

Implementation of Notary Protocol Storage (Study in West Lombok Regency)

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Abstract

The purpose of this study is to know and analyze the procedure of storing notary protocol in the notary office of West Lombok District, the function of the Regional Supervisory Assembly in the storage of notary protocols in West Lombok District and the relevance of the documentation process and correlation of UUJN and Archival Law. The types of research used are empirical legal research, legal approach methods, conceptual approaches and sociological approaches, with research locations in West Lombok Regency. Based on the study results: the procedure of storing notary protocol in the notary office of West Lombok Regency is if in a condition of leave, become a state official or can not carry out the task, carried out by appointment to a substitute notary or notary appointed. Second, for notaries who die or notary protocol has been 25 (twenty-five) years or older, MPD appoints a Notary Public who will act as the temporary holder of notary protocol. The function of the Regional Supervisory Assembly in the storage of notary protocols in the west Lombok Regency is to have a general function and a special function.

Keywords: Notary, Notary Protocol, Archival, Storage

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1. Introduction

The notary public has a strategic role in ensuring the passage of legal certainty. This is indicated by notary authority in the making of authentic deeds in asserting the existence or status of an object or alliance through an agreement. Notary public officials, which can be interpreted as people who have been determined by the Decree of the Minister of Law and Human Rights as public officials, and given the authority as well as an obligation from the state to serve the needs of the community about the making of deed agreements and others in accordance with the legislation. In carrying out the task of serving the community's needs in the field of law, to provide a form of protection and guarantee to achieve a firmness of the law.

Deed made by a notary public can be a legal basis for the status of a person's property, rights, and obligations. Errors in deed made by a notary public can cause the removal of a person's rights or burden of a person on an obligation, therefore the notary in carrying out his/her duties must comply with various provisions mentioned in Law No. 30 of 2004 (Anshori, 2009) Notarial deed in essence, contains formal truth in accordance with what the parties inform the Public Official (Notary). The notary shall be obliged to include in the deed what is understood in accordance with the will of the parties and read to the parties the contents of the deed. Statement or statement of the parties by a notary public shall be outlined in the notarial deed. (Anshori, 2009)

The regulation of notary authority is clearly stipulated in Article 15 of Law No. 2 of 2014, which then gives rise to the notary's responsibility as an official who makes authentic deed. Law No. 2 of 2014, especially Article 15, appoints a Notary Public Official who has the task of making an authentic deed to ensure legal certainty between the parties and avoid disputes. In the event of a dispute between the parties, the authentic deed serves as a powerful tool of evidence for problem solving.

Notary in carrying out his authority duties as a public official has the main characteristic, namely in his impartial and independent position. Notary provides services to the community in the creation of authentic deed. In essence, Notary Public merely acts or records in writing and form of legal action of interested parties. Therefore, a notarial deed or an authentic deed does not guarantee that the parties "say right" but that guaranteed by the authentic deed are the parties "telling the truth" as contained in their deed of agreement. (Sjaifurrachman & Adjie, 2011)

Notarial deed is an authentic deed because it is the strongest and fullest so as to guarantee the legal force of the deed. In carrying out its duties to serve the public to make an authentic deed, notary also should store, perform the task of reporting and archiving documents related to its work called notary protocol, namely minuta deed, list of deed that has been issued, list of legalization of letters under hand, list of letters under the hand recorded, list of klapper, list of wills, and others related to his work. The notary protocol is important documents that include state archives that must be kept authentic and maintained from damage or loss due at any time if required by the face or his heirs for matters that may occur in the future for a proof.

In Article 1 number 13 UUJN the definition of important protocols / archives of notary can be interpreted as a bundle of important files belonging to the state that must be protected, stored, maintained and maintained by notary public according to the rules in the law. As one of the important archives or documents belonging to the

state, it is an obligation for notaries, substitute notaries, notaries of protocol holders and the Regional Supervisory Assembly (MPD) to maintain, maintain and store the documents in good condition or condition even though the notary of the protocol owner is on leave or/or even has passed away.

Therefore, notary documents are an important element in notary positions. One of the functions of the document is to provide proof of the truth of the facts. The written evidence in civil cases is the primary evidence. This written evidence can be authentic writing and handwritten. In terms of evidentiary powers, an authentic deed made by a notary public is the highest-ranking deed and then followed by a deed under the legalised hand, a deed under the registered hand, a deed under his hands with two witnesses and a deed under the hands of no witness. Notarial Deed is made not for the benefit at the time the deed is made, but is for the benefit of the coming, as proof that an agreement has been made and each party has its rights and obligations thereby. That is why notarial deed must be kept properly.

