

Tanggung jawab notaris yang tidak membacakan aktanya studi kasus putusan mahkamah agung no. 560K/PDT/2016 = Liability of notary who do not recited the deed case study supreme court no 560K/PDT/2016

Aktria Wika Sakina, author

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Abstrak

ABSTRAK

Tesis ini meneliti mengenai tanggung jawab notaris terhadap pelanggaran yang dilakukan Notaris dalam Pasal 16 ayat 1 huruf d dan huruf m dalam kasus Putusan Mahkamah Agung No. 560K/Pdt/2016. Notaris berkewajiban untuk melakukan pembacaan terhadap aktanya sebelum penandatanganan dengan maksud agar para pihak mengerti dengan baik dan menyepakati isi dari akta tersebut. Selain itu, Notaris juga wajib mengeluarkan salinan aktanya baik diambil atau tidak oleh para pihak. Dalam Penelitian ini Penulis mengangkat beberapa permasalahan yaitu yang pertama Bagaimana akibat akta notaris yang tidak dibacakan dan tidak diberikan salinannya pada kasus Putusan Mahkamah Agung Nomor 560K/Pdt/ 2016. Lalu yang kedua 2. Bagaimana tanggung jawab notaris terhadap kerugian yang dialami penghadap yang dikarenakan tidak membacakan akta tersebut pada kasus Putusan Mahkama Agung Nomo 560K/Pdt/2016. Penelitian ini menggunakan metode penelitian yuridis normatif menggunakan data sekunder hukum dengan alat studi dokumen. Hasil dari penelitian ini menunjukkan, bila notaris tidak membacakan aktanya maka akta tersebut akan berkekuatan menjadi akta di bawah tangan sedangkan bila Notaris tidak memberikan salinan, tidak akan berdampak pada akta. Notaris bertanggung jawab atas akta yang ia buat, bilamana Notaris tidak memberikan salinan akta maka Notaris dapat diberikan sanksi sedangkan dalam hal Notaris tidak membacakan akta, apabila perbuatan tersebut menimbulkan kerugian maka Notaris wajib untuk mengganti rugi. Perbuatan Notaris tersebut telah melanggar ketentuan Perbuatan Melawan Hukum, dan barang siapa yang menimbulkan kerugian atas suatu hal maka wajib untuk melakukan ganti rugi. Sedangkan untuk aktanya, tidak serta merta batal demi hukum, harus dilakukannya pembatalan akta melalui Pengadilan Negeri.

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ABSTRACT

This thesis research regarding the liability of a notary who did breach and negligence based on article 16 verse 1 letters d and letter m on the law of Notary rsquo s occupation Number 2 Year 2014, in the case supreme court rulling no. 560k pdt 2016. The Notary is obliged to conduct a recite of his or her act prior to signing with the intention that the parties understand and agree on the contents of the deed. In addition, the Notary is also required to issue Certified duplicate copy of the deed either taken or not by the parties. On this research, the author raised several main issues, the first is how is the effect of notarial deed which is not recited and not given certified duplicate copy of the deed based on the case of Supreme Court rulling Number 560K Pdt 2016. The second is what is the responsibility of the Notary towards the loss who suffered by the parties because of Notary did not recite the deed on the case of Supreme Court Ruling No. 560K Pdt 2016. This research using the methodology of juridical normative it means this research viewed from the normative side which is research in the secondary data law used to analyze various regulations in

the field of notary occupation, the field of civil law, books, articles that still relevant with the problems that will be researched. The result of this research, if the notary does not recite the deed will affect the deed become privately made deed or not an authentic deed. Whereas if the Notary does not give a certified copy of the deed, it will not affect the deed. Notary is responsible for the deed they made. As the responsible of the Notary who did not provide the certified duplicate copy of the deed Notary would get a sanction. whereas in the case that a Notary does not recite the deed and,if the deed incur losses, the Notary is required to indemnify. In this case, the judge cancels the deed and states that the Notary has committed an act against the law, but the judges does not provide any sanction for the Notary without any reasonable reason. As the author rsquo s opinion, the judges should grant a compensation claim of the litigant. Because the litigant has a right to receives compensation, since the notary has been found guilty of committing an act against the law