>, hpurwadie@staff.uns.ac.id<sup>2</sup>, hpurwadie@staff.uns.ac.id<sup>3</sup>

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### ABSTRACT

*The aims of this study are as follows, to find out the violations committed by the notary in this case fulfill the elements of a criminal act of fraud as in determining Article 378 of the Criminal Code regarding fraud, To find out the basis for the consideration of the reviewing judge (PK) in deciding that the case is in accordance with the duties and authorities of a notary as regulated in the Law on Notary Positions. The method used in this research is the doctrinal method (doctrinal research) with secondary data sources. That the facts of the trial of Decision Number 20 PK/Pid/2020 state that the notary commits a criminal act of fraud as referred to in Article 378 of the Criminal Code does not meet the following elements, The objective element (element of the act committed and Subjective element (element of intent or purpose). Which consists of benefiting personally or others and violating the law. The judge in his consideration stated that there was negligence of the Defendant in the process of making the power of attorney for the deed of sale and purchase between the witnesses, the settlement was administratively. Freeing a notary based on the fraudulent sale and purchase deed according to legal facts, regarding the loss of victim witness Marhendro Anton Inggriyono who was harmed by witness Gunawan Priambodo who did not perform his/her obligations or defaults, it turned out that the Defendant was being processed by criminal law, even though according to the facts of the trial, he did not receive any profit from the transaction of making a power of attorney deed of sale and purchase of land at Paradise Loft.*

**Keyword:** Notary, Notary Sentence, Judge's Decision.

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Corresponding Author: Poppy Agustina Panduwinata

E-mail: poppyagustina08@gmail.com



### INTRODUCTION

Notaries in English are called notaries and in Dutch they are called Van notaries. Notaries have an important role in traffic law and especially in the field of civil law. This is because a notary is a public office with the authority to make authentic deeds and others (Salim, 2021). Article 1 point 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notaries explains that "notaries as public officials carry out their professions in providing legal services to the public, need to get protection and guarantees to achieve legal certainty" (Salim, 2021).

Notaries have the authority in the form of making authentic deeds related to deeds, agreements and stipulations that have been required as applicable laws and regulations or the will of the interested person stated in an authentic deed, guaranteeing certainty of the date of making the deed, keeping the deed, providing Grosse, copies and the quotation of the deed as long as the

process of making it is not assigned to an official or other person stipulated in the law (Mulyoto, 2021).

The authority of a Notary in Article 15 paragraph (1) of the UUJN, namely: "The Notary has the authority to make an authentic deed regarding all acts, agreements, and provisions required by legislation and/or required by the interested parties to be stated in an authentic deed, guaranteeing the certainty of the date of manufacture. deed, keeping the deed, providing grosse, copies and quotations of the deed, all of this as long as the making of the deed is not assigned or excluded to other officials or other people stipulated by law."

Based on the above authority, the Notary has the authority to make a deed as long as the parties want it or according to legal rules that must be made in the form of an authentic deed. The making of the deed must be based on the legal rules relating to the procedure for making a notary deed. Furthermore, according to Article 15 paragraph (2) of the UUJN, a Notary is also authorized:

1. Ratify the signature and determine the certainty of the date of the letter under the hand by registering it in a special book;
2. Record the letters under the hand by registering in a special book;
3. Make copies of the original underhand letters in the form of copies containing descriptions as written and described in the letter concerned;
4. Validate the compatibility of the photocopy with the original letter;
5. Provide legal counseling in connection with the making of the deed;
6. Make a deed related to land, and g. make a deed of auction minutes.

Article 15 paragraph (3) of the UUJN states that in addition to the authority mentioned above, a Notary has other powers as regulated in the legislation. As explained above, the main authority of a Notary is to make an authentic deed that functions as a perfect evidence. A notary deed obtains a stamp of authenticity, according to the provisions of Article 1868 of the Civil Code if the deed in question meets the following requirements: a. The deed must be made by or before a public official. b. The deed must be made in the form determined by law. c. The public official by or before whom the deed was made must have the authority to make the deed.

