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THE ROLE OF PPAT IN TAX OBLIGATIONS FOR THE PARTIES IN THE SELLING OF LAND RIGHTS

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Abstract

This study discusses the role of Land Deed Making Officials (PPAT) related to tax obligations for parties in the sale and purchase of land rights in Denpasar City and the application of the authority of the Denpasar City Regional Revenue Agency (Bapenda) in determining tax obligations on the Value of Land Rights Acquisition Fees and Buildings (BPHTB) for buyers. This study is empirical legal research with a sociological approach and a conceptual approach. The data sources consisted of: primary, and secondary. The data analysis used in this study is descriptive qualitative. The results show that the Land Deed Official can only sign the Deed of Transfer of Rights to Land and/or Buildings after the Taxpayer submits proof of tax payment and assists the parties to fulfill their tax obligations from the transaction of transfer of rights to land and/or buildings and acts as supervision, controlling, reporting, and facilitating the BPHTB payment process. Another role is that PPAT can help submit requests for information on land market prices based on the will and power of the parties. The application of the authority of the Denpasar City Regional Revenue Agency (Bapenda) in determining tax obligations on the Value of Customs on Acquisition of Rights on Land and Buildings (BPHTB) for buyers who are not listed in the legislation is the use of the indicated price of Land Value (market price) as the basis for calculating BPHTB if the value of the agreement or the price of the sale and purchase transaction of the parties is lower than the price indicated by the value of the land issued by the Denpasar City Bapenda.

Keywords: Authentic deed; authority of land deed making official; criminal acts; land titles registrar

1. INTRODUCTION

Land is an important thing for a country including Indonesia, because land involves the rights and obligations of a person as well as the life and lives of individuals or many people. From many rules regarding land and the tools that regulate and manage it, there is one thing that is no less important, namely the making of land deeds, so that there is a Land Deed Making Official (PPAT).

Regulation of control, ownership and use of land needs to be more directed so that it is more secure "orderly in the field of land law, land administration, land use or maintenance of land and the environment, so that there is legal certainty in the land sector (Harsono, 2008).

The Land Deed Maker Official (PPAT) is in charge of carrying out some land registration activities by making a deed as evidence that a legal action has been taken in this case, namely the sale and purchase of land rights in accordance with the Government Regulation of the Republic of Indonesia Number 37 of 1998 concerning the Position Regulation of the Land Deed Maker Official Article 2 Paragraphs 1 and 2. In legal certainty, namely regarding PPAT's responsibilities in Income Tax (PPH) and Customs Tax on Land and/or Building Rights (BPHTB), it is to prepare tax forms and assist taxpayers in calculating and can only sign the deed of transfer of rights to land and/or buildings. Land and or Building after the Taxpayer submits proof of tax payment.

The Denpasar City Government has outlined the legal basis for the collection of

Duties on the Acquisition of Rights on Land and/or Buildings (*BPHTB*) in the Denpasar City Regulation Number 1 of 2016 concerning Amendments to Regional Regulation Number 7 of 2010 concerning Fees for the Acquisition of Rights on Land and Buildings. The parties who carry out the Sale and Purchase of Land Rights before making an agreement on the value of the sale and purchase transaction which is the basis for determining the tax obligation on the Value of the Acquisition of Land and Building Rights (*BPHTB*) first confirm the market price of the Land to the Regional Revenue Agency (*Bapenda*).

The results study conducted by Paramitha et al. (2021) showed that acquisition duties on land and buildings during exchanges follow the guidelines of Law Number 28 of 2009, based on market value. Furthermore, Land Deed Officials play a key role in creating exchange deeds and collecting these duties, assisting taxpayers in legal exchanges as per Government Regulation Number 24 of 2016, which amends Government Regulation Number 37 of 1998 regarding Land Deed Maker Officials' duties and authorities. In addition, results study conducted by Febrian (2022) revealed that the PPAT's role in collecting Land Title Acquisition Fees (*BPHTB*) is to actively ensure the prompt payment of these fees when transferring land and building rights. According to Act No. 20 of 2000, Article 24, paragraph (1), Notaries and PPATs can only sign a deed for the transfer of such rights once the taxpayer submits proof of *BPHTB* tax payment in the form of *SSB BPHTB*, as it is essential for the deed signing process.

Based on the background and the previous studies above, this study aims to the role of Land Deed Making Officials (*PPAT*) related to tax obligations for parties in the sale and purchase of land rights in Denpasar City and the application of the authority of the Denpasar City Regional Revenue Agency (*Bapenda*) in determining tax obligations on the Value of Land Rights Acquisition Fees and Buildings (*BPHTB*) for buyers.

