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Judicial Silence on Administrative Malpractice: The Disregard of Notarial Repertorium in the Legal Considerations of Indonesian Supreme Court Decisions

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ABSTRACT

The legitimacy of the Civil Law Notary system in Indonesia hinges on the integrity of state protocol, which serves as the absolute guarantor of deed authenticity. However, this idealism frequently crumbles due to judicial pragmatism that disregards procedural defects in administrative proceedings. This research aims to deconstruct the judicial reasoning anomaly in Decision Number 1859 K/Pdt/2015, in which the Supreme Court Justice annulled a notary deed without expounding on the violation of the Repertorium obligation as the basis for legal consideration. Employing a doctrinal legal research method that applies the critical examination of judicial reasoning, this study dissects the Supreme Court Justice's logical flow and juxtaposes it with the legal fact of the novum regarding the empty Repertorium book. Through the analytical lens of Austin's Legal Positivism Theory, this research finds that the disputed deed constitutes a "Phantom Deed" that violates the sovereign's command. Crucial findings indicate that the Supreme Court Justice committed judicial silence as a form of disregard toward the violation of Article 58 of Law Number 30 of 2004 in their ratio decidendi. The Justice opted for a judicial shortcut to annul the deed on the basis of downstream land certificate defects, yet remained silent on upstream administrative malpractice. This study concludes that the decision represents a "right decision, wrong reasoning," which systemically undermines the judiciary's educational function and obscures the standard of notarial professional liability in maintaining national legal certainty.

Keywords: *Judicial Silence; Legal Consideration; Notarial Obligation; Repertorium Disregard; Supreme Court Decision.*

INTRODUCTION

The Civil Law Notary system adopted by Indonesia positions protocol integrity as the primary basis of public trust in authentic deeds. Within this construction, a notary does not merely act as a private document maker, but as a public official holding a state mandate to create perfect evidence (*volledig bewijs*). [Dinar et al. \(2024\)](#) asserted that the duty of care principle under Article 16 of Law Number 2 of 2014 requires absolute compliance with administrative procedures, including state archive management. The core of this management is the Deed Registry Book or Repertorium, which functions as an existential control instrument for a deed. [Latifah and Suprpto \(2024\)](#) explained that without recording in the Repertorium, a deed loses its juridical origin and becomes an unregulated document, unmonitored by the state. Consequently, the absence of the Repertorium recording is not merely technical negligence, but a form of delegitimization of the notary's public function itself.

However, this normative idealism often clashes with the reality of legal pragmatism in the field, particularly in land disputes involving problematic deeds. [Peterson et al. \(2025\)](#) highlighted that courts in Indonesia are often trapped in the tension between legal formalism and substantive dispute resolution. The "Phantom Deed" phenomenon, where the physical deed circulates while its master is unrecorded in the protocol, is frequently addressed ambivalently by the judiciary. [Suwardiyati and Rustam \(2024\)](#) referred to this condition as a legal vacuum in notary office management, resulting in the loss of the minuta. This situation creates extreme legal uncertainty.

The public holding the deed believes the document is valid, while administrative records indicate it is fictitious. When such disputes culminate in court, judges bear the heavy burden of not only adjudicating ownership disputes but also enforcing notary professional discipline standards through decisive legal considerations.

This anomaly in legal enforcement is glaringly visible in the case decided by the Supreme Court Justice through Decision Number 1859 K/Pdt/2015. In this case, a land ownership dispute was triggered by Notary Carlina Liestyani's denial of two crucial deeds, namely the Deed of Binding Sale and Purchase Agreement Number 13 (Evidence P-23) and the Deed of Power of Attorney to Sell Number 14 (Evidence P-24), both dated November 30, 2009. Trial facts revealed that neither deed was recorded in the concerned notary's Repertorium. Although the Supreme Court Justice ultimately annulled these deeds, the legal consideration (*ratio decidendi*) formulated by the Panel of Justices left significant questions unanswered. The Supreme Court Justice annulled the deeds on grounds of procedural defects in the issuance of the land certificate, but disregarded the root problem: the notary's failure to record the deeds in the Repertorium.

