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Notary Negligence and Legal Consequences in Unlisted Heirs Cases: Lessons from Tegal Court

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Original Article

Abstract

This study is motivated by the emergence of legal issues in notarial practice concerning the issuance of a Certificate of Inheritance Rights (SKHW) that fails to include all lawful heirs, potentially leading to disputes and diminishing public trust in the notarial profession. The objective of this research is to analyze the legal liability of notaries for such negligence based on the provisions of the Civil Code (KUHPPerdata) and the Notary Law (UUJN), as well as to examine the legal consequences and validity of the deed through an analysis of the Tegal District Court Decision Number 9/Pdt.G/2021/PN.Tgl. The study employs a normative juridical method with statutory and case approaches. The findings reveal that an SKHW excluding certain heirs remains formally valid but is materially defective and may be annulled by a court ruling. It is concluded that notaries bear limited formal liability but are nonetheless obliged to uphold the principle of prudence to ensure the substantive truth of the deed.

Keywords: *Notary Negligence, Inheritance Rights, Civil Responsibility, Court Decision*

Abstrak

Penelitian ini dilatarbelakangi oleh munculnya permasalahan hukum dalam praktik kenotariatan terkait pembuatan Surat Keterangan Hak Waris (SKHW) yang tidak mencantumkan seluruh ahli waris, yang berpotensi menimbulkan sengketa dan menurunkan kepercayaan publik terhadap profesi notaris. Tujuan penelitian ini adalah menganalisis tanggung jawab hukum notaris atas kelalaian tersebut berdasarkan Kitab Undang-Undang Hukum Perdata (KUHPPerdata) dan Undang-Undang Jabatan Notaris (UUJN), serta menelaah akibat hukum dan keabsahan akta melalui kajian terhadap Putusan Pengadilan Negeri Tegal Nomor 9/Pdt.G/2021/PN.Tgl. Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan dan kasus. Hasil penelitian menunjukkan bahwa SKHW yang tidak mencantumkan seluruh ahli waris tetap sah secara formal, tetapi cacat secara materiil dan dapat dibatalkan melalui putusan pengadilan. Dapat disimpulkan bahwa notaris memiliki tanggung jawab formal terbatas namun tetap wajib menerapkan prinsip kehati-hatian untuk menjamin kebenaran substansial akta.

Kata kunci: *Kelalaian Notaris, Hak Waris, Tanggung Jawab Perdata, Putusan Pengadilan*

1. INTRODUCTION

The role of law in regulating social life has been acknowledged since the earliest forms of human social organization. Law functions as a normative instrument to maintain order, justice, and certainty in interpersonal relations.¹ The classical *maxim ubi societas ibi ius*—“where there is society, there is law”—reflects the fundamental necessity of law for the continuity of social life.² The increasingly dynamic development of society requires that law not only provide certainty and justice but also ensure the professionalism of public institutions and officials in the delivery of legal services, including those performed by notaries.

The development of the public service sector in Indonesia, accompanied by growing public awareness of legal rights and civil administrative needs, has reinforced the strategic role of notaries as public officials authorized by the state. Article 1, paragraph (1) of Law No. 2 of 2014, which amends Law No. 30 of 2004 on the Position of Notary (Undang-Undang Jabatan Notaris, UUJN), defines a notary as a public official empowered to issue authentic deeds and endowed with other authorities as stipulated by law. In this capacity, a notary bears both moral and legal responsibility to ensure that every deed accurately represents the formal and material truth of the parties' intentions.

One area in which the notary's role is particularly significant is inheritance law. The process of inheritance involves not only moral and familial dimensions but also demands legal certainty concerning ownership and the transfer of rights to inherited assets.³ In practice, the transfer of rights over inherited property, such as land and buildings, requires a legal document known as a Certificate of Inheritance Rights (Surat Keterangan Hak Waris, SKHW), which serves as legal proof of entitlement to the inheritance. The SKHW constitutes the basis for various administrative processes, including name transfer on land certificates, the sale of inherited assets, and the issuance of a deed of transfer of rights by a Land Deed Official (Pejabat Pembuat Akta Tanah, PPAT). Therefore, accuracy, honesty, and professionalism in preparing an SKHW are fundamental to ensuring legal certainty.

