



Legal and Ethical Liabilities of Notaries Regarding Deeds of Agreement Annulled by the Court

Nurul Fadhilah^{1*}, Lalu Hadi Adha², Eduardus Bayo Sili³

¹⁻³ Master of Notarial Law Study Program, Faculty of Law, Social Sciences and Political Science, University of Mataram, Indonesia

* Corresponding Author: **Nurul Fadhilah**

Article Info

P-ISSN: 3051-3502

E-ISSN: 3051-3510

Volume: 07

Issue: 01

Received: 18-01-2026

Accepted: 20-02-2026

Published: 22-03-2026

Page No: 124-131

Abstract

A deed of agreement executed by a notary as an authentic deed possesses conclusive evidentiary strength and provides legal certainty for the parties involved. However, in practice, such deeds can be annulled by the court due to non-fulfillment of the legal requirements of an agreement or the presence of formal and material defects. The annulment of a deed of agreement raises legal issues regarding the legal and ethical liabilities of the notary, as well as the resulting legal consequences. This study aims to analyze the legal and ethical liabilities of notaries toward deeds of agreement annulled by the court and to examine the legal consequences of such annulments by the District Court. The research method employed is normative legal research using statutory, conceptual, and case-based approaches. The legal materials consist of primary, secondary, and tertiary legal sources. The results indicate that the legal and ethical liabilities of a notary for a deed annulled by the court depend on the presence or absence of errors or negligence by the notary in exercising their authority according to the Law on Notary Positions and the Notary Code of Ethics. The legal consequence of the annulment of a deed of agreement is the loss of its binding legal force and its evidentiary value as an authentic deed from the moment the court decision becomes legally binding (*inkracht*), thereby restoring the legal relationship of the parties to its original state (*restitutio in integrum*).

DOI: <https://doi.org/10.54660/IJMER.2026.7.1.124-131>

Keywords: Legal Liability, Notary Ethics, Deed of Agreement, Court

1. Introduction

Theoretically, there are two terms referring to accountability in legal dictionaries: liability and responsibility.^[1] Liability is a broad legal term encompassing almost all types of definite risks or obligations, depending on or potentially including all characters of rights and obligations, such as losses, threats, crimes, costs, or conditions that create a duty to enforce the law. Meanwhile, responsibility refers to being accountable for an obligation, including judgment, skill, ability, and competence in fulfilling the legal duties performed.^[2]

In executing authentic deeds, a notary must be held accountable if the deed contains errors or intentional violations committed by the notary. Conversely, if the element of error or violation originates from the appearing parties (*comparanten*), the notary cannot be held liable as long as they exercised their authority in accordance with regulations, as the notary merely records what is conveyed by the parties to be incorporated into the deed.^[3]

¹ M. Khoidin, *Tanggung Gugat Dalam Hukum Perdata (Civil Liability in Civil Law)*, Laksbang Justitia, Yogyakarta, 2020, p. 16.

² *Ibid*, p. 17

³ Kunni Afifah, "Tanggung jawab dan Perlindungan Hukum Bagi Notaris Secara Perdata Terhadap Akta Yang Dibuatnya" (Civil Liability and Legal Protection for Notaries Regarding the Deeds They Execute), *Lex Renaissance*, Vol. 2(1), 2017.

The authors observe that, in practice, deeds of agreement drafted by notaries are frequently annulled by court decisions. This raises questions regarding the extent of a notary's legal and ethical liability in the drafting process of a deed that is ultimately declared invalid or annulled by the court. Such annulments typically occur due to legal defects in the content of the agreement or because the parties lack sufficient legal capacity. Although a deed is annulled, this does not automatically eliminate the possibility of professional negligence by the notary in performing their duties.

A notary's responsibility is not only legal but also ethical. The Notary Code of Ethics, issued by the professional organization Ikatan Notaris Indonesia (INI), strictly mandates that notaries work professionally, independently, and impartially.^[4] Therefore, when a court annuls a deed, it is necessary to examine whether the notary performed their duties according to legal procedures and professional ethical standards. If a violation is found, the notary may be held liable through civil, criminal, or administrative channels.

Civil sanctions are imposed on notaries who violate Article 84 of Law Number 30 of 2004 concerning Notary Positions, as amended by Law Number 2 of 2014.^[5] Criminal sanctions are not explicitly detailed in Law Number 30 of 2004 or Law Number 2 of 2014. However, only one article discusses the dishonorable dismissal of a notary by the Minister, as stipulated in Article 13 of Law Number 30 of 2004, which states:^[6]

"A Notary shall be dishonorably dismissed by the Minister for being sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a criminal offense punishable by 5 (five) years or more..."

Administrative sanctions are punishments imposed on notaries who violate prevailing laws and regulations. The definition of administrative sanctions is found in Article 1, Paragraph 1 of the Regulation of the Minister of Law and Human Rights Number 61 of 2016 concerning the Procedures for Imposing Administrative Sanctions on Notaries, which states:^[7]

"Punishment imposed by the competent official upon a Notary for committing a violation of mandatory provisions or fulfilling prohibited provisions under the laws and regulations..."

