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Reconstructing Notarial Liability in Sale and Purchase Binding Agreements in Indonesia

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Article	Abstract
<p>Keywords:</p> <p>Legal Disputes; Notarial Profession; Professional Liability; Sale and Purchase Binding Agreement.</p> <p>Article History Received: Aug 15, 2025; Reviewed: Dec 20, 2025; Accepted: Jan 23, 2026; Published: Jan 31, 2026.</p> <p>DOI: 10.28946/slrev.v10i1.5078</p>	<p>This study examines the professional liability of notaries for drafting Sale and Purchase Binding Agreements (PPJB) in Indonesia, which serve as preliminary contracts when a Sale and Purchase Deed (AJB) cannot yet be executed, but often give rise to legal disputes. Such disputes commonly stem from negligence in verifying the object's legality, weak application of the precautionary principle, and partiality toward one party. Using normative legal research, this study analyses primary, secondary, and tertiary legal materials using descriptive and analytical methods, drawing on statutory, conceptual, and case approaches. The findings show that notaries' professional liability in PPJB transactions rests on five core elements: compliance with positive law, application of the precautionary principle, neutrality, protection of the parties' interests, and observance of professional ethics. Establishing a causal link between notarial acts or omissions and parties' losses requires an integrated evidentiary approach that combines factual and juridical causation, particularly the doctrines of <i>conditio sine qua non</i> and adequate cause. Sanctions must be imposed proportionately, taking into account the degree of fault, the nature of the violation, and its impact, ranging from administrative and ethical sanctions to civil and criminal liability. The novelty of this research lies in formulating an integrative and systematic framework that connects notarial professional standards, causation doctrines, and proportional sanctions within PPJB disputes. This framework clarifies notarial accountability and strengthens preventive legal practice nationwide.</p>

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INTRODUCTION

The Sale and Purchase Agreement Binding (PPJB) is one form of preliminary agreement that plays a significant role in the practice of civil law in Indonesia, particularly in transactions involving the sale and purchase of land and buildings. The PPJB is typically employed when the sale and purchase process cannot yet be executed directly through a Sale and Purchase

Deed (AJB) before a Land Deed Official (PPAT), for instance, due to incomplete administrative requirements or outstanding payment.¹ In practice, the PPJB is often executed before a notary to provide legal certainty and bind the parties lawfully, in accordance with Article 1320 of the Indonesian Civil Code on the validity requirements for agreements.

The notary, as a public official, possesses authority explicitly regulated under Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 on the Notarial Profession (UUJN). This authority encompasses the preparation of authentic deeds, which hold the highest evidentiary weight.² The strategic position of the notary is intended to function as a *guardian of legal certainty* and *legal protection* for the parties involved. Consequently, every deed executed by a notary must not only reflect the agreement of the parties but also embody the notary's prudence and professionalism in ensuring the legality of the agreement.³

Nevertheless, in practice, there are numerous instances in which PPJBs executed as authentic deeds have led to disputes. Several cases brought before the courts reveal that such disputes stem from various factors, including the notary's lack of diligence in verifying the legality of the subject matter of the agreement, insufficient clarification regarding the land title status, ambiguous contractual clauses, and even negligence in verifying the identity and legal capacity of the parties.⁴ For example, in several court decisions, disputes have arisen from PPJB deeds executed before a notary that involve land already subject to ongoing litigation, something the notary should have identified at the outset. This raises serious questions about the extent of the notary's professional liability for deeds they execute, particularly when those deeds form the basis of a lawsuit.

Although the PPJB is intended to provide legal protection to the parties, in reality, it often becomes a source of disputes, especially in cases of breach of contract, divergent interpretations of the agreement's provisions, or inconsistencies between the deed's contents and the legal status of the object of sale. The phenomenon of PPJB disputes involving notaries has emerged as a notable issue in notarial practice and has adversely impacted public trust in the notarial profession. This problem raises legal questions about the scope of the notary's responsibility for the validity and clarity of the agreements they execute, as well as how aggrieved parties can obtain legal protection.⁵

¹ Dewa Ayu Sinddhisar Smaratunga, R. Ismala Dewi, and Enny Koeswarni, "Implementation of The Binding Agreement for The Sale and Purchase of Land Rights Based on a Notarial Deed in East Jakarta," *Legal Brief* 11.3 (2022): 1387–1398. Retrieved from <https://www.legal.isha.or.id/index.php/legal/article/view/266>.

² Agung Iriantoro, "Position, Tenure and Responsibility of the Notary in Carrying Out the Position of Notary," *Protection: Journal Of Land And Environmental Law* 1.2 (2022): 66-74. <<https://doi.org/10.38142/pjlel.v1i2.515>>.

³ Min Bingyuan, and Cao Zhaoxun, "Theory of Interest Jurisprudence for the Development of the Notarial System," *Journal of Advanced Research in Social and Behavioural Sciences* 38.1 (2025): 15-26. <<https://doi.org/10.37934/jarsbs.38.1.1526>>.

⁴ Ni Nyoman Tri Jayanti, Putu Ayu Sriasih Wesna, and I. Nyoman Alit Puspadma, "Legal Consequences of Deposited Funds to Public Notary Before Preparation of Sales And Purchase Agreement: A Case Study of Supreme Court Decision Number 508 K/PID/2017," *IUS POSITUM: Journal of Law Theory and Law Enforcement* (2024): 14–25. <<https://doi.org/10.56943/jlte.v3i3.607>>.

⁵ Irene Eka Sihombing, "Juridical Analysis of Wanprestasi of One of The Parties in The PPJB Deed Regarding Land Rights," *Journal of Law and Sustainable Development* 11.12 (2023): e2158-e2158. <<https://doi.org/10.55908/sdgs.v11i12.2158>>.

Various scholars, such as Sheehandea Talitha Shidqi and Harsanto Nursadi have conducted academic studies on the PPJB,⁶ who focused on the validity of the PPJB under civil law, and Venny Indria Maria,⁷ who examined legal protection for buyers in PPJBs. Another study by Karimova Madina Mirzajanovna discussed the role of the notary in ensuring the accuracy of parties' data.⁸ Furthermore, Deviana Yuanitasari⁹ in her article, she elaborates on the role of public notaries in providing legal protection to consumers in standard-form contracts, such as housing loan (mortgage) agreements, from the perspective of consumer protection law. Finally, in the article authored by Ikhsan Lubis, Tarsisius Murwadji, Sunarmi, and Detania Sukarja,¹⁰ the study focuses on the utilisation of information technology in notarial practice (cyber notary) as a means of modernising and developing Indonesian economic law. The study emphasises the digitalisation of notarial services, legal certainty in electronic transactions, and their contribution to the efficiency and competitiveness of economic activities.