As an official authorized to make authentic deed, notary public officials are authorized to carry out some of the duties of the state in providing services to the community, especially in the field of Civil Law.

Subject to the submission of notary protocol is stipulated in Article 62, Article 63, Article 64 and also in Article 65 UUJN. According to Article 63 paragraph (2) UUJN whose contents among others mention that the submission of important documents notary is done no later than 30 days by making news of the submission event. Article 63 paragraph (3) states that the submission is carried out by a notary or his heirs to another notary appointed by the Regional Supervisory Assembly. Article 63 paragraph (5) of its contents, among others, states that important notary documents that have been at least twenty-five years old are handed over by notaries who receive protocols from other notaries to the Regional Supervisory Assembly. While in Article 70 letter e UUJN regulates the authority of the Regional Supervisory Assembly to determine the location of storing important notary documents that the time handed over is at least twenty-five years old or a quarter of a century old.

The storage of important state archives (notary important documents), of course, must always pay attention to the security factors of the protocol from the risk of damage, in a careful and careful way it needs to be maintained so as not to be damaged, torn, scattered, damaged due to age or eaten by insects, or even lost. It becomes an obligation for the public official (notary) after that is to keep the protocol and after retirement submitted to the Notary recipient of the Protocol appointed by the Regional Supervisory Assembly, and for the protocol that is at least twenty-five years old submitted to the Regional Supervisory Assembly for storage. Another obligation is to report every month a list of all activities related to their duties and authority to the Board of Trustees in their respective working areas, while the duties related to the making of wills report to the will center of the Ministry of Law and Human Rights.

Many and continuous writing activities certainly cause its own problems for the notary public regarding maintenance and keeping the archive. A long period of time saving in the course of the journey will certainly be found many risks, including the risk of damage due to age or eaten by insects, torn, scattered, or even lost. In addition, if there is a problem of notary dying or retiring, the process of submitting notary protocol is still not running optimally.

In carrying out its position, the notary is obliged to keep every deed made, as part of the notarial protocol as stipulated in Article 16 paragraph (1) letter b of the Notarial Department Law, da in the explanation of the article, it is explained that the obligation to keep the deed minuta part of the Notarial protocol, is intended to maintain the authenticity of a deed by keeping the deed in its original form, so that if there is forgery or grosse abuse , a copy, or quote can be easily known immediately by matching it to the original. However, the provisions of the Notary Department law do not explain how to store it.

Based on some briefs on the background of the above issues, the storage of notary protocols needs to also be reviewed empirically in relation to forms that include ordinances, procedures and others in storage, the role of the Regional Notary Supervisory Board and reviewed from the archival provisions stipulated in Law No. 43 of 2009 on Archives (Archival Law) as well as technical provisions governing the storage of documents, such as Candy Law and Human Rights No. 6 Year 2012 on Archive Classification Pattern and PP No. 28 of 2012 on The Implementation of Law No. 43 of 2009 on Archival. The Archival Law regulates the basic provisions of archives and functions of archival institutions, the National Archives of Indonesia (ANRI). Therefore, it is also important to review the relevance of the provisions of the Archival Law in the storage of notary protocols. Because on the basis of the thought that the notary is a public official / as a public official, and given the authority and an obligation from the state to serve the needs of the community, the notary protocol is important documents that include state archives. This also encourages the author to conduct further studies as outlined in the scientific paper of the thesis, titled "Implementation of Notary Protocol Storage (Study In West Lombok Regency)".

2. Research methods

The type of research used in this study is empirical legal research, namely the ingésation of norms and their implementation. The research examined the procedure of storing notary protocol, the function of the Regional

Supervisory Assembly and technical documents on archival.

This research will be conducted in the west Lombok regency. The fundamental selection of the location is based on the initial observation there are problems of storing notary protocols that are quite prominent and have not been implemented in line with the provisions.

The approaches used in this study are statute approach, conceptual approach, and sociological approach.

The data needed in this study is data sourced from field data, namely data collected with the techniques of document studies and interviews with the relevant parties, namely from the notary element of the Regional Supervisory Assembly of West Lombok Regency.

The techniques and data collection tools used in this study, namely (1) field data are collected by conducting direct interviews with informants and respondents. Informants are notary elements and the Regional Supervisory Assembly. While the respondents are the beneficiary community. The interview used a list of questions, then the question and answer was conducted in a directed manner in accordance with the relevance of the problem in this study. (2) The study of documents or library studies, namely the collection of legal materials conducted using the recording system, recording through data cards, synopsis intending to collect records or important documents such as dockets, publications or data related to the form of storage of notary protocols, functions of the Regional Supervisory Assembly and technical documents on archival.

