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Legal Validity of Authentic Deeds Based on Cyber Notary According to Law Number 2 of 2014 Concerning The Position of A Notary

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Abstract: The development of information technology has had a significant impact on the field of notarial law, giving rise to the concept of cyber notary as a response to electronic transactions. Law Number 2 of 2014 concerning the Position of Notaries (UUJN) regulates the authority of notaries in dealing with electronic transactions. Notaries have the authority to certify electronic transactions, as regulated in Article 15 paragraph (3) UUJN. However, the legal validity of authentic deeds based on cyber notary is the subject of a complex debate. The research method used is through a normative juridical approach using a statutory approach and literature study. This article analyzes various aspects related to forced takeovers of companies. The research results show that first, the notary's authority to certify electronic transactions allows the adoption of information technology to ensure legal certainty. Notaries can use cyber notary technology to carry out their duties efficiently and responsive to current developments, providing legal certainty in electronic transactions. Second, the validity of the deed made through a cyber notary must meet the authenticity standards regulated by law. Even though technology enables efficiency, the physical presence of a notary in the deed reading process is still important to ensure the validity and correctness of the contents of the deed. The use of a cyber notary in making Partij Deeds becomes more complicated because the process depends on the notary's ability to accurately record the wishes of the parties. Therefore, notary adaptation to advances in information technology requires adjustments to clear rules and guidelines. There needs to be further clarification in the UUJN to regulate the use of cyber notaries in the context of making deeds by notaries to accommodate technical and legal challenges in the current digital era. In this way, legal certainty in electronic transactions can be guaranteed by legal standards recognized by law.

Keyword: Authentic Deed, Cyber Notary, UUJN.

INTRODUCTION

In the era of globalization, the development of technology and information is increasingly rapid day by day in line with the development of needs in society. This rapid development has had a significant impact on various aspects of human life. The convenience and benefits felt due to the development of this technology affect the continuity of relationships between humans which run more quickly and effectively without taking into account aspects of space and time. The development of information technology has influenced various aspects of Indonesian society's life, including the field of notarial law. The significant development of information technology prompted the issuance of Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE). The ITE Law exists as the government's effort to ensure technological and information progress in increasing the effectiveness and efficiency of public services. Information technology has an important role in various aspects of national development, including social, cultural, economic, medical services, education, government administration, and other service aspects, including the notary sector .

Notaries have the authority to make authentic deeds, as defined in Article 1 number (1) of Law Number 2 of 2014 concerning the Position of Notaries (UUJN). A notary is a public official who has the authority to make authentic deeds and has other authority by the law. Article 1868 of the Civil Code confirms that a deed can fulfill its authenticity if it is made by the form and rules determined by law. Authentic deeds have an important role in ensuring legal certainty in legal relations between interested parties. In practice, authentic deeds are often used as documentary evidence with perfect evidentiary qualifications in handling disputes or cases related to the deed. Notaries who are regulated by law to make authentic deeds have perfect legal force to be used as evidence. The authority of a notary is regulated in Article 15 UUJN, which states that a notary has the authority to make authentic deeds for all legal acts or agreements stated in the law or accordance with the agreement of the interested parties.

A notary's obligations in making an authentic deed include checking the correctness of the date, ratifying the deed with a signature, registering the deed in a special book, and storing a copy of the deed according to the original document. Notaries can also provide legal advice regarding the preparation of deeds and auction minutes. Article 15 UUJN also grants other powers to notaries which are further regulated in implementing regulations.

The development of information technology has become a transformational force that has penetrated various sectors of life, including electronic transactions. This phenomenon not only affects the general public in terms of the involvement of technology in daily transactions but also has a significant impact on the role and function of notaries as public officials. In this context, the Notary Position Law (UUJN) has an important role in regulating notary authority regarding electronic transactions. UUJN expressly classifies electronic transactions that require notary authorization as one of the "other authorities" regulated by law. Article 15 paragraph (3) UUJN explicitly authorizes notaries to certify electronic or cyber notary transactions, as well as make deeds of pledges and mortgages for aircraft. Notaries have the legally assigned responsibility to ensure the validity and legal force of certified electronic transactions .

