



ANALYSIS OF DISMISSAL OF BANKRUPT NOTARY POSITIONS BASED ON NOTARY OFFICE LAW AND BANKRUPTCY LAW

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Abstract

Many people believe that it cannot be justified to dismiss a Notary dishonorably just for reasons of bankruptcy, as determined by the Court. This reason is considered not in accordance with the work of a Notary. If we look closely of Article 12 letter a of the Law on the Position of Notaries, it turns out that the meaning of this article is unclear. It is not clear whether the Notary was bankrupted in his personal capacity as an individual (*natuurlijk person*) or in his official function as a public official. The issues that will be discussed are the procedures for terminating the position of a bankrupt notary and whether the dismissal of the notary's position is in accordance with the principles of justice. The research methodology used is normative juridical research. The findings of this research indicate that a Notary who is declared bankrupt can be temporarily dismissed from his position as intended in Article 9 paragraph (1) letter a. Furthermore, if the bankruptcy statement has permanent legal force, the Notary can be permanently dismissed from his position by the Minister, on the recommendation of the Supervisory Board of the Central Supervisory Board, as intended in Article 12 letter a of Law Number 2 of 2014 concerning the Position of Notaries. The Bankruptcy Law does not explicitly regulate the role of Notaries. However, it can be concluded that persons subject to the regulations outlined in the Bankruptcy Law are limited to legal incompetence and are not permitted to exercise control over their assets. Dismissal without respect for a Notary is considered to ignore the norms of justice for Notaries, because bankruptcy is essentially temporary or can be terminated and solely concerns the debtor's personal assets.

Keywords: Dismissal, Position, Notary, Bankruptcy

A. Introduction

Notary is a general official who has the right to issue authentic deeds and other authorities regulated in Law of the Republic of Indonesia Number 2 of 2014 concerning

Amendments to Law of the Republic of Indonesia Number 30 of 2004 concerning Notary Positions. Notary is a position tasked with carrying out several State functions in the realm of civil law with the authority to



make authentic deeds, based on the statements of the parties concerned to appear before a notary¹.

A Notary in carrying out his position is also obliged to work independently, honestly, impartially, and full of a sense of responsibility and provide services to the community who need his services as well as possible. A Notary Public works with the rules that have been made by the State and under the auspices of the Ministry of Law and Human Rights to help provide services to the community². Notaries as public officials, have the authority to make authentic deeds and other authorities as specified in the law that regulates them, namely UUJN. In relation to their duties, if they violate the laws

and regulations, Notaries may be subject to certain sanctions in the form of civil and administrative sanctions³. While Notaries as legal subjects of private persons (*natuurlijk persoon*), have a broad scope of legal acts, which include accounts receivable, borrowing money from banking institutions, establishing companies that later went bankrupt and became bankrupt debtors⁴.

Bankruptcy is a legal status that occurs when a debtor is unable to pay off his debt within an agreed period, causing the court to declare him bankrupt. In this case, the Commercial Court is responsible for making the statement. The bankruptcy legal mechanism relies heavily on the definition of debt, because it is the basis for the legal

¹ Adheria Juniresta, Budi Santoso, Hanif Nur Widhiyanti "Juridical implications of bankruptcy decisions on the notary profession according to Indonesian laws and regulations" *Journal of Legal Horizons*, Vol. 12, No. 1, 2021, p. 1

² Aga Waskitha Wiryawan "Juridical Review of Notaries Declared Bankrupt Under Notary Office Law" *Lex Renaissance*, Vol. 5, No. 1, January 2020, p. 193

³ Habib Adjie "Legal Limitations for Dismissing (Permanent and Temporary) Notaries from their Positions Due to Bankruptcy" *Italienisch*, Vol. 11, No. 2, 2022, p. 440

⁴ Galuh Puspaningrum "Notary Bankruptcy in Notary Office Regulations" *Diversion : Journal of Law*, Vol. 4, No. 2, 2019, p. 199



process of disbursing debtors' assets to pay off their creditors⁵. An individual debtor can be said to be bankrupt if he is unable or unwilling to pay debts beyond the specified maturity. One of the reasons a Notary Public can be declared bankrupt by the court is his inability to compensate creditors outside of his role as a Notary. This refers to a situation where Notaries who also have other businesses do not abuse their position to avoid paying debts⁶.

