

Legal Consequences of Notarial Negligence in the Preparation of Credit Deeds and Banking Security Deeds

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ARTICLE INFO

Article History

Submission : 01-05-2026

Received : 04-05-2026

Revised : 20-05-2026

Accepted : 22-05-2026

Keywords

Making Credit Deeds

Notary Inaccuracy

Legal Consequences

DOI:

10.59066/ijoms.v5i1.2347

ABSTRACT

This study aims to examine the legal consequences of notarial negligence in the preparation of credit deeds and banking security deeds, as well as to identify the forms of inaccuracies that arise in notarial practice at the office of Notary Khairuddin Rasyid in Batam City. The research employs a normative juridical method combined with an empirical approach, involving the analysis of statutory regulations, legal doctrines, and practical implementation of deed drafting. The findings indicate that notarial negligence, both in formal and substantive aspects of deeds, may result in diminished evidentiary value, the potential nullification or voidability of deeds, and legal liability risks for notaries. This study underscores the necessity of applying the prudential principle, professionalism, and strict legal compliance to ensure legal certainty and protection for parties involved in banking transactions.

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Introduction

In a global context, the role of notaries as public officials who guarantee legal certainty in civil transactions has attracted increasing attention alongside the growing complexity of legal relationships in the modern financial and banking sectors. The globalization of financial systems has encouraged the standardization of credit-related legal documents, placing notaries in a strategic position to safeguard the validity and authenticity of deeds. Notarial accuracy is a fundamental element, as notarial deeds function not only as instruments of perfect evidence but also as preventive legal safeguards for the parties involved. From the perspective of legal certainty theory, an authentic deed must reflect clarity of norms, procedural consistency, and protection against potential disputes. When accuracy is not exercised optimally, the preventive function of law is at risk of failing, which may ultimately disrupt the stability of contractual relationships.

The phenomenon of notarial inaccuracy is not limited to developing countries but has also become a concern within modern legal systems that rely heavily on public trust in

public officials (Dewi Tjandraningsih, 2025). Accordingly, notarial inaccuracy has evolved into a global legal issue closely linked to the quality of legal governance and professional integrity. Within the framework of legal liability theory, every form of professional negligence must be accounted for both normatively and ethically. Therefore, notarial accuracy should not be understood merely as a technical matter, but as an integral part of the modern rule of law, which places accountability as a central foundation (Kadafi et al., 2025a)

Theoretically, professional liability theory positions notaries as legal subjects who bear legal, moral, and social obligations in exercising their authority. In the global banking context, credit deeds and security deeds constitute the primary foundation for credit risk management and financial institution stability. Inaccuracy in deed preparation may result in formal or material defects that reduce the evidentiary strength of such deeds. The theory of legal prudence emphasizes that public officials are required to apply the highest professional standards, as any error may cause significant economic losses. In practice, failure to uphold prudence often leads to civil disputes or administrative sanctions. This condition demonstrates that notaries occupy a position that is both strategic and vulnerable within the banking legal system.

Along with the increasing international digitalization of financial services, the challenges faced by notaries in maintaining accuracy and prudence have become more complex (Kadafi et al., 2025b). The transformation toward digital credit systems requires notaries to be more meticulous in ensuring data accuracy, party identification, and the substance of agreements. In this context, inaccuracy affects not only the validity of deeds but also public trust in the legal system. According to legal legitimacy theory, public trust is a fundamental prerequisite for legal effectiveness. Notarial errors may generate a chain effect, including increased transaction costs and litigation risks, which ultimately affect the stability of the banking system at both micro and macro levels ((Dewi Tjandraningsih, 2025).

In Indonesia, the issue of notarial inaccuracy has become increasingly relevant due to the growing volume of banking credit transactions (Notarius, 2024). Data from the Financial Services Authority indicate significant growth in banking credit over the past five years, which directly increases the intensity and workload of notaries. Under such conditions, the risk of administrative and substantive errors becomes greater. Although the Notary Office Act normatively regulates the obligation of prudence, its implementation in practice still faces various challenges. Several studies indicate that some notaries have not fully understood the legal implications of seemingly minor negligence in deed preparation. This situation reflects a gap between legal norms and notarial practice, which may lead to legal uncertainty and economic inefficiency.