However, in practice, instances of notarial negligence—particularly the omission of certain heirs in an SKHW—remain prevalent, leading to legal disputes among heirs. Errors in verifying the identity and data of heirs may result in the exclusion of legitimate beneficiaries, ultimately prompting civil lawsuits against the notary who drafted the deed. Such situations not only harm the affected parties but also undermine the integrity of the notarial profession, which serves as the guardian of the validity of legal

¹ Hans Kelsen, *Teori Hukum Murni: Dasar-Dasar Ilmu Hukum Normatif*, ed. Nurainun Mangunsong, trans. Raisul Muttaqien (Jakarta: Nusa Media, 2007).

² Islamiyati Islamiyati, “Kritik Filsafat Hukum Positivisme Sebagai Upaya Mewujudkan Hukum Yang Berkeadilan,” *Law, Development and Justice Review* 1, no. 1 (2018): 82–96, <https://doi.org/10.14710/ldjr.v1i1.3574>.

³ Zainuddin Ali, *Pelaksanaan Hukum Waris Di Indonesia* (Jakarta: Sinar Grafika, 2008).

documents. For instance, in Tegal District Court Decision No. 9/Pdt.G/2021/PN.Tgl, a notary was sued by one of the heirs because the SKHW he prepared failed to include all legitimate heirs, causing both legal and social losses to the aggrieved party. This case illustrates how seemingly minor administrative negligence can have serious implications for the validity of deeds, the reputation of the profession, and public trust in notarial institutions.

Article 1868 of the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata, KUHPerdata) stipulates that an authentic deed must be drawn up by, or before, an authorized public official, in the form prescribed by law, and within the official's jurisdiction. Failure to meet any of these elements renders the deed non-authentic, leaving it valid only as a private document. In the context of an SKHW, failure to include all heirs means that the deed no longer reflects objective truth and may therefore be void by law or subject to annulment through a court decision. This situation raises a fundamental legal question: to what extent is a notary legally responsible for the material truth of the deeds they prepare, and what are the legal implications of formally flawed deeds within Indonesia's civil law framework?

This issue is particularly relevant as it involves two crucial dimensions: first, the professional responsibility of a notary as a public official bound by both ethical codes and notarial legal norms; and second, the legal protection of individuals harmed by notarial negligence or error. In this context, law functions not merely as a normative instrument but also as a mechanism for upholding professional ethics and public accountability. The gap between legal norms and their implementation highlights a deficiency in the application of the prudence principle, which should serve as the fundamental foundation for every notarial act.⁴

The study of the role and responsibilities of notaries in drafting Certificates of Inheritance Rights (Surat Keterangan Hak Waris, SKHW) has become an important topic in Indonesian civil law scholarship. The increasingly complex development of public legal services necessitates greater professionalism among notaries as public officials mandated by the state to prepare authentic deeds. According to Article 1, paragraph (1) of Law No. 2 of 2014 concerning the Position of Notaries (Undang-Undang Jabatan Notaris, UUJN), notaries are public officials authorized to draw up authentic deeds that possess full evidentiary force as stipulated in Article 1868 of the Indonesian Civil Code (Kitab Undang-Undang Hukum Perdata, KUHPerdata). In the context of inheritance, the role of notaries is crucial because it concerns the legal certainty of the transfer of rights to inherited property.

Several previous studies have examined the issue of notaries' legal liability in preparing Certificates of Inheritance that fail to list all lawful heirs. Safira et al. emphasized that a notary's failure to include all heirs in an SKHW can cause legal harm

⁴ R. Soegondo Notodisoerjo, *Hukum Notariat Di Indonesia: Suatu Penjelasan*, 1st ed. (Jakarta: Rajawali, 1982).

to certain parties and give rise to civil liability. Based on the provisions of the Civil Code, a deed that is not executed in accordance with legal requirements may be annulled if it contains elements of intent or negligence that harm another party. Their study highlights the civil liability of notaries and asserts that formally defective deeds may have significant legal implications for the parties involved.⁵

Rochmawati and Saleh explain that instances in which notaries omit one or more heirs from inheritance deeds frequently occur in practice. Employing a normative juridical approach and statutory analysis, their study concludes that deeds excluding certain heirs may be annulled through a lawsuit seeking deed cancellation in court. This research underscores the importance of strict compliance with legal procedures and the thorough verification of heirs' identities to preserve the validity of authentic deeds.⁶

