

RESEARCH ARTICLE

Juridical Analysis of the Role of Notary Accountability in Making Deed of Meeting Decree and Circular Decree of Limited Liability Companies (Research Study at the Indonesian Notary Association of Batam City)

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Abstract: All deed of limited liability company is the authority of the Notary. As for the rapid development of the business world today, it has driven various efficiency efforts to support business activities, one of which is allowing the results of a general meeting of shareholders of a limited company to be stated in the form of a notarial deed. Departing from this background, then the formulation of the problem can be drawn, among others: (1) How does the legal regulation related to the notary's liability in making a deed of statement of meeting decisions and the circular decision of a limited company? (2) How is the implementation of the notary liability in making the deed of a limited company meeting and circular decision statement? and (3) What factors become a notary constraint in making the deed of a limited company meeting and circular decision statement? To answer the above problems, a research conducted using a normative juridical approach is supported by empirical research. To obtain the necessary legal materials, it is carried out by observation, interview, search, collection and study of library materials, laws and regulations, research results, scientific works and other written documents. Data obtained from the results of the study were then analyzed descriptively qualitatively with some quantitative data. From the results of the study note that there is a legal basis that becomes the basis for making the deed of a limited company circular statement and decision of the company as well as several factors that become obstacles for the Notary. It also provided advice to stakeholders.

Keywords: *Notary, Deed, Limited Liability Company.*

Article Received: 01 May 2020

Revised: 10 May 2020

Accepted: 22 May 2020

Background

The development of companies in Indonesia resulted in several changes from the economic system, social life of society, politics and the law of the legal order that encourage, move and control various development activities in various fields, one of which is the national economy. One of the legal materials needed to support Indonesia's national economic development is to keep the economy running according to the corridor. Companies in Indonesia are increasingly developing rapidly according to the needs of the community with various forms of business.¹ The legal form of the company is regulated or recognized by the Act, whether it is an

individual, a partnership, or a business in the form of a legal entity.² The legal subject is the holder of rights and obligations. Individual or human can be said as a legal subject from birth to death. The legal entity is declared as a legal subject since the legalization of the legal entity by the Minister of Law and Human Rights, which provides the legal rights, assets and own assets to the legal entity, regardless of the rights and obligations as well as the assets of the founders, shareholders and their management.³ The subject of law and legal entity is a juridical technical term that is as a supporter of rights and obligations in the legal field.

² *Ibid.*, p. 25.

³ Ahmad Yani and Gunawan Widjaja, *Seri Hukum Bisnis Perseroan Terbatas*, PT Rajagrafindo Persada, Jakarta, 2000, p. 8.

¹ Zaeni Asyhadie, *Hukum Bisnis Prinsip dan Pelaksanaannya di Indonesia*, PT Rajagrafindo Persada, Jakarta, 2014, p. 10.

Limited Liability Company (PT) is a legal entity regulated in Act Number 40 of 2007 concerning Limited Liability Companies. As a legal entity, a limited liability company is born and created through a legal process so that the company is an artificial legal person that distinguishes it from humans as a legal person born through a natural process and inherits their rights from birth to death. The Company as a legal entity was created and was born through the procedures specified in the Company Law.⁴

The General Meeting of Shareholders is an organ in a limited liability company and has authority not granted to the directors and the board of commissioners. General Meeting of Shareholders (GMS) has the right to obtain all kinds of information needed relating to the running of a limited liability company. However, the authority of the General Meeting of Shareholders (GMS) also has limitations, as long as the authority exercised is not given to the directors or the board of commissioners and is not out of the Company Law or the articles of association. General Meeting of Shareholders (GMS) is a manifestation of the interests of shareholders, Shareholders can provide input relating to the development of a limited liability company so that the limited liability company can develop better in accordance with the objectives of the company establishment. But sometimes the General Meeting of Shareholders (GMS) is difficult to carry out, this can happen because to invite the shareholders in the General Meeting of Shareholders (GMS) simultaneously at a certain time simultaneously is very difficult.

