

# Notarist Affairs Reviewed By Law And Notary

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### ABSTRACT

According to article 12 letter a of the Notary Law, notaries can be dishonorably dismissed because they have been declared bankrupt based on a court decision that has permanent legal force. This dishonorable dismissal is a treatment that is not in accordance with the concept of bankruptcy because the bankruptcy law itself regulates legal remedies to protect the interests of creditors as regulated in article 24 paragraph 1 of the Law on Bankruptcy. So there is a conflict between the two laws regarding the relevance of dismissal of a notary. This journal discusses whether the provisions in article 12 letter a of the Law of Notary do not conflict with Law on bankruptcy relating to the dismissal of a notary person who has been declared bankrupt by the Minister and. The purpose of this journal is to find out whether the provisions in article 12 letter a of the Law on Notary Position are not in conflict with Law on bankruptcy related to whether the notary can be dismissed from his position if he has been declared bankrupt by the court and the decision has permanent legal force. This journal uses the theory of legal certainty and theory of justice. This journal is a normative juridical study using a Legislative and Conceptual Approach. The result of the writing of this journal is that there is an inconsistency between the Law of Notary and Law on Bankruptcy because the purpose and spirit of the law are different and dismissal of a notary from his position is irrelevant when viewed from the theory of justice and legal certainty..

**Key word:** Notary bankruptcy, Notary dismissal, Law synchronized

## 1. INTRODUCTION

Based on the Constitution of the Republic of Indonesia Year 1945 (UUD 1945) Article 1 paragraph (3) before the amendment stated that "Indonesia is a State based on the State of law" while after the amendment is declared "The State of Indonesia is the State of law". Although the sound of the article is different, but in fact both have the same goal of making the State of Indonesia as a Legal State. What does the State of law itself mean? That the State of law in general is a State that upholds the supremacy and sovereignty of the law in the implementation of state activities to achieve the desired goals of all people (Alfina Fajrin, 2017).

That the State of Indonesia as a State of law (*rechstaat*) is not as a State of power (*machstaat*) where the law is based on the power of the government in office, but the state in which contained the understanding of the government's recognition of the principle of) bukanlah sebagai Negara kekuasaan (supremacy of law and constitution. The characteristics of the State of *rechstaat* are as follows:

1. The protection of human rights;
2. The separation and division of power in state institutions to ensure the protection of human rights;

3. Governance by regulation.
4. There is an administrative judiciary.

Therefore, all actions taken by the government and citizens are limited by legal norms as a form of recognition of rights and obligations and if violated there are penalties and/or sanctions awaiting it. The state based on the law is characterized by several principles including that all actions or actions of a person both individuals and groups, people and governments must be based on the provisions of laws and regulations that existed before the act or action was carried out or based on applicable regulations.

States based on the law must be based on good and fair laws without discriminating. A good law is a democratic law, which is based on the will of the people in accordance with the legal consciousness of the people. Allah is All-Ful, All-Knower.

The juridical consequences of the understanding of the State law recognized in the 1945 Constitution, are:

1. Chapter X Article 27 paragraph (1) states that all citizens together with their position in the law and the government are obliged to uphold the law and the government with no exception.
2. In article 28 paragraph (5) which reads that for the enforcement and protection of human rights in accordance with the principles of a democratic state law, the implementation of human rights is guaranteed, regulated, and set forth in the legislation.

One of the conditions in the smooth running of government is law enforcement through the issuance of legal regulations that should not collide with each other or contrary to other laws, thus ensuring the existence of legal certainty for all people. Therefore, the making of a rule of law must pay attention to all norms that apply in society.