2. METHOD

This study uses empirical legal research methods. Empirical legal research itself is simply defined as research that examines and analyzes the legal behavior of individuals or communities in relation to the law and the data sources used are derived from primary data, which is

obtained directly from within the community (Sidik & Nurbani, 2014). The method of empirical legal research (field research), namely conducting research in the field through parties related to the formulation of the problem made. The parties involved are *Bapenda* Denpasar City, *PPAT* and others. The approach used is the sociological approach and the conceptual approach, where this approach method takes into account the attitudes of the Denpasar City *Bapenda*, *PPAT* and other parties related to the sale and purchase of land rights. The data collection in this empirical legal research method is collecting primary data and secondary data through field research. The technique of collecting primary data in field research is done by means of interviews. Interviews were conducted directly with resource persons, namely Denpasar City *Bapenda* Officers and *PPAT* in Denpasar City according to the subject matter so that results were obtained in the form of complete and thorough data and information. Secondary data collection techniques in field research are carried out by means of library research. The research location in this study is the Office of the Regional Revenue Agency (*Bapenda*) Denpasar City, which is located at Graha Sewaka Dharma Jalan Majapahit Number 1 Denpasar and the *PPAT* Office Denpasar City. Data analysis in this study used is descriptive qualitative data analysis (Marzuki, 2013), namely the researcher explained what it was about an event that had legal aspects, occurred in a certain place.

3. DISCUSSION

The Role of Land Deed Officials (PPAT) Related to the Sale and Purchase of Land Rights in Denpasar City

Sale and Purchase of Land Rights is a form of transfer of land rights. In principle, the transfer of land rights can only be registered by a Regency/City Land Office officer with a working area where the land is the object of registration, if it can be proven by a deed made by the authorized Land Deed Making Official (*PPAT*) according to the provisions of the applicable laws and regulations apply. The *PPAT*'s authority lies in the *PPAT*'s working area, which is an area that shows the *PPAT*'s authority to make a deed of land rights and rights to the apartment units located therein.

The legal basis for *PPAT*'s authority in

the sale and purchase of land rights according to Article 1 point (1) Government Regulation no. 37 of 1998 it is stated that "Official Land Deed Maker, hereinafter referred to as *PPAT* is a public official who is given the authority to make authentic deeds regarding certain legal actions regarding land rights or property rights to apartment units". As also stated in Government Regulation no. 1 of 1961, namely as a public official who is authorized to make transfers of land rights, imposition of land rights, and other deeds regulated by applicable laws and regulations and assists the Head of the Land Office in carrying out land registration by making deeds that will be used as the basis for changes to land registration data (General explanation, paragraph 33 of Government Regulation No. 37 of 1998).

Legal actions regarding land rights or Ownership Rights to Flat Units that require a *PPAT* deed are: (Urip, 2013)

Buy and sell

Exchange

Grant

Income into the company (inbreng)

Shared rights

Granting of Building Use Rights/Use Rights on Owned Land

Granting Mortgage

Granting Power of Encumbering Mortgage

Government Regulation No. 24 of 1997 concerning Land Registration stipulates those legal actions regarding land rights or Ownership Rights to Flat Units as evidenced by *PPAT* deed, namely:

Buying and selling, exchanging, grants, entry into the company to be registered with the Regency/City Land Office if it is proven by the *PPAT* deed as regulated in Article 37 paragraph (1).

The transfer of land rights or ownership rights to flats due to the merger or consolidation of companies or cooperatives preceded by the liquidation of the merged or merged companies or cooperatives is proven by the *PPAT* deed as regulated in Article 43 paragraph (2).

The imposition of Mortgage Rights on land rights or Ownership Rights on Flat Units, the imposition of Building Use Rights, Use Rights and Lease Rights for Buildings on Ownership Rights is proven by the *PPAT* deed regulated in Article 44 paragraph (1).

The making of the *PPAT* deed must be attended by the parties who carry out the relevant legal actions (seller and buyer) or persons authorized by them with a written power of attorney in accordance with the applicable laws and regulations. The power of attorney for the seller must be with a notarial deed, while the power of attorney for the buyer may be with an underhand deed.

Documents submitted by the seller to *PPAT* in making this sale and purchase deed are photocopies of identity cards (*KTP*), photocopies of family cards, marriage certificates, tax payable notices (*SPPT*) for land and building taxes. The documents submitted by the buyer to *PPAT* in making this sale and purchase deed are a photocopy of the identity card (*KTP*), a photocopy of the family card, a letter of envy (Urip, 2013).

The legal conditions for the transfer of land rights through sale and purchase consist of:

Material requirements consist of:

Subject : Identity of the parties to ensure authority and skills (*KTP* of husband and wife, *KK*, *NPWP*, Marriage Certificate/Certificate of Unmarried/Death Certificate).

Object : To ensure that there are indeed objects or fields being traded (*PBB* Lunas, Certificates).

Formal Requirements:

There is an agreement between the parties that will be poured into the Deed of Sale and Purchase which is held in the presence of the Land Deed Making Officer (*PPAT*). After fulfilling the above requirements, the steps that *PPAT* must take in terms of buying and selling land rights are:

Checking UN Certificates and Deposit Receipts. *PPAT* will examine the certificate of land rights. The examination is carried out to match the data between the certificate and the Land Book at the Land Office, ensuring that the land is not involved in a legal dispute, is not being pledged as collateral, and is not under confiscation. *PPAT* also examines Land and Building Tax or *PBB*. *PPAT* also checks the *PBB* Payment Receipts or *PBB* Deposit Receipts to ensure that the land is not in arrears in *PBB* payments.

Husband and Wife Approval. If the seller is married, then the land and building will become joint property, so the sale of the land must be based on the

approval of the husband/wife by signing a special approval letter, or co-signing the Sale and Purchase Deed. If the husband or wife has died, this can be done by attaching a death certificate from the village office.

