

P ISSN: 2528-2638

E ISSN: 2580-5460

JJIH

JUSTISI: JURNAL ILMU HUKUM

Volume 9 No.2 September 2024



PUBLISHED BY
FACULTY OF LAW
UNIVERSITY BUANA PERJUANGAN KARAWANG

DAFTAR ISI

THE CONCEPT OF AGRARIAN REFORM ON THE WELFARE OF FARMERS (CASE STUDY IN TANGERANG REGENCY) Annisa Puspita Sari, Amiludin..... 1-15

NETIZENS' OPINIONS ON LAW ENFORCEMENT AND SOCIAL RESPONSIBILITY
Hartanto, Agus Hidayat..... 16-33

ABUSE OF AUTHORITY BY VILLAGE HEADS IN THE COMPLETE SYSTEMATIC LAND REGISTRATION PROGRAM (PTSL) (Case Study of Cikupa Village for Fiscal Year 2021) Raji Zamzami Sulthony, Ulil Albab, Amiludin 34-50

THE DISPARITY IN JUDGES' DECISIONS ON THE CRIME OF SEXUAL VIOLENCE AGAINST CHILDREN IS REVIEWED FROM LAW NUMBER 35 OF 2014 CONCERNING AMENDMENTS TO LAW NO. 23 OF 2002 CONCERNING CHILD PROTECTION (Study of Decision Number 858/Pid.Sus/2022/PN Bjm and Number 137/Pid.Sus/2023/PN Grt) Mutiara Rengganis, Gary Gagarin, Zarisnov Arafat..... 51-68

LAW ENFORCEMENT EFFORTS AGAINST LIMESTONE MINING ACTIVITIES IN TAMANSARI VILLAGE, PANGKALAN DISTRICT ARE LINKED TO LAW NUMBER 3 OF 2020 CONCERNING AMENDMENTS TO LAW NUMBER 4 OF 2009 CONCERNING MINERAL AND COAL MINING Maya Setiawathi, Anwar Hidayat, Zarisnov Arafat 69-85

LEGAL PROTECTION FOR NOTARIES IN MAKING A DEED OF STATEMENT OF MEETING RESOLUTION (PKR) BASED ON CIRCULAR DECISIONS OUTSIDE THE GENERAL MEETING OF SHAREHOLDERS (GMS) MADE BY SHAREHOLDERS (Case Study at the Office of Notary Mulyani, S.H., M.Kn) Tiyas Vironika, Muhamad Abas, Zarisnov Arafat 86-101

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

LEGAL PROTECTION FOR NOTARIES IN MAKING A DEED OF STATEMENT OF MEETING RESOLUTION (PKR) BASED ON CIRCULAR DECISIONS OUTSIDE THE GENERAL MEETING OF SHAREHOLDERS (GMS) MADE BY SHAREHOLDERS (Case Study at the Office of Notary Mulyani, S.H., M.Kn)

Tiyas Vironika¹, Muhamad Abas², Zarisnov Arafat³

¹Faculty Of Law, Buana Perjuangan Karawang University, Karawang.

²Faculty Of Law, Buana Perjuangan Karawang University, Karawang.

³Faculty Of Law, Buana Perjuangan Karawang University, Karawang.

* Correspondence email: hk20.tiyasvironika@mhs.ubpkarawang.ac.id

Abstract: A notary is a public official authorized to make an authentic deed. The General Meeting of Shareholders (GMS) is an organ of a limited liability company that has the highest authority in the company that is not given to the Board of Directors and the Board of Commissioners. This study examines how circular decisions are made outside the GMS at PT WSA and how legal protection for notaries against the preparation of a deed of Meeting Decision Statement (PKR) based on Circular Decisions outside the GMS according to Law Number 2 of 2014 concerning Notary Positions. This study aims to find out the circular decision making outside the GMS at PT WSA and the legal protection for notaries against the preparation of a deed of Meeting Decision Statement (PKR) based on the Circular Decision outside the GMS according to Law Number 2 of 2014 concerning Notary Positions. The research method used is qualitative with a normative juridical approach. The hypothesis in this study is that the circular decision of PT WSA is carried out without being attended or carried out in the presence of a Notary. The notary does not play a role in making circular decisions of PT WSA, the notary only pours the contents of the circular decision into an authentic deed. So that the Notary cannot be prosecuted criminally or civilly, because in making the deed, the statement of the meeting decision has been in accordance with the content of the circular decision outside the GMS made by the shareholders of PT WSA without reducing, adding and changing its content