The quorum for holding a General Meeting of Shareholders (GMS) must also be considered because the quorum is obligatory to be fulfilled. The important role of the times in the field of limited liability companies cannot be denied, in turn bringing consequences related to the legal aspects that surround them. In Indonesia, in business activities, business people open and run their business on a daily basis without considering the juridical aspects. The renewed regulation on the company to become a UUPA is inseparable from the aim of increasing the company's role in national development and a strong foundation for the business world to be achieved in the rapid economic

development in this globalization era.⁵ The Indonesian company law is one of the laws that accommodates the rapid progress of the times and the needs of today's business, including one of the procedures for holding a General Meeting of Shareholders (GMS). In attending the GMS, shareholders can meet directly or indirectly. RUPS in a company can not only be done conventionally where all shareholders must gather in a place within the territory of the Republic of Indonesia and face to face with each other but can also be done by not need to meet in person (not face to face). In organizing the General Meeting of Shareholders, the terms "circular" and "minutes of the general meeting of shareholders" are known. Minutes of the general meeting of shareholders differ from the circular.

The term "circular" is usually more often written with "Circulation Decision Statement". The difference between the two is actually quite simple, the word "Minutes of General Meeting of Shareholders" means referring to the understanding that the meeting is held by the shareholders or the shareholders of the company take decisions in a meeting that has actually been held. Conversely, the word "circular decision statement" or "circular" means that the meeting is not held or the decision of the shareholders is not taken in a meeting that is held in real terms, but only taken in unanimous and written agreement by the shareholders conducted by means of circulation/circulated.

In the implementation of the General Meeting of Shareholders (GMS) which was attended by a notary public, the notary in this matter was not only tasked to make a deed of minutes regarding everything discussed and decided at the General Meeting of Shareholders (GMS) of the limited company, but the notary public concerned must pay attention whether the implementation of the General Meeting of Shareholders (GMS) has met the requirements of formality, in accordance with the provisions of the legislation in force.

This must be considered by a notary to maintain the authenticity and validity of the minutes of the meeting he made. A serious problem arises when the notary is given the

⁴ C.S.T. Kansil, *Hukum Perusahaan Indonesia (Aspek Hukum dalam Bisnis)*, PT Pradnya Paramita, Jakarta, 1994, p. 25.

⁵ Jamin Ginting, *Hukum Perseroan Terbatas (UU No. 40 Tahun 2007)*, PT Citra Aditya Bakti, Bandung, 2007, p. v.

task of making a deed of decision of the General Meeting of Shareholders (GMS) which is made under the hand of the minutes and / or the statement of the circular decision of the shareholders. In this case the notary public makes an authentic deed that has a perfect proof of strength, but on the other hand, the notary does not witness and cannot prove all the truth that occurs during the meeting (or the decision making process), except based on the written evidence shown to him to make a deed of statement of meeting or circular decision.

Based on the description of the background, there are three problems that will be examined. The formulation of the problems include the following:

- How does the legal regulation related to the notary's liability in making a deed of statement of meeting decisions and the circular decision of a limited company?
- How is the implementation of the notary liability in making the deed of a limited company meeting and circular decision statement?
- What factors that constraint notary in making the deed of a limited company meeting and circular decision statement?

Source of Literature

Overview on Civil Law Notary

A notary is a general official authorized to make authentic deeds and other authorities as referred to in the law. Indonesian notary belong to latin notaries which according to Blacks are carrying out the task of serving the needs of the community in the private or civil sphere, and because notary is *amaneunsis*, only constrict what is said *Notarius* in Roman Law is *Draughtsman*, an *amaneunsis* is the person who records what is done by someone else or acknowledges what others have written.

Latin notary attributes are person whose attitude and position are neutral and firm. Notary may not make a deed if not requested. Notarial deed must be written and can and must meet the applicable laws and regulations. Viewed from its position, then a notary is tasked with carrying out part of the authority of the government. The legal actions contained in a notary deed are not legal actions of the notary, but are legal

actions that contains actions, agreements and stipulations of parties who request or want their legal actions to be stated on an authentic deed. So the parties to the deed are bound to the contents of an authentic deed. Notary is not an artisan making deed or a person who has a job of making a deed, but the notary in carrying out his office is based on or equipped with various legal sciences and other sciences which must be mastered in an integrated manner by a notary and deed made before or by a notary having the position of proof.⁶

The definition of a Notary Public based on the provisions of Article 1 number 1 of the Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to the Law of the Republic of Indonesia Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as "UUJN") is "official general authorized to make an authentic deed and has other authorities as referred to in this law or under other laws". At present throughout the world, there are three main types of notarial systems. Civil Law Notaries from Latin law countries, Common Law Notaries in English-speaking countries and Notarial Systems in North America which are derived from the British Common Law Notaries but with some differences. Notaries in Indonesia are included in the types of civil law notaries.