Tax fees and making a Sale and Purchase Deed. The seller must pay income tax (*PPH*) and the buyer must pay the Customs for the Acquisition of Land and Building Rights (*BPHTB*).

The making and signing of the Sale and Purchase Deed and the *PPAT* reads and explains the contents of the Sale and Purchase Deed.

If the seller and buyer agree on the contents of the Sale and Purchase Deed, then the Sale and Purchase Deed is signed by the seller, buyer, witness and *PPAT*. And each party is given a copy.

The process of changing names at the land office. After the Sale and Purchase Deed is signed, the new certificate will be able to be renamed to the buyer's name. As well as submitting the files/documents needed for the transfer process.

Legal actions that are the responsibility of *PPAT* are:

Regarding the truth of the events contained in the deed, for example regarding the type of legal action intended by the parties, regarding the payment made in the sale and purchase, and so on.

Regarding the object of legal action, both physical data and juridical data.

Regarding the identity of the appearers who are the parties who carry out legal actions.⁴³

The Role of Land Deed Maker Officials (PPAT) related to Tax Obligations for Parties in the Sale and Purchase of Land Rights in Denpasar City

Land sale and purchase tax is a levy that must be paid by the seller or buyer on the land that is the object of the sale and purchase. The tax imposed on the seller is called Income Tax (*PPH*), while the tax paid by the buyer is called the Customs for the Acquisition of Land and Building Rights (*BPHTP*).

Income Tax (*PPH*)

The collection of Income Tax (*PPH*) imposed on the seller is based on Government Regulation number 48 article 1 paragraph (1) of 1994 which regulates the Payment of Income Tax on Income from the Transfer of Land or Building

Rights which states "On income received or earned by an individual or entity from the transfer of land and/or building rights must be paid Income Tax".

The value of *PPH* to be paid is 5% of the transaction value. However, since September 2016, the government issued Government Regulation number 34 of 2016 concerning Income Tax on Income from the Transfer of Land or Building Rights. Article 2 paragraph (1) follows which states that "The amount of *PPH* from the transfer of land and/or building rights is 2.5% of the gross amount of the transfer value of land and/or building rights,".

The *PPAT* has the right to reject the application for a Sale and Purchase Deed (*AJB*) if the seller has not fulfilled his obligations in paying *PPH*. This provision is contained in Article 39 paragraph 1 letter g of Government Regulation Number 24 of 1997 concerning Land Registration. The article reads as follows: 47

"PPAT refuses to make a deed, if:

g. other conditions are not met or the prohibition specified in the relevant legislation is violated."

Examples of final *PPH* calculations are:

house with a selling price of Rp. 1,000,000,000,- (One billion rupiah) has an income tax expense that must be paid of 2.5% of 1,000,000,000,- (One billion rupiah). The income tax to be paid is around Rp. 25,000,000,- (twenty five million rupiah). Then the payment of Income Tax (*PPH*) payable must be made before the Sale and Purchase Deed is issued, in accordance with the house price agreement between the seller and the buyer.

Land and Building Rights Acquisition Fee (*BPHTP*)

BPHTB Land and Building Rights Acquisition Fee is a levy on the acquisition of land and building rights. The acquisition of land rights can also be referred to as a legal act or event that ultimately results in the acquisition of building rights by individuals or entities.

Initially, the *BPHTB* was collected by the central government. However, based on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies (*PDRD*), since January 1, 2011, *BPHTB* has been transferred to one type of tax collected by district/city governments. Article 13 paragraph (1) of Regional Regulation Number 7 of 2010 concerning

Customs for Acquisition of Rights on Land and Buildings states that Taxpayers are obliged to calculate, calculate and determine the outstanding *BPHTB* by themselves based on the Regional Tax Payment Letter (SSPD).

The basis for the imposition of *BPHTB* is the Acquired Value of the Tax Object (NPOP) at a rate of 5% of the acquisition value of the tax object and or the Selling Value of the Tax Object (NJOP). The amount of tax to be paid depends on these two things. NPOP can be interpreted as the transaction price agreed by the seller and the buyer.

PPAT can help submit applications for land market price information based on the will and power of the parties although it is not commonly done by *PPAT*, impartially to one party or without any personal interest from the related *PPAT*.

PPAT is also given responsibility related to taxation which is a form of additional authority for *PPAT* granted by the Taxation Law, namely Government Regulation Number 34 of 2016 concerning Income Tax on Income from the Transfer of Rights to Land and/or Buildings, and the Binding Agreement on the Sale and Purchase of Land and /or Buildings and Law Number 28 of 2009 concerning Regional Taxes and Levies. The authority to determine whether or not *BPHTB* needs to be validated in the transfer of land rights, in accordance with Law Number 28 of 2009 concerning Regional Taxes and Levies, becomes the authority of each regional regulation, because *BPHTB* is a regional tax.

In connection with the implementation of the main duties and authorities in relation to taxes, there are several provisions that must be carried out by a *PPAT*, both before and after signing an authentic deed.

