

LAW & SOCIAL POLICY | RESEARCH ARTICLE

The Role of Notaries in Legal Protection for Consumers in Online Buying and Selling

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ABSTRACT

This research seeks to identify the significance of the Notary profession in safeguarding the rights of buyers engaged in online transactions and to examine the method of producing documentation that can serve as valid proof. This study represents a form of prescriptive doctrinal legal research. This study was carried out utilizing both a legal framework and a theoretical framework. The data utilized is secondary data derived from legal sources. The method employed for gathering data is by reviewing existing literature. The legal sources gathered are examined through deductive logic analysis methods. The findings from the research indicate that, at present, Notaries have no function in creating authentic deeds electronically for electronic agreements or contracts. However, Notaries can participate by issuing electronic certificates in collaboration with the Certificate Authority, serving as a reliable third party.

Keywords: Notary, Role of Notary, Legal Protection, Consumer, Online Buying and Selling.

I. Introduction

In performing his responsibilities, a notary plays a part in the service industry as a government-approved representative to assist the community in the civil sector, particularly in creating official documents. A notary is a public official who is permitted to create official documents and other legal acts, as specified in Law Number 2 of 2014, which amends Law Number 30 of 2004 regarding the Role of Notaries, which will be referred to in this document as UUJN Number 2 of 2014. The fundamental principle behind establishing the Notary Position Law is the assurance of legal certainty, order, and protection, which is grounded in truth and justice through the documents created by a notary. Notaries are important in contemporary society, especially in forming genuine written documentation. This is intended to provide legal clarity, structure, and the legal safeguarding necessary for the community concerning genuine written documents relating to occurrences or legal actions. Certainty, organization, and legal safety depend, among other factors, on the need for legal interactions and social existence to provide proof that distinctly outlines an individual's rights and responsibilities as a legal entity within society.

The current era of modernization has driven various advances in technology and information. These technological developments have undoubtedly brought about various changes, one of which is in the field of public services, to make service systems easier and more efficient for the public, especially in trade. Electronic commerce via the internet can also be called e-commerce, where individuals can efficiently conduct electronic transactions and purchase goods remotely, thus impacting a shift or change in people's mindsets to become more innovative and efficient. Therefore, e-commerce is beneficial and convenient for society; it is no wonder

many people rely on it as a medium for online buying and selling. Technological progress does not always have a positive impact; often, shortcomings force people to accept it (take it or leave it). One of the factors that cause legal problems in e-commerce transactions is the lack of communication and negotiation between consumers and business actors who often do not provide clear information about a product being sold that cannot be seen directly regarding its physical condition and quality³, which results in several problems such as non-delivery of goods ordered (goods ordered are not sent), long delivery delays (long delays in sending goods), slow reimbursement of deposits or amounts paid (slow reimbursement of down payments or the entire amount paid), and others.

Based on data from the National Consumer Settlement Agency (BPKN), it was recorded that there were 11,305 complaints from 2020 to June 10, 2025, which were dominated by consumer complaints on e-commerce. Also, data from the Ministry of Trade at the Directorate General of Consumer Protection and Trade Order stated that during 2021-2024, consumer complaints on e-commerce transactions always dominated and were the highest every year. One example of a problem that often occurs in online buying and selling transactions is the delay in delivery of goods for various reasons and business actors are not consistent with what was agreed upon, even though consumers have paid in full, business actors also take advantage of consumer ignorance to gain profits, namely by claiming to send the goods if consumers repurchase their newest products, so that this causes misunderstandings and losses both material and immaterial for consumers. Therefore, clarity is needed in the legal aspect to prevent and anticipate legal problems involving parties in electronic trading transactions, in the form of an agreement that has strong evidentiary power and makes consumers and business actors exercise their rights and obligations.

Trading systems utilizing advanced technology have transformed conventional trade systems, which previously required face-to-face meetings, into indirect ones. Therefore, e-commerce transactions rely solely on trust between transacting parties. This often leaves consumers in a weak bargaining position due to unequal legal awareness of their rights and low levels of public literacy. The imbalance between businesses and consumers has led to legal issues. Therefore, consumers need legal protection through education on the legal aspects of e-commerce transactions, including transaction terms and conditions, transaction security, transaction legality, dispute resolution, and regulations that bind and protect consumers, specifically regarding electronic trading systems. The government has issued several regulations regarding consumer protection in electronic transactions to anticipate the emergence of legal problems in electronic trade transactions that are detrimental to consumers. However, these regulations have not yet comprehensively regulated consumer protection in electronic transactions, because Law Number 8 of 1999 concerning Consumer Protection (hereinafter referred to as UUPK) has not covered consumer protection. After all, the regulation only regulates conventional trade transactions and does not fully regulate electronic trade transactions. The government also issued Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as UU ITE) and Law Number 7 of 2014 concerning Trade, which are regulated in separate chapters regarding e-commerce transactions. However, these regulations have not optimally covered all aspects of consumer protection in electronic trade transactions in the case of parties with different positions and jurisdictions.

