

Notaris sebagai pihak dalam surat penyerahan tanah palsu: studi putusan Mahkamah Agung Republik Indonesia tanggal 29 Juni 2016 nomor 408/K/Pid/2016 = Public notary as party in falsified letter of land handover: case study Supreme Court of Indonesia decree dated 29th June 2016 No. 408/K/Pid/2016

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Abstrak

Pemalsuan tanda tangan yang dilakukan oleh notaris diluar jabatannya dapat tetap dikenakan sanksi berdasarkan Pasal 16 ayat (1) UUJN dan Pasal 2 Kode Etik Notaris karena pada prinsipnya jabatan notaris terus melekat dan tidak dapat dipisahkan dari pribadi notaris tersebut walau sedang tidak menjalankan jabatannya sekalipun. Dalam penelitian ini, ada 2 (dua) pokok permasalahan yaitu pertama, dampak pemalsuan tanda tangan yang dilakukan oleh notaris dan kedua, tanggung jawab notaris terhadap pemalsuan tanda tangan pada Surat Penyerahan Tanah (SPT) dalam Putusan Mahkamah Agung Republik Indonesia Nomor 408/K/Pid/2016. Penelitian ini menggunakan metode yuridis normatif yang menitikberatkan kepada norma hukum tertulis dengan menggunakan sumber berupa data sekunder. Data tersebut digunakan untuk menganalisis peraturan perundang-undangan di bidang hukum pidana mengenai pemalsuan serta jabatan notaris, buku-buku serta jurnal yang mempunyai hubungan yang relevan dengan permasalahan yang Penulis teliti. Hasil dari penelitian ini menunjukkan, bahwa terdapat tiga dampak yang ditimbulkan dari pemalsuan tanda tangan yang dilakukan oleh notaris, pertama dampak terhadap S yang mengalami kerugian materiil, kedua dampak terhadap SPT yang tanda tangan didalamnya dinyatakan palsu berdasarkan Berita Acara Pemeriksaan Laboratoris Kriminalis Nomor 3250/DTF/2014, dan ketiga dampak terhadap M yang dinyatakan bersalah "Mempergunakan Surat Palsu". Tanggung jawab M selaku notaris ialah berupa tanggung jawab etika/moral, profesi, maupun hukum. Dalam kasus ini, berdasarkan Putusan Mahkamah Agung Republik Indonesia Nomor 408 K/Pid/2016, M dinyatakan secara sah dan meyakinkan bersalah melakukan tindak pidana "Mempergunakan Surat Palsu" sebagaimana diatur pada Pasal 263 ayat (2) KUHP dan dijatuhi pidana penjara selama 5 bulan.

.....Falsification of signature conducted by public notary outside their professional designation may be penalized with Article 16 Paragraph (1) of UUJN and Article 2 of Notary Code of Ethics. In principle, the public notary title is adhered and could not be disaggregated from such individual even though it is conducted outside their position as public notary. In this research, there are 2 (two) main issues to be discussed. First, the effect from signature falsification conducted by public notary. Second, the responsibility of the public notary towards the falsification of signature on the Land Handover Letter (SPT) in regards with Supreme Court of Indonesia Decree No. 408/K/Pid/2016. The method use in this research is juridical normative which emphasized on written law or norm with secondary data. The aforementioned data was use to analyze criminal regulation related to forgery/falsification and public notary, books and journals which have relevant connection with the issues in this research. The result of this research shown, that there are 3 (three) impact from the falsification of signature conducted by public notary. First, the impact to S which suffer material damage. Second, the impact to the Land Handover Letter (SPT) which was signed is deemed falsified through Minutes of Criminal Laboratory Research Number 3250/DTF/2014. Third, the impact to M

which was sentenced guilty with “Using Falsified Letter”. Furthermore, M’s responsibilities as public notary is moral/ethical, profession, and legal responsibilities. In this case, pursuant to Supreme Court of Indonesia Decree Number 408/K/Pid/2016, M was sentenced guilty, legally and validly conducting criminal action, which was “Using Falsified Letter” as stipulated in Article 263 Paragraph (2) Criminal Code and sentenced with 5 months of imprisonment.