

12. Turnitin Jurnal Internasional

by Habib Adjie

Submission date: 14-Sep-2022 11:47AM (UTC+0800)

Submission ID: 1899384536

File name: Jurnal_Internasional_12.pdf (216.45K)

Word count: 7243

Character count: 36528

Exploring The Status Of Notarial Deeds: Void, Voidable, Null And Void, Invalid, Having No Binding Legal Force, And With Degraded Evidentiary Power

Habib Adjie

Narotama University, Surabaya, Indonesia Email: adjieku61@gmail.com

Abstract

When a contract/deed is made for the interests of those who request it, the contract drafter must have considered various signs that could cause the contract to be voidable or null and void. Nevertheless, it turns out that various court decisions give birth to different legal terminologies which confirm that if there is a violation due to specific reasons, the contract can: 1) Have no legal force; 2) Void; 3) Invalid at law; 4) Invalid and null and void; 5) Notlegallyen forceable; 6) Void by law; 7) Invalid and have no legal force; 8) Canceled. The existence of such legal terminologies, along with their specific reasons, will make it difficult for the contract drafter to predict if there is a violation with the terms besides voidable or null and void. When a breach of a notarial deed as a contract occurs, usually it will refer to voidable or null and void. Concerning this, a notarial deed is specifically given legal terminologies concerning the nullification of the notarial deed for specific reasons for each of the terminology. The legal terminologies include 1) The Void notarial deed; 2) The Voidable notarial deed; 3) The null and void notarial deed; 4) The Notarial deed with no binding legal force; 5) The Invalid notarial deed; 6) The Notarial deed whose evidentiary power as a private deed is degraded.

Keywords: Contract Maker, Legal Terms, Notary.

A. INTRODUCTION

The increase in the standard of living of the community is marked by the increase in the level of intelligence of the community. In this regard, the public's need for notary services increases from time to time (Isnaini & Utomo, 2019; Bandeira et al., 2010; Amann et al., 2012). Notaries, as public servants, have the function of serving the community in the civil field, especially the making of authentic deeds. According to what the parties informed the Notary of in the authentic deed, it contains all of the formal truths (Malavet, 1995; Andara et al., 2020; Basoeky, 2021). However, the Notary must ensure that the Notary deed is understood by the parties, namely by reading it so that the contents of the Notary deed become apparent and provide access to information, including access to laws and regulations, related to the parties who signed the deed. It is entirely up to the parties to decide whether or not to sign the notary deed (Devaux, 2013; Fitchen, 2011; Acora et al., 2019).

Writing that is signed and intended to be used as evidence in the event of an event is called a deed (Mason, 2018; Rachman, 1998; Macneil, 2006). In order to be considered an authentic deed, the deed must have been performed in the presence of an official (Notary), while an underhand deed is an agreement between the parties to the contract (Putra, 2021. Yensih et al., 2020; Tan, 2019). The deed has 2 (two) essential functions, namely, the formal function (formality causa) and the function of evidence (probation causa). The standard procedure (formality causa) means that to complete or complete (not to be valid), a legal act must be made a deed. The function of evidence (probation causa) is that the deed was made from the beginning intentionally for later proof, the written nature of an agreement in the form of a deed does not make the contract valid, but only so that it can be used as evidence in the future (Suwignyo, 2009; Hendra, 2009). , 2012; Prmono, 2015).

Notary deed is a legal product in the form of an agreement made and used by notaries in carrying out their profession in society; in this era of globalization, there are quite a several people who use their services (Mowoka, 2014; Intan, 2016; Wijaya, 2019; Adjie, 2008a). This proves that society has been open to the development of the times so that a notary is a necessity that cannot be avoided; it also proves that public trust in the law has improved. Official document issued by a Notary pursuant to Civil Code 1870 and HIR Article 265 (Rbg 285) that has absolute and binding evidentiary power is a Notary Deed (Rbg 285). No evidence is needed to support the Notary Deed as long as the untruth cannot be proven. For the purposes of the Civil Code and HIR, an authentic deed is the primary written evidence, and thus, this document serves as a strong piece of evidence in a trial. There have been several recent studies that point to Fatmawati as a possible successor to Arkiang as the most likely candidate.

When a contract drafter (advocate/notary/contract law lecturer) is asked to make a contract (deed), of course, he will always avoid the reasons that cause the contract to be canceled or null and void by referring to Article 1320 of the Civil Code. Therefore, the person concerned must play or place himself as a contract drafter who has the ability in the field (Maslikan et al., 2018). In this position, the contract designer must:

1. Provide a sense of security or protection to those who use the services of a lawyer (Soepratignja, 2007).
2. Providing balance aspects to the parties even though, in this case, the advocate has acted to protect the parties (clients) (Kusumohamidjojo, 1998).
3. Pay attention to various legal rules relating to the wishes or problems the parties concerned face, which will be included in the agreement or contract (Salim, 2021).
4. Provide and explain the benefits, purposes, and objectives of the agreement or contract for those in need.
5. Explaining non-legal aspects related to the substance of the agreement or contract.
6. Explain that the agreement or contract can be executed (Amos, 2004).

A good contract drafter has 3 (three) main missions that must be achieved in contract preparation, including (Simanjuntak, 2006).