According to Sudikno Mertokusumo, that in law enforcement there are three important elements, namely: *legal certainty (rechtssicherheit)*, *benefit (zweckmassigkeit)* and *justice* (kemanfaatan) dan *keadilan ((gerechtigheit)*. In enforcing the law there must be a compromise between the three elements so that it gets attention proportionately balanced. But in practice it is not always easy to try to compromise proportionally balanced between the three elements (Sudikno M and A. Pitlo, 1993). Because often for justice seekers, mostly laymen against the law, have to go through a long and tough struggle and to make it happen sometimes have to deal with law and law enforcement (Dominic Rato, 2014). Another factor that *karena dalam* also *berpengaruh* affects the work of the law is at the time of interpretation or interpretation of the law by the judge in handling a case in court, because it will determine many things, such as *interests, ideology, economy, and other ideologi faktor-faktor factors (Ibid, Pp. 127)*.

Related to notary insolvency, whether the legal relation is because the bankruptcy discourse is only in the context of materiality, in the sense of inability to pay financial obligations that have matured and not with the position of relation. Based on Law No. 37 of 2004 concerning Bankruptcy and Debt Payment Obligation (UUK-PKPU) is a condition when a debtor cannot pay in full to the creditor or within the stipulated period with a fixed court decision both on his own request and on the request of creditors (Adrian Sutedi, 2009). So why is there a notary public discourse was dismissed from his position?

Notary function that is actually to meet the legal needs of a legal subject based on his oath mentioned in Article 4 paragraph (2) UUJN is possible to be bankrupted if the function can not be carried out in accordance with existing achievement contacts (Thooyibah B, 2016). The problem is sudah the itu relevance between the dismissal in a position held as a public official and the financial condition for the ability to pay the overdue bill whereby the Notary should be dismissed in his position.. Is being dismissed in office a way out for the fulfillment of bankruptcy? Because bankruptcy itself has its limits and it is not forever as long as the obligation for payment to creditors can be met. That if a Notary has been declared bankrupt by the Court and for that he is under kurator then all assets he has will be inventoried in order to repay the debt in accordance with the creditor rating (Flikna Nairul, 2012).

## 2. RESEARCH METHODS

### Research Type

The research used in this research is normative juridical research. Normative juridical research is research that examines various laws and regulations that apply or are applied to a particular legal problem. Ronald Dworkin called it doctrinal research, a study that analyzes the law as (Soejono & Abdurrahman, 2003). *law as it is written in the book* (Das Sollen), which is the law in the form of ideals how it should be, *and the law as it is decided by the judge through judicial process* (Ronald Dworkin Natural Bismar Nasution, 2003).

It is to find a relationship between the Uujn and the Bankruptcy Law and other laws and regulations that can connect about the dismissal of a Notary Public who is declared bankrupt by the District Court.

### Approach to Legislation (*Statue Approach*)

This approach is carried out by studying the laws and regulations related to the legal issues that are being addressed. This approach is taken to review the rights that should be received by a Notary official after the errors inflicted on him are not proven legally and have been waived for such errors and what obligations the Minister of Justice and Human Rights should exercise for the legal facts that have been obtained.

### **Conceptual Approach**

The conceptual approach moves away from the views and doctrines that develop in the science of law. Studying the views and doctrines in the science of law, researchers will find ideas that give birth to legal understandings, legal concepts, and legal principles relevant to the issues at hand. On a conceptual approach, new concepts or theories will be found in accordance with the purpose of this research which is to find the synchronization and relevance of a relevansi Notary dismissed from office because he is sedangkan insolvent, while the bankrupt is the individual.

The problem is stated in the formulation of the problem which will then be internalized with the concepts and theories proposed as a library review of this research.

### **Synchronisation of bankruptcy between the Bankruptcy Law and the Notary Office Act**

#### **Understanding Bankruptcy**

The definition of bankruptcy or bankruptcy in Black's Law Dictionary is: "*The state or condition of a person (individual, partnership, corporation, municipality) who is unable to pay its debt as they are, or become due. The term includes a person against whom an involuntary petition has been filed, or who has filed a voluntary petition, or who has been adjudged a bankrupt*" (Ahmad Yani & Gunawan Widjaja, 2002).