One of the efforts that can be made by the government to protect consumers in electronic transactions is by maximizing the role of notaries to make authentic deeds containing electronic agreements in the form of clauses containing rights and obligations that must be obeyed by the parties in conducting electronic transactions to protect consumers when conducting electronic transactions, so that it can reduce consumer concerns and make business actors more law-abiding, this can prevent indications of legal problems arising, such as business actors who send their products that do not match the advertisement, business actors who send their products outside the specified time, and others, this option has been facilitated in the explanation of Article 15 Paragraph (3) of Law Number 2 of 2014 concerning the Position of Notary (hereinafter referred to as UUJN), namely certifying transactions electronically (cyber notary), which is helpful in making electronic agreements between business actors and consumers and checking the truth of the contents of the agreement and digital signatures and providing validation of the electronic agreement so that

it becomes an authentic deed that has binding and perfect evidentiary value so that it becomes a guarantee that consumers can be protected from indications of problems that will arise. Therefore, from the explanation above, the researcher wants to research the role of notaries in legal protection for online buying and selling customers to protect online buying and selling consumers.

II. Literature Review and Hypothesis Development

2.1. Definition of the Role of a Notary

The definition of the word role in KBBI refers to the rights and obligations attached to a social position, which that person then carries out. The word "notary" originates from the Latin term "notarius," which referred to the Romans responsible for writing duties. Some individuals also think that the term "notary" originates from the phrase "nota literaria," which refers to a mark (letter, brand, or symbol) that conveys meaning. As Tan Thong Kie (Dhonie Martien, 2023) states, a notary serves as a public official in the community. The role of a notary continues to be regarded with esteem in the present day. A notary is typically viewed as a trustworthy official from whom one can receive dependable guidance. All that has been stated and outlined is accurate and serves as a robust document within a legal procedure. Article 1 of the UUJN indicates that a Notary is a public official who has the power to create authentic documents and possesses the authority described in the UUJN or other relevant laws. For further clarification, the third paragraph elaborates, "A Notary is a public official with the ability to create authentic documents, provided that the creation of these documents is not specified or exclusively designated for other public officials." As Herlien Budiono (Dhonie Martien, 2023) states, a Notary's primary responsibility is to create authentic documents about any actions, agreements, and regulations mandated by law or requested by interested parties to be recorded as authentic documents. Additionally, the Notary is tasked with ensuring the date of document creation is verified, maintaining the document's custody, and providing originals, copies, and excerpts of the document, provided that the responsibility for creating the document has not been delegated to another official or individual, or specified to someone else by UUJN.

A notary is the sole public official with the authority to create official documents concerning all actions, agreements, and decisions required by general regulations or that the involved parties wish to be recorded in an official document. The notary ensures the date's reliability, retains the document, and issues a certified copy, a duplicate, and an extract, provided the document's creation is not explicitly assigned to or restricted from another official or individual by general regulation. Benny Djaja (2022) stated that a notary is considered a profession because they adhere to a code of ethics that regulates and limits their authority. Furthermore, a notary is considered a profession because they possess special expertise in formulating binding legal principles for interested parties and at the request of those parties. The professionalism of a notary is, of course, impartial, honest, and non-biased. Furthermore, the meaning of a profession is also due to the integrity of a notary, who, even though appointed by the state, does not receive any benefits in the form of a salary or other benefits. Therefore, the award for a notary's professionalism is an honorarium, not a salary.

2.2. Regulations on the Role of Notaries

Law No. 8 of 1999 related to the protection of consumers. Factors or justifications for establishing Law Number 8 of 1999 related to Consumer Protection. "Consumer" in the Consumer Protection Law refers to the Final Consumer. This is detailed in the Explanation of Article 1, section 2 of Law 8 of 1999 regarding Consumer Protection. Specifically, the terms "end consumer" and "intermediate consumer" are recognized in economic literature. End consumers are the ultimate users or recipients of a product. Intermediate consumers are those who utilize a product as a component in the manufacturing process of a different product.