The first provision is the provision that must be carried out before signing the authentic deed is to ensure that the Customs for the Acquisition of Land and Building Rights (*BPHTB*) and Final Income Tax (PPh Final) on the Transfer of Land and/or Building Rights have been paid by the taxpayer. *PPAT* must thoroughly examine and ensure that *BPHTB* and Final PPh on the transfer of rights have been paid by the taxpayer by attaching a Customs Deposit (SSB) and Tax Payment Letter (SSP).

The second provision is the provision that must be carried out by *PPAT* after

signing the authentic deed, namely submitting a monthly report regarding the Deed of Sale and Purchase, Deed of Exchange, Deed of Grant, Deed of Entry into the Company, Deed of Distribution of Joint Rights, Deed of Granting of Building Use Rights on Land. Ownership Rights, and Deeds of Granting Right of Use on Owned Land to the Mayor and Head of the Tax Service Office at the latest on the 10th (tenth) of the following month.⁵⁰ This is in accordance with the mandate of Government Regulation Number 34 of 2016 concerning Income Tax on Income from the Transfer of Rights. on land and/or buildings, and sale and purchase agreement on land and/or buildings article 3 paragraph (6) and regional regulation number 7 of 2010 concerning duty on acquisition of land and building rights article 12 paragraph (1).

The importance of the role of *PPAT*, *PPAT* needs to be encouraged to fulfill its obligations, both in ensuring the fulfillment of obligations for depositing *BPHTB* and Final Income Tax on transactions for transferring rights to land and/or buildings as well as binding sale and purchase agreements on land and/or buildings before the authentic deed is signed as well as the obligation to submit monthly reports in an orderly manner by coordinating with BPN/ATR, socializing to better know and understand the applicable provisions, and implementing law enforcement. The form of law enforcement as stipulated in the *BPHTB* Law is that the sanction that can be given to *PPAT* who does not submit a monthly report regarding the deed to the Tax Service Office no later than the 10th of the following month is subject to a fine of Rp. 250,000.00 (two hundred and fifty thousand rupiah) for each report by issuing a Letter of Receipt of Fines (STD) by the KPP where it is registered. This is in accordance with the mandate of Government Regulation Number 34 of 2016 concerning Income Tax on Income from the Transfer of Rights to Land and/or Buildings, and the Binding Agreement on the Sale and Purchase of Land and/or Building Article 8 paragraph (1) and Regional Regulation Number 7 of 2010 concerning Fee for the Acquisition of Land and Building Rights Article 26 paragraph (2).

Denpasar Mayor Regulation Number 17 of 2016 concerning Procedures for Online Payment and Reporting of Customs for Acquisition of Land Rights on Buildings (*BPHTB*) emphasizes the role of *PPAT* in

the *BPHTB* payment process. Article 2 paragraph (5) of the Denpasar Mayor Regulation Number 17 of 2016 concerning Procedures for the Implementation of Payments and Reporting of Customs for Acquisition of Land Rights on Buildings (*BPHTB*) online states that *PPAT* is applied in the context of monitoring, controlling, reporting, and facilitating the *BPHTB* payment process. The *PPAT* chosen by the Taxpayer is connected by the Head of the Revenue Service with an online regional income information system into the *BPHTB* taxpayer transaction information system and facility for reporting Taxpayer transaction data. Denpasar City Regional Regulation Number 1 of 2016 concerning Amendments to Regional Regulation Number 7 of 2010 concerning Customs for Acquisition of Rights on Land and Building Article 13 paragraph (1) states that Taxpayers are obliged to calculate their own *BPHTB* payable based on *SPTPD* (Regional Tax Return). *PPAT* assists Taxpayers to record/ input transaction data which is the basis for the imposition of regional taxes through an information system on the amount of taxpayer *BPHTB* transaction data. *BPHTB* tax payments are made using the e-SSPD form which is filled out correctly, clearly, and completely and signed by the Taxpayer in accordance with Article 6 paragraph (3) and paragraph (4) of Denpasar Mayor Regulation Number 17 of 2016 concerning Procedures for Payment and Reporting of Customs on Acquisition of Building Land Rights (*BPHTB*) Online. The e-SSPD form also includes a knowing column that the *PPAT* must sign.

Article 8 paragraph (2) of Denpasar Mayor Regulation Number 17 of 2016 concerning Procedures for the Implementation of Payment and Reporting of Customs on Acquisition of Land Rights on Building (*BPHTB*) Online states that Taxpayers and *PPAT*:

Knowing the NJOP and market prices in the Denpasar City area.

Obtain information on data on regional tax obligations that should be paid from each payment transaction related to the basis for imposing regional taxes.

Obtain confidentiality of taxpayer transaction data which is carried out online in the context of monitoring local tax payments.

Gustav Radbruch wrote that in law there are 3 (three) basic values, namely: Justice (Gerechtigkeit); Benefit (Zweckmassigkeit); and Legal Certainty

(Rechtssicherheit) (Rahardjo, 2012). According to Atmadja & Budiarta (2018) in their book entitled "Legal Theories", from the juridical dimension, the concept of "legal certainty" means "the formulation of legal norms is clear and not multi-interpreted, applied in accordance with the similia-similibus principle" (the same legal rules are applied to the same case) (Atmadja & Budiarta, 2018). Legal certainty for the application of the *PPAT* role in tax obligations for parties in the sale and purchase of land rights has been clearly stated in Article 91 paragraph (1) of the Law. -Law Number 28 of 2009 concerning Regional Taxes and Levies and Article 11 paragraph (1) of Regional Regulation Number 7 of 2010 concerning Customs for Acquisition of Land and Building Rights and Article 2 paragraph (5) of Denpasar Mayor Regulation Number 17 of 2016 concerning Procedures for Implementation Payment and Reporting of Duty on Acquisition of Building Land Rights (*BPHTB*) Online.

