

Analysis of the Role of Notaries in Consumer Protection in Property Transactions

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ABSTRACT

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Property transactions are one of the most complex and high-risk transactions for consumers. In property transactions, notaries have an important role in ensuring the validity and protection of consumer rights. However, there have not been many studies that specifically discuss the role of notaries in consumer protection in the context of property transactions. The purpose of this study is to analyze the role of notaries in consumer protection in property transactions. This research utilizes qualitative research methods. Data was collected through in-depth interviews with notaries, and literature study analysis. The data obtained from interviews and literature studies are analyzed qualitatively. Data analysis will involve the process of coding, grouping findings, and discovering themes that emerge from the data. The results show that the notary's role as an independent and neutral party responsible for checking and confirming the legality of property documents, facilitating secure payments, and providing legal advice to consumers is very important in safeguarding consumer interests and protection.

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1. Introduction

Property transactions are complex transactions and carry high risks for consumers. This is due to various factors, such as the large transaction value, the complexity of property law, and the various parties involved in the transaction. Large property transaction values make consumers vulnerable to significant financial losses if errors or violations occur in the transaction process. In addition, the complexity of property law involving complex rules, regulations and agreements can also make it difficult for consumers to understand and protect their rights (Adrian Sutedi, 2023). In addition, property transactions also involve various parties, such as sellers, buyers, property agents and financial institutions (Mubarak, 2022). The involvement of multiple parties can complicate the transaction process and increase the risk of conflict of interest or violation of law.

The complexity and risks associated with property transactions, consumer protection is very important. Notaries have a key role in protecting consumers in property transactions. Notary is

a legal professional who has the authority and responsibility to secure property transactions to comply with applicable legal provisions and protect the interests of all parties involved (Shidqi Noer Salsa & Kn, 2020). Property transactions without a notary can provide several risks for consumers. Some of these risks include:

1. Legal Uncertainty

Without the presence of a notary, the possibility of legal uncertainty in property transactions is higher. Notaries have in-depth knowledge and understanding of property law and can ensure that all documents and transaction procedures comply with applicable legal provisions. Without a notary, consumers may not have adequate legal protection and are vulnerable to potential future legal disputes.

2. Errors in Documents

Property transactions involve various legal documents, such as deed of sale and purchase, letters of ownership, and other agreements. Notaries play an important role in ensuring that these documents are properly prepared and comply with legal requirements. Without a notary public, there is a higher risk of errors in writing or interpreting documents, which can have a negative impact on the rights and interests of consumers.

3. Imbalanced Interests

In property transactions, there are different interests between the seller and the buyer. The notary acts as a neutral party protecting the interests of both parties. Without a notary, the risk of an imbalance of interests may increase, leaving consumers more vulnerable to harmful practices such as fraud or fraud.

4. Protection Against Third Party Warranties and Rights

The notary has a role in verifying the existence of guarantees and third party rights related to the property to be bought or sold. Without a notary, the risk of unavailability or incorrectness regarding guarantees or third party rights increases, which can have a negative impact on consumers and property transactions as a whole.

5. Incomplete Transaction Execution

The notary ensures that all property transaction procedures are carried out completely and in accordance with legal provisions. Without a notary, there may be risks of incomplete execution or missing certain procedures, which may negatively impact the validity and legitimacy of property transactions.

Notaries in property transactions provide important legal protection and certainty for consumers. Notaries help minimize risk and protect consumer rights, and ensure that property transactions run smoothly and comply with legal provisions (Ginting & Yunita, 2021). Even though the notary is regarded as a safeguard for property transactions, there has not been much research specifically discussing the role of a notary in consumer protection in the context of property transactions. Existing research tends to focus more on legal and regulatory aspects related to property transactions in general, without considering the role of a notary in particular. Based on this background description, the researcher is interested in conducting research with the title "Analysis of the Role of Notaries in Consumer Protection in Property Transactions"

2. Materials and Methods

This study used qualitative research methods. Qualitative research is a research approach that aims to understand phenomena in depth and comprehensively through data analysis that focuses on context, meaning, and interpretation. Qualitative research tends to collect data in non-numeric form, such as text, images, sound, or video, and uses inductive analytical methods to produce a deeper understanding of the research subject (Fadli, 2021).

