

Notary's Responsibility for the Deed of Transfer of Customary Heirs Without the Consent of All Heirs

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Abstract: Legal certainty is a fundamental principle in every legal act, including in the making of authentic deeds by a notary. In the practice of inheritance based on customary law, such as in the Balinese indigenous people, there is often a transfer of inheritance by the holder of the purusa right without involving all the heirs, which is considered valid according to the customary provisions. However, when the notary pours the transfer into the form of an authentic deed without verifying the consent of all heirs, serious problems arise regarding the guarantee of legal certainty. Authentic deeds that should provide protection and strong evidence actually become vulnerable to lawsuits and lose legal force. This has the potential to violate Article 1320 and Article 1338 of the Civil Code regarding the legal conditions of the agreement, and is contrary to Article 16 paragraph (1) letters a and c of Law Number 2 of 2014 concerning the Notary Position which requires notaries to act carefully and impartially. This study aims to examine the extent to which legal certainty can be maintained in the making of customary inheritance transfer deeds that do not involve all heirs, as well as how the responsibility of notaries in such conditions. The research method used is normative juridical with a regulatory approach and case studies. The results of the study show that legal certainty can only be guaranteed if the notary makes the principle of prudence the main reference, including by ensuring that there are no objections from the right parties. In conclusion, the legal certainty of authentic deeds in the context of customary inheritance is highly dependent on the integrity of the notary in bridging customary law values and positive law in a balanced and objective manner.

Keywords: Authentic Deed, Customary Heirs, Legal certainty, Notary

INTRODUCTION

The 1945 Constitution of Indonesia, the prevailing legal foundation of the state, ensures the protection and safeguarding of citizens' rights, including the right to acquire, possess, and enjoy property rights (Sutedi, 2018). The principle of the rule of law obliges the state to ensure the protection of all citizens' property rights. This assertion is further substantiated by Article 28G, paragraph (1) of the 1945 Constitution, which stipulates that all individuals possess an inherent right to the protection of their self, family, honour, dignity, and property under their jurisdiction, in addition to a right to a sense of security and protection from any threats of fear that may impede their exercise of human rights (UUD 1945). The aforementioned protection also extends to the rights of heirs, whereby, in principle, each heir is entitled to receive a share of the heir's estate. The receipt of an inheritance is accompanied by the acquisition of proprietary rights over the objects comprising the inherited assets, as delineated in Article 584 of the Civil Code. This provision stipulates the legal framework governing the transfer of property rights through the process of inheritance.

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From a legal standpoint, it is imperative to recognise the inextricable linkage between human beings and the array of legal events that ensue. In the event of a legal event, such as death, not all legal relationships are automatically extinguished. In particular, the rights and obligations pertaining to the deceased's property will automatically transfer to their heirs. It is an established legal principle that every legal event carries certain legal repercussions, and in the case of death, such repercussions include the setting up and continuation of the rights and obligations previously held by the deceased perso (Anwar, 2022).

Indonesia is a country that is characterised by a high degree of heterogeneity, with a variety of tribal, ethnic, linguistic, religious and cultural groups, as well as a multitude of customs and practices. Despite the evident diversity, the country also exhibits a number of similarities. With regard to the distribution of inheritance, there is a discrepancy between the choice of law appointed by the heir and the distribution of the inheritance itself. The regulation of inheritance law in Indonesia is currently characterised by dualism and pluralism, as it is part of the country's civil law. Inheritance may be defined as the transfer of assets, property or rights from one individual or entity to another, or between multiple individuals or entities (M. Ali, 1996). The inheritance law is a branch of law that regulates the mechanism of transferring the property of an individual who has passed away, along with the legal implications for the heirs who are entitled to receive it (E. Perangin, 2018).

The issue of inheritance is often a source of conflict between family members, largely due to the lack of public understanding of inheritance procedures and mechanisms. In practice, the law not only serves as a means of achieving justice, but also plays an important role in realising legal certainty. The Civil Code (KUHPerdata) itself does not provide an explicit definition of inheritance law, but only contains various provisions governing inheritance, parties entitled to inherit, and other related matters.

