



LEGAL RESPONSIBILITY OF NOTARIES FOR LOSS OF MINUTES OF DEEDS AND PARTIES' PROTECTION

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Abstract:

This study examines the legal responsibility of notaries for the loss of minute of deeds and its implications for the legal protection of the parties involved. The research addresses the issue of how the loss of a minute of deed affects legal certainty and what forms of responsibility must be borne by the notary under the applicable legal framework. This research employs a normative legal research method using statutory and conceptual approaches by analyzing relevant laws, legal doctrines, and legal principles related to the duties and authority of notaries. The analysis shows that the loss of a minute of the deed may create legal uncertainty for the parties and weaken the evidentiary value of the authentic deed. In such circumstances, the notary may bear administrative and civil responsibility depending on the cause of the loss and the level of negligence involved. The study concludes that proper management of notarial protocols and strict adherence to professional obligations are essential to ensure legal certainty and protection for the parties relying on notarial deeds.

INTRODUCTION

Legal certainty constitutes a fundamental principle in the administration of law, particularly in legal services provided by notaries as public officials authorized to create authentic deeds. In the legal system, an authentic deed produced by a notary holds the highest evidentiary value and functions as an essential instrument in guaranteeing legal certainty and protection for the parties involved (Kalach, Abdul-Malak and Srouf, 2019). One of the key components of an authentic deed is the minute of deed, which serves as the original document kept by the notary as part of the notarial protocol. The existence and preservation of the minute of deed are crucial because it functions as the primary legal evidence in the event of disputes or legal verification processes (Provenzano and Iddas, 2020b; Halimi, 2023; Afwija, Oktafia and Ghofar, 2025).

However, in practice, issues may arise when the minute of deed is lost, damaged, or cannot be located. The loss of a minute of the deed may weaken the legal position of the parties and raise questions regarding the accountability of the notary responsible for maintaining the notarial protocol (Webb, 2006; Faraji *et al.*, 2021). This situation becomes particularly important within the broader context of governance and legal administration, where professional accountability and compliance with statutory obligations are essential in maintaining public trust in legal institutions. Proper management of legal documents and adherence to professional standards are also relevant to governance principles that emphasize transparency, accountability, and institutional responsibility (MacDonald, 2010; Campfens, 2018; Provenzano and Iddas, 2020a; Al-Anshori, Handayani and Jha, 2024; Riepin, 2024).

Several previous studies have discussed the legal position of authentic deeds and the professional responsibilities of notaries. Prior research generally focuses on the authority of notaries



in drafting authentic deeds, the legal force of notarial documents, and administrative responsibilities in managing notarial protocols (Fendri and Mannas, 2019; Jallan *et al.*, 2019). Nevertheless, limited attention has been given to the specific issue of notarial liability in cases involving the loss of a minute of a deed and its legal consequences for the parties involved. It indicates the existence of a research gap in understanding the legal implications of such incidents and the extent to which notaries may be held accountable under the existing regulatory framework. The absence of a clear and comprehensive discussion regarding the responsibility of notaries in cases of lost minutes of deeds may create uncertainty in legal practice. From a governance perspective, this issue raises important questions regarding the mechanisms of professional accountability and the effectiveness of legal safeguards intended to protect the rights of the parties relying on authentic deeds. Therefore, it is necessary to examine how the law regulates the obligations of notaries in safeguarding the notarial protocol and what legal consequences arise when a minute of deed is lost (Lodder and Zeleznikow, 2010; Ramachandra and Rotimi, 2011; Rahmayani and Abdurrahman, 2020; Provenzano and Iddas, 2022; Hidayat and Suwadi, 2024).

Based on the issues described above, this study aims to analyze the legal responsibility of notaries for the loss of minute of deeds and to examine the legal implications of such loss for the parties involved. The research also seeks to contribute to the development of legal discourse regarding professional accountability in the notarial profession and to strengthen the governance framework in the administration of legal services. Accordingly, the research questions addressed in this study are:

1. What forms of legal responsibility must be borne by a notary in the event of the loss of a minute of a deed?
2. What are the legal consequences of the loss of a minute of the deed for the parties relying on the authentic deed?

Through addressing these questions, this study seeks to provide a clearer understanding of the legal responsibilities of notaries and to offer insights into the protection of legal certainty within the framework of notarial practice.

METHODS

This study employs a normative legal research method aimed at analyzing legal norms related to the responsibility of notaries for the loss of the minute of deed. The research uses a statutory approach and a conceptual approach by examining relevant legislation governing notarial duties, particularly Law Number 2 of 2014 concerning the Position of Notary and other related legal regulations. The research data consist of secondary legal materials, including primary legal sources such as legislation, secondary legal materials such as legal doctrines and scholarly journals, and tertiary legal materials, including legal dictionaries and supporting references. The research was conducted through a library-based study focusing on legal documents and regulations related to notarial protocols. The analytical tool used in this research is qualitative legal analysis by interpreting legal norms, legal principles, and doctrinal perspectives to understand the legal responsibility of notaries and the legal implications arising from the loss of the minute of deed.

