

The Role of Land Deed Officers in the BPHTB Payment Verification Process

Fadhla Audina*) and Taufan Fajar**)

*) Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: fadhla28059adina@gmail.com

***) Faculty of Law, Universitas Islam Sultan Agung (UNISSULA) Semarang, E-mail: taufanfajar@unissula.ac.id

Abstract. *PPAT plays an important role in the sale and purchase of land, which has indirectly helped the Head of Regency/City BPN to carry out activities related to land. PPAT's position is very important in the delivery of transaction prices as the basis for determining BPHTB to the public. The deed of sale and purchase is made when the object and the transaction price have been agreed upon and have been paid in full by the buyer, but before that, tax verification must be carried out as the main requirement in the land sale and purchase transaction. A potential source of tax that should be explored according to the current economic situation and condition as well as the development of the nation's development is the type of Customs Tax on the Acquisition of Land and Building Rights (BPHTB). Fee for the acquisition of land and building rights, hereinafter abbreviated as BPHTB, is a tax on the acquisition of land and building rights. The role of the Land Deed Maker Officer in the verification process for BPHTB payments in Batang City is to examine and supervise the signing of the deed. BPHTB tax collection exists because of the transfer of rights to land and buildings so that PPAT will make a deed of sale if the taxpayer pays the BPHTB tax first. The Land Deed Maker official plays a very important role in the verification process of BPHTB payments for sale and purchase transactions of land and building rights in Batang City.*

Keywords: BPHT; Payment; PPAT; Role; Verification.

1. Introduction

The Land Deed Official is one of the public officials who is given the authority to make authentic deeds regarding certain legal actions regarding Land Rights or Property Rights to Flat Units (Article 1 point 1 PP 24/2016).¹

¹ <https://sarjana Ekonomi.co.id/task-ppat/>, accessed on 7 April 2021 at 11.22 WIB.

The authority of PPAT as referred to in the provisions of Article 3 and Article 4 of Government Regulation Number 37 of 1998, which relates to:

- a. Transfer of land rights.
- b. Transfer of ownership of the apartment unit.
- c. Encumbrance of land rights: and
- d. The power of attorney imposes mortgage rights.

PPAT's liability related to intentional, omission and/or negligence in making a sale and purchase deed that deviates from the formal requirements and material requirements of the procedure for making a PPAT deed, then the PPAT may be subject to administrative sanctions. Based on Perka BPN 1/2006, deviation from the formal and material requirements is a serious violation by PPAT which can be subject to a dishonorable dismissal from his position by the Head of the Indonesian National Land Agency.

PPAT is given the authority to make an authentic deed related to the transfer of rights which is called a deed of sale and purchase. The deed of sale and purchase (AJB) is a deed that proves that there has been a transfer of rights from the seller to the buyer. In principle, the sale and purchase of land and buildings is real and cash, where both parties agree, and the agreement is described in an authentic deed made by PPAT, and the costs have been paid off. If the land sale transaction fee has not been paid, then AJB cannot be made. Thus the PPAT's obligation in making the deed is to first make sure that the Land and Building Rights Acquisition Fee (BPHTB) has been paid by showing proof of the BPHTB deposit.²

The Law of the Republic of Indonesia Number 28 of 2009 concerning Regional Taxes and Regional Levies (hereinafter abbreviated as UUPDRD) states that related to the "Duty on Acquisition of Land and Building Rights" (hereinafter abbreviated as BPHTB) is a regional tax whose authority is levied by the City/Regency government. Tax is an important role for a country as a source of income in the state treasury which is used for the purposes of government and development activities to achieve public welfare.³

PPAT plays an important role in the sale and purchase of land, which indirectly has helped the Head of Regency/City BPN to carry out activities related to land.

²Harnita, dkk. "Tanggung Jawab PPAT dalam Penetapan Nilai Transaksi Jual Beli Tanah dan Bangunan di Kota Banda Aceh", *Udayana Master Law Journal*, Vol. 8 No. 3 September 2019, p. 354-370.

