

**SYARAT KEHADIRAN PARA PIHAK SERTA AKIBATNYA BAGI
NOTARIS DALAM PEMBUATAN AKTA BERITA
ACARA PEMBETULAN**

INTISARI

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Penelitian ini bertujuan untuk mengkaji arti penting hadirnya para pihak dalam pembuatan Akta Berita Acara Pembetulan berdasarkan Undang-Undang Jabatan Notaris yang baru dan akibat hukum dari tidak dipenuhinya syarat kehadiran para pihak dalam pembuatan Akta Berita Acara Pembetulan. Jenis penelitian menggunakan normatif empiris dengan data sekunder bersumber dari bahan hukum primer, sekunder, dan tersier. Data sekunder diperoleh dari penelitian kepustakaan dengan metode dokumentasi dan alat pengumpulan data berupa studi dokumen. Data primer diperoleh langsung dari narasumber dan responden melalui wawancara dengan alat pengumpulan data berupa pedoman wawancara. Data yang diperoleh selanjutnya dianalisis dengan menggunakan metode kualitatif. Hasil penelitian menunjukkan bahwa syarat kehadiran para pihak diperlukan agar notaris terhindar dari segala macam bentuk tuntutan, jika suatu saat ada gugatan atau komplain dari masyarakat ketika ada perbedaan antara minuta dan salinan. Akta Berita Acara Pembetulan yang dibuat dengan tidak memenuhi syarat kehadiran para pihak maka akan turun menjadi akta dibawah tangan dan dapat dituntut ganti kerugian, biaya, dan bunga jika akta itu dipermasalahkan oleh para pihak, namun hal itu harus ditentukan dengan putusan pengadilan. Oleh karena itu, perubahan ini dimaksudkan untuk lebih menegaskan dan memantapkan tugas, fungsi, dan kewenangan notaris sebagai pejabat yang menjalankan pelayanan publik sehingga lebih menjamin perlindungan dan kepastian hukum bagi masyarakat, serta perlindungan bagi notaris. Suatu akta otentik yang turun menjadi akta dibawah tangan sebenarnya mempunyai kekuatan pembuktian yang sah selama tidak disangkal oleh para pihak. Berdasarkan hasil penelitian tersebut, diperlukan adanya penjelasan dalam Pasal 51 mengenai bentuk kesalahan ketik/tulis yang membutuhkan Akta Berita Acara Pembetulan. Notaris juga diharapkan lebih teliti dalam melaksanakan jabatannya membuat akta agar tidak terjadi kesalahan ketik/tulis dalam akta yang dibuatnya.

Kata Kunci: kehadiran para pihak, notaris, Akta Berita Acara Pembetulan.

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Terms for the Presence of all Parties and the Position of the Notary in the Lawful Correction of Official Certificates

Abstract

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This research has the intention of investigating the important presence of all parties in The Lawful Correction of Official Certificates, based in the official workings of a Notary, and the legal consequences resulting from unfulfillment of the requirement to bring all parties into the presence of a notary during the Lawful Correction of Official Certificates. This kind of research uses the empirical normative with secondary data based in primary, secondary, and tertiary law materials. Secondary data was acquired from library research using the method of written documetation and data-collecting tools in the form of study documents. Primary data was acquired directly from resource persons and respondents through the process of interviews, using interview guides as data-collecting tools. Further data was analyzed using qualitative methods. The result of the resarch shows that the requirment for all parties to be present in the process of correcting official certificates and reports is critical in protecting the notary from all forms of unnecessary prosecutions, especially if there are accusations or complaints from the public when an incongruency arises between official/valid certificates and what is written on the certificate copies. Certificate corrections made without full compliance with the requirement to bring all parties into the presence of a notary can otherwise manifest in transactions done underhandedly, and these unlawful transactions result in prosecution, loss, and expenses. These prosecutions may arise if the law is problemetized by all parties, and for this reason the correction of official reports and certificates must be in accordance with the law. Action must be taken to explicitly state and stabilize the work, functions, and authority of the notary as an offical who carries out public service, to the extent that the fulfilled regulations guarantee the protection and assurance of law on behalf of the public, and also assure the protection of the notary. An act of law transacted underhandedly actually can hold strong proof of validity as long as there is no protest by all parties. Based in the results of the research mentioned, what is needed is written clarification in article 51 of the Law on The Functioning of Notary concerning the potential mistakes that might occur in the Lawful Correction of Official Certificates. It is also hoped that Notaries will be more diligent in the process of carrying out their legal fuctions so that written mistakes less frequently occur.

Key Words: Presence of all parties, Notary, Lawful Correction of Official Certificates

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