Data were collected through two main methods, namely in-depth interviews with notaries

and analysis of literature studies. In-depth interviews were conducted with notaries experienced in property transactions, with the aim of obtaining an in-depth understanding of their role in consumer protection. Interviews were conducted by asking questions regarding the responsibilities of a notary, the procedures performed, the constraints faced, and their role in protecting consumers. In addition to interviews, analysis of literature studies was also carried out to collect information from theoretical and research sources regarding the role of notaries in consumer protection in property transactions. Literature study is carried out by searching and studying relevant literature, journals, books, regulations and other documentation.

Data obtained from interviews and literature studies were then analyzed qualitatively. Data analysis involves a coding process, i.e. identifying and labeling the relevant data units. Furthermore, the findings that emerge from the data are categorized and grouped according to emergent themes. This process involves identifying patterns, similarities, differences, and relationships between the data obtained. During the analysis, the researcher also looked for confirmations or discrepancies between the interview data and the literature found

3. Results and Discussions

The notary has the responsibility to examine documents related to property transactions. This includes checking the authenticity of documents such as land ownership certificates, deed of sale and purchase, agreement letters, and other related documents. Through this inspection, the notary can ensure that the documents used in the transaction meet legal requirements. In addition, the important task of a notary is to verify the ownership of the property to be traded. The notary will check the land certificate and other documents proving legal ownership of the property. This is important to avoid property transactions carried out by unauthorized parties. After examining documents and verifying property ownership, the notary will issue a valid official deed as proof of a property transaction. The deed includes all relevant information regarding the transaction, including the identity of the parties involved, description of the property, selling price, terms of the transaction, and so on. The deed has binding legal force and is a strong basis for property transactions (Winoto, 2023). By carrying out document checks, verifying property ownership, and issuing valid official deeds, the notary ensures that property transactions are carried out lawfully, in accordance with applicable legal provisions, and protect the interests of all parties involved. The role of this notary is to provide legal certainty to the parties in property transactions and prevent disputes from occurring in the future. Notaries have a very important role in protecting consumer rights in property transactions. Here are some ways notaries protect consumer rights:

1. Providing Access to Accurate Information

Notaries are responsible for providing accurate and complete information to consumers regarding property transactions. This includes an explanation of consumer rights and obligations, risks associated with transactions, as well as legal rights held by consumers. By providing access to accurate information, notaries assist consumers in making the right and informed decisions.

2. Protect Against Fraudulent or Harmful Practices

The notary checks documents and verifies property ownership to ensure that transactions do not involve fraud or practices that are detrimental to consumers. Notaries also play a role in ensuring the legitimacy and legality of transactions and avoiding errors or deficiencies in documents that can harm consumers.

3. Ensuring Clear and Transparent Consent

The notary ensures that there is a clear and transparent agreement between the two parties in a property transaction. The notary explains in detail the rights and obligations of each party

and the conditions associated with the transaction. This helps consumers to clearly understand the consequences of the transaction to be made and ensures that the agreement is based on a common understanding between the two parties.

By performing this role, a notary helps protect consumer rights in property transactions. The notary functions as an independent and neutral party that works for the interests of both parties, so that consumers can feel safe and protected when conducting property transactions.

The competence and integrity of a notary is a key factor in protecting consumer rights. A notary who has sufficient knowledge and skills in the field of property law can ensure that the transaction process is carried out correctly and in accordance with applicable regulations. In addition, the high integrity of a notary also ensures that a notary carries out his duties in a professional and fair manner, without taking sides with any of the parties involved in the transaction (HS & SH, 2022).