Inheritance law constitutes the body of legislation that governs the process of transferring ownership of property and a person's responsibilities after their death. In Indonesia, a lack of a comprehensive, integrated inheritance law system is evident, with a variety of different inheritance laws still in operation. The various forms and structures of inheritance law are strongly influenced by the kinship system and family values in society. In the context of inheritance law, three fundamental elements have been identified as the cornerstones of these legal issues. Firstly, the concept of property as an inheritance is recognised, secondly, the heir is acknowledged as the proprietor or ruler of said property, and finally, the heirs who are entitled to receive or perpetuate the rights to the property are recognised. The legal ramifications of the demise of an individual chiefly concern the administration and perpetuation of rights and obligations that were in force during the person's lifetime. The settlement of these rights and obligations falls within the remit of inheritance law. In essence, the term 'inheritance' may be defined as a legal provision that regulates the process of transfer of property, both tangible and intangible, from the testator to his heirs.

In the Civil Law system, the process of transferring or assigning rights is divided into two main stages. It is first necessary to establish an agreement that constitutes the foundation for the transfer of rights, such as in a sale or exchange agreement. Secondly, the transfer of rights itself. The primary focus in this context pertains to the formal transition of ownership, particularly in transactions involving immovable assets such as residential properties, land, and

similar assets. These transactions necessitate the transfer of ownership names as a legal requirement. The transfer of inherited property occurs when ownership is transferred from the testator to the heirs. This can be achieved through a variety of means, including inheritance, grants, wills, waqf, auctions, sale and purchase, or court decisions (Farahdillah dan Marpaung, 2022). One common practice is the sale of inherited land by the heirs. However, given that each heir possesses rights to the land, the sale requires the consent of all heirs. In the event of a unilateral sale, the sale and purchase agreement may be cancelled and deemed never to have taken place, resulting in a return to the original condition of the parties prior to the transaction.

The field of inheritance law in Indonesia is influenced by the country's cultural diversity and its various family systems, including matrilineal, patrilineal and parental systems. Despite the absence of formal recognition from the state, customary law continues to be a living tradition within indigenous communities. From the colonial period until post-independence, the role of religious and state law became increasingly dominant, especially in matters of marriage. Nevertheless, customary law continues to exert a significant influence on the realm of inheritance within numerous communities. Within the sociocultural context of Balinese society, the legal status of spouses, offspring, and extended family members is profoundly influenced by the specific form of marriage observed. In a conventional marital context, children assume the role of heirs, thereby inheriting the rights and obligations of their parents and ancestors, a process that persists across successive generations. The inheritance may be constituted by material assets, which can be distributed or consolidated under the oversight of designated individuals or entities. Provided that the heirs adhere to the principles of deliberation and kinship, the distribution of inheritance is not problematic. This tradition of inheritance division has been in existence since the time of Ancient Bali, as evidenced by various inscriptions (Atmaja, 2016).

A prevalent issue that frequently emerges in the context of Indonesian inheritance practices, particularly within the framework of customary law, pertains to instances where property, such as land, has not been transferred from the testator to the heirs prior to the testator's demise. In such circumstances, it is not infrequent for there to be a unilateral transfer of inheritance that is not in accordance with the provisions of the Civil Code. A clear example of this phenomenon can be found in the Balinese customary inheritance system, which adheres to the concept of *purusa* (Padmawati, 2023). In this tradition, sons are generally considered the main heirs with dominant rights over family property. Despite the fact that girls have the potential to become heirs if they are appointed as *sentana rajeg*, a customary process that grants *purusa* status, the prevailing reality in practice is one of male dominance in the control of inheritance. This has frequently given rise to disputes, particularly in cases where male heirs feel they have full authority over the inheritance and transfer rights, for example by selling the inherited land, without involving or obtaining consent from other heirs.

