

NOTARY AT THE CROSSROADS

(Legal and Ethical Dilemmas in Concurrent Position as Director of CV)

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Abstract

Purpose of the Study: The purpose of this research is to analyze and evaluate the process of examining and imposing sanctions by the Notary Supervisory Council on cases of alleged dual notary positions in Gorontalo, as well as their conformity with the Notary Position Law (NPL).

Methodology: This research uses normative legal methods, focusing on the analysis and interpretation of legal norms contained in statutory regulations, judge's decisions and other legal sources, using statutory and conceptual approaches. Primary and secondary legal materials include statutory regulations, literature, articles, journals and related documents. Legal material collection techniques involve library research and document study with qualitative analysis.

Main Findings: The inspection process by the Notary Supervisory Board has followed applicable legal provisions. However, there are significant differences in the application and interpretation of the law between Regional and Regional Supervisory Councils (RSC), especially in terms of imposing sanctions. Regional Supervisory Councils tend to impose heavier sanctions, responding to violations as serious actions that damage the integrity of the notary profession. In contrast, the Regional Supervisory Council was more lenient, focused on technical aspects and did not find violations of multiple positions.

Applications: Although the RSC decision is technically in accordance with the NPL, there are concerns regarding the effectiveness and deterrent effect of the sanctions imposed.

Novelty/Originality: This research underlines the importance of adjustments in the imposition of sanctions by the Notary Supervisory Board to ensure effectiveness and maintain the high standards of the notary profession.

Keywords: Notary Supervisory Board, Multiple Positions, NPL .

Introduction

A Commandery Partnership or CV, is a company founded by several people jointly and severally, responsible for the whole or responsible in solidarity, with one or more people as money holders or geldschietter (Widjaya, 2003) . A limited partnership consists of two types of partners, namely management partners or complementary partners and limited partners which are also called non-working partners or silent partners (Harahap, 2011) . Complementary partners are partners who have the right to act on behalf of all partners and are responsible for personal assets, while limited

partners are partners who do not have the right to act on behalf of all partners and are not responsible for personal assets (Kosasih et al., 2021) . The characteristics of two partners in a Limited Partnership are stated in Article 19 of the Criminal Code (1938), which regulates that a Partnership by releasing money which is also called a limited partnership, is established between one person or several partners who are jointly and severally responsible. in full to one party, and one or more people as releasers of money to another party .

The provisions above explain that one or more people are jointly and severally responsible for the whole or are often referred to as complementary partners or active partners who have the right to invest capital into the company, are tasked with managing the CV, have legal relations with third parties, and take personal responsibility for the whole (Kosasih et al., 2021) accordance with article 1278 of the Civil Code (1993). Meanwhile, one or more other person is the person releasing the money or is called a limited partner or silent partner. The limited partner is obliged to hand over money, objects or energy to the company as authorized, has the right to receive profits, does not interfere in the complementary partner's duties and is responsible only for the amount of his contribution. (Widjaya, 2003) . This is done in order to achieve shared goals with different limits to the involvement of each member. Therefore, in a limited partnership there are 2 (two) different partners, including complementary partners (active partners) and limited partners (passive partners).

The legal basis for establishing a CV is based on the Criminal Code and the Civil Code. Establishment of a Limited Partnership by preparing articles of association as outlined in a deed of establishment made before a Notary then registered through Business Entity Administration System to obtain a Registered Certificate. A limited partnership can be formed based on an oral agreement or agreement between the parties. So this is where the role of a Notary is important in carrying out his position as an authentic deed maker.

The important role of the Notary is based on the need for binding evidence other than witness evidence. A notary is an institution that arises from the needs of society regarding civil relations between individuals who require evidence between them. Evidence can take various forms and types, which are capable of providing information and explanations about the issues being litigated in court (Afnizar et al., 2010) .

One of the authorities to make this authentic deed lies with the Notary Officer, as stated in Article 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, which will hereinafter be called NPL (2014) . Regulation of the presence of Notaries in the NPL makes Notaries public officials who are really needed by the public because they can provide guarantees and strong evidence of the products produced by Notaries. NPL determines that a Notary is a public official who has the authority to make authentic deeds. Deeds made by Notaries can provide legal certainty for the public, in accordance with Article 1 number 1 of the Law on the Position of Notaries which regulates that Notaries are public officials who

have the authority to make authentic deeds and have other authorities as intended in this law or based on others law” (2014) .

Limiting the scope of notaries is an effort to ensure that notaries carry out their duties and functions in accordance with statutory provisions, by limiting their responsibilities and limiting their authority so that there is no abuse of office. The conditions for appointing a notary are regulated in Article 3 letter (g) NPL (2014) , that the notary does not have the status of a civil servant, state official, advocate, or is not holding another position prohibited by law when appointed as a notary. Article 17 paragraph (1) letter f are prohibited from holding concurrent positions as leaders or employees of State-Owned Enterprises, Regional-Owned Enterprises and Boards. Privately Owned Enterprises.

