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Research Article

## Legal Review of The Cancellation of Notary Deeds

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### Abstract

This study examines the legal consequences when a notarial deed is declared null and void or can be revoked by the court, and identifies the factors that lead to this condition. The study uses a normative legal method with a statutory , conceptual, and case (jurisprudential) approach. Primary and secondary legal materials are analyzed descriptively and qualitatively to map the differences between the concepts of ' null and void ' , ' can be revoked ' , and ' not legally enforceable ' , along with their implications for the evidentiary power of authentic deeds. The results of the study indicate that courts in practice more often declare deeds void than 'cancel' notarial deeds. The legal consequences are a decrease in the formal and material evidentiary power of the deed, as well as the possibility of civil liability for the notary if proven negligent in fulfilling the provisions of the Notary Law and the valid requirements for agreements in the Civil Code . Triggering factors that often arise include failure to fulfill the formal requirements for making a deed (reading in the presence of the parties, simultaneous presence and signing, witness identity), defective will (duress or error), failure to fulfill the elements of Article 1320 of the Civil Code, and disputes over the object of the agreement. Jurisprudential review, including Supreme Court Decision No. 1511 K/Pdt/2017, emphasizes the importance of notary caution in verifying the parties and procedural compliance. The implications of the research emphasize strengthening compliance with deed making procedures, documentation of the reading and signing process, and due diligence on documents and the capacity of the parties to minimize the risk of the deed losing its evidentiary power.

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### Introduction

A notarial deed is an authentic piece of evidence that holds a central place in civil law. In practice, notarial deeds are chosen by parties to provide certainty, order, and legal protection for an act or agreement. This special status arises from fulfilling the formal requirements strictly stipulated in the Notary Law (UUJN), implementing regulations, and the rules of evidentiary procedure. If these requirements are met, an authentic deed is fully valid and valid for all its formal statements.

However, judicial dynamics indicate that the validity and evidentiary power of notarial deeds are not always accepted without dispute. In a number of civil cases, parties challenge the validity of the deeds because they believe they contain formal or material defects, ranging from the procedure for reading and signing, the absence of parties or witnesses, to alleged defects in will when the agreement was made. In the realm of

doctrine and court decisions, a distinction has also developed between the terms "null and void," "can be canceled," and "not legally enforceable." All three have different consequences for the validity of the agreement and the evidentiary power of the deed. Confusion of terminology at the practical level often leads to misunderstandings in drafting the petition, assessing evidence, and defining the accountability of the parties involved, including notaries.

Conceptually, an agreement that fails to meet certain objective elements can be classified as null and void, while defects in subjective elements for example, due to duress, error, or fraud generally place the agreement in the voidable category as long as it is requested by the injured party. Furthermore, courts often use the term 'no legal force' when assessing that an authentic deed has lost or decreased its evidentiary power because the formal requirements for its creation have not been met. The practical consequences are significant: if the deed is no longer valuable as perfect evidence, the burden of proof shifts and the bargaining position of the parties in the dispute changes significantly.

Field reality shows a number of factors triggering disputes over notarial deeds. These include failure to read the deed in the presence of the parties, signing it at different times, failing to thoroughly verify the identities of witnesses or parties, and neglecting mandatory administrative procedures. Furthermore, there are cases where the object of the agreement itself is subject to ownership disputes or is burdened by third-party claims, creating uncertainty over the agreed performance. These conditions allow the court to assess the reliability of the deed and, at some point, declare it lacking the evidentiary force it should.

## **Hypothesis Development**

Based on the description above, there are at least two urgent research needs. First, the need to clarify the conceptual distinction and legal consequences between "null and void," "can be revoked," and "not legally binding" as applied in court decisions. Second, the need to map the factors that commonly trigger the reduction or loss of evidentiary power of authentic deeds, so that operational prudential standards and risk mitigation measures can be formulated for notaries in practice.

Thus, this study is expected to provide theoretical contributions in the form of conceptual clarification and practical contributions in the form of recommendations for procedural compliance steps that can be applied consistently. The results of the study are expected to be useful for notaries, advocates, academics, and parties who rely on authentic deeds in civil transactions, so that the role of deeds as an instrument of legal certainty can be maintained while minimizing the possibility of disputes in the future.

## **Method**

This research is a normative (doctrinal) legal study with a descriptive-analytical nature. The focus of the study is directed at positive norms, doctrines, and court decisions related to the status, evidentiary weight, and legal reasons why notarial deeds are deemed void or subject to revocation. The analysis is oriented towards 'law on the books,' not empirical research.

