THE OTHER NOTARY’S AUTHORITY IN MAKING DEED ALSO MADE BY OTHER OFFICIALS

Moh. Manap, Lalu Husni, Wira Pria Suhartana

*Postgraduate program Legal Study and Notaries, Mataram University, Indonesia
**Lecture of Law Faculty Mataram University, Indonesia

Email correspondence: abdulskr77@gmail.com

Abstract: Objectives to be achieved by the authors of this study are to analyze the forms and limitations of other authorities Notary in making deeds made also by other officials according to Law No. 2 of 2014 on the amendment of Law No. 30 of 2014 on the position of Notary (UUJN) and other regulations.

The research type used in this research is normative law research with statute approach method and conceptual approach. The results of the research The form of other notarial authority in making the deed is also made by other officials, in searching the researcher found among other things: making deed related to land, deed of recognition of child outside marriage (Article 281 BW), deed of news of negligence of officer of storage mortgages (Article 1227 BW), deed of the minutes of offering of cash payments and consignment (Articles 1405, 1406 BW), deed of protest money orders and checks (Articles 143 and 218 WvK), power of attorney impose mortgages (Article 15 paragraph [1] No. 4 of 1996), drawing up the deed of minutes of auction and the deed of Pledge of Waqf. While the limit of other notary authority in making deed there is no limit as long as it is not excluded to other official / institution and as long as there is norm or rule of law that allow then Notary has authority to make it.

Keywords: other authority, notary public

I. INTRODUCTION

The rapid progress of the era especially in the State of Indonesia to make the role of a notary is needed by the public, to obtain legal certainty in carrying out legal actions contained in a deed made by a Notary as stipulated in Law No. 2 of 2014 on changes from Law No. 30 of 2014 on the position of Notary (UUJN) stated that the authority of Notary is to make an authentic deed,¹ as a perfect proof, especially for people who already have a good legal understanding and awareness, in law to regulate the relationship between legal subjects.

¹ See Law No. 2 of 2014 on the Notary's Office
In Article 1 of Law Number 2 of 2014 Amendment to Law Number 30 Year 2004 concerning Notary Publicity stipulates that a notary is a public official authorized to make an authentic deed and has other authority as referred to in this law or under other laws. Regarding all acts, treaties and determinations required by a general rule or by an interested party desirable to be declared in an authentic deed, guaranteeing the date certainty, preserving the act and granting the grosses, copies and quotations, all so long as the making of the act is not assigned or excluded to officials or others.\(^2\)

Other authorities as set forth in article 1, paragraph 1 of Law Number 2 of 2014 Amendment to Law Number 30 Year 2004 regarding Notary Position is not mentioned in detail in the UUJN, which gives rise to a wide and complex interpretation. In making the certificate of Notary by Notary there are also some authentic deed which is the authority of Notary and also become authority of official or other institution regulated in the Civil Code of Law and other regulation, one of which is notary authority to make deed related to land. This authority is regulated in Article 15 paragraph (2) subparagraph f UUJN and deed of recognition of children outside marriage (Article 281 BW) and much more regulated in other regulations.

In practice, another notary’s authority is quite a lot, both regulated and not regulated by the laws and regulations as stipulated by the Notary Law, both of its form and type. The authority of a Notary as governed by the UUJN is referred to in Article 15 of paragraphs (1) to paragraph (3) of the UUJN, which may be divided into: \(^3\) Public Authority of Notary Public, Notary Public Notary, and Notary Authority to be determined later. Public Authority of Notary is regulated in Article 15 paragraph (1) UUJN affirms that one of the authority of Notary is to make deed in general. This may be referred to as Public Authority of Notary with limitations along: \(^4\)

a. Not excluded to other officials that have been established by law.
b. Concerning the deed to be made is an authentic deed of all deeds, agreements and statutes required by the rule of law to be made or desired by the person concerned.
c. Concerning the interests of the legal subject that must be clear to the interests of whom a deed was made.