Keywords: Circular Decision, Notary, Legal Protection

1. Introduction

Notary is a profession that provides legal services to the general public and is obliged to manage authentic evidence in the form of letters, deeds, and documents that he makes in writing for various legal acts. The position of a Notary is very

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

important in creating safety and legal protection for the community.¹ The definition of notary is contained in Article 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary that a Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this Law or based on other laws.

In Article 1 number 7 of Law Number 2 of 2014 concerning the Notary Position, it is stated that a notary deed, hereinafter referred to as a deed, is an authentic deed made by or before a Notary according to the form and procedures stipulated in this Law.² An authentic deed as provided for in Article 1868 of the Civil Code, is "a deed in such form as prescribed by law, published by or by in the presence of public officials authorized for it in the place where the deed is made".³

Based on Article 1 of Law Number 40 of 2007 concerning Limited Liability Companies, the definition of a Limited Liability Company (the Company) is a legal entity that is a capital partnership, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares, and meets the requirements set forth in this law and its implementing regulations. To be able to carry out business activities of a Limited Liability Company Legal Entity, the deed of establishment must be ratified by the Minister of Law and Human Rights. The deed of establishment of a Limited Liability Company is "Written evidence related to with the process to establish PT. Establishing is a concept to establish a Limited Liability Company, which previously did not exist to exist or be formed. The Deed of

¹ Salim HS, *Notary Office Regulations*, Sinar Grafika, Jakarta, 2018, p.14

² Article 1 number 7 of Law of the Republic of Indonesia Number 2 of 2014 concerning the Notary Position

³ Article 1868 of the Civil Code

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

Incorporation of a Limited Liability Company is made in advance and in the presence of a notary".⁴

According to Law Number 40 of 2007 concerning Limited Liability Companies, the company's organs consist of the Board of Directors, the Board of Commissioners and the General Meeting of Shareholders (GMS). The Board of Directors is the company's organ that is authorized and fully responsible for the management of the company, in accordance with the company's aims and objectives and represents the company, both inside and outside the court in accordance with the provisions of the articles of association.⁵ The Board of Commissioners according to Article 1 paragraph (6) of the Limited Liability Company Law, is the company's organ tasked with conducting general and/or special supervision in accordance with the articles of association and advising the board of directors.

The GMS is the company's organ that holds the highest power in the company and holds all authority that is not handed over to the directors and commissioners within the limits specified in the law and/or the Articles of Association. The GMS as the holder of the highest power in the company has the authority to determine the company's general policies, appoint and dismiss the directors and commissioners and ratify the annual report of the directors and commissioners. The GMS is held at the place of residence of the company or at the place where the company conducts its main business activities as specified in the Articles of Association.⁶

The GMS consists of the annual GMS and other GMS. Annual GMS, held no later than 6 (six) months after the end of the financial year, and all documents from the company's annual report must be submitted. Meanwhile, other GMS can be held at

⁴ Salim HS, *Op.Cit*, hlm.37

⁵ Binoto Nadapdap, *Op.Cit*, hlm.95

⁶ Article 76 paragraph 1 of Law Number 40 of 2007 concerning Limited Liability Companies

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

any time based on the need for the benefit of the company. The GMS is carried out by calling all shareholders, directors, and board of commissioners to gather (physically) at a place to discuss the meeting agenda. However, in reality, this is often considered difficult to do because not all shareholders are domiciled in the same domicile as the company. Decision-making can be made without holding a physical GMS, but the decision is taken by sending a written document of the proposal to be decided to all shareholders and the proposal is approved in writing by all shareholders. Decision-making outside the GMS is regulated in Article 91 of the Company Law

Limited which states that "shareholders can also take binding decisions outside the GMS on the condition that all shareholders with voting rights agree in writing by signing the relevant proposal". What is meant by "binding decision" is a decision that has the same legal force as the resolution of the GMS."

