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AUTHORITY OF NOTARY AND THE POWER OF LAW POSTNUPTIAL AGREEMENT DEED POST-DECISION OF CONSTITUTIONAL COURT NUMBER: 69/STATUTORY REGULATIONS-XIII/2015

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Abstract

This research aims is to increase knowledge and insight about Notary Authority and Legal Strength of Postnuptial Agreement Deed Post Constitutional Court Decision Number: 69/Statutory Regulations -XIII/2015. Normative research method, reviewing the legislation and library materials with approaches of legislation and concepts, the source of legal materials using primary, secondary and tertiary legal materials, after the legal material collected through literature study then further analyzed by qualitative descriptive to get a conclusion. The result of the research obtained is the Notary Authority in the aggregation of the Postnuptial Agreement Deed after the Constitutional Court Decision Number: 69/Statutory Regulations-XIII/2015 is a Notary authorized to make Postnuptial Agreement Deed whose contents are retroactive. Post-Decision of the Constitutional Court The Postnuptial Agreement made by a new notary has the legal power after being registered with the Civil Registry Agency based on Regulation of the Minister of Home Affairs Number 472.2/5876/Department Of Population And Civil Registration.

Keywords: Authority notary; Decision of the Constitutional Court Number: 69/Statutory Regulations -XIII/2015; Postnuptial Agreement Deed

1. INTRODUCTION

The marriage agreement stipulated in article 147 of the Criminal Code was made before the marriage took place before an authorized Notary in the form of authentic deed and Article 29 of Law Number 1 of 1974 concerning marriage made before and at the time of marriage and the agreement period together when the marriage took place the provisions of the marriage agreement do not recognize the marriage agreement made after the marriage is held or the Postnuptial deed.

The decision of the Constitutional Court Number: 69/Statutory Regulation-XIII/2015 stated that the marriage agreement was made before marriage and when the marriage was held (Prenuptial Agreement) and the most phenomenal

was after the marriage was held (Postnuptial Agreement), simply, a Prenuptial Agreement and Postnuptial Agreement (Yuvens, 2017), was made with a Notary deed and the time of the marriage agreement when the marriage takes place, unless otherwise specified in the marriage agreement.

The problem is if the parties do not determine when the marriage agreement will take effect then the marriage agreement will take effect from the time the marriage takes place (retroactive). The problems that arise if the marriage agreement begins to take effect since the marriage is held whether the marriage agreement for the sake of the law changes the existing legal status before the marriage agreement is made, whether the property which was originally a joint asset

(these properties) husband and wife, with the marriage agreement being made into personal property of the husband or wife who obtained the property. If this is the case, then problems will arise. Whether the husband and wife can do the distribution and separation of property in marriage without first asking for the determination of the court, whether the change in the status of the property does not harm the third party.

Where it is unclear what rules govern the procedure for making Postnuptial Agreement Deed and the legal strength of the Postnuptial Agreement Deed after the Constitutional Court Decision Number: 69/Statutory Regulations-XIII / 2015 made by Notary if in the future lawsuits from the parties that make or third parties feel disadvantaged by the creation of this norm obscure Postnuptial Agreement deed the author's attention so interesting to explore.

Departing from the description above, this research is limited to the Authority of Notary in the making of Postnuptial Deed of Agreement After the Constitutional Court Decision Number: 69/Statutory Regulation-XIII/2015 and the Legal Strength of Postnuptial Deed of Agreement After the Constitutional Court Decision Number: 69/Statutory Regulation-XIII/2015.

2. METHOD

This research is normative legal research using the approach (statue approach) and conceptual approach (conceptual approach) (Marzuki, 2011). Sources of legal materials use primary legal materials, secondary legal material, and tertiary legal materials. The technique for collecting legal materials is library writing, card systems. The collected legal material is carried out in a qualitative description analysis so that conclusions are obtained which are the answers to the problems studied in accordance with the purpose of writing.