In making the certificate of notary by the notary there are also some authentic deed which is the authority of Notary and also become authority of official or other institution which regulated in Civil Code and other Law, that is: \(^5\)

a. Deed of recognition of children outside marriage (Article 281 BW),
b. Deed of official report on the negligence of the mortgage deposit officer (Article 1227 BW),
c. The deed of the minutes of the offer of cash payment and consignment (Article 1405, 1406 BW),
d. Deed of protest money orders and checks (Articles 143 and 218 WvK),
e. The power of attorney imposes a mortgage (Article 15 paragraph [1] of Law No.4 of 1996),
f. Make a deed minute of the auction.

\(^3\) Habib Adjie, 2008. *Hukum Notaris Indonesia, Tafsir Tematik Terhadap UU No. 30 Tahun 2004 Tentang Jabatan Notaris*, Refika Aditama, Bandung, p. 78
\(^4\) *Ibid*.
\(^5\) *Ibid*. p. 79
The authority of a Notary in the manufacture of an authentic deed so long as it is not excluded to any other party or official, or a Notary is also authorized to make it in addition to be made by another party or official, implies that the authority of Notary in making authentic deed has general authority, while the other party has limited authority. Article 15 of the UUJN, has determined the authority of Notary. This authority is a limitation, that a Notary shall not perform any action beyond such authority.

An objective to be achieved by the authors of this study is to analyze the form and limitations of other authorities Notary in making deeds made also by other officials.

II. FRAMEWORK

In this study, the theoretical foundations and concepts used as a knife of analysis are as follows:

2.1 Authority Theory

Authority implies the ability to perform an act of public law. Or in other words, authority is the ability to act provided by applicable law to engage in legal relations and conduct.6

Ateng Syafrudin presents the notion of authority. He argues that:
"There is a difference between the notion of authority and authority, we must distinguish between authority (authority, gezag) and authority (competence, bevoegheid). The authority is what is called formal power, the power derived from the powers granted by law, about a certain "onderdeel" of authority. In the authority there are authority (rechtsbevoegdheden). The authority is the sphere of public legal action, the scope of governmental authority, not only includes the authority to make government decisions (bestuur), but includes the authority in the course of execution of duties, and authorizes and distributes the main powers set forth in legislation.7

Authority is a very important part of the law of governance (administrative law), because the new government can perform its functions on the basis of the authority gained. The legitimacy of governmental action is measured by the authority set forth in legislation (legaiteit beginselen). An authority must be based on applicable law provisions so as to be valid. The subject of authority can be seen in the constitution of the state which gives legitimacy to public bodies and state institutions in carrying out its functions.8 An authority can be obtained from three sources, namely attribution, delegation and mandate9, but delegates and mandates constitute an authority derived from delegation.
a. Attribution
The authority of attribution is commonly outlined through the division of state power regulated in the Constitution.  

b. Delegation of authority
In addition to attribution, authority can also be obtained through a process of delegation called:  
1) Delegate  
2) Mandate  

In relation to this research, it can be seen about the authority of a Notary who has been regulated in Article 15 UUJN. The authority of a Notary will then relate to the Notary’s responsibility to the deeds he/she has made. This is due to the fact that some of the state’s authority is granted to the Notary; therefore the Notary is also responsible for his actions as a public official.  

2.2 Theory of legal action
Legal Actions are any act of legal subjects (human or legal entity) consequently regulated by law, since that effect can be regarded as the will of the committing the law.  

The legal act consists of:

a. Unilateral legal action
Unilateral legal action is a legal act perpetrated by one party only and incurring rights and obligations on the one hand as well.  

b. Two-sided legal action
Two-party legal action is a legal act perpetrated by two parties and creates rights and obligations for both parties (reciprocity).  

III. RESEARCH METHODS
This research is a type of normative legal research that is research conducted by way of reviewing legislation applicable and applied to a certain legal problems. Normative research is often referred to as doctrinal research is the object of research is a document of legislation and library materials, therefore this research is focused on legal materials related to the subject matter. With approach applied to discuss problem in this research is through approach of law (statute approach) and conceptual approach.