In terms of the implementation of decisions outside the GMS, it can also cause a problem. One of them is the case of PT WSA, a company engaged in development, with the following composition of management and shareholders:

1. Mr. BS is a shareholder of 2,525 (two thousand five hundred and twenty-five) shares with a nominal value of Rp.252,500,000 (two hundred and fifty-two million five hundred thousand rupiah);
2. Mr. P is a shareholder of 2,525 (two thousand five hundred and twenty-five) shares with a nominal value of Rp.252,500,000,- (two hundred and fifty-two million five hundred thousand rupiah);
3. Mr. TK as Director and shareholder of 386,950 three hundred eighty-six thousand nine hundred and fifty) shares with a nominal value of Rp.38,950,000,000,- (thirty-eight billion nine hundred and fifty million rupiah);
4. Mrs. TMS as Commissioner.

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

That on September 22, 2023, one of the shareholders of PT WSA, namely Mr. P, contacted Notary Mulyani, S.H., M.Kn requested to make a deed of Meeting Decision Statement (PKR) based on the circular decision that they had made and signed on September 22, 2023 with a meeting to reduce the authorized capital, issued capital and paid-up capital in the company. Then on September 25, 2023, a notary deed was signed which was attended and signed by Mr. P only because the other shareholders gave power to Mr. P to appear, sign the minuta, and ask the notary to pour the circular that they had made into the notary deed. Then the numbering was carried out on the minuta with deed number 24, and on September 26, 2023, access to the reduction of authorized capital was carried out on the Legal Entity Administration System (SABH), but until November 20, 2023, the Decree on the change was only issued and can be downloaded and then given to Mr. P as a shareholder in PT WSA. On January 3, 2024, Mr. TK through his legal representative made a summons to Notary Mulyani, S.H., M.Kn stating that the Circular Decision used as the basis for the amendment of PT WSA was a decision that had been signed by Mr. TK, Mr. P and Mr. BS in 2022 (two thousand and twenty-two). So Mr. TK accused Notary Mulyani, S.H., M.Kn of falsifying information, using false information for himself, embezzlement of shares and/or tax evasion. Based on the background mentioned above, the author intends to conduct research with the title **"Legal Protection for Notaries in the Preparation of Deed of Meeting Resolution Statement (PKR) Based on Circular Decisions Outside the General Meeting of Shareholders (GMS) made by the shareholders Case Study at the Notary Office of Mulyani, S.H., M.Kn"**.

2. Method

In this study, the author uses a normative juridical research method, normative juridical research is research conducted based on the main legal materials obtained

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

by examining theories, concepts, legal principles and laws and regulations related to this research.⁷ Reasons the author uses the method Because in this study, the author wants to analyze the relationship between a legal issue and existing laws and regulations.

The specification in this study is descriptive analytical. Descriptive research is research that seeks to describe a symptom, event, or event that is currently occurring. Descriptive research according to its characteristics has certain steps in its implementation.⁸ The reason for choosing this specification is to get a complete description of the legal situation that applies in a certain place or about the juridical symptoms that exist or certain legal events that occur in society.