Several approaches are used in an integrated manner:

- 1) Statute approach, to interpret, inventory, and systematize regulations related to the legal requirements of agreements, civil evidence procedures, and provisions on the position of notary.
- 2) A conceptual approach, to clarify the distinction between the terms 'null and void', 'can be cancelled', and 'not legally binding', as well as their implications for the evidentiary power of the deed.
- 3) A case approach/jurisprudence approach examines the judge's reasoning (ratio decidendi) in relevant court decisions to map the required reasoning patterns and standards of prudence. The scope is limited to Indonesian notarial practice and civil law. The focus of the problem includes: (a) the conceptual differences and legal consequences of the three regimes of deed cancellation/reduction; (b) the factors causing a deed to lose its evidentiary weight; and (c) the implications of notary civil liability.

## Results and Discussion

The subjective elements of an agreement can be flawed due to coercion, error, or fraud. If proven, agreements set forth in a deed are generally subject to a "cancellable" regime upon request of the aggrieved party. Common practical indications include: physical/psychological pressure during signing, misrepresentation of material facts, or omission of explanations of important clauses that should have been provided to the parties. An agreement can be problematic if one party is legally incompetent (e.g., a minor or under guardianship) or lacks the authority to act (especially for legal entities). Invalid, revoked, or excessive powers of attorney are also common grounds for cancellation. For legal entities, discrepancies in the articles of association or the absence of necessary organ approval can weaken the deed.

From an objective perspective, the object of the agreement must be clear, tradable, and not contrary to law. The cause (causa) of the agreement must be lawful. Unclear specifications of the object, the object being in dispute, or prohibited causes (e.g., contrary to public order) can potentially lead to the conclusion that the agreement is null and void, which in turn affects the deed's fate.

In reciprocal agreements, the presence of a voidability clause or a provision requiring a judicial decision to cancel the agreement can be a basis for the court to declare the agreement void. Furthermore, serious deviations from the contract (material breach of contract) can trigger a lawsuit for cancellation based on the parties' agreement or statutory provisions. Clarity of the clause, payment schedule, and legal consequences for violations are crucial.

If the object of the agreement, such as a plot of land or a building, is in dispute, is subject to encumbrance, or has an uncertain legal status, the agreement outlined in the deed faces evidentiary obstacles. Furthermore, the practice of simulating agreements or the presence of parties acting without good faith can be grounds for the court to deem the deed does not reflect the actual situation. Notary negligence during the stages of identity verification, checking authority, or collecting supporting documents (certificates of rights, powers of attorney, approvals of related parties) is often qualified as a violation of the standard of care. If causally responsible for the occurrence of losses, such negligence can lead to the cancellation/downgrading of the deed and open up opportunities for civil/ethical liability.

The lack of supporting evidence of the deed-making process such as minutes of the reading, attendance lists, or signature times weakens the deed's standing in court. The lack of documentation makes it difficult to prove that formal procedures have been met.

**Table 1**  
**Factor – Impact – Mitigation Matrix**

<b>Factor</b>	<b>General Manifestations</b>	<b>Impact on the Deed</b>	<b>Mitigation Steps</b>
Formal violations	Not read; signature is not current; the witness was not present	The deed of weight loss; changes like a deed under hand	Reading & attendance protocol; witness checklist; time documentation
Defect of will	Coercion, error, deception	The agreement can be cancelled at the request of the injured party.	Explanation of clause; cooling-off; evidence of no pressure
Incompetence/incompetence	Underage parties; invalid power of attorney; AD/ART not fulfilled	Validity in doubt; potential for cancellation	Verification of capacity & authority; legal entity organ permit
Problematic object/causa	Unclear/disputed object; because it is forbidden	Void by law; the deed is also affected	Test the legality of the object; trace the dispute/registration status

Weak documentation	No proof of reading; attendance list incomplete	It is difficult to prove procedural compliance	Archive evidence of process; standard forms & minutes
Bad faith/simulation	Contract engineering; material information hidden	The deed does not reflect the actual situation	Independent clarification; due diligence on documents and facts

### Risk Indicators

- The parties do not understand the language of the deed and there is no official translator.
- Differences in identity data between KTP, KK, passport, or supporting documents.
- General power of attorney without specification of legal action or has been revoked.
- The object of the agreement is recorded in dispute, confiscation, or overlapping ownership.
- The core clauses (price, object, time period, cancellation conditions) are formulated ambiguously.
- There is no physical evidence of the reading of the deed and the presence of the parties at the same time.

The court assesses the validity of a deed based on a combination of formal compliance, the purity of the parties' intentions, the appropriateness of the object and cause, and the integrity of the overall process. Any weakness whether procedural or material can lead to cancellation or a reduction in the evidentiary weight. Mapping the above factors provides the basis for developing systematic preventive measures in notarial practice.

### Discussion

Decisions affecting the validity of a deed can impact third parties, particularly when the deed serves as the basis for the transfer of rights or the creation of a guarantee. Protection for third parties acting in good faith is typically assessed based on reasonable knowledge and due care. In some situations, the cancellation of an agreement does not necessarily undermine the protection of third parties acting in good faith who acquired rights through a legitimate publication mechanism; conversely, if collusion or bad faith is found, the third party's gains may be affected. When a deed is declared legally invalid as an authentic deed due to formal defects for example, it was not read aloud, the parties were absent at the signing, or the unclear identity of witnesses the weight of proof decreases. Parties who previously relied solely on the authentic deed are now required to present additional evidence (witnesses, other documents, instructions) to convince the judge. This shift has strategic implications for the opportunities for proof and the final outcome of the dispute.