1. Accommodate maximally the protection of the rights/persons represented in the contract.
2. Avoid/minimize potential problems (including the use of technology).

3. Minimize the risk of costs in the event of an unavoidable conflict.

44 A contract drafter must be able to put himself in a balanced position, meaning that the rights and obligations of the parties must be clear and firm, or not benefit one party even though in this case the contract maker is paid by one party or acts for the other (Hernoko, 2008).

Before a problem is mentioned in a contract, a contract drafter must analyze it in depth-first (Sutiyoso, 2013). Therefore, a contract drafter, in addition to having good legal capacity, such as knowledge of legal sources used as the legal basis for contracts, must also know legal logic, for example, regarding the interpretation of laws or conclusions inductively and deductively, and the ability to connecting and establishing legal relationships and constructions between one provision and another. Thus, a legal relationship will be created following the parties' wishes (Indiraharti, 2016).

In various court decisions relating to contracts or agreements, it is not only the legal terms null and void that the drafters of the contract avoided. It turns out that there are also many court decisions regarding other legal terms that may be very difficult to avoid or never imagined before. Therefore, contracts made will be categorized in specific legal terminology (Hansmann & Kraakman, 2002). This can be found in various court decisions which contain specific legal terminology as follows:

1. The prenuptial agreement has no legal force.
2. If done, the sale and purchase shall be void.
3. The agreement shall be invalid at law.
4. Without the wife's consent shall be invalid and null and void.
5. Declared to be not legally enforceable.
6. Null and void verdict on the credit agreement.
7. The sale and purchase agreement of the inherited land shall be null and void.
8. The agreement that violates these provisions shall be voidable by law.
9. The notarial deed shall be invalid and has no legal force from the date the deed is issued.
10. The grant shall be canceled.
11. That buying and selling disguised as a grant is legal smuggling and contrary to the laws and regulations so that it shall be null and void.

On the other hand, a contract also contains a further clause determined by the parties, regardless of applying the above legal terminology. If a contract is free as long as it does not conflict with Article 1337 of the Civil Code, it is allowed to determine the terms of cancellation or termination. The following clause set by the parties can be in the form of an effort if there is a breach of contract and the formation of settlement is determined (Salim, 2021).

Legal terminology does not have consistent boundaries but will depend on the problem (Usman, 2015). However, there must be a definite meaning or element to be used as a guideline by anyone who makes a contract so that specific terms do not occur in the contract (Baro, 2016). Legal terminology is evident in its urgency when associated with a notarial deed. Its proper form and procedures have been regulated in Article 38 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 regarding Notaries.

Therefore, in a violation, Article 41 of the Notary Amendment Act (UUJN-P) has determined the legal consequences. Once this is done on the notary deed, it will expand the notary deed's position if the conditions stated in various court decisions are not met. Therefore, in this case, the notary deed requires firmness and clear elements to align with the terms above.

Based on the background described above, two problems can be drawn that need to be raised, namely what elements must exist to meet the requirements after a notary deed is done; what is the legal position of the following conditions in the notarial deed. Therefore, the author is interested in conducting research entitled Exploring The Status Of Notarial Deeds: Void, Voidable, Null And Void, Invalid, Having No Binding Legal Force, And With Degraded Evidential Power.

B. METHOD

The research method is a scientific activity based on a method, systematics, and specific thoughts that aim to study a particular phenomenon by analyzing it because research in the social sciences is a process carried out in a planned and systematic manner to obtain problem-solving and provide relevant conclusions—no doubt (Sugiyono, 2011). To collect the material obtained to prepare and discuss the problems in this study, the authors use normative legal research methods. The approach used in answering the issues that have been formulated in this research is 1. The legal approach (statue approach). 2. Conceptual approach (conceptual approach). 3. Case approach (Ali, 2021).

C. RESULT AND DISCUSSION

1. The Elements to Meet the Condition Subsequent in the Notarial Deed

To find out the elements that must be present in a contract (deed), several decisions of the Supreme Court of the Republic of Indonesia are taken as a comparison material:

- a. The agreement has no legal force.

As stated in the Decision of the Supreme Court of the Republic of Indonesia number: 3405 K/Pdt/2012, February 19, 2014, the unregistered prenuptial agreement does not have a legal force, so all joint assets must be divided by two for husband and wife, or each gets 50%. The reason for not registering the Prenuptial Agreement with the competent authority could be the basis for the prenuptial agreement to be declared not having the legal power and invalid. As a consequence, all shared assets must be divided between the husband and wife.

- b. The void sale and purchase agreement

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number: 275 K/PDT/2004 dated August 29, 2005:

- It turns out that the sale and purchase of the disputed land and house originate from the problem of the debts and the pledge of the disputed land and home as collateral because the debt cannot be repaid. Therefore, the agreement shall be a pseudo agreement to replace the debt agreement. Thus, the defendants I and II were in a weak and urged position, so that they signed the document which had been an encumbrance

to them. Therefore, it could be concluded that the agreement constituted the agreement of one party and constituted a misuse of circumstances (misbruik van omstandigheden) by the plaintiff.