The authors believe this phenomenon warrants further research as it concerns legal protection for parties entering into agreements via a notary and the integrity and professionalism of the notary profession itself. This study is also relevant for realizing legal certainty and strengthening public trust in the profession. Furthermore, the increasing

number of cases involving notarial deeds both in district courts and ethical disputes within the Notary Honorary Council indicates a need for a profound understanding of the boundaries of notarial liability.^[8]

In notarial practice, it is not uncommon to find deeds of agreement executed authentically by a notary that a court subsequently annuls. An agreement is essentially voidable if the subjective requirements under Article 1320 of the Civil Code are not met, namely mutual consent and legal capacity.^[9] When the consent provided by one party is proven to be defective (e.g., due to fraud), the will expressed in the agreement is considered not to have been born freely. In such conditions, the agreement is not automatically void but becomes voidable (*vernietigbaar*) if the aggrieved party files for annulment in court.^[10]

An agreement can also be annulled if one party lacks legal capacity, such as being a minor or under conservatorship. As long as these subjective elements are compromised, the legal consequence is that the agreement is considered valid until a judge annuls it. Objective requirements relate to the substance of the agreement, specifically a certain object and a lawful cause. If the substance concerns an unclear object, is impossible to perform, or contradicts law and morality, the objective requirements are not met. Consequently, the agreement becomes void ab initio (*nietig*), meaning it is deemed never to have existed from the beginning.^[11]

Thus, subjective requirements render an agreement voidable, while objective requirements render it void by law. In practice, many court decisions show that even if an agreement is contained in a formally valid notarial deed, the substance can still be tested and annulled if there are defects in its subjective or objective requirements. This proves that the authenticity of a deed is not immune to judicial control over the material validity of the agreement.^[12]

Such annulments do not occur without reason, as courts have strong legal grounds and juridical considerations for declaring a deed invalid or void by law. In land law practice, many legal events involve foreign nationals (WNA) owning land and property in Indonesia despite legal restrictions on foreign land ownership. Consequently, various legal practices are employed to allow foreigners to hold domestic assets.^[13]

One example of a court-annulled deed occurred in District Court Decision Number 259/Pdt.G/2020/PN.Gin, upheld by the Supreme Court. The case involved a foreign couple conducting land transfers through a nominee agreement using an Indonesian citizen (WNI) as the titleholder. The deed executed before the notary was declared void ab initio because it failed to meet the legal requirements of an agreement as outlined in the court's legal considerations.

Based on the background described above, the authors formulate the following research questions: (1) What are the forms of legal and ethical liability of a notary regarding a

⁴ Notary Code of Ethics of the Indonesian Notaries Association (INI), accessed via <https://www.ini-id.org/kode-etik>, on September 10, 2025.

⁵ Salim HS, Peraturan Jabatan Notaris (Regulations on Notary Positions), Sinar Grafika, Jakarta, 2nd Edition, 2019, p. 229.

⁶ Ibid, p. 243.

⁷ Ibid, p. 205.

⁸ Habib Adjie, Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik (Civil and Administrative Sanctions Against Notaries as Public Officials), Refika Aditama, Bandung, 3rd Edition, 2013, p. 112.

⁹ [9] Article 1320 of the Indonesian Civil Code (Burgerlijk Wetboek).

¹⁰ Subekti, Hukum Perjanjian (Law of Treaties/Agreements), PT Intermedia, Jakarta, 2005, p. 15.

¹¹ R. Setiawan, Pokok-Pokok Hukum Perikatan (Principles of the Law of Obligations), Bina Cipta, Bandung, 1999, p. 50

¹² Salim HS, Hukum Kontrak: Teori dan Teknik Penyusunan Kontrak (Contract Law: Theory and Techniques of Contract Drafting), Sinar Grafika, 7th Edition, Jakarta, 2010, p. 92.

¹³ Irfan Ardiansyah & Cucu Solihah, Nominee Arrangement Dalam Perspektif Kriminalisasi Hukum Pidana, Hukum Perdata, Hukum Islam, Notaris dan Asas Nasionalitas (Nominee Arrangements in the Perspective of Criminalization, Civil Law, Islamic Law, Notaries, and the Nationality Principle), Zahir Publishing, Yogyakarta, 2021, p. 3.

deed of agreement annulled by the court? and (2) What are the legal consequences of a deed of agreement annulled by the District Court?

2. Research Method

To address the issues identified in this study, the authors employ normative legal research, which is conducted by examining the forms of legal and ethical liability of notaries regarding deeds of agreement based on an analysis of laws and regulations related to deeds annulled by court decisions. According to Johnny Ibrahim, normative legal research is a scientific process aimed at uncovering the truth by utilizing scientific logical approaches from a normative perspective.^[14] This research utilizes several legal approaches to collect and analyze materials, namely: the Statute Approach, the Conceptual Approach, the Case Approach, and the Historical Approach.

Regarding the data collection technique, the authors apply the literature study method (*studi pustaka*), an approach involving the analysis of written legal data obtained from various widely published sources. In this study, the literature review was conducted by gathering various legal literatures through other legal documents and official websites, which were subsequently analyzed to ensure the data could be utilized as research material.

Normative juridical analysis is performed by examining written legal materials, both primary and secondary, such as statutes, regulations, doctrines, court decisions, and codes of ethics. To analyze the legal and ethical liability of notaries in this context, primary and secondary legal materials sourced from legislation, legal doctrine, and jurisprudence are used. Relevant primary legal materials include Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 concerning Notary Positions (UUJN). Article 16, Paragraph (1), point (a) of the UUJN explicitly states that a notary is obliged to act honestly, thoroughly, independently, impartially, and to protect the interests of the parties in every deed they execute. If a deed of agreement is annulled by the court, it creates an opening to evaluate whether the notary fulfilled their formal and material obligations as regulated in Article 38 of the UUJN regarding the formal requirements of an authentic deed.