Errors can also occur due to the inaccuracy or oversight of the notary employee and his notary who issued a copy of the deed that was not in accordance with the minutes of the deed (Darus, 2017). The reality that often occurs with notaries in carrying out their functions and authorities is that in practice a notary can be the sole defendant for the party deed made before him. Prohibition for Notaries who are contrary to applicable laws and regulations, public order and morality, such as making buying and selling bonds whose objects are prohibited goods and also making a sale and purchase deed where the subject of the purchase right is actually limited to borrowing his name to get around the applicable regulations or provisions (Mulyoto, 2021).

The case regarding the violation of the notary in making the deed of sale and purchase is explained in the Banda Aceh District Court Decision Number 29/Pdt.G/2016/PN-Bna. in connection with the Sale and Purchase Deed issued by Notary Irma Savitry Harahap, SH., Sp.N, as PPAT. This case is another example of a lawsuit against a Notary as a Defendant at the Banda Aceh District Court in the PMH case. According to the arguments of the lawsuit filed by a third party as the Plaintiff, in this case PMH was carried out by a Notary/PPAT, Irma Savitry Harahap, SH., Sp.N. The Notary as the PPAT has made the Sale and Purchase Deed Number 24 of 2013, dated March 14, 2013 based on the Power

of Attorney to Sell dated August 31, 2012. The act of the Notary was declared PMH in the decision of the Banda Aceh District Court judge because it was based on an invalid power of attorney to sell.

One form of violation of the duties and authority of a notary is inaccuracy or negligence in making a power of attorney for the sale and purchase deed which is then formulated and classified by law enforcement as a criminal act of fraud in the criminal justice process as in a court decision which ends in a judicial review decision by the Court. Supreme with permanent legal force.

The author is interested in conducting an analysis of cases regarding fraud involving a notary. Based on Decision Number 196/Pid.B/2019/PN Dps it was stated that the Defendant Ketut Neli Asih, S.H., was proven guilty of committing a criminal act of intentionally providing an opportunity or means in a criminal act of fraud as regulated and threatened with punishment in Article 378 of the Criminal Code in conjunction with Article 56 paragraph (2) KUHP in the second indictment of the Public Prosecutor. The judge's decision was to impose a sentence on the Defendant Ketut Neli Asih, S.H., in the form of imprisonment for 2 (two) years and 6 (six) months reduced as long as the Defendant is in custody with an order that the Defendant remain detained.

The defendant filed a legal action in the form of a cassation wherein Decision Number 20 PK/Pid/2020 stated that he granted the request for judicial review from the convict Petitioner for Judicial Review (PK) Ketut Neli Asih, S.H. and cancel the decision of the Denpasar High Court Number 27/Pid/2019/PT DPS dated 27 June 2019. The judge stated that the convict Ketut Neli Asih, S.H., was proven to have committed the act as charged against him, but the act was not a crime. The purpose of this study is to provide legal arguments as the basis for determining an event according to law (ND & Achmad, 2017).

Criminal liability is the responsibility of the defendant against a crime committed whether the defendant will be punished or released. According to Roeslan, criminal liability is defined as: as a continuation of the objective reproaches that exist in criminal acts and subjectively qualified to be convicted because his deed. The objective reproach in question is that the act of committed by the suspect/defendant is indeed a prohibited or unlawful acts. While subjective reproach what is meant is to refer to a suspect or defendant who do prohibited acts (Amrani & Ali, 2015).

The aims of this study are as follows, to find out the violations committed by the notary in this case fulfill the elements of a criminal act of fraud as in determining Article 378 of the Criminal Code regarding fraud, To find out the basis for the consideration of the reviewing judge (PK) in deciding that the case is in accordance with the duties and authorities of a notary as regulated in the Law on Notary Positions.

## **METHOD**

The specification of this research is juridical-normative which consists of legal principles, legal systematics, level of legal synchronization, legal history and legal comparisons. As for answering the problem, a statutory approach is used. The statute approach is a method using a statutory approach, because what is being studied are various legal rules which are the focus as well as the central theme of the research (Ibrahim, 2007). Sources of data used in this study is secondary data. Secondary data is obtained from opinions, writings of experts or other authorized parties or other parties who obtain formal information or official texts (Marzuki, 2005). The primary legal materials in this research are; a) the 1945 Constitution of the Republic of Indonesia; b) Civil Code; c) Law

Number 2 of 2014 Amendments to Law Number 30 of 2004 concerning Notary Positions; d) Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning Procedures for Examination of the Supervisory Board of Notaries (Soekanto, 2007). Secondary legal materials in this study consist of books, journals, Indonesian language dictionaries, legal dictionaries, English dictionaries and other literature related to this research. This study uses material from the results of library research, namely by collecting secondary data which includes primary, secondary and tertiary legal materials (Zainuddin, 2009). To analyze the data obtained, the normative analysis method will be used. Data analysis in this study uses qualitative analysis, namely data that is not in the form of numbers that can be obtained from recordings, observations, interviews, or written materials (laws, documents, books, etc.) in the form of verbal expressions (Suteki & Taufani, 2018).

