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Notary's Authority to Make a Deed of Power of Attorney for a Credit Agreement Without the Consent of the Owner of the Land Rights Certificate

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Abstract: This study aims to examine the authority of notaries in making power of attorney deeds in credit agreements without the consent of the land title certificate owner, along with its legal consequences, and legal protection against misuse of power of attorney deeds for additional credit agreements made without the knowledge of the certificate owner. This study is a type of normative legal research using a statutory approach and a conceptual approach. The legal materials used include primary legal materials, secondary legal materials, and tertiary legal materials. The results of this study are: first, Notaries do not have the authority to make power of attorney deeds for credit agreements without the consent of the land title certificate owner; second, the legal consequences for the owner of the land title certificate if there is a misuse of the power of attorney for credit agreements without his/her consent can be in the form of material or immaterial losses; and third, the form of legal protection for the owner of the land title certificate for the misuse of the power of attorney for credit agreements without his/her consent can be taken through legal efforts in the form of: civil lawsuits for compensation, criminal charges on the basis of unlawful acts, and/or complaints to the Notary Supervisory Board for violations of the notary's code of ethics in making power of attorney for credit agreements without the consent of the owner of the land title certificate.

Keyword: Legal Protection, Certificate Owner, Notary, Power of Attorney for Credit Agreements

INTRODUCTION

Authentic deeds outline the rights and obligations of each party in writing, thus playing an important role in ensuring legal protection and preventing disputes. In credit agreement practices that use land title certificates as collateral, creating power of attorney deeds often becomes a standard procedure. However, problems arise when notaries create power of attorney deeds without the consent or knowledge of the legitimate landowner. This raises

questions about the limits of notarial authority and its impact on deed validity and legal protection for landowners (Muza, 2024).

Power of attorney deeds in credit agreements typically grant authority to creditors to act on behalf of landowners, for example in signing Mortgage Rights Granting Deeds (APHT) or selling collateral in case of default (Al Hadid, 2019). Although subject to Civil Code provisions regarding granting of power, their use as instruments in land collateral needs careful interpretation to avoid conflict with basic principles of the Basic Agrarian Law (UUPA) which upholds ownership rights as the highest right.

The UUPA provides important foundations for protecting land rights and confirms that legal actions that bind or encumber land rights must be carried out with attention to principles of protection and legal certainty. Therefore, creating power of attorney deeds must consider the limits of landowner authority. Creating power of attorney deeds without landowner consent risks causing serious losses, including loss of asset control and potential auction without notification. This undermines legal certainty and opens opportunities for disputes that conflict with state-guaranteed land rights protection (Bahri, 2024).

This problem is closely related to obligations that must be fulfilled by notaries as regulated in the Notary Position Law (UUJN). Notaries have responsibility to act honestly, carefully, independently, and impartially, to maintain balance and protection of the rights and interests of all parties involved. Creating deeds without obtaining valid consent from interested parties constitutes serious violation of professionalism, integrity, and prudence principles that must be upheld by notaries. In this context, deeds compiled without fulfilling these principles not only violate professional ethics, but also have potential to cause legal disputes that harm related parties (Haris et al., 2023).

As legal products in the form of authentic documents, notarial deeds must truly represent the statements of will and agreements of the parties accurately. Law Number 30 of 2004 concerning Notary Position as amended by Law Number 2 of 2014 confirms that notaries are responsible for ensuring that deed contents are truly understood by all parties present. Additionally, notaries are also obligated to provide adequate access to information and relevant legal provisions, to prevent information imbalances that can cause injustice in legal acts contained in such deeds (Diatnika & Mahendrayana, 2022). Thus, the notary's role is not only as recorder, but also as guardian of the balance of legal rights and obligations of the parties (Mauli et al., 2023).

As public officials authorized to create authentic deeds, notaries can be held accountable for their actions related to their duties. Authentic deeds as the strongest evidence have important functions in every legal relationship in society. With valid legal basis, the rights and obligations of parties are clearly outlined, ensuring legal stability and avoiding disputes. Article 1792 of the Civil Code states that granting power is an agreement that gives authority to another person to act on behalf of the grantor (Anam & Nurdin, 2023).

Notarial deeds are signed letters containing events that form the basis of a right or agreement, made consciously to prove them. In the context of credit agreements, power of attorney deeds provide written legal certainty. Power of attorney letters are required with certain words to transfer goods, pledge them, settle disputes, or perform other legal acts that can only be done by legitimate owners (Wardhani, 2017).

For the notary profession to be carried out professionally and not harm society, strong moral and legal foundations are needed. This profession continues to develop toward more scientific, humanistic, and socially relevant directions. The Notary Professional Code of Ethics confirms that notaries must carry out duties independently, honestly, impartially, and responsibly (Wardio & Hanim, 2018). Notaries must also have adequate education, freedom to act, and ability to control themselves. However, in practice, violations are still found, particularly regarding power of attorney deeds in credit agreements, such as creation of

power of attorney deeds by notaries without consent from land certificate owners and deed contents that are inconsistent within one document.

This problem shows legal uncertainty regarding the limits of notarial authority in creating power of attorney deeds that impact ownership rights. Such practices not only violate professional ethics, but also open opportunities for legal violations and land ownership conflicts. Therefore, it is important to conduct in-depth research to create legal certainty, prevent losses for parties not directly involved, and avoid potential prolonged disputes.

