



# Legal Consequences of Differences in Value of Sale and Purchase Transactions on the Results of Verification of Land and Building Acquisition Fees

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**Abstract:** This study discusses the problems arising from the difference in transaction value stated in the deed of sale and purchase (AJB) with the results of the verification of Land and Building Acquisition Fee (BPHTB) by the Regional Tax and Retribution Management Agency (BPPRD) in South Lampung. The analysis was conducted using a qualitative approach, involving a literature study of the regulations governing BPHTB, as well as an analysis of cases and problems that arise in the field. The findings indicate that the practice of re-verifying prices by BPPRD can be detrimental to the parties involved in land/building sale and purchase transactions and violates the principle of freedom of contract in contract law. The implications of this problem are the potential for legal uncertainty and tax disputes between taxpayers and the local government. Therefore, further studies are needed to improve the implementation of BPHTB collection policies in South Lampung and increase public understanding.

**Keywords:** Legal consequences, BPHTB, Sale and purchase

## 1. Introduction

Buying and selling is an agreement that binds two parties, namely the seller and the buyer, where one party promises to hand over an item and the other party promises to pay the agreed price. (Sihotang, Sari, Arifin, & Wahyudin, 2023), (Azzahra, Satriojati, Sabillah, & Nanini, 2021). In the case of buying and selling land/buildings which then results in the transfer of land rights, a land acquisition tax (BPHTB) is imposed. In addition, the sale and purchase of land/buildings that have been declared paid off must also be stated in a deed of sale and purchase of land made by a land deed official (PPAT). (Fitriady, Effendy, & Buana, 2023), (Huda, 2022).

The presence of regulations related to regional taxes and regional levies on September 15, 2009, namely Law Number 28 of 2009, officially shifted BPHTB which was previously a central tax to regional tax. Each region is required to establish a regional regulation related to BPHTB, which will be the legal basis for imposing BPHTB in the implementation of BPHTB collection in the region. (Amelia, 2024), (Abduh, 2019). Responding to this, in South Lampung, the system and procedures for collecting BPHTB are regulated in the South Lampung Regent Regulation Number 36 of 2017 (RI, nd), (RETRIBUTION, ARRESTS, & SONY, nd).

Regarding the amount of tax payable that must be paid by taxpayers, the PDRD Law, which was later replaced by Law Number 1 of 2022, has stipulated that the taxable object acquisition value (NPOP) is the value used as a reference in calculating the imposition of BPHTB and in the context of buying and selling, NPOP refers to the agreed transaction price. (Ida Zuraida, 2022), (LASTIANI, 2023). The provisions of Article 46 paragraph (3) state that in the event that the NPOP is unknown or the amount of the NPOP is below the NJOP, then the reference used in imposing BPHTB is the NJOP of the land used in imposing land and building tax in the year of acquisition. (Widyastuti, 2023), (Lilik Warsito, MH, Lilik Warsito, & MH, 2024), .

If we analyze the wording of the article, it can be concluded that for anyone who buys and sells land/buildings at an agreed price below the NJOP, it is still declared legally valid, but the NJOP stated on the PBB of the land is still used to calculate the tax

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imposed on the acquisition of the land.(DARMADIN, nd),(Harina, Azheri, & Mannas, 2023). but in practice, the local government in this case BPPRD carries out a re-verification of the price, this is because BPPRD assesses that the selling price of the land/building that is the object of tax should have a selling price that is greater than that agreed upon by the parties to the transaction.(LISDARIA, 2022),(REZKI ENGELINA, 2021). In practice, people certainly carry out transactions at prices that are still affordable to their purchasing power.(Ishar, 2022),(Rizki, 2023).

This action of BPPRD resulted in a difference in the transaction value stated in the deed of sale and purchase (AJB) with the results of the BPHTB verification. As a result, the community as taxpayers must pay taxes greater than the actual transaction value, namely the value they have agreed upon. In addition, this action of BPPRD is considered to violate the principle of freedom of contract and creates legal uncertainty for the parties to the transaction.

Based on the problems that have been described above, the author is interested in researching and analyzing "what are the legal consequences arising from the difference in transaction value in the deed of sale and purchase (AJB) with the results of BPHTB verification by BPPRD?" and "has the implementation of BPHTB collection in South Lampung violated the principle of freedom of contract?"