The analysis model in empirical research is to do a description to answer the problems or legal issues studied. Therefore, the approach in the analysis is used qualitative approach. (Soekanto, 2006)

3. Results and discussion

3.1 Procedure for Storing Notary Protocol in Notary Office of West Lombok District

Based on the results of the study, found notary who died on behalf of Rinanto Agus C, S.H., M.Kn which is located at TGH street. Abdul Karim Gersik, Gelogor Village, Kediri. Rinanto was appointed on April 21, 2011. According to Lajut Hamzan Wahyudi, the storage of notary protocol was first notified by the heir with the death of the notary concerned.

In relation to the above, the provisions of Article 63 paragraph (2) of Law No. 30 of 2004 jo. Law No. 2 of 2014 are: "In the event of the occurrence as referred to in Article 62 letter a, the submission of the Notary Protocol shall be carried out by the notary heir to another Notary appointed by the Regional Supervisory Panel. The provisions of Article 62 letter is to regulate the expiration of notary positions in the event of death; has been 65 (sixty-five) years old; own request; not able spiritually and/or physically to carry out the duties of notary public office continuously for more than 3 (three) years; concurrently in office as referred to in Article 3 letter g.

Can be reviewed based on UUJN and UUJN-P that other Notaries who will receive the protocol of Notary Public who died are Notaries who have been appointed by MPD based on the proposal from the heirs. The submission of the protocol shall be carried out no later than 30 (thirty) days by making a news event submission of notary protocol signed by the submitter and who receives the Notary protocol.

According to the Law, notary Protocol that is at least a quarter of a century old is submitted to the MPD. This is in accordance with Article 63 paragraph (5) uujn / UUJN-P above, namely Notary public from other notaries who at the time of submission aged 25 (twenty-five) years or more submitted by notary public recipients of notary protocol to the Regional Supervisory Assembly.

The obstacle faced is the place or office of MPD as a place to store archives / notary stores that have been a quarter of a century old which is the cause of the unfulgoing rule of Article 63 paragraph (5) UUJN / UUJN-P and Article 70 letter "e" UUJN that are interrelated with each other, because so far MPD West Lombok Regency does not have its own office. Actually, notaries in West Lombok District have tried to buy an office with a derivative but have not finished the process, and although it already has an office but if to accommodate archives / protocols notary that has been a quarter of a century old certainly will not be able to accommodate it given the condition of the office that is not possible. (Soekanto, 2006)

Mpd actions that do not implement Article 63 paragraph (5) UUJN / UUJN-P and Article 70 letter e UUJN need to be seen from the point of view of willingness of supporting facilities or facilities. Based on the provisions of Permenkum and Human Rights No. 40/2015 concerning the Supervisory Assembly, MPD established by the Ministry of Law and Human Rights is provided a place. Permenkum and Ham No. 40/2015 concerning the Supervisory Assembly (organizational structure, procedures for the appointment and dismissal of members, and its working procedures) in Article 18 paragraph (5) govern the existence of a place for MPD. In this case, based on the findings of the study, the rule could not run effectively because of the factors of facilities or facilities that are less supportive in law enforcement, namely buildings and other facilities do not support.

The effectiveness of the notary protocol storage should strengthen the aspects of the implementation of authority from MPD which is a delegation from the Minister of Law and Human Rights, then MPD can request building facilities and operational costs for the service and supervision of Notary Public from the Ministry of Law and Human Rights. When referring to Permenkum and HUMAN RIGHTS No. 40/2015 concerning the Supervisory Assembly, article 18 paragraph (5) explains that the secretariat office for MPD is in the office of the

Ministry of Human Rights and Human Rights up or in the capital of the district / city to be determined together based on the meeting of MPD members. The implementation of the storage of notary protocol in Article 63 UUJN /UUJN-P has not been implemented due to the ineffectiveness of the place to store notary protocol. So the rule factor becomes one part. UUJN/UUJN-P, UUJN causes the implementation in storing protocols causing inefficiency for notaries, for example, Article 57 which regulates deed quotations, copies, grosse deed, or ratification of letters under the hands attached to the deed stored in the notary protocol is only a Notary who makes it, a substitute Notary, or a valid notary protocol holder.