Based on this background, this research becomes important to formulate firm boundaries regarding notarial authority in creating credit agreement power of attorney deeds without consent from land title certificate owners. Another purpose is to provide effective legal protection recommendations for land rights owners so their rights are not misused in credit agreement practices. This research aims to examine the notary's authority in creating credit agreement power of attorney deeds made without the consent of land title certificate owners. It also seeks to identify the legal sanctions that can be imposed on notaries who misuse such deeds and to explore the legal remedies available to land title certificate owners whose rights have been violated due to the creation of these deeds without their knowledge.

METHOD

This research uses a normative juridical approach, namely a type of legal research oriented toward literature review as the primary source. Thus, this research aims to build legal arguments based on existing norms, without conducting empirical testing of social reality (Kamelia, 2017).

To obtain complete and deep understanding of the legal issues that are the focus of this research, several approaches are used in an integrated manner. First, the statutory approach is applied by examining various written legal provisions that form the regulatory basis, both laws and implementing regulations. Second, the case approach is utilized to analyze relevant court decisions, to see how legal norms are implemented in practice. Third, the conceptual approach is used to explore legal concepts, principles, and theories related to the discussed problems. The combination of these three approaches is expected to provide a comprehensive analytical framework and enrich arguments in the research (Sean et al., 2023).

Legal materials used in this research are generally categorized into several types (Sean et al., 2023). The primary legal materials consist of statutory provisions and court decisions, organized according to their legal hierarchy.

- a. 1945 Constitution;
- b. Civil Code;
- c. Law Number 2 of 2014 concerning Notary Position;
- d. Law Number 4 of 1996 concerning Mortgage Rights;
- e. Jurisprudence;

The most dominant type of secondary legal materials includes law books, legal dictionaries, journal articles, and legal expert opinions published in written form or recorded in various scientific works. Tertiary legal materials are sources that provide information or guidance related to primary and secondary legal materials, and tertiary legal materials themselves. Examples of tertiary legal materials include legal dictionaries, encyclopedias, cumulative indexes, and so forth.

In this research, the legal material collection process is carried out by relying on secondary data collected through literature review. This review includes analysis of various legal sources, whether primary, secondary, or tertiary. The purpose of this study is to obtain deep theoretical foundations, including positive law, expert opinions, and various written works or official documents relevant to and supporting the research topic. Thus, this research

aims to collect diverse information that can provide comprehensive insights into the examined problems (Supartini & Mashdurohatun, 2016).

In this research, analysis of various legal materials is conducted through legal interpretation processes and application of legal construction methods. Various legal interpretation techniques used in this research are grammatical and systematic interpretation (Mauli et al., 2023). Some people identify this method as interpretation based on grammatical or linguistic aspects. In this approach, interpreters attempt to explore the meaning of a word, term, phrase, or legal sentence by relating the text to existing language structures or to its use in daily context. Research related to legal systematics can be focused on specific laws or recorded legal documents. The main purpose of this research is to identify and analyze various fundamental concepts in law, such as understanding legal society, legal subjects, rights and obligations, legal events, legal relationships, and legal objects. This research aims to understand deeply the foundations that form legal structure and interactions between these legal elements.

RESULTS AND DISCUSSION

Notarial Authority in Creating Credit Agreement Power of Attorney Deeds Without Landowner Consent

Based on provisions in Law Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Notary Position (UUJN), notaries are recognized as public officials given authority to create authentic deeds and carry out other tasks regulated by law. In carrying out their functions, notaries serve as neutral parties to provide legal certainty to society. State assignment of notaries aims to represent public interests in deed creation processes and in implementing notarial obligations. Notary responsibility is not only limited to document creation, but also includes efforts to maintain balance between rights and obligations of related parties through deeds they compile. Based on Article 15 UUJN, notaries have authority to create authentic deeds for all acts, agreements, and stipulations required or desired to be contained in authentic deeds, as long as not excluded to other officials or determined otherwise by law. Thus, notarial authority is broad in nature, but still limited by positive legal provisions (Maria, 2020).

Credit Agreement Power of Attorney Deeds are legal documents created before notaries, containing granting of power from a person or legal entity to another party to perform legal acts related to credit approval (Silviana, 2020). This deed is usually used in financing transactions, both for individual and corporate purposes, involving asset collateral such as land or property. This power granting aims to facilitate credit processes, especially in document management, credit agreement signing, and mortgage rights registration. After the grantor understands and agrees to deed contents, it continues with deed signing by the grantor before the notary (Mutmainnah & Bima, 2020). Notaries are tasked with ensuring that grantors have understood all contents and legal consequences of created deeds, in accordance with preventive legal protection principles.

Notarial authority in creating Credit Agreement Power of Attorney Deeds is based on Article 15 Paragraph (1) of Law Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Notary Position (UUJN), which provides legal basis for notaries to create various authentic deeds, including special power of attorney deeds in financing contexts (K. M. Putri et al., 2022). Notarial authority, according to Article 15 paragraph (2) letter e UUJN, includes creating deeds related to proof of an act, agreement, or stipulation performed by parties. Additionally, notaries have obligations to provide legal counseling to parties before deed signing, including explaining legal consequences of power granting, and the importance of obtaining certificate owner consent if land is used as credit collateral. This counseling becomes part of preventive efforts to prevent future disputes (Nugraha, 2020).