3. Analysis or Discussion

3.1. Circular Decision Making Outside the GMS Regarding the Amendment to the Company's Articles of Association made by the shareholders of PT WSA

PT WSA is a legal entity domiciled in the Administrative City of West Jakarta which has been ratified by the Minister of Law and Human Rights based on the deed of establishment number 6 (six) dated August 09 (nine) of 2002 (two thousand two), which was made before Lanny Widjaja, S.H, a notary in the Administrative City of West Jakarta, based on its Decision Letter dated November 12 (twelve) 2028 (two thousand two) number C-22001 HT.01.01.TH.2002. The company's articles of association were last amended by deed number 13 (thirteen) dated 07 (seven) March 2022 (two thousand twenty-two) made before Setiawan, S.H, a notary in Jakarta, which amendment to the articles of association has been reported to the Minister of

⁷ Bambang Sunggono, *Legal Research Methods*, Rajawali Pers, Jakarta, 2006, p.75

⁸ Juliansyah Noor, *Research Methodology, Thesis, Thesis, Dissertation & Scientific Paper*, Kencana, Jakarta, 2010, p. 34

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

Law and Human Rights based on the Notification of Amendment to the Articles of Association dated 08 (eight) March 2022 (two thousand twenty-two), number AHU-AH.01.03-0151934.

The amendment to the articles of association mentioned above contains an increase in issued and paid-up capital which was originally Rp.1,000,000,000,- (one billion rupiah) to amounting to Rp.39,200,000,000,- (thirty-nine billion two hundred million rupiah), with the following composition of shareholders:

1. Mr. TK as many as 386,950 (three hundred and eighty-six thousand nine hundred and fifty) shares;
2. Mr. P as many as 2,525 (two thousand five hundred and twenty-five) shares, and;
3. Mr. BS as many as 2,525 (two thousand five hundred and twenty-five) shares.

Prior to the amendment of the articles of association with the decision to increase the issued and paid-up capital, the shareholders of PT WSA first entered into a joint agreement which was stated in the notary deed as stated in the deed of agreement of the shareholders of PT WSA number 66 (sixty-six), dated August 12 (twelve thousand) of 2020 (two thousand twenty) made before Charles Hermawan, S.H. notary in Tangerang City. In the shareholders' agreement, it is stated that for the benefit of the company's transactions, the shareholders agree to increase the issued and paid-up capital which is valid until September 15 (fifteen) 2023 (two thousand twenty-three). If the predetermined deadline has passed, the shareholders of PT WSA agree to reduce the issued and paid-up capital to Rp.1,000,000,000,- (one billion rupiah), with the composition of shareholders as follows:

1. Mr. TK as many as 4,950 (four thousand nine hundred and fifty) shares;
2. Mr. P as many as 2,525 (two thousand five hundred and twenty-five) shares, and;

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

3. Mr. BS as many as 2,525 (two thousand five hundred and twenty-five) shares.

Because the deadline specified in the agreement with the shareholders of PT WSA that the increase in issued and paid-up capital in PT WSA is only valid until September 15, 2023, then on September 22 (twenty-two) of September 2023 (two thousand and twenty-three) PT WSA has implemented the resolution of the general meeting of shareholders shares outside the GMS and ordered Mr. P to contact notary Mulyani, S.H., M.Kn and request to pour the results of the Resolution of the General Meeting of Shareholders outside the GMS to PT WSA. The Resolution of the General Meeting of Shareholders outside the GMS, which was held and signed on September 22 (twenty-two) of September 2023 (two thousand twenty-three), contains amendments to the articles of association, namely the reduction of issued and paid-up capital and authorizes Mr. P to pour the results of the decision into a notary deed and sign all necessary documents.

The implementation of the GMS which is carried out without the presence of a notary, is called a circular resolution under the hand which contains the results of the meeting decisions decided in the GMS. In this case, the GMS is carried out by sending a proposal in writing to all shareholders and in order to be used legally, the shareholders must agree in writing by signing the GMS. Then the results of the circular resolution are brought before the notary by the power of attorney listed in the GMS, to be poured into an authentic deed, namely the deed of the Meeting Decision Statement. The Deed of Statement of Meeting Resolution is an authentic deed of notary or referred to as a deed *of partij* or deed of the parties which contains the contents of the deed of minutes of the general meeting of shareholders of a limited liability company made under the hand.