An example of a bankruptcy case involving a notary is Notary Devi Chrisnawati, as in the case of Decision 20/Pdt.Sus-PKPU/2020/PN Niaga Sby. Notary Devi Chrisnawati filed a postponement of debt payments at the Surabaya Commercial Court because she was

entangled in several debts that were due and collectible, but could not be paid to each creditor. Devi Chrisnawati's PKPU application was approved so that she was officially declared bankrupt and faced all related legal consequences. In addition, the person concerned also concurrently serves as a Notary, and according to the provisions in Article 12 letter a of the UUJN it is determined that "Notaries may be dishonorably dismissed by the Minister on the proposal of the Central Supervisory Panel if declared bankrupt based on a court decision that has permanent legal force". For this incident, the Regional Office of the Ministry of Law and Human Rights of East Java and the Regional Supervisory Council (MPD) of East Java have submitted a report on the

⁵ M. Hadi Subhan, *Bankruptcy Law: Principles, Norms, and Practices in the Judiciary*, Kencana Prenada Media Group, Jakarta, 2008, p. 55

⁶ Dimas Hanif Alfarizi, Etty Susilowati, Siti Mahmudah "Limited Liability Company Liability for

Employees as Preferred Creditors in Bankruptcy" *Diponegoro Law Journal*, Vol. 5, No. 2, March 2016, p. 10



dismissal of Notary Devi Chrisnawati based on article 12 letter a of the UUJN.

The reason for the dishonorable dismissal of a Notary based on a bankruptcy court decision is often considered inappropriate when applied to a Notary. If you look at Article 12 letter a "Notaries are dishonorably dismissed from office by the Minister on the proposal of the Central Supervisory Panel if: a. declared bankrupt based on a court decision that has obtained permanent legal force", there is a lack of clarity in the meaning of the article. The Notary Office Law does not provide a specific explanation as to whether the bankrupt is a Notary in his capacity as a private person (*natuurlijk persoon*) or as a general official, because in the Bankruptcy Law it is explained that the subject of bankruptcy is only an individual or legal entity. Based on grammatical interpretation, article 12 letter a of the Notary Office Law

can be interpreted that the bankrupt is a private person even though he is a public official, namely a Notary. The sanctions contained in Article 12 letter a of the laws and regulations regarding the Notary Position against Notaries are not in line with the laws and regulations regarding bankruptcy, which are only regarding their assets and do not include their authority. The existence of vagueness and conflict of rules in Article 12 letter a of the Notary Office Law can cause errors in enforcing the requirements of laws and regulations.

B. Problem Statement

Based on the background description of the problem above, the formulation of the problem to be discussed is, what is the procedure for dismissing the position of a bankrupt notary based on the Notary Office Law and the Bankruptcy Law and whether the termination of the position of a bankrupt notary based on the Notary Office Law and



the Bankruptcy Law is in accordance with the principle of justice?

C. Research Objectives

The purpose of the study is to know and analyze the procedures for dismissing the position of a bankrupt notary based on the Notary Position Law and the Bankruptcy Law and the dismissal of the position of a bankrupt notary based on the Notary Position Law and the Bankruptcy Law whether it is in accordance with the principle of justice.

D. Research Methods

The research methodology used is normative juridical research. The normative juridical research approach involves a systematic investigation of legal norms, rules, principles, doctrines, theories, and other literature to answer the legal problems

studied⁷. Legal research uses various approaches with the aim of obtaining information from various aspects of the problem under study⁸.

