

Effectiveness of BPHTB Verification and Validation Process for Land and Buildings in Bekasi City

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ABSTRACT

The existence of BPHTB acceptance by the government, especially the Regional Government, cannot be separated from the important role of a Notary who has the authority as a Land Deed Maker Officer or commonly known as PPAT. BPHTB is an obligation to pay taxes incurred due to a transfer of rights to land and buildings that must be paid by the buyer. A transfer of rights to land and buildings can only be carried out if it is carried out in the presence of a PPAT. Notaries such as PPATs are important parties in the acceptance of BPHTB to the Regional Government because in order to make BPHTB payments by taxpayers a BPHTB registration process is required first, which can only be done by a Notary as PPAT. Although BPHTB payments can be made independently by taxpayers, this cannot be done without BPHTB registration carried out by a Notary as PPAT. From the explanation above, we can find one of the important roles of a Notary as a PPAT in the process of tax revenue and income, especially the BPHTB tax as one of the local government revenues. The reality in the field is that the Regional Government does not realize the important role of the Notary as the PPAT in the process of accepting the BPHTB. The Regional Government is passive and not appreciative of the Notary as the PPAT so as not to create a mutualistic relationship between the Regional Government and the Notary as the PPAT.

ABSTRAK

Adanya penerimaan BPHTB terhadap pemerintah khususnya Bapenda Kota Bekasi tidak terlepas dari peran penting seorang Notaris yang memiliki kewenangan selaku Pejabat Pembuat Akta Tanah atau biasa dikenal dengan istilah PPAT. BPHTB adalah kewajiban pembayaran pajak yang ditimbulkan karena adanya suatu peralihan hak atas tanah dan bangunan yang wajib dibayarkan oleh pihak pembeli. Suatu peralihan hak atas tanah dan bangunan baru dapat terlaksana bilamana dilakukan dihadapan seorang PPAT. Notaris selaku PPAT menjadi pihak penting dalam adanya penerimaan BPHTB terhadap Bapenda Kota Bekasi sebab guna dapat dilaksanakan pembayaran BPHTB oleh wajib pajak diperlukan proses registrasi BPHTB terlebih dahulu yang hanya dapat dilakukan oleh seorang Notaris selaku PPAT. Meskipun pembayaran BPHTB dapat dilakukan secara mandiri oleh wajib pajak namun hal tersebut tidak dapat dilakukan tanpa adanya registrasi BPHTB yang dilakukan oleh Notaris selaku PPAT. Dari penjelasan diatas kita sudah dapat menemukan salah satu peran penting seorang Notaris selaku PPAT dalam proses penerimaan dan pemasukan pajak khususnya pajak BPHTB sebagai salah satu pendapatan Bapenda Kota Bekasi. Realita di lapangan Bapenda Kota Bekasi tidak menyadari peranan penting dari Notaris selaku PPAT dalam proses penerimaan BPHTB tersebut. Bapenda Kota Bekasi bersikap pasif dan tidak apresiatif terhadap Notaris selaku PPAT sehingga tidak tercipta suatu hubungan mutualisme antara Bapenda Kota Bekasi dan Notaris selaku PPAT.

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I. INTRODUCTION

Land and Building Rights Acquisition Duty or commonly known as BPHTB is a levy carried out by the Government to parties who buy and sell a land or building. So that both sellers and buyers both have an obligation to pay BPHTB. (Ronald Ravianto dan Amin Purnawan, 2017) BPHTB is a tax that is owed and must be paid by the party who obtained a right to land and or buildings so that the deed or minutes of auction or decree granting rights can be made and signed by an authorized official. (Siahaan, 2013)