- The land sale and purchase originating from debts with the land as collateral shall be a pseudo agreement to replace the debt agreement.
- The legal action shall be a misuse of circumstances (misbruik van omstandigheden) because the borrower is weak. The lender/creditor cannot be agreed at the beginning (listed in the deed) if the borrower breaches the contract; the lender will directly own it with the sale and purchase construction. If done, the sale and purchase shall be canceled/void.

If the sale and purchase of land occur whereas it was initially not intended to be so since it is a debt, then the deed of purchase and investment as a sign of repayment shall constitute the misuse of circumstances (misbruik van omstandigheden) as an excuse to decide the sale and purchase is canceled/void.

- c. The agreement shall be invalid at law.

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number 2691, K/PDT/1996 dated September 18, 1998: a new oral agreement is a preliminary agreement that will be followed up and has not been made before a notary, so it has no binding power for the parties who make it and therefore has no legal consequences. An oral agreement to sell the joint property by the husband and has not yet been approved by the wife shall be invalid at law. The sale and purchase agreement on a collective property that the marriage partner has not supported can be used as an excuse to determine the legal agreement.

- d. The agreement shall be invalid and null, and void.

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number 701 K/PDT/1997 dated March 24, 1999 (sale and purchase of joint property): The sale and purchase of land which is a common asset must be approved by the wife or husband. Joint assets in the form of land sold by a husband without the wife's consent are invalid and null and void. The land certificates made based on invalid sales have no legal force. That the husband or wife must approve the sale of joint marital assets. If not, the agreement is invalid and has no legal force.

- e. The agreement shall not be legally enforceable.

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number 1851 K/PDT/1996 dated February 23, 1998 (pledging joint assets as collateral): that the Regional Development Bank of North Sumatra had neglected to apply the precautionary principle which requires management to examine the status of collateral land. The plaintiff is the defendant's wife, who does not participate in signing the collateral document. Therefore, the imposition of the land of the joint property must be declared to be not legally enforceable based on fair and reasonable consideration. In this case, the North Sumatra Regional Development Bank submitted an inquiry for execution because of the debt pledge made in the Deed Grosse. This inquiry execution turns out to cause other legal consequences, i.e., the plaintiff feels disadvantaged by the execution inquiry. Furthermore, the plaintiff feels aggrieved because the object of the execution inquiry is joint property. Therefore, pledging

joint assets as collateral to a bank for debt collateral without the wife's consent, the encumbrance agreement shall be not legally enforceable.

f. The Null and void agreement

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number 209 K/PDT/2000 dated February 26, 2002 (pledging joint assets as collateral), the null and void verdict on the credit agreement is due to the failure to comply with the permissible cause as provided for in Article 1320 BW. The agreed object is a joint asset so that if it is pledged/transferred by the husband to another party, he must obtain the consent of his wife as the appropriate party. The wife shall approve those engaging joint assets in question, and if not done, it will not be fulfilled because the permissible cause is based on Article 1320 BW, so the agreement shall be null and void.

g. The null and void agreement

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number 82 K/PDT/2004 dated May 22, 2007 (the sale and purchase of inherited land), the sale-purchase agreement of the inherited land shall be null and void because the inheritance has not yet been divided and there are assets which remain with one of the alive parents, it is made by a person who does not have the legal right to perform a legal action to make a sale and purchase agreement, it is made without the permission and approval of parents and siblings, there has not been the division and transfer of right and delivery of request which legitimately comply with the division of inheritance, and the sale and purchase of inherited land exceed the rights. Therefore, the failure to fulfill the elements of permission and approval from the parties having rights causes the agreement to be null and void by law.

h. The voidable by law agreement

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number 3005 K/PDT/1998 dated January 14, 2008, the debts with land as collateral: the property land which is a joint asset cannot be used as collateral for loan agreements without the consent of one party, both the wife and husband, following the provisions of Article 36 paragraph (1) Law No. 1 of 1974. Accordingly, agreements that violate these provisions shall be voidable by law because they do not meet the objective conditions of the contract (the permissible cause). In pledging joint marital assets as collateral, the wife or husband's consent must be required, and if it is not fulfilled, the agreement does not meet the objective conditions of the contract (the permissible cause). In this case, it shall be null and void according to Article 1320 of the Civil Code.

i. The agreement has no legal force.

An authentic proforma deed that does not follow the facts or is even contrary to the material truth is invalid and void from the date it is issued by a Notary, according to the Supreme Court of Indonesia's Decision Number 2510 K/Pdt/1991 dated April 8, 1993. As long as the material or substance of the document is not consistent with the facts, or is contrary to the facts, the document has no legal force since it was issued by a notary public.

j. The agreement (legacy) shall be canceled.

As stated in the Decision of the Supreme Court of the Republic of Indonesia Number 990/K/Sip/1974 dated April 6, 1976: a legacy may not harm the heirs. If the legacy breaks an heir, it shall be canceled. A loss element can make the legacy nullified. In this case, the rights

of the legal subject must be considered according to the law, which the existence of the legacy should not violate.

k. The null and void agreement

The sale and purchase disguised as a grant is illegal smuggling and will be declared null and void by the Supreme Court of the Republic of Indonesia in its Decision No. 1485, K/Pdt/2006 dated February 14, 2007. As a result, any agreement that is not in accordance with the facts or is disguised as a transaction will be void and unenforceable under the law.