However, in implementation, this authority must still consider material legal aspects, especially regarding validity of objects and legal subjects involved in deed creation, as prudence principles inherent in notarial positions.

In discourse regarding limits of notarial authority in creating Credit Agreement Power of Attorney Deeds involving land rights collateral, analysis of dichotomy between formal authority and substantial responsibility is needed. Based on the Notary Position Law (UUJN), notarial authority explicitly focuses on formal legality aspects, namely authentication of party statements and fulfillment of administrative requirements (Irawan et al., 2022). However, interpretation of purely formalistic authority risks ignoring substantial juridical impacts of legal acts contained in deeds, especially if related to third party rights protection. Therefore, notary responsibility should not only stop at administrative validity, but also include active obligations to consider and mitigate potential violations of property rights that may arise from deed substance.

In the context of creating Credit Agreement Power of Attorney Deeds that may involve land collateral, the principle of not harming others becomes an important basis that expands the scope of notary obligations. It is not enough for notaries to only record the wishes of parties appearing; notaries are also responsible for ensuring that substance of legal acts contained in deeds do not conflict with material law, including protection of third party ownership rights (Rosadi, 2020). If the power object concerns land, notaries must explore the validity of land rights, ensure grantors truly have legitimate authority, or at least have obtained explicit consent from certificate owners. This obligation goes beyond mere formal identity verification, but also touches aspects of rights legitimacy and power over legal objects, to maintain deed integrity as reflection of legitimate legal will.

In the context of validity of Credit Agreement Power of Attorney Deeds (AKPK) and Mortgage Rights Granting Deeds (APHT) created without consent from land title certificate owners, their legal status requires in-depth analysis of several principles and statutory provisions. Formally, AKPK as authentic deeds created by notaries have perfect evidentiary power as long as they meet UUJN requirements. However, their substantial validity in the context of land collateral binding becomes problematic (Irawan et al., 2022). Article 8 of the Mortgage Rights Law clearly requires that Mortgage Rights grantors are parties who have authority to perform legal acts against Mortgage Rights objects. If power grantors in AKPK are not legitimate certificate owners and do not have clear and firm power to encumber mortgage rights, then APHT based on such power potentially becomes null and void. This is because subjective requirements regarding authority of parties encumbering mortgage rights are not fulfilled (Silviana, 2020).

Although AKPK formally remains valid as representation of grantor's will regarding credit approval, its use for mortgage rights encumbrance purposes without certificate owner consent exceeds granted authority limits and violates ownership principles. In civil law perspective, as regulated in Article 1340 of the Civil Code, agreements only bind parties who make them (Sinaga & Zaluchu, 2018). Certificate owners who do not give consent are not parties in AKPK, so such deeds cannot bind their ownership rights. Consequently, APHT arising from AKPK without owner consent potentially can be sued for cancellation by legitimate owners through judicial mechanisms, making it voidable status.

These legal consequences are strengthened by notary obligations based on Article 16 paragraph (1) letter a UUJN to act trustworthily and protect interests of all related parties, including certificate owners (Handayani et al., 2024). Creating AKPK that clearly aims to bind land collateral without owner consent can be considered as actions contrary to this principle. Therefore, although AKPK may still exist formally, its ability to become basis for legitimate mortgage rights encumbrance on land without certificate owner consent is highly

questionable and potentially brings serious legal consequences for creditors and power recipients.

Although notaries are given authority to create deeds, implementation of such authority must remain in line with material legal provisions. Created deeds must reflect formal truth of party statements, as confirmed in Article 16 paragraph (1) letter m UUJN, which requires notaries to read deeds so parties appearing understand and agree before signing (K. M. Putri et al., 2022). In creating Credit Agreement Power of Attorney Deeds, it is important to ensure that power grantors indeed have legitimate rights over objects that become collateral. If deeds are created without legitimate authority basis or exceed granted power limits, such deeds can be declared legally defective and cancellation can be requested through judicial channels, either through civil lawsuits or deed cancellation applications. Thus, notary functions are not only as formal validators, but also as guardians of truth and legal protection in every legal act they contain.

Article 16 paragraph (1) letter a UUJN requires notaries to act trustworthily, honestly, carefully, independently, and protect interests of related parties, including land certificate owners, and consider Article 38 UUJN regarding form and nature of notarial deeds in creating Credit Agreement Power of Attorney Deeds (Hana et al., 2022). Such deeds must contain formal elements in the form of deed head, deed body, and deed closing. Deed head must mention deed name, place, and time of deed creation. Deed body must clearly state party identities, power granting background, and scope of authorized actions, such as rights to sign credit agreements, apply for mortgage rights, and sign mortgage rights encumbrance deeds. The closing section must contain confirmation that deeds have been read, understood, agreed upon, and signed by parties before notaries (Barito, 2023).