3. RESULTS AND DISCUSSION

Notary Authority in Making Postnuptial Agreement Deed of Authority Notary Based on Act of Notary Position

The position of a Notary as a public official who is authorized to make authentic deeds has been confirmed in the provisions stated in Article 1 Number 1 of the Law of Notary Position Amendment. Notary in the Law of Notary Position qualifies as public officials (Adjie, 2008). The position of a Notary as a function in the community is considered to be an official in which a person can obtain advice that can be relied upon and produce strong documents in a legal process. So that the community needs a person (figure) whose conditions are reliable, trustworthy, whose signature and everything (stamp) provide strong guarantees and evidence, an impartial expert and advisor who has no defects (onkreukbaar or unimpeachable), which is closed mouth and make an agreement that can protect it in the future (Kie, 2000).

A notary is a public official who obtains authority in attribution because the authority was created and given by the Law of Notary Position (Kie, 2000). The authority is to make authentic deeds and other authorities as referred to in the Act of Notary Position. The authority contained in Article 15 of the Notary Position Law shows that the main authority of the Notary is to make deeds, but the Notary is also authorized to provide legal counselling in connection with the making of deeds.

Authorized Notary insofar as it concerns the deed that must be made, based on article 15 paragraph 1, 2 and 3, Law of Notary Position Amendment to Notary has the following authorities:

Paragraph (1) The notary has the authority to make authentic Deed regarding all acts, agreements, and stipulation required by legislation and/or what is desired by those concerned to be stated in authentic Deed, guarantee the date of Deed, keep Deed, give Grosse,

copies and quotations of the Deed, all of which throughout the making of the Deed are not also assigned or excluded to other officials or other people as determined by law.

Paragraph (2) In addition to the authority as referred to in paragraph (1), the Notary is also authorized:

Ratify signatures and determine the certainty of the date of the letter under the hand by registering in a special book;

Book letters under the hand by registering in a special book;

Make copies of the original letter under the hand in the form of a copy containing the description as written and illustrated in the letter concerned;

Validate the photocopying match with the original letter;

Provide legal counselling in connection with the making of Deed;

Make Deed relating to land; or

Make Deed of auction minutes.

Paragraph (3) In addition to the authority as referred to in paragraph (1) and paragraph (2), the Notary has other authorities stipulated in the laws and regulations.

The legislation has determined that there are several legal actions or agreements that must be made by or in the presence of certain officials (Notary) who formally must follow certain forms and the agreement (deed) has perfect evidentiary power. If this is not done, the agreement is cancelled (Budiono, 2007). The agreements that must be made by or before a certain official (Notary), including:

Various Marriage Agreements and their amendments (Article 147,148).

Distribution of marital property after the court decision regarding the separation of property (article 191) and other deeds regulated by law (Adjie, 2008b).

The terms of Notary Deed as authentic deeds based on article 15 paragraph (1) Law of Notary Position confirms that one of the notary authorities, namely making

deeds in general, with limitation as long as:

Not excluded from other officials determined by law.

Regarding the deed that must be made or authorized to make authentic deeds regarding all actions, agreements, and provisions required by the legal rules or desired by the concerned

Regarding the legal subject (person or legal entity) for the interests of whom the deed is made or desired by those concerned.

Authorization regarding the place, where the deed is made, this is in accordance with the position and area of the office of the Notary.

Regarding the time of making a deed, in this case, the Notary must guarantee the certainty of the time facing the viewers listed in the deed (Adjie, 2008b).

The juridical character of Notary deed, namely:

Notary deed must be made in the form specified by the law (Notary Position Law)

Notary deeds are made because there are requests from the parties and not the wishes of the Notary;

Even though the Notary deed is stated in the name of the Notary, in this case, the Notary is not a party together with the parties or the addressee whose name is stated in the deed.

Having perfect proof of power. Anyone is bound by a Notary deed and cannot be interpreted differently, other than those stated in the deed.