This means that bankruptcy is a condition of the ability to pay from the Debtor for his debts that have matured. Ketidakmampuan must be accompanied by a real action to apply to the Court, either done voluntarily by the Debtor himself, or at the request of a third party (outside the Debtor). Things are included in the application on the basis of "publicity" harta In general, the dicapainya notion of bankruptcy or bankruptcy is a general confiscation of all debtor's property in order to achieve peace between the Debtor and the Creditors or so that the property can be divided fairly against the creditors (Munir 's Fuady, 2003).

Penundaan According to Article 1 number 1 of Law No. 37 of 2004 concerning Bankruptcy and Postponement of Debt Payment Obligations (UUK-PKPU), the meaning of bankruptcy is a general confiscation of all the wealth of the Bankrupt Debtor whose management and eradication is carried out by the Curator under the supervision of a Supervisory Judge.

The main values that can be the starting point of bankruptcy arrangements can basically be found in Book I, II, III and IV of the Civil Code and in Book I of the Trade Code. It begins with the question of who can be declared bankrupt. What can be used as guarantees and transactions that are how guaranteed. These three main things are the basic concepts leading to the process of statements and bankruptcy decisions.. The basic concept is then clearly regulated in more detail on the provisions of bankruptcy.

Bankruptcy was originally regulated by the Law on Bankruptcy known as *Failissement Verordening* (FV) namely *Staatsblad* Year 1905 No. 217 *juncto Staatsblad* Year 1906 Number 348. The FV was later amended in the sense of being enhanced by the Replacement Government Regulation Law (PERPU) Number 1 year 1998 in connection with the monetary turmoil that has befallen the State of Indonesia since mid-1997. PERPU No. 1 of 1998 was subsequently enacted as Law by Law No. 4 of 1998, but because the change has not also met the development and legal needs of the community then updated with UUK-PKPU.

The arrangement of a bankruptcy other than specifically regulated with UUK-PKPU, is also contained in several laws, namely as follows:

- a. KuhPerdata, for example in Articles 1139, 1149, 1134 and so on;;
- b. Criminal Code, for example contohnya in Pasal 396, 397, 398, 399, 400, 520 and so on;
- c. contohnya Law Terbatas No. huruf 1 of 1995 on Limited Liability Companies (UUPT), for example in Article 79 ayat paragraph (3), Article 96, Article 85 paragraph (1) and (2), Article 3 paragraph (2) letter b, c, and d, Pasal 90 paragraph (2) and (3), Article 98 paragraph (1) and so on;;
- d. Law No. 4 of 1996 on Tahun tentang Dependent Rights;;
- e. Legislation in the field of Capital Market, Banking, STATE-Owned Enterprises and so Perbankan on.

### **Principles of Bankruptcy Law**

The law of bankruptcy is based on the following principles and principles:

#### **The principle of honesty**

kreditor tidak lembaga This lembaga principle states tidak that on the one hand can prevent the abuse of institutions and institutions insolvency by dishonest debtors and on the other hand can prevent the misuse of institutions and institutions insolvency by creditors who are not in good faith.

#### **Business health principles**

This principle states that insolvency institutions should be directed so that companies can grow their economies so that they are truly healthy.

- a. Principles of justice

dibayar That bankruptcy must be regulated with a sense of justice so as to prevent the arbitrariness of the collector who wants to be paid his bills regardless of the other creditors.

b. Integration principles

Integration of the law, that the law of bankruptcy must be a unity with the other laws.

Integration of civil procedure law, perdata bankruptcy law is the law in the field of bidang confiscation and execution then it must be a unity about confiscation and execution in the rule of civil procedure law.

c. Principles of good faith

lainnya The onset bukan of bankruptcy is due to ayat the Pasal inability to pay creditors' bills and not about others and it must be stated objectively by the judge (Article 1338 paragraph (3) of the Civil Code).

d. Principles of nationality

That every property/owned by the debtor is a dependent for his debts wherever the goods are located (Article Pasal 1311 KUHP data).