Creating Credit Agreement Power of Attorney Deeds without obtaining consent from certificate owners potentially creates conflicts of interest and future legal disputes (Sarbin, 2024). Based on Article 1813 of the Civil Code, power granting ends if such power is revoked by grantors. Therefore, if certificate owners do not serve as power grantors, validity of all legal acts performed based on such power can be questioned. In situations where certificate owners never gave consent or power, they have rights to refuse or cancel legal acts sourced from such deeds. Additionally, Article 1340 of the Civil Code confirms that agreements only bind parties involved in their creation, so Credit Agreement Power of Attorney Deeds compiled without involving or obtaining consent from certificate owners cannot bind or limit rights owned by such owners (S. S. I. Putri, 2021). Consequently, if land certificates are used as credit collateral without legitimate consent from owners, collateral cancellation can occur, even leading to civil lawsuits or criminal reports such as fraud or embezzlement.

Article 8 of Law Number 4 of 1996 concerning Mortgage Rights confirms that Mortgage Rights grantors are individuals or legal entities who have authority to perform legal acts against Mortgage Rights objects (Guntoro et al., 2020). This means that Mortgage Rights encumbrance on land as credit collateral is only valid when performed by landowners themselves or parties legitimately and clearly given power to encumber such rights. Without legitimate power from landowners, mortgage rights encumbrance deeds based on Credit Agreement Power of Attorney Deeds potentially become null and void.

Article 16 paragraph (1) letter a UUJN again confirms notary integrity principles in carrying out duties, namely must be trustworthy, honest, careful, independent, impartial, and protect interests of related parties. This includes requirements to verify granted power validity, ensure party identities, and avoid potential conflicts of interest that harm any party (Saputro & Huda, 2024). Additionally, Article 17 letter i UUJN prohibits notaries from performing other work contrary to religious norms, morality, or propriety that can affect

honor and dignity of notarial positions. This provision aims to maintain notary independence and professionalism in every legal action (Saragih & Mulyadi, 2021).

Article 44 paragraph (1) of the Notary Position Law (UUJN) regulates that notaries must read deeds before parties, which must then be signed by all parties appearing, witnesses, and notaries themselves. In cases where parties cannot sign, reasons for such inability must be stated in writing in deeds. This provision aims to ensure that every party involved in creating Credit Agreement Power of Attorney Deeds is physically present, fully understands deed contents, and gives consent with awareness and free will. Thus, this procedure is designed to strengthen deed validity and prevent possibilities of future disputes regarding such deeds (Abidarini, 2021).

Considering all above provisions, it can be concluded that creating Credit Agreement Power of Attorney Deeds must be implemented with full prudence, considering agreement validity principles, material legal prudence principles, and maintaining balance of legal interests of all parties involved. Notaries play crucial roles not only as deed creators, but also as guardians of legal certainty and protection for society.

Legal Sanctions for Notaries Creating Power of Attorney Deeds for Credit Agreement Without Consent of the Certificate Owner

Legal sanctions for notaries involved in creating credit agreement power of attorney deeds without land certificate owner consent are very important topics in the context of protecting landowner rights and integrity of Indonesia's legal system. Creating credit agreement power of attorney deeds involving land title certificates without owner consent potentially causes serious legal consequences, both for involved notaries and other parties interested in such agreements (Heryanto & Mufty, 2024). This is because land title certificates are legitimate binding evidence that gives exclusive rights to owners, which cannot be transferred or alienated without legitimate consent.

Additionally, credit agreement power of attorney deed creation processes must fulfill legal provisions regulating rights and obligations of related parties, especially regarding consent from certificate owners as parties holding land rights. Without clear and legitimate consent from certificate owners, notaries facilitating such deed creation can be subject to legal sanctions. These sanctions aim to maintain notary professional integrity and provide legal protection for landowners whose rights could be violated if such deeds are created illegitimately. Therefore, it is important to understand more deeply the forms and types of legal sanctions that can be applied to notaries in such cases (Heryanto & Mufty, 2024).

In carrying out their authority, notaries must adhere to prudence principles and fulfill due diligence obligations to ensure validity and consent of parties involved in deeds, especially when such deeds relate to high-value assets like land rights (Lubis, 2019). Creating a deed of power of attorney for a credit agreement without legitimate certificate landowner consent constitutes serious violation of such prudence principles, because notaries should actively verify identity, legal position, and party authority, including checking certificate authenticity and ownership through land administrative data and confirmation with legitimate owners. Notary failure to implement due diligence not only opens potential civil disputes, but can also cause administrative, civil, and criminal sanctions, as regulated in Article 16 paragraph (1) letters a and c, and Article 84 of Law Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Notary Position (UUJN) (Chandra et al., 2024). Therefore, notary actions that are negligent in ensuring legitimate owner consent can be qualified as unlawful acts, impacting deed cancellation, compensation claims, sanctions from Notary Supervisory Council, and criminal threats if proven to contain intentional elements or bad faith in deed creation.

In the land law landscape, individuals and legal entities recorded as owners in Land Title Certificates carry series of rights and obligations whose foundations are contained in various statutory regulations. Several main rights attached to Land Title Certificate holder status include (Sappe et al., 2021):

1. Article 4 paragraph (2) UUPA grants rights to use and utilize land according to its designation, including earth body, water, and space above it, within legal limits.
2. Article 20 paragraph (2) UUPA regulates that Land Ownership Rights can be transferred through sale, grant, inheritance, or legitimate means according to law.
3. Article 25 UUPA states that Title Rights can be used as debt collateral by being encumbered with Mortgage Rights.
4. Article 32 paragraph (2) of Government Regulation Number 24 of 1997 guarantees legal protection for good faith certificate holders.