This study includes a legal approach and a conceptual approach. The statutory approach to legislation involves a comprehensive examination of all laws and regulations pertaining to the particular legal issue under study⁹, namely the Notary Office Law and the Insolvency Law relating to the subject matter. The conceptual approach departs from the views and doctrines that develop in legal science.

E. Research Results and Speakers

1. Procedures for Termination of Insolvent Notary Positions Based on the Notary Office Law and the Bankruptcy Law

⁷ Muhaimin. *Legal Research Methods*, Mataram University Press, Mataram, 2020, p. 25

⁸ Johnny Ibrahim, *Theory and Methodology of Normative Legal Research*, Bayumedia, Malang, 2006, p. 40

⁹ Peter Mahmud Marzuki, *Legal Research*. Kencana, Jakarta, 2010, p. 35



The regulation governing the position of Notary, namely *Reglement op Het Notary Ambt* di Indonesia (Regulation on Notary Position in Indonesia), is still rooted in colonial practice and has not been adequately formalized. This regulation is regulated in *Staatsblad* Number 1860: 3 which is the regulatory framework for the position of Notary. The Preamble to the Notary Office Regulation outlines the reasons for the framer of the law to enact this law. This emphasizes the need to establish regulations that enable the effective execution of Notary duties, especially with regard to urgent matters stipulated in these regulations. As also reaffirmed in the preamble to Law Number 30 of 2004 concerning Notary Positions, as follows:

- a. To ensure legal certainty, order, and protection, authentic written evidence of circumstances, events, or legal acts

committed through certain positions is required;

- b. That Notary is a certain position that carries out a profession in legal services to the community, it is necessary to obtain protection and guarantees to achieve legal certainty;
- c. At the same time, notary services in the development process are increasing as one of the legal needs of the community;
- d. That *Reglement op Het Notary Ambt* in Indonesia (Stb. 1860:3) is a law relating to the role of Notaries is no longer in line with the latest legal developments and the needs of the community. The legal provisions outlined in the preamble show the government's commitment and desire to achieve legal harmonization in the notary field, especially through the restructuring and repositioning of



notaries as well as the replacement of colonial laws with a national legal framework.

The appointment and dismissal of Notaries is carried out by the Minister of Law and Human Rights. The Minister has the authority to determine the establishment of notary offices in certain areas, such as districts or cities, as the official residence of notaries. Notaries have the ability to voluntarily resign or be dismissed from office, whether the dismissal is honorable, temporary, or dishonorable.

The dismissal of the notary position with respect is regulated in article 8 of the Notary Office Law, it is explained that:

- (1) "The notary resigns or is honorably removed from office because:
- a. Die;
 - b. 65 (sixty-five) years old;
 - c. Own request;
 - d. Unable spiritually and/or physically to carry out the duties

of the notary office continuously for more than 3 (three) years; or

e. Concurrently holding positions as referred to in article 3 letter g".

Article 9 and Article 12 of Law Number 2 of 2014 concerning Notary Positions regulate provisions for Notaries who are temporarily dismissed or dishonorably from their positions. Article 9 of the Notary Office Law provides an explanation of:

- (1) "Notary Public suspended from office because:
- a. In bankruptcy proceedings or postponement of debt payment obligations;
 - b. Be under custody;
 - c. Committing despicable deeds;
 - d. Violating the obligations and prohibitions of the notary office and code of ethics; or
 - e. Is serving a period of detention.

- (2) Before the suspension as referred to in paragraph (1) is carried out, the notary is given the opportunity to



defend himself before the Supervisory Panel in stages.

- (3) The suspension of notaries as referred to in paragraph (2) shall be carried out by the minister on the proposal of the Central Supervisory Council.