Notaries in Common Law adherents are independent professionals while in Civil Law adherents, notaries are appointed by authorized officials so that they are an extension of governmental authority that helps with various tasks, especially in the civil field. Then the notary authority in the Common Law is not as extensive as the authority of the Civil Law notary public.⁷ Notary has a very important role in the life of the nation and state because this institution has the authority to make an authentic deed⁸ and other deeds. To be able to exercise that authority, the notary must be appointed and appointed as a notary by the government, in this case the Minister of Law and Human Rights. The Ministry of Law and Human

⁶ Rahmad Hendra, "Tanggung Jawab Notaris terhadap Akta Otentik yang Penghadapnya Mempergunakan Identitas Palsu di Kota Pekanbaru", *Jurnal Ilmu Hukum Volume 3 Nomor 1*, 2014, halaman 6-11.

⁷ Freddy Harris and Leny Helena, *Notaris Indonesia*, PT Lintas Cetak Djaja, Jakarta, 2017, pp. 34-35.

⁸ Salim H.S., *Teknik Pembuatan Akta Satu (Konsep Teoretis, Keenangan Notaris, Bentuk dan Minuta Akta)*, PT Rajagrafindo Persada, Jakarta, 2015, p. 22.

Rights has set conditions that must be fulfilled by each prospective notary to be appointed as a notary public as determined in the applicable laws and regulations.⁹ Regarding a certain matter, it means that what will be agreed upon must be clear and detailed (type, amount and price) or information on the object, known the rights and obligations of each party so that no dispute occurs between the parties. The reason (*causa*) is lawful. The word *causa* is translated from the word *oorzaak* (Dutch) atau *causa* (Latin) which is meant in the case of this agreement does not mean something that causes someone to make an agreement, but refers to the content and purpose of the agreement itself.

For example in a sale and purchase agreement, the content and purpose or power of attorney is the one who wants the property rights of an item, while the other party wants money. Lawful clause mean that the content of the agreement do not conflict with the public order, decency and law.¹⁰ By fulfilling these four conditions, then an agreement becomes legal and legally binding for the parties who make it. The promised parties must intend that the agreement they make is legally binding. The court must be assured of the purpose of legally binding. Legally binding means that the agreement creates rights and obligations for parties that is recognized by the law.¹¹

Overview on Authentic Deeds and Notarial Deed

In general, the deed is a letter that is signed, contains information about events or things that are the basis of an agreement, it can be said that the deed is a writing with which stated a legal action. Authentic deeds are perfect evidence as referred to in Article 1870 of the Civil Code, it gives among the parties including his/her heirs or those who have the rights of the parties that is perfect evidence of what was done/stated in this deed. This means having the strenght of evidence in such a way because it is considered to be attached to the deed itself so that it does not

need to be proven again and for the judge it is “compulsory proof/necessity” (*Verplicht Bewijs*). Therefore, whoever states that the authentic deed is fake/false, he/she must prove the falsehood of the deed, therefore, authentic deeds have external proof power, formally and materially. It is different from the party made deed which for the judge si free evidence because the new party made deed has the material evidence power after its formal strenght has been proven, while the power of formal proof has only taken place, if the parties concerned know the truth of the contents and method of making the deed.¹²

Based on the description above, then the deed made authentically has a proof value of a deed that includes:

- Strenght of Authentic Proof (*Uitwendige Bewijskracht*)

The power of outward proof means that the deed itself has the ability to prove itself as an authentic deed.

- Strenght as a Formal Proof (*Formele Bewijskracht*)

In the formal sense, hence the certainty of the date of the deed is guaranteed, the truth of the signature contained in the deed, the identity of the person present (*comparanten*), as well as the place where the deed was made as long as a party deed, that the parties have explained as described in the deed, while the truth of the statements themselves is only certain between the parties themselves.

- Strenght as a Material Proof (*Materiele Bewijskracht*)

The contents of the information contained in the deed is valid as true, the content has certainty as it really is, is a legitimate piece of evidence between the parties and the heirs and recipients of the recipients of their rights, with the understanding: (a) that if the deed is used before the court is sufficient and that the judge is not permitted to ask for another proof of evidence beside it; and (b) that the contrary proof is always permissable with the usual evidentiary instruments permitted according to the law.

