

Legal Responsibility of Notaries for Abuse of Circumstances in Making Deeds of Land Sale and Purchase Agreements

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KEYWORDS	ABSTRACT
Abuse of circumstances; Defects of will; Fair deal; Notary responsibility; PPJB Act;	Notaries play a critical role in ensuring agreements are made freely and without coercion, yet cases arise where one party exploits another's vulnerable economic, social, or psychological state, leading to unfair clauses. This article aims to analyze the legal responsibility of notaries for the abuse of circumstances in the making of land Sale and Purchase Binding Agreement (PPJB) deeds. The issue focuses on the role of the notary when one of the parties to the agreement is in a desperate or unbalanced condition, which has the potential to be exploited unfairly by the other party. To approach this problem, the theories of legal responsibility and defect of will are referenced. Data were collected through literature studies, laws and regulations, court decisions, and interviews with notaries, then analyzed qualitatively using a normative juridical approach. This study concludes that notaries are responsible not only administratively but also substantively in ensuring the free will of the parties. If proven negligent and there is an abuse of the situation, the notary can be held legally liable in civil terms or subject to ethical sanctions. Additionally, PPJB deeds made under unbalanced conditions can be annulled by the court on the basis of defect of will. This research emphasizes the importance of increasing notary sensitivity and professionalism to prevent abusive practices in the making of deeds.

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INTRODUCTION

Notaries are public officials authorized to make authentic deeds that serve as strong evidence in civil law (Aisyiah & Wisnuwardhani, 2022; Permana et al., 2024; Saragih & Djaja, 2023). In the practice of notarization, notaries play an important role in ensuring that the parties' agreements occur legally, freely, and without coercion. One of the deeds frequently made by notaries is the *Deed of Sale and Purchase Agreement (PPJB)*, which functions as a preliminary agreement before the official sale and purchase is carried out through the *Deed of Sale and Purchase (AJB)* (Pranadia, 2023). However, in practice, conditions often arise where one party is in a position of economic, social, or psychological weakness, which is then exploited by the other party to draft an agreement with unilateral clauses. This phenomenon is known as *abuse of circumstances (misbruik van omstandigheden)* (Nuraini et al., 2020).

Abuse of circumstances occurs when a person agrees to an agreement due to the pressure of certain circumstances, while the other party takes advantage of the situation to gain an unfair benefit. In this context, the existence of a notary is crucial because the deed made should reflect the free will of the parties and ensure substantive justice (Soleman, 2025). However, in several cases, notaries only carry out administrative functions without thoroughly examining the conditions of the parties, which ultimately results in legal disputes over the deed that has been made (Fitri, 2022).

Abuse of circumstances in the making of *PPJB* deeds is a serious problem that leads to the cancellation of the deed and legal liability for the notary. The notary, as the drafter of the

deed, is not only administratively and procedurally responsible but also legally responsible to ensure that the agreement is carried out freely without defects of will. If the notary ignores signs of *abuse of circumstances*, he can be held accountable civilly, administratively, or ethically. Firdaus et al. (2022) show that notaries can be held liable if found negligent in supervising deeds made under circumstantial pressure. Similarly, Syaputra et al. (2024) state that *abuse of circumstances* leads to the cancellation of the agreement by the court, and the notary is administratively and civilly responsible.

Setrina (2022) also emphasizes the importance of a notary's selective attitude in accepting requests for *PPJB* deeds so as not to cause legal consequences detrimental to certain parties. Research by Arasy & Retnaningsih (2022) reinforces that although the *PPJB* deed can be canceled by private agreement, notaries must still prioritize prudence in carrying out their duties. Although several studies have addressed *abuse of circumstances* in agreements, research specifically highlighting notaries' legal responsibilities in land *PPJB* deeds with normative juridical approaches and field studies remains limited. This research aims to fill this gap by examining more deeply the preventive and curative role of notaries in preventing and handling *abuse of circumstances* in deed making.

Notaries play a pivotal role in ensuring the legality and fairness of agreements, particularly in land sale and purchase transactions. However, a significant research gap exists regarding the extent of notaries' legal responsibilities when one party exploits another's vulnerable circumstances—a phenomenon known as *abuse of circumstances* (*misbruik van omstandigheden*). While prior studies have examined notarial duties in formal terms, few have explored their substantive and ethical obligations in preventing exploitative practices. This gap is critical because notaries often serve as the last line of defense against unfair agreements, yet their role in mitigating power imbalances remains understudied. Addressing this gap is essential to strengthen legal frameworks and notarial practices, ensuring alignment with principles of justice and equity.