The distinction between those articles and the present study lies in its focus on analysing how mistakes or negligence in the preparation of Sale and Purchase Binding Agreements (PPJB) may amount to professional violations, the legal consequences that arise from such conduct, and the forms of civil, administrative, and ethical responsibility that may be imposed on notaries. Thus, the unique contribution of this study is its doctrinal and normative examination of notaries not only as facilitators of legal certainty, but also as legal subjects who may incur direct liability when their professional actions in drafting PPJBs give rise to disputes.

This research gap is crucial to address because, within Indonesia's legal system, the position of an authentic deed as the highest form of evidence carries serious consequences. If such a deed's validity is challenged, the reputation of the notarial profession may be at stake, and public trust in the legal system could be undermined. Furthermore, there is a paucity of research on the relationship between notaries' professional liability, court rulings in PPJB disputes, and the resulting legal implications for the parties involved.

The formulation of the research problem arises from the need to clearly identify the boundaries of a notary's professional liability in a binding sale-and-purchase agreement (PPJB) that gives rise to disputes. The main issues to be addressed include how the elements of such liability are formulated and applied in practice from the perspectives of civil law, administrative law, and the professional code of ethics; how the causal relationship between a notary's act or omission and the loss suffered by the parties can be established juridically; and to what extent the forms and types of sanctions civil, administrative, or criminal may be

⁶ Sheehandea Talitha Shidqi, and Harsanto Nursadi, "The Power of Evidence of a Land Sale and Purchase Agreement (PPJB) in Full in Civil Dispute Cases," *LEGAL BRIEF* 13.5 (2024): 1253-1258. <<https://doi.org/10.35335/legal.v13i5.1159>>.

⁷ Venny Indria Maria, Imam Koeswahyono, and Satria Amiputrah, "Consumer's Legal Protection in the Sale and Purchase of Flats in the Pre-project Selling System," *International Journal of Research in Business and Social Science* 11.2 (2022): 454-461. <<https://doi.org/10.20525/ijrbs.v11i2.1690>>.

⁸ Karimova Madina Mirzajanovna, "The Importance of Notarial Activity in Protecting the Rights of Individuals and Legal Entities," *The American Journal of Political Science Law and Criminology* 6.03 (2024): 51-56. <<https://doi.org/10.37547/tajpslc/Volume06Issue03-08>>.

⁹ Yuanitasari, Deviana, "The Role of Public Notary in Providing Legal Protection on Standard Contracts for Indonesian Consumers." *Sriwijaya Law Review* (2017): 179-189. <<https://doi.org/10.28946/slrev.Vol1.Iss2.43.pp179-190>>.

¹⁰ Lubis, Ikhsan, et al., "Cyber Notary as A Mean of Indonesian Economic Law Development." *Sriwijaya Law Review* (2023): 62-72. <<https://doi.org/10.28946/slrev.vol7.iss1.1972.pp62-72>>.

proportionally imposed on the notary in accordance with the principles of accountability and legal protection for the profession.

These issues highlight the need for a juridical analysis of the PPJB and the disputes arising therefrom, including an examination of the notary's role and the applicable legal liability mechanisms. This research is conducted to provide a more comprehensive understanding of these matters, particularly in the context of notarial practice in Indonesia.

RESEARCH METHODS

This study employs a normative legal research method, focusing on the examination of positive legal norms, legal principles, and prevailing doctrines. The selection of this method is grounded in the issue under investigation: the professional liability of notaries in drafting Sale and Purchase Agreement Binding Contracts (PPJB) that result in disputes, which inherently require the interpretation of statutory provisions, judicial decisions, and the professional code of ethics.¹¹ The research combines a statute approach to review the provisions contained in the Indonesian Civil Code, the Notarial Profession Law, the Indonesian Penal Code, as well as implementing regulations and the Notarial Code of Ethics; a conceptual approach to examine the principles of professional liability, prudential conduct, causal relationships, and the proportionality of sanctions; and a case approach to analyse relevant court decisions in order to identify patterns of judicial reasoning.

The legal materials utilised comprise primary sources in the form of statutory regulations,¹² court rulings, and the Notarial Code of Ethics; secondary sources including literature, scholarly articles, and expert opinions on PPJB, notarial responsibility, and contractual disputes; and tertiary sources such as legal dictionaries and encyclopedias. All materials were gathered through library research, using legislative databases, academic journals, and court decisions available both online and offline. The analysis was carried out using a descriptive-analytical method by elaborating on applicable legal provisions, comparing them with legal doctrines and theories, and correlating them with factual circumstances reflected in court judgments.¹³ This approach enables the formulation of the elements of notarial liability, the establishment of causal links between a notary's conduct and the losses incurred by the parties, and the determination of proportionate sanctions within the framework of accountability and legal protection.

ANALYSIS AND DISCUSSION

Elements of a Notary's Professional Responsibility in a Sale and Purchase Agreement Binding Contract (PPJB) Leading to Dispute

The professional liability of a notary in the preparation of a Binding Sale and Purchase Agreement (Perjanjian Pengikatan Jual Beli/PPJB) is grounded in a comprehensive normative

¹¹ Sanne Taekema, "Theoretical and Normative Frameworks for Legal Research: Putting Theory Into Practice," *Law and Method* 2018.2 (2018): 1-17. <<https://doi.org/10.5553/rem/.000031>>.

¹² Tunggul Ansari Setia Negara, "Normative Legal Research in Indonesia: Its Origins and Approaches," *Audito Comparative Law Journal (ACLJ)* 4.1 (2023): 1-9. <<https://doi.org/10.22219/aclj.v4i1.24855>>.