### **Purpose and Function of Bankruptcy**

The purpose of kreditor sehingga bankruptcy is to provide solutions or settlements to creditors where the debtor is unable to pay his debts, so that there is a sense of justice for all parties without exception. All Article 1131 of the Civil Code describes the responsibilities of the debtor in his association by including all the property as asas collateral for debt repayment, and if necessary then the property can be sold for the repayment of the debt (*Schuld and Haftung principles*). (Purwahid Patrik Dan Kashadi, 1998). *Schuld* telah is the responsibility of achievement, where there is an obligation to pay in full what has become a debt, sedangkan while *Haftung* is a juridical responsibility, that all transactions carried out must not violate the laws and regulations and "halal" thereof.

Article 1132 of the Civil Code explains that if debtor has several kreditor then the position of the kreditor is the same (*creditorium parity principle*). If the debtor's wealth is insufficient to pay off his debts, then the kreditor is paid on the basis of balance, i.e. each obtains a receivable balanced with receivables kreditor unless otherwise stated by the legislation (*Ibid.*, Pp. 6).

### **Notary Insolvency under the Bankruptcy Law and Notary Office Law**

That bankruptcy lawsuit can be directed to all Indonesian citizens, including a Notary Public, which for a reason that resulted in the Notary can not pay its debts so that creditors can file a bankruptcy lawsuit in accordance with UUK-PKPU to the Commercial Court where the Notary is domiciled law. In Law No. 2 of year 2014 concerning about Amendment to Law No. 30 of year 2004 concerning Notary Position (UUJN) it has been explained in Article 12, that a Notary Public can be dishonorably discharged by the Minister

due to the decision of a court judge who has permanent legal force against the bankruptcy lawsuit filed with the Notary. That dengan as a result of the decision of the court that has a permanent law, all property from notary public is then confiscated by the State by being taken care of and dealt with by the Curator under the supervision of a supervisory judge, which will then be paid to creditors in accordance with the value of the bill in a balanced manner.

The Notary Public is no longer able financially to support themselves and their families and offices because their financial rights have been handed over to the Curator so that later the Curator will manage the notary's financial ability to manage his debts, until there are no more demands on him. And for that, legal rights related to the ability to conduct legal alliances with third parties are also lost during the management of the bankruptcy.

Stated That the atas notary public who was declared bankrupt can be dishonorably discharged by the Minister as stated in the UUJN above, is a legal result of the bankruptcy decision. for so since where with the circumstances it means that the notary public is considered incapable in carrying out his authority as a notary public, so it is very reasonable for the Minister dia to dismiss him from the position he is in and since the date of his dismissal, the Notary is no longer under the Uujn so that he can not carry out his profession as a public official.

What if the Apakah misalnya Notary Public can pay its debts because it obtains assistance from sehingga selanjutnya relatives, fore example, so that the Curator states that the notary public's obligations have been fulfilled and then the supervising judge decides the Notary has been free from bankruptcy conditions, Is the incompetence still continuing? This is in accordance with the spirit of UUK-PKPU where it is expected that with the help of the Curator, the debtor is able to improve his financial ability so that in the future he can return to normal life.

This loss while the spirit takes effect is different from the UUJN where with the article of dismissal of notary public from his position, resulting in addition to having lost his authority as a public official then he also lost his livelihood that has become his profession, while in accordance with the Uujn ethics that Notary should not concurrently his position in accordance with Article 17 UUJN. Therefore, karenanya it must be recognized that with the bankruptcy received by the Notary, it means that the world becomes dark so that the opportunity to rise again seems lost. . Is this what uujn wants?