Cancellation of the binding power of a Notary deed can only be made at the agreement of the parties whose names are listed in the deed. If there is a disagreement, the party that does not agree must submit an application to the general court so that the deed in question is no longer binding for certain proven reasons (Adjie, 2008b).

Before the Decision of the Constitutional Court Number: 69/Statutory

Regulations-XIII/2015, the marriage agreement was regulated in the Article 139 of the Civil Code states that "By entering into a marriage agreement, the two prospective husband and wife are entitled to prepare some deviations from the rules of the Law around the union of assets, provided that the agreement does not violate the good moral code or the general order and as long as all the provisions below". In the rules of article 147 of the Civil Code, it is stated that the marriage agreement must be made before the marriage takes place and the marriage agreement must be made before the Notary. If the marriage agreement is not made before a Notary then the agreement is null and void from the law and in the Marriage Law regulated in Article 29, namely:

At the time or before the marriage takes place, both parties or joint agreements may enter a written agreement legalized by the marriage registrar employee, after which the contents also apply to third parties as long as the third party is involved.

The agreement cannot be ratified if it violates the boundaries of law, religion and morality.

The agreement prevails from the time the marriage takes place.

During the marriage, the agreement cannot be changed unless from both parties there is an agreement to change and the change does not harm the third party.

Based on the above description it is known that the marriage agreement before the Constitutional Court Decision must be made before the marriage is carried out and must be registered at the Civil Registry Office.

Before the Constitutional Court Decision, if there were deeds regarding marriage agreements made after the date of the marriage, the deeds were in violation of the provisions of the Law, namely, violating Article 147 of the Civil Code and Article 29 of the Marriage Law,

therefore the deeds are null and void and has no power in the eyes of the law.

Based on the description of the analysis above, before the Constitutional Court Decision, the Notary was not authorized to make a Postnuptial Agreement Deed where the Deed was not valid and did not have perfect legal force because neither in the Civil Code nor the Marriage Law regulated Postnuptial Agreement.

So if there is a Notary who made a Postnuptial Agreement before the Constitutional Court Decision, then the Postnuptial Agreement is legally not an authentic and null and void law.

Authority of Notary in the Making of Postnuptial Agreement Deed of the Decision of the Constitutional Court Number: 69/STATUTORY REGULATIONS-XIII/2015

The main pillar of the rule of law, namely the principle of legality, then based on that principle means that the authority of the government comes from legislation, which means the source of authority for the Government is the legislation. Theoretically, the authority derived from the legislation is obtained in three ways, namely: attribution, delegation, and mandate. Indroharto in the State Administration Law by Ridwan HR said that the attribution of the new government authority was granted by a provision in the legislation. At attribution is born or created a new authority (Ridwan, 2008).

Notary as a public official obtains authority through attribution because the authority is created and given by the Law of Notary Position itself. Notary as a position and any position in this country have its own authority. Every authority must have a legal basis. Authority must be based on existing legal provisions so that the authority is a legitimate authority. Therefore the authority of any office must be clear and explicit in the laws and regulations governing the official or office

The relevance of the issue of Notary authority in making a Post Nuptial

Agreement related to the contents of the Post-Act of the Constitutional Court Decision on the authority of attribution is regarding the authority and legal force of the Postnuptial Agreement Deed is with officials or bodies as stated in the basic regulations.

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Based on the description above, then one characteristic and at the same time constitutes the purpose of the law is to provide protection to the public including Notary. Post Court Decision the notary is authorized to make a postnuptial Agreement Deed which applies retroactively wherein the phrase states that the Agreement is valid from the marriage unless specified otherwise, in the phrase unless otherwise specified that gives Authority to the Notary to make a Marriage Agreement which applies retroactively as long as the deed does not harm the interests of third parties related to Postnuptial Agreement, thus in making marriage agreements, the husband/wife agrees that their marriage agreement make it effective from the time the marriage agreement is made or only applies to the assets they have obtained after the marriage agreement is made, so that it does not change the legal status of the existing assets. Therefore, legal protection for the community including the Notary must be realized in the form of legal certainty with legal certainty. Furthermore, the law can protect the rights and obligations of every individual in the community including a notary.