¹³ Ricardo Perlingeiro, "First Lines on a Comparative Study of the Theoretical Foundations of Judicial Deference," *Juris Poiesis-Qualis B1* 22.29 (2019): 306-344. Retrieved from: https://web.archive.org/web/20200709205109id_/http://periodicos.estacio.br/index.php/jurispoiesis/article/viewFile/7511/47966300.

framework encompassing Law Number 2 of 2014 on the Office of Notary (UUJN), the provisions of the Indonesian Civil Code, and the ethical standards regulating notarial conduct. In circumstances where a PPJB gives rise to a legal dispute, the assessment of notarial responsibility must be premised on the notary's fundamental role as a public official, endowed by the state with the authority to create authentic deeds. This delegated authority entails that every action undertaken by the notary produces direct legal effects and cannot be separated from accountability. Accordingly, the scope of the notary's professional responsibility is structured around several interrelated elements that collectively define the limits and obligations inherent in the exercise of notarial functions.¹⁴

First, the element of compliance with statutory regulations requires the notary to ensure that the PPJB is drafted in accordance with prevailing laws, including verifying the legal capacity of the parties, the clarity of the contractual object, and the fulfilment of the essential validity requirements of an agreement as stipulated in Article 1320 of the Civil Code. Non-compliance in this respect may result in legal consequences such as the nullification of the deed or civil lawsuits against the parties, as well as potential administrative or criminal sanctions against the notary.¹⁵

Article 15 of the UUJN establishes the notary's competence to draw up authentic deeds embodying legal acts, agreements, and determinations either required by statutory provisions or requested by the parties concerned. This conferment of authority, however, is inherently limited and must be exercised in compliance with the duties outlined in Article 16 of the UUJN. These duties require the notary to perform their functions with integrity, diligence, independence, and impartiality, while also protecting the parties' interests. From a normative standpoint, professional responsibility arises from the convergence between the notary's legally granted authority and the binding obligations that govern its exercise.

Compliance with positive law as an element of professional responsibility may be further examined through the lens of Article 1320 of the Civil Code, which sets out the essential conditions for the validity of an agreement, namely consent of the parties, legal capacity, a determinate object, and a lawful cause. Within this normative framework, the notary is responsible for verifying that each of these requirements is satisfied before formalising the parties' intentions in the PPJB. A failure to discharge this obligation may render the deed void by operation of law, thereby not only prejudicing the parties involved but also exposing the notary to potential civil liability under Article 1365 of the Civil Code for acts committed in violation of the law.

Second, the element of prudence (prudential principle) serves as a fundamental principle, as the PPJB often represents an initial stage preceding the transfer of rights to land and buildings. The notary is obliged to examine ownership documents, the status of the land, and

¹⁴ Reza Mirzani, Hasim Purba, and Suprayitno Suprayitno, "Legal Protection for Notaries for Fraud Crimes Addressed to Him Related to Formal Obligations for Notaries in Making Deeds (Case Study of Decision Number 196/Pid. B/2019/Pn Dps Jo Decision Number 27/Pid/2019/Pt. Dps Jo. Decision Number 20 Pk/Pid/2020)," *International Journal of Law Analytics* 3.2 (2025): 147-166. <<https://doi.org/10.59890/ijla.v3i2.1>>.

¹⁵ Sani Azzahra, "Legal Implications and Challenges of Informal Sale and Purchase Binding Agreements (PPJB): The Role of Notaries in Ensuring Legal Validity and Protection," *Al-Qanun: Jurnal Kajian Sosial dan Hukum Islam* 6.1 (2025): 9-16. <<http://dx.doi.org/10.58836/al-qanun.v6i1.23912>>.

any potential disputes attached thereto. Negligence in such examination may result in losses to the parties, thereby giving rise to civil liability under the principle of *culpa levis in abstracto*, wherein the notary's conduct is measured against the standard of care of a similarly skilled professional.¹⁶ The prudential principle, within its normative framework, is derived from Article 16 paragraph (1) letter a of the UUJN, which obliges the notary to act honestly, carefully, and impartially. Prudence in this context includes verifying the authenticity and validity of ownership documents for the PPJB's object, checking with the land office, and ensuring that there are no security rights or ongoing disputes. From a normative perspective, negligence in applying this principle may be categorised as *culpa* (fault), potentially resulting in administrative sanctions (Article 85 of the UUJN) and, if falsification or abuse of authority is proven, even criminal liability (Article 266 of the Criminal Code).

Third, neutrality and impartiality constitute essential characteristics of the notarial office. In PPJB cases leading to disputes, partiality, such as favouring one party or neglecting the interests of another, often emerges as a legal trigger. The UUJN clearly stipulates that a notary must avoid any conflict of interest, as even the appearance of bias may undermine the integrity of the deed.¹⁷ The normative basis for neutrality and impartiality is found in Article 16, paragraph (1), letter a, and Article 17 of the UUJN, which prohibit a notary from drafting a deed for themselves, their family, or a party with whom they have a direct interest. In PPJB disputes, violations of this principle are often classified as conflicts of interest, which may legally nullify the deed and erode the notary's credibility as a public official.

Fourth, the element of protecting the parties' interests is not merely formal but substantive. A notary's duty extends beyond recording the will of the parties; they are also obliged to ensure that the parties fully understand the legal consequences of the PPJB's contents. This obligation relates to the doctrine of *informed consent* in civil transactions; its breach may give rise to claims that the deed was executed without valid consent.¹⁸ This protective element also has a strong normative foundation. Article 16, paragraph (1), letter m of the UUJN obliges the notary to read the deed aloud and explain its contents to the parties, ensuring they understand and consciously approve the deed's provisions. Failure to meet this obligation may result in the annulment of the deed on the grounds of defective consent (*wilsgebrek*) as stipulated in Articles 1321–1322 of the Civil Code.

Fifth, the element of moral and ethical accountability binds the notary to uphold honesty, integrity, and professionalism. The notarial code of ethics underscores that every deed drafted is not merely a legal document but also a representation of public trust in the notarial institution. In PPJB disputes, ethical breaches often serve as a gateway to determining that the

¹⁶ Elisabeth Ayustina Putri Korassa Sonbai, Ni Luh Made Mahendrawati, and Ida Bagus Agung Putra Santika, "Qualification of The Prudence Principle of Notary on Implementing The Position Based on Act of Notary Position," *NOTARIIL Jurnal Kenotariatan* 7.1 (2022): 32-38. <<https://doi.org/10.22225/jn.7.1.2022.32-38>>.