Issues regarding notarial violations have been widely discussed in prior literature. [Ilhami \(2021\)](#), as well as [Safira and Putra \(2022\)](#), analyzed the juridical consequences of the absence of a minuta leading to the degradation of the deed's evidentiary power. Meanwhile, [Gemilang and Rahayu \(2024\)](#) and [Melisa \(2025\)](#) focused on the criminal aspects of forgery rather than notarial civil liability for third-party losses. However, the majority of these studies, including those by [Arsy et al. \(2021\)](#) and [Guspitawaty and Santiago \(2023\)](#), tended to end at the analysis of notary errors and the accompanying sanctions. No research has specifically examined the "neglect of judicial reasoning" in the construction of such annulment sanctions. Existing literature fails to capture the phenomenon that a court decision that is "correct" in result can be "academically misleading" if unaccompanied by adequate administrative legal considerations.

This analytical void constitutes the primary focus of this research. Unlike previous studies that have highlighted notary behavior, this research employs the analytical lens of Legal Positivism to critique the disregard for judicial considerations. In the perspective of [Austin \(1832\)](#), law is the command of the sovereign accompanied by a sanction. Article 16 section (1) letter j and Article 58 of Law Number 30 of 2004 constitute a "command" that must be obeyed. When judges annul deeds without referring to violations of these commands, a phenomenon of judicial silence occurs, ignoring the authority of the Law. This contrasts with practices in advanced Civil Law countries like Germany, where [Lüders \(2025\)](#) noted that decision legitimacy relies heavily on the detail of judicial reasoning in balancing legal facts rather than obscuring them.

Based on the aforementioned exposition, this research aims to deconstruct the juridical implications of judicial silence regarding the disregard of Repertorium administrative malpractice in Decision Number 1859 K/Pdt/2015. By dissecting the decision, this research aims to demonstrate that disregarding administrative facts in legal analysis is a judicial shortcut that undermines legal certainty. The theoretical benefit of this study is to offer a new evaluation framework for civil decisions involving public officials. This asserts that substantive justice cannot be achieved at the expense of procedural order. In practice, the results of this research are expected to serve as constructive criticism for the judiciary to make compliance with notary protocol a primary factor in adjudicating deed validity disputes in the future.

METHOD

This study constitutes doctrinal legal research focused on the dogmatic evaluation of judicial considerations in adjudicating disputes over the validity of authentic deeds. Unlike descriptive research that merely expounds legal rules, this research is prescriptive-analytical, aimed at providing legal judgment regarding the accuracy of judicial reasoning when confronting facts of notarial administrative malpractice. The paradigm employed relies on Legal Positivism, which views law as a closed, logical system of norms (Qamar & Rezah, 2020). Within this framework, the validity of a court decision is measured by its conformity to the command of the sovereign Law. This study does not view law from a sociological perspective or its impact on society, but dissects the internal logical structure of the decision to detect unreasoned judgment that injures legal certainty.

To dissect the complexity of this issue, this research applies two main approaches simultaneously and dialectically: the statute approach and the case approach. The statute approach is applied restrictively, referring to the legal regime applicable at the time the legal event occurred (*tempus delicti*), namely Law Number 30 of 2004, as it existed prior to its amendment. This is done to maintain historical accuracy and avoid the non-retroactive application of law in assessing notary compliance. Meanwhile, the case approach is not merely used to understand the verdict but is focused on dissecting the anatomy of legal considerations (*ratio decidendi*) in Supreme Court Cassation and Review decisions, which serve as the object of study. This approach aims to trace the Supreme Court Justice's logical flow in constructing the annulment of the deed and to detect which parts of the legal facts were ignored or silenced by the panel of judges.

The sources of legal materials employed in this research were selected through a purposive sampling technique with strict relevance criteria regarding the issue of evidentiary power degradation and professional liability. Primary legal materials include the authoritative text of Law Number 30 of 2004, as well as official copies

of court decisions from the first instance, appeal, cassation, and the judicial review levels related to the dispute in this case study. Secondary legal materials are sourced from legal literature, reputable international and national journals, and prominent legal doctrines discussing the theory of legal sovereignty, duty of care principles, and judicial reasoning standards in Civil Law countries. These entire legal materials are systematically classified to map the conflict between the ideal norm (*das sollen*) and the factual judicial reasoning (*das sein*) (Sampara & Husen, 2016).