The issue becomes more complex when the unilateral transaction is brought before a notary or Land Deed Official (PPAT) for an authentic deed. In certain instances, the notary may accept a transfer request without first ascertaining whether all the relevant heirs have consented to the transaction. Indeed, the prevailing academic consensus, as articulated in the

Civil Code (articles 1320 and 1338), posits that the validity of an agreement is contingent upon the consent of all relevant parties. The notary's failure to conduct a thorough verification process, particularly in regard to identity verification, contravenes the principle of prudence and has the potential to engender legal loopholes (Julius Sembiring, 2016). Consequently, the authentic deed, which is intended to be a robust piece of evidence, may lose its legal force and become subject to legal action by heirs who perceive their rights to have been disregarded.

This condition constitutes a violation of the fundamental principle of legal certainty, an axiom that underpins the very foundation of all legal proceedings. It is evident that Law No. 2/2014 on the Office of Notary, specifically Article 16 paragraph (1) letters a and c, stipulates the obligation for notaries to exercise due care and impartiality in the execution of their duties. When a notary authorises the transfer of inheritance rights that are not valid under civil law, this has consequences for the rights of heirs who have not been involved in the process. Furthermore, it contributes to legal uncertainty in society. It is therefore incumbent upon notaries to develop a comprehensive understanding of the intricate interplay between customary law and civil law, thereby ensuring that the deeds executed accurately reflect the principles of justice, legality and legal certainty.

The research method employed in this study is normative juridical (Soekanto & Mamudji, 2013). This indirect illustration serves to demonstrate that the research will utilise a statute approach as a source of existing law (Aristeus, 2018). To elaborate, the methodology employed herein entails a textual review of legal texts. The present study employs an analytical approach that describes legal issues and legal systems, studying them according to research needs. It provides specific descriptions based on data collected systematically. The sources of legal research are divided into two categories: primary legal materials and secondary legal materials (Tan, 2021). The primary legal materials employed in this study are Law No. 2 of 2014 on the Amendment to Law No. 30 of 2004 on the Position of Notary and the Civil Code. Secondary legal materials include relevant legal literature, relevant domestic and foreign scientific articles, as well as the views, theories, and statements of legal experts (Susanti & Efendi, 2022).

RESULTS AND DISCUSSION

The Present Study Explores The Legal Implications Of Executing A Deed Of Transfer Of Customary Inheritance Without The Involvement Of All Heirs, With A View To Establishing Legal Certainty In The Process

Inheritance law constitutes a set of provisions that regulate the legal consequences of an individual's death, particularly in the context of property, which results in the transfer of rights to inherited property to the heirs, both in internal relations between heirs and in relation to third parties. In the event of an individual's demise, the focal point shifts from their death to the management and distribution of their estate (M. O, 2019). According to Article 18B Paragraph (2) of the 1945 Constitution, the state acknowledges and respects the existence of customary law communities and their traditional rights, provided that these rights remain valid and are in accordance with the community's development dynamics and the principles of the Unitary State of the Republic of Indonesia, as stipulated in legislation and regulations. In this context, the doctrine of customary inheritance law assumes a regulatory function in the context

of the transfer of both physical and intangible assets from one generation to the next (Kasmawati, 2022).

The customary law of inheritance is significantly influenced by the varied kinship structures that are characteristic of each adat territory. Each adat community is distinguished by its own unique characteristics, which serve to differentiate the adat inheritance law system from other such systems. This distinctiveness is indicative of traditional values and patterns of kinship relations that are perpetuated across generations. Hilman Hadikusuma elucidates that customary inheritance legislation comprises a series of provisions pertaining to the system and principles of inheritance, encompassing the status of the testator and heirs (Felicia et al, 2023). Additionally, this legislation also governs the procedures for transferring property rights and control over inherited assets from the testator to the heirs, in accordance with customary norms and rules that are applicable within the local community.