¹⁷ Amalia Kamila, and Rasji Rasji, "Legal Implications of The Notary's Position in Relation to Conflict of Interest Involving Client," *Law Development Journal* 7.2: 313-326. <<http://dx.doi.org/10.30659/ldj.7.2.313-326>>.

¹⁸ Munjayanah Dwi Harviah, Irwan Santosa, and Iskandar Muda, "The Notary's Moral Responsibility to Provide Legal Counselling to the Parties in Making the Sale and Purchase Deed," *Jurnal Info Sains: Informatika dan Sains* 14.01 (2024): 101-116. Retrieved from: <https://ejournal.seaninstitute.or.id/index.php/InfoSains/article/view/3793>.

notary has been negligent or has abused their authority.¹⁹ The moral and ethical accountability element draws normative legitimacy from the Notarial Code of Ethics issued by the Indonesian Notary Association (INI). Although not a statute, this code is internally binding upon all notaries and serves as a standard for assessing professional conduct. Violations of the code of ethics may result in organisational sanctions that, reputational, can undermine public trust and serve as a basis for the notary's disciplinary review by the notarial honour council.²⁰ From a normative perspective, PPJB disputes involving notaries generally fall into three categories of violations: (1) administrative breaches under the UUJN, (2) civil breaches through negligence or unlawful acts, and (3) criminal breaches where intentional wrongdoing or falsification is involved. This classification demonstrates that a notary's responsibility is multifaceted and must encompass compliance with all aspects of positive law, adherence to the prudential principle, and maintenance of moral integrity.

In conclusion, the professional responsibility of a notary in PPJB cases that lead to disputes involves compliance with positive law, prudence, neutrality, protection of the parties' interests, and ethical observance. Disputes often arise from failure to fulfil one or more of these elements. Thus, strengthening the understanding and application of these five elements serves as both a preventive and corrective measure for notaries, minimising dispute risks and preserving public trust in the office they hold.

Mechanism for Proving Causal Relationship Between a Notary's Actions and the Parties' Losses

Proving the causal relationship (*causal verband*) between a notary's actions and losses suffered by the parties constitutes the core of legal liability in disputes involving authentic deeds,²¹ including the Sale and Purchase Agreement Binding Contract (PPJB). Causality is the logical and juridical bridge that the plaintiff must construct to demonstrate that the loss incurred is the direct result of the notary's act or omission. Under Indonesian civil law, such proof is grounded in Article 1865 of the Civil Code, which stipulates that "whoever asserts a fact must prove it," and in Article 1365 of the Civil Code, which serves as the legal basis for claims for compensation arising from unlawful acts.

From an academic perspective, the mechanism for proving causality may be analysed into three main elements: the notary's act, the loss, and the direct connection between them. The notary's act may take the form of an active conduct, such as drafting a deed containing data or statements that have not been properly verified or a passive omission, namely, the failure to fulfil the duty of prudence and document verification. Loss may include material damages,

¹⁹ I. Gusti Ayu Widya Chandra, and I. Wayan Novy Purwanto, "The Role And Responsibilities of A Notary In Public Services Based on Professional Ethic Morals and Law," *Journal of Law, Politics and Humanities* 4.6 (2024): 1937-1945. <<https://doi.org/10.38035/jlph.v4i6.601>>.

²⁰ Ong Argo Victoria, Ade Riusma Ariyana, and Devina Arifani, "Code of Ethics and Position of Notary in Indonesia," *Sultan Agung Notary Law Review* 2.4 (2020): 397-407. <<http://dx.doi.org/10.30659/sanlar.2.4.397-407>>.

²¹ Wa Ode Rahmi Utarid, "Legal Consequence Towards an Authentic Act that was not Ready by Notary and not Signed Jointly by the Parties Based on Law of Notary," *International Journal of Latin Notary* 4.1 (2023). <<https://doi.org/10.61968/journal.v4i1.57>>.

such as loss of ownership rights or financial harm resulting from the nullification of the agreement, as well as immaterial damages affecting reputation or legal certainty.²²

Normatively, the proof of causality often refers to the *conditio sine qua non* doctrine, which holds that an act is deemed to be the cause of the loss if, without such an act, the loss would not have occurred.²³ In the context of a PPJB, for instance, if a notary fails to verify the land's legal status and it later turns out that the object of sale is still subject to dispute, such negligence may be regarded as an inseparable cause of the buyer's loss. However, courts do not stop at this doctrine; they also apply the *adequate veroorzaking* doctrine or the doctrine of adequate cause, which determines whether the loss was a reasonably foreseeable consequence from the notary's perspective.

Evidence used to establish the causal link includes the deed itself as authentic evidence (Article 1868 of the Civil Code), witness testimony, expert testimony, correspondence, and admissions by the parties.²⁴ In practice, expert opinions in notarial practice are often required to assess whether the notary's conduct met professional standards and legal requirements. This is crucial because causality is not merely a matter of fact; it must also be assessed against applicable professional standards.²⁵ The process of proof also involves testing for *proximate cause*, the nearest cause that has a direct connection to the loss, rather than a cause that is too remote.²⁶ This becomes relevant when third-party intervention or subsequent events occur after the deed is made. In such cases, proof must show that the notary's conduct had a significant, uninterrupted contribution to the chain of events leading to the loss.²⁷

In resolving disputes involving notaries, courts generally adopt a combined approach between *factual causation* and *legal causation*.²⁸ Factual causation focuses on the chronological sequence of events, whereas legal causation considers legal norms, statutory duties, and the reasonableness of the cause-and-effect relationship. This combination ensures

²² Yuli Endah Wardantik and Wahyu Prawesthi, "Legal Liability for Notaries Due to the Issuance of Authentic Deeds Resulting in State Losses," *Srawung: Journal Of Social Sciences And Humanities* (2023): 23-38. <<https://doi.org/10.56943/jssh.v2i1.264>>.

²³ C. J. Visser, and Christin Kennedy-Good, "The Emergence of a 'flexible' *Conditio Sine Qua Non* test to Factual Causation? *Lee v Minister of Correctional Services* 2013 (2) SA 144 (CC): Cases," *Obiter* 36.1 (2015): 150-163. <<https://doi.org/10.17159/obiter.v36i1.11680>>.

²⁴ Mei Elfriana Saragih and Benny Djaja, "Review of the Authorities of the Notary Office and the Legal Consequences for Making Authentic Deeds Against the Law," *Edunity: Social and Educational Studies* 2.10 (2023): 1096-1113. <<https://doi.org/10.57096/edunity.v2i10.119>>.