The Power of Postnuptial Law Agreement After the Decision of the Constitutional Court Number: 69/ Statutory Regulations-XIII / 2015

The power of proof of Authentic Deed is stipulated in Article 1870 of the Civil Code which states that; an authentic deed provides between the parties and the heirs of their heirs or those who have the rights of them, perfect proof of what is contained therein. The strength inherent in authentic deeds is; perfect (*volledigbewijskracht*) and binding (*bindende bewijskracht*), which means that if the proof of Authentic Deed is submitted to fulfil formal and material requirements and the evidence of the opponent stated by the defendant does not reduce its existence, at the same time it attaches perfect and binding evidence (*volledig enbindende bewijskracht*), thus the truth of the contents and statements contained therein are perfect and binding on the parties regarding what is stated in the deed. Perfect and binding to the judge so that the judge must make it a perfect basis of facts and enough to make decisions on resolving disputed cases ([Harahap, 2008](#)).

In making an authentic notary, it should be considered 3 (three) aspects, Notary deeds as authentic deeds have the strength of evidence value namely :

Outwardly (*uitwendige bewijskracht*)

The outward ability of the Notary deed is the ability of the deed itself to prove its validity, as an authentic deed (*acta Publica probant seseipsa*). The parameter for determining the Notary deed as an authentic deed, namely by the presence of a signature from the relevant Notary, both in the Minuta and the copy and the beginning of the deed from the title to the end of the deed ([Adjie, 2009](#)).

Formal (*formeel bewijskracht*)

The Notary Deed must provide certainty that an event and fact in the deed is actually carried out by a notary or explained by the parties facing when stated in the deed in accordance with the procedures specified in the making of the

deed. Formally to prove the truth and certainty about the day, date, month, year, hour (time) facing, and the parties facing, initial and signature of the parties or viewers, witnesses and Notaries, and prove what is seen, witnessed, heard by Notary, (on official deed/minutes), and record information or statements of parties or viewers (on party deeds)

Material (materiele bewijskracht), It is certainly about the material of a deed because what is stated in the deed is a valid proof of the parties who make the deed or those who get the rights and apply to the public unless there is evidence otherwise. Information or statement that is stated or contained in official deed or official report, or statement of the parties given or delivered before the Notary deed of the party and the parties must be judged to be true and then stated or contained in the deed as true or every person who comes facing the Notary and then the statement is stated or contained in the deed must be judged to have said the truth.

The Strength of Binding the Postnuptial Deed of Agreement After the Decision of the Constitutional Court Number: 69/STATUTOY REGULATIONS-XIII/2015

The marriage agreement is also known as the Prenuptial Agreement means that the agreement was made before (pre) the marriage took place or it could also be made at the time the marriage took place (during the marriage contract) while the marriage agreement made by the Notary called the Postnuptial Agreement. marriage agreement made by a married couple when the marriage bond takes place (walking). The contents of the Prenuptial Agreement and the Postnuptial Agreement are the same, which can contain all things that are deemed necessary to safeguard the rights and interests of all parties, including property, accounts payable, company ownership, care and education for household roles, violence avoidance in the household

(domestic violence), attitudes towards polygamy, and so forth. Basically, these points are flexible according to the agreement of both parties without any pressure or coercion from any party and are made in a state of awareness and responsibility as long as they do not conflict with the limits of legal, religious and moral norms.

The form of the marriage agreement as specified in Article 29 paragraph (1) states that the marriage agreement is made in written form. Although a written agreement can be interpreted in an authentic and subordinate form but in practice, a marriage agreement is made in the form of an authentic deed made before a Notary.