The role of *PPAT* in tax obligations for parties in the sale and purchase of land rights in accordance with applicable laws and regulations is that they can only sign a deed of transfer of land and/or building rights after the taxpayer submits a validated proof of tax payment and provides assistance to the parties. in order to settle tax obligations in the sale and purchase of land rights. In order to provide a better and more effective service, *PPAT* also provides assistance to parties who need to apply for information on land market prices related to the Sale and Purchase Tax based on an analysis from the Denpasar City *Bapenda* and assists the parties to fulfill their obligations, both in the obligation to deposit *BPHTB* and Final Income Tax from the transfer of land and/or building rights before the authentic deed is signed.

Authority of the Regional Revenue Agency (Bapenda) of Denpasar City in Collection of Customs Tax on Land and Building Rights Acquisition (BPHTB)

The organizational structure of the Denpasar City Regional Revenue Agency according to the Denpasar Mayor Regulation Number 43 of 2016 concerning the Position, Organizational Structure, Duties and Functions and Work Procedures of the Regional Secretariat, Expert Staff, Secretariat of the Regional People's Representative Council, Inspectorate, Regional Agency and Regional General

Hospital as follows:

Head of Agency

Secretary, which consists of:

Sub-Section Planning and General

Finance Sub Division

Field of Registration, Data Collection and Determination, which consists of:

Sub Division of Data Collection and Assessment

Sub-Field of Determination

Data Management Sub-Sector

Bookkeeping and Reporting, which consists of:

Sub Division of Bookkeeping I

Sub Division of Bookkeeping II

Reporting Sub Division

Billing and Objection Division, which consists of:

Billing Sub Division

Calculation and Objection Sub-Sector

Examination Sub-Sector

Agency's Technical Implementation Unit

Functional Position Group

The function of the Regional Revenue Agency (*Bapenda*) of Denpasar City in accordance with the Denpasar City Regional Regulation Number 8 of 2016 concerning the Formation and Composition of Regional Apparatuses, namely as financial support. Denpasar City *Bapenda* as a Regional Agency in carrying out its functions, namely:

Preparation of technical policies according to the scope of their duties;

Implementation of technical support tasks according to the scope of work;

Monitoring, evaluating, and reporting on the implementation of technical support tasks in accordance with the scope of their duties;

Technical guidance on the implementation of supporting functions for Regional Government Affairs in accordance with the scope of their duties; and

Implementation of other functions given by the Mayor according to his duties and functions.

The main tasks and functions of the Denpasar City Regional Revenue Agency are further explained, namely coordinating the target of Regional Original Revenue (PAD) and realizing it together with regional PAD-producing organizations,

which can then be used to finance the Denpasar City Government spending that has been determined.

The objectives and targets of the Regional Revenue Agency are in accordance with their main duties and responsibilities, namely:

Purpose:

Increasing sources of Regional Original Revenue.

Increasing Community Satisfaction with Local Tax Services.

Target:

Increasing Regional Original Income.

Community Satisfaction with Local Tax Services.

The Denpasar City Regional Revenue Agency has direct responsibility for the realization of Regional Tax receipts, in accordance with Law Number 28 of 2009 which is adjusted to the regional autonomy policy, the Denpasar City Regional Revenue Agency manages 9 (nine) types of regional taxes, namely:

Hotel Tax

Restaurant Tax

Entertainment Tax

Advertising Tax

Street Lighting Tax

Groundwater Tax

Parking Tax

BPHTB (Duty for the Acquisition of Rights on Land and Buildings).

PBB (Land and Building Tax).

The impact of the enactment of Law no. 28 of 2009 concerning Regional Taxes and Levies is the delegation of authority for collection and management from *BPHTB* and PBB in the Rural and Urban Sector from the Central Government to the Regional Government. This is an opportunity for increasing local revenue. Thus, Denpasar City Regional Regulation Number 7 of 2010 was issued on 29 December 2010 concerning Customs for Land and Building Rights Acquisition and its amendments, namely Denpasar City Regional Regulation Number 1 of 2016 which is the basis for *BPHTB* tax collection.

Application of the Authority of the Denpasar City Regional Revenue Agency (*Bapenda*) in Determining Tax Obligations on the Value of Duties on the Acquisition of Land and

Building Rights (BPHTB)

Application of Law no. 28 of 2009 concerning Regional Taxes and Regional Levies which is further regulated through Denpasar City Regulation Number 7 of 2010 dated 29 December 2010 concerning Customs for Acquisition of Land and Building Rights and its amendments, namely Denpasar City Regional Regulation Number 1 of 2016 which is the basis for *Bapenda* to collect *BPHTB* tax.