²⁵ Lavinia-Mihaela Vlădilă, et al., "Digital Versus Traditional Instruments in the Practice of Legal Professions: An Overview of the Lawyer and Public Notary Professions," *2025 17th International Conference on Electronics, Computers and Artificial Intelligence (ECAI)*. IEEE, 2025. <<https://doi.org/10.1109/ECAI65401.2025.11095496>>.

²⁶ Joshua Knobe, and Scott Shapiro, "Proximate Cause Explained," *The University of Chicago Law Review* 88.1 (2021): 165-236. Retrieved from: <https://lawreview.uchicago.edu/print-archive/proximate-cause-explained-essay-experimental-jurisprudence>.

²⁷ Deviana Yuanitasari, "The Role of Public Notary in Providing Legal Protection on Standard Contracts for Indonesian Consumers," *Sriwijaya Law Review* (2017): 179-189. <<https://doi.org/10.28946/slrev.Vol1.Iss2.43.pp179-190>>.

²⁸ Mykola Logvynenko and Svitlana Taran, "Mediation in the Notary: Harmonious Resolution of Legal Disputes," *Scientific Journal of Polonia University* 62.1 (2024): 182-187. <<https://doi.org/10.23856/6224>>

that not every administrative error automatically leads to liability for damages, but only those that, as a matter of law, can be regarded as the cause of the loss.²⁹

Accordingly, the mechanism for proving causality in PPJB disputes involving notaries requires layered proof: first, demonstrating that the notary committed an act or omission in breach of legal obligations; second, showing that the party concerned suffered actual loss; and third, constructing a logical–juridical bridge linking the notary's act as the principal cause of such loss. This mechanism rests not only on cause–and–effect logic but also on juridical assessment of the appropriateness of the relationship within the framework of professional responsibility.

A real case reported by *Media Hukum Indonesia* involved a dispute in which a notary executed a PPJB and subsequently issued a Deed of Sale and Purchase (AJB) for two different clients, both claiming the same parcel of land. The notary nonetheless issued the AJB despite the pre-existing PPJB—breaching Article 38 of the UUJN, which prohibits notaries from producing deeds with legal defects. This conduct was deemed an unlawful act under Article 1365 of the Civil Code, as it created dual legal certainty over land ownership and triggered a dispute between the parties. In this instance, the causal link between the notary's conduct and the buyer's loss was clear: the issuance of two deeds for the same object directly caused the dispute and legal uncertainty.³⁰

In another case, the Supreme Court annulled PPJB Number 21 (15 June 2009) because the land in question had been sold by a party without legal entitlement, referring to *swapraja* land that had become state property under the 1960 Basic Agrarian Law (*UUPA*). The court found that the notary failed to ascertain the land's legal status, rendering the PPJB null and void. Consequently, the seller was ordered to refund all payments made. Here, the causal link was established: the notary's negligence in verifying the land's legal status caused the deed's nullification and the buyer's financial loss.³¹

A third example is drawn from the Yogyakarta High Court decision (No. 34/Pdt/2017/PT YYK), in which a notary authorised a PPJB together with a deed of power of attorney to sell, within the context of a debt–credit relationship. The transaction, however, involved *misbruik van omstandigheden* (abuse of circumstances), where the buyer exploited the seller's economically distressed position. The deed was not based on a genuine sale intention but on taking advantage of financial hardship. Consequently, the court annulled both the PPJB and the power of attorney, ordered the return of the certificate to the rightful party, and held the notary civilly liable, including the payment of daily coercive fines (*dwangsom*) for failure to comply with the judgment. The causal relationship was again evident: the notary's issuance of the deed without considering the debt–credit context was the cause of loss and the annulment.³²

²⁹ Meike Krakau, “Factual Causation,” *Causation in National and International Climate Change Litigation*. Cham: Springer Nature Switzerland, 2025. 135-260. < https://doi.org/10.1007/978-3-031-74693-2_4>.

³⁰ Rizqi Akbar Kurniawan, “Tanggung Jawab Notaris Terhadap Terbitnya Akta Jual Beli Tanah dan PPJB Terhadap Dua Klien Dengan Objek Yang Sama (Analisis Putusan Nomor 3/Pdt. G/2024/PN SPG),” *Media Hukum Indonesia (MHI)* 3.1 (2025). < <https://doi.org/10.5281/zenodo.14620231>>.

³¹ Zulfikar Husni Maulana, “Pembatalan Akta Perjanjian Pengikatan Jual Beli Berdasarkan Putusan Pengadilan (Studi Kasus Putusan Mahkamah Agung Dengan Nomor 4267/K/Pdt/2022),” *Jurnal Akta Notaris*, 3.2 (2024): 249-258. < <https://doi.org/10.56444/aktanotaris.v3i2.2208>>.

³² Olyvia Christiyana Putri dan Ninik Darmini, *Tanggung Jawab Notaris terhadap Pengikatan Jual Beli dan Akta Kuasa Menjual Berdasarkan Hubungan Hukum Utang Piutang yang Dibatalkan Dalam Putusan Pengadilan*

These three cases demonstrate that a notary's failure to perform legal obligations and to adhere to the principle of prudence is directly correlated with the losses suffered by the parties, thereby establishing causation from both *factual* and *legal* perspectives. In the first case, the double deed for the same land directly created legal uncertainty and triggered ownership disputes. In the second, the notary's negligence in verifying the status of *the swapraja* land resulted in the nullification of the agreement and financial loss to the buyer. In the third, the authorisation of a PPJB and power of attorney in a debt–credit context violated the principles of neutrality and protection of weaker parties, leading to annulment and liability for damages.

From an academic standpoint, these cases affirm that causality in disputes involving notaries is assessed not only in terms of the chronological link between act and consequence but also in terms of the legal appropriateness of the causal connection under applicable norms and professional standards. The *conditio sine qua non* principle ensures that the notary's act or omission is an essential precondition for the loss, while the doctrine of adequate cause limits liability to consequences that the notary, as a public official, could reasonably have foreseen. This analysis underscores the necessity of applying a dual causality test, factual and juridical, so that notaries are not subjected to excessive liability, while still ensuring the effective protection of legal certainty and substantive justice. Table 1 is an analytical table presenting the legal doctrines and principles explained above.