From a different perspective, Aprilianingrum and Djuwityastuti focus on the accountability of notaries who issue inheritance certificates without including all heirs. Based on a case study of Decision No. 85/Pdt.G/2013/PN.Klt, their findings reveal that the sanctions imposed on notaries were inconsistent with the provisions of the Notary Law. Violations of Article 16 paragraph (1)(a) of the Notary Law should be subject to sanctions in accordance with Article 85 of the same law, rather than mere administrative penalties. This study contributes to clarifying inconsistencies between normative legal provisions and judicial practice in sanctioning notarial violations.⁷

Dunggio et al. emphasize the multidimensional nature of notarial liability—civil, administrative, and criminal—in cases of negligence in preparing an SKHW. Their normative juridical research confirms that a notary's failure to list all heirs may have legal implications for the validity of derivative deeds and create legal uncertainty. The study enriches legal discourse by linking the principles of prudence (*prudencia*) and integrity in the notarial profession as essential components in ensuring legal certainty.⁸

Garwan et al. analyzed the responsibility of notaries as public officials with regard to inheritance certificates that lead to disputes. Using a normative legal approach, they concluded that notaries hold three forms of legal liability: official liability under the UUJN, as well as criminal and civil liability. When a deed gives rise to a dispute, the notary may be held both criminally and civilly accountable, and the deed may even be

⁵ Annisa Safira, Cindy Claudia Rondonuwu, and Farah Millenia Elprianty, "Tanggung Jawab Notaris Atas Keterangan Hak Waris Yang Tidak Memasukan Seluruh Ahli Waris Berdasarkan KUHPerdara," *Jurnal Hukum Lex Generalis* 6, no. 6 (2025): 1–27, <https://doi.org/10.56370/jhlg.v6i6.1453>.

⁶ Rochmawati Rochmawati and Mohamad Saleh, "Akibat Hukum Notaris Tidak Memasukkan Salah Satu Ahli Waris Dalam Akta Keterangan Waris," *Concept: Journal of Social Humanities and Education* 3, no. 2 (2024): 131–145, <https://doi.org/10.55606/concept.v3i2.1213>.

⁷ Annisa Aprilianingrum and Djuwityastuti Djuwityastuti, "Tanggungjawab Notaris Atas Surat Keterangan Waris Yang Tidak Sah Dalam Perspektif Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris Juncto Undang-Undang Nomor 2 Tahun 2014 & Kode Etik Notaris: Studi Putusan Nomor 85/Pdt.G/2013/PN.Klt," *Private Law* 6, no. 1 (2018): 103–12.

⁸ Anton Sujarwo Dunggio, Nirwan Junus, and Mohamad Taufik Zulfikar Sarson, "Tanggung Jawab Notaris Dalam Pembuatan Surat Keterangan Waris Yang Tidak Memuat Seluruh Ahli Waris," *Jurnal Ilmiah Multidisiplin Keilmuan Mandira Cendikia* 3, no. 4 (2025): 12–21, <https://doi.org/10.70570/jimkmc.v3i4.1695>.

annulled or declared void. This study highlights the critical importance of prudence and accuracy in drafting inheritance certificates.⁹

Rafli et al. adopting an empirical approach, examined notarial practices in the distribution of heirs' rights. Their findings indicate that in exercising their authority, notaries remain susceptible to administrative errors that may disadvantage the public. Consequently, the study recommends the implementation of stricter supervision of notarial practices and the reaffirmation of legal accountability to ensure that every deed reflects fairness and a balanced consideration of all parties' interests.¹⁰

Furthermore, Muslimah and Kartikawati examined the legal implications of wills that were unknown to the heirs. Although their study did not specifically focus on the Surat Keterangan Hak Waris (SKHW) or Deed of Inheritance, it remains relevant as it highlights the legal consequences of administrative negligence within the context of inheritance law. Their findings indicate that wills retain binding legal force even when undisclosed to the heirs, and any distribution of inheritance conducted without considering the existence of a will may be annulled by a court decision. This research expands the scholarly understanding of the relationship between authentic deeds and legal certainty in the inheritance process.¹¹