The transfer of property rights over land is regulated in Article 20 paragraph 2 of the UUPA, which states that property rights can be transferred and assigned to other parties. The term 'switch' is defined as a transfer of rights, occurring when the owner of the right has passed away, resulting in the right being transferred to the heirs. As stated in Article 20, paragraph (2) of the UUPA, the transfer of land ownership rights is permissible. The transfer of land ownership rights may be precipitated by legal acts or legal events. The transfer of a land ownership right as a consequence of a legal action may occur if the holder of the land ownership right intentionally transfers the right held to another party. Conversely, the transfer of land ownership rights due to legal events occurs when the holder of the land ownership right dies, resulting in the automatic or spontaneous transfer of ownership rights to the heirs of the right holder, without the need for any deliberate legal action.

In the context of the transfer of land rights through inheritance mechanisms, the primary focus is typically directed towards the Notary, who is entrusted with the responsibility of drafting authentic deeds pertaining to the process. The word 'notary' is derived from the term 'nota literaria', which means a sign or writing used to record or describe the expression of a sentence delivered by an informant (Borman, 2019).

In the context of inheritance proceedings, the notary assumes a pivotal role in the preparation of the deed of separation of inheritance. This document is formulated on the basis of the testimonies provided by the relevant parties, which are then supported by official documentation. However, it should be noted that this information may be contested or invalidated if it is subjected to scrutiny by interested parties. It is not uncommon for notaries to be subject to civil lawsuits or to be investigated for criminal offences. A notary, in contrast to a government official, is a public servant who is responsible for the authentication of legal documents, which are recognised by the force of civil law. In this capacity, the notary's role differs significantly from that of a government official, who is responsible for administrative decisions. The notary functions as an impartial entity, ensuring the legality and validity of documents in order to safeguard the rights of the parties concerned. The role of the notary is to serve the public in the realm of law, thereby providing protection and ensuring legal certainty (Putri, 2022).

Legal certainty constitutes a fundamental principle within the Indonesian legal system, guaranteeing that every legal action is carried out in accordance with the provisions of the applicable laws and regulations (Fitri et al, 2024). Within the context of civil law, legal certainty is primarily related to the validity of legal acts that are outlined in authentic deeds, including deeds of transfer of rights to inheritance. The notary, as a public official entrusted with the responsibility of authenticating legal documents, plays a pivotal role in ensuring that all stipulated terms of a valid agreement have been fulfilled, including the agreement of the parties as outlined in Article 1320 of the Civil Code. In the context of customary law-based inheritance practices, such as those observed in the Balinese customary society, intricate dynamics emerge that have the potential to challenge the principle of legal certainty if not meticulously managed.

In the context of Balinese customary law, a patrilineal inheritance system is in place, which prioritises the position of purusa, or male heirs, as successors to the lineage and holders of rights to inheritance (Rahmawati, 2021). Sons are considered the legitimate successors to family assets, obligations and positions, and as a result, they are often the only ones included in the process of transferring rights to inheritance, both in family deliberations and in formal legal processes. Despite the existence of established mechanisms that permit female heirs to inherit through the designation of sentana rajeg, in practice, the transfer of inheritance rights is frequently executed unilaterally by male heirs who perceive themselves to occupy a more senior position within the customary inheritance framework. Consequently, in instances where this transfer is documented in an authentic deed by a notary or PPAT without the involvement of all the heirs, there is a possibility of legal action being initiated at a subsequent point in time.

Notaries are entrusted with the responsibility of drafting authentic deeds pertaining to the distribution of inheritances in accordance with customary law. This authority extends to the division of land that is inherited by an individual or group (Zulvyanita & Handoko, 2021). In practice, the role of notaries can be aligned with that of Customary Elders, namely as a neutral party who facilitates the heirs in drafting an agreement, provides legal views, and helps formulate a joint solution. The agreement that emerges from the customary deliberation process is to be respected and then formalised in the form of a deed by a notary. However, it should be noted that the notary is only able to operate on the basis of the documentation and physical evidence that is available, including minutes from the Tetua Adat and the heirs. The notary is not required to verify the veracity of the information provided to them; rather, their role is to ensure that the deed has met the formal requirements and is in accordance with the relevant legal provisions. Consequently, in the event of a dispute pertaining to the content or validity of the information contained within the deed, the responsibility cannot be attributed to the notary, as the scope of their duties is confined to formal and procedural aspects (Deli Markus, 2017).