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10 Ibid.  
11 Ibid.  
13 Ibid. p. 193  
15 Ibid. p. 57
IV. RESULT

4.1 Other Notary Forms of Authority in Making Deed Also Made by Other Officials

The authority of a notary is an authority which is mandated by law or in other words the authority of a notary is the authority of attribution. The notarial authority is clearly an authentic deed, or the product of a notary is an authentic deed as contained in article 1 paragraph 1 of the Law of Public Notary (UUJN) that a notary is a public official authorized to make authentic deeds and other authorities as stipulated in law these and other regulations. While other authorities as mentioned in Article 1 paragraph 1 can be seen explanation in article 15 paragraph 3 mentioned in addition to the authority referred to in paragraph 1 and paragraph 2 notaries has other authority regulated in legislation.

Based on Article 15 paragraph 3 there is another notary authority regulated by other laws and regulations which are not regulated by the law of the notary office and made also by other Officials / Institutions.

4.1.1 Make deed related to land

As a competent authority in making an authentic deed, the notary has been authorized in the UUJN to create authentic deeds. The authority of Notary is regulated in Article 15 UUJN. The authority to make an authentic deed has been mentioned in Article 15 paragraph (1) UUJN. Article 15 paragraph (2) UUJN describes the various authentic deeds that can be made by a notary. The authority, among others:

a. Validate the signature and specify the date of the letter under the hand by registering in a special book;
b. Record the letters under the hand by enrolling in a special book;
c. Make copies of the original letters under the hand in the form of copies containing the description as written and illustrated in the corresponding letter;
d. Certify a photocopy match with the original letter;
e. Provide legal counseling in relation to the making of the deed;
f. Make deed related to land; or
g. Make deed minutes of the auction.

The authority granted to a notary public has been clearly mentioned in Article 15 paragraph (2) of the UUJN. However, from several authorities given to the notary above, there is an authority which at the present time becomes a problem among notaries and also PPAT. Article 15 paragraph (2) letter f UUJN, said that the notary is authorized to make deed related to land. The policy set forth in Article 15 paragraph (2) subparagraph f UUJN cannot run well, this is because of the conflict that occurred between the authority possessed by Notary and the authority possessed by PPAT.

The existence of Article 15 paragraph (2) letter f UUJN has generated multi interpretation. There are three interpretations of the chapter:16

1. Notary has taken all authority of PPAT to be a notary authority or has added notary authority.
2. The land sector has again become the authority of a notary.
3. There is no takeover from PPAT or authority to notary, both PPAT and notary have their own authority.

These interpretations sometimes create a separate conflict between PPAT and Notary.

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4.1.2  *Deed of recognition of children outside marriage*

A child born of an unmarried relationship is called an outsider. According to Article 43 Paragraph (1) of the Marriage Law, the outsider only has a civil relationship with his mother and his mother’s family, because the child’s status according to law has only a nasab relationship with his mother and his mother’s family, is his mother and his mother’s family only.\(^{17}\)

Based on Article 281 Civil Code of recognition of marriageable offspring, it can be done in 3 (three) ways voluntarily:
1. In the Birth Certificate of the child
2. In the Marriage Parent Deed
3. In Authentic Deed

Recognition of a child outside the legal marriage if given in the presence of a Notary or Civil Registration Officer (may be in a birth certificate, marriage certificate, or in a separate deed), whereas both are General Officials, who are given special powers to make such deeds, then we can say that the confession of a married child must be given in an authentic deed.\(^{18}\) Since it is not hinted that the authentic deeds concerned in the meanings made before the Notary shall merely contain the acknowledgment of an outsider, the confession may also be given in a general will, made before a Notary.

The acknowledgment of the child outside of marriage is done by having the consent of the mother of the child, because under Article 43 of the Marriage Law, the born child automatically has a civil relationship with her mother. Based on the article, the acknowledgment of the child made before the notary is only bound by civil, for the ratification must be registered in the Court.

4.1.3  *Deed of official report on the negligence of the mortgage holders*

Section 1227 of the Civil Code states: Without prejudice to what has been specified in Article 619, mortgage save persons shall not at all deny or delay registration of the deeds for the collection of property rights, registration of mortgage rights, giving the opportunity to view the requested statements, with the threat of reimbursing costs, losses and interest to the parties concerned; for that purpose, at the request of those wishing by a Notary or a bailiff with two witnesses to be made a report about the refusal or delay of the saver.