The prohibition on holding multiple Notary positions is closely related to the form and specialization that requires a Notary to act professionally, one of which is concentrating on one profession that he has decided to undertake. This prohibition also aims to prevent conflicts of interest, and to ensure that the Notary remains independent and neutral. Notaries as public officials must act impartially, not hold concurrent positions as leaders and/or employees in a business entity.

A notary in Gorontalo Regency was suspected of holding multiple positions after being examined by the Regional Supervisory Council and then proceeding to the Regional Supervisory Council. Starting from the collaboration between PT. Mimoza Multimedia with CV. Citra Persada or hereinafter referred to as Pro TV Cable Limboto. The cooperation agreement began in the first period in 2012-2014, continued with the second period in 2015-2017, then an agreement was made for the third period in 2018-2020 which was signed by PT. Mimoza Multimedia, but the notary or Pro TV Kabel Limboto did not want to sign it because they felt that PT.

Mimoza Multimedia has not fulfilled its responsibilities in the second period of the agreement. Limboto Cable TV Pro or the notary felt aggrieved and finally reported PT. Mimoza Multimedia to Gorontalo District Court. After the examination and trial took place, the Panel of Judges finally decided to reject the Plaintiff's claim because it was deemed that he did not have the right to sue the disputed case due to the Plaintiff's position as a Notary who was prohibited from holding concurrent positions as head of a Private Business Entity as stated in Article 17 paragraph (1) letter f NPL.

After the decision of the Panel of Judges, finally PT. Mimoza Multimedia reported the alleged dual position by a Notary who served as Director of Limboto Cable TV Pro as stated in Court Decision No.45/Pdt.G/2018/PN Gto. Then an inspection is carried out by the Regional Supervisory Council and then continues to the Regional Supervisory Council.

NPL Article 16 Paragraph (1a) regulates that, in carrying out their duties and positions, Notaries are obliged to act in a trustworthy, honest, thorough, independent, impartial manner and safeguard the interests of parties involved in legal actions. Meanwhile, Article 16 Paragraph (1e) stipulates

that "Notaries in carrying out their duties and positions provide services in accordance with the provisions of this Law, unless there are reasons to refuse it."

The research problem is whether the inspection process carried out by the Notary Supervisory Board is in accordance with applicable legal provisions? And is the RSC's decision in imposing sanctions on Notaries suspected of holding concurrent positions in accordance with the NPL?

Method

The normative legal research carried out focuses on the analysis and interpretation of legal norms contained in statutory regulations and other legal sources, using statutory and conceptual approaches. Primary and secondary legal materials are used, including legislation, judge decisions, literature, articles and journals. The technique for collecting legal materials involves library research and document study, including analysis of decision letters and recommendations (Irwansyah & Yunus, 2020) . Analysis of legal materials was carried out qualitatively to examine problem solving related to the position of a notary who also holds the position of director of a limited partnership (CV), with the hope of producing an in-depth understanding of the legal problems studied.

In this normative legal research, the analysis focuses on two main problem formulations. First, whether the inspection process carried out by the Notary Supervisory Board is in accordance with applicable legal provisions. Second, is the decision of the Regional Supervisory Council (RSC) regarding the imposition of sanctions on notaries who are suspected of holding concurrent positions in line with the Law on Notary Positions (NPL). To answer these two questions, the method used involves a statutory and conceptual approach. By utilizing primary legal materials such as statutory regulations, judge's decisions, and secondary legal materials such as literature, articles and journals, this research prioritizes library research and document study. This analysis was carried out qualitatively, evaluating and interpreting data that is closely related to the position of a notary who also holds the position of director of a limited partnership (CV). The aim is to produce a comprehensive understanding of the suitability of procedures and decisions taken by the Notary Supervisory Board and RSC with the applicable legal framework, thereby offering in-depth insight into law enforcement and the ethics of the notary profession in Indonesia.

Literature Review

Existing literature provides in-depth insight into the roles and responsibilities of notaries, as well as the legal and ethical consequences of holding multiple positions. Bowser and Bassett's study emphasizes that notaries as public officials must be neutral and impartial, underscoring the importance of integrity and public trust in notarial practice (Bowser & Bassett, 2023) . This becomes relevant when examining whether the notary who doubles as CV director is able to maintain his neutrality, in accordance with the first Problem Formulation.

Padilla highlighted the rigorous process of becoming a notary, which includes exams and background checks. This shows the high standards expected of notaries and is relevant when evaluating the inspection process by the Notary Supervisory Board, whether these procedures have been adequate to ensure the integrity of the notary profession (Padilla, 2018). Acora, Asmara, and Kaharuddin's research examines the position of notaries as party managers and the implications from a legal perspective (Acora et al., 2019). Their findings regarding conflicts of interest and the need for notary independence add important insight regarding the second problem formulation, related to the suitability of RSC decisions in imposing sanctions on notaries who hold concurrent positions.