The article 29 paragraph (3) of the Marriage Law after the Constitutional Court Decision: "the agreement starts from the date the marriage takes place unless otherwise specified in the marriage agreement". The phrase "unless otherwise specified in the marriage agreement" can be interpreted that if the husband and wife do not set a specific time about when the marriage agreement enters into force, the marriage agreement takes effect from the time the marriage takes place. For example, the A & B married couple married in 2013 and did not make a marriage agreement, then in 2017 the husband and wife learned of the Constitutional Court Decision that allowed the married couple to make a marriage agreement even though not before the wedding. Then the husband and wife face the Notary to make a marriage agreement but they do not specify that the marriage agreement will take effect when making the marriage agreement, therefore their marriage agreement is retroactive and begins at the time of the marriage.

The marriage agreement deed (Postnuptial Agreement Deed) must be made in writing in accordance with the prevailing laws and regulations and made before an authorized official, namely a Notary to guarantee legal certainty. For third parties who want to enter into an

agreement with the husband and wife.

Legal certainty to be achieved is the certainty of the legal subject that makes the agreement and the object of the agreement.

The legal subject in question is there is certain whether the husband and wife make an agreement together or individually.

The object of the agreement in question is clear who is the legal subject of the owner of the object, so if later legal problems occur, the third parties that make the agreement with the husband and wife are not wrong in suing. And husband and wife who are not related to third parties do not join the defendant.

Article 1339 of the Civil Code sets out the principle of good faith which is a matter of implementing contracts. Parties in making and implementing contracts must pay attention to the principle of good faith, which is carrying out the contract must heed the norms of compliance and decency. Regarding the implementation of good principles that are closely related to propriety also explained in Article 1339 of the Civil Code which states that a contract is not only binding on matters expressly stated in a contract, but also binding for everything that according to the nature of the contract is required by propriety, customs and laws (Muhammad, 2000).

Subekti explained that good faith according to Article 1338 paragraph (3) of the Civil Code is one of the most important joints of contract law that gives the judge the power to oversee the implementation of a contract so as not to violate propriety and justice. This means that the judge is authorized to deviate from the contract if the implementation of the contract violates the feeling of justice (*Recht Gevoel*) one and between two parties. The principle of good faith according to the existence of propriety and justice, in the sense that the demand for legal certainty in the form of implementing contracts must not violate the norms of decency and values of justice (Syaifuddin, 2012).

The marriage agreement made based on the Constitutional Court Decision is the same as the marriage agreement before the Constitutional Court Decision begins to bind the third party when the marriage agreement is recorded by the employee registering the marriage on the marriage certificate (Department of Population and Civil Registration). So the third party cannot deny the marriage agreement if it is clearly stated in the quotation of the married couple's marriage certificate.

Making a marriage agreement made based on the Constitutional Court Decision requires caution to avoid the possibility of unwillingness from both husband and wife. This is especially intended for Notaries, even though in the marriage Law Jo. Court Decision Number 69/Statutory Regulations -XIII/2015 does not assert that the marriage agreement must be in the form of a Notary deed but only describes that the marriage agreement is made in a "written form" so that it can be interpreted as a marriage agreement made by the parties in written form but should the marriage agreement was indeed made with a Notary deed considering the following matters (Herman, 2018):

The marriage agreement is an agreement that binds the husband and wife as long as they are married (it can end if the marriage agreement is revoked (Tata cara pencabutan diatur dalam Surat Dirjen No. 472.2/5876/DUKCAPIL) thus it can be interpreted that the marriage agreement applies for a relatively long period of time, considering marriage is eternal.

There must be a guarantee that the contents of the marriage agreement are not easily changed by the parties. If the marriage agreement is made with a Notary deed, then by signing the deed before the Notary, the Notary can guarantee the contents of the marriage agreement in accordance with what is stated in the Minuta deed and the parties are given a copy of the deed which is the same as the Minuta deed and applies as evidence that has perfect proof power. Thus there is a

guarantee of legal certainty regarding the contents of the agreement to third parties.