2.3. Definition of Consumer

According to KBBI, consumers are the end users of goods or services who use the product to fulfill their needs, families, or others, and not for sale.

2.4. Regulations on consumer protection

Article 15 (1) of the Republic of Indonesia Law Number 2 of 2014, which amends Law Number 30 of 2004 concerning the role of Notaries, specifies that Notaries have the authority to create official documents related to all actions, agreements, and decisions that are mandated by law and/or that the involved parties wish to have documented in an official deed. Ensure the accuracy of the date on which the deed was created. Retain the deed, provide a summary, and offer copies and excerpts of the deed, as long as the deed's creation has not been transferred or excluded to another official or individual as mandated by law. As per the definition of the Law number, in Article 1 of Law 30 of 2004, the term "notary" is defined as follows: "A notary is a public official permitted to create authentic documents and carries out other duties as specified in this law. " A public official refers to an individual who performs certain public functions of the state, particularly within the domain of civil law. A public official is an individual who is appointed and removed by the government and is granted the responsibility and duty to serve the public on specific issues. This is due to their involvement in executing powers that stem from the government's authority. In his role, a quality or trait sets him apart from other societal roles.

Law of the Republic of Indonesia Number 30 of 2004 regarding the Role of Notary Public has been revised by Law of the Republic of Indonesia Number 2 of 2014, which amends Law Number 30 of 2004 regarding the Role of Notary Public. A notary is a public official allowed to create authentic documents and possesses other powers as stated in this Law. Notaries are selected and removed by the government. The minister is responsible for the law and human rights in this situation. Prior to executing his/her responsibilities. Notaries must take an oath or promise based on their religious beliefs before the Minister of Law and Human Rights or a designated official. The qualifications needed for an individual to be designated as a notary include:

- a. Citizens of Indonesia;
- b. Reverence for God the Almighty;
- c. The individual must be a minimum of 27 (twenty-seven) years of age;
- d. In good physical and mental health;
- e. Bachelor of Laws and a Master's degree in Notary.
- f. Have completed an internship or have worked as a notary assistant for twelve (12) continuous months in a notary office or independently, either on their own initiative or upon the suggestion of a notary organization, following the attainment of a master's degree in Notary; and
- g. Lacks the designation of a civil servant. Government representatives. To support or recommend a particular cause or idea. Alternatively, not presently occupying another legally restricted role would allow simultaneous employment.

2.5. Consumer Protection

Consumer protection encompasses all the principles and legal regulations that govern the interactions and issues among different parties concerning consumer goods and/or services within society. In the meantime, as noted by Sidobalok (2014:39), consumer protection law encompasses all rules and statutes that oversee the rights and responsibilities of consumers and producers that emerge in their attempts to satisfy their needs. Requirements and manage actions to guarantee the achievement of lawful safeguarding for consumer rights. Consumer protection is governed by Law Number 8 of 1999 (UUPK 8/1999) related to Consumer Protection. It indicates that consumer protection encompasses all actions that ensure legal

certainty to safeguard consumers. Consumer protection law governs the rights and responsibilities of consumers, as well as those of producers and business entities. It outlines methods to uphold these rights and fulfill these responsibilities.

2.6. Understanding Online Buying and Selling

Online Buying and Selling Activities are included in the scope of e-commerce, which is short for electronic commerce. They can be interpreted as buying, selling, transferring, or exchanging goods, services, and/or information carried out through a computer network, on the internet, or on an intranet. Online Buying and Selling allow people to transact like offline Buying and selling with several advantages, such as time efficiency, which can be achieved with Online Buying and Selling. Prospective buyers will not need much time to move from one shop to another, as in offline Buying and Selling. This is because shops in Online Buying and Selling (Online Shop) can be visited directly via the internet, thus saving much time. Internet network security, speed, mobile application development, and the role of social media have become crucial factors for online sellers. In addition to the various conveniences offered by online buying and selling, these factors are crucial to develop in today's era. Online buying and selling require these factors and the skills of online sellers to keep up with technological developments and utilize them effectively. These online sellers' role is crucial to an online shop's success.

III. Research Method

The form of research employed in this legal document is doctrinal legal research. Terry Hutchinson states that doctrinal legal research is a type of research that offers an organized explanation of the laws about a specific legal area, examines the connections among the rules, clarifies issues, and may forecast future changes in the law (Peter Mahmud Marzuki, 2008:32). This study falls under the category of prescriptive research. The methods employed in this study include the statutory approach (or state approach) and the conceptual approach (or theoretical approach). The data utilized is secondary data derived from legal material sources. The method utilized for gathering legal materials is known as a literature review. The sources of legal materials acquired are examined by applying deductive logic analysis methods.