Based on the description above, there has been an expansion of the reasons/causes behind the condition after the agreement relating to the legal terminologies. The expansion is created depending on the case so that the same point could have happened but using different terminology.

This should be consistent with being a guideline when making contracts or agreements so the drafter can predict the potency of being canceled/void. Regarding the Legal Terminologies, in Notary Law, it is possible to create Terminology of Notary Law relating to the nullification of the Notarial Deed for specific reasons. Every Terminology of Notary Law must have different reasons when applied, including:

1. Void notarial deed

The void notarial deed does not violate the formal, material, or physical conditions of the notarial deed. It has been made according to the deed provisions required in Law No. 30/2004 on Notary (UUJN) and its amendment Law No. 2/2014 (UUJN-P). The void notarial deed is a deed that is voided by its appearers based on the reasons known to the appearers themselves or based on the court decision with the reasons mentioned in the legal considerations.

A notary can only make a void deed at the will of its appearers.

2. Voidable notarial deed

As stated in Article 1320 of the Civil Code, an agreement is voidable if it does not meet one of the legal conditions for its validity, namely, that there must be the consent of the parties who are bound by it (Bw. 1312v.) 2) There must be a willingness to take on a responsibility; (Bw. 1329v). Anyone who appears in court will be bound by the qualification's voidable notarial deed until it is nullified in court by someone. Due to the fact that they haven't yet reached the legal age of consent, it's imperative that they be given special consideration. But the authority to act is also related to the capacity. The authority to act includes, for example:

- ❖ For himself.
- ❖ As the principal
- ❖ As the substitution principal
- ❖ Husband/wife who needs the spouse's consent.
- ❖ In their position (private legal entity):
 - Director of Limited Liability Company.
 - Director of the Limited Liability Company Branch.
 - Management / Trustees of the Foundation.
 - Chairperson of the Association.
 - Chairperson of the Cooperative.

- ❖ In their position (public legal entity):
 - 1) President / or the representative.
 - 2) Governor / or the representative
 - 3) Mayor / Regent / or the representative.
- ❖ As the Guardian.
- ❖ As the Representative.
- ❖ As the Curator.
- ❖ As the Liquidator.
- ❖ As Parents who exercise authorization for their biological children who are not yet mature.

The authority to act must be formally proven. A notary must always ask for/see the formal evidence relating to the source to perform. If the Notary does a deed at the request of the appearers, but it turns out that he does not see formal evidence regarding the authority to act and is included in the deed, he must be responsible for this. For example, a notary provides for the expiry of a Director's authority. Those who feel disadvantaged can sue the Notary in the district court. For this reason, the Notary to be careful about the authority to act to avoid an agreement that is voidable by the parties who feel disadvantaged.

3. The null and void notarial deed

Article 1320 of the Civil Code states that a notarial deed is null and void if its material conditions or objective conditions do not meet the requirements of the agreement. must be a specific topic of study (Bw. 1332v.) 4. A legal reason must exist. the 1335th verse of the Bible. Regarding the null and void notarial deed, is it effective from the date of the deed making (from the beginning) or since it has been known to have violated the objective conditions? If the notarial deed has been null and void from the outset, then there is a need to regulate legal actions that have been conducted according to the deed. For example, will the parties declare mutual acceptance and reconcile? Or will they question it? If it is suspected, the party can file a lawsuit in the district court.

But if the deed is null and void from the moment it is known, then all legal actions that have been done are still binding on the concerned parties. So, it is necessary to make a regulation concerning the legal action taken from the date it is known. The Notary will play a crucial role in regulating all legal activities concerning the deed that is null and void from the beginning of the moment it is known. A null and void deed can also occur because it has fulfilled the condition subsequently determined by the parties themselves mentioned in the deed.

4. Notarial deed with no binding legal force

If the notarial deed has fulfilled the formal, material, and physical conditions, there is no reason to declare the deed as having no binding legal force. To declare a notarial deed as having no legal force, the district court is entitled to decide it based on the claim filed by the parties themselves. Based on the lawsuit, the Court will determine its legal considerations.

5. Invalid notarial deed

An invalid notarial deed occurs because the drafting has violated the formal conditions as specified in the UUJN (Law No. 30/2004 on Notary). To declare a notarial deed

as invalid cannot be decided by the parties. The invalidity of notarial deeds must be proven first by the verdict of the district court.

Suppose there is no court verdict that states as such, the deed remains valid. This is based on the presumption of validity (*praesumptio iustae causae*) in assessing the notarial deed, namely:

- For example, the presumption of validity can be used to declare a notarial document to be valid until one of the parties declares the document to be ineffective. If the deed is to be declared invalid, a lawsuit must be filed in the public court. The notarial deed is valid and binding on the parties or anyone interested in the deed as long as the lawsuit is ongoing and until a court decision has permanent legal force.
- This presumption of validity relates to the voidable deed, an act containing breaches such as an unauthorized notary doing deeds outwardly, formally, and materially and the statements that do not comply with the legal rules concerning doing a notarial deed. However, this principle cannot assess null and void deeds because they are deemed never made.