Referring resulting in justice though outside what the understanding of bankruptcy is planned in UUK-PKPU and UUJN as if there is an inconsistency between the two so that there is no legal protection and justice for Notaris if he turns out to be experiencing financial difficulties that result in him not being able to pay his obligations to creditors, even though it is out of context he is not performing his obligations as a Notary official in accordance with the Uujn. In to this

case uujn seems to only want to organize sedangkan and create an ideal that is notary official who is capable, responsible and clean without wanting to know how the process to become the ideal ideal, while in the process termasukrisk notary insolvency.. So if possibly legally enforceable Rights consequently only based on the court's decision that has permanent legal force in decision making and for it is directly stated notary public is not able to work anymore as a Notary public and for that must be dismissed either respectfully or disrespectfully then the meaning is that all notary lives have been pawned by the decision of the Minister of Law and Human Rights (Menkumham) and the result is that notary public becomes incapable in the true sense and the probability for him to rise financially is very small.

That used for example specifically if there is a discrepancy between the laws then the prevailing is "*Lex Specialis derogate Lex Generalis*" where dimana the rules specifically govern a legal problem then the rule is used from the general karena digunakan rule, for example in the case of bankruptcy then used as a reference or legal basis is UUK-PKPU because the law is made to regulate the bankruptcy and no longer KUHPerdara or KUHDagang. However, if it is enforced on bankruptcy for Notary Public, it cannot be implemented normatively because UUK-PKPU regulates the mechanism of bankruptcy while uujn regulates the personal of notary public who is subject to bankruptcy. That the notary sanctions that have been imposed by the court that has obtained legal force will still be dismissed with or disrespectfully based on the proposal of the Central Supervisory Panel to Menkumham, namely in article 12 letter a. In article 2 letter a it is not accompanied by further explanation of what is related to the bankruptcy experienced by Notaris so that the implementation of this article refers to UUK-PKPU.

Based on article 22 letter b UUK-PKPU explained that everything obtained by the debtor from his own work as a payroll of a position or service, as wages, pensions, waiting money or alimony money as far as determined by the supervisory judge so that it can be drawn conclusions related to article 22 letter b that everything obtained by the notary as an insolvency debtor derived from the payroll of the position he/she lived or the wages that can be obtained from the position he lived can not be put into the object of bankruptcy. So the dismissal of notary public with this respect as in article 12 letter a UUIJN is very inappropriate when viewed from the purpose of UUK-PKPU is for the sake of legal protection that guarantees the implementation of debt repayment fairly. So what if Notaris who complained duka as a debtor bankruptcy then for the sake of the law lost his rights only limited to his property that belongs to the object of bankruptcy only, and the notary is still capable to do legal action. And for that it doesn't need to be dismissed, be it respectfully or disrespectfully.

That bankruptcy based on UUK-PKPU has an expiration period of (Nindyo Pace, 2017).

- a. Revoked by the court( Article 18 ayat paragraph (1) UUK-PKPU)

Through can because it is not a supervisor recommendation of the Curator and supervisory judges, the Commercial court can revoke the bankruptcy status of the debtor if the financial condition is no longer able to pay the bills including with his assets, even his assets are not found that can be included in the bankruptcy boedel while for the cost of bankruptcy management requires a small amount offunds, because if continued then the position minus the debtor will be greater and it is not in accordance with the objectives of UUK-PKPU.

- b. A peace agreement has been reached and has ayat been ratified(Article 166 paragraph (1) UUK-PKPU)

That the creditors have agreed to the offer submitted by the debtor so that the bankruptcy efforts are not continued..

- c. Payment of obligations has been carried out to all creditors( Article 202 paragraph (1) UUK-PKPU)

Bankruptcy ends after telah insolvency is paid to creditors in accordance with a list that has been determined proportionally either through the sale of fixed assets or cash funds (afterthe sale of fixed assets).

After the bankruptcy ends,the debtor should obtain rehabilitation to be able to obtain the right and authority to take care of his property. Rehabilitation here is the restoration of the good name of the debtor who was originally declared bankrupt, because he has fulfilled his obligations then he is no longer in bankruptcy. That the daily appointed rehabilitation was done with a court ruling and for it to be announced on a minimum of 2 (two)dua daily national newspaper-appointed courts for 2(two) months, the court's ruling on rehabilitation is final and there is no longer any legal action against it (Hadi Subhan, 2008).

