

Tanggung Jawab Keperdataan dan Sanksi Hukum Terhadap Perbuatan Notaris yang Membuat Akta Perjanjian Pengikatan Jual Beli dan Kuasa Menjual Tanpa Sepengetahuan Pemilik Tanah (Studi Putusan Pengadilan Negeri Surabaya Nomor 963/Pdt.G/2016/PN.Sby) = Civil Liability and Legal Sanctions Against Acts of a Notary Who Makes a Deed Commitment of Sale and Purchase Agreement and Selling Authorization Without Knowledge of the Landowner (Study of District Court Decision Surabaya Number 963/Pdt.G/2016/ PN.Sby)

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Abstrak

Penelitian ini berfokus pada tanggung jawab dan sanksi hukum terhadap notaris dengan studi pada putusan Pengadilan Negeri Surabaya Nomor 963/Pdt.G/2016/PN.Sby. Dalam putusan tersebut, notaris dinyatakan melakukan perbuatan melawan hukum, karena akta yang dibuat di hadapan notaris memuat keterangan palsu. Dalam hal ini, notaris telah melanggar kewajibannya sebagai seorang pejabat umum. Untuk itu, permasalahan yang diangkat adalah mengenai tanggung jawab keperdataan notaris, yang telah membuat dan menerbitkan Akta Perjanjian Pengikatan Jual Beli dan Kuasa Menjual tanpa sepengetahuan dari pemilik tanah dan sanksi hukum terhadap notaris. Untuk menjawab permasalahan tersebut digunakan metode penelitian hukum yuridis normatif, dengan bahan hukum yang diperoleh melalui studi dokumen, yang selanjutnya dianalisis secara kualitatif. Hasil analisis yang diperoleh adalah notaris bertanggung jawab bahwa perbuatan notaris dinyatakan sebagai perbuatan melawan hukum dan membatalkan akta yang telah dibuat dan diterbitkan notaris, disertai sanksi hukum untuk mengganti kerugian denda sejumlah uang, berdasarkan Pasal 1365 KUH Perdata. Kemudian, sanksi hukum terhadap notaris, selain sanksi perdata, notaris memenuhi kriteria untuk dijatuhi sanksi administrasi peringatan tertulis yang diberikan oleh Majelis Pengawas Wilayah, berdasarkan Pasal 5 ayat (1) huruf b Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 61 Tahun 2016. Sanksi pidana, berupa sanksi penjara paling lama 4 (empat) tahun 8 (delapan) bulan, berdasarkan Pasal 266 ayat (1) jo. 56 ayat (1) jo. 57 ayat (1) KUH Pidana, akibat membantu menyediakan sarana untuk melakukan suatu tindak pidana, dengan membuat dan menerbitkan akta yang memuat keterangan palsu.

.....This research focuses on legal responsibilities and sanctions against notaries with a study on the decision of the District Court Surabaya Number 963/Pdt.G/2016/PN. Sby. In the ruling, the notary is declared to have committed an act against the law, because the deed made before the notary contains false information In this case, the notary has violated his legal obligations as a public official. Therefore, the issue raised is about the civil responsibility of the notary, who has made and issued a Deed Commitment of Sale and Purchase Agreement and Selling Authorization without the knowledge of the landowner and legal sanctions against notaries. To answer the problem is used normative juridical legal research methods, with legal material obtained through the study of documents, which are then analyzed qualitatively. The result of the analysis obtained is that the notary is responsible that the notary act is declared as an act against the law and cancel the deed that has been made and issued by the notary, accompanied by legal sanctions to compensate for the loss of a fine of some money, based on Article 1365 of the Civil Code. Then, legal sanctions against

notaries, in addition to civil sanctions, notaries meet the criteria to be sentenced to administrative sanctions written warning given by the Regional Supervisory Assembly, based on Article 5 paragraph (1) letter b of Regulation of the Minister of Law and Human Rights No. 61 of 2016. Criminal sanctions, in the form of prison sentences maximum 4 (four) years 8 (eight) months, based on Article 266 paragraph (1) jo. 56 paragraph (1) jo. 57 paragraph (1) Criminal Code, as a result of helping provide means to commit a criminal act, by making and issuing a deed containing false information