- (4) Suspension based on reasons as stated in paragraph (1) letter c and letter d is valid for a maximum of 6 (six) months"

Article 12 of the Notary Office Law states that: "A notary is dishonorably dismissed from office by the minister on the proposal of the Central Supervisory Board if:

- a. Declared bankrupt based on a court decision that has obtained permanent legal force;
- b. Be under continuous supervision for more than 3 (three) years;
- c. Commit acts that degrade the honor and dignity of the notary office, or
- d. Committing gross violations of obligations and bans of office".

In addition, article 13 of the Notary Office Law also explains that "notaries are dishonorably dismissed by the Minister

because they are sentenced to imprisonment based on a court decision that has obtained permanent legal force for committing a crime punishable by imprisonment of 5 (five) years or more."

The procedure for filing a bankruptcy application appropriately in accordance with Law Number 37 of 2004 concerning Bankruptcy is as follows:

- a. An application to initiate Insolvency proceedings must be filed with the presiding judge of the court. The submission of this application is made through the registrar as referred to in article 6 paragraph 2.
- b. The Registrar then forwards the application to the chief justice. The deadline for filing a bankruptcy declaration is 2 days from the date of registration of the bankruptcy application. The court will schedule a



- hearing date within 3 days of registration of the application.
- c. The hearing shall be held within 20 days from the date of registration of the bankruptcy application (article 6).
- d. Furthermore, the court will summon the debtor after receiving a bankruptcy application from the creditor, the Prosecutor's Office, Bank Indonesia, the Capital Market Supervisory Agency, or the Minister of Finance (article 8).
- e. In the event that the Debtor files a declaration of bankruptcy and there is uncertainty in the fulfillment of the bankruptcy conditions, the court is authorized to summon the creditor (as referred to in article 8).
- f. The bailiff carries out the summons process using a registered express letter and sent no later than 7 days before the start of the initial hearing (as referred to in article 8 paragraph 2).
- g. The court must approve a bankruptcy application if there is sufficient evidence to show that all bankruptcy requirements have been met. The decision must be taken immediately, within 60 days from the date of registration of the application (article 8).
- h. The decision on the bankruptcy application must contain all relevant legal factors, as well as the opinion of the panel of judges. It must be announced in a public assembly and can be done in advance, although it must take legal action (as stated in article 8 paragraph 7).
- After the decision of bankruptcy declaration that has permanent legal force by the Commercial Court, based on article 12 of the UUJN, the Minister of Law and Human



Rights of the Republic of Indonesia has the right to dishonorably dismiss from his position as a Notary Public on the proposal of the Central Supervisory Board as the Notary Supervisory Panel which supervises the behavior of Notaries and supervises the implementation of the Notary Office and guidance carried out by the Minister to Notaries.

The stages carried out before an examination is carried out by the Supervisory Panel, namely:

- a. The report of the bankruptcy decision against the Notary is submitted to the Regional Supervisory Board or if it is submitted to the Regional Supervisory Panel, the regional Supervisory Panel will forward it to the competent Regional Supervisory Panel, and vice versa if received directly by the Central Supervisory Panel, it will forward it back

to the authorized Regional Supervisory Panel.

- b. Notarized Summons as a bankrupt Respondent legally and properly heard a letter by the secretary within 5 (five) working days before the hearing, if not present, then a second summons is made legally and properly and if after the summons remains absent, then the examination is carried out and the judgment is pronounced in his absence.

Furthermore, an examination is carried out by the Supervisory Panel in stages, namely:

1. Examination at the Regional Examining Council level

Examinations at the Regional Examining Council level are closed to the public. The examination is carried out by reading the report on the existence of a bankruptcy judgment and a Bankruptcy Decision with permanent legal force,



hearing the reporter's statement, and submitting responses from each reporter and the reported person, in this case the Notary as the bankrupt debtor. The report is examined at the Regional Inspection Panel level within a period of no later than 30 (thirty) calendar days from the receipt of the report.

2. Examination at the Regional Inspection Panel level

Examinations at the Regional Examining Panel level are closed to the public, and the reading of verdicts is open to the public. Like the trial mechanism in the general court, if there is a difference of opinion, then the difference of opinion is contained in the Judgment.