The procedure for the division of land inheritance according to customary law, carried out before a notary, is comprised of several stages, namely:

1. Examination of the Deed

The heirs are required to present the deed of inheritance division in accordance with customary law to the notary. In order to proceed with the execution of this deed, it is necessary for all parties to be present and to sign it. In addition, the endorsement of the

Adat Elders is required, as well as the presentation of additional documentation, including KTP and proof of land ownership.

2. Explanation of Wishes

Following the establishment of a consensus, the heirs are required to articulate their intentions to the notary. In such a scenario, the notary is required to maintain a neutral stance.

3. Explanation of Law

The notary is responsible for providing information regarding the legal ramifications of the division of inheritances in accordance with customary law, subsequent to ascertaining the intentions of both parties involved.

4. Drafting the Deed

The notary is responsible for drafting an authentic deed based on the existing inheritance division deed.

5. Finalisation of Deed

Following approval by the heirs, the authentic deed is finalised. This deed is said to possess perfect evidentiary power, a characteristic that is expected to minimise the risk of legal disputes between heirs in the future.

The making of an authentic deed that does not involve all heirs is basically contrary to the principle of prudence and the provisions of applicable positive law. Notaries, in accordance with the provisions of Article 16 paragraph (1) letters a and c of Law Number 2 Year 2014 on the Position of Notary, are obliged to act carefully and impartially in carrying out their duties (Notaris, Rahmat et al, 2014). Therefore, if a notary accepts a request to make a deed of transfer of customary inheritance rights without verifying the presence and consent of all legal heirs, it can be considered as negligence that threatens the validity of the deed and creates legal uncertainty. The deed, which should have perfect evidentiary power, can actually be cancelled or sued because it does not meet the validity requirements of the agreement and contradicts the principle of consensus in the Civil Code.

Furthermore, this issue reflects the tension between two legal systems: customary law, which is based on communal and kinship values, and national civil law, which emphasises the principles of legality, equality of rights and legal protection for all parties. Within the framework of the rule of law (*rechtstaat*), legal certainty can only be upheld if legal officials, including notaries, prioritise the principle of prudence in dealing with cases that contain elements of legal pluralism. Notaries must thoroughly examine the genealogy of the heirs, the form of customary marriage, the appointment of female heirs, and the agreement or written consent of all entitled parties (Manangin et al, 2020). Without all of this, the deed of inheritance transfer will be legally flawed and potentially a source of conflict between heirs.

Consequently, it is evident that legal certainty in the execution of deeds pertaining to customary inheritance cannot be accomplished by placing exclusive reliance on the procedural formalities associated with deed-making. It necessitates an in-depth comprehension of the sociological and juridical dimensions of customary law, as well as the fortitude of the notary to decline or postpone the execution of a deed if the substantive requirements have not been

fulfilled. Notaries are charged with the responsibility of leading the effort to bridge the gap between customary values and national legal principles, ensuring the provision of justice, certainty, and benefits for all citizens. The precautionary principle is not merely an administrative form; rather, it constitutes an ethical and legal foundation that ensures the legality, fairness and predictability of actions, thereby preventing them from engendering legal uncertainty in the future.