Putri, Mulyaningrum, and Daren's study on the validity of notarial deeds in online shareholder meetings shows the adaptation of the notary profession to technological advances (Putri et al., 2022). This raises the question of how similar developments might affect the practice of dual notaries, and whether this could open the door to conflicts of interest or abuse of position. Diastami, Miru, and Paserangi explored the role of notaries as legal auditors, highlighting that there is no specific prohibition against notaries serving as legal auditors (Mhd et al., 2019). This reflects a similar ethical dilemma in the case of a notary who doubles as a CV director, where potential conflicts of interest are a major concern.

Hussy and Djaja's research compares notary law in Indonesia and Singapore, providing an international perspective that is useful in understanding differences in the regulations and expectations of the notary profession. Lastly, the study by Jaraputri et al. about the legal consequences for notaries with dual professions as rectors of private universities shows how dual positions can affect public trust and the integrity of the profession. This study is relevant in considering how holding a dual position as CV director can influence public perception and trust in the notary profession.

The final analysis of the existing literature reveals the multidimensional dilemma faced by notaries in the context of holding multiple positions, especially as a CV director. From a legal and ethical perspective, there are gray areas that challenge the integrity and independence of notaries, aspects considered vital in maintaining public trust. Bowser and Bassett underscore the importance of neutrality in notarial practice, which is a key point of emphasis in evaluating the ability of notaries who also serve as CV directors to remain objective. If this neutrality is compromised, notarial integrity risks being compromised, raising questions about the effectiveness of the Notary Supervisory Board's inspection of this practice.

Padilla pointed out that the process of becoming a notary involves rigorous background checks and exams, highlighting the high standards expected of this profession. In the Indonesian context, this raises the question of whether the same stringent procedures are applied to evaluate and supervise dual-serving notaries, ensuring they remain within the bounds of professional ethics.

Acora, Asmara, and Kaharuddin's research on conflicts of interest in notary positions shows that managing two roles simultaneously can pose serious risks to independence. This is relevant when reviewing the RSC's decision regarding the imposition of sanctions on notaries in cases of holding multiple positions, highlighting the need for a rigorous objective assessment of this practice.

Putri, Mulyaningrum, and Daren brought perspectives on the adaptation of the notary profession to technology, which can also influence the way notaries who hold dual positions carry out their duties. These developments require a rethinking of traditional ways of understanding and organizing the role of the notary. Diastami, Miru, and Paserangi highlight that there is no specific prohibition on notaries serving as legal auditors, suggesting that current legal provisions may not be sufficient to effectively address the complexity of notary duties.

Meanwhile, Hussy and Djaja's research provides a comparative perspective between Indonesia and Singapore, giving us insight that notary practices and regulations can differ greatly across jurisdictions, which may influence how this dual position is regulated and viewed (Hussy & Djaja, 2023) . Jaraputri et al. illustrates how multiple positions can influence public perceptions of notaries. Although holding a dual position as university chancellor does not explicitly violate the NPL, questions remain about how this affects public trust and the integrity of the profession as a whole (Jaraputri et al., 2023) .

From this analysis, it becomes clear that the legal and ethical dilemmas faced by notaries in their concurrent positions as CV directors require further evaluation and possible regulatory adjustments to ensure that this practice does not compromise the integrity and public trust in the notary profession. This is a challenge that requires a holistic approach, considering legal, ethical and professional practice aspects in the regulation and supervision of notaries in Indonesia.

Results and Discussion

I. Supervision of the Notary Profession: Analysis of the Notary Supervisory Board's Compliance with Applicable Legal Standards

Examinations by the Notary Examination Council aim to maintain the integrity and professionalism of notaries and ensure that they carry out their duties correctly in accordance with the law and ethics. This process differs from region to region. This is stated in the Regulation of the Minister of Law and Human Rights Number 15 of 2020 concerning Procedures for Examination of Notary Supervisory Councils. The Examining Council is a team of examiners who have the authority to carry out inspections and impose sanctions which is formed by the Notary Supervisory Council. The Supervisory Council has the authority to guide and supervise notaries as well as carry out investigations into alleged violations of the behavior and implementation of the notary's office; administration that does not require approval from the supervisory board meeting; administration that requires approval from the supervisory board meeting; and routine check-ups (2021) .

The notary inspection process according to Minister of Law and Human Rights Regulation Number 15 of 2020 aims to ensure that notaries carry out their duties and functions well and in accordance with statutory provisions. Therefore, the following is a table that compares the notary inspection process according to Minister of Law and Human Rights Regulation Number 15 of 2020 with the inspection practices carried out by the Regional Supervisory Council (RSC) of Gorontalo Province. This table presents a comparison between the provisions in the Regulation of the Minister of Law and Human Rights and the implementation of inspections by the Gorontalo Province RSC.

Regulation of the Minister of Law and Human Rights Number 15 of 2020 and practices implemented by the Regional Supervisory Council (RSC) of Gorontalo Province. This analysis revealed several similarities and differences in key aspects of the procedures.