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

The provisions regarding the reduction of issued and paid-up capital in the company are implemented through the GMS, as stipulated in Article 44 paragraph (1) which reads "The resolution of the GMS for the reduction of the Company's capital is valid if it is carried out by paying attention to the requirements of the quorum provisions and the number of votes in favor of the amendment of the articles of association in accordance with the provisions of this law and/or the articles of association". The GMS to amend the company's articles of association can be held if at least 2/3 (two-thirds) of the total number of shares with voting rights are present at the GMS and the decision is said to be valid if it is approved by at least 2/3 (two-thirds) of the total number of votes issued, unless the articles of association stipulate a quorum of attendance and/or provisions on the decision-making of a larger GMS.

3.2. Legal Protection for Notaries in the Preparation of Deed of Statement of Meeting Resolutions (PKR) Based on Circular Decisions Outside the General Meeting of Shareholders (GMS) according to Law Number 2 of 2014 concerning the Position of Notary

According to Law Number 2 of 2014 concerning the Notary Position, legal protection for notaries is contained in Article 66 paragraph (1) regarding the taking of deed minuta and the summons of notaries which states:

1. For the purposes of judicial proceedings, investigators, public prosecutors, or judges with the approval of the Notary Honorary Assembly are authorized to:
 - a. Take photocopies of the minuta deed and/or papers attached to the minuta deed or notary protocol in the notary deposit; and

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

- b. Summoning a notary to appear in an examination related to a notary deed or protocol that is in the notary custody.⁹

Prior to the issuance of Article 66 of Law Number 2 of 2014 concerning the Notary Position, the government issued Law Number 30 of 2004 concerning the Notary Position in this provision there is Article 66 paragraph (1) which states "for the benefit of the judicial process, investigators, prosecutors or judges with the approval of the Regional Supervisory Council (MPD). This provision eventually became a problem so that a *judicial review lawsuit* arose to the Constitutional Court. On May 28, 2013, the Constitutional Court issued a decision No. 49/PUU-X/2012 which essentially no longer enforces Article 66 paragraph (1) of Law No. 30 of 2004 concerning the Notary Position. So with this decision, the summoning of a notary does not require approval from the Regional Supervisory Council (MPD) This has juridical consequences for investigators to immediately call a notary to come to the investigation process.

The revocation of Article 66 paragraph (1) of Law Number 30 of 2004 concerning the Notary Position did not last long, because in 2014 the government issued Law Number 2 of 2014 concerning the Notary Position which re-enacted Article 66 paragraph (1) which states "for the benefit of the judicial process, investigators, prosecutors or judges with the approval of the Notary Honorary Council (MKN)". The difference between Article 66 paragraph (1) of Law Number 30 of 2004 concerning the Notary Position and Law Number 2 of 2014 concerning the Notary Position, which only changes the institution authorized to give approval for the investigation process

⁹ Article 66 of Law number 2 of 2014 concerning the position of Notary

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

which originally had to be approved by the Regional Supervisory Council (MPD) was amended with the approval of the Notary Authority Council (MKN).¹⁰

In January 2020, the Indonesia Prosecutors Association (PJI) filed a *judicial review* lawsuit to the Constitutional Court regarding the existence of Article 66 paragraph (1) which gives the MKN the authority to approve or disapprove the taking of photocopies of notary deeds and the summoning of notaries to attend the judicial process, causing investigators, public prosecutors and judges to be unable to take further legal action. Therefore, the Constitutional Court issued its latest decision number 16/PUU-XVIII/2020 which states that the approval of the MKN does not aim to complicate the investigation process or examination of notaries because it is anticipated with the provisions of Article 66 paragraphs (3) and (4) of Law Number 2 of 2014 concerning the Notary Position, which states:

The Notary Honorary Assembly within a maximum of 30 (thirty) working days from the receipt of the letter of request for approval as referred to in paragraph (1) is obliged to provide an answer to accept or reject the request for approval.