What about uujn? There is no rule governing mengatur it after Notaris successfully fulfill its obligations for bankruptcy and has been rehabilitated by the court.. This is the inconsisteration between UUJN and UUK-PKPU over the bankruptcy of a Notary Public. The conclusion of a Notary Insolvency when viewed from UUK-PKPU and UUJN is that there is legal uncertainty that risks the emergence of legal injustice because of differences in the spirit and purpose of the law. Therefore, it should be explained in the Uujn about apakah if the Notary Has been declared bankrupt, whether it concerns his position because there is a risk of defects in the implementation of Notary Authority in accordance with the Uujn if the Notary Public remains a notary official or simply following the court's decision. Because it would be different treatment, butit's tetapi all the authority of Menkumham.

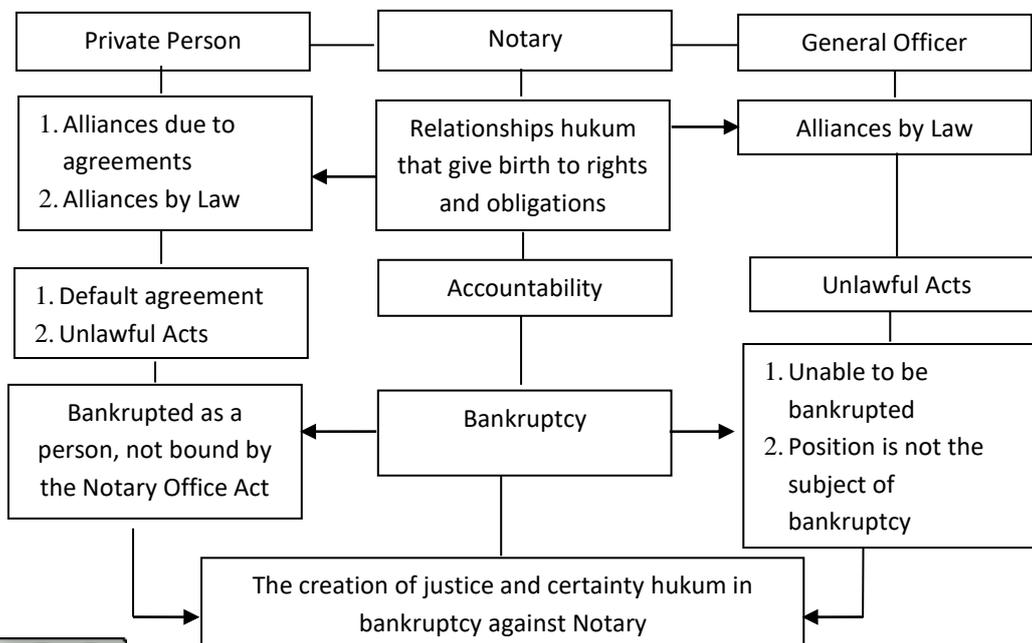
**Notary Dismissed From Notary Position due to Declared Bankruptcy**

**Conceptual Framework**

Researchers studied concepts to examine the meaning of concerns notary-related bankruptcy in order to find a legal basis for why he should be dismissed if he was having bankruptcy problems, in order to obtain a reason in accordance with the decision. UUJN was all formed because of it in addition to perlindungan providing provisions, protection also for legal certainty for the profession of Notary in providing legal services to the public in relation to the making of authentic deed, therefore all can be facilitated properly without risk of colliding with other legal regulations, it takes a synchronization.

Bankruptcy is one way dimana to solve the problem of debts that are stuck due to the inability of the debtor, where with the court's decision, the certainty of payment can be carried out through management and eradication by the Curator supervised by the supervisory judge. And belum the object of bankruptcy is individuals and legal entities that can be sued by at least 2(two) creditors whose receivables have matured and have not been paid, debts that can be filed insolvency are all transactions of debts involving creditors and debtors and on both proved to be there are alliances and halal clauses.