The basis for imposition of Duty on Acquisition of Rights on Land and Buildings is the Acquired Value of Tax Objects according to Article 6 paragraph (1) of Denpasar City Regulation Number 7 of 2010 dated December 29, 2010 concerning Duty on Acquisition of Rights on Land and Buildings. The Acquired Value of the Tax Object as referred to in paragraph (1), in the event that:

sale and purchase is the transaction price;

exchange is market value;

grant is market value;

testamentary grants are market value;

inheritance is market value;

income in the company or other legal entity is the market value;

the separation of rights resulting in the transfer is the market value;

the transfer of rights due to the implementation of a judge's decision which has permanent legal force is the market value;

the granting of new land rights as a continuation of the relinquishment of rights is the market value;

the granting of new land rights excluding the relinquishment of rights is the market value;

business combination is market value;

business consolidation is market value;

business expansion is market value;

the prize is market value; and/or

the appointment of the buyer in the auction is the transaction price listed in the minutes of the auction.

The Acquired Value of the Tax Object referred to in the sale and purchase process is the transaction price from the agreement of the parties. If the Acquired Value of the Tax Object is unknown or lower than the Sales Value of the Tax Object used in the imposition of Land and Building Tax in the year the acquisition

occurs, the basis for the imposition of *BPHTB* used is the Sale Value of the Land and Building Tax Object in accordance with Article 6 paragraph (3) of the Regulation Denpasar City Region Number 7 of 2010 dated December 29, 2010 concerning Customs for Acquisition of Land and Building Rights.

The Denpasar City *Bapenda* provides an indicative price of Land Value as the basis for imposing *BPHTB* for the Denpasar city area. Indicative price of land value or better known in general is the fair market value.

Requirements to obtain a price indication of Land Value are:

Land Certificate. Land certificates are evidence that explains the location or location of the tax object, namely accurate land.

Selling Value of Land and Building Tax Objects. The basis to be used if the Acquired Value of the Tax Object is unknown or lower than the Sales Value of the Tax Object in accordance with the applicable laws and regulations.

Pay off Land and Building Tax. To ensure that the parties have fulfilled the obligation to settle the Land and Building Tax so that there are no arrears of Land and Building Tax to the State.

Proof of transfer of rights. Proof of transfer of rights can be in the form of a receipt for payment for the purchase of land and or buildings, or a Deed of Sale and Purchase Binding Agreement. This proof of transfer provides information to the Denpasar City *Bapenda* regarding the transaction price agreed upon by the parties. This data is often also called the Acquired Value of Tax Objects (*NPOP*) which is the basis for calculating the Acquisition Fee for Land and or Building Rights (*BPHTB*).

After the parties meet the requirements to obtain an indicative price of the land value, *Bapenda* will provide the desired information. The magnitude of the price indication of land value is influenced by various factors. The factors that influence the price indication of Land Value are:

Land area. Land use affects the acquisition value of the tax object. The acquisition value of the tax object where the land use for trade is compared to housing certainly has a different value. The land area designated for trade has a higher tax object acquisition value than the land area for housing.

Street Position. The position of the road affects the acquisition value of the tax object. The acquisition value of the tax object located on the main road is higher than the tax object located on the residential street.

Width of front ground. The width of the front of the land also affects the acquisition value of the tax object. The longer the width of the front of the land, the higher the economic value so that the acquisition value of the tax object is also higher.

Elevation with road. Elevation by road is the height of the tax object compared to the road in front of the tax object. The greater the elevation value, the lower the acquisition value of the tax object.

Time. The time that the parties who make the sale and purchase transactions have affect the acquisition value of the tax object. The shorter the time owned, the lower the value of the object of tax acquisition.

The needs of the parties. The needs of the parties also affect the acquisition value of the tax object. The more important the needs of the parties, the lower the value of the tax object.

Economic growth. Positive economic growth also has a positive influence on the acquisition value of tax objects to be higher. This causes the value of the acquisition of tax objects to increase every year. However, during the current Covid-19 pandemic, economic growth has declined or been negative. This causes the purchasing power of the people to decrease. So that the acquisition value of the tax object remains and even tends to decrease.

One way to determine the price indication of Land Value is done by using a map of land value indication issued by Gajah Mada University. The Denpasar City *Bapenda* has collaborated with Gajah Mada University to compile a map of land value indications for the issuance of the NJOP which is published annually. This land value indication map was prepared based on the results of a field survey from the Gajah Mada University. This land value indication map is used to avoid tax abuse for personal gain.

Land value indication decisions are taken by comparing the Land Certificate for accurate location determination with a map indicating the value of land owned by *Bapenda* and proof of transfer of rights. The price indicated by the Land Value

affects the amount of *BPHTB* that must be paid. The price indication of Land Value from *Bapenda* is used as the basis for imposing *BPHTB* if the value of the sale and purchase agreement of the parties is lower than the price indicated by the Land Value issued by *Bapenda*. Map of Land Value Indication which is used as one of the references in the imposition of *BPHTB* for sale and purchase which can only be accessed officer. Regional Regulation Number 7 of 2010 concerning Customs for Acquisition of Land and Building Rights also does not include the Map of Land Value Indications used as a reference in the imposition of *BPHTB* for sale and purchase and the price indication of Land Value determined by the Denpasar City *Bapenda*. Article 8 paragraph (2) letter b of the Denpasar Mayor Regulation Number 17 of 2016 concerning Procedures for the Implementation of Payments and Reporting of Customs for the Acquisition of Land Rights on Building (*BPHTB*) Online states that obtaining information on data on regional tax obligations that should be paid from each payment transaction related to the local tax base. However, it does not clearly state the price indication of Land value. The decision on the price indication of the value of the land is also not stated in the form of a decree but only in the form of a small note in the upper right corner of the PBB print out.