The Responsibility Of Notary In The Condition Of Making Deed Of Transfer Of Customary Inheritance Without The Consent Of All Heirs

Customary inheritance law constitutes a system of customary law that is designed to regulate the management of property left by the testator for his heirs for generations (Maheresty & Aprilianti, 2018). The role of the notary as a public official is regulated in Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning the Notary Position. The role of a notary is to formulate the will and actions of the parties into an authentic deed (Sari, 2018), while complying with applicable legal provisions. The remit of a notary public official is twofold: firstly, the provision of services, and secondly, the consideration of the legal implications of the deeds undertaken. In the execution of their duties and responsibilities, notaries play a pivotal role in the creation of authentic deeds, thereby ensuring legal certainty for any legal action undertaken by the community. It is evident that the public is frequently engaged in a variety of legal activities. Consequently, there is a necessity for a professional figure who possesses credibility and the capacity to furnish the appropriate legal solution (Ramadhan & Ngadino, 2019). An exemplar of a legal service required by the public is the documentation of legal events in a manner that is legally sound, which can be facilitated by an authentic deed made by or in the presence of a notary, such as a deed of inheritance certificate.

In practice, there is often a violation of the transfer of inheritance rights that have actually been protected by the provisions in Indonesian positive law regulations due to differences in the rules of customary law that apply in a region to the detriment of certain parties, one of which is the entitled heirs and the legal uncertainty of the Notary / PPAT. As a case in point, consider the division of inheritance according to Balinese custom, which adheres to the purusa system. In this system, the rights to inheritance are primarily held by sons. Daughters are eligible to become heirs if they are appointed as sentana rajeg; however, the position of purusa continues to confer absolute power upon men (Hendrako, 2015). This frequently results in the perception that male heirs are able to transfer their rights without the consent of other heirs. Indeed, as stated in the Civil Code, the transfer of rights still requires the consent of all heirs, including those who do not directly receive the inheritance.

The issue of a notary's responsibility in executing a deed of transfer of customary inheritance without the consent of all heirs is a matter of significant concern, particularly in relation to legal certainty, prudence, and the protection of the rights of all parties involved. Notaries, in their capacity as public officials, assume a pivotal role in the authentication of legal instruments, including deeds of transfer of land rights due to inheritance (Parhusip et al, 2024). In accordance with Article 65 of Law Number 2 of 2014 concerning the Notary Position Law, notaries are entrusted with four distinct responsibilities in the execution of their duties, namely (Ghofu, 2009):

1. Civil liability for deeds executed;
2. Criminal liability for deeds made by him/her;
3. Liability in the performance of his/her office to the notary
4. As long as the person concerned is still in office and is responsible during the term of office and is subject to the Notary Position Law and other regulations governing it (Karina Putri, 2016).
5. Responsibility for the code of ethics for the deed he made.

The professional responsibility of a Notary is to undertake work that requires technical expertise and specialised skills in the creation of authentic deeds in a professional manner. Notaries are obliged to possess an advanced comprehension of the law in order to furnish the optimal service to the parties who approach them. In carrying out their duties, notaries must be able to work independently and be legally responsible, and are obliged to comply with all laws and regulations governing their profession and master the relevant legal provisions (Mutmainnah et al, 2020).

Within the paradigm of customary inheritance law, the process of inheritance frequently entails the absence of formal involvement of all heirs or the paucity of adequate documentary evidence. This may result in potential legal conflicts in the future if there are parties who feel that their rights are being disregarded. In such circumstances, it is incumbent upon notaries to acknowledge that the distribution of inheritance is contingent upon the legal framework that was adopted by the testator during their lifetime. This is of pivotal significance, as it determines the legal framework that will be employed, whether it be Western civil law, Islamic law, or customary law. The legal system adopted is outlined in the Certificate of Right to Inherit (SKHM), which also includes a deed of living testimony. This is a statement from at least two witnesses who are not members of the testator's family (Raymond & Djaja, 2023). In the deed, the witnesses provide testimony regarding the will of the testator during his lifetime. For example, they may state that he wanted his property to be divided equally, or that he had married twice. These statements form the basis for the process of dividing the inheritance.