3. Discussion

3.1. Forms of Legal and Ethical Liability of Notaries Toward Deeds of Agreement Annulled by the Court

3.1.1. Legal Liability of Notaries in the Drafting of Deeds of Agreement

The legal liability of a notary in drafting a deed of agreement is fundamentally inseparable from their status as a public official authorized by law to produce authentic deeds. In the author's view, a notary does not merely serve as a scribe for the parties' intentions but acts as a guarantor for the fulfillment of the formal requirements of a deed, ensuring it possesses conclusive evidentiary strength (*volledig bewijskracht*).

A notary's liability primarily lies in formal truth, which

entails ensuring that the identities of the parties, the date, the place of execution, and the signing procedures strictly adhere to the prevailing laws and regulations.^[15] In drafting an agreement, a notary is required to act with thoroughness, independence, and impartiality. This principle of "due diligence" is critical because any negligence such as failing to verify the legal capacity of the parties or failing to explain the contents and legal consequences of the deed can result in losses for the parties involved. Under such circumstances, a notary may be held legally liable through civil, administrative, or ethical channels.

As public officials, notaries function to guarantee the authenticity of a deed. They are appointed by the state's highest authority and are entrusted with public recognition to provide services in the public interest.^[16] The legal foundation for the existence of notaries in Indonesia is Article 1868 of the Civil Code, which states:^[17]

"An authentic deed is a deed executed in the form prescribed by law, drawn up by or before public officials authorized for that purpose at the place where the deed is executed."

The "public official" referred to in Article 1868 of the Civil Code specifically denotes a notary, as there is currently no other law regulating public officials with such general authority besides the Law on Notary Positions (UUJN). Even if other public officials are authorized to draft specific deeds, their existence is often not based on the comprehensive statutory framework required by Article 1868. According to the Civil Code, a deed is authentic only if it is made in the form prescribed by law by an official whose authority is derived from the law itself.

In the author's opinion, the legal liability of a notary in drafting a deed is limited yet strategic. It is limited because the scope of liability only covers formal and procedural aspects; however, it is strategic because of the notary's role in creating legal certainty and preventing future disputes. The author outlines the notary's legal liability from several aspects as follows:

A. Civil Liability of the Notary

The civil liability of a notary regarding a deed annulled by the court is closely related to their position as a public official authorized to create authentic deeds. A notarial deed possesses conclusive evidentiary strength as long as it meets the formal and material requirements set by law. However, if a court subsequently annuls a notarial deed, it can result in juridical consequences in the form of civil liability for the notary, provided the annulment was caused by the notary's error or negligence in exercising their office. The annulment of a deed does not automatically make a notary liable; a causal link must be proven between the notary's actions and the losses suffered by the parties.^[18]

The normative basis for a notary's civil liability is found in Law Number 30 of 2004 concerning Notary Positions, as amended by Law Number 2 of 2014 (UUJN). Article 16,

of Notaries to Create Land Deeds), Yogyakarta, Laksbang Justitia, 2021, p. 26.

¹⁷ Article 1868 of the Indonesian Civil Code (Burgerlijk Wetboek).

¹⁸ Habib Adjie, Op. Cit., p. 89.

¹⁴ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif (Theory and Methodology of Normative Legal Research)*, Bayumedia Publishing, Malang, 2013, p. 57.

¹⁵ [1] Article 1, Point 1 of Law Number 2 of 2014 concerning the Amendment to Law Number 30 of 2004 concerning Notary Positions.

¹⁶ Husni Thamrin & Khoidin, *Hukum Notariat Dan Pertanahan: Kewenangan Notaris Membuat Akta Pertanahan (Notarial and Land Law: The Authority*

Paragraph (1) of the UUJN emphasizes the notary's duty to act honestly, thoroughly, independently, and impartially, while protecting the interests of the parties. A breach of these duties serves as the basis for a civil claim if it causes damages.

Furthermore, Article 84 of the UUJN explicitly mentions that a notary can be held liable for damages, costs, and interest if, due to their error or negligence, the deed becomes void or only possesses the evidentiary strength of a private deed (*onderhands*). This provision demonstrates that the UUJN adopts the principle of fault-based liability in the context of a notary's civil accountability.^[19]

From a civil law perspective, the author notes that the court's annulment of a notarial deed is often linked to the concept of a tort (unlawful act) as regulated in Article 1365 of the Civil Code. If a notary, in the process of drafting a deed, commits an act that contradicts legal obligations, propriety, or due diligence such as failing to carefully verify identities, ignoring the objective or subjective requirements of the agreement, or recording statements that do not reflect reality such actions can be qualified as a tort.^[20]

In this section, the author deepens the analysis of administrative and ethical responsibilities. To help you understand the hierarchy of notary oversight in Indonesia, I have included a conceptual breakdown of the supervisory bodies.

In this regard, the author posits that the annulment of the deed by the court in Decision Number 259/Pdt.G/2020/PN.Gin serves as an indicator of a legal defect; however, it does not automatically prove a tort (*perbuatan melawan hukum*) by the notary without further analysis of the elements of fault, damages, and causation.