The marriage agreement made in the form of a Notary deed, clearly stipulated in Article 147 of the Civil Code: which states that upon the threat of cancellation, each marriage agreement must be made with a Notary deed before the marriage takes place since the marriage takes place; other times for that should not be determined. Therefore the marriage agreement made other than in the form of a Notary deed, it is considered null and void based on Article 147 of the Civil Code. This is contrary to Article 29 of the Marriage Law Jo. The Constitutional Court ruling outlining that the marriage agreement made in writing cannot be ratified/listed in the Department of Population and Civil Registration since one of the requirements of a marriage agreement can be ratified/stated based on the Director-General of The Department of Population and Civil Registration Number: 472.2/5876/ Department of Population and Civil Registration regarding "Reporting Marriage Agreement" namely "photocopy of Notary deed of marriage agreement that has been legalized by showing the original "so that marriage agreements made in writing cannot be ratified/stated and cannot bind third parties only to the husband and wife. Thus the marriage agreement deed after the Constitutional Court Decision which is permitted to be registered in the Department of Population and Civil Registration is an authentic deed made by the authorized Notary.

In addition, a Notary who is given the authority to make a marriage agreement has declared an oath of office, namely: Carrying out a position with a trustworthy, honest, thorough, independent and impartial (Adjie, 2011) "carefully" namely careful and careful in preparing the editorial deed so as not to harm the parties in accordance with the notary position law article 16 paragraph (1) letter a In carrying out his position the Notary is obliged to act honestly, thoroughly, independently, impartially and protect the

interests of related parties in legal action.

In the Law of Notary Position, the legal requirements for an agreement are manifested in a notary deed. Subjective conditions are included at the beginning of the deed and the objective requirements are included in the deed body as the contents of the deed. The contents of the deed are an embodiment of article 1338 of the Civil Code concerning freedom of contract and provide legal certainty and protection to the parties regarding the agreement made. Thus, if at the beginning of the deed, especially the requirements of the parties facing the Notary do not fulfil the Subjective requirements, then at the request of a certain person the deed can be abrogated (Adjie, 2009). If the contents of the deed do not meet the objective requirements, then the deed is null and void. Because Article 38 paragraph (3) letter of the law of notary position has determined that the Subjective and Objective terms are part of the deed body (Adjie, 2009).

Therefore the marriage agreement made by the Notary deed is an effort so that the marriage agreement made during the marriage takes place is not detrimental and fair to the parties concerned, this is because the Notary who is given Attribution authority by Notary Position Law prioritizes the principle of prudence be careful.

The notary needs to pay attention to the marriage agreement not to harm the third party, namely (Adjie, 2017):

Request a list of inventory of assets acquired during the marriage bond that will be included in the deed.

There is a statement that these assets have never been transacted in any way and form, to and to anyone

These things need to be considered, both by the spouse of husband and wife and by a Notary, thus the marriage agreement made at the time of the marriage takes place can avoid problems that might arise in the future because of a claim from a third party that was harmed

due to the agreement the marriage (Alwesius, 2016).

In the discussion in this subchapter, based on the existence of the Theory of Justice, this theory complements the theoretical foundations in chapter I related to the problem under study is the power of the Binding Act of Postnuptial Agreement in the Decision of the Constitutional Court Number: 69/Statutory Regulations-XIII/2015.

Judging from the essence of justice in the making of the Postnuptial Agreement Act, several scholars, one of which was Jhon Rowls, put forward an idea of agreement-based justice (Hernoko, 2008). The thinkers realize that without an agreement and the rights and obligations that arise, the relationship between the individual and the community will not work. Therefore, without an agreement, people will not be willing to be bound and dependent on the statements of others. The agreement provides a way to guarantee that each individual will fulfil his promise, then the thing that allows transactions to occur between them (Sujana, 2015). Notary in making a Postnuptial Agreement that is fair to all parties.

Legal certainty can only be answered in a normative way. Legal certainty is normatively interpreted if a rule can be made and promulgated with certainty and must be made clear so as not to cause a doubt of the vagueness of norms, besides that rules must be made logically in the sense that the rules will become a norm system with norms others, so as not to cause a norm conflict (Arizona, 2008).