Data collection techniques were conducted through library research by applying the critical examination of judicial reasoning method to decision documents. This method operates via a legal argumentation tracing technique, specifically tracking the digital footprint of arguments from lawsuit claims and appeal briefs to the *novum* in judicial review. The tracing focuses on verifying whether the absence of the Repertorium recording was validly submitted as evidence in the trial, and on how the judges responded to such evidence. This technique is crucial for proving the hypothesis of judicial silence or the disregard of material facts by judges that should have been the primary basis for decision-making. Consequently, data collection is not merely a passive reading of decisions, but rather an investigative process to identify the gap between trial facts and legal considerations.

The analysis of legal materials was conducted using deductive syllogistic logic, reinforced by grammatical and systematic interpretation (Irwansyah, 2020). In this analysis structure, the norm of obligation to create minutes and fill the Repertorium based on Law Number 30 of 2004 is positioned as the Major Premise (The Command). Meanwhile, the legal fact of the absence of minuta and the judges' disregard response in the decision are positioned as the Minor Premise (The Fact). From the convergence of these two premises, a legal conclusion is drawn to test the validity of the judges' argumentation. This analysis does not stop at a right or wrong conclusion, but goes further to critique the quality of judicial reasoning using the analytical lens of the Pure Theory of Law. The objective is to determine whether the decision meets the standard of legal certainty or is instead trapped in dispute-resolution pragmatism that sacrifices administrative order.

The outcome of this analysis is to construct a new legal argument that deconstructs the court decision. The final stage of analysis will juxtapose the findings of "judicial negligence" in Indonesia with judicial standards in other countries that require reasoned elaboration. This is intended to provide academic legitimacy for the claim that the criticism proposed in this research is not subjective but grounded in universal legal science standards. Thus, this method guarantees that the resulting conclusions are objective, coherent, and scientifically accountable as a theoretical contribution to the reform of evidentiary and civil procedure law in Indonesia.

RESULTS AND DISCUSSION

A. The Fact of Repertorium Absence as Evidence of Disregarded Official Command Violation

In the construction of civil evidence law based on the Civil Law Notary system, the Deed Registry Book or Repertorium occupies a sacrosanct position as the “heart” of a deed’s authenticity. [Latifah and Suprpto \(2024\)](#) asserted that the Repertorium is not merely a technical administrative log, but a state control instrument to ensure that every deed circulating in society is genuinely born from the womb of a legitimate notary protocol. Compliance with Repertorium filling is a manifestation of the principles of publicity and material truth that must be upheld by notaries as public officials. Without being recorded in this official book, a deed loses its trace of legal origin and becomes a rogue document, unmonitored by the state. Therefore, the physical existence of a record in the Repertorium is an absolute condition (*conditio sine qua non*) to test whether a deed possesses the value of perfect evidence (*volledig bewijs*) or is merely “wastepaper” with no juridical value.

However, such normative idealism collapsed instantly when confronted with trial facts in the dispute, triggering Decision Number 1859 K/Pdt/2015. Based on legal argumentation tracing from the first instance to the cassation level, a shocking fact revealed that Notary Carlina Liestyani explicitly denied ever issuing the Deed of Binding Sale and Purchase Agreement Number 13 (Evidence P-23) and the Deed of Power of Attorney to Sell Number 14 (Evidence P-24), both dated November 30, 2009. A denial by a public official regarding a legal product bearing their own signature and official stamp constitutes a serious anomaly in notarial practice. This fact indicates that the deeds were “Phantom Deeds,” documents that physically exist and are used to transfer land rights, yet are administratively unrecognized by the issuer. This denial was not merely a litigation strategy to evade liability, but an initial indication of a constitutive defect in the deed creation process.

The truth of the notary’s denial was eventually confirmed through the examination of new evidence (*novum*) at the Judicial Review stage, as stipulated in Decision Number 680 PK/Pdt/2017. In the *novum* examination trial, the original physical Repertorium book belonging to Notary Carlina Liestyani was presented. The material examination of the book demonstrated an irrefutable fact: no record of the serial number, date, or deed title was found for the Deed of Binding Sale and Purchase Agreement Number 13 (Evidence P-23) and the Deed of Power of Attorney to Sell Number 14 (Evidence P-24) on November 30, 2009. [Ilhami \(2021\)](#) analyzed that, from the perspective of official liability, the absence of this record

proves that the deed is an illicit product. This condition aligns with the findings of [Tampubolon et al. \(2023\)](#), who stated that a notary's inability to produce the minuta or records in the protocol during an official police or court examination is fatal evidence of administrative irregularity, impacting the validity of the legal product. These findings close the door on speculative debate regarding "recording negligence," as it is impossible for a notary to miss recording two crucial deeds that serve as the basis for a high-value asset transfer on the same day.