In accordance with the stipulations outlined in Articles 1320 and 1338 of the Civil Code, the formation of an agreement is contingent upon the consent of the parties who are entitled to enter into such agreements. In the absence of the consent of all relevant parties, the transfer of a deed of inheritance may be considered legally defective, as it fails to meet the stipulated legal requirements for such agreements. It can be posited that the notary has disregarded the principles of prudence and balance in the execution of the deed (Paramaningrat et al, 2018). According to Law Number 2 of 2014 on the Office of Notary, specifically Article 16, paragraph (1), letters a and c, notaries are obligated to act with honesty, caution, impartiality, and to guarantee legal certainty to the parties in every deed they execute.

In the customary inheritance system, even in the presence of an oral agreement or based on customary values, the notary is obligated to ensure that all eligible heirs have been involved and have consented to the transfer of property in writing. Should this not be the case, the deed in question may be subject to legal challenge, annulment, and even the initiation of criminal or civil proceedings against the notary. Nevertheless, the notary's responsibility is not without limits. The notary is under no obligation to conduct a comprehensive investigation into the

veracity of the parties' statements or the authenticity of the submitted documents, provided that the documents appear authentic and the statements are made with full awareness. The notary's role is confined to the form and procedure of executing the deed; it does not extend to the substance of the parties' statements. Consequently, in the event of a dispute arising from the non-involvement of other heirs, the notary is able to substantiate the deed's validity by relying on the testimonies provided by the confronting parties and corroborated by documents that are deemed formally valid, including the SKHM and the testimony contained therein.

However, in practice, notaries can still be held liable if they are proven to have been negligent or have failed to fulfil their professional obligations. Such negligence can be evidenced by, for example, an inadequate verification of the status of the heirs present or the failure to suggest dispute resolution prior to the execution of the deed. Consequently, the overarching principle of prudence must be consistently upheld by notaries when handling the transfer of inheritance rights. This is particularly salient in the context of customary inheritance, which is characterised by its own unique complexities in comparison to inheritance under civil law.

Notaries, as public officials entrusted with the authority to execute authentic deeds, bear a significant responsibility for each deed they undertake. In the event of negligence, the notary may be subject to various forms of legal recourse, including civil, criminal, or administrative sanctions. This responsibility encompasses the obligation to perform duties in accordance with the prevailing legal provisions, as well as to rectify the consequences of any errors that may arise. In the performance of their duties, notaries are subject to the provisions in the Notary Position Law (UUJN), the Substitute Notary Position Law (UUJNP), and other relevant regulations. In the event of an error that causes harm to the party who comes to appear, the notary is obliged to provide compensation in accordance with the provisions of the applicable laws and regulations (Anand G, 2018).

In essence, the role of a notary in these circumstances encompasses not only the execution of deeds but also the maintenance of legal integrity and public trust. Moreover, it is imperative that notaries ensure the validity and reliability of the deeds produced, thereby establishing them as admissible evidence in legal proceedings. In the context of customary inheritance, which is often flexible and cultural, notaries must exercise greater caution when combining customary principles and positive law provisions. They are required to adhere to formal documents such as SKHM and living testimonies, thereby ensuring comprehensive legal protection for all parties.

CONCLUSION

It is imperative that notaries act with the utmost caution, impartiality, and diligence when executing a deed of transfer of customary inheritance. Ensuring the involvement and consent of all legal heirs is of the essence in achieving legal certainty in this process. It is important to note that disregarding these elements may result in legal disputes, the revocation of the deed, and the erosion of the fundamental principle of justice. Consequently, a comprehensive grasp of customary law and national legal principles is imperative to ensure the legal validity, social justice, and predictability of the deed. The responsibility of a notary in making a deed of transfer of customary inheritance without the consent of all heirs lies in the

obligation to ensure formal legal certainty, while upholding the principles of prudence, honesty and impartiality, and ensuring that all entitled parties have been involved and agreed to the contents of the deed. In the event of negligence, the notary can be held civilly, criminally or administratively liable in accordance with applicable laws and regulations.

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