The urgency of this research stems from increasing cases of land disputes linked to coercive or exploitative *PPJB* deeds, which undermine public trust in notarial services. Vulnerable parties, such as those facing economic distress, often enter agreements without fully understanding the implications, leading to long-term legal and financial consequences. Without clear guidelines on notaries' proactive roles in detecting and preventing *abuse of circumstances*, such injustices may persist. This study responds to this urgency by analyzing real-world cases and legal precedents to highlight the need for stricter notarial oversight and accountability. The findings could inform policy reforms and professional standards to protect disadvantaged parties in contractual agreements.

This research introduces novelty by integrating normative juridical analysis with qualitative insights from notarial practitioners, bridging the gap between legal theory and practical challenges. Unlike previous studies focusing solely on doctrinal aspects, this work examines how notaries interpret and apply their responsibilities in practice, particularly in high-stakes land transactions. Additionally, it explores the intersection of civil law, ethical standards, and social justice, offering a holistic view of notarial accountability. By grounding analysis in both legal texts and empirical data, the study provides a nuanced understanding of how *abuse of circumstances* manifests and how notaries can effectively counteract it.

The research contributes to academia and practice by proposing actionable measures to enhance notarial professionalism and legal safeguards. It underscores the need for notaries to adopt a more vigilant and empathetic approach, ensuring that deeds reflect genuine consent rather than coercion. For policymakers, the study offers evidence-based recommendations to refine notarial regulations, emphasizing preventive measures like mandatory clarifications and delayed deed execution in suspicious cases. Practitioners can benefit from practical insights

highlighting ethical and legal risks of negligence. Ultimately, this research aims to foster a more equitable notarial system prioritizing fairness and transparency in land transactions.

The primary objective of this study is to analyze the legal and ethical responsibilities of notaries in preventing *abuse of circumstances* in PPJB deeds, identifying gaps in current practices and proposing solutions. By examining legal doctrines, court rulings, and notarial experiences, the research seeks to clarify consequences of negligence and pathways for redress. The benefits extend to multiple stakeholders: notaries gain clarity on their duties, vulnerable parties receive stronger protections, and the legal system achieves greater integrity. Through this comprehensive approach, the study aims to advance notarial accountability and uphold principles of justice in contractual agreements, ensuring no party is unjustly disadvantaged in land transactions.

This study aims to comprehensively analyze the legal responsibility of notaries for abuse of circumstances in the making of land PPJB deeds, understand the legal consequences of deeds made in unbalanced situations, and provide an overview of legal remedies available to aggrieved parties.

RESEARCH METHOD

This study employed a normative juridical method combined with a qualitative approach. The normative juridical approach examined relevant laws and regulations, including Law Number 2 of 2014 concerning the Notary Position, the Civil Code (KUHPer), and court decisions related to cases of abuse of circumstances in the making of land Binding Sale and Purchase Agreement (PPJB) deeds. The qualitative approach was used to gain an in-depth understanding of the application of these legal norms in notarial practice.

The data consisted of primary and secondary sources. Primary data were obtained through in-depth interviews with notaries and legal practitioners experienced in handling land sale and purchase cases. Secondary data were gathered from literature studies, including primary legal materials (laws and court decisions), secondary legal materials (books and scientific articles), and tertiary legal materials. Data collection was conducted through documentation and interviews, while data analysis used qualitative descriptive methods, categorizing and interpreting legal information to draw logical and systematic conclusions. The analysis aimed to identify the legal responsibilities of notaries and the legal consequences arising from abuse of circumstances in the preparation of land PPJB deeds.

RESULTS AND DISCUSSION

This research shows that notaries have legal responsibilities that are not only formal, but also substantive and moral, especially in the context of the preparation of land Sale and Purchase Agreement (PPJB) deeds. In the practice of notary, abuse of circumstances (*misbruik van omstandigheden*) is a problem that often arises and has the potential to cause disputes, especially when one party is in a weak position economically, psychologically, or socially, while the other party has a dominant bargaining position. In such a situation, notaries as public officials authorized by law, should not only carry out administrative roles, but also act actively to ensure fairness in contractual processes (Yuliana et al., 2024).

Based on findings in the field, such as an interview with an experienced notary Ade Yulianty SH, MKn., the ideal professional practice requires notaries to postpone the making of the deed if there are signs that the parties do not understand the content of the agreement or are under pressure. This shows the importance of social sensitivity in the role of a notary. In the case of the study analyzed, the seller experienced significant economic distress and did not

understand the implications of the unilateral clause included in the deed. Even though the deed has been read, the notary continues the signing process, which then becomes the basis for the lawsuit because it is considered to contain a defect in will.