Viewed from the *tempus delicti* aspect when the deed was created in 2009, this fact of non-recording constitutes a clear violation of the official command regulated in Law Number 30 of 2004. Article 16 section (1) letter j and Article 58 of the Law imperatively command notaries to create a deed list and record it in the Repertorium. This command is a "command of the sovereign" in Austinian terminology, providing no discretion for notaries to deviate from it. When a notary fails to fulfill this procedural command, they have injured their oath of office. [Arsy et al. \(2021\)](#) emphasized that a deed legally defective due to procedural violation (including not being recorded in the Repertorium) cannot shelter behind the principle of presumption of lawful cause (*presumptio iustae causa*). A violation of Article 58 of Law Number 30 of 2004 automatically nullifies the authenticity claim attached to the physical deed.

The juridical implication of this official command violation is the total degradation of the deed's evidentiary power. [Safira and Putra \(2022\)](#) argued that the validity of a deed copy (*grosse*) is derivative, meaning its legal force depends entirely on the existence of the Minuta Deed neatly recorded in the protocol. When the master deed is not found in the Repertorium, the deed copy held by the parties loses its ontological basis. [Tjahjaningtyas et al. \(2023\)](#) reinforced this view by stating that the discrepancy between the circulating physical deed and the notary protocol data causes the deed to be null and void. In the context of Decision Number 1859 K/Pdt/2015, the Deed of Binding Sale and Purchase Agreement Number 13 (Evidence P-23) and the Deed of Power of Attorney to Sell Number 14 (Evidence P-24) must be considered non-existent in legal traffic, thus rendering them unfit as the basis of title for land certificate issuance or ownership right transfer.

This condition creates a dangerous gap between physical reality and legal reality. On one hand, the deed appears physically perfect with the standard notary format; yet on the other hand, it experiences "civil death" due to being unrecorded by the state. [Sinaga et al. \(2022\)](#) categorized such documents as even less valuable than a private deed, as they contain elements of public misrepresentation. The use of the unrecorded Deed of Power of Attorney to Sell Number 14 (Evidence P-24) to transfer the land certificate title is an action that injures the national

land registration system. The public, relying on notary services to guarantee legal certainty, instead becomes a victim of this fatal administrative malpractice.

The aforementioned facts confirm that the violation of the Repertorium obligation in this case is distinct and clear (*clair et distinct*). Evidence P-23 and P-24 are convincingly proven formally and materially defective based on the legal argumentation tracing test and the provisions of Law Number 30 of 2004. However, the critical question that arises is: how did the Supreme Court Justice address this glaring fact of an official command violation in their legal considerations? Did the judge make the violation of Article 58 of Law Number 30 of 2004 the primary basis for annulment, or did they choose the silent path by disregarding the administrative aspect? This judicial response anomaly will be deconstructed in the following section to reveal how judicial silence weakens the authority of positive law.

B. Austinian Critique of the Disregard of Official Commands in Judicial Legal Considerations

The legal fact regarding the absence of deed recording in the Repertorium, as previously expounded, should have served as the primary foundation for the Supreme Court Justice in adjudicating the dispute. However, an anatomical dissection of Decision Number 1859 K/Pdt/2015 reveals a paradoxical reality of judicial reasoning. The Supreme Court Justice, in the verdict, indeed annulled the Deed of Binding Sale and Purchase Agreement Number 13 (Evidence P-23) and the Deed of Power of Attorney to Sell Number 14 (Evidence P-24). Yet, a deeper examination of the legal consideration section (*ratio decidendi*) shows that the Justice completely failed to expound on the notary's administrative violation as the basis for annulment. [Wijaya et al. \(2025\)](#), in their analysis of agrarian justice dialectics, noted that judges in Indonesia are often trapped in downstream dispute resolution, namely the land certificate status, while ignoring upstream procedural defects. This is clearly visible in this decision. The Supreme Court Justice immediately concluded that the issuance of the certificate was an unlawful act, without first examining the validity of the notary deed that served as its basis of title under Law Number 30 of 2004.