## **RESULTS AND DISCUSSION**

### **1. Violations committed by a notary in this case meet the elements of the crime of fraud as in determining Article 378 of the Criminal Code concerning Fraud**

The basis of criminal liability is an error, where the error can be in the form of intentional (opzet) or negligent (culpa) (Pane, 2017). This shows that the basis for accountability for one's actions is placed in the concept or rationale for whether or not the elements of a criminal act are proven. It is proven that the elements of a criminal act are proven guilty and are automatically punished, so that criminal responsibility is attached to the elements of a criminal act (Raghib, 2015).

Criminal liability is the defendant's responsibility for a crime committed whether the defendant will be convicted or released. According to Roeslan, criminal liability is defined as the continuation of objective reproaches that exist in a criminal act and subjectively fulfills the requirements to be convicted for the act. The objective reproach in question is that the act committed by the suspect/defendant is indeed an act that is prohibited or against the law. While the subjective reproach in question is referring to a suspect or defendant who commits a prohibited act. Even if the prohibited act has been carried out by the defendant, if the defendant cannot be reproached because there is no guilt in him, then criminal liability cannot exist (Amrani & Ali, 2015).

Determination of Decision Number 196/Pid.B/2019/PN Dps which states that a notary commits a criminal act of fraud as referred to in Article 378 of the Criminal Code does not meet the following elements (Soesilo, 1979):

- a. The crime of fraud, an impostor, among others, invites or seduces someone to believe and give something, make a debt or eliminate a debt. The purpose of seducing and deceiving is to benefit oneself in a way that is against the law.
- b. The object to be owned must be an object belonging to another person and has a deliberate intention.

The elements contained in Article 378 of the Criminal Code and must be met to be able to say someone has committed a criminal act of fraud are as follows (Soesilo, 1979):

- a. Objective element (element of action taken)
  - 1) Using a fake name;

- 2) Using a false state;
  - 3) Using a series of false words;
  - 4) Using trickery;
  - 5) In order to deliver an item;
  - 6) Making a debt;
  - 7) Erase receivables.
- b. Subjective element (element of intent or purpose)
- 1) Benefit personally or others;
  - 2) Breaking the law.

Notary punishment does not meet the objective and subjective elements as stated in Decision Number 196/Pid.B/2019/PN Dps. Notaries actually only violate the professional code of ethics so that the right decision is given, namely administrative sanctions. However, the determination of administrative sanctions through the Notary Supervisory Council. The crime of fraud committed by a notary regulated in Article 378 of the Criminal Code has the main elements in its formulation, as follows:

- a. The purpose of providing personal or other benefits in a way that is against the law.

The purpose or intent has the meaning that is the closest target of the perpetrator of the crime of fraud. The main target of the perpetrators is profits made against the law. If the target of the perpetrator has not been achieved, the perpetrator still needs action or other ways to achieve it. The conclusion is that the perpetrator must be aware of the benefits he gets, the closest target must be against the law.

- b. The use of a tool to drive fraudulent actions

Such a driving force can be a fake name, a gimmick, a fake identity, and most other lies. The driving tools used must be against the law or can have other meanings, namely contrary to the values prevailing in society in general. There is a causal relationship between the use of the propulsion tool and the gain for personal gain. Looking for an advantage is a common thing but if by using the driving tool referred to above, it turns into an act where the profits obtained are against the law.