Furthermore, Certificates of Land Ownership have several important functions in Indonesia's land law system, namely (Sumiati & Kadaryanto, 2021):

1. Article 19 paragraph (2) letter c UUPA and Article 32 paragraph (1) of Government Regulation Number 24 of 1997 confirm that certificates are legitimate and strong evidence of land ownership, including physical and juridical data.
2. Article 3 of Government Regulation Number 24 of 1997 regulates that land registration aims to provide legal certainty and protection for land rights holders.
3. Article 3 letter b of Government Regulation Number 24 of 1997 states that certificates provide land information accessible to interested parties, including government.
4. Article 3 letter c of Government Regulation Number 24 of 1997 mandates that certificates support orderly land administration.
5. Article 37 paragraph (1) of Government Regulation Number 24 of 1997 regulates that certificates facilitate land rights transfer through transactions such as sale, grant, and inheritance.
6. Article 25 UUPA and Law Number 4 of 1996 regulate that certificates can be used as credit collateral to obtain loans.
7. Article 32 paragraph (2) of Government Regulation Number 24 of 1997 provides legal protection for good faith certificate holders in land dispute resolution.

Certificates of Land Ownership play important roles in creating orderly land law, providing legal certainty for landowners, and supporting national economic development through optimal and responsible land utilization (Subekti et al., 2022). Notaries have great responsibility regarding deeds they create, including in cases of Power of Attorney Deed for Credit Agreement misuse (Mauli et al., 2023). Criminally, notaries can be sanctioned if proven to commit crimes in deed creation (Deni & Fauziah, 2023). Article 263 of the Criminal Code regarding document falsification can be used to prosecute notaries who create Credit Agreement Power of Attorney Deeds with false information or forge signatures.

Beyond the potential violation of Article 263 of the Criminal Code regarding document forgery, notaries who create Power of Attorney for Credit Agreements without the consent of certificate holders may be subject to other relevant criminal provisions related to unlawful acts. In the context of abuse of authority and trust, Article 372 of the Criminal Code concerning embezzlement may apply if the notary consciously and unlawfully embezzles the landowner's rights that should be protected (Koto, 2022). Furthermore, if the creation of such deed is based on a series of lies or fraudulent schemes to benefit oneself or others, thereby harming the certificate holder or financial institution, Article 378 of the Criminal Code concerning fraud becomes relevant (Mulyadi, 2017). Moreover, if the abuse of this deed results in significant losses to financial institutions in the credit sector, the potential involvement in banking crimes as regulated in Law Number 10 of 1998 concerning

Amendments to Law Number 7 of 1992 concerning Banking must be explored, particularly articles regulating the provision of false information or actions that harm banks.

Professional ethics violations constitute significant consequences for notaries who create Power of Attorney for Credit Agreements without certificate holder consent. The Notarial Code of Ethics explicitly mandates principles of honesty, prudence, and acting in accordance with statutory regulations, as reflected in its various articles (Wibowo et al., 2022). Creating deeds that potentially harm third parties and are done without a valid consent basis clearly contradicts the notary's obligation to act trustworthily and protect the interests of all related parties.

Notaries are required to act with proper conduct and comply with the Code of Ethics based on Notarial Position Law Number 2 of 2014, which is an amendment to Law Number 30 of 2004 (UUJN). Notaries must obey applicable legal provisions, and if violated, various types of sanctions may be imposed according to the severity of their errors. Violations of obligation and prohibition provisions contained in Articles 16 and 17 of UUJN may result in civil, administrative, code of ethics, and even criminal sanctions. Based on Article 7 paragraph (2) of UUJN, such sanctions include written warnings, temporary dismissal, honorable dismissal, or dishonorable dismissal. The enforcement process is conducted through examination by the Honor Council and Supervisory Assembly, which still provides notaries the right to present their defense before decisions are made. If notaries repeat violations, examinations may be conducted separately by both institutions. Violations committed consciously not only have legal sanction implications but may also harm interested parties and damage the notary's reputation (Ayuningtyas, 2020).

Certificate holders or other parties directly harmed by the creation of invalid deeds and the use of land certificates as collateral without right may file compensation claims based on Article 1365 of the Civil Code (KUHPperdata) concerning unlawful acts (Utama & Artati, 2024). In this context, notarial actions that exceed their authority or are negligent in verifying owner consent may be considered acts contrary to their legal obligations and causing harm to others. Additionally, if there is a contractual relationship between the notary and one of the parties, creating legally defective deeds that cause harm may also serve as grounds for breach of contract claims for failing to fulfill obligations according to agreements (Kosuma, 2021). In both civil lawsuit scenarios, harmed parties have the right to demand material and immaterial compensation.