The absence of reference to specific articles violated by the notary in the judicial legal considerations constitutes a serious anomaly. Throughout the consideration exposition, the Panel of Supreme Court Justices did not cite Article 16 section (1) letter j and Article 58 of Law Number 30 of 2004 applicable at the time of the legal event, even once. Whereas [Hudaya \(2022\)](#) emphasized that, under positive law theory, the validity of a court decision depends heavily on its

accuracy in referencing the relevant regulatory hierarchy. By failing to mention the Repertorium obligation clause, the judge showed disregard for the primary legal source that should have been the main analytical tool. This attitude creates a dark space in legal argumentation. Sanctions were imposed without an adequate normative explanation of which rule the public official actually violated.

This phenomenon of disregard in reasoning can be critically analyzed using Legal Positivism Theory. In his monumental work *The Province of Jurisprudence Determined*, [Austin \(1832\)](#) postulated that law is the command of the sovereign accompanied by a sanction. The essence of legal enforceability lies in the strict causal relationship between command and sanction. In this case, Article 58 of Law Number 30 of 2004 is the sovereign “command” obligating deed recording. When a notary violates this command, the “sanction” in the form of deed annulment must be enforced by explicitly referring to the violated command. Without such affirmation, the court decision loses its positivist character and becomes merely a decision based on subjective discretion.

The Austinian critique of Decision Number 1859 K/Pdt/2015 lies in the severed link between command and sanction. The judge imposed the deed annulment sanction but disregarded the Law’s command, serving as the basis for such a sanction in the legal considerations. [Suwardiyati and Rustam \(2024\)](#) termed the condition in which legal rules are not effectively applied in notarial governance a legal vacuum. In this decision, such a vacuum did not occur at the statutory level, but at the level of judicial application, where judges ignored the normative basis. The Supreme Court Justice failed to act as an agent of the sovereign enforcing the authority of the Law’s command. Consequently, the legal message reaching the public becomes blurred. The notary was punished not because they violated the Repertorium obligation, but merely because the land certificate they issued was materially problematic.

The weakness of Indonesian judicial reasoning in this case becomes increasingly apparent when compared to the judicial standards of other Civil Law countries. [Lüders \(2025\)](#), in his study of the German Federal Constitutional Court, revealed that the legitimacy of a decision is determined by the use of detailed balancing language. Judges in Germany are required to consider all relevant legal facts and rules before deciding to annul rights. Conversely, in Decision Number 1859 K/Pdt/2015, the Supreme Court Justice practiced what is known as judicial silence, or fact disregard. The judge chose to remain silent on crucial administrative facts and took a judicial shortcut in reasoning. This minimalist approach might accelerate dispute resolution, but academically, it injures the principle of judicial accountability.

The dogmatic impact of this judicial silence is the creation of long-term legal uncertainty. Without a *ratio decidendi* explicitly stating that “the absence of Repertorium renders the deed null and void,” this decision fails to become educational jurisprudence for the notary profession. This decision does not provide firm legal guidance regarding the consequences of administrative malpractice. Other notaries reading this decision will not receive a stern warning that Repertorium violation is fatal. They will only capture the message that a notary can be dragged into a case if the land is in dispute. This reduces the notary’s official duty, which should be independent and preventive, to merely a collateral obligation contingent on third-party lawsuits.

Ultimately, this reasoning anomaly in Decision Number 1859 K/Pdt/2015 raises fundamental questions regarding the motivation behind the Supreme Court Justice’s disregardful attitude. If the violation facts were clear and the legal basis available, why was the judge reluctant to use them as the primary consideration? Is this a form of judicial incompetence in understanding notarial law, or a conscious choice driven by pragmatism to immediately end the land ownership dispute without getting trapped in the complexities of administrative proof? This tendency of the Indonesian judiciary to prioritize the final result over process purity will be further dissected to understand the implications of notary liability beyond the confines of legal formalism.