Therefore, the relationship between the annulment of a notarial deed and the notary's civil liability must be viewed professionally. Not every annulled deed triggers civil liability for the notary; it only occurs if the annulment stems from a breach of official duties or negligence that qualifies as a tort. This approach aligns with the doctrine that places the notary as a public official responsible for the formal aspects of the deed, while the material truth remains the responsibility of the parties, unless the notary clearly participated in or permitted a legal violation.^[21]

3.1.2. Administrative Liability of Notaries

As public officials appointed by the state to create authentic deeds and exercise other authorities under Law Number 2 of 2014, notaries bear administrative responsibility for violations of the administrative provisions of their office, which may result in administrative sanctions.

From the author's perspective, administrative liability arises when a notary violates formal provisions regarding the procedures of office, regardless of whether civil or criminal elements are met. These violations typically involve non-compliance with technical rules set forth in the Law on

Notary Positions (UUJN) and its implementing regulations. For example, failing to maintain the *minuta* (original) of a deed, failing to read the deed in the presence of the parties, or failing to record the deed in the repertorium are administrative infractions punishable by the Supervisory Board.

The procedure for imposing sanctions follows an investigation into alleged violations, which may be reported by the public, institutions, or discovered by the Supervisory Board itself. The investigation is first conducted by the Regional Supervisory Board (MPD). If proven guilty and the violation is sufficiently severe, the MPD may recommend sanctions to the Provincial (MPW) or Central (MPP) levels.^[22]

Pursuant to Regulation of the Minister of Law and Human Rights Number 61 of 2016, supervision is conducted hierarchically. If the MPD finds a violation, the MPW is authorized to issue a written warning. If the violation is deemed serious, the MPP may impose a temporary suspension. For extremely severe violations, the Minister of Law and Human Rights may impose honorable or dishonorable dismissal from the position of notary.

3.1.3. Ethical Liability of Notaries in Deed Drafting

Ethical liability represents the moral and professional obligation of a notary. In performing their duties, notaries are bound not only by statutory law but also by professional ethical values that demand integrity, independence, caution, and professional responsibility. Professional ethics serve as a vital foundation for maintaining the dignity of the office and public trust.^[23]

In the author's view, ethical liability is reflected in the duty to act honestly, independently, impartially, and with due diligence. Notaries must ensure that the deeds they create accurately reflect the will of the parties and do not contradict the law, public order, or morality. They are obliged to verify the identities of the parties, examine underlying documents, and provide adequate explanations regarding the contents and legal consequences of the deed. Such professionalism is a form of ethical responsibility to prevent future legal disputes.^[24]

Furthermore, ethical liability involves the duty to maintain the confidentiality of information obtained during the drafting process. A breach of ethics not only harms the parties but also erodes public confidence in the profession.^[25] This ethical framework is concretely regulated in the Notary Code of Ethics established by the Indonesian Notaries Association (INI).^[26]

According to Salim HS, the Notary Code of Ethics consists of rules applicable within the organization, specifically binding INI members through two concepts: the code of ethics and the notary.^[27] These regulations have evolved through:^[28]

1. The INI Notary Code of Ethics, established on January

¹⁹ Sjaifurrachman and Habib Adjie, Op. Cit., p. 173.

²⁰ Subekti, Pokok-Pokok Hukum Perdata (Principles of Civil Law), Intermasa, Jakarta, 2003, p. 135.

²¹ I Gede A.B. Wiranata, "Tanggung Jawab Notaris terhadap Akta yang Dibuatnya Ditinjau dari UU Jabatan Notaris," Jurnal Magister Kenotariatan, Vol. 5(2), 2017, p. 112.

²² Ibid, p. 75.

²³ Habib Adjie, Op. Cit., p. 45.

²⁴ Sjaifurrachman & Habib Adjie, Aspek Pertanggung Jawaban Notaris dalam Pembuatan Akta (Aspects of Notary Liability in Deed Drafting), Mandar Maju, Bandung, 2022, p. 87.

²⁵ Abdul Ghofur Anshori, Lembaga Kenotariatan Indonesia: Perspektif Hukum dan Etika Profesi (Indonesian Notarial Institutions: Legal and Professional Ethics Perspectives), UII Press, Yogyakarta, 2020, p. 132.

²⁶ Andyna Susiawati Achmad, Tanggung Jawab Profesi Hukum Notaris dalam Tindakan Malpraktek dan Deliberate Dishonesty Action (Professional Liability of Notaries in Malpractice and Deliberate Dishonesty), Jejak Pustaka, Yogyakarta, 2023, p. 20.

²⁷ Salim HS, Pengantar Kode Etik Notaris (Introduction to the Notary Code of Ethics), Reka Cipta, Bandung, 2022, p. 3.

²⁸ Ibid, p. 6.

- 27, 2005 (2005 Code).
- The Amendment to the Code of Ethics at the Extraordinary Congress in Banten, May 29–30, 2015 (2015 INI Code).

The author emphasizes that notaries are obligated to continuously improve their knowledge beyond just law and to prioritize service to the public and the state. Theoretically, a violation of the INI Code of Ethics often overlaps with violations of the formal or material requirements of the UUJN, which provides the jurisdictional basis for a court to annul a deed.