The existence of a law that lives in the community as a guide in making social contacts or relationships with one another. Legal certainty itself by Soerjono Soekanto has stated: "The manifestation of legal certainty is the regulations of the central government that are generally applicable in all regions of the country" (Agustina, 2017).

Legal certainty for the subject of law

can be realized in the form that has been set against a legal act and event. The law that applies in principle must be obeyed and must not be deviated or distorted by legal subjects. It is written that the term fiat justitia et pereat mundus which is freely translated becomes "even though the world collapses the law must be enforced" which is the basis of the principle of certainty adopted by the positivist school.

With the existence of legal certainty, the parties that make Postnuptial Deeds of Agreement know about what must be done and obtain clarity on rights and obligations under the law. Legal certainty after the Constitutional Court Decision can be realized through good and clear regulations in an Act so that legal certainty can create order. Legal certainty is not able to truly describe the certainty of behaviour towards the law. Normative legal certainty is when regulations are made and promulgated with certainty because they regulate clearly and logically. It is clear in the sense that there is no vagueness of norms or doubts (multiple interpretations), the void of norms and logic in the sense of being a norm system with other norms so that they do not clash or cause norm conflicts.

Legal certainty theory is used to answer the legal certainty of the Constitutional Court Decision number three (3) where the meaning of "the agreement takes effect since the marriage took place, unless otherwise specified in the marriage agreement, where the arrangement is still unclear and creates multiple interpretations, so it needs to be regulated further so that later the notary can act cautiously and prevent legal problems with the deeds he made.

Based on the theory of legal certainty mentioned above, the ratification by this Notary is considered to be less strong and in order to have binding power to third parties must remain registered with the marriage registrar or Civil Registry.

Regarding this matter, the researcher

argues that the marriage agreement made by a Notary has been valid and binding according to the dictum of the Constitutional Court Decision, and this must be recognized as a positive law that applies in Indonesia today. Whereas if the parties wish to be registered, an application for the determination of registration can be submitted to the District Court whose jurisdiction covers the place of residence of the husband and wife.

The determination will include a court order to the Civil Registry to register the marriage agreement. Regarding this matter, there have been several jurisprudence stipulations on the court which ordered Civil Registry to register the marriage agreement made after the marriage was held.

Based on the Constitutional Court's ruling, the Constitutional Court allowed Postnuptial Agreement, but after the decision, there was no implementing regulation governing the procedure for registering the Postnuptial Agreement Deed at the Department of Population and Civil Registry Service.

On May 19, 2017, the Minister of Home Affairs Regulation was then issued as Permendagri, namely Number. 472.2/5876/Department of Population and Civil Registration, which regulates the following matters:

Marriage Agreement made at the time or before it takes place marriage;

4. CONCLUSION

As can be explained above, this research aims to increase knowledge and insight about Notary Authority and Legal Strength of Postnuptial Agreement Deed Post Constitutional Court Decision Number: 69/Statutory Regulations-XIII/2015. Based on the discussion above, several important items that can be drawn as conclusions can be presented as follows: First, the Notary Authority in making a Postnuptial Agreement Deed After the Constitutional Court Decision Number: 69/Statutory

Regulations-XIII/2015, namely the Authorized Authority makes a Postnuptial Agreement which the contents of the Act are retroactive, as stated in the Constitutional Court Decision Number: 69/Statutory Regulations-XIII/2015 the third item (3) in the Decision has a phrase that can be interpreted that the marriage agreement can be made as long as the parties are in a marital bond and do not harm the interests of the third party, in which the deed must be mentioned what assets and debts are separated and time he made an agreement. Second, the legal strength of the Postnuptial Agreement Deed After the Constitutional Court Decision Number: 69/Statutory Regulations-XIII / 2015, namely the Postnuptial Agreement Deed made by a Notary, only has legal force after being registered with the Civil Registry Service based on state government regulation Number: 472.2/5876/Department of Population and Civil Registration.

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