The concept of cyber notary is related to the implementation of notarial authority based on information technology. Certification, which comes from the word " certification " in English, means information or validation. Elucidation of Article 15 paragraph (3) UUJN supports the authority of notaries to implement a cyber notary, which means carrying out duties with the authority of a notary's position in making deeds based on information technology. The legal consequence for a notary who makes a deed using cyber notary technology is achieving legal certainty regarding the deed. However, Article 16 paragraph (1) letter m UUJN requires a notary to read the deed in the presence of the parties with the

presence of at least two witnesses, or four witnesses if the deed is made privately. The deed must be signed by the presenter, witness, and notary at that time. This condition raises questions regarding the strength of cyber notary-based deeds in fulfilling the authenticity requirements as regulated in Article 1868 of the Civil Code, which requires the physical presence of the parties before a notary.

The physical presence of the presenters during the notary's reading of the deed is a concrete form of a notary's legal advocacy. This creates a conflict of norms related to Article 15 paragraph (3) UUJN, which classifies cyber notary-based electronic transactions as a notary's authority, and Article 16 paragraph (1) letter m UUJN which requires physical presence in making authentic deeds. To avoid conflicting norms, further explanation is needed regarding the implementation of notary authority in cyber notary-based electronic transaction certification. The urgency of explaining this article is very necessary because it can affect the validity of notarial deeds as a product resulting from cyber notary-based electronic transaction certification. This research will examine the authority of notaries in certifying electronic transactions and the validity of deeds related to certifying electronic transactions carried out by notaries.

Based on the explanation above, the problem that arises in this study is what is the authority of a notary in certifying transactions carried out electronically based on UUJN? and what is the validity of the deed made based on electronic transaction certification by a notary according to UUJN? This research is a legal investigation process carried out using an approach that emphasizes the analysis of legal norms and statutory approaches. In this context, research refers to the established legal framework and seeks to understand and interpret its legal implications. The data collection method used is literature study, which involves collecting legal materials from various sources such as official regulations, scientific literature, and other legal references such as encyclopedias and dictionaries. A deductive approach is used in analyzing data, where researchers use existing legal premises to reach specific conclusions. Apart from that, the research also adopts a systematic interpretation approach, which refers to a structured and orderly analysis process for understanding and interpreting legal information. Thus, this research aims to provide a deeper understanding of the legal issues studied, as well as provide a strong framework for interpreting and applying the law effectively.

METHOD

This research uses a type of normative juridical research. Where normative juridical research is a type of research that analyzes the provisions as contained in statutory regulations and images the law as a benchmark for humans when behaving in society. This research uses 2 (two) approach methods, namely the statutory approach and the conceptual approach. In this research, several legal materials were used, consisting of primary legal materials in the form of statutory regulations and secondary legal materials in the form of books, scientific journals, and literature related to the research topic, namely the legal validity of cyber notary-based authentic deeds according to the Law. Law Number 2 of 2014 concerning Notary Positions. This research uses prescriptive analysis legal material analysis techniques where this research aims to provide an assessment based on research that has been carried out which aims to answer the problem formulation.

RESULTS AND DISCUSSION

Notary's Authority To Certify Transactions Carried Out Electronically Based On UUJN

The authority of a notary to certify transactions carried out electronically, as regulated in Law Number 2 of 2014 concerning the Position of Notaries (UUJN), is an integral part of the evolution of notarialism towards the digital era or what is known as cyber

notary. Notaries, as public officials responsible for making authentic deeds, have increasingly broader responsibilities along with the development of information technology. During a wave of technological advances, notaries have received additional authority to certify electronic transactions as a response to changing times. Notaries are not only guardians of legal certainty in conventional transactions but also the electronic realm.