First, in the formation of the Examination Council, Minister of Law and Human Rights Regulation Number 15 of 2020 regulates the formation of the council in stages, covering regional, regional and central levels. Meanwhile, practice in the Gorontalo Province RSC shows that the formation of the Examination Council is carried out directly by the Provincial RSC itself.

Second, the composition of the Examining Panel in the two systems is similar. Both in the Regulation of the Minister of Law and Human Rights Number 15 of 2020 and the practice of the Gorontalo Province RSC, the composition of the assembly consists of government elements, notaries and academics. This shows that there are efforts to ensure diverse and comprehensive representation in the examination process.

Third, in terms of inspection administration, the two systems are also similar. Report records, evidence and documents are maintained by the secretary, which shows the importance of neat and accurate documentation in the examination process. Fourth, the inspection process is essentially similar in both systems. This involves filing reports, recording, and summoning the reporter or reported party. The Gorontalo Province RSC practice, however, places more emphasis on summoning and checking reports.

Fifth, inspections by the Regional Supervisory Council (RSC) also have a different focus. In the Regulation of the Minister of Law and Human Rights, inspections are more periodic, including auditing of deeds and supervision of protocols, whereas in Gorontalo, the main focus is on supervision of deeds and notary protocols. Sixth, the actions taken by RSC also have similarities. Both systems involve follow-up investigations, sanctions and recommendations to the Central Supervisory Council (CSC). Practices in Gorontalo show the potential for similar sanctions measures.

Finally, in handing down decisions, both systems follow an open process, including reading and signing the decision. Communication of results to related parties is also an important part of this process, both in the Minister of Law and Human Rights Regulation Number 15 of 2020 and the Gorontalo Province RSC practice.

Comparing the notary examination process according to Minister of Law and Human Rights Regulation Number 15 of 2020 with the practice of the Regional Supervisory Council (RSC) of Gorontalo Province reveals general conformity in the structure and mechanism of examination. These two approaches show uniformity in the formation of the Examination Council, which includes elements of government, notaries and academics, showing efforts to maintain objectivity and comprehensiveness in examinations. However, there are important nuances in the practical implementation by the Gorontalo Province RSC that require attention.

Examination administration, both in the Regulation of the Minister of Law and Human Rights and in the RSC, appears to be quite standard, with the recording of reports, evidence and documents. However, it is important to ask to what extent this process is efficient and whether there is room to improve accuracy and speed in handling cases. In particular, RSC's focus on documents and evidence, while important, can potentially overlook other aspects such as direct testimony or the wider social and professional context.

Another significant aspect is the handling of cases by RSC, especially related to follow-up investigations and recommendations for sanctions. Although the RSC follows the framework set out by the Minister of Law and Human Rights Regulation, there appears to be a need to be more transparent and critical in deciding on sanctions. The sanctions imposed must reflect not only the specific legal violation but also consider the impact on the integrity of the notarial profession as a whole.

The handing down of the decision by RSC highlights the importance of an open and accountable process. However, criticism can be raised regarding how effective this process is in ensuring fairness and propriety, as well as in communicating the results to the parties concerned. It is possible that existing procedures may not be completely adequate in dealing with the complexity of certain cases, especially those involving conflicts of interest or ethical dilemmas.

Overall, although the Gorontalo Province RSC appears to be following the outline set out by Minister of Law and Human Rights Regulation Number 15 of 2020, this analysis shows that there is still room for improvement in terms of transparency, process efficiency, and thoroughness in determining sanctions. Furthermore, the examination process must continue to be adapted to address emerging challenges and changing dynamics in notarial practice.

In this regard, in Gorontalo there was a case of a notary who served as Director of CV. Citra Persada; became Director of Pro Cable TV (2018) . In the case handled by the Regional Supervisory Council of Gorontalo Regency, the facts of the case show that the reported notary founded and served as Director of CV. Citra Persada, is also the Director of Pro Cable TV, and is involved in the merger cooperation agreement. The Supervisory Council considers that the notary's actions violate the ethics and standards of the notary's office, which should respect and uphold the dignity of his or her position. As a result, the recommended sanction given was "Disrespectful Dismissal" as a Notary. The conclusion of this decision is based on a violation of Article 3 letter

g in conjunction with Article 8 paragraph (1) letter e in conjunction with Article 12 letter d in conjunction with Article 17 paragraph (1) letter f of the Notary Position Law (2014) .

Meanwhile, the Regional Supervisory Council of Gorontalo Province faced a similar case, where the respondent was involved in a cooperation agreement as Director of Pro Cable TV. However, the reported party has resigned from the position of Director of CV. Citra Persada before becoming a Notary. In contrast to the assessment of the Regional Supervisory Council, the Regional Supervisory Council considered that it was not proven that the respondent held concurrent positions as Director after becoming a Notary and had clarity in his actions as a business owner. Therefore, the sanction imposed is only a "Written Warning". The conclusion of this decision is based on a violation of Article 16 paragraph (1) letter a NPL, but without proven evidence of multiple positions.