In the practice of preparing credit deeds and banking security deeds, administrative and substantive inaccuracies are still frequently found. These include errors in party identification, inconsistencies in the object of security, and mistakes in drafting contractual clauses. Such issues are often considered trivial, even though they carry serious legal implications. In the banking context, defective deeds may weaken the legal position of banks

as creditors in executing collateral. Thus, notarial inaccuracy affects not only the professional liability of the notary but also broader economic interests (Setiadi Fail, 2025). On the other hand, debtors may also suffer losses due to unclear rights and obligations arising from inaccurately drafted deeds. This condition reflects weak implementation of the prudence principle in notarial practice.

At the Office of Notary Khairuddin Rasyid in Batam City, the relatively high volume of banking transactions further increases the complexity of notarial work. Time pressure and heavy workloads may trigger inaccuracies in deed preparation. In addition, limited updates in understanding the latest regulations also contribute to errors. This situation indicates the need for continuous evaluation and guidance in notarial practice. Without research-based academic intervention, the potential for legal disputes will continue to increase. Therefore, problem-oriented research is essential, not only as a theoretical study but also as a means of reflection and practical improvement.

The study by (Hafizha & Aminah, 2024) focuses primarily on notarial accountability from a normative and ethical perspective, without specifically examining the banking context. Their research does not address the economic implications of notarial inaccuracy and does not analyze empirical practices within a particular notary office. This study seeks to fill that gap through an empirical approach that specifically examines credit deeds and banking security deeds.

Research conducted by (Kadafi et al., 2025b) examines legal certainty in digital credit deeds with an emphasis on technological and regulatory aspects. However, the study does not position notarial inaccuracy as a primary variable. Human error in notarial practice has not been a central concern, even though it is a dominant cause of defective deeds. This research offers a different perspective by placing notarial inaccuracy as the main issue directly linked to concrete legal consequences.

Meanwhile, (Ayu Cahya Widianingrum & Siti Malikhatun Badriyah, 2025) discusses notarial liability in general using a normative approach, without a specific focus on banking deeds. In fact, credit deeds and security deeds possess distinct characteristics and legal risks compared to other civil deeds. This study addresses that gap through a concrete case study approach, enabling more applied analysis and linking legal aspects with economic implications. Such liability is not merely contractual but also encompasses civil liability, administrative liability, and even potential criminal liability in certain cases.

Based on a review of previous studies, it can be concluded that no research has specifically and comprehensively examined forms of notarial inaccuracy and their legal consequences in the preparation of credit deeds and banking security deeds within a particular notary office. Prior studies tend to be normative and general in nature and have not integrated economic implications as an essential part of the analysis (Setiadi Fail, 2025). Therefore, this research occupies a strategic position in filling this gap through the integration of normative, empirical, and economic analyses. This novelty renders the study relevant, significant, and timely for the development of notarial law.

Method

This research employs a normative juridical approach (doctrinal legal research) combined with an empirical approach. The normative juridical approach is used to examine legal norms governing the authority, obligations, and liability of notaries in the preparation of credit deeds and banking security deeds. This approach focuses on the analysis of statutory regulations, legal doctrines, and relevant court decisions. Through normative analysis, the researcher assesses the extent to which legal provisions regulate the standards of accuracy that must be fulfilled by notaries. This approach is also applied to identify the legal consequences arising from the failure to meet such standards. Accordingly, the normative juridical approach serves as the foundation of legal analysis in this study.

The empirical approach is applied to complement the normative review with factual data derived from notarial practice. This approach aims to examine how legal provisions are implemented in the actual preparation of credit deeds and banking security deeds. Through empirical inquiry, the researcher identifies forms of notarial inaccuracy as well as the underlying factors contributing to such practices. This approach also enables the identification of gaps between legal norms and practical realities. Therefore, the empirical approach provides a contextual dimension that enriches the normative analysis.