Tax Object Acquisition Value (NPOP) is the acquisition value which is the agreement of the parties. However, the policy of Denpasar City *Bapenda* in setting the price indication of Land Value or a reasonable market price aims to invite the parties consciously and honestly to fulfill their tax obligations in accordance with the reality on the ground. If the agreed value of NPOP is lower than the indicated price of Land Value, a tax deduction can be applied for through evidence held in the form of proof of payment transfer, or receipt of settlement or proof of credit limit.

H.D. van Wijk/Willem Konijnenbelt defines attribution, is the granting of government authority by legislators to government organs (HR, 2011). *Bapenda* Denpasar City is a state institution created by the Regional Government of Denpasar City and given the authority to carry out supporting functions of government affairs which are the authority of the Region in income management sub-finance sector. This authority makes *Bapenda* an institution that carries out validation of Regional Tax receipts with relevant

agencies for data matching in accordance with Denpasar Mayor Regulation Number 43 of 2016 concerning Position, Organizational Structure, Duties and Functions and Work Procedures of the Regional Secretariat, Expert Staff, Secretariat of the Regional People's Representative Council, Inspectorate, Regional Agency, and Regional General Hospital.

The enactment of Law no. 28 of 2009 concerning Regional Taxes and Levies is the delegation of authority for collection and management from *BPHTB* and PBB in the Rural and Urban Sector from the Central Government to the Regional Government. This is an opportunity for increasing local revenue. Therefore, Denpasar City Regional Regulation Number 7 of 2010 was issued on 29 December 2010 concerning Customs for Land and Building Rights Acquisition and its amendments, namely Denpasar City Regional Regulation Number 1 of 2016 which is the basis for *BPHTB* tax collection.

The application of the authority of the Denpasar City *Bapenda* in the process of collecting *BPHTB* is to give approval for the submission of *BPHTB* submitted by the parties using the transaction price as the basis for imposing *BPHTB*. This happens because the transaction price is greater than the Selling Value of the Tax Object (NJOP) and the price is an indication of the value of the land. So, the *BPHTB* obtained is in line with expectations. In this case, the application of the authority of the Denpasar City *Bapenda* is in accordance with Article 6 paragraph (2) letter a of the Denpasar City Regional Regulation Number 7 of 2010 dated December 29, 2010 concerning Customs for Acquisition of Land and Building Rights, namely the Acquisition Value of Tax Objects (NPOP) for sale and purchase is transaction price.

On the other hand, if the transaction value is greater than the Tax Object Selling Value (NJOP), the Denpasar City *Bapenda* considers it necessary to re-examine the transaction price through the application of land value indication prices. It was found that the transaction price was lower than the price indicated by the land value so that the *BPHTB* value obtained was not as expected. Therefore, the Denpasar City *Bapenda* applies an indicative price of land value or market value as the basis for imposing *BPHTB*. This is not in accordance with Article 6 paragraph (2) letter a Regional Regulation of Denpasar City Number 7 of 2010 dated

December 29, 2010 concerning Customs on Acquisition of Land and Building Rights, namely the Acquired Value of Tax Objects (NPOP). Sale and purchase is the transaction price and Article 6 paragraph (3) Denpasar City Regional Regulation Number 7 of 2010 dated December 29, 2010 concerning Customs for the Acquisition of Land and Building Rights, i.e. if the Acquired Value of Tax Objects (NPOP) is unknown or lower than the NJOP used in the imposition of Land and Building Tax in the year of occurrence acquisition, the basis of imposition used is the NJOP of Land and Building Tax. So that the application of the authority of the Denpasar City *Bapenda* in this case exceeds the authority set out in the legislation above.

4. CONCLUSION

Based on the results obtained, it can be concluded that 1) the role of the Land Deed Maker Official (*PPAT*) related to tax obligations for the parties in the sale and purchase of land rights in Denpasar City, namely: a) the Land Deed Making Officer/ Notary can only sign the deed of transfer of Rights to Land and/or Building after the Taxpayer submits proof of tax payment in accordance with Article 91 paragraph (1) of Law Number 28 of 2009 concerning Regional Taxes and Levies and Article 11 paragraph (1) Regional Regulation Number 7 of 2010 concerning Fees for Acquisition of Rights on Land and Buildings. b) The role of *PPAT* is determined in the context of supervising, controlling, reporting, and facilitating the payment process for *BPHTB* as stipulated in Article 2 paragraph (5) of Denpasar Mayor Regulation Number 17 of 2016 concerning Procedures for Online Payment and Reporting of Customs on Acquisition of Building Land Rights (*BPHTB*). c) In order to provide a better and more effective service, *PPAT* also provides assistance to parties who need to apply for information on land market prices related to the Sale and Purchase Tax based on an analysis from the Denpasar City *Bapenda* and assists the parties to fulfill their obligations, both in the obligation to deposit *BPHTB* and Final Income Tax from the transfer of land and/or building rights before the authentic deed is signed based on the results of interviews with resource persons. 2) The application of the authority of the Regional Revenue Agency (*Bapenda*) of Denpasar City in determining the tax liability on the Value of Customs Duty on Land and Building Rights (*BPHTB*)