C. The Pragmatism of Procedural Disregard and Implications of Notarial Liability Beyond Formalism

The anomaly of judicial disregard of administrative aspects, as previously expounded, confirms the hypothesis of judicial pragmatism in Indonesia. [Peterson et al. \(2025\)](#), in their latest study on land conflicts in Indonesia, highlighted the judiciary’s tendency to bypass procedural formalism to achieve a dispute resolution perceived as substantive (outcome-based). In Decision Number 1859 K/Pdt/2015, this pragmatism is evident in the Supreme Court Justice’s decision to immediately sever the defective land ownership chain, without first undergoing the tiered evidentiary process that should have tested the validity of the notary deed. Although this approach benefits the original landowner by restoring their rights more quickly and systematically, it undermines the notary profession’s accountability standards. The court’s substantive victory was achieved by sacrificing administrative order, seemingly asserting that compliance with notary protocols is a secondary variable that can be ignored for the sake of execution efficiency.

However, behind this pragmatism, this decision implicitly imposes a heavy civil liability standard on notaries. [Dinar et al. \(2024\)](#) explained that the principle

of “Prudence” in Article 16 of Law Number 2 of 2014 is essentially equivalent to the Duty of Care standard in global law. Notary Carlina Liestyani’s negligence in recording the deed in the Repertorium can no longer be viewed merely as Administrative Negligence, but has metamorphosed into Gross Negligence tantamount to malicious intent. From the perspective of [Delafare et al. \(2023\)](#), legal protection for notaries only applies if the official has fulfilled the standard operating procedures of deed creation. When fundamental procedures, such as Repertorium recording, are violated, professional immunity is waived by law, opening the door to full compensation claims from the injured party.

The implications of this liability become increasingly complex in light of indications of intellectual forgery. [Gemilang and Rahayu \(2024\)](#) and [Melisa \(2025\)](#) agreed that the issuance of a power of attorney to sell unrecorded in the state protocol constitutes document fabrication, thereby injuring public trust. [Amalia et al. \(2021\)](#) reinforced this by stating that a notary must be fully responsible for the content of an authentic deed inconsistent with facts. When a notary creates a deed whose content appears to have occurred (factual) but is administratively unrecorded (fictitious), the notary has violated the principle of material truth, which is the lifeblood of an authentic deed. In Decision Number 1859 K/Pdt/2015, the Deed of Power of Attorney to Sell (Evidence P-24) became the primary instrument (*instrumentum sceleris*) to transfer land rights unlawfully. Therefore, the notary’s liability does not stop at administrative sanctions but extends to civil liability for Unlawful Acts (Tort). [Halimi \(2023\)](#) added that in land disputes involving defective notary deeds, the notary is obligated to share joint and several liability for the third party’s material losses.

Furthermore, the “Phantom Deed” phenomenon in this case also serves as a harsh critique of the developing discourse on notarial digitalization. [Permadi and Herlindah \(2023\)](#) argued that the transformation towards electronic certificates and Cyber Notary aims to guarantee legal certainty. However, Carlina Liestyani’s case shows that technology is merely a tool, and legal validity remains dependent on the integrity of human data input. If the legal culture of notaries remains permissive toward manual Repertorium manipulation practices and courts continue to ignore protocol validation, the digital system will only become a new means to legitimize fraudulent documents at higher speeds. [Guspitawaty and Santiago \(2023\)](#) warned that without fundamental improvements in professional ethics and protocol supervision, modernization of the land registration system will fail to prevent the recurrence of similar disputes.

In the context of rights restoration, Decision Number 1859 K/Pdt/2015, which ordered the vacation of the disputed land, constitutes the purest form of corrective justice enforcement. The annulment of the notary deed that serves as

the basis for the certificate's issuance is an absolute step to restore the situation to its original position (*restitutio in integrum*). Land buyers claiming good faith cannot maintain their rights because such rights were obtained from the "fruit of the poisonous tree." Since the Deed of Power of Attorney to Sell Number 14 (Evidence P-24) was declared null and void due to the absence of the Repertorium, all derivative transactions, including the Sale and Purchase Deed and the Freehold Title Certificate, automatically lose their legal legitimacy. The principle of *nemo plus iuris* applies absolutely here: a notary cannot grant rights they do not possess, and a fake power of attorney cannot birth a legitimate transfer of rights.

Ultimately, the analysis of Decision Number 1859 K/Pdt/2015 culminates in one critical conclusion: this decision is a classic example of a "Right Decision, Wrong Reasoning." In terms of outcomes, this decision provides justice for victims of land encroachment. However, in terms of legal reasoning, this decision fails to enforce Law Number 30 of 2004. Moving forward, the judiciary must no longer be pragmatic. Judges must have the courage to explicitly state in their considerations that "Absence of Repertorium" is a standalone and sufficient ground to annul a deed, without having to shelter behind land dispute arguments. Only in this way can legal certainty and notary professional discipline be enforced simultaneously, with administrative compliance serving as the supreme standard for authentic deed validity.