The inspection of the Regional Audit Panel on the results of the Regional Supervisory Panel examination is carried out within a period of no more than 7 (seven) calendar days from the receipt of

the file. After hearing the statement of the complainant and the reported Notary Public as a bankrupt debtor, the Judgment shall be read within a maximum period of 30 (thirty) calendar days since the file is received. The Decision contains sufficient reasons and considerations as the basis for the Decision on the Decision with the imposition of sanctions a copy of the Regional Examining Panel Decision submitted to the Minister of Law and Human Rights, the whistleblower, the reported, the Regional Supervisory Council and the Indonesian Notary Association within a period of no more than 7 (seven) calendar days from the time the Decision is read.

3. Examination at the Central Examining Panel level

Against the decision of the Regional Examining Panel, the complainant and/or bankrupt notary has



the right to submit an appeal to the Central Supervisory Panel within a maximum period of 7 (seven) calendar days since the Decision is read accompanied by the memory of the appeal submitted within a period of no more than 14 (fourteen) calendar days from the statement of appeal, the memory of the appeal received must be submitted to the appealed within a period of no more than 7 (seven) calendar days from the receipt of the Secretariat of the Supervisory Panel Navel. Furthermore, the counter appeal memory period is at most 14 (fourteen) calendar days from the receipt of the appeal memory.

The decision of the Central Supervisory Panel in the form of sanctioning dishonorable dismissal shall be submitted to the Minister no later than a maximum period of 30 (thirty) calendar days from the time the Decision is read. The Minister of Law and

Human Rights has the authority to give a decision on a proposal for dishonorable dismissal within a period of no more than 30 (thirty) calendar days from receipt. The Minister's decision is submitted to the whistleblower, the Notary of bankruptcy, the Central Supervisory Council, the Regional Supervisory Council, the Regional Supervisory Council and the Indonesian Notary Association.

In the Bankruptcy law states that bankruptcy is an event where the debtor is unable to pay overdue bills and is declared bankrupt by the court. From the date of the judgment, the management and write-off of debt payments is carried out by the Curator supervised by the Supervising Judge. The management process is completed proportionally and then the court can determine that the debtor has been released from bankruptcy status and the debtor can ask the court for rehabilitation of good name.



Meanwhile, the Notary Office Law (UUJN) only states that the Minister has the right to dishonorably dismiss a Notary who has been declared bankrupt and the decision has permanent legal force without any explanation¹⁰.

The legal consequences for a Notary who has been declared bankrupt by the court, as stipulated in Article 12 letter a of the UUJN, are different from the bankruptcy law that applies to the debtor, as referred to in Article 24 paragraph (1) of Law Number 37 of 2004. Article 24 paragraph (1) of the Bankruptcy Law stipulates that "the debtor by law loses his right to control and manage his assets which are included in the bankruptcy property, since the bankruptcy declaration judgment is pronounced" based on the article it can be concluded that the

debtor can still perform other legal actions.

Another legal action that can be done is that Notaries who are declared bankrupt still have the right and ability to exercise their authority as officials. As for the Law on the Notary Department, if a Notary Public is declared bankrupt, he is dishonorably dismissed from his position. This means that Notaries are considered unable to carry out their duties and exercise their powers as Notaries¹¹.

2. Termination of the Notary Office of Bankruptcy Based on the Notary Office Law and the Bankruptcy Law is Not in Accordance with the Principle of Justice

The role of Notary Public as a general official is a position given by the State in accordance with the law, and appointed by the Minister of Law and Human Rights. This is stated in Article 2 of the Law on Notary Positions: "Notaries are appointed and

¹⁰ Filianty, Habib Adjie "Notary Affairs Reviewed By Law And Notary Department" *Jurisdiction : Journal*

Of Law And Science Discourse, Vol. 16, No. 4, July 2021, p. 238

¹¹ *Ibid*, Aga Waskitha, p. 195



dismissed by the Minister". Through the appointment of the Minister of Law and Human Rights, a Notary Public is authorized to carry out his responsibilities independently, without being affected by the influence of the executive and other parties. The concept of freedom in this context relates to the ability of Notaries to carry out their roles neutrally and independently.