The research is conducted in a systematic and sequential manner. The initial stage involves tracing and examining primary, secondary, and tertiary legal materials relevant to the research topic. The subsequent stage consists of collecting empirical data through direct interaction with the research subjects. The data obtained are then analyzed qualitatively by linking empirical findings with applicable normative provisions. This analysis is carried out in depth to assess the legal consequences of notarial inaccuracy. Through these stages, the research is expected to produce comprehensive and accurate findings. Overall, the research methodology is designed to address the research problems effectively and systematically. The combined approach ensures that the study is not only theoretical in nature but also relevant to the development of legal practice. This method supports the achievement of research objectives oriented toward the advancement of legal scholarship and the improvement of notarial practice. Accordingly, the research methodology aligns with the characteristics of applied legal research.

Data collection in this research is conducted through document study, observation, and limited interviews. Document study is used to examine credit deeds, banking security deeds, and other supporting documents related to the deed preparation process. Observation is carried out to directly understand procedures and workflows in notarial practice. Limited interviews are conducted to obtain explanations and clarifications regarding findings derived from document study and observation. The combination of these data collection techniques enables the researcher to obtain comprehensive and complementary data. The collected data are then processed and analyzed in accordance with the research objectives. Thus, the data collection techniques support the validity and reliability of the research results.

The indicators of research success are determined based on the substantive and methodological achievement of the research objectives. The research is considered successful if it is able to clearly identify forms of inaccuracy in the preparation of credit deeds and banking security deeds. Success is also measured by the study's ability to systematically and argumentatively explain the legal consequences arising from such inaccuracies. In addition, the research is deemed successful if the resulting analysis is consistent with established theories and applicable legal provisions. Another indicator is the relevance of the research findings to notarial practice and the needs of legal development. Accordingly, the indicators of success reflect both the academic quality and the practical value of the research.

Results and Discussion

1. Initial Analysis of the Implementation of Research Activities in Addressing Partner Problems

The initial analysis of the research activities conducted at the Office of Notary Khairuddin Rasyid in Batam City indicates that, in general, the practice of preparing credit deeds and banking security deeds has complied with the applicable normative framework. Nevertheless, the study identifies weaknesses in both administrative and substantive accuracy that have the potential to give rise to legal problems. Through the initial identification stage, this research successfully mapped patterns of errors that had not previously been systematically documented. This mapping serves as a basis for understanding the root causes of the problems faced by the partner. With this approach, the research functions not only as an evaluation instrument but also as a medium for practical legal learning. The initial findings demonstrate that some issues could be prevented through the strengthening of document verification procedures. Accordingly, the research activities directly contribute to addressing the partner's problems.

At the subsequent stage, the research reveals that issues of inaccuracy do not always arise from intentional negligence, but are often influenced by the complexity of banking transactions and the high workload involved. These conditions tend to limit the depth of verification of legal subjects and objects. The initial analysis assists the partner in understanding that accuracy constitutes an integral part of the constitutional obligation to ensure legal certainty for the public. Through these research findings, the partner gains a clearer picture of the legal risks that may arise even from minor errors. This awareness highlights the need for internal evaluation in notarial practice. The research also demonstrates that preventive approaches are more effective than repressive dispute resolution. Thus, the initial analysis provides significant added value for the partner.

Furthermore, the results of the initial analysis are used as a foundation for formulating realistic and applicable improvement measures. This research helps the partner identify critical points requiring special attention, particularly during the stages of document examination and deed clause drafting. This process encourages changes toward more cautious and systematic work patterns. In addition, the research reinforces awareness that notarial deeds play a strategic role in maintaining the stability of banking legal relationships.

Accordingly, the research activities do not stop at problem identification but also generate relevant solutions. This demonstrates that the research functions as an instrument of partner empowerment. Therefore, the initial analysis of the research implementation has proven effective in addressing the partner's practical needs.

2. Forms of Inaccuracy in the Preparation of Credit Deeds and Banking Security Deeds

The most dominant form of inaccuracy identified in this research concerns errors in the data of legal subjects and objects. These errors include inaccuracies in party identification, misspellings of names, and inconsistencies between the collateral object data and supporting documents. From a civil law perspective, such errors may create uncertainty regarding the parties legally bound in the credit agreement. Inaccuracy in this aspect can weaken the legal position of the parties in the event of a dispute. The research finds that data errors often result from insufficient verification processes. This condition demonstrates that administrative aspects may have substantial legal consequences. Therefore, errors in legal subject and object data constitute a key finding of this study.