The ability of notaries to validate electronic transactions, known as cyber notary, represents an important adaptation to society's need for legal protection in the digital era. Even though technology presents new challenges, the notary still plays a central role in ensuring the validity and legal force of every transaction he or she certifies. In the Notary Position Law (UUJN), the notary's authority to certify transactions electronically is given expressly as part of "other authorities" regulated in Article 15 paragraph (3) UUJN. In this article, it is explained that this authority includes the process of certifying transactions carried out electronically or what is known as a cyber notary. The concept of cyber notary refers to the use of information technology by notaries to carry out their functions, duties and authority in legal processes. For example, notaries can use various electronic media, such as computers or video conferencing, to carry out the transaction certification process electronically.

With this authority, notaries can carry out their duties more efficiently and be responsive to developments in information technology. The use of electronic media allows notaries to certify transactions without having to physically meet with the relevant parties, which can save time and costs. Apart from that, the electronic transaction certification process can also provide the same legal certainty as the conventional process, provided that the notary complies with all the provisions and procedures regulated in the UUJN. Although the use of information technology provides flexibility and convenience in the transaction certification process, notaries still have the responsibility to ensure that the process is carried out carefully and by applicable legal standards.

Certification of electronic transactions by a notary is important in ensuring legal certainty and protection for the public in the era of digitalization. Changes in regulations that accommodate electronic transaction certification in the UUJN emphasize the government's response to the demands of the times which require legal certainty that is more efficient and adaptive to developments in information technology. One example of the real implementation of a notary's authority in certifying electronic transactions is in preparing minutes of the General Meeting of Shareholders (GMS) of a Limited Liability Company (PT) which is conducted online. Article 77 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) accommodates the possibility of holding a GMS via electronic media. In the process of making GMS minutes online, notaries can use cyber notary technology to make the minutes legally and authentically. Apart from that, the notary's authority to carry out electronic certification also includes the legalization of electronic documents. This legalization principle is similar to the electronic transaction certification process, where the notary is responsible for ensuring the validity of the electronic document through a valid signature and date.

Thus, the notary's authority to certify electronic transactions is an integral part of the cyber notary concept which involves the use of information technology in carrying out its functions, duties and authority. The role of notaries in ensuring legal certainty and protection for the public in electronic transactions requires adjustments and implementation of notarial practices that are adaptive to developments in information technology.

Validity Of Deeds Made Based On Electronic Transaction Certification By a Notary According To UUJN

The validity of deeds made based on electronic transaction certification by a notary according to the Notary Position Law (UUJN) is a relevant topic in the development of information technology and law in the current digital era. The authority of a notary to certify

electronic transactions, which is regulated by the Law on the Position of Notaries (UUJN), provides a legal basis for making deeds that utilize cyber notaries. This cyber notary concept applies information technology in the process of making authentic deeds, which is an evolution of the conventional process.

By using technology, notaries can facilitate the making of deeds more efficiently and keep up with current developments. However, the validity of a deed produced through a cyber notary must still meet the authenticity requirements regulated by law, including the reading of the deed in the presence of the parties or an audience as well as direct signature by the notary and witnesses. Even though technology opens the door to advances in legal processes, notaries need to ensure that each deed produced meets the same standards of validity and legal force as conventional deeds .

In this context, there are several important considerations regarding the validity of deeds made using electronic transaction certification by a notary. One of them is the status of the document as an electronic document, which is regulated by the Electronic Information and Transactions Law (UU ITE). Electronic documents are information in electronic form that is created and transmitted via electronic media, such as computers, without being limited to certain types of information. This confirms that documents produced via cyber notary, even though they are electronic, still have the same legal force as conventional documents. However, the validity of a deed produced through a cyber notary must also meet the requirements for the authenticity of a deed, as regulated in Article 1868 of the Civil Code. The process of making an authentic deed by a notary through a cyber notary must not override the procedures that have been established to ensure its validity and legal force. For example, the notary must ensure that all parties involved are present virtually or physically when the deed is read, as well as ensure that the signatures and date of the deed are executed correctly.