³Miyasto. (1997) *Sistem Perpajakan*, Yogyakarta: PT. Liberty. p. 3.

PPAT's position is very important in the delivery of transaction prices as the basis for determining BPHTB to the public. The deed of sale and purchase is made when the object and the transaction price have been agreed upon and have been paid in full by the buyer, but before that, tax verification must be carried out as the main requirement in the land sale and purchase transaction.⁴

With regard to state revenues originating from BPHTB, legal issues regarding taxes are a matter of society and the state, especially elements of society who are taxpayers and have tax debts that must be paid or other debts to the state in the form of BPHTB. Therefore, every member of the community should know things related to taxes, both about the principles of taxes, types or types of taxes, procedures for paying taxes, rights and obligations of taxpayers, as well as legal remedies in the field of taxation.⁵

BPHTB is one of the objective taxes or taxes payable and must be paid by the party who acquires the rights to the land and buildings before the deed, minutes of auction or decree granting rights can be drawn up and signed by the authorized official.⁶

The Land and Building Rights Acquisition Tax (BPHTB), is actually not a new thing in the field of taxation levied by the government. The legal basis for collecting taxes on Land and Building Rights Acquisition Duty (BPHTB) is the enactment of Act No. 21 of 1997 concerning Land and Building Rights Acquisition Fees (BPHTB) which was issued on 29 May 1997. In memory of the explanation of Act No. 21 of 1997 concerning Customs for the Acquisition of Land and Building Rights (BPHTB) it is stated that land is part of the earth which is a gift from God Almighty and has social functions. Besides meeting the basic needs for housing and business land, it is also a very profitable investment tool.⁷

2. Research Methods

Based on the problems posed, the researcher uses a legal research method with a normative juridical approach, namely using the positivist legis concept. This concept views law as identical with written norms made and promulgated by

⁴Yunita Budi Chrissanni dan Amin Purnawan, Peranan PPAT dalam Pemungutan Bea Perolehan Hak Tanah dan Bangunan (BPHTB) On Line Atas Transaksi Jual Beli Tanah dan Bangunan di Kota Magelang. *Jurnal Akta*, 4 (3) 2017, p. 3.

⁵Eko Puji Hartono, Akhmad Khisni, "The Role of PPAT in Making the Deed of Transfer of Rights to Land and/or Buildings Formerly of Customary Ownership Related to the Payment of Duty on the Acquisition of Rights to Land and/or Buildings", *Jurnal Akta* VOL. 5, No. 1, 2018, March, p. 160.

⁶Siahaan, Marihot Pahala, *Bea Perolehan Hak Atas Tanah dan Bangunan Teori dan Praktek*, Edition I, Print. I, Jakarta: PT. RajaGrafindo Persada. p.160.

⁷ Elucidation of Act No. 21 of 1997 on Customs for Acquisition of Land and Building Rights (BPHTB).

authorized institutions or officials. This concept views law as a normative system that is independent, closed and detached from real community life.⁸

3. Results and Discussion

Theoretical Analysis of the Role of Land Deed Making Officials in the Verification Process of BPHTB Payments in Batang City

The role of PPAT in Collecting BPHTB on Land and Building Sale and Purchase Transactions is only to make a deed of sale and purchase, buying and selling here is in accordance with customary law institutions, namely being paid in cash, because without this payment there will be no buying and selling in front of PPAT and will not obtain a deed of sale and purchase from PPAT (Official Land Deed Maker) which means that there is no legal transfer of property rights according to applicable regulations.

Therefore, at this stage the process takes time for research and of course it takes a bit longer compared to the previous stage, for example, asking for an SKPT may be enough for one or two days while buying and selling may take a bit longer to process because there are more requirements that need to be prepared, especially if the land to be traded is not certified (has a certificate).