Another form of inaccuracy identified is the inconsistency of deed clauses with applicable banking regulations. The research finds that certain clauses in credit deeds and banking security deeds do not fully reflect the principles of prudence and balance between the parties. Such inconsistencies may arise from the use of standard clauses that are outdated or insufficiently adapted to the specific characteristics of the transaction. As a result, there is potential imbalance in the rights and obligations of creditors and debtors. In practice, this condition may lead to objections or legal disputes in the future. The study shows that careless drafting of clauses can undermine the effectiveness of a deed. Thus, clause inconsistency represents a significant form of inaccuracy.

In addition, the research also identifies negligence in fulfilling the formal requirements of deeds. Such negligence includes the absence of required parties, errors in signing, and discrepancies in the date and place of deed execution. Formal requirements are essential elements that determine the validity of an authentic deed. If these requirements are not fulfilled, the deed may lose its authentic character and only have the evidentiary value of a private deed. The research indicates that neglect of formal requirements is often regarded as a mere administrative error. However, legally, such negligence may have serious implications for the legal standing of the deed. Therefore, compliance with formal requirements must be a primary concern in notarial practice.

In the practice of preparing credit deeds and banking security deeds, various problems were found that may lead to notarial inaccuracy. One frequently encountered issue is requests for the immediate preparation or signing of deeds under very tight deadlines. This condition usually arises due to bank credit disbursement targets or urgent needs of debtors. Such time pressure may reduce the notary's accuracy in conducting thorough examinations of documents, legal subject data, and the validity of collateral objects. Another issue relates to incomplete data and supporting documents during the deed preparation process. In several cases, identity documents, collateral ownership data, or approvals from relevant parties were not fully complete, yet the deed preparation proceeded. Inaccuracy in ensuring data

completeness may result in formal or material defects in the deed, potentially weakening its evidentiary strength.

A further critical issue involves the absence of consent or signatures from heirs in relation to the collateral object. This situation often occurs when heirs reside outside the city, cannot be physically present, or when a spouse refuses to sign the deed. In some cases, heirs explicitly refuse to give consent. If such conditions are not handled carefully, the security deed may contain legal defects due to the failure to meet legal subject requirements.

Another problem arises when banks request immediate credit disbursement even though the legal requirements for deed preparation have not been fully satisfied. This situation places notaries in a dilemma between accommodating banking requests and fulfilling their duty of prudence. If the notary proceeds without fulfilling all requirements, legal risks to the validity of the deed become unavoidable.

Further issues were identified in relation to collateral objects that are uncertified or have unclear legal status, such as overlapping documents or assets that have not been officially registered. Inaccuracy in examining the legal status of collateral may result in the security deed losing its executorial force and may lead to ownership disputes in the future. Another equally important issue is the emergence of disputes due to insufficient notarial accuracy in drafting deeds involving banks, customers, and land authorities (BPN). Data inconsistencies, drafting errors, or differences in interpretation of deed contents may trigger legal conflicts among the parties. Such disputes not only harm the parties involved but also affect the legal liability and professional reputation of the notary as a public official. In addition to these issues, other case-specific problems were identified, such as legal defects arising from violations of statutory provisions, procedural non-compliance, or negligence in fulfilling subjective and objective requirements of agreements. These legal defects may cause deeds to be null and void or voidable, thereby eliminating their function as authentic evidence that provides legal certainty.

3. Consequences of Inaccuracy in the Preparation of Credit Deeds and Banking Security Deeds

The first legal consequence identified as a result of notarial inaccuracy is the reduction in the evidentiary strength of the deed. A deed that should possess perfect evidentiary value as an authentic deed may be degraded if formal and material requirements are not fulfilled. This condition contradicts the principle of legal certainty as guaranteed under Article 28D paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The reduction in evidentiary strength may disadvantage the parties during judicial proceedings. The research shows that weak evidentiary deeds can prolong dispute resolution processes. Thus, notarial inaccuracy directly affects the fulfillment of citizens' constitutional rights and becomes a major concern of this study.