Even though there is clarity regarding the demands of Article 16 paragraph (1) letter m UUJN which emphasizes that the reading of a notarial deed must be carried out physically in the presence of the parties, witnesses and the notary, the emergence of cyber notary technology has given rise to debate regarding the validity of deeds produced via electronic media. This article has become a source of controversy because its provisions seem inconsistent with the method of making deeds online. In practice, the process of making a deed via a cyber notary is carried out virtually without the need for a physical meeting in front of a notary. However, this raises doubts about the legal validity of the resulting deed. Some parties consider that the physical presence of a notary in the deed reading process is very important to ensure the validity and correctness of the contents of the deed. However, on the other hand, cyber notary technology also offers efficiency and convenience in the process of making deeds, especially in the context of increasingly developing electronic transactions.

In practice, the difference between the two types of deeds made by notaries, namely the *Relas Deed* and the *Partij Deed*, is important to understand. A *Relas Deed* is a type of deed issued by a notary as part of his/her position of authority which has been determined by the state, for example the deed of the General Meeting of Shareholders (GMS) of a Limited Liability Company. The use of a cyber notary in making a *Relas Deed* is possible because the process of making it has been regulated by law and has been declared legally valid. This means that the notary has a clear basis for using information technology to facilitate the making of the deed, and the existence of the law ensures the validity and legal certainty of the process. However, differences emerge when we consider the *Partij Deed*. This deed is different because it does not rely on the authority of a notary which has been explicitly determined by law, but rather as a recording of the wishes of the parties in an official document. The use of a cyber notary in making *Partij Deeds* becomes more complicated because the process relies on the notary's ability to accurately capture and record the wishes

of the parties, which may be difficult to do via electronic media without the direct physical presence of all related parties.

In Partij Deeds, which contain the wishes and desires of the parties, the use of a cyber notary is not possible because the notary must ensure the direct and physical presence of the parties concerned. In this context, it needs to be understood that the process of making deeds via cyber notary cannot always be applied universally to all types of deeds. For example, a Partij Deed requires the physical presence of the parties to ensure that their wishes and desires are reflected in the deed. This direct presence is crucial in ensuring the validity and legal force of the resulting deed. Therefore, the notary must ensure that proper procedures are followed to ensure the validity of the deed produced. Although information technology offers convenience and efficiency in the legal process, it is important to remember that some aspects of the process still require physical presence and direct interaction between the notary and the parties concerned. In the context of making a Partij Deed, the notary must ensure that more traditional procedures are followed to fulfill all the requirements so that the deed has the same validity and legal force as a conventionally made deed. Thus, the use of a cyber notary in making deeds must be adjusted to the specific type and requirements of each deed to ensure its validity and legal certainty.

Thus, the validity of deeds made based on electronic transaction certification by a notary according to UUJN is the subject of complex debate, where technical and legal considerations must be carefully considered. Although the use of information technology in the deed-making process brings efficiency benefits, it must not sacrifice the validity and legal force of the deed. Therefore, there is a need to adopt clear rules and guidelines to regulate the use of cyber notaries in the context of making deeds by notaries.

CONCLUSION

Based on the discussion above, it can be concluded that the notary's authority to certify electronic transactions, as regulated in the UUJN, is a notary's adaptation to advances in information technology to ensure legal certainty in electronic or cyber notary transactions. The notary plays a central role in ensuring the validity and legal force of every transaction he or she certifies, both in the context of making a Relas Deed and a Partij Deed. Even though information technology opens the door to advances in the legal process, the validity of deeds produced through cyber notaries still must meet the authenticity standards regulated by law, including reading the deed in the presence of the parties, direct signature by the notary and witnesses, and ensuring physical presence from related parties, especially in making Partij Deeds. The use of a cyber notary in making deeds must be adjusted to the specific type and requirements of each deed to ensure its validity and legal certainty. Even though the process of making a deed through a cyber notary offers efficiency and convenience, the notary needs to ensure that each deed produced meets the same standards of validity and legal force as a deed made conventionally. Therefore, it is necessary to adapt clear rules and guidelines to regulate the use of cyber notaries in the context of notary-making deeds to accommodate the complex technical and legal challenges in the current digital era.

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