⁹ Salim H.S., *Uji Kompetensi Profesi Notaris*, Sinar Grafika, Jakarta, 2018, p. 1.

¹⁰ Tri Wahyu Surya Lestari dan Lukman Santoso, “Komparasi Syarat Keabsahan “Sebab yang Halal” dalam Perjanjian Konvensional dan Perjanjian SYariah”, *Jurnal Hukum Islam Volume 2 Nomor 1*, 2017, halaman 7-8.

¹¹ Evalina Yessica, “Karakteristik dan Kaitan antara Perbuatan Melawan Hukum dan Wanprestasi”, *Jurnal Repertorium Volume 1 Nomor 2*, November 2014, p. 50.

¹² *Ibid.*, halaman 12-14.

Authentic deed are perfect evidence for both parties, this means that the contents of the deed by the judge are considered true as long as the untruth cannot be proven. Authentic deeds do not require recognition from the parties concerned in order to have the power of proof.

Overview on General Meeting of Shareholders

Based on the provisions of Article 1 number 2 of the Company Law, the company's organs consist of three namely General Meeting of Shareholders (GMS), Directors and Board of Commissioners. Each organ in the company has its own duties and authorities that have been determined in the Company Law. The authority possessed by the General Meeting of Shareholders is relatively large, one of which is the authority to amend the articles of association stipulated by the General Meeting of Shareholders based on Article 19 stipulated by the General Meeting of Shareholders based on Article 19 stipulated by the General Meeting of Shareholders based on Article 19 in Chapter VI of Article 75 to Article 91.

There are two types of RUPS. the other.¹³ The notary obligation in the implementation of the General Meeting of Shareholders (GMS) does not merely formulate or formulate what is experienced and witnessed by the notary public and then put it in an authentic deed that is legally correct and valid, in accordance with the provisions of the legislation. the invitation is valid, however, in the implementation of the General Meeting of Shareholders (GMS), the notary is required to carry out his function and role as a public official who functions as a legal advisor in his field by providing explanations and advice to the parties so that the deed he makes becomes valid in accordance with the provisions of the law - valid invitation.¹⁴

Limited Liability Company in Indonesia

Limited Liability Company (hereinafter abbreviated as PT) originates from the legal term Dutch Trade Wetboek van Koophandel (WvK) namely Naamloze Vennotschap with the abbreviation NV. The term limited liability company consists of two words, namely limited liability company. The

company refers to the capital of a limited liability company consisting of shares or shares. The word limited refers to the responsibility of shareholders whose scope is limited only to the nominal value of all shares owned.¹⁵

Methodology

Research to answer the problem is done by a juridical normative approach, namely research on legal principles (including legal notions, legal provisions of rules, norms, doctrines, jurisprudence and relevant official material). As a normative study, the focus of research to answer the problem lies in library research (secondary data in the form of primary legal materials, secondary legal materials and tertiary legal materials).

To obtain legal materials needed, it is carried out by searching, collecting and reviewing library materials, legislation, research results, scientific works and other written documents. Data obtained from the results of the study will then be analyzed qualitatively. This qualitative descriptive analysis examines legal material for further review in depth and interpreted to obtain the expected conclusions. From the results of the analysis it is expected that the results of descriptive research can be obtained which will provide an overview on the problems to be answered as listed out above.

Analysis and Discussions

- Regulation Related to the Notary's Liability in Making a Deed of Statement of Meeting Decisions and the Circular Decision of a Limited Liability Company

The current National Development carried out by the Indonesian State is aimed at realizing a just and prosperous society based on the Pancasila and the 1945 Constitution of the Republic of Indonesia. Of course it requires a very large cost and energy so that the development can be sustainable, both from the government and legal entities. In an effort to realize the development. One way to develop national development is by creating a limited liability company¹⁶ which is one of usha's bodies in economic activities. The Company is also a legal subject, namely an

¹³ Handri Raharjo, *Hukum Perusahaan*, Pusataka Yustisia, Yogyakarta, 2009, p. 94.

¹⁴ Ahmadi Miru and Sakka Pati, *Hukum Perikatan*, PT Rajagrafindo Persada, Jakarta, 2014, p. 43.

¹⁵ Ridwan Khairandy, *Perseroan Terbatas sebagai Badan Hukum*, Jurnal Hukum Bisnis, Vol. 26 No. 3, 2007, p. 5.