A comparison of these two cases shows variations in the assessments and sanctions given by different Supervisory Boards. While the Regional Supervisory Council gave heavier sanctions based on clear actions of holding multiple positions, the Regional Supervisory Council gave lighter sanctions because there was no evidence of holding multiple positions after being reported as a Notary. This case illustrates the complexity and challenges in enforcing ethical and legal standards in the notary profession, as well as the importance of careful and proportional judgment in providing sanctions.

Case analysis of a notary in Gorontalo who doubles as Director of CV. Citra Persada and Pro TV Cable show significant differences of opinion between the Regional Supervisory Council of Gorontalo Regency and the Regional Supervisory Council of Gorontalo Province. The Regional Assembly, by recommending "Dishonorable Discharge," appeared to take a harsher approach. This is based on evidence and testimony showing that the reported notary not only violated professional ethics but also specific legal provisions. They see the reported behavior as a serious violation of the standards of the notary profession which should uphold integrity and public trust.

On the other hand, the Regional Assembly, which gave a "Written Warning", seemed to focus on the technical aspects of the case. They considered that because the Reported Party was no longer serving as Director when he became a Notary Public, there was no violation of multiple positions. However, this raises the critical question of whether this assessment is comprehensive enough. They decided that the Reported Party was guilty of being dishonest in his statement, but were the sanctions given fair and effective?

From this analysis, it is clear that there is a need to strike a balance between the fairness and effectiveness of punishment. While the Regional Assembly appears to be implementing more severe sanctions to prevent similar violations in the future and provide a deterrent effect, the Regional Assembly may be too lenient, potentially failing to prevent similar behavior in the future. The deterrent effect of providing sanctions is important to maintain high standards in the notary

profession, and in this case, it seems that the Regional Supervisory Board may not be fully aware of the importance of this aspect.

This case highlights the need for the Supervisory Board to be more critical and comprehensive in considering all aspects of the case, including the long-term impact of their decisions on the integrity of the notary profession. This is not only about complying with the rule of law but also about maintaining public trust and maintaining the ethical standards of the profession. A more holistic and forward-looking approach in determining sanctions could be more effective in maintaining the standards of the notary profession and avoiding similar violations in the future.

II. Compliance Analysis: Compatibility of RSC Sanctions Against Notaries with NPL in Cases of Alleged Dual Positions

In the Supervisory Panel's examination above, it was stated that before the report was made against the Reported Notary, the case of the Reported Party and the Complainant had previously been submitted to the Gorontalo District Court. From the results of the research, it is true that the lawsuit submitted to the Gorontalo District Court mentions the name of the Notary as the Plaintiff in the case and also mentions his work as a Notary, in this case the Notary is represented by his attorney. The cases included in this lawsuit mostly discuss breaches of contract or the contents of the agreement that was violated. Then proceed with suing each other, where the Defendant files a reconvention lawsuit or counterclaim in this case. Next, what will be discussed in more depth is what is at the core of the case of multiple positions in this decision. In this court decision, the Notary Reported Party will be called the Plaintiff and the Reporting Party, namely PT. Mimoza Multimedia will be named the Defendant.

Gorontalo District Court Case Sitting. The plaintiff with a lawsuit letter dated 30 May 2018 which was received and registered at the Registrar's Office of the Gorontalo District Court on 30 May 2018 in Register Number 45/Pdt.G/2018/PN Gto, has filed the following lawsuit: The plaintiff is the owner of a regular CABLE TV business called LIMBOTO CABLE TV PRO from 2002 to 2012 and already has company assets and thousands of Cable TV customers. On December 10 2012, the Plaintiff collaborated with the Defendant, and an Operational Cooperation Agreement (Free-up Merger) was made which was signed by the Plaintiff and the Defendant as stated in the PT. MIMOZA MULTIMEDIA and PRO TV CABLE LIMBOTO.

The cooperation agreement between the Plaintiff and the Defendant ran smoothly for 2 (two) years, until the contract period ended in 2014, then continued in 2015. The conflict began when the next contract was extended. The defendant changed the contents of the agreement unilaterally, especially regarding profit sharing. In 2016 and 2017 the Defendant again submitted a draft contract agreement again by changing the contents of the contract without involving the Plaintiff, who in his position as one of the parties to the agreement should have agreed to the clauses of the agreement.

Based on the agreement, the Plaintiff routinely received a share every month as a right to profit sharing, but this was decreasing. Then the Plaintiff no longer receives payment until this lawsuit is filed. During the collaboration, there was a unilateral cut in the distribution of profits, which the Defendant used for operational costs. Meanwhile, it was stated in the agreement that operational and maintenance costs were the responsibility of the Defendant.

The Plaintiff's losses increased after the Defendant left the Pro TV Cable Studio, by not paying the electricity bill so that the electricity meter was completely cut off by PLN. The assets owned by the Plaintiff in the form of materials, namely cables and components, as well as other equipment in the Pro Cable TV Studio, were taken by the Defendant. Even some of the Pro TV Cable employees who previously worked for the Plaintiff were eventually taken by the Defendant.