The relevant legal provisions in this case include Articles 1320 and 1321 of the Civil Code, which state that agreements made based on negligence, coercion, or fraud can be annulled. Abuse of circumstances is classified as a defect of will that weakens the agreement of the parties as a condition of the validity of the agreement. In practice, the Supreme Court has upheld the cancellation of the PPJB deed in Decision No. 1028 K/Pdt/2015, considering that the buyer has taken advantage of the seller's economic condition to obtain unreasonable profits.

In addition, the responsibility of notaries is also affirmed in Article 16 paragraph (1) of Law No. 2 of 2014 concerning the Notary Position which states that notaries must act honestly, independently, impartially, and protect the interests of the parties (Subekti, 2014). If the notary is negligent in carrying out these obligations, he can be subject to administrative sanctions by the Notary Supervisory Council, ethical sanctions by the Notary Honorary Council (MKN), and can even be sued civilly if it causes losses (Prodjodikoro, 2015).

This is supported by the findings in the Supreme Court Decision Number 1028 K/Pdt/2015 which states that the abuse of circumstances falls under the category of defect of will, and therefore, the agreement arising from these conditions can be canceled. In the decision, the notary was considered negligent because he did not carefully examine the situation of the parties, and continued the process of making the deed even though there were indications of dominance of one party over the other.

This research is in line with the study of Firdaus et al. (2022) which confirms that notaries have responsibility for authentic deeds made under pressure or unbalanced conditions. Soleman et al. (2025) also stated that the abuse of circumstances causes legal consequences in the form of cancellation of the agreement and the liability of the notary concerned. Research by Arasy and Retnaningsih (2022) adds that if the PPJB deed is canceled by the court or with an agreement under hand, then the notary can be sued if it is proven to be negligent in ensuring that the deed is made of free will.

These findings show that many notaries in practice still interpret their roles administratively. As revealed by the research informant, senior notary Ade Yulianty SH, MKn., the responsibility of notaries should not stop at the completeness of the documents, but also include an assessment of the expressions, attitudes, and understandings of the parties. When notaries ignore non-verbal signs such as doubt, ignorance, or emotional distress, the potential for abuse of circumstances increases.

Within the framework of Roscoe Pound's theory of the social function of law, law must not only be formally enforced, but must also fulfill a social function to protect society from injustice. Thus, notaries as part of the legal system play a role as executors of these social functions. If notaries only carry out their functions mechanically without considering the aspect of substantive justice, then this role fails to be carried out fully (Al-Alawi, 2024).

The theory of justice from John Rawls is also relevant to framing the position of the notary as a guarantor of fairness in legal transactions. When one of the parties is in a weak social or economic position, the notary is obliged to ensure that the weakness is not taken advantage of by the other party in making the agreement (Christian et al., 2025). Thus, notaries not only function as formal witnesses, but also as actors of justice who keep each deed reflecting an equal agreement.

Therefore, the results of this study confirm that the legal responsibility of notaries must be reviewed thoroughly, both from juridical, ethical, and social aspects. Preventive measures such as conducting active clarifications, delaying the drafting of deeds, and advising legal consultation are essential to be taken. If negligence occurs, then the legal responsibility of the

notary can be imposed, in accordance with the principle of unlawful acts in Article 1365 of the Civil Code.

CONCLUSION

Based on the research findings, notaries hold responsibilities that are not only administrative but also substantive and moral in preventing abuse of circumstances in the making of land Binding Sale and Purchase Agreement (PPJB) deeds. Such abuse constitutes a defect of will, potentially leading to the cancellation of agreements when a party is in distress or unfairly disadvantaged. Notaries are obligated to ensure the free and voluntary consent of parties, free from pressure or imbalance in legal and economic positions, and must perform their duties honestly, carefully, independently, and impartially as mandated by the Law on Notary Positions. Negligence in these duties can result in civil, administrative, or ethical liability. Therefore, notaries play a strategic role in upholding fairness and integrity in deed-making processes and in preventing harm caused by abuse of circumstances. For future research, expanding the scope to comparative studies across jurisdictions would provide insight into different approaches to notarial accountability for contractual imbalances. Empirical studies on the effectiveness of preventive measures like mandatory cooling-off periods or standardized disclosures, along with the exploration of technological tools such as AI-assisted contract reviews to detect coercion, could inform policy reforms. Additionally, longitudinal research assessing the impact of reformed notarial practices on reducing land disputes and enhancing public trust would contribute valuable knowledge on improving contractual fairness and adapting to changing legal and societal contexts.

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