If a deed is used as the basis for administrative action (for example, recording a transfer of rights or creating derivative documents), a decision declaring it null and void or voidable may prompt a review of the registration. Corrective measures are case-by-case, depending on the applicable administrative regime and the presence or absence of a good-faith third party.

As public officials, notaries have formal compliance obligations and standards of care. If the cancellation or impairment of a deed occurs due to the notary's negligence for example, failure to ensure a reading, the parties' failure to attend when required, or inadequate identity verification then civil liability may arise in the form of compensation to the injured party. Furthermore, violations of professional norms can result in administrative/ethical sanctions in accordance with professional regulations, and in extreme circumstances involving forgery or false statements, potential criminal liability can be assessed based on relevant evidence. The parties can take legal action in accordance with civil procedural law appeal, cassation, and judicial review if they disagree with the decision on the deed. In terms of recovery, a return to the original state, payment of compensation, or cancellation/improvement of administrative records can be requested. In a 'no legal force' regime, interested parties can reconstruct the evidence using other evidence or create a new deed after correcting any formal defects found. To minimize risks, the following steps can be implemented in notarial practice: (a) ensuring the reading of the deed and documentation of the process; (b) the proper attendance of the parties and witnesses and recording their times; (c) verification of identity and authority to act using authentic sources; (d) archiving of supporting evidence (power of attorney, proof of ownership, approval of related parties); (e) consistency of format, numbering of minutes, and protocols; (f) adequate explanation to the parties to prevent misunderstanding of clauses.

**Table 2**  
**Legal Consequence Matrix**

<b>Deed Status</b>	<b>Assessment Focus</b>	<b>Main Consequences</b>	<b>Recovery/Efforts</b>
null and void	Objective conditions are not met	Engagement is not born from the beginning; there is no basis for demanding performance	Restitution; compensation if there is PMH; correction of records if relevant
Can be canceled	Subjective defects (coercion/mistake/fraud)	The agreement is valid until there is a decision to cancel it.	Cancellation upon request of the injured party; restitution; ratification if chosen
Not legally binding	Formal defects of the deed (procedural)	The evidentiary weight of the deed has decreased; the agreement material requires other evidence.	Reconstruction of evidence; creation of a new deed after repairing defects

The legal consequences of the cancellation of a notarial deed in a court decision are not unique, but depend on the regime applied and the configuration of the facts of each case. A clear distinction between null and void, revocable, and void helps the parties, notaries, and judges develop evidentiary strategies, determine proportionate forms of redress, and maintain the integrity of notarial practice.

## Conclusion

A notarial deed, as an authentic deed, has full evidentiary force as long as it is drawn up by/before an authorized public official and complies with formal procedures. In judicial practice, the term "cancellation of deed" needs to be distinguished into three regimes: null and void, revocable, and void. This distinction determines the consequences for the validity of the agreement, the burden of proof, and the available remedies. Courts more often declare a deed "unenforceable" rather than explicitly "cancel" a notarial deed. The consequence focuses on reducing the evidentiary weight of the deed rather than automatically extinguishing the agreement. Conversely, under a nullity regime, the agreement is deemed never to have existed in the first place; whereas under a voidable regime, the agreement remains in effect until a decision is issued declaring its cancellation at the request of the entitled party. The consequences for the parties include restoration to the original state (restitutio in integrum) and/or compensation if a loss is proven. In a "no legal effect" regime, interested parties can still claim their rights but are required to re-formulate their proving strategy using other evidence. The decision can also have implications for administrative actions based on the deed (for example, correction of records) while taking into account the protection of good-faith third parties. The main triggering factors for the decline in the value of a deed include violations of formal requirements (reading, presence and signing at the same time, instrumental witnesses, minute protocol), defects in will (coercion, error, fraud), incompetence/lack of authority to act, problems with the object and cause of the agreement (ambiguity, dispute status, prohibited cause), weak documentation of the process, and the existence of bad faith or simulation of the agreement. Notary liability may arise if the deed's validity is reduced or lost due to negligence in complying with the provisions of the Notary Law and due care standards. The form of liability is primarily civil (compensation), but administrative/ethical sanctions are also possible. In extreme cases involving forgery or false statements, criminal prosecution may be relevant. The practical implications of this research emphasize the importance of strict procedural compliance, adequate identity and authority verification, process documentation (reading and signing), clarity of clauses, and due diligence on objects and documents. These steps are key to risk mitigation so that deeds remain valuable as a source of legal certainty in civil transactions.

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