Based on Decision Number 196/Pid.B/2019/PN Dps in its chronology, it explains that a notary is given the power to make a deed of sale and purchase as part of his function and authority. According to Article 1792 of the Civil Code which is the beginning of the opening of the provisions, it only mentions "granting power of attorney" and what is meant by granting power in this article is an agreement where one person gives power to another person, who accepts it, carries out an affair for and on behalf of the person giving the power of attorney. The legal conditions for granting power of attorney are given formally in accordance with the provisions contained in the laws and regulations, namely those made by a notary or under the hand. This is as formulated in Article 1793 of the Civil Code which explains that power of attorney can be given and received in a general deed, in a handwritten note, even in a letter or orally. It can be concluded that from the article regarding the granting of power of attorney, it is free from a certain form or formality. In other words, the granting of power of attorney is a consensual agreement which means that it is binding (valid) at the moment an agreement is reached

between the party giving the power of attorney and the party receiving the power of attorney (Mongdong, 2017).

Notary power is commonly referred to as a power of attorney, which is a deed made by and on the mind of the authorized official, namely a notary. In the process of making this power of attorney, first usually a notary will ask the reason for the importance of making the power of attorney and a notary will also ask for identity data of the parties such as the identity card (KTP) of the authorizing party and the party receiving the power of attorney, identity card (KTP) of the husband or wife from the authorizing party, as well as the family card (KK) of the authorizing party or marriage certificate.

The aforementioned documents were carried out to carry out a preliminary research on the position of the parties. These documents are requirements that must be met or that are required to exist by laws and regulations because they are related to the legality of the power of attorney to be made. This aims to ensure the legality of the agreement to the possible juridical consequences that occur during the process of making the agreement.

That the facts of the trial of Decision Number 20 PK/Pid/2020 stated that witness Gunawan Priambodo also wondered why the Defendant was being processed by law, even though the one who transacted the sale and purchase of land was witness Gunawan Priambodo with victim witness Marhendro Anton Inggriyono and even though there was negligence from the Defendant in the process of making the power of attorney. the deed of sale and purchase between the witnesses, the settlement is not a criminal route but an administrative route because the Defendant is a public official, namely a Notary / Land Deed Making Officer (PPAT).

Decision Number 20 PK/Pid/2020 states that in the a quo case, the application of formal law is as important as material law, meaning that the defendant's investigation process was not reported at all by the victim's witness, but what was reported was witness Gunawan Priambodo, because the party transacting with The victim's witness was Gunawan Priambodo, not the defendant. Whereas in the application of Article 56 of the Criminal Code regarding "assistance", the legal process is that the main perpetrator was first processed as reported by the victim witness, not "assistance" as in the a quo case, because witness Gunawan Priambodo was present as a witness at the trial as a party to the detriment of the victim witness, his assistance can be tried unless the main actor (the assisted party) is on the People's Wanted List (DPO). That although the Defendant is alleged to have been negligent in the process of making the power of attorney for the land seller between the victim witness and witness Gunawan Priambodo, this is an administrative matter as a Notary/PPAT not a criminal matter.

**2. The Basis of Consideration of the Judicial Review Judge (PK) in deciding the case is in accordance with the duties and authorities of a notary as regulated in the law on the position of a notary**

The formulation of Article 263 Paragraph (1) of the Criminal Procedure Code, the main principle of the Review consists of three solid foundations/foundations in an inseparable unit. The three foundations are: 1). A request for reconsideration can be submitted only against a sentencing decision. 2). Requests for reconsideration can be submitted only against decisions that have permanent legal force. 3). Requests for reconsideration can be submitted only by the convict or his heirs.

The provisions in Article 263 Paragraph (1) of the Criminal Procedure Code are very clear that the judicial review is only intended for the interests of the convict or his heirs, so that if there is a deviation from the provisions it will bring problems because a decision that violates the principle of review is a decision that clearly shows a judge's mistake or a real mistake as referred to in Article 263 Paragraph (2) letter c of the Criminal Procedure Code (Chazawi, 2010).

The requirements for submitting an application for judicial review are regulated in Article 263 Paragraph (1) of the Criminal Procedure Code. The provisions in Article 263 Paragraph (1) of the Criminal Procedure Code are a formal requirement for submitting an application for judicial review. Meanwhile, the provisions in Paragraph (2) contain material requirements that must be met in order to accept the application for judicial review to the Supreme Court of the Republic of Indonesia. Article 263 of the Criminal Procedure Code formulates as follows:

- 1) In respect of a court decision which has permanent legal force, unless the decision is acquitted or acquitted of all legal claims, the convict or his heirs may submit a request for reconsideration to the Supreme Court.
- 2) Requests for reconsideration are made on the basis of:
  - a. if there are new circumstances that give rise to a strong suspicion, that if the situation was known at the time the trial was still ongoing, the result would be an acquittal or an acquittal of all lawsuits or the demands of the Public Prosecutor could not be accepted or to that case lighter criminal provisions were applied. .
  - b. if in various decisions there are statements that something has been proven, but the things or circumstances as the basis and reasons for the decisions that are stated to have been proven, turn out to be contradicting one another.
  - c. if the decision clearly shows an error of the Judge or a real error.