¹⁶ Herlien Budiono, *Kumpulan Tulisan Hukum Perdata di Bidang Kenotariatan*, Citra Aditya Bakti, Bandung, 2008, p. 26.

independent legal subject (personastandi in judicio).¹⁷ The basis of the GMS is Article 78, Article 79, Article 80 and also Article 81 of the Company Law. Judging from the aspect of time of holding a General Meeting of Shareholders, it is divided into two, namely, the Annual General Meeting of Shareholders and the Extraordinary General Meeting of Shareholders, according to Article 78 of the Company Law.

The Annual General Meeting of Shareholders must be held every year, the provisions of which are to be held within a period of at least 6 (six) years after the close of the financial year. Meanwhile, Extraordinary General Meeting of Shareholders will be held when needed without any specific time provisions, so that it can be done if there are conditions or needs related to limited company interests. When a General Meeting of Shareholders (GMS) is held, minutes of the meeting must be made, if it is not there then the General Meeting of Shareholders (GMS) is deemed never held.¹⁸ Every thing or topic and any decision entered into the meeting must be made in a note or minutes. But the recording is not required to be made before a notary public.

The recording can be done before a notary called a deed under the hand but can also be made into an authentic deed with a notary. In practice, making notes or minutes without a notary is referred to as "minutes", while if recorded by a notary public will be referred to as Minutes of the General Meeting of Shareholders.¹⁹

The Deed of Decree of the Meeting, hereinafter referred to as (PKR), is the result of the minutes of the General Meeting of Shareholders (RUPS) made underhanded and then poured into a notarial deed. This can be authorized to the parties of the limited company concerned to be given directly by the GMS. The recipient of the power of attorney can also see the notary in the context of making the PKR. The form of the PKR is a notarial deed, but the act is the result of a meeting decision made by the note taker under the hand. Based on Article 21

Paragraph (4) of the Company Law which states that allowing the PKR deed to be made by a notary in an authentic deed. If there is a formal defect in the deed, the deed only has the strength of proof like a deed under the hand if the parties sign the deed. In accordance with Article 21 Paragraph (4) of the Company Law, the responsibility of a notary is limited to data entered or carried by the GMS minutes.²⁰

- The Implementation of the Notary Liability in Making the Deed of a Limited Liability Company Meeting and Circular Decision Statement

According to R. Soegondo Notodisoerjo, a notary public official is *Openbare ambtenaren*, because it is closely related to the authority or main duties and obligations to make authentic deeds.²¹ In connection with proving legal certainty including the rights and obligations of a person requires the role of a notary public. The role of the Notary regarding assistance provides legal certainty and legal protection for the community is very important.

The role of this notary is to be more preventative or preventive of future legal problems by making an authentic deed related to the legal status, rights and obligations of a person in law, etc. which functions as the most perfect evidence in court, namely in the event of a rights dispute and its obligations.²²

Notary Deed has an important role in creating legal certainty because of its authentic nature and can be used as a strong and full proof tool in the event of problems associated with the deed. Today the need for authentic deeds as proof is increasing along with improving business relations in various fields of business both from local to international scale.²³ The role of a notary in a limited liability company registration is limited to checking the applicant's deed data and reading out the deed that was made before the notary was signed. The act of

¹⁷ Agus Budiarto, *Seri Hukum Perusahaan: Kedudukan Hukum dan Tanggung Jawab Pendiri Perseroan Terbatas*, Ghalia Indonesia, Jakarta, 2002, p. 30.

¹⁸ M. Yahya Harahap, *Hukum Perseroan Terbatas*, Sinar Grafika, Jakarta, 2015, p. 340.

¹⁹ Rudi Prasetya, *Perseroan Terbatas Teori dan Praktek*, Sinar Grafika, Jakarta, 2011, p. 60.

²⁰ Jonathan Adi Biran Munandir dan Thohir Luth, "*Tanggung Jawab Notaris atas Akta Pernyataan Keputusan Rapat*", *Jurnal Cakrawala Hukum* Volume 8 No. 1, Juni 2017, pp. 56-57.

²¹ R. Soegondo Notodisoerjono, *Hukum Notariat di Indonesia Suatu Penjelasan*, PT Rajagrafindo Persada, Jakarta, 1993, p. 8.

²² Sjaifurahman dan Habib Adjie, *Aspek Pertanggung Jawaban Notaris dalam Pembuatan Akta*, CV Mandar Maju, Bandung, 2011, pp. 7-8.