In relation to the research in this study, the theory of legal certainty to answer the problem of ineffectiveness of the place, storing notary protocol that has been at least a quarter of a century old is related to the causative factor that is the rule of law factor, where UUJN is not clearly regulated about the Schedule of Retention of Archives that cause the Notary protocol stored forever and accumulate so much, and if the protocol that has been twenty-five years old or more is stored in the Notary office it will be troublesome because the longer it will be more and of course will be problems in terms of storage. To ensure the Notary protocol as an authentic evidence of a public legal action that can provide a legal certainty, then notary officials, substitute notaries, holders of other notary protocols and notary Regional Supervisory Assemblies must maintain and maintain the notary protocol.

Notary public, in carrying out its position, is obliged one of them is to make a deed in the form of a deed minuta and keep it as part of the notarial protocol as stipulated in Article 16 paragraph (1) letter b of the Notary Department Law, and in the explanation of the article, it is explained that the obligation in storing the deed minuta part of the notary protocol, is intended to maintain the authenticity of a deed by keeping the deed in its original form, so that if there is forgery or misuse grosse, copies, or citations can be immediately known easily by matching it with the original. However, the provisions of the Notary Department law do not explain how to store it.

UUJN only regulates and explains how the standards and procedures for storing the minuta deed but does not regulate the storage of the deed minuta.(Fitriyeni, 2012)

According to Lumban Tobing, the stored minuta-minuta must be secured against damage caused by fire and the influence of outside influences, such as moisture and from animals that can damage it and also against theft. Although the law does not mention it unequivocally and in detail, it means how it should be done, but by paying attention to how one's habit of storing and securing his money, important letters and other valuables, namely in the vault.(Tobing, 1999)

Meanwhile, according to Tan Thong Kie, a person who keeps documents in the protocol of a Notary public generally knows that a document is safe in the hands of a notary public. The public has great trust, both in notaries and notary institutions. Even if the Notary public in question moved or retired, the minister by law appointed another notary who is domiciled in the same city or appoints a new Notary public to hold the notary protocol that will stop or move. Thus the person who keeps a document or its heirs can always request a copy or copic collationnee of the document.(Kie, 2000)

Soegondo Notodisoerjo said that the deed minuta-minuta is important and confidential documents from the notary office archives and therefore must be kept in an orderly manner in a safe and closed place, usually put in a closet that can be closed and locked, so that the documents are not easily taken by others who are not entitled and seen the contents.(Notodisoerjo, 1993)

Notarial positions are held, or their presence is required by the rule of law with a view to serving the public who need authentic written evidence of legal circumstances, events, or actions. On that basis, those who are appointed as notaries must have the spirit to serve the community, and for such services, people who have felt served by notaries in accordance with the duties of their position can give honorarium to notaries, therefore notaries do not mean anything if the public does not need it.(Adjie, 2008)

To know the extent of notary responsibility as a public official, can be reviewed from the theory of state power. With the theory of state power can be seen notary position as a public official in the state's power structure. One form of state service to the state to its people is the state allows its people to obtain evidence or legal documents related to civil law.

For these purposes, it is authorized to the public office held by a notary public. And the minuta deed becomes a state archive that must be kept and maintained by the notary until an indefinite time limit.(Irawati, 2010)

As a form of exercising the power of the state, which is accepted by the notary in a position as a position (not a profession), because of the running of such a position, the notary wears the national emblem, namely the Garuda Bird. With such a position, it can be said that notaries exercise some of the power of the state in the field of civil law, namely to serve the interests of the people who need evidence or legal documents in the form of authentic deed recognized by the state as perfect evidence. As a notary public official has a heavy task that is to provide legal services to the community as an extension of the government's hand in civil law, namely the creation of authentic deed to achieve legal certainty.

Minuta is an original notarial deed that a notary public must keep. The obligation to keep the deed minuta as part of notary protocol, is intended to maintain the authenticity of a deed by keeping the deed in its original form, so that if there is forgery or misuse of grosse, copies, or quotations can be immediately known easily by matching it with the original. Notary protocol is a state archive that must be kept and maintained by a notary public, the protocol does not belong to the notary who makes the deed and also does not belong to the notary assigned by the minister of Law and Human Rights to keep it.

Therefore, based on the description of the above research results, the position of authentic deed or minuta-minuta deed which is important and confidential documents from the office archives, becomes threatened by the vagueness of the implementation of the storage of notary protocols, from the results of research, at the national level and at the research site of West Lombok Regency, a number of notaries seem confused how and where to store notary protocols as mandated in the Amendment to Law No. 30 of 2004 concerning Notarial Department.