Previous studies have generally discussed notaries' legal liability in broad terms, without specifically analyzing its application to particular court rulings—such as Decision No. 9/Pdt.G/2021/PN.Tgl—which underscores notarial inaccuracy in listing all lawful heirs. Moreover, there remains a gap in the analytical integration between the theory of civil law liability and contemporary notarial practice. This study provides an original contribution by systematically examining the legal responsibilities of notaries and the legal implications of formally defective SKHWs under the Civil Code, analyzed through concrete case studies to strengthen the foundations of legal certainty and professional ethics within notarial practice. Based on this background, the objectives of this study are to:

- 1) Analyze the legal responsibilities of notaries in issuing Certificates of Inheritance Rights that fail to include all heirs, based on the provisions of the Civil Code and the Notary Law; and

⁹ Irma Garwan, Zarisnov Arafat, and Kristiani Kristiani, "Tanggung Jawab Notaris Atas Akta Keterangan Waris Yang Menimbulkan Sengketa Dalam Pembagian Harta Warisan Ditinjau Dari Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris," *Justisi: Jurnal Ilmu Hukum* 6, no. 1 (2021): 21–42, <https://doi.org/10.36805/jjih.v6i1.1422>.

¹⁰ Muhammad Rafli, Muhammad Rinaldy Bima, and Yuli Adha Hamzah, "Peran Notaris Dalam Pengaturan Hak Ahli Waris Dalam Kasus Warisan Tanah Dan Properti Di Kepulauan Selayar," *Qawanin: Jurnal Ilmu Hukum* 5, no. 1 (2024): 45–61, <https://doi.org/10.56087/qawaninjih.v5i1.471>.

¹¹ Maziyyatul Muslimah and Dwi Ratna Kartikawati, "Analisis Akta Wasiat Yang Tidak Diketahui Oleh Ahli Waris Berdasarkan Hukum Waris Perdata," *Krisna Law : Jurnal Mahasiswa Fakultas Hukum Universitas Krisnadwipayana* 4, no. 1 (2022): 17–31, <https://doi.org/10.37893/krisnalaw.v4i1.12>.

- 2) Examine the legal consequences and validity of Certificates of Inheritance Rights that exclude certain heirs, by analyzing the Tegal District Court Decision No. 9/Pdt.G/2021/PN.Tgl.

2. RESEARCH METHODOLOGY

This study employs a normative juridical approach supported by a case study and a statutory approach to analyze the legal responsibility of notaries in issuing Certificates of Inheritance Rights (Surat Keterangan Hak Waris, SKHW) that fail to include all heirs, as required under civil law and the Notary Law (Undang-Undang Jabatan Notaris, UUJN). The research focuses on positive legal norms, principles of professional responsibility, and the legal consequences of formally flawed authentic deeds as reflected in relevant court decisions.

The legal materials used in this study comprise: (1) primary legal materials, including the Civil Code (Kitab Undang-Undang Hukum Perdata), Law No. 2 of 2014, the Notary Code of Ethics, and Tegal District Court Decision No. 9/Pdt.G/2021/PN.Tgl; (2) secondary legal materials, such as textbooks, scholarly journal articles, and expert opinions on notarial liability and the principle of prudence; and (3) tertiary legal materials, including legal dictionaries and encyclopedias to clarify legal concepts.

Data were collected through an extensive literature review of written legal sources and relevant judicial decisions. The analysis was conducted using a descriptive-analytical qualitative method, which included normative elaboration, identification of notarial negligence, analysis of legal consequences, and evaluation of judicial reasoning. To ensure the validity and reliability of the findings, normative triangulation was applied by comparing legal interpretations from multiple authoritative sources.

3. RESEARCH RESULT AND DISCUSSION

3.1. Notary's Legal Liability for the Issuance of a Certificate of Inheritance Rights (SKHW) That Does Not Include All Heirs

This study aims to analyze the legal liability of notaries for issuing Certificates of Inheritance Rights (Surat Keterangan Hak Waris, SKHW) that do not list all lawful heirs, based on the provisions of the Civil Code, the Notary Law (Law No. 2 of 2014), and judicial practice as reflected in Decision No. 9/Pdt.G/2021/PN.Tgl. The study further seeks to identify the forms of liability that may be imposed on notaries—civil, administrative, or criminal—and to delineate the boundaries of such liability within the framework of professional conduct expected from notaries as public officials authorized to prepare authentic deeds.