That so it can be good Notary Public can be classified as one of the parties that can be filed for bankruptcy because Notary Is an individual who has the right to transact in legal alliance with any party, either in the authority as a Notary Public or in the condition as a regular person, so that for that there is a risk of non-payment or default. Therefore, in this research will be discussed about the meaning of Notary Bankruptcy so that whether it is relevant notary dismissed from office if he has been declared bankrupt. Here's a diagram showing how bankruptcy works against Notary public based on applicable laws and regulations..



The diagram above shows that notary public official other than as a general official appointed by law, he is also the subject of individual law. In order to be clearer, the researcher will start from the notary concept itself.

### **Notary As Public Official**

Notary public official authorized to make authentic deed and have other authority as stated in Article 1 paragraph (1) UUJN. That as a public official, which means notary public appointed by law in order to carry out obligations in accordance with the position and therefore given an authority to him. Notary in his office is bidang pelayanan obliged to provide services to the community in the form of making authentic deed and service in other forms in the field of civil law (other akta-akta deeds).

Other related The exist term general official is a translation of the *term Openbare Ambtenaren* contained in Article 1 *Reglement op het Notary Ambt in Indonesia, Staatsblaad 1860* Number perjanjian-perjanjianwarga 3 (Stbl.1860: 3), which is a representative of the State /government to serve the making of deeds, agreements, other letters related to legal events carried out by the community (citizens). a public official is directly obtained from the State (Law) and not from the government or executive or State Affairs Officer so therefore the Notary is not under the influence or power of the executive, legislature. It's just that in the process of his appointment, Notary Notaris was appointed by Menkumham as a function of the President's assistant in the field of juridical. It is to be for the authority bestowed to lift it must be that very principled in the laws of the State Administration that the official who appoints a person and for that he bestows all or part of the authority to do something that is his obligation, must have obligations and authorities as delegated or authorized because that authority is delegation (Sjaifurrachman and Habib Adjie, 2011). If it turns out that a minister is not authorized to make an authentic deed, maka then for him is not authorized to appoint an authentic deed official or even dismiss it. Because it is his legal right logically, a person who gives something that he or she does not have then is impossible, handing over something that does not belong to him on the basis of legal rights is including unlawful tidak acts (*Ibid*, Pp. 54-55).

Notary is not a public servant, meskipun although given the term as a public official, karena because characteristically his position is not under certain agencies or departments in government.. Soegondo Notodisoerjo said that: "diberi bersumber diberhentikan pemerintah a public official is a person who is appointed and dismissed by the government and given the authority and obligation to serve publik in certain matters because he participates in implementing a power derived from authority (*gazag*) from the government.. In his office is concluded a characteristic and characteristic that distinguishes him from other positions in society (R. Soegondo Notodisoerjo, 1982).

This resulted in a Notary public servant not being part of the civil servant corps and for that the Notary also did not get a salary from the Government as other public servants and therefore a Notary public was not subject to the Personnel Law.. It adalah berwenang has been stated tentang in Article 1 of Law No. 43 of 1999 concerning Amendment to Law No. 8 of 1974 tentang concerning The Principles of Personnel that civil servants are authorized officials and handed over duties in a public office, or erranded by other State duties,and are paid based on applicable laws and regulations.

That is stated so in the concept of delegation of hence where authority, notary public is an independent profession especially to the Minister where he is not subject to the Law of Personnel and the Minister also does not have the authority to make authentic deed or other deed,so that when in uujn stated that the Notary is appointed by the Minister and therefore can also be dismissed by the Minister then actually where the notary institution marwah actually if associated with Article 1870 KuhPerdata about authentic deed.

In practice, in addition to being subject to the Uujn, Notary Public is also subject to the untuk Notary Code of Ethics which is a rule in the form of moral rules stipulated ditetapkan in the Congress of The Indonesian Notary Association to be used as a reference for notary public in applying, bertindak acting and working. Thus, the limitation of notary public is UUJN when carrying out the profession and Notary Code of Ethics when living everyday..