Article 1 number 13 of the Notary Department Law clearly stipulates that the notary protocol as a document that is a state archive that must be kept and maintained by a Notary Public in accordance with the provisions of the legislation. The provision of submission has also been regulated, namely because he died, has ended his term of office, asked himself, not able spiritually and / or physically to carry out the duties of office as a Notary continuously more than 3 (three) years, appointed as a state official, moved territory, temporarily dismissed or dismissed with disrespect. Article 63 paragraph (5) of the Notary Department Law has also regulated the way of storage and maintenance of notary protocols. Namely, among them a notary protocol that has been 25 years old or more submitted to the Regional Supervisory Assembly (MPD). Thus, as a state archive, the document must always be kept and maintained under any circumstances even if the notary of the protocol is on leave or dies.

3.2 Function of Regional Supervisory Assembly of West Lombok District in The Storage of Notary Protocol

Basically, supervision of Notary Public is an effort or means of supervision of Notary Public, namely keeping while paying attention or observing. Thus, literally, supervision is a way of monitoring or observing an event, with the aim of knowing an event.

Notary Supervision is stipulated in Law No. 30 of 2004 Chapter IX on Supervision and provisions of Law No. 2 of 2014 on Amendments to Law No. 30 of 2004. In such provisions, supervision of notary public is carried out by the Minister (whose duties include notary issues), in this case the Minister of Law and Human Rights. Nevertheless, the Minister does not do so in real or direct, therefore the Minister forms a Supervisory Assembly that is given the task of conducting supervision of notaries, so technically supervision is carried out by the Supervisory Panel. The Supervisory Assembly consists of a central-level Central Supervisory Assembly called the Central Supervisory Assembly, a Provincial Regional Supervisory Assembly called the Regional Supervisory Assembly, and a District or Municipal Supervisory Assembly called the Regional Supervisory Assembly.

The existence of the Notary Supervisory Panel (MPN) is not only to crack down on a Notary Public, but also to improve performance as well as to supervise the adherents of the Notary Code of Ethics. Prior to the enactment of Law No. 30 of 2004 on Notary Positions, the authority of supervision and coaching of Notaries was carried out by the District Court. But after the existence of the District Court integrated one roof under the Supreme Court (MA) then the authority of non-litigation supervision and coaching of Notary Public switched to the Minister of Law and Human Rights. (*MPPN Dibentuk Untuk Mengawasi Ditaatinya Kode Etik Notaris*, 2011)

Supervision of Notary Public is conducted by the Minister of, (Undang-Undang Nomor 30, 2004) referred to as "supervision" including coaching conducted by the Minister on Notary Public. Supervision conducted by the Notary Supervisory Panel also applies to Substitute Notaries, Special Substitute Notaries, and Notary Provisional Officers. In carrying out the supervision of notary ministers form a Supervisory Assembly. The composition of the Notary Supervisory Panel consists of 9 (nine) people, consisting of the elements of:

- 1) Government as many as 3 (three) people;
- 2) Notary Organization as many as 3 (three) people;
- 3) and Experts / academics as many as 3 (three) people. (Undang-Undang Nomor 30, 2004)

If there is no element of government agencies, membership in the Supervisory Assembly is filled from other elements appointed by the Minister. The Notary Supervisory Assembly consists of the Regional Supervisory Assembly, the Regional Supervisory Assembly and the Central Supervisory Assembly. (Undang-Undang Nomor 30, 2004)

Based on the description above, one of the authority of the Regional Supervisory Assembly is to conduct periodic checks on notary protocols 1 (one) time in 1 (one) year or at any time deemed necessary. Regional Supervisory Assembly before conducting periodic inspections or inspections at any time that is deemed necessary, by first notifying in writing to the relevant Notary notary no later than 7 (seven) working days, before the examination is carried out. The notification letter lists the hours, days, dates, and names of members of the Regional Supervisory Assembly who will conduct the examination. At the time specified for examination, the notary concerned must be in his office and prepare all Notary Protocols.

Examination is periodically conducted by the Audit Team consisting of 3 (three) members of each element formed by the Regional Supervisory Assembly assisted by 1 (one) secretary. The results of the examination of the Examiner Team are set forth in the news of the examination event signed by the Chairman of the Audit Team and notary who is examined. (Undang-Undang Nomor 30, 2004)