Article 85 of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies or the PDRD Law explains that the object of BPHTB is the acquisition of rights to land and or buildings. (Undang-Undang Nomor 28 Tahun 2009 Tentang Pajak Daerah Dan Retribusi Daerah, n.d.) This is the same as explained in Article 2 of Law Number 21 of 1997 concerning Duties on Acquisition of Rights to Land and Buildings as amended by Law Number 20 of 2000 concerning Amendments to Law No. 21 of 1997 concerning Duties on Acquisition of Rights to Land and Buildings or BPHTB Law. (Undang-Undang Nomor 21 Tahun 1997 Tentang Bea Perolehan Hak Atas Tanah Dan Bangunan, n.d.) The enactment of the PDRD Law, the management of BPHTB which was originally a central tax and managed by the central government through the Directorate General of Taxes within the Ministry of Finance, turned into a regional tax and was managed by the Bekasi City Bapenda reGENCY / city through the Bekasi City Bapenda revenue. So it can be said that BPHTB is very important for Bapenda Bekasi City. (R. Murjiyanto dan Samun Ismaya, 2015)

The revenue of BPHTB is mostly handed over to the Bekasi City Bapenda. This is based on Regulation No. 3 of 2007 Article 2 Paragraph (2) regulates the distribution of BPHTB revenues where 80% is allocated to the Bekasi City Bapenda and only 20% to the Central Government. (Peraturan Kementerian Dalam Negeri Nomor 2 Tahun 2017 Tentang Pedoman Pelaksanaan Kegiatan Dan Anggaran Dilingkungan Departemen Dalam Negeri, n.d.) The object of the BPHTB can be in the form of soil or buildings including plants on it. BPHTB arises because of the transfer of rights to land and buildings which includes legal events and legal actions between people and legal entities. The tax collection system in general in Indonesia, adheres to the self-assessment system, namely taxpayers are given the trust to be able to calculate, calculate, and pay the taxes owed themselves, so that through this system the implementation of tax administration is expected to be carried out neatly, controlled, simple, and easy to understand by members of the taxpayer community. (Mardiasmo, 2003) Ciri-ciri *self assessment system* adalah: (Padmo Wahjono, 1984) the authority to determine the amount of tax owed rests with the taxpayer himself; active taxpayers, starting from calculating, depositing and self-reporting taxes owed; Fiscus does not interfere and only supervises.

Even so, BPHTB tax cannot be paid independently by taxpayers, because notary participation as PPAT is required to carry out the BPHTB registration process. This registration serves to enter the BPHTB tax payment code that will be paid by the taxpayer. The BPHTB payment process can be done at KPP Pratama (Pratama Tax Service Office) or at a bank that has been appointed by the Bekasi City Bapenda. The participation of a Notary as a PPAT is very important in the series of BPHTB payment processes so that if the Notary as a PPAT is not actively involved, it will hinder the BPHTB Tax revenue process. So it can be concluded that the Notary as a PPAT has automatically been designated as a taxpayer by *the fiscus*. (Yogahastama, 2019)

The author thinks that Bapenda Kota Bekasi does not realize the important role of Notaries as PPAT in their function as parties who help BPHTB tax revenues on Bekasi City Bapenda income. Bapenda Kota Bekasi is passive and not appreciative of the role of Notaries as PPAT in the BPHTB tax revenue process. Bapenda Kota Bekasi on the other hand should evaluate the importance of the existence of a Notary as a PPAT to the BPHTB tax revenue process. Bapenda Kota Bekasi has had to change the passive attitude they have done from generation to generation. (Emir Adzan Syazali, 2018)

Another problem is related to the existence of procedural procedures regarding BPHTB verification in order to obtain validation of BPHTB, causing legal uncertainty for people who want to make transactions related to the transfer of land property rights. The Bekasi City Regional Revenue Agency (Bapenda) has a policy related to determining the value of transactions related to the transfer of property rights to land that has been agreed upon by the parties. This policy creates problems for the community because it causes management related to transactions related to the transfer of property rights to land to be hampered and takes a long time. This research will try to discuss the effectiveness of the implementation of the BPHTB verification policy in order to obtain BPHTB validation based on applicable laws and regulations. The research will be conducted based on facts in the field conducted by Bapenda Kota Bekasi. (Emir Adzan Syazali, 2018)

Based on this research, the author formulates two legal problems: 1. What is the Passive Attitude Carried out by the Bekasi City Bapenda So That It Does Not Create a Mutualism Relationship Between the Bekasi City Bapenda and the Notary as a PPAT? and 2. How is the Legal Uncertainty Resulting from the Implementation of BPHTB Verification by the Bekasi City Bapenda Based on Law Number 28 of 2009 concerning Regional Taxes and Regional Levies.