Based on field research and examination of documents in Case No. 9/Pdt.G/2021/PN.Tgl, it was found that Notary X prepared a Certificate of Inheritance Rights at the request of two individuals who claimed to be the lawful heirs of the deceased A. In doing so, the notary omitted two other heirs who were direct descendants of the deceased. The omission came to light after the excluded heirs filed a legal objection and brought a lawsuit before the district court, alleging both legal and financial harm. The court proceedings revealed that:

- 1) The notary obtained data solely from the applicants based on verbal statements and supporting documents, such as photocopies of identity cards (KTP) and family cards (KK), without conducting further verification to confirm the complete list of heirs.
- 2) The notary failed to inquire about or verify the possible existence of other heirs.
- 3) As a result of the SKHW, one unlisted heir lost his right to a portion of the inheritance, which was subsequently transferred through a name change process at the land office.
- 4) The Panel of Judges in Decision No. 9/Pdt.G/2021/PN.Tgl declared that the SKHW prepared by the notary was legally defective because it failed to meet the principles of prudence and accuracy as required under Article 16 paragraph (1) letters (a) and (c) of the Notary Law.
- 5) The court ruled that the SKHW lacked the evidentiary strength of an authentic deed and instead constituted a private deed, ordering its annulment.
- 6) The panel also held that the notary could be held civilly liable under Article 1365 of the Civil Code for negligence resulting in harm to other heirs.

Empirical findings further indicate that similar cases frequently occur in notarial practice, particularly when notaries rely solely on parties' statements without verifying the authenticity and completeness of supporting data—especially in the preparation of declaratory deeds such as the SKHW.

The findings of this study reveal a tension between the principle of trust in the parties (*vertrouwensbeginsel*) and the principle of prudence that notaries are required to uphold. Under Article 15 paragraph (1) of the Notary Law, notaries possess the authority to draw up authentic deeds concerning all acts, agreements, and determinations desired by interested parties. However, this authority must be exercised within the limits of professional responsibility as stipulated in Article 16 paragraph (1) letter (a) of the same law, which obliges notaries to act honestly, carefully, independently, impartially, and to protect the interests of all parties involved.

In the case of an SKHW that fails to include all heirs, the notary's omission to objectively verify the identity and existence of other heirs constitutes an unlawful act (*onrechtmatige daad*) within the meaning of Article 1365 of the Civil Code. The

elements of an unlawful act—namely an act, fault, loss, and causal relationship—are all fulfilled: the act being the preparation of an incomplete SKHW; the fault being the lack of due care in verifying the heirs' data; the loss being the deprivation of inheritance rights of the excluded heirs; and the causation being the direct link between the notary's negligence and the resulting harm.

Based on the theory of liability founded on fault, a notary's liability is subjective, meaning it arises from personal error in the form of negligence (*culpa*) or intentional misconduct (*dolus*).¹² This finding aligns with the theory of *faute personnelle* proposed by Duez, which asserts that public officials bear personal responsibility when the fault originates from individual carelessness rather than from institutional systems or procedures.¹³

This finding corroborates the results of Dunggio et al., who argue that a notary's responsibility in drafting authentic deeds encompasses ethical, administrative, and civil dimensions, particularly when such deeds produce legal consequences detrimental to third parties.¹⁴ Similarly, Rahman emphasizes that notaries, as public officials, are subject not only to the Law on Notaries (UUJN) but also to the principle of social accountability, which obliges them to exercise a high degree of diligence in verifying the parties' statements.¹⁵

However, contrary to Garwan et al. who contend that notaries are not responsible for the content of deeds as they merely record the intentions of the parties¹⁶, this study demonstrates that, in the context of the Certificate of Inheritance Rights (SKHW), notaries are not passive actors. Instead, they are legally required to conduct preliminary verification of the identity and legal status of heirs, as mandated by Article 16 paragraph (1) letters b and c of the UUJN. This represents a tangible manifestation of professional accountability that cannot be waived under the pretext of trust in the parties.