2. In the event that the Notary Honorary Assembly does not provide an answer within the period as intended in paragraph (3), the Notary Honorary Assembly is deemed to have accepted the request for approval.

With the provisions of Article 66 paragraphs (3) and (4) of the Notary Position Law, it does not aim to complicate the investigation process or examination of notaries, because the MKN is only given 30 (thirty) days to give an answer to accept or reject the request for approval. So that if the time limit has been exceeded, the

¹⁰ Moeh Angga Nugraha, *Approval of the Notary Honorary Assembly on the Summoning of Notaries in Criminal Investigations*, Islamic University of Indonesia Yogyakarta, Journal of Notary Officium No.2 Vol.1 August 2021

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

investigator, public prosecutor or judge can take a photocopy of the notary deed or call a notary in the investigation or examination.

In providing legal protection to notaries, the Notary Honorary Council must carefully look at whether the reported notary is proven to have intentionally or not committed a violation in the process of making an authentic deed. If there is a notary who is suspected of making a mistake in the process of making an authentic deed, even though the notary has carried out his duties and authority in accordance with the rules of law (Notary Position Act, and the Notary Code of Ethics), then the Notary Honorary Council must provide legal protection to the notary concerned by summoning and examining the notary to be asked for his statement before giving approval or rejecting the request submitted by the investigators who want to examine the notary.¹¹

According to Mulyani, S.H., M.Kn making a deed of Meeting Decision Statement based on a circular resolution is not the responsibility of the notary but the responsibility of the parties.¹² The Notary is not authorized to ensure the correctness of the circular *resolution* under the hands of the witnesses, because the Notary is only authorized to make an authentic deed. The statements or statements of the parties submitted before the notary are the basic material for the notary to Make a deed according to the wishes of the parties who are facing the notary. Without information or statements and the wishes of the parties, it is impossible for a notary to make a deed. If the witness provides false information or documents, then materially the

¹¹ Fainnadya Shanvieta Britney Kaligis, Daniel F. Aling, Roy Ronny Lembong, *Op.Cit*

¹² Results of a Conversation with Mulyani, S.H., M.Kn as the Notary of Karawang Regency which was conducted on April 4, 2024

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

falsity of the document is the responsibility of the parties concerned, unless the notary knows the falsehood.¹³

Regarding the allegation that notary Mulyani, S.H., M.Kn committed falsification of information, falsification of information for himself, embezzlement of shares, and tax evasion in making deeds, the accusing party must be able to prove that notary Mulyani, S.H., M.Kn made a mistake in making the deed. Mulyani, S.H., M.Kn said "in this case, the notary is not responsible for the correctness of the content of the circular *resolution* outside the GMS, the content of the decision is entirely the will of the shareholders. Before issuing a copy of the deed of the Statement of Meeting Resolution based on the circular resolution under the hand or based on the minutes of the GMS, the notary must read the minuta in front of the witnesses or the party appointed as an attorney in the GMS".¹⁴

Notaries in carrying out their positions are obliged to act trustfully, honestly, thoroughly, independently, impartially, and to protect the interests of related parties in legal acts. In addition, as one of the other efforts that notaries can make to maintain the safety of notaries, notaries should always apply the principle of prudence in carrying out their positions.¹⁵ If the notary in making a deed of Statement of Meeting Resolution based on the resolution of the general meeting of shareholders outside the GMS has been in accordance with what was decided by the shareholders in the circular resolution, without adding, reducing, and changing the content of the circular resolution, the notary cannot be held accountable either criminally or civilly.