## 2. Materials and Methods

In order to find, find and analyze a problem to be studied, certain methods are used that are in accordance with the needs of the research. In accordance with the problems and objectives of this research, the methods used in this research are normative juridical and empirical juridical as supporting methods. Therefore, the data in this study are sourced from primary data and secondary data. Data collection was carried out through literature studies, interviews, and documentation studies. Data were processed through description, prescription, and systematization activities. Furthermore, the data were analyzed descriptively qualitatively with a regulatory approach, so that this analysis involved a literature study of the regulations governing BPHTB, as well as an analysis of cases and problems that emerged in the field. The use of qualitative analysis is based on the idea that it will help the author in examining the legal conception as an empirical reality. In addition, it opens up the possibility for the author to examine the possibility of evaluation to change the paradigm of law enforcement against the legal consequences of differences in the value of sales and purchase transactions against the results of the verification of land and building acquisition fees.

## 3. Results and Discussion

### 3.1. *The Validity of Sale and Purchase of Land at a Price Below NJOP in the Perspective of Law Number 28 of 2009*

In a land/building sale and purchase agreement, there is an estimate of a fair price, based on the area and location of the land, this estimate of a fair price is called the taxable object sales value (NJOP).(Riwajanti, Comm, & Muwidha, 2022),(Sutedi, 2020). NJOP is also a value that is used as the basis for imposing land and building tax (PBB). However, with the estimated selling price of the taxable object (NJOP), it does not require the public to follow this price when making land/building sales transactions. In certain circumstances, such as when the landowner wants to sell his land quickly or there are other interests, the landowner is allowed to sell his land/building at a price below the NJOP. As long as the parties agree on the selling price determined, the sale and purchase transaction of the land/building is valid in the eyes of the law.(SIREGAR, nd),(Herefa, 2020).

After the land/building sale and purchase event, the land rights that were originally held by the land owner or seller are transferred to the new owner or buyer. For this reason, there is a tax on the acquisition of land/building rights (BPHTB) as one of the obligations of the community as taxpayers for obtaining land/building rights.

Initially, BPHTB was a type of central tax, then after the regulations related to regional taxes and regional levies were stipulated, namely Law Number 28 of 2009, BPHTB was officially transferred to regional taxes. The transfer of BPHTB to regional taxation aims to increase regional independence and support regional development by increasing regional original income (PAD) which is a means to improve the quality of regional spending. Improving the quality of regional spending will improve the quality of public services which play a very important role in achieving community welfare.

Since the enactment of the PDRD Law, the entire process of collecting BPHTB has been carried out by each region. However, previously the regional government must first form a regional regulation as an implementing regulation, such as in the form of a mayoral regulation or a regental regulation. In accordance with these provisions, the South Lampung regional government has made regulations related to the system and procedures for collecting land and building acquisition fees (BPHTB) in South Lampung by establishing the South Lampung regent regulation number 36 of 2017 which was then used as a legal basis and guideline in implementing BPHTB collection in South Lampung.

The enactment of Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments has revoked the validity of Law Number 28 of 2009 concerning regional taxes and regional levies. Article 46 paragraph (1) of Law Number 1 of 2022 stipulates that the basis for imposing BPHTB is the acquisition value of the taxable object (NPOP), in the event of a sale and purchase, NPOP refers to the price agreed upon by the seller and buyer or commonly called the transaction price. then further regulated in paragraph 3, in circumstances where the NPOP is unknown or the NPOP is lower than the NJOP, the NJOP of the land is used as the basis for imposing BPHTB.

Regarding the determination of NJOP, it has been regulated in Article 40 paragraph (6) of Law Number 1 of 2022 which in essence states that, every 3 years the amount of NJOP is determined by the regional government (in this case the regional head), but exceptions for regions with quite rapid development, then NJOP is determined every year. Regarding the determination of NJOP, it is further regulated in the regulation of the Minister of Finance of the Republic of Indonesia number 139 / PMK.03 / 2014 concerning the classification and determination of the selling value of taxable objects as the basis for imposing land and building tax. Article 8 of PMK 139/2014 states that the adjustment of NJOP in the region is determined once a year, until the value is the latest value determined by adjusting the map of the surrounding land value zone. This is done as an effort to anticipate fraudulent practices by taxpayers, namely manipulating the transaction price stated in the sale and purchase deed made by the PPAT, this manipulation is carried out with the aim of being subject to lower taxes than it should be. However, with regular NJOP updates, it can minimize regional losses due to price manipulation practices.