Table 1: Doctrines of Causality and Their Application in PPJB Notarial Disputes

Legal Doctrine / Principle	Application in Case Examples
Conditio sine qua non (“But-for” cause)	Case 1 – Double Deed Issuance: Without the notary's act of issuing an AJB despite a pre-existing PPJB for the same land, the ownership dispute would not have arisen. Case 2 – Swapraja Land: Without the notary's omission in verifying land status, the PPJB would not have been nullified. Case 3 – Debt–Credit Context: Without the notary authorising the PPJB and power of attorney in the context of financial distress, the annulment and damages would not have occurred.
Adequate Cause (Reasonably foreseeable consequence)	Case 1: It is reasonably foreseeable that issuing two deeds for the same land would cause legal uncertainty and disputes. Case 2: A competent notary should reasonably foresee that selling state-owned (swapraja) land without verification would result in nullification and loss. Case 3: Authorising a PPJB in a situation of economic duress could cause injustice and eventual annulment.
Proximate Cause (Direct and uninterrupted cause)	Case 1: The double deed was the immediate, uninterrupted cause of the dispute, without any intervening event. Case 2: The direct cause of nullification was the notary's failure to verify ownership status; no independent event broke the causal chain. Case 3: The immediate cause of loss was the deed issuance under <i>misbruik van omstandigheden</i> , not a remote or unrelated factor.
Dual Causality Test (Factual + Legal Causation)	Case 1: Factual causation proven by sequence of acts; legal causation established through breach of Article 38 UUJN. Case 2: Factual causation in the verification omission; legal causation through breach of duty under Article 16 UUJN and PPJB annulment rules. Case 3: Factual causation from the act of authorisation; legal causation based on the violation of neutrality and protection principles.

Source: Author's Analysis of Legal Materials, 2025.

Table 1 demonstrates how key causation doctrines, *conditio sine qua non*, adequate cause, proximate cause, and the dual causality test, are applied in PPJB-related notarial disputes. The *conditio sine qua non* principle identifies the notary's act or omission as an essential precondition for the loss, showing that the harm would not have occurred "but for" the notary's conduct. Adequate cause narrows this connection by asking whether the loss was a reasonably foreseeable consequence from the perspective of a prudent notary. In the three case examples, the foreseeable nature of ownership disputes, the nullification of agreements, and the injustice arising from economic duress confirm that the causal relationship is both factual and within the scope of professional anticipation.

Proximate cause and the dual causality test refine this analysis by focusing on immediacy and legal relevance. Proximate cause ensures that liability is limited to direct and uninterrupted causes, excluding remote or incidental factors. The dual causality test integrates factual chronology with breaches of specific legal obligations under the UUJN, the Indonesian Civil Code, and professional ethics, ensuring that liability is both factually and normatively grounded. This layered approach prevents excessive liability while safeguarding legal certainty and protecting parties from foreseeable, direct harm caused by a notary's actions or negligence.

Forms and Types of Sanctions That May Be Imposed on Notaries Proportionally

The principle of proportionality in imposing sanctions on notaries is a fundamental safeguard ensuring that each violation is addressed in accordance with the degree of fault, the impact caused, and the specific legal obligations breached.³³ In the context of the notarial profession, the normative framework for sanctioning is layered, as regulated in Law No. 2 of 2014 amending Law No. 30 of 2004 on the Office of the Notary (*UUJN*), the Notary Code of Ethics issued by the Indonesian Notary Association (INI), as well as the generally applicable provisions of civil and criminal law. A proportional approach aims to maintain a balance between professional guidance and the protection of public interest, while avoiding excessive criminalisation of mere administrative or procedural errors.³⁴

Under Article 85 of the *UUJN*, administrative sanctions may be imposed on notaries who violate provisions governing the performance of their office. These sanctions are tiered, ranging from verbal warnings and written warnings to temporary suspension and dismissal with or without honour. The principle of proportionality is reflected in the escalation of sanctions according to the gravity of the violation; for instance, minor infractions, such as administrative negligence without significant legal consequences, may merit only a warning, whereas serious breaches, such as the preparation of fictitious deeds, may result in dismissal without honour.

In addition to administrative sanctions, the Notary Code of Ethics provides for ethical sanctions, which include warnings, reprimands, *schorsing* (temporary suspension from INI membership), and permanent expulsion from membership. Ethical sanctions are designed to restore professional integrity and reputation, rather than serving purely punitive purposes. In practice, the Notary Honorary Council plays a pivotal role in ensuring that ethical sanctions are

³³ Ghaida Nabilah, "Implementation of Independence Principles in Running Notary Profession," *Authentica* 5.1 (2022): 1-15. <<https://doi.org/10.20884/1.atc.2022.5.1.164>>.

³⁴ Benjamin J. Goold, Liora Lazarus, and Gabriel Swiney, "Public Protection, Proportionality, and the Search for Balance," *Ministry of Justice Research Series* 10.07 (2007). <<http://ssrn.com/abstract=2022365>>.

imposed objectively and without discrimination, thereby safeguarding the principle of proportionality.³⁵

Where the notary's actions constitute an unlawful act or a criminal offence, civil and criminal sanctions may be applied.³⁶ In the civil domain, Article 1365 of the Indonesian Civil Code serves as the basis for claims for damages when a notary's act or omission causes harm to another party.³⁷ In the criminal domain, Article 266 of the Indonesian Penal Code (*KUHP*) may apply when a notary intentionally includes false statements in an authentic deed. The application of criminal sanctions must observe the *ultimum remedium* principle, meaning that criminal law should be used only as a last resort where administrative or ethical sanctions are insufficient to remedy the harm or uphold legal certainty.³⁸

From an academic perspective, the proportional imposition of sanctions on notaries requires assessment based on three criteria: (1) *actus reus*, or the specific form of violation committed; (2) *mens rea*, or the degree of intent or negligence; and (3) the tangible impact on the parties' interests and legal certainty. A proportional sanctioning model also requires coordination between the Notary Supervisory Council, the Notary Honorary Council, and the judiciary to avoid overlap or disparity in decisions. This approach affirms that sanctions serve not only as an instrument of legal enforcement but also as a means to uphold the dignity of the notarial profession and safeguard public trust.