²³ *Ibid.*

checking data carefully and thoroughly is part of the role, from a series of notary roles in online limited company registration. Error data when the process of entering data into the system is something that is not desired by anyone, but sometimes it still happens. The situation is certainly not free from the role of the notary. If there is an error in entering data, the role of the notary is to correct the data before inputting or uploading, then the notary must be responsible for making a new deed at the expense of the notary, but if an error is made on the part of the applicant, the notary will submit what should make a new deed.²⁴

The notary liability lies within the scope of the material truth of the deed already made by the notary. Regarding the responsibilities of a notary public officer relating to material truth, it is divided into four matters consisting of: 1. Responsibility for his position in this case is in the position of the notary himself, in other words the notary responsibility for the deed made is personal, responsibility the answer is attached to the personal notary concerned, wherever or wherever the notary is located.

This has become true, given the said notary public, is the only public official poured into a deed in the format desired and agreed upon by the parties. If the mistakes that occur in the making of the authentic deed come from the parties that carry out legal actions by providing dishonest information and incomplete documents (hidden) by the parties, then the authentic deed made by the notary contains legal defects.

Regarding the responsibility that must be borne by the notary related to the mistakes in carrying out the authority and obligations, in this case the theory of liability can be used based on the liability based on fault. Their applications, the losses incurred are also adjusted whether the mistakes made are serious or minor mistakes, where the severity of an error has implications for the responsibilities that must be borne. This theory is based on Article 1365-1367 Civil Code. UUJN and Civil Code Article 1365-1367 are philosophically, juridical, and sociologically acceptable because it is fair for people who do wrong to compensate the

injured party.²⁵ The notary must be held accountable according to the weight of the error he committed if there was an error. Notaries can be held accountable and their actions include acts against the law. Although the notary only accommodates the parties who face it, it is not impossible that the notary public does not act in violation of the law. Any act that results in harm to others can be prosecuted in court.

The responsibility attached to a notary is born from the law. In connection with the position of a notary public official who carries out public duties. That is, providing services to the general public in the field of civil and notary law also provides legal advice and explanations regarding the law and legal consequences to parties who will make a deed or ask for assistance in making a notarial deed.

- The factors become a notary constraint in Making the Deed of a Limited Liability Company Meeting and Circular Decision Statement

First, the Notary cannot know the material truth from the minutes of the general meeting of shareholders and the circular decision made underhand and brought to the Notary. The notary also cannot confirm the formal truth of the minutes of the general meeting of shareholders and the circular decision. Because what is brought before the Notary Public is only the final result in the form of a general meeting of shareholders and a circular decision made underhandedly.

Second, the Notary also cannot ascertain whether there are changes to the general meeting of shareholders and circular decisions made under the hand, or if there is a general meeting of shareholders and circular decisions made under the handmade afterwards. In this case, the information and data obtained by the Notary are limited to information contained in the general meeting of shareholders and circular decisions made under the hand brought before the Notary. The notary public after noting the general meeting of shareholders and the circular decision made under the hand, is obliged to register the amendment by filling in the questionnaire provided by the Ministry of

²⁴ Erina Permatasari dan Lathifah Hanim, *Peran dan Tanggung Jawab Notaris Terhadap Pelaksanaan Pendaftaran Badan Hukum Perseroan Terbatas Melalui Sistem Online*, Jurnal Akta, Vol. 4 No. 3, 2017, p. 404.

²⁵ David Tan, *Final Income Tax: A Classic Contemporary Concept to Increase Voluntary Tax Compliance among Legal Professions in Indonesia*, Journal of Indonesian Legal Studies, Vol. 5 No. 1, 2020, p. 128.

Law and Human Rights. If there is a change, the Notary will not know for sure about this matter. Of course the consequence for the Notary is that he will not be able to register the deed he made into the system of the Ministry of Law and Human Rights.

Third, the Notary also will not be entirely sure of the truth of the minutes of the general meeting of shareholders and the circular decision made under such hand, solely from the statement of a power of attorney who brings the general meeting of shareholders and the circular decision made under that hand mandate to exercise this power based on the minutes of the general meeting of shareholders and the circular decision.