CONCLUSIONS AND SUGGESTIONS

Based on the comprehensive dogmatic analysis employing the surgical lens of Austin's Legal Positivism Theory on Decision Number 1859 K/Pdt/2015, this research concludes that the absence of deed recording in the Deed Registry Book or Repertorium constitutes a fundamental violation of the official command (Command of the Sovereign), resulting in the absolute nullification of the deed's authenticity status. Administrative findings confirmed through *novum* in the judicial review proved that the Deed of Binding Sale and Purchase Agreement Number 13 (Evidence P-23) and the Deed of Power of Attorney to Sell Number 14 (Evidence P-24), acting as the object of dispute, were "Phantom Deeds" lacking an ontological basis in the state protocol. Therefore, under evidentiary law, these deeds experienced "civil death" and must be deemed non-existent from inception, thus lacking the juridical capacity to confer any land rights transfer to any third party.

Although the Supreme Court ultimately annulled these deeds, this research identified a serious anomaly in judicial reasoning: judicial silence. The Panel of Supreme Court Justices, in their legal consideration (*ratio decidendi*), was proven to have taken a judicial shortcut by not making the violation of the Repertorium obligation, as

regulated in Article 58 of Law Number 30 of 2004, the primary cause for annulment. The judges chose to annul the deed on the grounds of procedural defects downstream (land certificate), yet disregarded the official command violation upstream. From an Austinian perspective, this silence severs the logical link between Command and Sanction, thereby weakening the authority of the Law and creating legal uncertainty regarding notary professional discipline standards.

This decision reflects the pragmatism of the Indonesian judiciary, which tends to prioritize substantive dispute resolution over procedural formalism compliance. Albeit providing corrective justice for the injured land owner through *the restitutio in integrum* mechanism, the judges' failure to explicitly articulate administrative sanctions results in blurred boundaries of notarial liability. The dogmatic implication is that the notary in Decision Number 1859 K/Pdt/2015 was punished not for independently violating their oath of office, but for being dragged into a land ownership dispute. This condition undermines the notary's function as a public official, who should be subject to strict liability standards regardless of the presence or absence of external lawsuits.

As a consequence of the normative-qualitative methodological choice, this research has limitations: it only examines legal reasoning in one specific jurisprudence and does not capture judges' sociological perceptions in the field. The study focuses on decision texts, and laws limit the analysis to the realm of *das sollen* (what ought to be) and the internal logic of the decision, thus not capturing non-legal dynamics that might influence the judges' conviction in adjudicating cases. However, this limitation opens the door for future socio-legal research to test whether similar pragmatism occurs systematically at various court levels across Indonesia in handling notary malpractice cases.

Based on the aforementioned conclusion, this research recommends a paradigm shift in the examination of civil cases involving notary deeds. The Supreme Court needs to issue a Circular Letter mandating that judges conduct an administrative validity test of notary protocols as a standard procedure before examining the substance of land disputes. Judges must be encouraged to abandon the culture of judicial silence and begin applying reasoned elaboration by treating the absence of Repertorium as a standalone ground for annulment, in order to enforce the educational function of the decision.

In practice, these findings imply the urgency of transforming the notary supervision system from a manual to an integrated digital system. The Ministry of Law needs to immediately implement an *e-Repertorium* system that is connected in real time to the land registration system at the National Land Agency. This integration aims to close the loophole for "antedated" deed fabrication and ensure that every deed used as a basis of title for land transfer has been verified in the national database.

Without this systemic improvement, the judiciary will merely continue to serve as a firefighter for disputes triggered by administrative chaos.

Finally, this study asserts that legal certainty in civil traffic cannot be built upon a foundation of malpractice. Victim rights restoration through deed annulment and land vacation is an important downstream step, but upstream prevention through Repertorium discipline enforcement is the key to the sustainability of the notarial system. The integrity of the notary protocol is the final bastion of public trust. When that bastion collapses, and the court commits disregard, the pillars of legal certainty in this country collapse with it.

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