In the Indonesian legal system, sanctions against notaries are primarily regulated by Law No. 30 of 2004 concerning the Position of Notary (UUJN), as amended by Law No. 2 of 2014, alongside provisions in the Indonesian Civil Code, the Criminal Code, and other relevant laws. These sanctions are imposed proportionally, meaning they must correspond to the nature, severity, and consequences of the notary's violation, as well as the level of culpability. The principle of proportionality ensures fairness while upholding the integrity of the notarial profession and public trust. From a scientific and legal perspective, the sanctions applicable to notaries in Indonesia can be classified into administrative sanctions, civil liability, and criminal sanctions, each with distinct consequences.

Administrative sanctions are imposed for breaches of notarial ethics, procedural requirements, or administrative obligations under the UUJN. They include written warnings, temporary suspension from duties, dismissal with honour, or dismissal without honour. The degree of administrative sanction depends on factors such as the repetition of violations, the impact on the public, and whether the conduct undermines the notary's authority. The Notary Supervisory Council often recommends administrative sanctions following an examination process.

³⁵ Ahmad Yani, "The Authority of the Honorary Council of the Indonesian Notary Association in Imposing Sanctions for Violation of the Notary's Code of Ethics," *Veteran Law Review* 4.1 (2021): 1-13. <<https://doi.org/10.35586/velrev.v4i1.2696>>.

³⁶ Dwi Rossulianti, Yoyok Ucuk, and Wahyu Prawesthi, "Criminal Liability of Notary in Criminal Act Committed by Notary Signing Agent," *YURIS: Journal of Court and Justice* (2023): 54-65. <<https://doi.org/10.56943/jcj.v2i1.258>>.

³⁷ Azmi Ansyari, et al., "Analysing Subjective Defects in a Civil Tortious Lawsuit: Inconsistencies between Posita and Petitum in the Control Assumption of the Testator's Estate (Case No. 415/Pdt. G/2022/PN. Jkt. Brt)," *Unnes Law Journal* 9.2 (2023): 333-356. <<https://doi.org/10.15294/ulj.v9i2.75576>>.

³⁸ Moses Nathanael, and Gunawan Djajaputra, "The Authentic Deed that is Degraded due to False Information," *Law Development Journal* 7.1: 71-81. <<http://dx.doi.org/10.30659/ldj.7.1.71-81>>.

Civil liability arises when a notary's unlawful act or negligence causes losses to parties involved in a legal transaction. Under Article 1365 of the Civil Code (*onrechtmatige daad*), the notary may be required to provide compensation for material or immaterial damages. The proportionality principle in civil sanctions is reflected in the amount and scope of compensation, which must correspond to the proven losses and causal relationship between the notary's act and the harm.

Criminal sanctions apply if a notary's actions constitute a criminal offence, such as falsification of documents (Article 263 of the Criminal Code), abuse of authority, or bribery. Criminal penalties may include imprisonment and fines. The severity of the offence guides the proportional imposition of these sanctions, the presence of intent, and the extent of harm caused to legal certainty and public trust. In practice, these three forms of sanctions can overlap; for example, a notary who falsifies a deed may simultaneously face administrative dismissal, civil claims from injured parties, and criminal prosecution. The proportionality principle functions as a safeguard against excessive punishment, ensuring that the sanction reflects the actual gravity of the misconduct, upholds legal certainty, and deters future violations without undermining the legitimate exercise of the notarial office.

Notaries occupy a unique position in the legal system, entrusted with certifying acts, authenticating documents, and safeguarding the legal certainty of transactions. Because their work affects both private rights and public trust, legal systems impose sanctions when a notary fails to meet professional and statutory obligations.³⁹ These sanctions exist not only to punish wrongdoing but also to protect the public, deter misconduct, and uphold confidence in the office. The guiding principle in determining an appropriate response is proportionality: the sanction should be no more severe than necessary to address the harm, culpability, and risk involved.⁴⁰ In practice, sanctions take many forms, ranging from mild corrective measures to the most severe professional and criminal consequences.⁴¹ At the lower end, minor lapses such as isolated administrative errors or delays may result in a private warning, a letter of admonition, or mandatory remedial training. These measures aim at rehabilitation rather than punishment. When negligence causes tangible harm or breaches procedural duties, authorities may impose public reprimands, moderate fines, or conditions on practice, such as supervision or restriction to certain types of acts.

More serious misconduct, particularly acts of substantial negligence or repeated breaches, may lead to suspension from office for a defined period, combined with restitution to affected parties.⁴² At the highest level of severity, intentional fraud, forgery, embezzlement, or conduct

³⁹ David López Jiménez, Eduardo Carlos Dittmar, and Jenny Patricia Vargas Portillo, "The Trusted Third Party or Digital Notary in Spain: Effect on Virtual Transactions," *International Review of Law, Computers & Technology* 36.3 (2022): 453-469. <<https://doi.org/10.1080/13600869.2021.2004760>>.

⁴⁰ Bryan R. Early, "Making Sanctions Work: Promoting Compliance, Punishing Violations, and Discouraging Sanctions Busting," *Research Handbook on Economic Sanctions*. Edward Elgar Publishing, 2021. 167-186. <<https://doi.org/10.4337/9781839102721.00015>>.

⁴¹ Patrice Villettaz, Gwladys Gillieron, and Martin Killias, "The Effects on re-offending of Custodial vs. non-custodial Sanctions: An Updated Systematic Review of the State of Knowledge," *Campbell Systematic Reviews* 11.1 (2015): 1-92. <<https://doi.org/10.4073/csr.2015.1>>.

⁴² Matt C. Hersel, et al., "The Corrective Actions Organisations Pursue Following Misconduct: A Review and Research Agenda," *Academy of Management Annals* 13.2 (2019): 547-585. <<https://doi.org/10.5465/annals.2017.0090>>.

undermining the core trust in the notarial role can trigger permanent revocation of commission, criminal prosecution, and liability for damages. Such cases often also entail reputational sanctions, including public disclosure of disciplinary findings and removal from professional registers.

In some situations, regulators may adopt interim measures before a final decision, such as an emergency temporary suspension if the notary's continued practice poses immediate danger to the public. These precautionary measures must be tightly limited in duration and subject to review to prevent disproportionate harm to the notary's rights.