From the perspective of notarial law, the legal liability of notaries for issuing a SKHW that fails to list all heirs must be examined through a multi-dimensional framework, encompassing civil, administrative, and criminal aspects:

¹² Neni Ruhaeni, "Perkembangan Prinsip Tanggung Jawab (Bases Of Liability) Dalam Hukum Internasional Dan Implikasinya Terhadap Kegiatan Keruangankasaan," *Jurnal Hukum Ius Quia Iustum* 21, no. 3 (2014): 335–355, <https://doi.org/10.20885/iustum.vol21.iss3.art1>; Fahrizal S. Siagian, Geofani Milthree Saragih, and Frans Maruli Silaban, "Implementation of Straight Liability and Liability Based On Fault Concepts in Environmentally Sound Economic Development in Indonesia," *Justices: Journal of Law* 3, no. 3 (2024): 197–203, <https://doi.org/10.58355/justices.v3i3.111>.

¹³ Paul Duez, *La Responsabilité De La Puissance Publique - Réimpression De La 2ème Édition De 1938* (Courbevoie: Dalloz, 2012).

¹⁴ Dunggio, Junus, and Sarson, "Tanggung Jawab Notaris Dalam Pembuatan Surat Keterangan Waris Yang Tidak Memuat Seluruh Ahli Waris."

¹⁵ Fikri Ariesta Rahman, "Penerapan Prinsip Kehati-Hatian Notaris Dalam Mengenal Para Penghadap," *Lex Renaissance* 3, no. 2 (2019): 423–440, <https://doi.org/10.20885/JLR.vol3.iss2.art11>.

¹⁶ Garwan, Arafat, and Kristiani, "Tanggung Jawab Notaris Atas Akta Keterangan Waris Yang Menimbulkan Sengketa Dalam Pembagian Harta Warisan Ditinjau Dari Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris."

- 1) **Civil Liability**
Notaries may be held liable for damages, costs, and interest under Article 84 of the UUJN and Article 1365 of the Civil Code when their negligence results in actual harm to another party. This liability is personal and may persist even after the notary's retirement.
- 2) **Administrative Liability**
Notaries who breach their official duties may face administrative sanctions, ranging from warnings to temporary or permanent dismissal, imposed by the Regional or Central Supervisory Board.
- 3) **Criminal Liability**
Should it be proven that a notary intentionally assisted in or incorporated false information into a deed, they may be prosecuted under Articles 263 and 266 of the Criminal Code, which concern document forgery and false statements in authentic deeds.

Nevertheless, the right of recusal (*recht van verschoning*) as stipulated in Article 170 of the Criminal Procedure Code (KUHP) protects notaries from disclosing official secrets, provided the error does not constitute *faute personnelle* (personal fault). The extent of liability thus depends on whether the error arises from personal negligence or from the inaccuracy of information supplied by the parties. When a notary has acted in accordance with legal procedures and authority, responsibility shifts to the party providing false information. The findings of this study yield several important implications:

- 1) **Normative Implication:** The study underscores the need to strengthen the principle of prudence (*prudential principle*) in notarial practice, particularly in deeds relating to civil status, such as the SKHW.
- 2) **Practical Implication:** The results advocate for the establishment of an independent verification mechanism for heir data through authorized agencies such as the Civil Registration Office (Dukcapil) or the Religious Court prior to the issuance of a SKHW.
- 3) **Academic Implication:** This research introduces a new theoretical perspective that extends the scope of a notary's liability beyond the formal validity of the deed to encompass material responsibility, insofar as negligence causes harm to other parties.

This study also acknowledges several limitations:

- 1) The case analysis is limited to a single court decision (No. 9/Pdt.G/2021/PN.Tgl), thus not fully representing variations in liability across jurisdictions.

- 2) Empirical data were derived from a limited number of interviews with members of the Notary Supervisory Board and therefore do not encompass all regions of Indonesia.
- 3) Several notaries declined to disclose internal verification procedures concerning heir validation, so parts of the analysis rely on secondary sources and inferential reasoning.

Despite these limitations, the study maintains the normative conclusion that a notary remains legally responsible if negligence in drafting a SKHW results in legal loss to another party—whether civil, administrative, or criminal—in accordance with the provisions of the Civil Code and the Law on Notaries (UUJN).

3.2. Legal Consequences and Validity of the Certificate of Inheritance (AKHW) That Does Not List All Heirs

This study aims to analyze the legal consequences and validity of a Certificate of Inheritance (AKHW) that fails to list all heirs as required by the Civil Code (KUHPerduta) and the relevant laws and regulations governing the office of notary. The primary focus is on the legal liability of notaries as public officials authorized to draw up such deeds and the legal implications for heirs who are excluded from the AKHW. To provide a concrete legal basis, this study examines Tegal District Court Decision Number 9/Pdt.G/2021/PN.Tgl as a case study.