In the objection or denial of the lawsuit filed by the Plaintiff, the Defendant provided an answer and also filed a counterclaim or counterclaim as follows:

In the lawsuit above, the Plaintiff has clearly stated that he himself is collaborating with the Defendant, while the Plaintiff does not have the legal capacity to act as a Plaintiff, because the Plaintiff is a Notary and has no right to sue the case because his position as a Notary is prohibited from holding concurrent positions. as Head of a Private Business Entity, as regulated in Article 17 paragraph (1) letter f NPL.

A claim from someone who is not entitled to file a lawsuit must be declared inadmissible (1973) . It could also be said that he does not have the right to sue because there is no legal relationship between the Plaintiff personally as a Notary and the Defendant as a Legal Entity in the Free Merger Cooperation Agreement. The plaintiff felt disadvantaged because he had been in a legal relationship with a party who in the NPL was clearly prohibited from serving as head of a company from collaborating.

The legal consideration of the Panel of Judges is that the parties in the case of breach of contract regarding the Merger Cooperation Agreement should be fellow private business entities, namely the Director of Pro TV Cable and the Director of PT Mimoza Multimedia. So the lawsuit filed by the Plaintiff as a Notary is Error in Person or Disqualification in person. The Defendant has submitted proof of the letter in the form of a photocopy of the PT Free Merger Cooperation Agreement. Mimoza Multimedia and Pro TV Cable Limboto dated 10 December 2012 and proof of the letter in the form of a photocopy of the original PT Merger and Separate Cooperation Agreement. Mimoza Multimedia and Pro TV Cable Limboto dated January 1 2015.

The two proof letters have been sufficiently stamped and have been signed by the Plaintiff and Defendant as Directors, respectively as Directors of the Company. This evidence is the same as the evidence submitted by the Plaintiff, so the truth of the letter cannot be denied. The witnesses brought by the Defendant testified that the Plaintiff was the owner and Director of the company Pro TV Cable Limboto. In accordance with the statements of the witnesses presented by the Plaintiff, these witnesses clearly knew this because they were former employees of Pro TV Kabel.

The Panel of Judges looked at the complete identity of the Plaintiff in his lawsuit as an individual legal subject whose job is as a Notary, who is the owner and Director of the Limboto Cable TV Pro Company in the Merger Cooperation Agreement. The Plaintiff's legal position in the identity of the lawsuit is different from the Plaintiff's legal position and position in the Merger Cooperation Agreement Letter dated 10 December 2012 and 01 January 2015 which is the basis of their legal relationship, so that the Plaintiff must be declared to have no legal standing to sue the Defendant (*persona standi in iudicio*).

Because the Convention Defendant's exception was granted, it is legally appropriate for the Panel of Judges to declare that the Plaintiff's claim is formally flawed and must be declared inadmissible. Whereas the aim and purpose of the Plaintiff's lawsuit is essentially about breach of contract, whereas the consideration regarding exceptions is a decisive matter (*decisive*) for the examination of the main case, so the lawsuit must also be declared inadmissible.

The Panel of Judges stated that formally the legal relationship had been severed between the convention claim and the reconvention claim, so that this reconvention must also be declared unacceptable. Because the Plaintiff's lawsuit and the Defendant's lawsuit were declared unacceptable, the Plaintiff and Defendant must be punished jointly to pay the court costs.

In connection with the lawsuit submitted by the Notary Public at the Gorontalo District Court with Register Number 45/Pdt.G/2018/PN Gto on 30 May 2018, the Panel of Judges decided that the Plaintiff's lawsuit cannot be accepted because the Plaintiff is a Notary which is prohibited by law. law to hold concurrent positions, the Plaintiff does not have legal standing as a Director of the Company. This confirms that the Plaintiff is a Notary who also holds the position of Director of a Limited Liability Company (CV).

Thus, it shows that the Reported Party in his position as Notary did not carry out his oath of office to the best of his ability and seemed to act as a Director who was ready to bear the risk. That in the capacity of a Notary as a Public Official, the author shall make authentic deeds regarding all acts, agreements and stipulations which are required by statutory regulations and/or which are desired by interested parties to be stated in authentic deeds, as authorized in Article 15 NPL.

That the Reported Party's actions were to enter into a Merger Cooperation Agreement which began in 2012, which was carried out to expand the company's reach, expand into new segments, or gain market share. All this is done to increase company value. In the Agreement, the Reported Notary mentions himself as Director of Pro TV Kabel Limboto, which means that at the same time the Reported Notary also serves as Director of CV.Citra Persada, this shows that the Reported Party is biased towards one party, thus threatening the implementation of the Notary's obligations as regulated in Article 15 NPL. In short, even though this was not ruled out directly in the Merger Cooperation Agreement, the assets used by the Reported Party in the Merger Cooperation Agreement were assets of CV.Citra Persada, which means that the Reported Notary did everything necessary to achieve the collaboration.