Another legal consequence is the potential nullity or voidability of credit deeds and banking security deeds. Inaccuracy in fulfilling subjective and objective requirements of agreements may cause deeds to lose their legal validity. A deed that is null and void produces no legal effects from the outset, while a voidable deed opens the possibility of future disputes. This condition may violate the principles of justice and legal certainty as mandated

by Article 1 paragraph (3) of the 1945 Constitution, which affirms Indonesia as a state based on law. The research indicates that deed annulment may cause economic and legal losses to the parties. Therefore, notarial inaccuracy cannot be regarded as a minor error, as its legal impact is broad and systemic.

Furthermore, the research identifies the risk of legal liability for notaries arising from inaccuracies in deed preparation. Such liability may take the form of civil, administrative, and professional ethical responsibility. In certain circumstances, notaries may be required to provide compensation for losses suffered by the parties. This risk aligns with the principle of equality before the law as stipulated in Article 27 paragraph (1) of the 1945 Constitution. The research confirms that notaries are not immune from legal accountability for their professional actions. Accordingly, notarial inaccuracy carries tangible constitutional implications, making professionalism and prudence absolute requirements in notarial practice.

The legal consequences of notarial inaccuracy in credit deeds and security deeds may include the degradation of deeds into private deeds, the loss of authenticity, and even nullity by operation of law. The consequences for notaries may include administrative sanctions such as reprimands, temporary suspension, or revocation of authentic deed authority by the Minister of Law and Human Rights. Civil sanctions may also apply, whereby notaries can be sued for material and immaterial damages resulting from negligence based on unlawful acts under Article 1365 of the Indonesian Civil Code. Civil liability constitutes a fundamental pillar of the legal system governing relationships among legal subjects, including individuals, legal entities, and the state when state actions cause losses. Criminal sanctions may also apply if negligence involves criminal elements, cooperation, and intent to cause harm, in which case provisions of the Criminal Code may be enforced.

4. Comparison of Research Findings

The findings of this research demonstrate clear differences compared to five previous studies that primarily focused on the normative aspects of notarial liability. Earlier studies generally examined notarial obligations based on statutory provisions without directly linking them to concrete practices in the field. In contrast, this research integrates normative analysis with empirical findings from a specific notary office. This approach enables more specific and contextual identification of forms of inaccuracy. Accordingly, this study fills a gap in research related to the implementation of legal norms. The research gap lies in the lack of studies connecting legal norms with real-world practice.

Previous studies also tended to focus on a single type of deed, either credit deeds or security deeds, in isolation. This research demonstrates that both types of deeds are interconnected and inseparable in banking transactions. This integrated approach provides a more comprehensive understanding of legal risks arising from inaccuracy. Moreover, this study emphasizes the active role of notaries in preventing legal problems rather than merely acting as passive deed drafters. This distinction broadens existing perspectives in notarial studies and contributes new insights to legal scholarship.

In addition, prior research rarely linked the consequences of notarial inaccuracy with constitutional principles. This research explicitly connects the legal consequences of

inaccuracy with the principles of legal certainty, justice, and equality before the law. This constitutional approach constitutes a key differentiator from previous studies. Thus, the research gap addressed lies in the integration of normative, empirical, and constitutional analyses. Consequently, this study not only enriches academic discourse but also provides a stronger normative foundation for notarial practice.

Conclusion

Based on the results of the research conducted at the Office of Notary Khairuddin Rasyid in Batam City, it can be concluded that notarial inaccuracy in the preparation of credit deeds and banking security deeds has the potential to generate significant legal consequences, both in relation to the evidentiary strength of deeds and the professional liability of the notary. Initial data prior to the study indicate the persistence of administrative and substantive practices that have not fully complied with the prudential principle, including errors in the identification of legal subjects, inaccuracies in the description of collateral objects, and deed clauses that are not entirely aligned with banking regulations and applicable statutory provisions. Following an in-depth analysis and normative evaluation of these practices, this research finds that enhanced understanding of the formal and material aspects of deeds, together with the consistent application of the prudential principle, can effectively minimize the risk of deeds being declared null and void or voidable, while simultaneously strengthening legal certainty for the parties involved. Nevertheless, this study has certain limitations, particularly with regard to the scope of the research location, which is confined to a single notary office, as well as the limited availability of quantitative empirical data that would allow for broader comparisons of notarial practices across different regions. Therefore, further research involving a wider range of subjects and geographical areas is necessary to obtain a more comprehensive understanding of notarial practice within the banking sector.

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