According to Article 1 point 1 of the Law on Notary Positions, "Notary is a public official who is authorized to make authentic deeds and has other authorities as referred to in this law". Noco outlines the forms of Notary Public responsibility, which include:

- a. Notary's civil responsibility to ensure the material correctness of the deed he made;

- b. Notary's criminal responsibility to ensure the material correctness of the deed he made
- c. Notary's responsibility based on the regulations governing his position in relation to the deed he made; and
- d. The Notary's responsibility in carrying out its official duties, which is outlined in the Notary Code of Ethics¹².

The Notary Office Law is a law that regulates all aspects related to the responsibilities and obligations of Notaries in carrying out their duties and roles. The provisions regarding bankruptcy are regulated in Article 12 letter a of the Notary Position Law. The role of Notary is a professional position that provides services to the community. Therefore, Notaries must realize the importance of norms or standards

¹² Kerina Maulidya Putri, Ichsan Anwary, Diana Haiti "Notary's Obligation to Read and Sign the Deed in

Front of All Parties Together" *Notary Law Journal*, Vol. 1, No. 2, April 2022, p. 157



in carrying out their responsibilities, authorities and obligations as a Notary. Notaries must uphold their conduct, decency and integrity as public servants, given the importance of their function and standing in society. If the Notary Public does not fulfill its obligations and does not comply with the regulations stipulated in the Notary Office Law, then the Notary has exceeded the limits of his authority and may be subject to sanctions¹³.

According to Article 12 letter a of the Notary Office Law, "a Notary Public may be dishonorably dismissed from office if he has been declared bankrupt based on a court decision that has permanent legal force". This dismissal was on the recommendation of the Central Supervisory Board (MPP). Article 12 letter a does not provide a comprehensive

explanation of the bankruptcy of a Notary, especially if the bankruptcy is caused by his professional position or due to his personal circumstances¹⁴.

When a Notary Public is declared bankrupt, he is considered a natural person and not a position. The reason is, the legal subjects involved are natural persons and legal entities, and notaries are not included in the category of legal entities. Therefore, a bankrupt notary is a natural person who by law is obliged to pay his debts. Thus, the provisions contained in Article 12 namely letter a of the Notary Office Law are appropriate and relevant for natural persons. If you relate this article to the principles of the Bankruptcy Law and the Suspension of Debt Payment Obligations, it will cause conflicts, namely with the principle of

¹³ Daeng Naja, *Deed Making Techniques*, Pustaka Yustisia, Yogyakarta, 2015, p. 10

¹⁴ Nilna Muna Yuliandari, Yu un Oppusunggu "Dishonorably Dismissed Notary Legal Remedies

Reviewed from the State Administrative Court" *USM Law Review Journal*, Vol. 4, No. 2, 2021, p. 845



maintaining business continuity. The principle of maintaining business continuity aims to encourage the smooth running of the debtor's business so that the debtor can continue to run his business. The Bankruptcy Law does not specifically regulate the functions of Notaries. However, it can be concluded that the bankruptcy conditions contained in the Notary Office Law only relate to legal incapacity and inability to manage assets on their own property. Ignoring the dismissal of a Notary without showing respect is seen as a violation of the principle of fairness for Notaries. Because, bankruptcy is basically a temporary state that can be resolved or ended, and only affects the debtor's personal property.¹⁵.

Aristotle in his work entitled *The Ethics of Nichomachea* explained his

thinking about justice. Aristotle regarded justice as a fundamental and universal concern. Theo Huijbers explained Aristotle's concept of justice as a distinctive moral virtue that includes not only general virtues but also the establishment of harmonious relationships and a just balance among individuals. This equilibrium measure is characterized by numerical and proportional equations. Aristotle's understanding of justice was based on the principle of equality. In terms of numerical equivalence, each individual is standardized as a single entity. Proportional equality is the division of the rights of each individual based on his abilities and achievements¹⁶.