Based on the various discussions that have been described above, it can be concluded that the mandate given to the regional government is only the authority to collect and determine regulations related to the technical collection of BPHTB, as well as routinely adjust and determine the amount of NJOP in accordance with the mandate of the law. However, in its implementation, the regional government made a new policy, by verifying the NJOP that already existed at the time of the sale and purchase, verification was carried out by re-checking the field by the South Lampung BPPRD to the location of the land/building that was the object of tax. The South Lampung BPPRD should have used the NJOP that had been determined by the regional head as the basis for calculating BPHTB without having to verify.

### ***3.2. Implementation of BPHTB Collection Based on South Lampung Regent Regulation Number 36 of 2017 Linked to the Principle of Freedom of Contract***

In entering into an agreement there are several important principles that must be taken into account by the parties, including the principle of freedom of contract, the principle of consensualism, the principle of personality, the principle of good faith, and the principle of freedom of contract. Article 1338 paragraph (1) of the Civil Code regulates the principle of freedom of contract as follows: "all agreements made legally apply as law for those who make them". As implied in this provision, it can be concluded that this principle gives freedom to the parties concerned, whether to make an agreement or not, with whom will enter into an agreement, determine the terms, content and implementation of the agreement and also determine in what form the agreement will be entered into.

a sale and purchase agreement occurs when one party agrees to hand over his/her property to another party, and the other party agrees to pay the price for the property at a price that has been mutually agreed upon. As explained in the previous discussion, in the process of buying and selling land/buildings, a legal event will occur, namely the acquisition of rights to land/buildings by a legal entity or individual who becomes the buyer in the sale and purchase event, until the legal entity or individual must carry out the obligation to pay BPHTB tax.

The provisions of Article 1 number 1 of Law No. 20 of 2000 BPHTB are defined as follows: "land and building acquisition tax is a tax that must be imposed on the acquisition of land and/or building rights". The series of BPHTB collections, starting from policy making, implementation of collections, even management and use of income from BPHTB are the authority of the regional government.

Basically, the collection of BPHTB adopts a self-assessment system, in which the calculation and payment of tax payable is entrusted to taxpayers to do it themselves using a regional tax payment letter (SSPD). then report it without having to be based on the issuance of a tax assessment letter. However, in its implementation, not a few taxpayers do not understand the series of BPHTB payment processes, there are even taxpayers who understand but are reluctant to bother calculating the amount of tax payable themselves and decide to hand over their authority to another party (in this case a notary/PPAT or their employees), with the authority given, the notary/PPAT can calculate and pay BPHTB tax as a person who is authorized and trusted by the taxpayer concerned. the role of the notary/PPAT has indirectly lightened the burden on the tax authorities and taxpayers by helping to calculate the amount of BPHTB tax payable and pay the tax payable. However, the verification process carried out by the BPPRD changes the BPHTB collection system which uses a self-assessment system to an official assessment system.

Regarding the BPHTB collection system and procedures in South Lampung Regency, it is regulated in the South Lampung Regent Regulation Number 36 of 2017. In this provision, the BPHTB tax rate in South Lampung is set at 5% (five percent). This is in line with what has been mandated in Article 47 paragraph (1) of Law Number 1 of 2022 which states that: "The BPHTB tax rate is set at a maximum of 5% (five percent)". Regarding the basis for imposing BPHTB as determined in Article 46 paragraph (1), it is the taxable object acquisition value (NPOP).

There are several related parties involved in the implementation of BPHTB collection, including: notaries/PPAT, land offices and local governments. In addition, the implementation of BPHTB is also regulated by several regulations, where these regulations are interrelated. Because of this relationship, both between institutions and between institutions, it is not uncommon for there to be differences in legal interpretation from the parties which then cause problems. One of the problems that often arises in the BPHTB collection process in South Lampung is the lack of confidence of the local government with the transaction price stated by the taxpayer in the deed of sale and purchase (AJB).

Due to this lack of confidence, the local government (in this case BPPRD) verifies the BPHTB deposit letter (SSB) before the taxpayer pays the tax owed. The verification process carried out by BPPRD can cause changes to the agreed transaction price and often the transaction price set by BPPRD after verification exceeds the agreed price.