Administratively, Article 85 of UUJN regulates sanctions for notaries who violate provisions, including oral warnings, written warnings, temporary dismissal, honorable dismissal, and dishonorable dismissal (Putra et al., 2023). As public officials carrying important trusts in guaranteeing the validity of every transaction, notaries are required to always uphold honesty, independence, impartiality, and full responsibility in all their actions, as mandated by Article 3 number 4 of the Notarial Code of Ethics and Article 16 paragraph (1) letter a of UUJN, while prioritizing prudence principles. Consequences of code of ethics violations may include professional organization sanctions, even license revocation or other administrative sanctions. In performing duties, including in the process of creating Power of Attorney for Credit Agreements, notaries are not only obligated to validate the truth of data and facts underlying deeds but must also genuinely consider the interests of all related parties, including land certificate holders who potentially become credit collateral. This effort is crucial in preventing abuse of authority that may result in harm to certain parties (Mauli et al., 2023).

Protection of land certificate holder rights plays a very crucial role and must not be neglected. As valid proof of ownership over a land parcel, land certificates receive legal protection guarantees through various statutory regulations. This protection guarantee is essential in realizing legal certainty, which becomes the main foundation in maintaining

public trust in land and credit transactions. Especially in the context of credit agreements involving land as collateral, clarity regarding land ownership status becomes a vital consideration for financial institutions, as mandated by Article 8 of Law Number 10 of 1998 requiring banks to measure debtor ability to pay debts, including ensuring the validity of land collateral ownership. Thus, notarial involvement in verifying and ensuring consent from certificate holders becomes a key element in this entire process (Malele, 2021).

In the process of creating Power of Attorney for Credit Agreements, notaries bear responsibility for providing comprehensive explanations regarding rights and obligations carried by each involved party. Notarial authority, as contained in Article 15 paragraph (2) letter e of UUJN, includes signature authentication and providing legal counseling related to deed preparation, including in the context of credit agreements involving land certificates. Notaries are obligated to explain legal implications arising from such deeds while ensuring complete understanding from all parties regarding rights and obligations attached to agreements. A crucial aspect of this obligation is ensuring that land certificate holders provide valid consent for using their land as credit collateral. Negligence in fulfilling this obligation may result in the relevant deed being considered null and void or invalid, potentially causing harm to parties involved in the transaction (Nugraha, 2020).

In performing duties to prepare Power of Attorney for Credit Agreements, notaries are bound by Article 16 paragraph (1) letter a of UUJN which mandates trustworthy, honest actions oriented toward protecting the interests of all interested parties. This provision aligns with prudence principles that form the foundation of notarial professionalism. Therefore, every stage in the deed creation process must be ensured to align with applicable legal corridors. Additionally, Article 38 of UUJN emphasizes that deeds created by notaries must contain three important parts: beginning, body, and end of deed. The deed body must clearly contain statements of party intentions, including the scope of power granted in credit agreements. If notaries do not pay attention to this, they may risk the validity of created deeds and may cause harmed parties to demand compensation or agreement cancellation (Husni & Salim, 2021).

Although in performing duties, notaries are not burdened with obligations to examine the material truth of appearing parties' identities, as confirmed in Article 39 paragraph (1) of UUJN. Notaries are only required to ensure that appearing parties have met minimum requirements, namely being at least 18 years old or already married, and capable of performing legal acts. Nevertheless, Article 39 paragraphs (2) and (3) of UUJN regulate that appearing parties must be known to notaries, or introduced by two identifying witnesses who meet age and legal capacity requirements, or introduced by two other appearing parties. This introduction must be clearly stated in the deed. This step is important to reduce the risk of identity forgery, considering notaries are not obligated to conduct further verification of the authenticity of identities shown by appearing parties. In the context of creating Power of Attorney for Credit Agreements, notaries must still ensure that parties granting power meet legal capacity requirements and are recognized according to provisions, although not responsible for material truth of identities or rights over objects used as collateral (Prayitno, 2017).

Furthermore, Article 40 of UUJN regulates that deeds must be read before at least two witnesses to strengthen deed validity and ensure all parties have understood the content of created deeds. Reading deeds before witnesses functions to verify that the deed creation process is conducted transparently and validly according to applicable legal procedures. The presence of witnesses also provides legal protection for all parties, especially land certificate holders, who may be involved in transactions involving credit collateral. With witnesses present, potential abuse of authority or unlawful actions can be minimized, and certificate holder interests remain protected. Additionally, this ensures notaries have performed their

duties according to applicable legal provisions and provides assurance that all actions taken in deed creation do not contradict applicable law (Dwiyani, 2020).

In the context of using land as credit collateral, Law Number 4 of 1996 concerning Mortgage Rights through Article 8 explicitly states that authority to pledge land only belongs to legitimate owners or parties receiving clear power for such actions. Furthermore, Article 11 paragraph (2) of the same law regulates clauses in Mortgage Granting Deeds, including creditor rights to sell collateral objects if debtors default. If consent from legitimate certificate holders is not obtained, using land as collateral potentially causes harm to owners, given the absence of legal permission or consent from them. In this situation, notaries have crucial responsibility to ensure that permission from certificate holders has been obtained before land is bound as credit collateral (Leonardy et al., 2023).

Article 15 paragraph (2) letter f of UUJN grants notaries authority to create deeds related to land matters, but notaries must be careful in ensuring their authority is not exceeded. In this regard, notaries must ensure all applicable legal procedures are followed and no parties are harmed in the process of creating Power of Attorney for Credit Agreements (Kholidah et al., 2024).