¹³ M. Yahya Harahap, *Discussion of Problems and Application of the Criminal Code (Investigation and Prosecution) Second Edition*, Sinar Grafika, Jakarta, 2000, p. 36

¹⁴ Results of a Interview with Mulyani, S.H., M.Kn as a Notary of Karawang Regency which was conducted on April 04, 2024

¹⁵ Habib Adjie, *Watching the Notary Treasure and PPAT Indonesia (Kumpulan Notary and PPAT)* Citra Aditya Bakti, Bandung, 2009, p. 86

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

However, if the deed made by or before the notary turns out to be not in accordance with what was decided or the will of the shareholders, the notary is obliged to be responsible for the deed he made. Regarding the correctness status of all documents or identities submitted to the notary, it is entirely the responsibility of the parties.

4. Conclusion

1. The GMS can be conducted by circulating proposals to the shareholders as stipulated in Article 91 of the Limited Liability Company Law that "shareholders may also take binding decisions outside the GMS (*circular resolution*) provided that all shareholders with voting rights agree in writing by signing the relevant proposals". The GMS regarding amendments to the articles of association that are not contained in the notary deed must be poured into the notary's authentic deed no later than 30 (thirty) days from the date of the GMS. If the specified deadline of 30 (thirty) days has passed, the GMS cannot be declared in an authentic deed, but the circular decision still applies to the shareholders due to the circular *resolution* in Article 1338 paragraph (1) of the Criminal Code that the agreement made legally applies as a law for its makers, in this case the shareholders.
2. Legal protection for notaries is regulated in Article 66 of Law Number 2 of 2014 concerning the Notary Position with the establishment of the Notary Honorary Council which is authorized to give approval or reject approval to the investigating team to take the minutes of the notary deed and protocol letter and present the notary in the trial. The MKN is required to provide an answer no later than 30 days after receiving the letter of request for approval, if within 30 days the MKN does not provide an answer, it is considered to have received request for consent. Notary Mulyani, S.H., M.Kn made a deed of

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

Statement of Meeting Resolution based on circular decisions outside the GMS given by the audience without reducing, adding or changing the content of the decision. So in this case, if the circular decision outside the GMS which is stated in the notary deed of Mulyani, S.H., M.Kn problematic, then it is the responsibility of the parties.

References

Book:

- Bambang Sunggono, *Legal Research Methods*, Rajawali Press, Jakarta, 2006
- Binoto Nadapdap, *Limited Liability Company Law Based on Law Number 40 of 2007*, Jala Permata Aksara, Jakarta, 2016
- Fainnadya Shanvieta Britney Kaligis, Daniel F. Aling, Roy Ronny Lembong, *Legal Protection Aspects for Notaries Against Malpractice in Making Deeds*, Sam Ratulangi University
- Habib Adjie, *Visiting the Notary Treasure and PPAT Indonesia (Notary and PPAT Collection)*
- Citra Aditya Bakti, Bandung, 2009 Juliansyah Noor, *Research Methodology, Thesis, Thesis, Dissertation & Scientific Paper*, Kencana, Jakarta 2010
- M. Yahya Harahap, *Discussion of Problems and Application of the Criminal Procedure Code (Investigation and Prosecution) Second Edition*, Sinar Grafika, Jakarta, 2000
- Salim HS, *Notary Position Regulation*, Sinar Grafika, Jakarta, 2018

Journal Article:

- Moeh Angga Nugraha, *Approval of the Notary Honorary Council on the Summoning of Notaries in Criminal Investigations*, Islamic University of Indonesia Yogyakarta, officium notarium journal No.2 Vol.1 August 2021

Buana Perjuangan Karawang University

Vol. 9 No. 2 (2024)

Submit: 2-Sep-2024 Revised: 5-Sep-2024 Published: 10-Sep-2024

Legislation:

Civil Code of Ethics for Notary Professions

Law Number 40 of 2007 concerning Limited Liability Companies

Law of the Republic of Indonesia Number 2 of 2014 concerning the Notary Position

Other Resources:

Interview with Mulyani, S.H., M.Kn as the Notary of Karawang Regency