The enforcement of the code of conduct (*handhaving van een notariscode*) is essential.^[29] For example, when a notary violates ethics by failing to have the parties physically present yet still signing the deed, this act automatically violates Article 16, Paragraph (1), point (m) of Law No. 2/2014 (UUJN). This results in the deed losing its authenticity and being "degraded" to a private deed (*onderhands*). In the author's view, this degradation provides the legal basis for a judge to annul the deed because it no longer qualifies as conclusive evidence. Professional ethical violations are viewed as a form of Tort (PMH) under Article 1365 of the Civil Code, where unethical behavior is treated as a neglect of legal duty that causes loss.^[30]

3.2. Legal Consequences of Deeds Annulled by the District Court

3.2.1. Deeds Annulled by the District Court

Before further examining the legal consequences of the court's annulment of a deed, it is necessary to clearly outline the facts of Gianyar District Court Decision Number 259/Pdt.G/2020/PN Gin. This description provides an overview of the dispute's background, the parties involved, and the judge's considerations in deciding the case.

In 2005, an agreement was reached between a foreign national (WNA) and an Indonesian citizen (WNI), wherein the WNA transferred funds to the WNI to purchase land and construct a villa. The purchased land was located in Gianyar Regency, consisting of two plots measuring 200 m² and 1,150 m². In this transaction, the WNI's name was merely used or "borrowed" as an administrative requirement for the registration of land ownership (*Hak Milik*). To formalize the legal relationship, a deed of agreement and a deed of power of attorney were executed before a notary to affirm the WNA's civil rights and the WNI's position in the purchase of the two plots.

In the deed of agreement, Article 1 stated that the actual owner of the land was the second party (WNA), while the first party (WNI) only voluntarily lent their name without compensation for the benefit of the second party. Therefore, all risks and benefits arising from the land were the sole responsibility and right of the second party, while the first party bore no risk and had no right to any profits.

Furthermore, Article 2 mentioned that to facilitate the exercise of the second party's rights, through another deed executed on the same day, the first party granted full, broad, and absolute power of attorney to the second party, which could not be revoked or terminated for any reason. This

power of attorney included a clause authorizing the proxy to lease, sell, transfer, or perform other legal acts on behalf of the grantor regarding the land registered in the WNI's name. By 2009, disputes arose regarding the management of the villa. The WNA claimed the WNI failed to provide monthly management reports, while the WNI argued that the proceeds were used for maintenance and salaries because the WNA had stopped providing operational funds. In May 2017, the WNA proposed selling the villa, but the WNI refused and even threatened to block road access. After failed non-litigation settlements and mediation attempts in 2018 and 2019, the WNA filed a tort lawsuit (PMH) at the Gianyar District Court.

Based on Decision No. 259/Pdt.G/2020/PN Gin, the court declared that the deed of statement and deed of power of attorney made before the notary were contrary to the law, and thus declared them void ab initio (*batal demi hukum*) and without binding legal force. As a result of this annulment, all legal acts based on these deeds are deemed never to have occurred. Consequently, the land rights remain with the WNI as the legally registered owner on the land certificate, despite their previous role as a nominee.

In the author's view, the notary who proceeded to draft these deeds should be sanctioned by the Supervisory Board. The notary was consciously aware that the agreement constituted a practice of legal smuggling (*penyelundupan hukum*). It is clear that the party making the agreement was a legal subject prohibited by law from holding ownership rights over Indonesian land. However, the notary ignored this and proceeded with the deeds, which resulted in the de facto transfer of land control to a foreigner. Therefore, the author believes there is no legal protection for notaries who insist on creating nominee agreements regarding land ownership for foreigners in Indonesia.

Notarial doctrine explains that although a notarial deed has conclusive evidentiary strength, it can still be annulled if it fails to meet the requirements for a valid agreement under Article 1320 of the Civil Code. These include mutual consent, capacity, a certain object, and a lawful cause. If any of these are missing, the deed can be challenged in court. Habib Adjie explains that the evidentiary strength of a deed remains valid and binding until a court declares otherwise. In other words, annulment can only be achieved through a judicial process where sufficient evidence of a legal defect is provided.^[31]

In the author's opinion, court annulment is essentially a form of judicial control over the validity of legal acts. From the perspective of the law of evidence, once a notarial deed is annulled, it loses its evidentiary strength as an authentic deed and no longer binds the parties. While authentic deeds hold a superior position as evidence, this power is forfeited if the deed is proven to have been made in violation of applicable law or contains fundamental legal defects.^[32]

The author notes that in notarial law, a distinction is made between deeds that are void ab initio (*batal demi hukum*) and those that are voidable (*dapat dibatalkan*). Deeds void ab initio are considered never to have had legal force from the outset because they contain fundamental flaws (e.g., being contrary to public policy). Conversely, voidable deeds are considered valid until a court decision declares their

²⁹ Salim HS, Op. Cit., p. 59.

³⁰ Ikatan Notaris Indonesia, "Komparasi Kode Etik dan UUJN dalam Praktik Kenotariatan" (Comparison of the Code of Ethics and UUJN in Notarial Practice), Lex Privatum, Vol. 12(2), 2026, p. 112.

³¹ Habib Adjie, Op. Cit., p. 45.

³² Tan Thong Kie, Studi Notariat dan Serba-Serbi Praktek Notaris (Notarial Studies and Miscellaneous Notary Practices), Ichtar Baru Van Hoeve, Jakarta, 2007, p. 214.

annulment.