Based on Article 1227 Civil Code of authority of a notary authorized to make a deed of relas or news of the negligence of the officer of the mortgage deposit, the negligence of the official in this case the saver must not refuse and delay all the provisions of Article 1227 of the Civil Code if the saver refuses and delays, will be made news of rejection or delay event in the presence of Notary with two witnesses, but it could also the news of the event made by the bailiff.

In this matter there is the authority of a notary made also by other officials ie bailiffs. However, the provisions of article 1227 of the Civil Code in the II BW book according to Article 29 of Law number 4 of 1996, the provisions on mortgages are no longer valid.


4.1.4 **Official Deed of cash offer payment and consignment**

The minutes of the proceeds of the offer of cash payment and consignment in Articles 1405 and 1406 BW shall be given to a person who is in charge of receiving them for him, performed by a person in charge of paying, mastering all principal and recoverable debts and their prescribed fees and receiving a sum of money for unspecified costs by not reducing future determination.

The notary is authorized to issue the deed of the cash payment and consignment offer, as long as the parties wish, but in the cash payment and consignment offer related to the public procurement of the news the proceedings are made and registered in court. The legal institutions of the Consignment are governed in articles 1404 to 1412 of the Civil Code. An important issue in applying for consignment is who the applicant is and who the requested party is: Whereas one of the fundamental principles of the formal petition of the petition, the petition must be filed by the party having the capacity to act as the applicant. In the case of land acquisition for the public interest article 1404 Civil Code regulates the payment offering institutions, followed by the care of the District Court based on the civic relationship between the parties that originated from the relationship of accounts receivable. Land procurement is a legal act of the government to acquire land that belongs to the domain of administrative law. To obtain land from holders of land rights, the government provides compensation. It is clear that the relationship between the government and the holder of the land rights is not a debt relation of civil servants. When the holder of the land rights refuses to receive compensation offered by the government agency requiring the land, the act of entitlement to compensation in the District Court is a one-sided action, that with the deposit of the compensation money it is assumed that it has occurred agreement to receive such compensation and that responsibility for paying compensation is deemed to have been carried out.19

4.1.5 **Deed of protest money order and check**

According to H.M.N. Purwosutjipto 20 Money orders and checks are both types of securities. The types of securities are:

a. Letter of Notes
b. Letter capable
c. Letter of check
d. Carter party
e. Conosemen
f. Delivery-order
g. Ceel
h. Volgbriefje
i. Share certificates
j. Bonds
k. Certificate

The notes are securities as stipulated in Chapter VI of Book I of the Law on Trade Law ("KUHD"), starting with Article 100 - Article 177.21 A money order is a security which contains

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21 *Ibid*. p. 50
the word "draft" in it, dated and signed somewhere, where the publisher (trekker) gives an unconditional order to stuck (*betrokkene*) to pay a sum of money on a pay day (*vervaldag*) to the person designated by the publisher called the recipient (*nemer*) or his successor in a particular place.22

While the check letters set out in Chapter VII, Book I, starting from Article 178 - Article 229d KUHD. If the value of the money order is based on the creditworthiness of the issuer, andosan and others, then check letters should be viewed as a means of cash payment, so it is like regular money. The purpose of check issuance is to increase payment guarantee.23 From it there are provisions as follows:24

a. Checks are only issued to bankers;
b. Checks may be issued if the banker already has funds for the payment;
c. Checks are valid for a short period of time, within the time frame of the check name should not be revoked.

In Articles 143 and 218 of the Trade Law Act, a Notary is authorized to file a money order and check certificate, if the money order and check on the due date cannot be disbursed in the case of debt payments to other parties or third parties.

4.1.6 Power of Attorney Charges Deposit Rights

The Power of Attorney is provided in Book III B.W. and categorized as a named agreement which gives birth to the engagement as defined in Article 1233 B.W. SKMHT is the result of creditor and debtor agreement, in which the debtor authorizes the creditor for the future in accordance with the interest of the creditor to exercise such power by installing the Deposit Rights. Because SKMHT is the result of the agreement of the parties based on the Power of Attorney, then this means including the field of Civil Law, so SKMHT more precisely make it is Notary not PPAT.25

SKMHT is an irrevocable force for any reason whatsoever; SKMHT is an additional agreement arising from a principal agreement in the form of a credit agreement. SKMHT may be terminated if APHT has been made for the date specified in the SKMHT.26