Even though the person facing the Notary is a private person while the related party is a limited liability company (PT). As a legal entity, a Limited Liability Company must have fulfilled the elements as a legal entity as stipulated in the Company Law. The elements are as follows: First; having regular management and organization; Second; Can do legal action (*recht handeling*) in legal relations (*rechts betrekking*), including in this case can be sued or sued before the court; Third; having own assets; Fourth; Have rights and obligations; Fifth; Has its own goals.

Fourth, the Notary liability has consequences to the effect that the limited company is made the minutes of the general meeting of shareholders and circular decisions, even though in fact the only parties that can face it are those authorized by the general meeting of shareholders and / or shareholders only. Lumban Tobing states that the Notary is responsible for the deed he made, if there are reasons as follows: First; In matters that are expressly determined by the Regulation of the Notary Position (now the Act of Notary Position); Second; If a deed because it does not meet the conditions regarding its form is canceled before the court or is considered valid only as a deed made under the hand; Third; In all cases, where according to the provisions in Article 1365 to Article 1367 of the Civil Code there is an obligation to pay compensation, meaning that all of these things must be passed through balanced verification. The notary is also responsible when the Deed of Establishment of a Limited Liability Company is initiated before the

Notary Public which includes the formulation of the company's aims and objectives, because the Notary is required to be as thorough as possible regarding the matters contained in the Establishment Deed. The formulation of the purposes and objectives of a Limited Liability Company is in line with what is stipulated in Article 2 of the Limited Liability Company Law, namely that the activities of the company must be in accordance with the aims and objectives and do not conflict with the law and violate public order and decency.

This becomes important because the Notary is responsible for what he has made in accordance with the duties and authority that the notary must carry out. Duties and authority of the notary are closely related to agreements, actions and also provisions that give rise to rights and obligations between the parties, namely to provide guarantees or evidence of the actions, agreements, and also those provisions so that the parties involved in it have legal certainty.

Fifth, financial constraints for the Notary in terms of inputting changes in articles of association and / or company data as contained in minutes of the general meeting of shareholders and circular decisions, in the event of input errors and / or misinformation, the correction will take costs arise, the following are the costs of delays due to negligence in inputting the system. Sixth, the Notary is often in making minutes of general meeting of shareholders and the circular decision is only based on data provided to him, namely the minutes of the general meeting of shareholders and the circular decision along with the original identity of the attorney who faces the Notary.

In this case, the deed to be made by a Notary will have a direct impact on the limited liability company, but sometimes the limited liability company data is not submitted by his proxy. In fact, according to Habib Adjie, data regarding the articles of association and by-laws are very important and vital in making a deed relating to a limited liability company.

Closing

Notary public is a public official, appointed and dismissed by the Minister of Law and Human Rights. The notary public official has the duty to provide services to members of

the public who need his services in making written evidence, especially in the form of authentic deeds in the field of civil law, and the existence of a notary is the implementation of the evidentiary law. The basis of the GMS is Article 78, Article 79, Article 80 and also Article 81 of the Company Law. Judging from the aspect of time of holding a General Meeting of Shareholders, it is divided into two, namely, the Annual General Meeting of Shareholders and the Extraordinary General Meeting of Shareholders, according to Article 78 of the Company Law.

The Deed of Decree of the Meeting, hereinafter referred to as (PKR), is the result of the minutes of the General Meeting of Shareholders (RUPS) made underhanded and then poured into a notarial deed. Considering that the PKR was not the minutes of a pure notary meeting but a minutes of meeting underhand, where the Notary was not present or involved in making the GMS decision made under the hand but the meeting's decision was made by the parties in the agreement based on their agreement which then the agreement was brought before the notary to be poured into a notarial deed.

Therefore, the Notary is only responsible for the formal and material truths of the Deed of General Meeting of Shareholders' Decree and the Circular Decree of the Decree made by him, not up to the minutes of the meeting / minutes of the meeting or circular decisions made under the hand by shareholders. The notary cannot be held accountable regarding the truthfulness of the contents of the Deed of General Meeting of Shareholders' Decree and the Circular Decree of Deed, because the notary himself did not attend the general meeting of shareholders whose minutes were made under the hand to amend the articles of association.

The notary public is only responsible for the formality of the form of the deed that was made and is responsible for the statements and documents submitted by the tappers based on the power granted to him to make the Deed of Declaration of General Meeting of Shareholders and Deed of Circular Decision Statement. Related to the Deed of Making a Declaration of Meeting and Circular Decree of a Limited Liability

Company by a Notary Public, there are several obstacles faced by a Notary Public.

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