6. Notarial deed whose evidentiary power as a private deed is degraded

The conditions for a deed whose evidentiary power as a private deed is lessened have been determined in Articles 1868 and 1869 of the Civil Code. They are specified by UUJN-P (Amendment Law of Notary):

- Article 1868: An authentic deed has been drawn up in a legal format by or before public officials authorized to do so at the location where this takes place.
- Article 1869: A deed which, due to the incompetence or incapability of the official or due to the absence of format, cannot be regarded as authentic, may be enforced as a private document if the parties have executed this document.

Based on Article 1869 of the Civil Code, a notarial deed will have the evidentiary power as a private deed if:

1. The incompetence of the official.
2. The incapability of the official.
3. The absence of format.

According to UUJN-P (Amendment Law of Notary), a notarial deed's evidentiary power as a private deed is degraded because:

- Article 16 Paragraph (8) of UUJN-P: If one of the conditions as stipulated in paragraph (1) letter l and paragraph (7) is not complied with, said deed shall only have evidentiary power as a private deed
- Article 41 of UUJN-P: If the provisions in Article 39 and Article 40 shall be complied with, said deed should only have evidentiary power as a private deed.
- Article 44 Paragraph (5) UUJN: Violations of provisions as stipulated in paragraphs (1), (2), (3), and (4) shall create that the deed shall only have evidentiary power as a private deed and may be reasons for parties harmed to challenge for having a compensation, financial damage, and interests to the Notary.
- Article 48 Paragraph (3) of UUJN-P: Violations of provisions as stipulated in paragraphs (1) and (2) shall create that the deed shall only have evidentiary power as a

private deed and may be reasons for parties harmed to challenge for having a compensation, financial damage, and interests to the Notary.

- Article 49 Paragraph (4) of UUJN-P: Violations of provisions as stipulated in paragraphs (1) and (2) shall create that the deed shall only have evidentiary power as a private deed and may be reasons for parties harmed to challenge for having a compensation, financial damage, and interests to the Notary.
- Article 50 Paragraph (5) of UUJN-P: Regarding provisions referred to in paragraph (1), paragraph (2), paragraph (3), and paragraph (4), and in article 38 paragraph (4) letter d are not complied with, the deed shall only have evidentiary power as a private deed and may be reasons for parties harmed to challenge for having a compensation, financial damage, and interests to the Notary.
- Article 51 Paragraph (4) of UUJN-P: Violations of provisions as stipulated in paragraph (2) shall create that the deed shall only have evidentiary power as a private deed and may be reasons for parties harmed to challenge for having a compensation, financial damage, and interests to the Notary.

Determining a notarial deed whose evidentiary power as a private deed is degraded is not necessarily performed by the appearers themselves or by a Notary who made it or another party. Still, it must be based on a court decision filed by the appearers against the Notary. As long as the decision does not exist, the deed is still valid and binding on the concerned parties. Therefore, the Notary must be sure that the deed made before and by the Notary has fulfilled the material, formal and physical conditions.

2. Determining Condition Subsequent Clause in A Deed/Agreement by The Parties Themselves

Articles 1265, 1266, and 1266 of the Civil Code state or regulate the entry into force of the condition subsequent relating to the breach of contract (Munif, 2016), i.e.

Article 1265 of the Civil Code:

In the event that a void condition is met, the obligation is voided and the parties are returned to their pre-existing positions. The creditor is only obligated to return what he receives if such an event occurs, and this condition does not delay the obligation.

Article 1266 of the Civil Code:

Reciprocal agreements are void if one of the parties fails to fulfill its obligations. The contract is not automatically null and void in this situation, but the Court must be requested to declare it null and void. Even if the agreement specifies the conditions for voiding an obligation if it is not fulfilled, the request must still be made. When voidance is not included in the contract, what happens? If that's the case, the judge can set a deadline for the defendant to meet his or her obligations based on the facts of the case and at the request of the defendant. Nonetheless, a one-month window is the maximum.

Article 1267 of the Civil Code:

If the other party fails to meet their obligations, the party who is owed money can either demand that the other party fulfill their obligations, or they can demand that the agreement be terminated and compensation for costs, damages, and interest be demanded. The provisions of the void condition in various agreements/contracts/deeds are often made to

be non-binding by the parties making the documents. For example, an agreement of sale and purchase between developer and consumer specifies the following clauses:

1. The developer can cancel the agreement if the Buyer cannot fulfill his obligation to pay installments to the developer.
2. Developer and Buyer agree with each other that in connection with the cancellation of this agreement, the parties expressly waive the provisions contained in Article 1266 and Article 1267 of the Civil Code for termination/cancellation of the contract.

Developer and Buyer agree with each other that in connection with the cancellation of this agreement, the parties expressly waive the provisions in Article 1266 and Article 1267 of the Civil Code, insofar as the provisions require the issuance of a court decision for the termination/cancellation of an agreement. Another example is about the employment relationship: in the event of Termination of Employment between the First Party and the Second Party due to any reason (before the intended installment payment is paid), this agreement shall be nullified at that time, and the parties regarding it deviate from the legal provisions in Article 1266 and Article 1267 of the Civil Code.

Civil Code Article 1338 confirms that all valid agreements are binding upon the parties who signed them. Such contracts cannot be canceled unless both parties agree to do so or the law specifies a specific reason for doing so. They must be carried out with full faith and integrity. Stakeholders' expectations and needs are outlined in Article 38, paragraph (3) letter C of the UUJN-P.