The Regional Supervisory Assembly has working procedures to ensure supervision of notaries. Notary public is required to have Idealism, Dignity, Dignity and Moral Integrity. As a public official who professionally provides legal services, it is necessary to set rules that govern, limit, and guide notaries in carrying out their positions and behaving. However, based on the study's findings, along with the development of the times and the era of digitalization, provisions lag behind the development of society, so that law reform is required, and most importantly, existing regulations must be implemented, upheld and enforced by all Notaries. In relation to maintaining the existence of a Notary Public remains, it takes hard work and high discipline in maintaining its products, namely a deed. Discipline in carrying out existing legal norms, namely UUJN becomes the most important thing because UUJN is the basic guideline or main limitation that governs the position of Notary Public. Notary public is expected always to be guided by the professional code of ethics and UUJN. This is because notary positions are considered easy to slip on things that are detrimental and violate the Code of Ethics of the profession. The existence of Notary Public can be seen as a very important figure and needed by the public because the information contained in the Notarial deed must be trusted, practiced, can provide guarantees as a strong evidence tool, and can provide legal protection for parties in need in the future. Through authentic deed made by Notary public can be clearly determined the right and obligation to guarantee legal certainty while expected to avoid cross-dispute between the parties who have a relationship.

3.3 Relevance of Notary Protocol Storage Documentation Process

As a saved document, archives have a retention period commonly called retention. The literal meaning of retention is containment. In archival, archive retention means that an archive is stored (held) in an active file or inactive file before it is moved or destroyed. Benchmarks determine retention time should be based on the archive group, which is vital, important, useful, and useless. Archive retention times in both active and active files should be in line with their individual office needs. Once there is an agreement, the archive retention schedule is confirmed in the form of a regulation or decree. With the retention schedule of the archive, officers can carry out the selection of archives to be moved or destroyed.

According to Article 1 number 22 of Law No. 43 of 2009, the Archive Retention Schedule (JRA) is a list containing at least the period of storage or retention, types of archives, and information containing recommendations on the determination of a type of archive destroyed, reassessed, or secured that is used as guidelines for shrinking and saving archives.

The arrangement of the retention period of archives as stipulated in Law No. 43 of 2009 on archival must be based on the Archive Retention Schedule (JRA). Based on the JRA, an assessment of an archive will be transferred to an archive institution, destroyed or secured. According to the JRA, it will also be known that the archives that have been expired and have no value for destruction can be done. While the notary protocol without the need for assessment must still be kept and maintained by Notary Public, Substitute Notary, Acting Notary, Notary protocol holder and MPD, so that the period of storage (retention) of notary protocol is not limited as long as the notary protocol is required by the client and/or related parties.

According to article 1 paragraph (22) of the Archival Law, the archive retention schedule (JRA) is a list containing at least a period of storage or retention, types of archives, and information containing recommendations on the determination of a type of archive destroyed, reassessed, or secured that is used as guidelines for shrinking and salvaging archives. While Article 1 paragraph (37) PP No. 28/2012 on the Implementation of archival law, explains that Retention of archives is a period of storage that must be done against a type of archive.

The Archive Retention Schedule (JRA) largely depends on the type of archive and the depreciation of the archive. As explained earlier, the Notary Protocol does not undergo a depreciation process. The following is given an analysis on The Management of Retention Period (Retention) of Notary Protocol based on UUJN and Archival Law.

Based on the description of notary authority as presented above, basically keeping the deed minuta is a notary obligation, so that the Notary should keep its own Notary Protocol (which contains the deed minuta) and not let the Notary Protocol be held by its employees. This is because the Notary Protocol is a state archive document that must be kept and maintained by a Notary Public (Article 1 number 13 of the Law on Notarial Positions).

Notary Protocol in UUJN is only regulated related to its submission, whereas as an archive of notary protocol must be managed based on 4 aspects of activities, namely acquisition, processing, preservation and provision of aspects as stipulated in Article 59 of the Archival Law.

Notary Protocol Storage in Electronic Form

Electronic notary protocol storage mechanism by a notary public can be used to transfer media from printed documents, audio, video to digital form, or scanning. Electronic documents produced through the process can be opened when needed and made copies for further use representing damaged or lost notary protocols.(Undang-Undang Nomor30, 2004)

The legal force of proof of notary protocol stored electronically in evidence in the field of civil procedure law can only serve as a back up and not as a copy that has binding power, due to the restrictions given by the ITE Law in Article 5 paragraph (4) that the electronic document does not meet the requirements of the authenticity of the document as stipulated in Article 1 number 1 of the Law on Amendments and Article 1868 of the Civil Code. The legal force of notary protocol stored electronically in evidence tools in the field of criminal procedural law applies as a means of evidence when it comes to the content of other evidence tools. Therefore, revision of the relevant legislation is required so that the storage of notary protocols carried out with electronic systems has the same evidentiary power as the original.(Undang-Undang Nomor30, 2004)

Proof is the most important part of the process of resolving civil disputes in court, because through the evidentiary stage, the truth of an event and the existence of a right can be proven or not before the trial. In essence, by proving the parties seek to convince the judge of the truth of an event or right by using evidence tools. Through proof, the judge will obtain the basis for dropping the verdict in resolving a dispute.