II. RESEARCH METHODS

According to Bahder Johan Nasution said that "The scientific research method is essentially an operationalization of the scientific method, thus mastery of the scientific method is a requirement to be able to understand the path of thought contained in the research steps to be carried out. (Umar, 2014) Meanwhile, according to Husein Umar stated that "Method is a way or a way of setting or checking something right, so in research, there is also a need for methods. (Nasution, 2012)

This research was conducted normatively or commonly known using the word *doctrinal* research. This research is supported using empirical data. The approach method used is the statutory approach, this research will also be strengthened using empirical data in the field obtained through respondents and resource persons. Respondents were sourced based on elements of residents and Notaries as PPAT who were supported using a number of other speakers. The location of this study is in the Bekasi City Bapenda Office area which manages BPHTB and BPN in the Bekasi City area through interviews with respondents as well as resource persons.

This research is strengthened using literature studies sourced based on books, journals, scientific articles, internet searches, and papers. The author searches for rule materials and then identifies the rule materials to be used. The author then reduces and harmonizes using the main problem of the case and is supported using applicable laws and regulations then reconstructed using a qualitative approach to the qualitative narrative description and finally conclusions are drawn.

III. RESULTS AND DISCUSSION

Activities or transactions related to the transfer of property rights to land subject to BPHTB based on Law Number 28 of 2009 concerning BPHTB include Buying and Selling, Exchanging, Grants, Grants of Wills, Inheritance, Income in the company or other legal entities, Separation of Rights resulting in Transfer, Appointment of Buyers in Auctions, Implementation of Judges' Decisions that have Permanent Legal Force, Merger, Amalgamation, Business expansion, rewards. (Undang-Undang Nomor 28 Tahun 2009 Tentang Pajak Daerah Dan Retribusi Daerah, n.d.) Then the ownership of land rights which is the object of BPHTB based on Article 2 paragraph (3) of Law Number 20 of 2000 is as follows : (Undang-Undang Nomor 21 Tahun 1997 Tentang Bea Perolehan Hak Atas Tanah Dan Bangunan, n.d.) Proprietary; Business Use Rights; Building Use Rights; Right to Use; Property Rights to Flats Unit; Management Rights.

The BPHTB verification activity carried out by the Bekasi City Bapenda is one of the affairs of the Bekasi City Bapenda. This activity is an administrative stage that has the aim of obtaining, collecting, completing, organizing business, and researching the correctness of counters. These activities are

included in the data collection of objects and subjects of the Building Land Tax (PBB) carried out by Bapenda which is followed by assessment activities. The activity aims to collect data or maintain the database of the Tax Object Information Management System (SISMIOP).

Therefore, Bapenda will conduct a field review to check the size of the land area up to the UN NJOP per square meter which is then compared with the market value of land and buildings prevailing in the local area. Based on the data obtained by Bapenda, it will assess whether the BPHTB SSPD reported by taxpayers is in accordance with the reality in the field. (Erika Jenri Halasan Panjaitan, 2015).

BPHTB validation creates problems in its implementation for the community and Notaries. This is based on the absence of legal certainty regarding the validation process. As we know, BPHTB revenue plays an important role in the income of Bekasi City Bapenda. In order to get BPHTB validation, it is necessary to go through a verification process carried out by Dispenda. The verification process is a series of activities carried out by examining the calculation and payment of taxes based on the taxpayer's application or based on tax data and information owned or obtained by the Director General of Taxes. This is done in order to issue a tax decree, issue or delete a Taxpayer Identification Number and/or confirm or revoke a Taxable Entrepreneur. (Undang-Undang Nomor 28 Tahun 2009 Tentang Pajak Daerah Dan Retribusi Daerah, n.d.)