RESULT AND DISCUSSION

Legal Responsibility of Notaries in the Event of the Loss of a Minute of Deed. The results of this study indicate that the loss of a minute of deed constitutes a serious issue in notarial practice because the minute of deed represents the original, authentic document that forms part of the notarial protocol (Erwiningsih and Ali, 2023). According to the provisions of the Law on Notary





Position (Undang-Undang Jabatan Notaris), a notary has the obligation to maintain, store, and safeguard the notarial protocol, including the minute of deed, as an inseparable part of the legal duties of a notary. Failure to fulfill this obligation may result in various forms of legal responsibility. Based on the analysis of statutory regulations and legal doctrines, the legal responsibility of a notary for the loss of a minute of a deed can be categorized into three main forms: administrative responsibility, civil responsibility, and criminal responsibility. Administrative responsibility arises when a notary violates professional obligations related to the management and preservation of the notarial protocol. In such circumstances, the Notary Supervisory Council (Majelis Pengawas Notaris) has the authority to impose sanctions ranging from written warnings, temporary suspension, to dismissal depending on the severity of the violation.

Civil liability may arise when the loss of a minute of the deed causes losses to the parties involved in the deed. In the context of civil law, a notary may be required to provide compensation if the loss occurs due to negligence or failure to perform professional duties properly. The parties who suffer losses may file a civil lawsuit against the notary based on the principle of unlawful acts as regulated in Article 1365 of the Indonesian Civil Code. Furthermore, criminal liability may also occur if the loss of the minute of the deed involves elements of intentional misconduct, falsification, or gross negligence. Although the loss of a document does not automatically constitute a criminal offense, criminal sanctions may be imposed if it can be proven that the loss resulted from deliberate actions or serious negligence that violate criminal law provisions. Therefore, the notary's responsibility in maintaining the notarial protocol is not only a professional obligation but also a legal obligation that ensures legal certainty for the parties.

These findings are consistent with previous studies emphasizing that the notary's role as a public official requires a high level of prudence and accountability in the management of authentic deeds. The obligation to maintain the minute of deed is fundamental because it guarantees the authenticity and evidentiary power of the deed in legal relations between the parties.

Legal Consequences of the Loss of a Minute of Deed for the Parties. The loss of a minute of the deed also has significant legal consequences for the parties relying on the authentic deed. The minute of deed serves as the original document that provides the legal basis for issuing copies of the deed (Rivanda, 2022). When the minute of the deed is lost, the evidentiary strength of the deed may be affected, particularly in legal disputes that require verification of the authenticity of the document. The results of this study show that one of the primary consequences of losing the minute of deed is the potential weakening of legal certainty for the parties involved. The absence of the original document may create difficulties in proving the validity of the legal act recorded in the deed. In judicial proceedings, the authentic deed generally possesses perfect evidentiary power; however, when the original document is no longer available, the evidentiary process may become more complex. In addition, the loss of the minute of the deed may also lead to administrative and procedural complications for the parties. For example, parties who require copies of the deed for legal or administrative purposes may face obstacles because the issuance of copies must be based on the original minute of the deed. Without the minute, the process of issuing official copies may be legally restricted.

Another legal consequence is the potential emergence of disputes between the parties, particularly if the contents of the deed become contested. The absence of the original document may raise doubts regarding the authenticity and validity of the legal agreement contained in the deed. This situation could lead to litigation, especially when one of the parties questions the legal validity of the deed. From the perspective of legal certainty and protection of the parties, the loss of the minute of deed highlights the importance of strict archival management and professional





responsibility in notarial practice. Preventive measures such as proper documentation systems, secure archival procedures, and effective supervision mechanisms are essential to ensure that the rights and interests of the parties remain protected. Overall, the findings of this study demonstrate that the loss of the minute of deed not only affects the legal responsibility of the notary but also has broader implications for legal certainty, evidentiary processes, and the protection of the parties who rely on the authentic deed. Therefore, strengthening the management of the notarial protocol is essential to maintain the integrity and reliability of authentic deeds within the legal system.

CONCLUSION

This study concludes that the loss of a minute of a deed may give rise to several forms of legal responsibility for the notary as a public official authorized to create authentic deeds. The legal responsibility that may arise includes administrative, civil, and potentially criminal liability depending on the circumstances surrounding the loss of the document. Administrative responsibility arises when the notary fails to properly maintain the notarial protocol as required under the Law on Notary Position, which may result in sanctions imposed by the Notary Supervisory Council. Civil liability may occur when the loss of the minute of the deed causes material or immaterial losses to the parties, allowing them to seek compensation through legal action. In certain circumstances, criminal liability may also arise if the loss involves intentional misconduct or serious negligence that violates criminal law provisions.

Furthermore, the loss of a minute of the deed may have significant legal consequences for the parties relying on the authentic deed. The absence of the original document may weaken legal certainty and complicate the evidentiary process, particularly when the authenticity of the deed needs to be verified in legal proceedings. In addition, the loss of the minute of deed may create administrative obstacles for the parties who require copies of the deed and may potentially trigger legal disputes if the contents of the deed become contested. These findings highlight the importance of professional responsibility and careful management of the notarial protocol to ensure the protection of the parties and the preservation of legal certainty. Strengthening archival management systems, improving supervision of notarial practices, and enhancing professional standards are necessary to prevent the occurrence of similar incidents in the future. Further research is recommended to examine the development of digital archival systems and regulatory frameworks that support more secure management of notarial protocols in modern legal practice.

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