The granting of qualification as a Public Official to a Notary and Officers of Deed of Land (PPAT) authorized to make Power of Attorney Charging Mortgage Right (SKMHT), should (read) make Deed of Power of Attorney (AKMHT) aligned with Deed of Mortgage Right (APHT).27

Based on the provisions of Article 15 paragraph (1) of Law Number 4 Year 1996 Concerning the Right of Dependence on Land and Objects Related to Land can be done by notarial deed or PPAT deed. Therefore, for a Notary already existing UUJN, the requirement to make the deed must be subject to the provisions mentioned in Article 38 UUJN. Therefore, the form of the power of attorney if it is made in the form of deed, the PPAT deed must be fulfilled with all the provisions required for the making of the SKMHT (Article 95 paragraph [2] juncto

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22 *Ibid.* p. 45
23 *Ibid.* p. 139
27 *Loc.Cit.* Habib Adjie. p. 79
Attachment 16 through 23 Regulation of the Minister of Agrarian Affairs No. 3 of 1997). And if SKMHT is made in the form of notarial deed, the provisions concerning the procedure of the formation and the form of notarial deed to be followed pursuant to UUJN, provided that the contents of its SKMHT must meet the requirements and contain the content specified in Article 15 paragraph (1) of Law Number 4 Year 1996 About the Rights of Counter on Beserra Land Objects Related to the Land.\(^{28}\)

With the legal construction as mentioned above, if there is a Notary making SKMHT by using SKMHT certificate or copying certificate legalized by certain institution, it can be categorized that the Notary has acted outside the authority as a Notary or not in accordance with the provisions of Article 15 paragraph (1) UUJN. And if any party feels harmed by the act of Notary, the injured party may demand the cancellation of such deed and compensation, cost and interest to the Notary concerned.\(^{29}\)

4.1.7 Making Auction of Minutes of Auction

Notary has the authority to make the auction document as stipulated in article 15 paragraph (2) letter g UUJN. But the explanation of the auction treaty is not found in the UUJN. Based on Article 1 paragraph 13 of Regulation of the Minister of Finance Number 40 / PMK.07 / 2006 which stipulates as follows the auction officer is a person specially authorized by the finance minister to carry out the sale of goods by auction.

Based on the above matter, the grant of a notary authority to make the auction document as meant in Article 15 paragraph (2) letter g UUJN cannot be applied simply. Based on the above explanation, the appointment of the auction officer is done by the Minister of Finance, while the appointment of the notary is done by the Minister of Law and Human Rights.

Decree of the Minister of Finance of the Republic of Indonesia No. 338 / KMK.01 / 2000, dated August 18, 2000, in Article 7 paragraph (3):

a. Auction Officers are divided into two levels:
   1) First Class Auction Official
   2) Class Auction Official II
b. Article 8:
   1) A Class I Officer is an employee of BUPLN at the State Auction Office appointed for the post.
   2) Class II Auction Officials shall be certain persons appointed for office, derived from:
      a) Notary Public;
      b) Evaluator;
      c) Retired Civil Servants (PNS) BUPLN priority who ever became First Class Auction Official; domiciled in a certain working area established by the Head of the Agency.

4.1.8 Waqf

Article 1 Paragraph (1) of Law Number 41 of 2004 concerning Waqf states Waqf is a wakif (Giver of Waqf) legal act to separate and / or hand over some of their possessions to be

\(^{28}\) Herlien Budiono, 2007. Kumpulan Tulisan Hukum Perdata di Bidang Kenotariatan, Citra Aditya Bakti, Bandung, in Habib Adjie. p. 79

\(^{29}\) Ibid.
exploited forever or for a certain period in accordance with their interests for the purposes of worship and / or welfare general according to sharia.