The BPHTB verification process is carried out based on the completeness and correctness of the data obtained related to the tax object contained in the BPHTB Regional Tax Deposit Letter. The verification process can only be done if the taxpayer has made a BPHTB payment using a BPHTB Regional Tax Deposit Letter which can be done through the Bank. This verification process is carried out by the Bekasi City Bapenda Service. So it can be concluded that the verification process is a process carried out to check the correctness of information related to tax objects listed in the BPHTB Regional Tax Deposit Letter. In certain conditions, Bapenda Kota Bekasi will go into the field directly to check the correctness of the data. (Erika Jenri Halasan Panjaitan, 2015)

When the verification process has been carried out and has been proven related to the correctness of the data, the Bekasi City Bapenda Service will sign the BPHTB Regional Tax Deposit Letter. This process is called BPHTB Validation. The implementation of verification carried out by the Bekasi City Bapenda often causes problems in the community so that the BPHTB validation process is hampered. Because the Bekasi City Bapenda can *de facto* change and annul the transaction value that has been agreed upon by the parties. This creates problems for the community when it comes to buying and selling transactions, exchanges, gifts, gifts with wills, customary gifts, and other actions carried out to transfer property rights to land. (Erika Jenri Halasan Panjaitan, 2015)

Bapenda Kota Bekasi creates legal uncertainty related to this policy, causing the verification process to take a long time and of course very detrimental to the community when they want to make a transaction related to the transfer of property rights to land. Another party who is harmed related to legal uncertainty carried out by the Bekasi City Bapenda is a Notary as a PPAT. Without validation evidence provided by Bapenda Kota Bekasi PPAT cannot issue authentic deeds related to transactions related to the transfer of property rights to land. If a PPAT issues an authentic deed related to the transfer of property rights to PPAT land, it will be subject to sanctions or fines by the Directorate General of Taxes/Land Tax Service Office and the Primary Tax Office, in addition to sanctions from the Land Office. (Eko Puji Hartono dan Akhmad Khisni, 2018) Because without proof of BPHTB validation given by the Bekasi City Bapenda, a PPAT will be subject to administrative sanctions in the form of a fine of Rp. 7,500,000.00 (seven million five hundred thousand rupiah) for each violation. Even a PPAT can be threatened with being sentenced to dismissal. (Limbong, 2022)

The legal uncertainty carried out by the Bekasi City Bapenda is related to the authority they have to annul or change the value of transactions that have been agreed upon by the parties *de facto*. The act of annulling or amending is not based on a Tax Decree as a form of representation. This creates juridical obstacles that create legal uncertainty. The Mayor's and Regent's regulations also do not accommodate legal certainty regarding the authority of the Bekasi City Bapenda in annulling and

changing the transaction value that has been agreed upon by the parties so that the BPHTB verification process causes problems so that BPHTB does not get validation by the Bekasi City Bapenda. (Erika Jenri Halasan Panjaitan, 2015)

The actions taken by the Bekasi City Bapenda are not in accordance with the provisions contained in Article 91 paragraph (1) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. Because the authority possessed by the Bekasi City Bapenda to change and annul the transaction value that has been agreed upon by the parties without a Tax Determination Letter cannot be the reason for the delay in the BPHTB verification process which causes BPHTB not to get validation. Because this indirectly illustrates that the Bekasi City Bapenda does not carry out its community service functions carefully. The actions taken by the Bekasi City Bapenda also hampered the regional revenue process. If the value listed is in accordance with the PDRD, namely the transaction value is in accordance with the value listed in the UN NJOP, the Bekasi City Bapenda cannot take action to change or annul the transaction value in the BPHTB verification process. If the Bekasi City Bapenda feels that the transaction value listed in the UN NJOP is not appropriate, the Bekasi City Bapenda must make a process of changing or adjusting the value listed in the UN NJOP in accordance with the applicable laws and regulations not by carrying out the process of changing and annulling the transaction value *de facto* in the field without a Tax Determination Letter. (Erika Jenri Halasan Panjaitan, 2015)

Another problem that shows that the Bekasi City Bapenda in establishing a relationship with a Notary as a PPAT related to BPHTB seems uncooperative is that the Bekasi City Bapenda imposes a regulation on Notaries as PPAT if the BPHTB payment has not been accompanied by a BPHTB verification and validation process. So the Notary as a PPAT cannot continue the process of returning the name of the certificate at the National Land Agency (BPN) because BPN has a policy that BPHTB is not administratively valid if it is not accompanied by a BPHTB verification and validation process from the Bekasi City Bapenda. Although the BPHTB payment has been made and accompanied by proof of BPHTB payment. This has caused a delay in the performance of Notaries as PPAT related to the process of reversing the name of the certificate in BPN.

