

ABSTRACT

A Notary is a public official who has authority to draw up authentic instrument as well as other authorities regulated in Notary Act. The Notary is appointed by Minister of Law and Human Rights to serve public interest. It is necessary for the Notary and his client to believe each other in their relationship. Therefore, Notary is the position of credence.

As the strongest evidence, authentic instrument has an important role in the legal relation made by parties. It could determine the rights and obligations of each party and provide legal certainty. Thereby, it could prevent dispute. In order to make notarial instrument have full evidential value physically, formally, and materially, the Notary must comply with the procedure regulated by the law in conducting his authority or drawing up authentic instrument.

In this matter, the Notary is liable for the loss arising from his fault in exercising his duties or conducting his authorities. The Notary is obliged to give damages for the client's loss caused by his fault, for example when the instrument he made doesn't comply with the law resulting in the instrument void or having evidential value as private instrument only. In this case, the client suffers losses and could file a lawsuit for damages against the Notary.

Therefore, in this thesis the writer will discuss some problems regarding :

1. The liability of Notary relating to the instrument he made materially and formally involving the procedure, the authority, and the substance,
2. Lawsuit for damages filed by the client who suffer losses, based on breach of contract and / or unlawful act (tort).

Hopefully, this thesis could deepen the reader's knowledge in public Notary and adminish Notaries to be more careful in exercising their duties.

KEYWORDS :

- legal relation
- breach of contract and unlawful act (tort)
- professional liability