IV. Results and Discussion

The function of a notary in a contract is performed according to the powers given to them. Notarial authority refers to the legal power given to a notary to produce official documents and other legal instruments. The components of notarial authority consist of the presence of legal power, as defined by law, and the existence of an object. In the Indonesian legal system, the powers of a notary are extensive, going beyond the creation of official documents to include additional authorities as well. Thus, generally speaking, the powers of a Notary are categorized into two types according to Article 15 of the UUJNP. Initially, the authority has the power to create a Deed, maintain the Deed, and grant various other authorities as outlined in statutory regulations. According to the stipulations of Article 1, paragraph (1) of Law Number 2 of 2014 (UUJN-P), a notary is the sole public official authorized to create authentic documents concerning all actions, agreements, and decisions mandated by general regulations or requested by involved parties to be documented in a deed. This includes the delivery of original deeds, copies, and extracts of those deeds, provided that the preparation of the deed has not been otherwise assigned.

Secondly, other authorities are defined by laws and regulations, alongside the Notary's position law, which includes preparing cooperative agreements as outlined in the Cooperatives Law. Moreover, additional responsibilities of notary professionals include serving as public attorneys for establishing Limited Liability Companies (PT), managing fiduciary duties, and addressing other issues that necessitate a notary's signature

or function to ensure the validity of a document. A decree from the Minister of Law and Human Rights (Menkumham) is necessary to establish a PT.

The advancement of cyber notary discussions enables a notary to perform his duties by utilizing the power granted to him through technology, such as creating electronic documents. The idea behind electronic deeds is to make the responsibilities and powers of a notary easier and faster when creating official documents. This applies to all actions, agreements, and requirements that the law or the parties involved wish to include in an official deed. A cyber notary generally performs notarial duties through online transactions or interactions via the internet, the primary method for creating notarial documents. This evolution shifts the validity of documents from being exclusively in paper form to being recognized as electronic deeds or documents. Establishing a cyber notary is a significant process for aligning the authentication standards of documents, as it pertains to various laws and regulations. Nevertheless, current laws in Indonesia still contain conflicting provisions. For instance, Articles 15 and 16 of UUJN-P contradict each other, and these issues are also related to Articles 11 and 12 of Law Number 11 of 2008 and Law Number 19 of 2016 on Information and Electronic Transactions (ITE Law). Generally, the function carried out in electronic agreements or transactions is similar to that of manual agreements or transactions. The function of a notary in electronic agreements and transactions encompasses two key aspects: the certification and authentication of electronic transaction activities.

4.1. The Function of a Notary in Verifying Electronic Agreements/Transactions

The term "certification" is defined in relation to electronic transactions as outlined in the ITE Law, including its amendments and implementing regulations as specified in Law Number 11 of 2008 along with Law Number 19 of 2016 regarding amendments to Law Number 11 of 2008 on Electronic Information and Transactions, Article 1, number 10: "An Electronic Certification Organizer is a legal entity that serves as a reliable entity, responsible for providing and auditing Electronic Certificates. According to expert viewpoints, certification is a process in which an independent entity issues a written assurance that a product, process, or service complies with specific standard requirements, following an audit conducted according to established procedures. Another foundation concerning the responsibilities of notaries in the certification of electronic agreements or transactions is the regulation stipulated in Article 15, paragraph (3) of the UUNJP. The explanation of this article indicates that one of the authorities granted to notaries is to certify transactions conducted electronically (cyber notary). The involvement of notaries in the certification process for electronic transactions is more explicitly defined in the Regulation of the Minister of Communication and Information of the Republic of Indonesia Number 11 of 2018 regarding the Implementation of Electronic Certification. Article 27 addresses the application mentioned in Article 25, stating that the Electronic Certification Organizer may: a. Carry out the examination itself; b. Designate a registration authority to oversee the examination administration; and/or c. Designate a notary to serve as the official authority for registration. The notary's role in this article is to be designated as the registration authority, which serves as the authority for the electronic transaction certification organizer. This is due to the notary's obligation to ensure that all the requirements provided by the certificate applicant are complete.