for buyers consisting of a) the value of the sale and purchase, the basis used is the transaction price from the agreement of the parties according to Article 6 paragraph (1) of Denpasar City Regulation Number 7 of 2010 dated December 29, 2010 concerning Customs for Acquisition of Land and Building Rights. b). If the Acquired Value of the Tax Object is unknown or lower than the Sales Value of the Tax Object used in the imposition of Land and Building Tax in the year the acquisition occurs, the basis for the imposition of *BPHTB* used is the Sale Value of the Land and Building Tax Object in accordance with Article 6 paragraph (3) of the Regulation Denpasar City Region Number 7 of 2010 dated December 29, 2010 concerning Customs for Acquisition of Land and Building Rights. c) If the transaction value is greater than the Selling Value of the Tax Object (NJOP), the Denpasar City *Bapenda* considers it necessary to re-examine the transaction price through the application of an indicative price of land value. It was found that the transaction price was lower than the price indicated by the land value so that the *BPHTB* value obtained was not as expected. Therefore, the Denpasar City *Bapenda* applies an indicative price of land value or market value as the basis for imposing *BPHTB*. This is not in accordance with Article 6 paragraph (2) letter a Regional Regulation of Denpasar City Number 7 of 2010 dated December 29, 2010 concerning Customs on Acquisition of Land and Building Rights, namely the Acquired Value of Tax Objects (NPOP). Sale and purchase is the transaction price and Article 6 paragraph (3) Denpasar City Regional Regulation Number 7 of 2010 dated December 29, 2010 concerning Customs for the Acquisition of Land and Building Rights, i.e. if the Acquired Value of Tax Objects (NPOP) is unknown or lower than the NJOP used in the imposition of Land and Building Tax in the year of occurrence acquisition, the basis of imposition used is the NJOP of Land and Building Tax. So that the application of the authority of the Denpasar City *Bapenda* in this case exceeds the authority stipulated in the legislation.

REFERENCES

- Atmadja, I. D. G., & Budiarta, I. N. P. (2018). *Teori – Teori Hukum*. Malang: Setara Press.
- Febrian, R. C. (2022). The Role of Land Deed Making Officials (PPAT) in the Application of Land and Building Rights Acquisition Fees (BPHTB) in Relation to Land Sale and

- Purchase Deeds. *JK: Jurnal Konstaterring*, (3), 1178–1191. Retrieved from <https://jurnal.unissula.ac.id/index.php/jk/article/view/24203>
- Harsono, B. (2008). *Hukum Agraria Indonesia: Himpunan Peraturan-Peraturan Hukum Tanah*. Jakarta: Djambatan.
- HR, R. (2011). *Hukum Administrasi Negara*. Jakarta: RajaGrafindo Persada.
- Marzuki, P. M. (2013). *Penelitian Hukum*. Jakarta: Kencana Media Group.
- Paramitha, D., Budiarta, I. N. P., & Sukandia, I. N. (2021). The Role of Land Deed Officials (PPAT) in the Imposition of Acquisition Duty of Right on Land and Building in the Exchange Process of Land and Building in Denpasar City. *NOTARIAL Jurnal Kenotariatan*, 6(2), 100–105. doi:10.22225/jn.6.2.2021.100-105
- Rahardjo, S. (2012). *Ilmu Hukum*. Bandung: Citra Aditya Bakti.
- Sidik, S. H., & Nurbani, E. S. (2014). *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*. Jakarta: RajaGrafindo Persada.
- Urip, S. (2013). *Pendaftaran dan Peralihan Hak Atas Tanah* (Cet. III). Jakarta: Kencana.
- Undang Undang Nomor 28 Tahun 2009 tentang Pajak Daerah dan Retribusi Daerah, Lembaran Negara Tahun 2009 Nomor 130, Tambahan Lembaran Negara Nomor 5049, tanggal 15 September Tahun 2009.
- Peraturan Pemerintah Republik Indonesia Nomor 37 Tahun 1998 tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah, Tanggal 5 Maret 2008.
- Peraturan Daerah Kota Denpasar Nomor 1 Tahun 2016 tentang Perubahan atas Peraturan Daerah Nomor 7 tahun 2010 tentang Bea Perolehan Hak Atas Tanah Dan Bangunan, Tanggal 1 April 2016.
- Peraturan Daerah Kota Denpasar Nomor 7 Tahun 2010 tentang Bea Perolehan Hak Atas Tanah dan Bangunan, Tanggal 29 Desember 2010
- Undang-Undang Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok- Pokok Agraria Indonesia
- Peraturan Pemerintah Nomor 24 Tahun 2016 tentang Perubahan atas Peraturan Pemerintah Nomor 37 Tahun 1998 tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah Indonesia
- Peraturan Pemerintah Republik Indonesia Nomor 24 Tahun 1997 tentang Pendaftaran Tanah
- Kitab Undang-Undang Hukum Perdata (Burgerlijk Wetboek)