Whereas in the Merger Cooperation Agreement that was made, the Reported Notary's job was listed as Director of Limboto Cable TV Pro, this indicates as if the Reported Party was the Director of CV.Citra Persada. Whereas based on Deed Number 65 drawn up by Gunawan Budiarto, SH., as a Notary domiciled in Gorontalo City concerning the Income and Expenditures of Companies and Amendments to the Articles of Association, it is known that the Reported Notary has officially resigned from his position as director of "CV Citra Persada" as of since February 15 2010 and based on this deed, the position concerned was immediately replaced.

Based on RSC's examination, the evidence of the letter submitted by the Reporting Party to RSC is linked to the deed of establishment of the company, then the two are interconnected with the position held by the Reported Party, namely as Director of Pro Cable TV. As stated in the letter of agreement, it is in accordance with the deed of establishment of the company "CV. Citra Persada" Number 20, as well as the contents of the cooperation agreement, are basically the same as the intent of the contents of article 2 in the deed of establishment, namely carrying out business in the field of providing cable TV services by forming a forum called "Pro TV Cable" to carry out the business. intended.

This shows that the Reported Notary did not carry out his oath of office to the best of his ability because he acted as a Director collaborating with third parties. That the Reported Party did not carry out his position professionally, and failed to comply with statutory regulations and the Notary Code of Ethics. Reported Notaries proven to have violated the obligations and prohibitions of Notaries as regulated in Article 16 and Article 17 NPL, can be subject to sanctions in the form of administrative sanctions, civil sanctions, criminal sanctions and even code of ethics sanctions.

The prohibition for Notaries from holding concurrent positions as leaders of business entities in carrying out their positions has been regulated in Article 17 paragraph (1f) NPL which states explicitly that Notaries are prohibited from holding concurrent positions as leaders or employees of state-owned enterprises, regional-owned enterprises or private business entities. . Thus, it is clear that if a notary holds concurrent positions as the head of a business entity, then the Notary has violated the law and of course for this violation the Notary can be subject to administrative sanctions.

Apart from NPL, sanctions against Notaries who hold concurrent positions are also regulated in Article 55 letter e, Regulation of the Minister of Law and Human Rights Number 19 of 2019 concerning Requirements and Procedures for Appointment, Leave, Transfer, Dismissal and Extension of the Term of Office of Notaries, explaining further provisions regarding Notaries who can be honorably dismissed from their position, if they hold a position that is prohibited by NPL. Furthermore, the procedures for dismissing a Notary Public are regulated in Articles 81 to Article 85 of Minister of Law and Human Rights Regulation Number 19 of 2019.

In the Gorontalo Province RSC Decision, there are discrepancies regarding the sanctions given. If the Reported Party does not hold concurrent positions, then how can it be proven that the collaboration carried out is a combination of quite large company assets.

Based on the description above in connection with the results of the examination of existing evidence, the Regency Notary Examining Council is of the opinion that the company "CV. Citra Persada" is included as a privately owned business entity. The Cable TV business called Pro Cable TV itself is a CV. Citra Persada, whose establishment is the same as stated in the Gorontalo District Court Decision, RSC Recommendation and RSC Decision, was founded in 2002. This collaboration could not have been carried out if previously the Reported Party did not have customer data of approximately between 2000 to 3000 customers and material assets. in the form of a transmitter or signal amplifier , before collaborating with PT. Mimoza Multimedia.

Based on the results of the examination by the Gorontalo Regency RSC and the Gorontalo District Court, the Reported Party held a dual position, because he had served as Director of a Limited Liability Company by entering into a Merger Cooperation Agreement with PT. Mimoza Multimedia signed the agreement as Director of Pro Cable TV, but the sanctions were still handed over to RSC because according to Minister of Law and Human Rights Regulation No. 15 of 2020 Article 47 regulates that if the results of the examination trial state that the Notary is proven to have committed violations of position and behavior, the Notary the person concerned is subject to administrative sanctions; and sanctions as intended in paragraph (1) can be in the form of a written warning; temporary dismissal; honorable discharge; or dishonorable discharge.”

In Article 9 paragraph (1) letter d NPL regulates "Notaries are temporarily dismissed from their positions because: they violate the obligations and prohibitions of their position as well as the Notary's code of ethics." Minister of Law and Human Rights Regulation Number 15 of 2020 Article 36 regulates:

"In the event that a Notary is proven to have committed a violation of behavior and performance of office, the Examination Council will impose sanctions in the form of a verbal warning; written warning; temporary dismissal; proposal for honorable dismissal; or a suggestion of dishonorable discharge."