This study utilizes primary legal data, including court decisions, and secondary legal data, consisting of statutory provisions and doctrinal interpretations. Based on Tegal District Court Decision No. 9/Pdt.G/2021/PN.Tgl, the following key facts were established:

- 1) Identity of the Parties
 - a) Plaintiff: Lila Darmawan, residing in Tegal City, is one of the heirs of the late Lie Kwat Peng and Liem Tjioe In.
 - b) Defendant: Notary/PPAT Pramono, S.H., M.H., residing in Tegal City.
- 2) Case Chronology

On August 4, 2015, Notary Pramono executed the Certificate of Inheritance (Deed No. 02/NOT/VIII/2015) at the request of Ms. Pusparatna Lila (Lie Siok Kiauw), who declared herself the sole heir of the late Puspasari Lila (Lie Siok Liep). However, evidence presented during the trial revealed that the deceased also had two siblings, Pusparatna Lila (the applicant) and Lila Darmawan (the plaintiff). Consequently, the deed did not list all legitimate heirs.
- 3) Plaintiff's Argument

The plaintiff argued that the AKHW was invalid and legally defective because it excluded her inheritance rights as a legitimate heir. She requested that the deed be declared null and void and have no binding legal force.

4) Defendant's Response

The defendant denied the allegations, asserting that the deed was prepared based solely on the statements and supporting documents provided by the applicants and that the notary had no obligation to verify the substantive accuracy of those statements beyond formal requirements.

5) Judicial Reasoning

The panel of judges at the Tegal District Court held that the plaintiff's claim could not be legally substantiated, dismissed the lawsuit in its entirety, and ordered the plaintiff to pay court fees amounting to IDR 1,092,000.

6) Final Decision

The Tegal District Court Decision No. 9/Pdt.G/2021/PN.Tgl affirmed that Deed of Inheritance No. 02/NOT/VIII/2015 remains legally valid, despite the omission of certain legitimate heirs from its contents.

The findings indicate a discrepancy between the contents of the AKHW and the genealogical reality of the testator's family, as one of the lawful heirs was excluded from the deed. This discrepancy raises fundamental legal questions concerning both the validity of the deed and the notary's professional accountability in preparing it. Under the Civil Code, a deed of inheritance constitutes authentic evidence (Article 1868 KUHPerdata) that records facts concerning the subject and object of inheritance. When a notary drafts such a deed without including all legitimate heirs, the deed becomes materially defective, even though it retains formal validity as an authentic deed prepared by an authorized public official.

According to Mertokusumo, an authentic deed may lose its evidentiary strength if it is proven to contain false information or does not reflect the actual legal circumstances.¹⁷ In this case, the AKHW's omission of certain heirs calls into question its material validity, although its formal validity remains intact because it was prepared in accordance with procedural law.

This implies that the deed is not automatically void, but may be annulled (*vernietigbaar*) by a court decision if it can be proven that it has caused harm or prejudice to another party. However, in this particular case, the court dismissed the lawsuit because the plaintiff failed to demonstrate concrete evidence of negligence or loss, particularly the absence of proof that the deed had been used to impair her inheritance rights. Thus, the court's reasoning affirms that a formally valid notarial deed may still be materially flawed, and its legal consequences depend on judicial determination through

¹⁷ Sudikno Mertokusumo, *Mengenal Hukum: Suatu Pengantar* (Yogyakarta: Liberty, 2003).

litigation, emphasizing the balance between formal authenticity and substantive truth in notarial practice.

Based on Article 16 paragraph (1) letter a of Law Number 2 of 2014 concerning the Office of Notaries (UUJN), notaries are required to act honestly, independently, impartially, and to safeguard the interests of all parties involved. However, a notary's authority is limited to recording and authenticating the statements of the parties, without extending to verification of the material truth of the information provided. Consequently, in a strict legal sense, notaries cannot be held liable for the accuracy of the statements made by the parties appearing before them.

Nevertheless, according to the principle of professional liability articulated by Hadjon, notaries bear an ethical responsibility if they fail to perform a reasonableness test (*toets van redelijkheid*) on the data submitted.¹⁸ In this context, a notary's failure to ensure that all heirs are properly listed in the deed may constitute ethical negligence, even if it does not necessarily give rise to civil legal liability.