In certain deeds, buying and selling in installments and must be paid off several times, it turns out that the appearers (especially the seller) ask the sale and purchase to be null and void when the Buyer is unable to pay off within the agreed period. If some ask for such a provision, will the Notary directly grant it as the implementation of Freedom of Contract as stated in Article 1338 of the Civil Code and the application that the deed contents are the will of the appearers (Article 38 paragraph (3) letter c of UUJN-P) or explain first that the void condition must violate the objective requirement (a particular subject matter (Bw. 1332v.) and a non-prohibited cause (Bw. 1335v.) based on Article 1320 of the Civil Code concerning the conditions that are required for the validity of agreements and then reject it?

According to the provisions of Article 1338 of the Civil Code and Article 38 paragraph (3) letter c of UUJN-P, it is not prohibited for the parties to agree to make their condition subsequent (Marzuki, 2003). First, however, the Notary must explain and specify when (for example, the Buyer) can no longer repay? For example, is a one-time delay enough to be declared null and void? Or is it two or three in a row without compensating to be declared null and void? Then if it is agreed so, should the money received by the seller be returned partially or fully to the Buyer, or is it deemed forfeited? Or also, note that the inclusion of the void condition does not harm or force one of the parties or violate legal, moral, and religious norms.

As mentioned above, the inclusion of a condition subsequent is undoubtedly permissible, as long as the appearers want it. The condition subsequent is effective from the date known to one of the breaching parties as long as the requirement subsequent does not conflict with Article 1320 of the Civil Code concerning the conditions required for the validity of agreements. Therefore, it is highly recommended even though the state following

apply immediately, and it has to be mentioned in the notarial deed again to provide the appearers with legal certainty.

The following condition is not for all agreements but only for those that give reciprocal rights and obligations. For example, there is no need to void conditions in the Prenuptial Agreement because they are not reciprocal. Nevertheless, in the Debt or Sale and Purchase Agreement, some Rights must be prosecuted if violated by the parties, and the parties must fulfill some Obligations. In addition to formally complying with the applicable law, a good contract must substantially be justice and fairness, meaning that it must apply the principles of justice and honesty for the parties. There must be a balanced position for the parties, and even though, in practice, it isn't straightforward to make or find a balanced contract. Unbalanced contracts can usually be known when a breach of contract occurs. This can be eliminated when the agreement is made, meaning the issues that will arise can then be known in advance.

D. CONCLUSION

According to legal terminology, the elements that must be met after a notary deed is done are certain elements that must exist and must be completed. Each legal terminology can be distinguished from different elements. As a result, if there is a violation of certain conditions, all the legal consequences can be predicted. The legal position of the following requirements in the notary deed: as a form of freedom to enter into a contract, it is not prohibited to make the following conditions included in the contract/agreement. However, it does not close the opportunity for other parties to sue if they feel aggrieved. Moreover, further states must still pay attention to the provisions contained in Article 1337 of the Civil Code.

REFERENCES

1. Acora, M. I., Asmara, G., & Kaharuddin, K. (2019). Position of Notary as Party Manager and Its Implications Viewed in a Legal Perspective. *International Journal of Multicultural and Multireligious Understanding*, 6(2), 720-734.
2. Adjie, H. (2008a). *Hukum Notaris Indonesia: Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris*. Refika Aditama.
3. Adjie, H. (2008b). *Sanksi Perdata dan Administratif terhadap Notaris sebagai Pejabat Publik*. Jakarta: Refika Aditama.
4. Ali, Z. (2021). *Metode Penelitian Hukum*. Sinar Grafika.
5. Amann, B., Vallentin, M., Hall, S., & Sommer, R. (2012). *Extracting Certificates from Live Traffic: A Near Real-Time SSL Notary Service*. Technical Report TR-12-014, ICSI.
6. Amos, H. F. (2004). *Abraham. Legal Opinion: Aktualisasi Teoritis Dan Empirisme*. Jakarta: Raja Grafindo Persada.
7. Andara, D., Aburaera, S., & Baharuddin, H. (2020). Juridical Analyst Supervision Function of the Notary Supervisory Board in the City of Baubau. *Gerechtiheid Law Journal*, 1(1), 47-57.
8. Arkiang, T. Y. S. (2011). Kedudukan Akta Notaris Sebagai Alat Bukti dalam Proses Pemeriksaan Perkara Pidana. *Keadilan Progresif*, 2(2).