Sudikno Mertokusumo states that the annulment of an agreement is a consequence of failing to meet subjective or objective requirements; thus, a judge may declare the agreement no longer binding.^[33] In Indonesian judicial practice, the annulment of notarial deeds often relates to substantive legal violations, such as land ownership restrictions or agreements that contradict statutory regulations. A primary example is the nominee agreement dispute in Bali between Australian citizens and an Indonesian national, where the transaction despite being formalized in notarial deeds was ultimately struck down by the court for failing to fulfill the "lawful cause" requirement.^[34]

The practice of utilizing nominee agreements for land ownership by foreign nationals is fundamentally a form of legal smuggling (*penyelundupan hukum*). This is because the Basic Agrarian Law (UUPA) explicitly mandates that ownership rights (*Hak Milik*) over land may only be held by Indonesian citizens. Consequently, using an Indonesian citizen's name to disguise land ownership by a foreigner is considered a violation of Indonesian agrarian law. Academic studies of this court decision explain that nominee agreements fail to fulfill the requirement of a lawful cause (*causa yang halal*) as stipulated in Article 1320 of the Civil Code, as the underlying purpose is to circumvent legal prohibitions.^[35]

In the author's view, deeds containing nominee agreements are contrary to law because their substance contradicts prevailing regulations. As a result, such deeds lack binding legal force and are rightfully declared invalid. Decision No. 259/Pdt.G/2020/PN Gin demonstrates that a notarial deed does not always guarantee that a legal act is fully valid. If the content or objective of the agreement violates statutory regulations, the deed can be challenged and declared legally void.

A. Legal Status of Notarial Deeds Annulled by the Court

The legal status of a notarial deed annulled by the court is that it loses its evidentiary value as an authentic deed and is degraded to a private deed (*onderhands*) or declared void *ab initio*. It no longer binds the parties and may trigger legal consequences for a negligent notary (e.g., compensation or disciplinary sanctions). However, it is important to note that judges do not technically "cancel" the deed but rather declare it to have no legal force. Furthermore, legal protection remains for the notary if negligence is not proven.^[36]

In the author's opinion, this status is a direct consequence of failing to meet the legal requirements of a contract specifically the objective requirements. In the Gianyar case, although the notary was not a party to the lawsuit, the judge determined that the deeds contained a nominee arrangement that violated agrarian law. Consequently, the agreement was declared to have no binding legal force.

³³ Sudikno Mertokusumo, *Hukum Pembuktian di Pengadilan* (The Law of Evidence in Court), Liberty, Yogyakarta, 2010, p. 158.

³⁴ Gianyar District Court Decision Number 259/Pdt.G/2020/PN.Gin, registered on October 14, 2020, with David John Lock and Ann Lilian Lock as Plaintiffs.

³⁵ Dewa Gede Swamitra Mahottama, *et al.*, "Tinjauan Yuridis Pembatalan Akta Notaris (Akta Perjanjian Nominee) dalam Putusan Nomor 259/Pdt.G/2020/PN.Gin," *Al-Zayn: Jurnal Ilmu Sosial dan Hukum*, Vol. 4(1), 2024, p. 73.

³⁶ Moh. Syahrul Hermawan, Abdul Qahar & Risma, "Tinjauan Yuridis Terhadap Pembatalan Akta Notaris," *Qawanin Jurnal Ilmu Hukum*, Vol. 1(1), 2021, pp. 1-8.

B. Impact on the Deed

An annulled notarial deed undergoes a fundamental legal transformation; its status changes from an authentic deed with conclusive evidentiary strength to a document with no legal effect from the outset (*void ab initio*). With the annulment, the legal acts reflected therein are deemed never to have occurred. Thus, the rights and obligations that were supposed to arise must be restored to their original state (*restitutio in integrum*).

This annulment also impacts the legal protection of the parties involved and third parties. For parties acting in good faith such as a buyer who has paid for and received rights the annulment can cause significant losses because the rights they acquired are deemed invalid.^[37]

Regarding Decision No. 259/Pdt.G/2020/PN Gin, the author views the drafting of a nominee deed as a lack of due diligence (*kehati-hatian*) by the notary. Since the notary was not a party to the litigation, the court did not directly rule on the notary's specific liability. However, from a notarial law perspective, drafting a deed that facilitates legal smuggling can be analyzed as a failure to exercise professional authority prudently.

3.2.2. Legal Consequences of Annulment by the District Court

The annulment of a deed by the court is a significant legal consequence that affects the status of the deed, the parties involved, and the object of the legal relationship. In Indonesian civil law, while authentic deeds hold a strategic position as powerful evidence, their force is not absolute. Courts have the authority to declare a deed void if it violates legal provisions, morality, or public order.^[38] In this specific case, the focus remains on the nominee objective which contradicts Indonesian agrarian law.^[39]

A. Implications of Annulment for the Parties

The most critical consequence is the revocation of rights and obligations previously based on the deed. In civil law doctrine, annulment creates an *ex tunc* effect, meaning the deed is considered never to have existed, rendering the legal relationship void.^[40]

- **First:** The agreement loses its binding force. Under Article 1320 of the Civil Code, if one of the four requirements (consent, capacity, certain object, or lawful cause) is not met, the agreement is either voidable or void by law.⁴¹ Post-annulment, parties are no longer bound to perform the duties listed in the deed.
- **Second:** It creates an obligation for *restitutio in integrum* restoring the parties to their original positions prior to the agreement.⁴² Any performance already rendered, such as payments or delivery of goods, must in principle be returned to the original rightful party.
- **Third:** It grants the aggrieved party the right to sue for

³⁷ Fauziah Lubis, *et al.*, "Akibat Hukum Pembatalan Akta Notaris Berdasarkan Putusan Pengadilan Dalam Sengketa Perdata," *Jurnal IAIN Ambon*, Vol. 21(1), 2025, p. 27.