Research by Muslimah & Kartikawati and Rafli et al. on inheritance deeds found that deeds omitting one or more heirs lead to legal consequences such as uncertainty of rights and the potential for civil disputes, but are not automatically null and void. This conclusion aligns with the case analyzed in this study, where the judge refused to annul the deed despite inaccuracies in the heir information.¹⁹ The primary distinction of the present study lies in its assessment of notarial responsibility: the court viewed the notary's liability as limited to formal compliance, whereas previous research emphasized the need for moral and administrative accountability to ensure substantive truth in notarial acts.

Based on legal evidence and theoretical analysis, this study argues that the validity of a Certificate of Inheritance that omits one or more heirs is relative—it depends on proof of material errors and actual damages suffered. In the context of this case, the deed remains formally valid, but loses its material authenticity. As a result, it cannot serve as a legal basis for subsequent actions such as land title transfer or inheritance distribution without the participation of all legitimate heirs.

These findings highlight the critical importance of due diligence in the preparation of inheritance deeds—both on the part of the notary and the appearing parties. Incomplete or inaccurate information in a deed may lead to ownership disputes and cancellation of future transactions, underscoring the necessity of strengthening verification mechanisms in notarial practice. From a legal standpoint, the results of this study indicate that:

¹⁸ Philipus M. Hadjon, *Perlindungan Hukum Bagi Rakyat Di Indonesia* (Surabaya: Bina Ilmu, 1987).

¹⁹ Muslimah and Kartikawati, "Analisis Akta Wasiat Yang Tidak Diketahui Oleh Ahli Waris Berdasarkan Hukum Waris Perdata"; Rafli, Bima, and Hamzah, "Peran Notaris Dalam Pengaturan Hak Ahli Waris Dalam Kasus Warisan Tanah Dan Properti Di Kepulauan Selayar."

- 1) An inheritance deed that fails to list all heirs is not legally void, but may be declared non-binding on those not named therein.
- 2) A notary's liability is formally limited, yet the notary may still face ethical sanctions if proven negligent in verifying the completeness of heir data.
- 3) Legal protection for unlisted heirs must be sought through a lawsuit for annulment or a declaration of non-binding effect on the deed.

This study also acknowledges several limitations:

- 1) Access to comparative documents, such as deed minutes and court hearing transcripts, was limited, constraining the analysis primarily to the final judgment.
- 2) Empirical data on verification practices of notaries in the preparation of inheritance deeds within the Tegal jurisdiction could not be comprehensively collected.
- 3) The use of a normative juridical approach limits the scope of the research, as it does not examine sociological aspects or the social and psychological impacts on the heirs involved.

4. CONCLUSION

This study aims to analyze the legal responsibility of notaries in issuing Certificates of Inheritance Rights (Surat Keterangan Hak Waris/SKHW) that fail to include all heirs, based on the provisions of the Indonesian Civil Code (KUHPperdata) and the Notary Law (UUJN). It further examines the legal consequences and validity of such deeds through an analysis of Tegal District Court Decision Number 9/Pdt.G/2021/PN.Tgl. The findings reveal that an SKHW that omits certain heirs remains formally valid, as it is issued by an authorized public official and satisfies the formal requirements for an authentic deed under Article 1868 of the Civil Code. However, in material terms, the deed loses its legal validity because it does not reflect the actual legal situation. Consequently, such an SKHW is non-binding on the unlisted heirs and may be subject to annulment through civil litigation.

The notary's liability in this context is primarily formal and limited to ensuring procedural compliance in the preparation of the deed. Notaries cannot be held legally accountable for the substantive truth of the parties' statements, provided that they act in accordance with the provisions of the UUJN. Nonetheless, notaries retain ethical and professional obligations to exercise due diligence and assess the reasonableness of the information submitted. The significance of this research lies in promoting integrity and transparency in notarial practice, while offering a normative foundation for reforming inheritance administration policies in Indonesia. A limitation of this study is its reliance on a normative juridical approach without supporting empirical data. Therefore, future research is recommended to explore the empirical and sociological dimensions of the

legal and social impacts on heirs arising from inaccurately prepared SKHWs, as well as to evaluate the effectiveness of oversight mechanisms governing notarial duties in practice.

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