9. Bandeira, P., Sumpsi, J. M., & Falconi, C. (2010). Evaluating Land Administration Systems: A Comparative Method with An Application to Peru and Honduras. *Land Use Policy*, 27(2), 351-363.
10. Baro, D. R. (2016). *Penelitian Hukum Non-Doktrinal Trend Penggunaan Metode & Teknik Penelitian Sosial Di Bidang Hukum*. Deepublish.
11. Basoeky, U. (2021). Inconsistency of General Officials' Normativity in Indonesian Legislation. *DEGREE*, 20(2), 212-225.
12. Devaux, A. (2013). The European Regulations on Succession of July 2012: A Path Towards the End of The Succession Conflicts of Law in Europe, or not? *The International Lawyer*, 229-248.
13. Fatmawati, N. A. (2020). Kekuatan Pembuktian Digital Signature Pada Akta yang Dibuat Oleh Notaris. *Jurnal Hukum dan Kenotariatan*, 4(2), 146-157.
14. Fitchen, J. (2011). Authentic Instruments and European Private International Law in Civil and Commercial Matters: Is Now the Time to Break New Ground? *Journal of Private International Law*, 7(1), 33-100.
15. Hansmann, H., & Kraakman, R. (2002). Property, Contract, and Verification: The Numerus Clausus Problem and The Divisibility Of Rights. *The Journal of Legal Studies*, 31(S2), S373-S420.
16. Hendra, R. (2012). Tanggungjawab Notaris Terhadap Akta Otentik Yang Penghadapnya Mempergunakan Identitas Palsu di Kota Pekanbaru. *Jurnal Ilmu Hukum*, 3(1).
17. Hernoko, A. Y. (2008). *Hukum Perjanjian, Asas Proporsionalitas Dalam Kontrak Komersial*. Yogyakarta: LaksBang Mediatama.
18. Indiraharti, N. S. (2016). Aspek Keabsahan Perjanjian Dalam Hukum Kontrak (Suatu Perbandingan Antara Indonesia dan Korea Selatan). *Jurnal Hukum PRIORIS*, 4(1), 15-38.
19. Intan, L. C. (2016). Akibat Pelanggaran oleh Notaris Terhadap Pembuatan Akta Notariil. *Jurnal Cakrawala Hukum*, 7(2), 206-215.
20. Isnaeni, M. (2004, October). *Jalanan Prinsip-prinsip Hukum Kontrak Dalam Bisnis. Contract Law Seminar Papers*. Faculty of Law, Airlangga University, Surabaya.
21. Isnaini, H., & Utomo, W. (2019). The Existence of the Notary and Notarial Deeds within Private Procedural Law in the Industrial Revolution Era 4.0. *International Journal of Innovation, Creativity, and Change*, 10(3), 128-139.
22. Kusumohamidjojo, B. (1998). *Dasar-dasar Merancang Kontrak*. Jakarta: Gramedia Widiasarana Indonesia.
23. MacNeil, H. (2006). From The Memory of The Act to The Act Itself. The Evolution of Written Records as Proof of Jural Acts in England, 11th To 17th Century. *Archival Science*, 6(3-4), 313-328.
24. Malavet, P. A. (1995). Counsel For the Situation: The Latin Notary, A Historical and Comparative Model. *Hastings Int'l & Comp. L. Rev.*, 19, 389.
25. Marzuki, P. M. (2003). Batas-batas Keabsahan B erkontrak. *Yuridika*, 18(3), 193-294.
26. Maslikan, M., Purnomo, D., & Sukarmi, S. (2018). Kewenangan Notaris Dalam Pembuatan Akta Otentik Berkaitan Dengan Kontrak Kerjasama. *Jurnal Akta*, 5(1), 11-16.

- 18
27. Mason, S. (2018). Documents Signed or Executed with Electronic Signatures in English Law. *Computer Law & Security Review*, 34(4), 933-945.
28. Mowoka, V. P. (2014). Pelaksanaan Tanggung Jawab Notaris terhadap Akta yang Dibuatnya. *Lex Et Societatis*, 2(4).
29. Munif, A. (2016). *Perikatan Bersyarat Batal*. Yogyakarta: FH UII Press.
30. Pramono, D. (2015). Kekuatan Pembuktian Akta Yang Dibuat Oleh Notaris Selaku Pejabat Umum Menurut Hukum Acara Perdata Di Indonesia. *Lex Jurnalica*, 12(3), 1477-1478.
31. Putra, F. M. K. (2021). Characteristics of Notary Deeds for Transactions Through Electronic Media. *NORMA*, 17(3), 1-14.
32. Rachman, S. (1998). A Cognitive Theory of Obsessions: Elaborations. *Behaviour Research and Therapy*, 36(4), 385-401.
33. Salim, H. S. (2021). *Hukum Kontrak: Teori Dan Teknik Penyusunan Kontrak*. Sinar Grafika.
- 23
34. Simanjuntak, R. (2006). *Teknik Perancangan Kontrak Bisnis*. Jakarta: Kontan.
35. Soepratignja, P. J. (2007). *Teknik Pembuatan Akta Kontrak*. Yogyakarta: Universitas Atma Jaya.
36. Sugiyono, P. (2011). *Metodologi Penelitian Kuantitatif Kualitatif Dan R&D*. Bandung: Alfabeta.
37. Sutyoso, B. (2013). Penafsiran Kontrak Menurut Kitab Undang-Undang Hukum Perdata dan Maknanya Bagi Para Pihak yang Bersangkutan. *Jurnal Hukum Ius Quia Iustum*, 20(2), 207-233.
38. Suwignyo, H. (2009). Keabsahan Cap Jempol sebagai Pengganti Tanda Tangan dalam Pembuatan Akta Otentik. *Notarius*, 1(1), 63-74.
39. Tan, D. (2019). Controversial Issues on the Making of Notarial Deed Containing Chained Promise (Bedding Berantai) on the Freedom of Contract Principle. *Journal of Indonesian Legal Studies*, 4(2), 315.
40. Umbas, S. A. (2017). Kedudukan Akta Di Bawah Tangan Yang Telah Dilegalisasi Notaris Dalam Pembuktian Di Pengadilan. *Lex Crimen*, 6(1).
41. Usman, A. H. (2015). Kesadaran Hukum Masyarakat Dan Pemerintah Sebagai Faktor Tegaknya Negara Hukum Di Indonesia. *Jurnal Wawasan Yuridika*, 30(1), 26-53.
42. Wijaya, I. G. A. (2019). Kekuatan Hukum Covernote Notaris sebagai Produk Hukum Notaris. *Acta Comitas: Jurnal Hukum Kenotariatan*, 4(1), 90-98.
43. Yensih, Y., Sukarmi, S., & Hanim, L. (2020). The Law Strength of Under Hand Deed That Has Passed by Notary as an Authentic Deed in the Proof of Civil Case in District Court of Cirebon. *Jurnal Akta*, 6(4), 3249-04.