Setting a price higher than the transaction price is certainly detrimental and burdensome for the parties, the actions taken by BPPRD are considered to violate the principle of freedom of contract which states that in making a contract (agreement) everyone is free to determine the contents, with whomever and in whatever form they make a contract as long as the contract made does not conflict with what has been determined in the law and general provisions. so in terms of buying and selling the parties have the right to freely determine the contents and terms of the agreement they make, one of which is in determining the buying and selling price. the agreed price is binding and valid as a law that binds the parties to the agreement. based on this description, it can be concluded that the actions of BPPRD which also interfered in determining the price by verifying the transfer of rights to land and buildings have violated the principle of freedom of contract.

All parties, especially taxpayers, certainly expect the implementation of taxation based on the principles of justice and legal certainty. In the application of taxes, there are three aspects of justice that need to be considered, including justice in drafting tax laws, justice in implementing tax provisions, and justice in managing and utilizing tax money.

In practice in the field, there are differences of opinion in implementing tax regulations due to different interests or interpretations between taxpayers and tax officers (fiscus) which then have the potential to cause tax disputes. The trigger for the tax dispute in this discussion is the action of BPPRD which is considered to have interfered in determining the transaction price by conducting verification or field research. Regarding the definition of tax disputes in Article 1 number 5 of Law Number 14 of 2002, it is stated that: "Tax Disputes are disputes that arise in the field of taxation between Taxpayers or Taxpayers with authorized officials as a result of the issuance of a decision that can be appealed or sued to the Tax Court based on tax laws and regulations, including lawsuits for the implementation of collection based on the Tax Collection Law with a Compulsory Letter". In analyzing these provisions, it can be concluded that what is meant by a tax dispute is a dispute between taxpayers and fiscus, motivated by the issuance of a decision in the realm of taxation which based on tax laws can be resolved by filing an appeal or filing a lawsuit to the tax court.

The tax authorities as tax officers are given a number of authorities to conduct research, investigation, examination and collection in carrying out tax duties. In addition, if a tax dispute occurs, taxpayers are also given the authority to file legal proceedings with the Directorate General of Taxes, the Tax Court and the Supreme Court. The granting of authority to taxpayers and tax authorities shows that there is an effort to balance rights and obligations that are attempted through tax laws.

If the taxpayer does not agree, is not satisfied or even dissatisfied with the tax determination by the tax authorities, then the first effort to achieve justice in the field of taxation is to file an objection. The taxpayer's right to take legal steps, namely filing an objection in an effort to fulfill his/her tax obligations, has been guaranteed by law. In South Lampung, the settlement of objections to tax determination is regulated in the PDRD Law and the South Lampung Regent Regulation Number 36 of 2017.

In response to the objection submitted by the taxpayer, the regional head or appointed official will issue an objection decision letter to be implemented properly by the taxpayer. If after receiving the letter the taxpayer still does not agree, the taxpayer has the right to make further efforts, namely filing an appeal to the tax court.

In addition to filing an appeal in response to the implementation of tax collection carried out by the tax authorities, taxpayers also have the right to sue based on applicable provisions as another legal step. Filing a lawsuit is usually done if the taxpayer feels

disadvantaged in the tax collection process carried out by the tax authorities. Then the last legal effort if the tax dispute that occurs has not received a satisfactory decision, then the taxpayer can file a judicial review through the tax court addressed to the Supreme Court, this legal effort can only be done once. These efforts are protection for the people from government actions in the tax collection process as a form of accommodation of the principle of justice in tax collection.

#### 4. Conclusions

Based on the research that has been conducted, it can be concluded that the difference in transaction value stated in the deed of sale and purchase (AJB) with the results of BPHTB verification by BPPRD (Regional Tax and Retribution Management Agency) in South Lampung has various legal impacts. The practice of re-verifying the price carried out by BPPRD on the transaction value can be detrimental to the parties involved in the sale and purchase of land/buildings, and violates the principle of freedom of contract in contract law. This can cause legal uncertainty and potential tax disputes between taxpayers and the local government. Therefore, further studies are needed regarding the implementation of the BPHTB collection policy in South Lampung and efforts to overcome the problems that arise, such as improving the verification process and expanding public understanding regarding rights and obligations in land/building sale and purchase transactions.

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