The wakif process of donating the property must make a pledge of waqf in the presence of the Pledary Officer of Pledge of Waqf (PPAIW) attended by 2 (two) witnesses who are then poured into the writing, then will be poured in a form of Deed, which is called the Deed of Pledge of Waqf made by the Officer of Deed of Pledge of Waqf (PPAIW) as referred to in article 1 point 6 of Law No. 41 of 2004 on Waqf and stipulated in Government Regulation Number 42 About Waqf as stated in Article 37 namely:

a) PPAIW the immovable property of waqf in the form of land is the Head of KUA and / or an official holding the affairs of waqf.
b) PPAIW movable waqf property other than money is the Head of KUA and / or other officials appointed by the Minister.
c) PPAIW waqf property in the form of money is the Official of Sharia Financial Institution at the lowest level of Section Head of LKS appointed by the Minister.
d) The provisions referred to in paragraph (1), paragraph (2) and paragraph (3) do not close the opportunity for Wakif to make AIW in the presence of Notary.
e) Notary requirements as PPAIW are stipulated by the Minister.

Based on Article 37 paragraph (4) and (5) of Government Regulation Number 42 on Waqf, that the notary has new authority to make the deed made by other official ie Deed of Waqf, but after fulfilling the requirement determined by Minister of Religious Regulation No. 73 2013 concerning the procedures of endowments of immovable and moving objects other than money Article 27 namely: Article 27, namely:

a) Notary shall be stipulated as PPAIW by a Ministerial Decree.
b) Notary requirements to be stipulated as PPAIW as follows:
   a. Be Muslim;
   b. Trustworthy; and
   c. Has a certificate of competence in the field perwaqfan published by the Ministry of Religious Affairs.
c) Notary as referred to in paragraph (2) letter c may be appointed as PPAIW after submitting an application to the Minister.

Referring to Article 27 of Regulation of Minister of Religious Affairs No. 73 of 2013 on the Procedures of waqf Unmoving and Moving In addition to Money above not all Notaries who can be PPAIW only notaries who are Muslims and who have a certificate of competence from the Minister of Religious Affairs that could become PPAIW.

4.2 Limitation of Other Authorities of Notary in Creating Deed Created Also by Other Officials

The notary’s authority is contained in Article 15 of the UUJN, both general and special authorities and the authority determined later. The authority of a Notary, among others, to make an authentic deed of all the deeds, agreements and stipulations required in legislation or the interest to be stated in the deed, to ensure the certainty of the date of the deed making, to keep
the deed, to grant grosses (a copy of the deed for the deed of debt recognition), as well as making copies and citations of deeds. However, in paragraph 3 of Article 15 UUJN, the notary has other authority regulated in the law.

Based on Article 15 paragraph 3 UUJN other authority Notaries as the author searching from some literature there is another notary authority regulated in other laws outside UUJN, which authority is also made by officials or other agencies, such as:30

a. Deed of recognition of children outside marriage (Article 281 BW),
b. Deed of official report on the negligence of the mortgage deposit officer (Article 1227 BW),
c. Deed of the minutes of offering cash payments and consignment (Article 1405, 1406 BW),
d. Deed and check protests (Article 143 and 218 WvK),
e. The power of attorney imposes a mortgage (Article 15 paragraph [1] of Law No.4 of 1996),
f. Make a deed of auction treaty.

Of the other authorities mentioned above the author also found that there are other authorities regulated by UUJN such as making land deed in Article 15 paragraph 2 letter g and other regulations such as the Making of Deed of Waqf, which is regulated in Government Regulation Number 42 About Waqf as stated in Article 37 paragraph 4 that the provisions referred to in paragraph (1), paragraph (2) and paragraph (3) do not close the opportunity for Wakif to make AIW in the presence of Notary.

Other notarial authority constraint in making deed as stated in Article 15 paragraph 1 UUJN, Notary has authority to make deed along:

a. Not excluded to other officials that have been established by law.
b. Concerning the deed to be made is an authentic deed of all deeds, agreements and statutes required by the rule of law to be made or desired by the person concerned.
c. Concerning the interests of the legal subject that must be clear to the interests of whom a deed was made.