The provisions in Paragraph (2) may not be used if the party wishing to file a judicial review does not meet the requirements in Paragraph (1). The provisions contained in Article 263 Paragraph (1) of the Criminal Procedure Code are formal requirements and must be met first before the Supreme Court can give legal considerations regarding the material reasons for submitting the application for judicial review in Paragraph (2).

There are 3 (three) cumulative formal requirements for filing a judicial review application in Article 263 Paragraph (1) of the Criminal Procedure Code, namely:

- a. Only a decision which has permanent legal force (in kracht van gewijsde) may be requested for an examination at the Judicial Review level.
- b. Only the convict or his heirs may file for judicial review.
- c. It is permissible to submit a judicial review only on decisions that punish/convict only.

Criminal Procedure Code is a formal law on the existence of material criminal law. According to Wirjono Projodikoro (Former Chief Justice of the Supreme Court of the Republic of Indonesia), "The Criminal Procedure Code is closely related to the existence of Criminal Law, therefore it is a series of regulations that contain how the ruling government bodies, namely the Police, Prosecutors and Courts must act in order to achieve state goals by enacting criminal law" (Prodjodikoro, 2003).

Legal efforts in enforcing criminal law are one of the things regulated in the Criminal Procedure Code. Regarding judicial review (PK)/ Herziening, it is regulated in Article 263 to Article

269 of the Criminal Procedure Code. Article 263 paragraph 1 of the Criminal Procedure Code regulates "against court decisions that have permanent legal force, unless the decision is free or free from all legal demands, the convict or his heirs can submit a request for reconsideration to the Supreme Court".

Based on Article 263 paragraph 1 of the Criminal Procedure Code, the parties who can apply for a judicial review (PK)/Herziening are the convict or the family or heirs of the convict. However, in addition to the convict and his heirs, the convict's attorney is also allowed to file a judicial review (PK)/Herziening.

The facts of the trial of witness Gunawan Priambodo also wondered why the Defendant was being prosecuted, even though the one who transacted the sale and purchase of land was witness Gunawan Priambodo and victim witness Marhendro Anton Inggriyono and although there was negligence of the Defendant in the process of making the power of attorney for the deed of sale and purchase between the witnesses, the settlement was then not a criminal route but an administrative route because the Defendant is a public official, namely a Notary/Land Deed Making Officer (PPAT);

Although the defendant is alleged to have been negligent in the process of making a deed of power of attorney between the victim and witness Gunawan Priambodo, this is an administrative matter as a Notary/PPAT, not a criminal matter. That it is based on and has legal grounds to state that the case for a judicial review on behalf of Ketut Neli Asih, S.H., must be granted by law and it is stated that the decision of the Denpasar High Court to amend the decision of the Denpasar District Court is "null and void".

The judge stated in his consideration that although there have been judex facti decisions for which PK Petitioner Ketut Neli Asih, S.H., a Notary/PPAT work in Denpasar, Bali, is currently requesting a judicial review (PK), it turns out that after examining the legal facts and analyzing them legally, the charges were found. The Public Prosecutor who underlies the judex facti decision is a proven fact but is not a criminal act of fraud or other criminal acts, on the basis of the actions of the Defendant including as a party exercising his authority as a Notary/PPAT in accordance with the Law on Notary Positions.

The judge considered that therefore, the application for judicial review was declared to be justified and the application for judicial review was granted, therefore based on Article 263 Paragraph (2) in conjunction with Article 266 Paragraph (2) letter b number (1) of Law Number 8 of 1981 Regarding the Criminal Procedure Code, there are sufficient reasons to cancel the Denpasar High Court's decision Number 27/Pid/2019/PT DPS dated 27 June 2019 and the Supreme Court will retrial the case with a warrant as will be mentioned.