Effective supervision and regulation of the notary profession is essential to ensure that notaries carry out their duties to a high standard and comply with applicable legal requirements. The existence of strict supervision and clear rules can encourage notaries to act professionally and responsibly towards consumers. In addition, effective supervision and regulation also provide protection for consumers in terms of resolving disputes or complaints against notaries.

Consumer awareness about the importance of involving a notary in property transactions also has a significant impact. When consumers have a good understanding of the role and benefits of a notary, they will tend to seek the services of a notary and choose to involve a notary in their property transactions. Consumer awareness will help ensure that transactions are carried out with the correct procedures and their rights are properly protected (Andri, 2022).

The role of a notary in resolving disputes related to property transactions is very important in ensuring a fair and just settlement. Notaries can act as mediators in resolving property disputes between the parties involved. As a mediator, the notary will facilitate dialogue and negotiation between disputing parties with the aim of reaching a mutually beneficial agreement. The notary will help the parties to reach a solution that is acceptable to all parties together (Octarina & Nababan, 2023).

In some cases, a notary can also act as an arbiter or arbitrator in resolving property disputes. As an arbiter, the notary will consider the arguments and evidence from both parties to the dispute, and issue a binding decision for the parties. The decision of the notary arbitrator has the same legal force as a court decision. Notaries can also provide legal advice to parties involved in property disputes. The notary will use his knowledge and understanding of property law to provide guidance and advice to parties facing disputes. Legal advice provided by a notary can help parties understand their rights and obligations and consider available settlement options. In resolving property disputes, the role of a notary as a mediator, arbitrator, or provider of legal advice will ensure that the settlement process is carried out in a fair and just manner. Notaries have in-depth knowledge and understanding of property law, and have an ethical obligation to safeguard the interests of all parties involved. Thus, the role of a notary in resolving property disputes is very important to achieve a satisfactory resolution for all parties.

Notaries have an important role in providing education and information to consumers regarding their rights in property transactions, the procedures involved, the risks that may occur, and how to protect themselves in these transactions (Susanto, 2008). Following are some of the efforts made by notaries in providing education and information to consumers:

1. Explanation of Procedure

The notary will explain the procedure in detail to the consumer regarding the steps involved in a property transaction. They will provide information about the documents that must be prepared, the steps that must be passed, and the legal requirements that must be met.

2. Associated Risks

The notary will provide consumers with an understanding of the risks that may occur in property transactions. They will identify relevant risks, such as risks of fraud, risks of irregularities in documents, or risks of property ownership issues. By providing this information, the notary helps consumers to understand these risks and take appropriate preventive measures.

3. Consumer Rights

The notary will explain the consumer's rights in property transactions, including the right to honest information, the right to obtain adequate explanations about the documents signed, and the right to protect their interests in the transaction. They will provide explanations about how consumers can protect themselves and take appropriate steps to ensure legitimacy and legality of transactions.

4. Socialization of the Law

Notaries also play a role in socializing laws related to property transactions to consumers. They will explain the relevant legal aspects and provide an understanding of the legal obligations that must be fulfilled by all parties involved in the transaction.

Through these efforts, notaries act as agents who provide education and information to consumers, so that they can make smarter decisions and protect themselves in property transactions. By understanding their rights, the procedures involved, the risks that may occur, and how to protect themselves, consumers can take the right steps and make more informed decisions.

4. Conclusion

Notaries have a very important role in ensuring fairness, legitimacy and protection of consumer rights. In the context of property transactions, a notary acts as an independent and neutral party who is responsible for ensuring that the transaction is carried out in accordance with applicable legal provisions and does not harm consumers. The role of a notary to check and confirm the legality of property documents, facilitate secure payments, and provide legal advice to consumers is very important in protecting the interests and protection of consumers. In addition, notaries have an important role in providing education and information to consumers regarding their rights in property transactions, the procedures involved, the risks that may occur, and how to protect themselves in these transactions. This study also found that factors such as competence and integrity of notaries, effective supervision and regulation, and consumer awareness about the importance of involving notaries in property transactions affect the effectiveness of the notary's role in protecting consumer rights.

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