### **Notary Is a Position**

According to The Great Dictionary of The Indonesian Language (KBBI) that the word jabatan position means a job (Department Education and Culture, 1994). dalam dapat (task) in a government or organization that can be interpreted that in general that a position is a position deliberately created in doing a job in government or organization.. If perceived with Ambt then it is related to the government. E. Utrecht states that the position is a permanent work environment (kring van vaste werkzaamheden)held and carried out for the benefit of the State (general).). While the permanent environment is a work environment that as much as can be expressed precisely bersifat (zoveel mogelijk nauwkeurig omsschreven) and which is duurzaam (cannot be changed just like that) (E. Utrecht, 1963).

Position because of it is the subject of law (obligations will be the Governor that person) therefore there are rights and obligations, in the Constitutional Law that power and authority is not given to officials (people) but to the office (work environment) so that even though the official alternately but the power and authority will not be lost because it attaches to the office, eg the position of President, Governor, Mayor and so on.. Because it is an area of work or duty deliberately created by law, so that the position can do *like a person* then it takes the person who occupies it and for that he is referred to as an Official or a specially

appointed person to be in office. So that the position is permanent while the official can alternate.

remains If while associated with NotaryPublic, for this he is given a position as an authentic deed maker and other deeds in order to serve the public interest then the Notary is permanent because it is a permanent environment, while its officials or individuals can alternate.. Therefore, atau by sedangkan office, notary public can not be dismissed even though in the Law is declared can be dismissed, if described then the Notary is the position, while The A, B or C is the official.. That the article of atau notary dismissal is becoming less relevant even though The A, B or C itu has legal problems.

In the moment in charge has done so that the court conclusion, that for the article of of Notary because he was decided bankrupt by the court is misguided when drawn to the legal history and legal theory, because karena the bankruptcy decision is resulting in person namely Si A, B or C who at the time was occupying the position of Notary, so that the responsible to pay the obligations in accordance with the agreed and carried out management by the Curator is Si A, B or C. While "Notary" cannot be dismissed, be baik it respectfully or disrespectfully..

#### **4. CONCLUSION**

That bankruptcy if reviewed from the Notary Office Law and the Bankruptcy Law are: There sejak pengadilan semangat dilakukan telah is a diawasi difference in the meaning and spirit of the two Laws towards bankruptcy where in the Bankruptcy Law (UUK-PKPU) means that bankruptcy is an event where the debtor is unable to pay the bill that has been due and on top of that by the court is decided insolvent and from the date of the verdict the management and eradication of debt payments is carried out by the Curator supervised by the Supervising Judge. The management process up to the debt can be resolved porposionally and there after that the court can determine the debtor has been released from bankruptcy status pailit and on top of that can ask the court for rehabilitation of good name. While the Notary Office putusan Law (UUJN) only states that the Minister has the right to dishonorably dismiss a Notary who has been declared bankrupt and the verdict has permanent legal force without any explanation.

Immediately The debt was even enthusiastic difference in spirit in this case is in UUK-PKPU his spirit so that the debtor can rise again after he pays his debts while uujn instead of directly declaring the Notary is not worthy to be a Notary without any rules on how he can maintain his profession. And Notary Public disrespectfully by the Minister because the Notary has been decided bankrupt by the court with a verdict of permanent legal force is a misrepresentation of the concept or theory of law because there is a mixing of terms between

a person as a legal subject and a Notary as a legal position by the UUJN. Because in this case Notary is a position that is permanent and not *perzoon so therefore* notary can not be dismissed by the Minister.

### **Suggestion**

The suggestion of the results of this research should be done synchronisation between UUJN and UUK-PKPU so sehingga that it is clear who the subject ofnya the law is and how the arrangement so that Notary public is also entitled to legal protection of the profession he currently holds. Because if revoked while the re-appointment rule does not exist then the same means to kill the notary profession..

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