Thus, in accordance with Article 17 paragraph (2) NPL Notaries who violate the provisions as intended in paragraph (1) may be subject to administrative sanctions as mentioned above. Based on Article 3 paragraph (2) and paragraph (3) jo. Article 10 of the Minister of Law and Human Rights Regulation Number 61 of 2016 concerning Procedures for Imposing Administrative Sanctions on Notaries, states that the imposition of administrative sanctions is carried out in stages starting from light sanctions to the heaviest sanctions. In certain cases, Notaries who commit serious violations of their obligations and position restrictions can be immediately subject to administrative sanctions without being carried out in stages. So the Minister can impose administrative sanctions in the form of honorable or dishonorable dismissal on the

recommendation of the Central Supervisory Council. Based on the example of a Notary who holds the same position as Head of a Private Business Entity, in this case the Notary represents the Director of PT. Bumi Madu Mandiri sued in court, based on a Power of Attorney stating that its work was as a legal service, not a notary. The sanction imposed by the CSC is temporary dismissal for 6 (six) months. The decision in the CSC case Number 06/B/CSCN/X/2018 is in line with Article 66 of the Minister of Law and Human Rights Regulation No. 25 of 2014.

The sanctions given by the RSC of Gorontalo Province with only a Written Warning were considered insufficient to provide a deterrent effect and serve as an example for other Notaries. The author does not agree with the sanctions in the decision handed down by RSC because they are not firm enough. Basically, Notaries are appointed by the government, not for the Notary's personal interests, but for the interests of the general public. In accordance with what has been stated in the provisions of Article 1 of the Regulation of the Minister of Law and Human Rights Number 62 of 2016 which has been amended by Regulation of the Minister of Law and Human Rights Number 19 of 2019, the Regional Supervisory Council is an authorized body and is obliged to carry out guidance and supervision of Notaries in provincial level, the Supervisory Council should carry out a comprehensive supervisory function over notarial activities carried out by a Notary. Supervision should be periodic, regular and orderly, such as repertory inspections which are carried out routinely every year. This aims to prevent errors and omissions in the practices carried out by Notaries.

The following are some general implications that arise, namely Conflict of Interest: Serving as a CV director and as a Notary can create a potential conflict of interest; Ethical Considerations: Notary ethics rules may require Notaries to avoid holding multiple positions that could harm their integrity or independence as a Notary; Corporate Governance: As Director of CV, the Notary must also comply with applicable corporate governance and be responsible for company decisions; Director's Rights and Obligations: As Director of CV, the Notary will have special rights and obligations which are regulated by company law and may be incompatible with the Notary's responsibilities; Influence on Notary Clients: This dual position can also influence Notary clients' perceptions regarding the notary's independence and impartiality in providing notarial services; Supervision by the Notary Authority: The Notary Authority or notary supervisory body in a region carries out further inspections of Notaries who carry out multiple positions to ensure that no ethical or legal violations have occurred; and Inspections by the Notary's supervisory body can result in sanctions or disciplinary action if the notary is deemed to have violated rules or ethics.

Based on evidence from the results of the RSC examination and District Court Decision Number 45/Pdt.G/2018/PN Gto, it is true that the Reported Notary held multiple positions. According to the author, the violations committed by the Reported Notary were quite serious, not only did he hold the same position, but the Reported Notary was also dishonest and untrustworthy in carrying out the position of Notary, which is a position that is closely related to humanity (*officium nobile*).

Based on the analysis of the decision of the Gorontalo District Court Number 45/Pdt.G/2018/PN Gto, the Gorontalo Regency RSC Recommendation and the Gorontalo Province RSC Decision, the existence of differences in the imposition of sanctions based on the results of the examination will provide uncertainty in the imposition of sanctions that are not fixed and inappropriate, so that contrary to the Theory of Legal Certainty. Meanwhile, based on the Legal Responsibility Theory, the Reported Party is deemed not to be legally responsible for the multiple positions carried out in the collaboration and the loss of legal responsibility as a Notary, because based on the RSC decision the Notary does not hold concurrent positions and his responsibility is only limited to sanctions in the event of contradictory actions. written warning.

If it is withdrawn according to NPL and Minister of Law and Human Rights Regulation Number 15 of 2020, the sanctions given by the Gorontalo Regency RSC and Gorontalo Province RSC are appropriate, because the sanctions are in accordance with the articles in these regulations. However, the sanctions mentioned in NPL articles and Minister of Law and Human Rights Regulation Number 15 of 2020 are very ambiguous or giving sanctions is inefficient and inappropriate, because if it is the first violation, only a light sanction will be given, so the Notary will not be subject to the prohibition on holding multiple positions or other serious violations, because a light sanction will be a verbal warning or written warning.

Conclusion

The inspection process by the Notary Supervisory Council follows the applicable legal provisions, however there are differences in the application and interpretation of the law between the Regional and Regional Supervisory Councils. The Regional Assembly tends to impose more severe sanctions, considering violations as serious acts that damage the integrity of the notary profession, while the Regional Assembly is more lenient in its assessment and sanctions, focusing on technical aspects and not finding multiple violations position. The RSC's decision to impose sanctions on Notaries who are suspected of holding concurrent positions, even though they are technically in accordance with the NPL, raises questions about the effectiveness and deterrent effect of these sanctions. The sanctions system in place, which appears to follow a sequence of violations and provides graduated sanctions, not always reflect the severity of the violations or their impact on the notarial profession. This highlights the importance of further evaluation of the sanctioning process in the NPL to ensure more consistent and effective implementation in dealing with serious violations.

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