Ensuring proportionality in sanctions involves a structured assessment of key factors: the extent of harm caused, the notary's degree of culpability or intent, any prior history of misconduct, and the presence of mitigating circumstances such as cooperation, immediate corrective action, or voluntary restitution. Weighing these variables allows regulators to match the response to the case's true gravity, ensuring consistency across similar situations.

Fairness in the sanctioning process requires strict adherence to procedural safeguards. The notary must receive clear notice of the allegations, be allowed to present evidence and arguments, and have access to representation. Decisions should be based on an appropriate standard of proof, often "preponderance of evidence" or "clear and convincing evidence" in administrative contexts, and "beyond a reasonable doubt" in criminal proceedings. Written reasons should explain why a particular sanction is proportionate, and decisions should be open to appeal before an independent authority.

When implemented with transparency, consistency, and a preference for remedial over punitive measures in lesser cases, proportional sanctions help preserve both the dignity of the notarial profession and the rights of the public it serves. A well-designed system recognises that not every fault is fraud, yet also that public trust cannot survive without decisive action against grave breaches. By calibrating sanctions to the facts, regulators achieve a balance between justice for the individual and protection for the community.

Table 2: Classification of Violations and Proportional Sanctions for Notaries
(Based on UUJN, the Indonesian Civil Code, the Indonesian Penal Code, and the Notary Code of Ethics).

Classification	Example of Conduct	Legal Basis	Type of Sanction	Form of Sanction	Proportionality Remarks
Minor	Typographical errors in non-substantive data; delay in registering the minutes of the deed; failure to attend summons by the Supervisory Council without a valid reason	Article 85(a) UUJN; Notary Code of Ethics	Administrative / Ethical	Oral or written warning	Causes no direct harm; the sanction is corrective in nature
Moderate	Failure to read the deed in the presence of appearers; negligence in verifying document validity with potential to cause disputes; violation of ethical rules in service marketing	Article 16(1) UUJN; Article 85(b-c) UUJN; Notary Code of Ethics	Administrative / Ethical	Written warning; suspension (schorsing) of INI membership; temporary dismissal	Potential harm exists but is remediable; the sanction aims to prevent recurrence

Serious	Drafting a deed without the parties' presence (in absentia); forging signatures or documents; preparing a deed for an object currently in a court dispute	Article UUJN; Articles 264 and 266 KUHP; Article 1365 KUHP	38 264 266 1365	Administrative / Civil / Ethical / Criminal	Temporary or permanent dismissal; civil damages; revocation of INI membership	Actual and significant harm; direct causal link between the notary's act and the damage
Very Serious	Intentionally inserting false statements into a deed; involvement in fraud or embezzlement; facilitating a criminal offence through official capacity.	Article KUHP; Articles 55–56 KUHP; Article 85(d) UUJN	266 55–56 85(d)	Administrative / Civil / Criminal	Dismissal without honour; imprisonment; fines; full compensation	Severe harm, breach of professional integrity, broad impact on public trust

Source: *Author's Analysis of Legal Materials, 2025.*

Table 2 demonstrates that the imposition of sanctions on notaries must be grounded in the principle of proportionality, namely, the alignment between the degree of violation, the nature of the misconduct, and the impact caused. Violations are classified into four levels: minor, moderate, serious, and very serious, each carrying distinct legal consequences, ranging from administrative warnings to imprisonment and dismissal without honour. The gradation of these violations is determined not only by the nature of the act (*actus reus*) but also by the degree of intent (*mens rea*) and the causal link to the harm suffered by other parties.

The sanctioning process involves various institutions depending on the type of violation, from the Regional Supervisory Council to law enforcement authorities such as the police and the courts. This reflects a clear division of authority among administrative, ethical, civil, and criminal domains. Through this mechanism, the professional oversight system for notaries serves not only to safeguard legal certainty and the integrity of the office but also to ensure that sanctions imposed are fair, measured, and not excessive.

CONCLUSION

Based on the foregoing analysis, it can be concluded that the professional responsibility of a notary in drafting a Sale and Purchase Agreement Binding Deed (PPJB) that subsequently becomes the subject of a dispute is complex and multidimensional. It encompasses compliance with positive law, the application of prudence, neutrality, the protection of the parties' interests, and the upholding of moral integrity and professional ethics. Each of these elements has a clear normative basis in the Notary Office Act (UUJN), the Indonesian Civil Code, the Indonesian Penal Code, and the Notary Code of Ethics. Breaches of these provisions may give rise to administrative, civil, or criminal liability. Disputes arising in practice show that a notary's negligence, whether in verifying the legal status of the object or in ensuring the validity of the agreement, bears a demonstrable causal relationship to the harm suffered by the parties concerned, as tested through both factual and legal causation approaches.

The application of the proportionality principle in sanctioning is essential to maintaining a balance between upholding the integrity of the profession and protecting the public interest. Classifying violations into minor, moderate, serious, and very serious categories, with sanctions proportionate to the degree of fault and its impact, provides an objective framework that minimises disparities in decisions and prevents excessive criminalisation of administrative errors. This model affirms that any form of misconduct must be assessed not only by the nature

of the act (*actus reus*) but also by the degree of intent (*mens rea*) and the causal link to the harm caused to others. From an academic perspective, this study highlights the urgent need to strengthen the supervisory mechanisms of the notarial profession through synergistic coordination among the Notary Supervisory Council, the Notary Honorary Council, and the judiciary, thereby ensuring that enforcement proceedings against notaries are transparent, objective, and consistent. Furthermore, enhancing notaries' capacity through continuous education, particularly in verifying the legal status of contractual objects, applying the principle of prudence, and mitigating dispute risks, constitutes a strategic step toward reinforcing legal protection for the parties while preserving public trust. From a practical standpoint, it is recommended that notaries integrate comprehensive legal due diligence into every PPJB drafting process, including direct verification with the land office and ensuring that there are no legal impediments or disputes affecting the object. Notaries should also prioritise neutrality and guarantee that all parties fully understand the contents of the deed through a transparent process of reading and explanation. Institutionally, professional organisations such as the Indonesian Notary Association (INI) should strengthen their ethical oversight role with an effective internal reporting and sanctioning system. At the same time, policymakers may consider revising or adding provisions to the UUJN to clarify the boundaries of notarial professional responsibility in the PPJB context. In this way, the PPJB can return to its intended function as an effective legal protection instrument, rather than becoming a source of disputes that undermine the dignity of the notarial profession and legal certainty in society.

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