4.2. The Role of Notaries Through Authentication of Electronic Agreements/Transactions

Signing a document has four primary purposes: proof, approval, formality, and efficiency. To achieve these goals, two electronic signature attributes must be met:

- a. Authentication of the signature owner. This means the electronic signature is not easily imitated and can identify the owner.

- b. Document authentication. This means that an electronic signature must be able to authenticate the signed document. This ensures the document cannot be easily forged or altered without the creator's knowledge.

Therefore, signature and document authentication must prevent individuals from committing cybercrime, such as forgery. Therefore, electronic signatures must adhere to the concept of nonrepudiation. This is a form of guarantee of the document's authenticity to prevent the signature holder from denying their identity.

V. Conclusion

The function of a Notary in a contract is performed according to the powers bestowed upon them. The power of a Notary is the legal authority given to a Notary to create official documents and other powers as outlined in Article 15 of the UUJNP. Overall, the functions performed in electronic contracts/transactions are similar to those in traditional manual agreements/transactions. Specifically, the function of a notary in electronic agreements and transactions involves two key aspects: executing certification and validating authentication in electronic transaction activities. The role of a notary in electronic agreements and transactions, through the certification of these electronic transactions, is fulfilled through three actions: (1) performing the inspection personally, (2) designating a registration authority to conduct the inspection, and/or (3) assigning a notary to act as the registration authority. At the same time, a notary acts as an authenticator (Registration Authority) for electronic agreements, working alongside the Certification Authority (CA), which serves as a reliable third party to ensure the safety and legitimacy of electronic transactions.

References

- Anggara, H. N. (2021). Peran Notaris dalam Memberikan Perlindungan Hukum terhadap Konsumen Kredit Perumahan di Kota Palembang. (Thesis Magister Kenotariatan, Universitas Sriwijaya, 2021). Diakses dari https://repository.unsri.ac.id/63156/4/RAMA_74102_02022681923012_0007025704_01_front_ref.pdf
- Badan Perlindungan Konsumen Republik Indonesia. (2025). Total penerimaan pengaduan ke BPKN. Dari: https://bpkn.go.id/statistik_pengaduan
- Chaerani, F. M. (2024). Konsep Cyber Notary Sebagai Upaya Perlindungan Konsumen Pada Electronic Commerce. (Skripsi Sarjana Hukum, Universitas Islam Negeri Syarif Hidayatullah Jakarta, 2024). Diakses dari SKRIPSI RANI FEBRIANA.pdf
- Djaja, B. (2022). Hukum kenotariatan jilid 2. Bandung: Media Sains Indonesia.
- D. P. dan Kebudayaan, Kamus Besar Bahasa Indpnesia. Jakarta: Departemen Pendidikan dan Kebudayaan, (2024).
- Ibrahim, J. (2003). Teori dan penelitian hokum normative. Malang: Bayumedia Publishing.
- Jaya, F. (2021). Urgensi Peran Notaris Dalam Transaksi jual beli melalui Internet di Indonesia. Pagaruyuang law journal. 5 (1), 90-103.
- Martien, H. D. (2023). Politik hukum kenotariatan. Makassar: Mitra Ilmu.
- Muhaimin (2020). Metode penelitian hukum. Mataram: Mataram University Press.
- Nindy, O. M. H. (2017). Peran Notaris dalam Upaya Perlindungan Hukum Terhadap Pembeli dalam Jual Beli Online. Journal Repertorium, Vol. IV. No. 1, 158–164.
- Norsandy, A. (2020). Peran Notaris dalam Perjanjian melalui Media Elektronik Berdasar Undang-undang ITE. (Thesis Magister Hukum, Universitas Islam Indonesia, 2020). Diakses dari 14921007 Awalludin Norsandy.pdf

Republik Indonesia, Undang-undang Nomor 2 Tahun 2014 tentang Perubahan Atas Undang Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris.

Republik Indonesia, Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris sebagaimana telah diubah dengan Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan atas Undang Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris.

Sesung, R., Sufi, F. P., Kartini, R., Tanugraha, J. et al. (2017). Hukum dan politik hokum. Surabaya: R.A. De. Rozarie.

Sibalok, J. (2010). Hukum perlindungan konsumen di Indonesia. Bandung: Citra Aditya Bakti.

Stela. (2023). Perlindungan Hukum Bagi Notaris Dalam Menghadapi Pengguna Jasa Nakal di Era Teknologi Modern. Jurnal Reformasi Hukum, Vol. 27. No.1, 71-79

Widiarty, W. S. (2024). Buku ajar metode penelitian hokum. Yogyakarta: Publika Global Media.