Dishonorable dismissal of Notaries due to bankruptcy by the court is not in accordance with the principle of justice

¹⁵ Amanda Maylaksita "Problematic Interpretation of Bankruptcy Arrangements for Notary Offices in Indonesia". *Lex Renaissance*, Vol. 4, No. 1, January 2019, p, 126

¹⁶ Hyronimus Rhiti, *Philosophy of Law*, Atma Jaya University, Yogyakarta, 2015, p. 15



proposed by Aristotle, namely numerical equality and proportional equality. Numerical equality means that every human being is equal in one unit, one of which is that all people are equal before the law. The Notary Position, is neither a legal entity nor an individual, so it is exempt from the laws and regulations regarding bankruptcy. However, persons occupying the position of Notary Public may be subject to bankruptcy legislation. Therefore, the bankruptcy experienced by a Notary Public does not have an impact on his position as a Notary. In addition, there is another general official who also regulates the issue of dismissal from his position due to bankruptcy, namely the Land Deed Making Officer. As we know that PPAT can concurrently hold a position as a Notary. In Article 10 paragraph (2) letter d of Government Regulation Number 24 of 2016 concerning the Regulation of the Position of Land Deed Making Officer states that "PPAT

is honorably dismissed as referred to in paragraph (1) letter a, because: declared bankrupt based on a court decision that has obtained permanent legal force". This shows that PPAT, in its capacity as a general official, is still respected when dismissed from its position. This situation is clearly unfair, because only Notaries are dishonorably dismissed from their positions just because they are bankrupt.

Proportional equality is giving to each person what is rightfully his, according to his abilities and achievements. Notaries who have successfully undergone bankruptcy proceedings and have made rehabilitation efforts to restore their good name, are prohibited from reapplying for the post of Notary, this is very unfair to them. According to them, bankruptcy solely refers to the inability of notaries to pay debts to creditors, without being accompanied by reprehensible acts that can endanger the good name and



integrity of the notary. So that the dismissal of the notary position due to bankruptcy does not meet proportional equality. If this is related to the provisions contained in Article 28D paragraph (1) and paragraph (2) of the 1945 Constitution which states that (1) "Everyone has the right to recognition, guarantee, protection, and fair legal certainty and equal treatment before the law". Paragraph (2) states, "Everyone has the right to work and to fair and decent remuneration and treatment in employment relations." In the context of employment relations, the Notary has the right to reapply for the position of Notary, provided that it has successfully undergone bankruptcy proceedings and restored its reputation. This is because every Indonesian citizen has the right to obtain a job and get fair treatment in the context of employment relations. Currently, there are no regulations governing the reappointment of Notaries who have

successfully completed the bankruptcy process. As a result, Notaries who successfully undergo bankruptcy proceedings lack legal certainty.

F. Conclusion

A Notary Public who is in bankruptcy proceedings, may be temporarily dismissed from his position as referred to in Article 9 paragraph (1) letter a. If the bankruptcy declaration has permanent legal force, the Notary Public is dishonorably dismissed from his position by the Minister, based on the proposal of the Central Supervisory Panel as stated in Article 12 letter a of Law Number 2 of 2014 concerning Notary Position.

The Notary Position Law and the Bankruptcy Law have conflicting provisions. The Bankruptcy Law does not explicitly regulate the role of Notaries. However, it can be concluded that the bankruptcy provisions outlined in the Notary Office Law only relate to the issue of legal incapacity and inability



to exercise power over one's property. Dishonorable dismissal of a Notary Public is considered to ignore the norms of justice for Notaries, because bankruptcy is essentially temporary and only concerns the debtor's personal property, not his position as a public official.

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