With the idea or discourse about the transfer of notary protocol from conventional (paper-based) to electronic (digital based), the notary profession in carrying out its authority and obligation to store archives and documents in the notary protocol will be more effective and efficient. It is said to be effective because the electronic documents are easy to find again if there are clients who need these documents for an extended period of time, in addition to notary work is more efficient because it is more economical does not require much paper and saves more time for notaries in entering and storing such documents. The idea or discourse of the transfer of notary protocols in electronic form is constrained by the absence of laws and regulations governing the validity of the storage of notary protocols in the electronic form. Thus the evidentiary power of archives and documents in electronic notary protocol can not be matched or can not be equated with authentic evidence with the power of evidence in the form of paper without any other evidence such as witness testimony or expert witness.

Based on the Archival Law, one of the functions of the archive is to provide legal force. This classification is based on the legality seen from the legal side. In terms of legal archives are distinguished into two kinds, namely; 1. Authentic archive, is an archive on which there is an original signature with ink (not photocopy or film) as a sign of validity of the contents of the archive in question. The authentic archive can be used as legal evidence. 2. Inauthentic archives are archives on which there is no original signature with ink. This archive is a photocopy, or a multiplication of various types of authentic archives.

In addition, the use and recognition of electronic documents as evidence also needs to be reviewed based on The Corporate Documents Act which states that company documents consisting of records, proof of bookkeeping, and data supporting financial administration as referred to in this law, whether made in written form on paper or other means, or recorded in any form that can be seen, read or heard, can be used as evidence. Regardless of the transfer of the original company documents still have the power of authentic proof as long as it is made by the authorized Official and against the original manuscript, the head of the company must keep it. Based on the explanation, the company documents that have been transferred in electronic form can be used as a valid proof tool. With the enactment of the regulation on Company Documents, proving that the law in Indonesia has begun to use electronic evidence, because it has given the possibility to company documents that have been given a position as an authentic written evidence tool to be secured through storage in the form of microfilm. Then the documents stored in electronic form can be used as valid evidence in court if there is a dispute in the future.(Kuswanto & Purwadi, 2017)

In fact, the theorists, the existence of notary protocols is part of legal protection as well as ensuring legal certainty, the storage of protocols is intended to guarantee the truth of facts, so that evidentiary tools can be used.

Basically, there are 2 (two) kinds of evidentiary systems, namely formal evidentiary systems and material proof systems. The civil procedural law in Indonesia adheres to a formal evidence system that is based on formal evidence submitted by the parties to the dispute in court, and seeks only formal truth. Formal truth is a truth based on what is stated or postulated by the parties before the court so that the judge is not free in determining the formal truth but is bound to what is stated by the parties.(Mertokusumo, 2002)

Not yet accommodated electronic evidence formally in the provisions of the civil proceedings, will make it difficult for the judge in resolving and deciding the dispute if the parties submit electronic documents as evidence, because until now there has been no clear arrangement concerning the power of making electronic evidence tools equated with authentic deed. This cannot be used as an excuse by the judge not to accept and examine and decide the case brought against him even if under the pretext of the law is unclear or there is no arrangement. This is in accordance with the principle contained in Article 10 of Law No. 48 of 2009 concerning the Power of Justice which states that judges should not refuse to examine and decide the case brought against him even if the legal pretext is unclear or does not exist. Therefore the judge must still accept to examine and

decide a case brought against him even if there is no law, for that the judge must make a legal discovery. In other words, the power of electronic evidence as a clue depends heavily on the judge's conviction as the breaker of the case. (Triyanti et al., n.d.)

The digitization of this deed also aims to maintain the archive to remain dynamic and is intended to maintain the archive's security, security, and integrity. Moreover, the information spoken, transmitted, received, or stored electrocuted with an optical device or similar is an extension provision regarding the source of the acquisition of evidence. (Rudi Indrajaya et al., 2016)

Some regulations that support the transfer of notary protocols in electronic form in Indonesia as described also above are: a) Law on Technology and Information Article 5 and 6 which recognizes electronic documents as a valid evidence; b) Law No. 43 of 2009 on Archives.; c) Law No. 8/1997 on Company Documents; d) The Law of notary department Article 15 paragraph (3) which states the notary has other authority stipulated in the legislation.