12. Turnitin Jurnal Internasional

ORIGINALITY REPORT

12%

SIMILARITY INDEX

10%

INTERNET SOURCES

7%

PUBLICATIONS

8%

STUDENT PAPERS

PRIMARY SOURCES

1

ijicc.net

Internet Source

<1 %

2

www.ideals.illinois.edu

Internet Source

<1 %

3

"International Organizations and the Promotion of Effective Dispute Resolution", Brill, 2019

Publication

<1 %

4

www.indolaw.org

Internet Source

<1 %

5

Submitted to Universitas Prima Indonesia

Student Paper

<1 %

6

ojs.mruni.eu

Internet Source

<1 %

7

eprints.utm.my

Internet Source

<1 %

8

online-journal.unja.ac.id

Internet Source

<1 %

content.sciendo.com

9

Internet Source

<1 %

10

Submitted to University of New South Wales

Student Paper

<1 %

11

moraref.kemenag.go.id

Internet Source

<1 %

12

Submitted to Southampton Solent University

Student Paper

<1 %

13

Submitted to Leiden University

Student Paper

<1 %

14

Nowinri Hilgutshiany Marini Pratiwi Pitanuki.
"Executions of Fiduciaryry Guarantee Post
Constitutional Court Decision No. Nomor:
18/Puu-Xvii/2019", Constitutionale, 2020

Publication

<1 %

15

ejournal.iainkerinci.ac.id

Internet Source

<1 %

16

Submitted to Queen's University of Belfast

Student Paper

<1 %

17

pasca-umi.ac.id

Internet Source

<1 %

18

Submitted to Sheffield Hallam University

Student Paper

<1 %

19

www.eprints.unram.ac.id

Internet Source

<1 %

20	docplayer.net Internet Source	<1 %
21	Submitted to Doral Academy High School Student Paper	<1 %
22	Submitted to Tarumanagara University Student Paper	<1 %
23	Submitted to Universitas Negeri Semarang Student Paper	<1 %
24	Submitted to University of Hertfordshire Student Paper	<1 %
25	discovery.ucl.ac.uk Internet Source	<1 %
26	journal.ummat.ac.id Internet Source	<1 %
27	jurnal.untag-sby.ac.id Internet Source	<1 %
28	www.jurnal-umbuton.ac.id Internet Source	<1 %
29	Submitted to State Islamic University of Alauddin Makassar Student Paper	<1 %
30	iiste.org Internet Source	<1 %
31	pdfs.semanticscholar.org Internet Source	

<1 %

32

riset.unisma.ac.id

Internet Source

<1 %

33

www.iosrjournals.org

Internet Source

<1 %

34

M. Syamsudin. "The Failure of the Court to Protect Consumers: A Review of Consumer Dispute Resolution in Indonesia", Journal of Consumer Policy, 2020

Publication

<1 %

35

ejournal.seaninstitute.or.id

Internet Source

<1 %

36

simdos.unud.ac.id

Internet Source

<1 %

37

Submitted to Universitas Pendidikan Ganesha

Student Paper

<1 %

38

www.ehow.com

Internet Source

<1 %

39

Submitted to UIN Syarif Hidayatullah Jakarta

Student Paper

<1 %

40

ejournal.unisri.ac.id

Internet Source

<1 %

41

ijil.ui.ac.id

Internet Source

<1 %

42	ejournal.mahkamahkonstitusi.go.id Internet Source	<1 %
43	journal.ascarya.or.id Internet Source	<1 %
44	propertibazar.com Internet Source	<1 %
45	repository.urecol.org Internet Source	<1 %
46	seajbel.com Internet Source	<1 %
47	www.ojs.unr.ac.id Internet Source	<1 %

Exclude quotes Off

Exclude matches Off

Exclude bibliography Off

12. Turnitin Jurnal Internasional

GRADEMARK REPORT

FINAL GRADE

/0

GENERAL COMMENTS

Instructor

PAGE 1

PAGE 2

PAGE 3

PAGE 4

PAGE 5

PAGE 6

PAGE 7

PAGE 8

PAGE 9

PAGE 10

PAGE 11

PAGE 12

PAGE 13

PAGE 14