³⁸ Subekti, *Op. Cit.*, p. 17.

³⁹ Gianyar District Court Decision Number 259/Pdt.G/2020/PN.Gin.

⁴⁰ Sudikno Mertokusumo, *Hukum Acara Perdata Indonesia* (Indonesian Civil Procedural Law), Liberty, Yogyakarta, 2009, p. 156.

⁴¹ Article 1320 of the Indonesian Civil Code (Burgerlijk Wetboek).

⁴² Subekti, *Op. Cit.*, p. 45.

damages. If the annulment was caused by fault, fraud, duress, or a tort committed by one party, the injured party may seek compensation under Article 1365 of the Civil Code.^[43]

- **Fourth:** The deed loses its status as an authentic instrument. It can no longer be used as conclusive evidence in judicial proceedings.^[44]
- **Fifth:** It creates legal uncertainty. In the Gianyar case, the WNA who previously controlled the land through the nominee mechanism lost those rights, while the WNI's status as the sole legal owner was restored. While this upholds agrarian law, it causes financial loss to the transacting parties a problem arising from the notary's lack of caution.

B. Juridical Consequences for the Object of the Agreement

The annulment has a direct impact on the object of the dispute (the land and buildings). Juridically, the object cannot be transferred or controlled based on the annulled deed because the underlying legal relationship is deemed non-existent. This affirms that the validity of an agreement depends heavily on the legality of the object, as required by Article 1320 of the Civil Code.

These juridical consequences imply that:

1. The status of the object reverts to the original owner, rendering any subsequent actions based on the notarial deed invalid.
2. Parties who have utilized the object economically may have grounds for compensation claims.
3. Notaries are reminded that their duty is not just to draft a document, but to ensure the object is legally capable of being transferred.

This serves as a preventive mechanism to stop authentic documents from being used as tools to break the law.^[45] The author emphasizes that a balance between legal certainty and substantive justice is required so that the restoration of the object does not cause additional undue hardship to the parties.

4. Conclusion

Based on the research results and discussions presented, the following conclusions are drawn:

1. Legal and Ethical Liability of the Notary: The liability of a notary toward a court-annulled deed is multidimensional, encompassing civil, administrative, and ethical aspects. Civilly, a notary may be held liable for damages based on the principle of *fault liability* and Article 1365 of the Civil Code (Tort) if proven negligent in fulfilling the formal and material requirements of the deed. Administratively, notaries are subject to sanctions ranging from written warnings to dishonorable dismissal by the Supervisory Board for violating the procedures of the Law on Notary Positions (UUJN). Ethically, notaries are responsible for maintaining integrity and professionalism; ethical breaches such as facilitating "legal smuggling" through nominee agreements lead to the degradation of the deed's evidentiary strength and the erosion of professional dignity.
2. Legal Consequences of Deed Annulment: The

annulment of a deed by a District Court (as seen in Decision No. 259/Pdt.G/2020/PN Gin) results in the deed losing its conclusive evidentiary power and being declared void ab initio. The primary impact is the application of the principle of *restitutio in integrum*, requiring the parties to be restored to their original positions before the agreement was executed. In the context of nominee agreements, land rights revert entirely to the titleholder (Indonesian citizen) because the legal smuggling involved violates the objective requirement of a "lawful cause" under Article 1320 of the Civil Code, rendering all legal acts based on said deed non-existent in the eyes of the law.

References

1. Adjie H. Sanksi Perdata dan Administratif Terhadap Notaris Sebagai Pejabat Publik [Civil and Administrative Sanctions Against Notaries as Public Officials]. Bandung: Refika Aditama; 2013.
2. Anshori AG. Lembaga Kenotariatan Indonesia: Perspektif Hukum dan Etika Profesi [Indonesian Notarial Institutions: Legal and Professional Ethics Perspectives]. Yogyakarta: UII Press; 2020.
3. Ardiansyah I, Solihah C. Nominee Arrangement Dalam Perspektif Kriminalisasi Hukum Pidana, Hukum Perdata, Hukum Islam, Notaris dan Asas Nasionalitas [Nominee Arrangements in the Perspective of Criminalization, Civil Law, Islamic Law, Notaries, and the Nationality Principle]. Yogyakarta: Zahir Publishing; 2021.
4. Ibrahim J. Teori dan Metodologi Penelitian Hukum Normatif [Theory and Methodology of Normative Legal Research]. Malang: Bayumedia Publishing; 2013.
5. Khoidin M. Tanggung Gugat Dalam Hukum Perdata [Liability in Civil Law]. Yogyakarta: Laksbang Justitia; 2020.
6. Mertokusumo S. Hukum Acara Perdata Indonesia [Indonesian Civil Procedural Law]. Yogyakarta: Liberty; 2009.
7. Mertokusumo S. Hukum Pembuktian di Pengadilan [The Law of Evidence in Court]. Yogyakarta: Liberty; 2010.
8. Salim HS. Hukum Kontrak: Teori dan Teknik Penyusunan Kontrak [Contract Law: Theory and Techniques of Contract Drafting]. Jakarta: Sinar Grafika; 2010.
9. Salim HS. Peraturan Jabatan Notaris [Regulations on Notary Positions]. Jakarta: Sinar Grafika; 2019.
10. Salim HS. Pengantar Kode Etik Notaris [Introduction to the Notary Code of Ethics]. Bandung: Reka Cipta; 2022.
11. Setiawan R. Pokok-Pokok Hukum Perikatan [Principles of the Law of Obligations]. Bandung: Bina Cipta; 1999.
12. Sjaifurrachman, Adjie H. Aspek Pertanggung Jawaban Notaris dalam Pembuatan Akta [Aspects of Notary Liability in Deed Drafting]. Bandung: Mandar Maju; 2022.
13. Soeroso R. Perjanjian di Bawah Tangan [Private Agreements]. Jakarta: Sinar Grafika; 2011.
14. Subekti. Pokok-Pokok Hukum Perdata [Principles of Civil Law]. Jakarta: Intermasa; 2003.
15. Subekti. Hukum Perjanjian [Law of Treaties]. Jakarta:

⁴³ Article 1365 of the Indonesian Civil Code (Burgerlijk Wetboek).

⁴⁴ R. Soeroso, Perjanjian di Bawah Tangan (Private Agreements), Sinar Grafika, Jakarta, 2011, p. 73

⁴⁵ Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA), Article 20.

- PT Intermasa; 2005.
16. Achmad SA. Tanggung Jawab Profesi Hukum Notaris dalam Tindakan Malpraktek dan Deliberate Dishonesty Action [Professional Liability of Notaries in Malpractice and Deliberate Dishonesty Actions]. Yogyakarta: Jejak Pustaka; 2023.
 17. Tan TK. Studi Notariat dan Serba-Serbi Praktek Notaris [Notarial Studies and Miscellaneous Notary Practices]. Jakarta: Ichtar Baru Van Hoeve; 2007.
 18. Thamrin H, Khoidin. Hukum Notariat Dan Pertanahan: Kewenangan Notaris Membuat Akta Pertanahan [Notarial and Land Law: The Authority of Notaries to Create Land Deeds]. Yogyakarta: Laksbang Justitia; 2021.
 19. Afifah K. Tanggung jawab dan Perlindungan Hukum Bagi Notaris Secara Perdata Terhadap Akta Yang Dibuatnya [Civil Liability and Legal Protection for Notaries Regarding the Deeds They Execute]. *Lex Renaissance*. 2017;2(1).
 20. Hermawan MS, Qahar A, Risma. Tinjauan Yuridis Terhadap Pembatalan Akta Notaris [Juridical Review of the Annulment of Notarial Deeds]. *Qawanin Jurnal Ilmu Hukum*. 2021;1(1).
 21. Ikatan Notaris Indonesia. Komparasi Kode Etik dan UUJN dalam Praktik Kenotariatan [Comparison of the Code of Ethics and the Law on Notary Positions in Notarial Practice]. *Lex Privatum*. 2026;12(2).
 22. Lubis F, *et al.* Akibat Hukum Pembatalan Akta Notaris Berdasarkan Putusan Pengadilan Dalam Sengketa Perdata [Legal Consequences of Notarial Deed Annulment Based on Court Decisions in Civil Disputes]. *Journal of IAIN Ambon*. 2025;21(1).
 23. Swamitra Mahottama DG, *et al.* Tinjauan Yuridis Pembatalan Akta Notaris (Akta Perjanjian Nominee) dalam Putusan Nomor 259/Pdt.G/2020/PN.Gin [Juridical Review of Notarial Deed Annulment (Nominee Agreement Deed) in Decision Number 259/Pdt.G/2020/PN.Gin]. *Al-Zayn: Journal of Social Sciences and Law*. 2024;4(1).
 24. Wiranata I GAB. Tanggung Jawab Notaris terhadap Akta yang Dibuatnya Ditinjau dari UU Jabatan Notaris [Notary Liability for Executed Deeds Viewed from the Law on Notary Positions]. *Journal of Master of Notarial Law*. 2017;5(2).
 25. *Burgerlijk Wetboek*.
 26. Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA).
 27. Law Number 30 of 2004 concerning Notary Positions (UUJN).
 28. Law Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Notary Positions.
 29. Regulation of the Minister of Law and Human Rights Number 61 of 2016 concerning Procedures for Imposing Administrative Sanctions on Notaries.
 30. Gianyar District Court Decision Number 259/Pdt.G/2020/PN.Gin.
 31. Indonesian Notaries Association (INI). Kode Etik Notaris. Available from: <https://www.ini-id.org/kode-etik/>. Accessed 2026 May 8.

How to Cite This Article

Nurul Fadhilah, Lalu Hadi Adha, Eduardus Bayo Sili. Legal and ethical liabilities of notaries regarding deeds of agreement annulled by the court. *Int J Multidiscip Evol Res*. 2026;7(1):124-131. doi:10.54660/IJMER.2026.7.1.124-131.

Creative Commons (CC) License

This is an open access journal, and articles are distributed under the terms of the Creative Commons Attribution-NonCommercial-ShareAlike 4.0 International (CC BY-NC-SA 4.0) License, which allows others to remix, tweak, and build upon the work non-commercially, as long as appropriate credit is given and the new creations are licensed under the identical terms.