Legal Remedies for Land Certificate Owners Against Unauthorized Notarial Powers of Attorney Deeds for Credit Agreements

Before notaries, a legal instrument called Power of Attorney for Credit Agreement is born, functioning as a container for granting authority from an individual or legal entity (grantor) to another party (grantee) to carry out a series of legal actions related to credit agreements. The formation of this deed brings significant legal consequences, as its strength and validity are rooted in compliance with applicable legal procedures. As a written representation of legal relationships between grantors, grantees, and parties in credit transactions, this deed must encompass all essential elements to ensure no parties are harmed and every action taken aligns with statutory provisions. In this context, notaries hold central roles as guarantors of validity and clarity of every clause contained in such deeds (Silviana, 2020).

Based on Article 15 paragraph (1) of UUJN, notaries have authority to prepare authentic deeds covering various legal acts, agreements, and determinations mandated by laws or desired by interested parties, including in creating Power of Attorney for Credit Agreements. Specifically in the banking realm, the process of creating this deed not only submits to provisions in UUJN but must also consider other related regulations, such as Law Number 10 of 1998 concerning Banking. This becomes crucial given the close relationship between credit agreement transactions and land use as collateral and banking regulations governing bank, debtor, and creditor rights and obligations. Therefore, notaries are obligated to ensure every aspect in such deeds aligns with applicable banking sector regulations to avoid potential legal violations that may cause harm to involved parties (Muzzaki & Machmud, 2023).

After conducting validation of the identity of all interested parties, the notary then drafts a Power of Attorney for Credit Agreement deed that accommodates the wishes of the grantor and aligns with the applicable legal framework. This drafting process encompasses various crucial elements, including identification of the parties, limitations of delegated authority, duration of the power of attorney, and other essential aspects for the validity and clarity of the deed. In accordance with the mandate of Article 38 of the Notary Law (UUJN), notaries have the obligation to ensure that the deed they prepare explicitly contains statements of intent from each party involved. The preparation of the deed must be conducted carefully and transparently to avoid potential ambiguities that could trigger disputes in the future. Notaries bear the responsibility to guarantee that the deed they draft meets all juridical

requirements and does not neglect the interests of any party bound in the credit agreement (Merlyani et al., 2020).

In the banking sector, the practice of misusing Power of Attorney for Credit Agreement deeds has the potential to violate the prudential banking principle enshrined in Article 2 and Article 29 paragraph (2) of the Banking Law. This principle requires banks to always be vigilant of potential risks in every transaction, especially those related to credit collateral in the form of land rights. Deviations in the use of this deed can occur when related parties, including notaries, do not operate in accordance with existing regulations, thereby creating opportunities for losses to certain parties, such as landowners who do not give consent or other parties outside the circle of credit approval. Therefore, both banks and notaries bear the responsibility to ensure that every stage in the preparation of the deed is executed carefully and without deviating from applicable legal provisions, in order to maintain the integrity of Indonesia's financial and legal system (Khalimi & Alam, 2022).

In the context of property law, the *nemo plus juris* principle is a fundamental principle affirming that someone cannot transfer or grant rights exceeding what they possess (Faisal, 2024). This principle has direct implications for the validity of Power of Attorney for Credit Agreements created by notaries without obtaining consent from legitimate land certificate holders. Without explicit consent from legitimate right holders, such deeds contain legal defects because they are not based on valid authority from grantors (Danastri et al., 2020). Consequently, such deeds not only lose their legal legitimacy but may also result in nullity based on general principles of contract law and property law. In this situation, certificate holders have the right to pursue legal remedies, whether through deed cancellation in court, unlawful act lawsuits against notaries, or criminal reports if elements of intent or gross negligence in deed creation are found. Affirming this principle becomes crucial to protect land ownership rights and maintain notarial official integrity and professionalism in exercising their authority.

When notaries create power of attorney for credit agreements without consent from land certificate holders, legal remedies available to certificate holders include unlawful act (PMH) lawsuits as regulated in Article 1365 of the Civil Code (KUHPdata) (Syadurahman, 2023). To be categorized as PMH, four elements must be fulfilled: unlawful acts, fault, harm, and causal relationships between such acts and resulting harm. First, unlawful acts occur when notaries act beyond their authority by creating deeds without valid power or consent from land right holders.

Second, fault can be proven from notarial negligence in verifying the validity of granted power. Third, harm arises to certificate holders, whether in the form of threats to land ownership rights or other financial losses due to credit agreements made without valid legal basis. Fourth, there must be causal relationships between notarial actions and harm experienced by certificate holders. Not only notaries, but power recipients and financial institutions that know or should know of power defects may also be held accountable based on joint responsibility principles (Christian, 2019). Therefore, PMH lawsuits may be filed not only against notaries but also against power recipients and financial institutions involved in such actions.