Some of the ways that notaries can do in digitizing minuta deed as a notary protocol is to process the transfer of media. PP No. 28 of 2012 on the Implementation of Law No. 43 of 2009 on Archival (PP No. 28 of 2012 on the Implementation of Law No. 43 of 2009 on Archival, 2012), explains that the transfer of archive media can be done in any form and media in accordance with the development of information and communication technology based on the provisions of legislation. Transfermedia archive implemented by notary public should pay attention to the condition of the archive and the value of the information contained therein. Media-elected archives are retained for legal purposes as mandated in the legislation. The process of transfer of media is done from printed documents, audio, video to digital forms or so-called canning. A notary public can do the way of storing such a deed minuta as a form of security. The process of digitizing warkah starts from taking archives to be done, then scanning. The scanning results are stored in the database server and automatically output scanned data digitizing available documents. The results stored in the database server are stored in the form of Flasdisk or stored in a memory card with a capacity that is adjusted to the amount of data. (Rositawati et al., 2017)

After conducting media transfer activities, the notary must perform authentication by giving a certain mark attached to the media transfer archive. Authentication here is very important because based on Article 49 paragraph (6) PP No. 28 of 2012, the implementation of the transfer of archive media is done by making news events accompanied by a list of archives that are selected by the media. Or, after conducting the media transfer activities, notaries can store database servers and flashdisk in deposit boxes or fireproof safes to be stored by the notary public or handed over to the Regional Supervisory Assembly (MPD). With electronic documents produced through the process can be opened when needed and made copies for further use representing the notary protocol that is damaged or lost (Kuswanto, 2017).

Notarial deed is the strongest and most complete evidence, therefore it has the perfect evidentiary power. Storage of deed minuta by utilizing technology is a new breakthrough for the performance of the notary profession, because basically notaries have an important role in electronic transactions (e-commerce). Notary public has been given the opportunity by the State to carry out its duties and authority in the storage of deed minuta digitally through Law No. 11 of 2008 on Information and Electronic Transactions (UUITE). However, digitization of Notarial deed is not allowed to conflict with the basic principle of validity of an authentic deed. (Imtiyaz et al., 2020)

4. Conclusion

Procedures for storing notary protocol in the notary office of West Lombok Regency are: First, if in a condition of leave, become a state official or can not carry out the task, carried out by appointment to a substitute notary or notary appointed. Second, for notaries who die or notary protocol has been 25 (twenty-five) years or more, MPD appoints a Notary public who will act as the holder while notary protocol. So the procedures implemented, have not been fully effectively implemented in accordance with the mandate of UUJN because of the problem of the absence of storage. MPDs have not had their own buildings and lack of operational funds. Factors that affect the effectiveness of the storage of notary protocol is the first problem of the rules that exist in UUJN where it has not been determined strictly about the Scheduleretension archive, and the second is the problem of storage, where MPD does not have its own building.

The function of the Regional Supervisory Assembly in the storage of notary protocols in west Lombok Regency is to have a general function and a special function. A common function is to perform an examination; to the Notary Protocol periodically1 (one) time in 1 (one) year or at any time deemed necessary, grant leave permission for a period of up to 6 (six) months, establish a Substitute Notary notary concerning the proposal of the notaries concerned, determine the place of storage of the Notary Protocol which at the time of receipt of the Notary Protocol has been 25 (twenty-five) years or more, appoint a Notary Public who will act as the temporary holder of the Notary Protocol appointed as a state official. A special function is to receive reports from the public about the alleged violations of the Notary Code of Ethics or violations of provisions in the UUJN, conducting

hearings to examine the alleged violations of the Notary Code of Ethics or violations of the implementation of Notary Public Office. Based on the results of the study, the implementation of the function has not been running optimally due to constraints on the weak structure of MPD, facilities and operational budget.

The relevance of the documentation process and correlation of uujn and archival law that the provisions of Article 1 number 13 of Law No. 2 of 2014 on Amendments to Law No. 34 of 2004 concerning The Position of Notary Rule regulate that notary protocol is a state archive that must be kept and maintained by notary public. As a state archive, its management must comply with Law No. 43 of 2009, a special rule (*lex specialist*) governing archival. Archival regulation as in the Archival Law does not regulate notary protocol as a setting in UUJN even though the notary protocol as a state archive. However, notary protocol as a state archive is not regulated in detail in UUJN for example, related to the implementation of notary protocol archival, including policy, coaching, and management of notary protocol archives. This raises legal uncertainty for notaries in storing and keeping notary protocols. In addition, to ensure the protocol of notary public as an archive and as a means of evidence of the legal actions of the public or clients, the effort to keep and maintain the notary protocol is the responsibility of notary public, notary change, acting notary and regional supervisory assembly to the state and the public in the implementation of the duties of his office.

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