In making the deed, the notary is given full authority as long as it is not excluded to other officials, but it is permissible to make deeds made by other officers if specified by other law even though not regulated in UUJN which is a guideline for a Notary. As in making the certificate of acknowledgment of children outside marriage whose authority is also given to the Department of Population and Civil Registry (DUKCAPIL), the deed of the official report on the negligence of the mortgage deposit officer who is also given authority to the bailiff. However, in making the Power of Attorney imposes a mortgage (Article 15 paragraph [1] of Law No.4 of 1996), and deed related to the land there is a debate between notary and PPAT. In practice there is often a conflict (chaos) of duty and authority between PPAT and Notary especially the authority of Notary is strengthened by Law Number 2 Year 2014 while PPAT is only strengthened by Government Regulation (abbreviated as PP) Number 37 year 1998 concerning Regulation of Position of Land Deeder (abbreviated PJPPAT). In article 15 paragraphs 2 letter f UUJN affirmed notary has authority to make deed related to land deed. There are three interpretations of the chapter:31

30 Loc. Cit. Habib Adjie, 2008, p. 79
31 Ibid. hal. 84
a. Notary has taken over all PPAT authority to be a Notary authority or has increased the authority of Notary.
b. Field of land becomes the authority of Notary.
c. There is no takeover from PPAT or the return of authority to Notary, both PPAT and Notary has their own authority.

According to Habib Adjie, the authority of Notary in the field of land was not authorized to become a Notary authority in Indonesia since his birth. The provisions of Article 15 paragraph 2 sub-paragraph f of the UUJN do not increase the authority of Notary in the field of land, nor the takeover of authority from PPAT. Whereas the Notary has authority in the field of land, as long as it is not the authority that already exists in the PPAT, therefore there is no dispute over authority between Notary and PPAT. Each has its own authority in accordance with applicable law rules. Notary authority has been restricted in making deed related to the land that is notary authorized to make deed outside PPAT authority such as Deed of Sale and Purchase (AJB), Exchange Deed of Exchange, Grant Deed, Deed of Sharing Rights (APHB), Inbreng, (SKMHT), Deed of Assignment Rights (APHT), Deed of Right to Use / Right to Use, notwithstanding it is the authority of a Notary Public, such as Deed of Sale and Purchase Agreement, Deed of Selling Authority, Deed of Right Transaction, Grant Binding Act, Deed of Disposal and others apart from the 8 types of deeds made by PPAT.

The duties and authorities for the making of SKMHT also become a dispute between Notary and PPAT, because in the implementation is a Notary priority to issue SKMHT for parties who want to propose the right of burden, that more precise word is not "letter" but Deed of Authority . However, for remote areas (such as rural areas where there is no Notary), PPAT may make SKMHT for the benefit of the parties.32

In making the auction of minutes of treaty as mentioned in the provisions of Article 15 paragraph (2) letter g of Law Number 2 Year 2014 regarding Notary Position, causing legal uncertainty in its implementation in the field of auction. Due to notary authority in making deed minutes of auction the auction overlaps with auction officials according to auction rules. However, only the Notary has been established and appointed as the Class a Class II Officer only entitled and authorized to lead the auction and make the auction of minutes of the auction.

In the case of making the Pledge of Waqf’s Notary’s authority, the authority of Notary refers from Article 27 of Minister of Religious Affairs Regulation No. 73 of 2013 on the Procedures of waqf Unmoving and Moving In addition to Money above not all Notaries who can become PPAIW are notaries who are Muslims and who have a certificate of competence from the Minister Religion that can be PPAIW.

Based on all the above description of other notary authority in making deed, as the authority of Notary as regulated in Article 15 UUJN, Notary has authority and have other authority in making the deed there is no limit as long as it is not excluded to other Official/ Institution and as long as regulated by Law or other regulations Notaries are authorized to make it.

V. CONCLUSION

32 Loc.cit Habib Adjie, 2009, p. 31
The form of other notarial authority in making the deed is also made by other officials, in search of the researcher found among other things: making deed related to land, deed of recognition of children outside marriage (Article 281 BW), deed of news of negligence of mortgage store Article 1227 BW), the deed of the minutes of offer of cash payment and consignment (Articles 1405, 1406 BW), deed of protest money orders and checks (Articles 143 and 218 WvK), power of attorney impose mortgages (Article 15 paragraph [1] Law no. 4 of 1996), drawing up the deed of minutes of the auction and the deed of Ikrar Waqf (oath of wakaf).

While the restriction of other notary authority in making the deed there is no limit as long as not excluded to other officials/agencies and as long as there is norm or rule of law that allows the notary authorized to make it.

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