A common problem that often occurs is related to the BPHTB validation process where the Bekasi City Bapenda often disputes the determination of NJOP in accordance with the transaction value, the Bekasi City Bapenda considers that there is a discrepancy regarding the amount of transaction value set by the tax subject. Similarly, data and information obtained from Notaries as PPAT. In general, complaining about the uncertainty of the amount of BPHTB value that must be paid, in connection with the transaction value used as the basis for calculating the BPHTB between those agreed by the parties and the Bekasi City Bapenda there are often differences, and it is not uncommon for changes to be held in the transaction value according to the assessment of the Bekasi City Bapenda and BPHTB is considered underpaid by the Bekasi City Bapenda so that it does not pass the verification process.

The problem is when the sale and purchase deed has been officially signed with the transaction value in accordance with the agreement between the seller and the buyer, at a later time when validation is submitted there is a difference in the transaction value according to the calculation of the Bekasi City Bapenda and changes must be made. In this case, which is the actual transaction value, whether the value has been agreed upon by the parties and contained in the signed deed, or the value that must be followed according to the calculation of the Bekasi City Bapenda. Meanwhile, the use of values in deeds that are not in accordance with actual reality has juridical consequences, so that if there is a dispute, it can be void. (R. Murjiyanto dan Samun Ismaya, 2015)

Bapenda Kota Bekasi tends to make it difficult to pay BPHTB tax for Notaries as PPAT and taxpayers. Bapenda Kota Bekasi does not provide convenience in terms of access, especially appreciation of the important role that has been carried out by Notaries as PPAT in the BPHTB tax revenue process. The access in question is in the form of internet access facilities and supporting equipment related to the provision of paper and printer equipment for printing proof of payment that

must be printed by a Notary as a PPAT to taxpayers. The author considers that Bapenda Kota Bekasi failed to create a mutualism relationship with Notaries as PPAT. The important role of a Notary as a PPAT is no longer indisputable to BPHTB tax revenue. This matter must be a discussion between all PPAT under the Association of Land Deed Making Officials and the Bekasi City Bapenda. This problem cannot be left alone because if the Notary as a PPAT does not play an active role in helping the Bekasi City Bapenda regarding the BPHTB Tax revenue process, this will have a significant impact on the income of the Bekasi City Bapenda.

The policy implemented by the Bekasi City Bapenda regarding the BPHTB verification process has a significant impact on Notaries as PPAT. Not infrequently the disappointment of the parties who will make land ownership transfer transactions caused by delays in the validation process caused by the Bekasi City Bapenda harms the Notary as PPAT. This is because the Notary as PPAT is a party trusted by the public regarding the BPHTB validation process. So that the public thinks that the long or not the BPHTB validation process is the responsibility of the Notary as a PPAT. Notaries as PPAT need to get special appreciation by the Bekasi City Bapenda. Actions taken by Bapenda Kota Bekasi. The position of Notary is a position based on the principle of trust that exists in society, in other words, the community considers the existence of a Notary to be someone who can be entrusted. (Diah Imania; et. al, 202 C.E.) The birth of the position of Notary is itself based on the public's need for evidence. As we know a Notary is a general official who has the authority to make authentic deeds. In addition, the position of Notary has the nature of a functionary. This trait means that the notary becomes a society to ask for advice or entrust a matter to the Notary. (Edwina Warman Putri, 2021)

The facts on the ground actually explain that the verification process carried out by the Bekasi City Bapenda was not carried out in accordance with the procedural procedures described earlier. Bapenda Kota Bekasi automatically asks taxpayers to increase the amount of BPHTB from the transaction value agreed by the parties. This policy is carried out by the Bekasi City Bapenda without a decree or underlying Regional Regulation. If the taxpayer refuses, BPHTB will not get validation by the Bekasi City Bapenda. The main problem is that the role of notaries in managing BPHTB payments in Bekasi City is very important. Notaries in Bekasi City are entrusted by the parties to carry out the payment process, verification, and validation of BPHTB.