Decision Number 20 PK/Pid/2020 the judge stated that there had been a dissenting opinion in the deliberations of the Panel of Judges and had been tried in earnest but no consensus was reached, then in accordance with the provisions of Article 30 Paragraph (3) of Law Number 5 Year 2004 concerning the Supreme Court, the dissenting opinion of Supreme Court Justice Sri Murwahyuni, S.H., M.H., is stated as follows:

- a. That the reason for the petitioner for reconsideration cannot be justified; - Whereas there is no new evidence submitted by the Petitioner for reconsideration that can be used as a basis



for consideration to release the convict from charges or release the convict from all legal charges or reduce the sentence imposed on the convict in this case;

- b. That there was no apparent oversight or error in the decision of the Denpasar District Court Number 196/Pid.B/2019/PN Dps dated 25 April 2019 in conjunction with the Denpasar High Court decision Number 27/Pid/2019/PT DPS dated 27 June 2019, due to *judex facti* having considered the statements of the witnesses, the testimony of the convict and the documents presented in the trial, the following have been proven;
- c. That when the convict and the parties (victim witness and witness Gunawan Priambodo) signed the power of attorney to sell the land referred to in SHGB number 7062, SHGB number 7062 was not present with the convict. The making of the power of attorney to sell is only based on the copy of certificate number 7062, the Sale and Purchase Binding Agreement (PPJB) and the deed of power of attorney made 2 (two) years ago made by Notary Putu Trisna Rosilawati;
- d. That the convict did not confirm to Notary Putu Trisna Rosilawati whether the deed of power of attorney made 2 (two) years ago is still valid or not, and it turns out that the deed of power of attorney to sell has been revoked by PT. The nuances of Bali Utama and SHGB number 7062 are still under the name of PT. The nuances of Bali Utama are not in the name of Gunawan Priambodo;
- e. That by simply showing a copy of the land certificate and the deed of power of attorney to sell without showing the original, the object in the deed of power of attorney to sell will be unclear, if the transaction or the making of the deed is not clear, the convict should refuse or delay until the SHGB number 7062 is handed over by witness Gunawan to the convict;
- f. Whereas the reason for the petitioner's review is only the repetition of the defense (*pledooi*) of the convict.

Decision Number 20 PK/Pid/2020 the judge gave the following decision:

- a. Granted the petition for judicial review from the Petitioner for Judicial Review of the Convicted KETUT NELI ASIH, S.H.,;
- b. Canceled the decision of the Denpasar High Court Number 27/Pid/2019/PT DPS dated 27 June 2019.

Decision Number 20 PK/Pid/2020 the judge also stated to try again the defendant by stating the following:

- a. Declaring that the convict KETUT NELI ASIH, S.H., is proven to have committed the act as charged against him, but the act is not a criminal act;
- b. Release the convict therefore from all lawsuits (*ontslag van alle rechtsvervolging*);
- c. Restoring the rights of the convict in terms of ability, position and dignity and worth;
- d. Determine that the evidence.

## **CONCLUSION**

Determination of Decision Number 196/Pid.B/2019/PN Dps which states that a notary commits a criminal act of fraud as referred to in Article 378 of the Criminal Code does not meet the following elements: a) The crime of fraud, a fraudster among others invites or seduces someone to trust and give an object, make a debt or eliminate a debt.

The judge's consideration of acquitting the notary was based on the fraud in the making of a deed of sale and purchase according to legal facts, then regarding the loss of victim witness Marhendro Anton Inggriyono who was harmed by witness Gunawan Priambodo who did not perform his achievements/obligations or defaulted, it turned out that the defendant was being processed by criminal law, even though according to the facts of the trial the Defendant was the same absolutely no profit from the transaction of making a power of attorney for the sale and purchase of land at Paradise Loft, but the one who gains is witness Gunawan Priambodo, this is in accordance with the police report made by the victim witness who reported witness Gunawan Priambodo, not the Defendant.

The judge stated in his consideration that although there have been judex facti decisions for which the PK Petitioner Ketut Neli Asih, S.H., a Notary/PPAT work in Denpasar, Bali, is currently requesting a judicial review (PK), it turns out that after examining the legal facts and analyzing them legally, the charges were found. The Public Prosecutor who underlies the judex facti decision is a proven fact but is not a criminal act of fraud or other criminal acts, on the basis of the actions of the Defendant including as a party exercising his authority as a Notary/PPAT in accordance with the Law on Notary Positions.

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