From contract law and property law perspectives, the absence of explicit consent from land certificate holders in creating Power of Attorney for Credit Agreements by notaries may cause serious legal consequences for deed validity. Based on the new Article 84 of UUJN provisions, violations in notarial deed creation do not automatically cause deeds to become null and void, but result in changing authentic deed status to private deeds, or in certain circumstances may still be declared null and void. The meaning of null and void in UUJN context is not only limited to objective requirement violations as regulated in Article 1320 of

the Civil Code but also encompasses situations that according to civil contract law may be canceled (Januar et al., 2024).

Thus, if agreements in granting power are obtained without valid consent from certificate holders, relevant deeds, including APHTs created based on such power, risk losing their authenticity or even being declared null and void. This status causes deeds to no longer have binding force as authentic deeds from the moment violations occur. Certificate holders have the right to file legal remedies to affirm their rights, whether through civil lawsuits, cancellation requests in court, or other legal steps, including criminal if elements of authority abuse by notaries are found. Understanding these legal consequences is important to ensure protection of landowner rights and maintain authentic deed integrity according to prudence and professionalism principles as required by the Notarial Position Law (UUJN) (Januar et al., 2024).

In situations where notaries create Power of Attorney for Credit Agreements without obtaining explicit consent from legitimate land certificate holders, certificate holders have constitutional rights to pursue legal remedies through deed cancellation lawsuit mechanisms in court (Rizky et al., 2020). This lawsuit is filed by directly harmed parties, namely land right holders whose names are listed in land certificates. The main basis of such lawsuits is the existence of formal and material defects in deed creation, particularly violations of consensualism principles as valid contract requirements based on Article 1320 of the Civil Code (KUHPdata), and non-compliance with prudence principles as regulated in the Notarial Position Law (UUJN).

The Notarial Position Law through Article 85 establishes administrative sanctions for notaries proven to neglect their obligations, in the form of temporary or permanent dismissal, with or without honor. These sanction provisions underscore how crucial notarial roles are in maintaining the validity of every deed they produce. In the context of Power of Attorney for Credit Agreements, notarial prudence and thoroughness in ensuring completeness and correctness of procedures become imperative. Every deviation or deed abuse potentially brings significant negative impacts to grantors, grantees, banking institutions, and other parties connected to such transactions. Thus, applying sanctions to notaries proven to violate obligations reflects strong emphasis of Indonesia's legal system on accountability and professionalism in creating deeds related to financial and land transactions (Wijayanti & Badriyah, 2024).

To prevent abuse of Power of Attorney for Credit Agreements, all parties must comply with prudence principles and applicable legal provisions. Notaries, as parties with authority to prepare deeds, have very important roles in ensuring that prepared deeds are not only legally valid but also not abused for personal or certain group interests. Additionally, it is important for banks and grantors to ensure all information provided in deed creation processes is accurate and valid, and that landowner consent as credit collateral is properly obtained. If all parties work according to prudence principles and existing legal provisions, deed abuse can be minimized, so credit transactions run smoothly and benefit all involved parties.

CONCLUSION

Based on the discussion conducted, it can be concluded that notaries do not have authority to prepare power of attorney for credit agreements without obtaining consent from land ownership certificate holders. This is based on legal certainty principles and legal protection provided to landowners, as regulated in legislation. As part of their professional responsibility, notaries are obligated to ensure every deed they create has obtained valid consent from land ownership certificate holders, especially in creating power of attorney for credit agreements. Second, legal consequences that may arise for land ownership certificate holders due to abuse of power of attorney for credit agreements without their consent may

include material and immaterial losses. Material losses may include loss of land rights owned or possibility of legal claims from good faith third parties. Meanwhile, immaterial losses may include legal uncertainty regarding the ownership status of relevant land. Therefore, it is very important for landowners to always be careful and have deep understanding of their rights in every transaction involving land ownership certificates.

Further, legal protection for land ownership certificate holders who become victims of power of attorney for credit agreement abuse without their consent includes various legal remedies, including civil lawsuits, criminal charges, and/or complaints regarding code of ethics violations. First, landowners have rights to file civil lawsuits to cancel deeds made without their consent and demand compensation for suffered losses. Second, landowners may report such abuse to authorities for criminal processing. Third, landowners may file complaints to the Notarial Supervisory Assembly if there are violations of code of ethics and professional obligations by relevant notaries.

To prevent potential abuse of power of attorney for credit agreements in the future, efforts are needed to strengthen supervision of notarial practices and increase public education regarding the importance of prudence in granting power related to land rights. Additionally, the government must consider strengthening regulations governing power of attorney creation, especially those related to land rights, to provide more optimal protection for land ownership certificate holders.

Various strategic steps need to be taken to increase legal security levels for land ownership certificate holders. The first very important step is tightening regulations in power of attorney creation, especially involving land rights, with implementation of stricter and more detailed verification procedures. Furthermore, supervision of notarial practices must be more intensively conducted by Notarial Supervisory Assemblies, including implementing stricter sanctions for code of ethics and professional obligation violations.

Increasing legal education to the public is also very important to improve understanding of land ownership rights and risks that may arise related to granting power. In the financial sector, banking institutions and other financial institutions must implement stricter due diligence procedures in verifying power documents related to land collateral. Additionally, landowners also need to prioritize prudence and always consult with legal experts before signing documents related to their land rights. Implementation of this series of steps is expected to reduce risks of power of attorney abuse and strengthen legal protection for land ownership certificate holders.

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