The policy carried out by the Bekasi City Bapenda also harms notaries in Bekasi City without exception. The parties who have requested an Authentic Deed related to the transfer of property rights to the land to a Notary as a PPAT as in general the Deed of Sale and Purchase (AJB) will indirectly question regarding the inconsistency of the amount of BPHTB value that has been agreed upon before and also the length of time required in the process of returning the name of the certificate. (*Disampaikan Oleh Notaris Elwian Yang Berkedudukan Di Kota Bekasi Dalam Wawancara, n.d.*)

The policy related to the verification process for BPHTB validation implemented by the Bekasi City Bapenda even caused the practice of Corruption, Collusion, and Nepotism (KKN). Because some Bekasi City Bapenda individuals will speed up or facilitate the BPHTB verification process if indeed notaries as PPAT or taxpayers independently provide bribes or pelicin money to facilitate the verification process for BPHTB validation. Such dirty practices have become an open secret in society. Thus, the verification process for BPHTB validation creates legal uncertainty and violates the principles of good governance. The BPHTB verification process related to the transaction value agreed upon by the parties is irrelevant because the review and rejection of the BPHTB verification process carried out by the Bekasi City Bapenda is not based on a decree. (*Disampaikan Oleh Notaris Elwian Yang Berkedudukan Di Kota Bekasi Dalam Wawancara, n.d.*)

Taxpayers when making BPHTB payments are always based on the value stated in the UN NJOP and based on Article 91 paragraph (1) of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. So it can be concluded that the existence of the verification process is irrelevant because based on the provisions contained in the article, the parties can still carry out the transfer of their rights as long as they have attached proof of payment of BPHTB. (*Disampaikan Oleh Notaris*

Elvian Yang Berkedudukan Di Kota Bekasi Dalam Wawancara, n.d.) The BPHTB verification process will only slow down the bureaucracy related to transactions related to the transfer of property rights to land. The public will certainly be the aggrieved party to the policy.

The verification process has proven to always take a long time so that quite a lot of people have complained about the existence of the BPHTB verification policy. BPHTB payments made by taxpayers are all based on a *database* owned by Bapenda Kota Bekasi, if the data is not appropriate, the taxpayer cannot make BPHTB payments. The BPHTB verification process indirectly conflicts with the self-assessment system related to tax payments implemented by the Indonesian government. If the Bekasi City Bapenda continues to conduct a review to ensure the correctness of the transaction value attached by the taxpayer, there is already a misalignment between the Bekasi City Bapenda and the self-assessment system implemented by the Indonesian Government.

The verification process before providing validation to BPHTB is one of the proofs that there is guidance between local taxes and national taxes. Taxes are the main income of the state so it is an obligation to impose a fair amount of tax related to the amount of tax that must be paid by taxpayers. Therefore, it is very important that there is harmony between national and local taxes so that there is a need for continuous guidance, especially regarding tax objects and rates. The verification process implemented related to providing BPHTB validation is also a form of inconsistency in applicable laws and regulations. If this inconsistency continues, it will have fatal consequences in the implementation of tax collection. (Syofrin Syofyan dan Ashar Hidayat, 2009)

IV. CONCLUSION

The implementation of the Verification Policy set by the Bekasi City Bapenda is considered ineffective because it creates legal uncertainty for people who want to make transactions related to the transfer of property rights to land and also of course notaries as PPAT who are authorized to make related authentic deeds. This policy is also contrary to the application of the principle of self-assessment related to tax payments adopted by the Indonesian government. Moreover, the policy applies without a decree or legal basis related to its implementation. It is appropriate that the verification process is no longer needed because the most important thing is that taxpayers who will make transactions related to the transfer of property rights to land have made BPHTB payments accompanied by proof of payment. Because the existence of the verification policy only causes KKN practices that are even more detrimental to the community and state tax revenues.

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