First, the PPAT will ask for the identity of the prospective buyer and the prospective seller and this can be in the form of an ID card. If the buyer (prospective) or seller or both cannot attend all of them and only their proxies are present, a power of attorney is required and as far as possible the power of attorney is made authentically, at least a power of attorney legalized by an authorized official to at least have written (not verbal) power of attorney especially the prospective seller, while for the buyer it is possible to have an oral power of attorney as according to the explanation above.

And if the said land to be traded already has a certificate, the owner/holder of land rights must bring the original certificate because bringing the original certificate is very important because after the sale and purchase, the land certificate along with the sale-purchase deed will be sent to the Agrarian office for requested to be "transferred" and registered in the name of the buyer of the land as the new owner because without this original certificate, it is impossible for PPAT to make a deed of sale and purchase.

⁸Ibrahim, Johnny. (2006) *Teori dan Metodologi Penelitian Hukum Normatif*, Malang: Bayumedia Publishing. p. 295.

The deed of sale and purchase can be made by bringing the receipt of the payment, the buyer together with the seller and showing it to the Land Deed Making Officer.

In the presence of two witnesses, before the PPAT the seller and the buyer sign the deed of sale and purchase and with a witness by the PPAT the price of the land can be repaid according to the price stated in the deed of sale but if it has been paid in advance before facing the PPAT, then the PPAT must inquire further first whether the land price is in accordance with the deed that has been paid by the buyer to the seller and vice versa whether the seller has received the price of the land from the buyer, because in the deed it is written that the purchase money has been paid in full and received by the seller so the deed also applies as a valid receipt.

However, if the land to be purchased does not have a land certificate, the requirements will be even more, namely in the form of a *girik* letter, *lpeda*, land history, village head certificate, SKPT and maybe also a power of attorney if the buyer authorizes it to someone else or if the seller also assigns it to someone else.

In the event that the owner (holder of the right to) land has died and the certificate is in the hands of one of the heirs, a certificate of inheritance is required from the inheritance agency, then a certificate of inheritance is required from the competent authority, namely from the District Court or Notary and usually allowed also made by all the heirs themselves (without exception) and strengthened by the Village Head/*Lurah* and District Head/*Camat*.

Thus, presumably this second stage in the form of a process of buying and selling land carried out between parties in buying and selling land, for that now we continue the next stage as a consequence of buying and selling land, namely land registration.

When viewed legally after the sale and purchase transaction, the buyer has become the owner of the land but as proof that the buyer has indeed owned the land being traded, of course, registration is still required on behalf of the buyer on the land certificate which proves as the new owner in other words that A land certificate is a proof of land rights owned by someone who even though states who the new or last owner is.

This land certificate is a perfect, strongest and most complete piece of evidence unless it can be proven otherwise by another party who also claims to be the owner.

So, now it can be concluded that the deed of sale and purchase of land is an authentic deed. Because both the form and the official who makes it are determined by a government regulation in this case the Agrarian Government Regulation, although it has not been determined by law, it is clear that the deed of sale and the characteristics possessed by the authentic deed are: the party has indeed explained that what has been written in the deed has the power of material proof, meaning that what has been explained in the deed is true and applies to a third party.

Therefore, to further emphasize the legal act of transferring land rights, it is not enough to issue a copy of the sale and purchase deed by the PPAT, but it is still necessary as stipulated in the UUPA.

In general, those who are appointed as PPAT are Notaries, related to their functions as public officials who are authorized to make authentic deeds in the field of law. In addition, the government also appointed Special PPAT and Temporary PPAT.

PPAT is a public official who is appointed to carry out duties in registration activities by making an authentic deed as evidence that certain legal actions have been carried out regarding land rights, certain legal actions regarding land rights, certain legal actions regarding land rights, which become the basis for registration of changes. land data as a result of the legal action.

The role of PPAT in collecting BPHTB is basically in the world of practice/in the field, PPAT only plays a role in making land sale and purchase deeds, not to collect taxes. Tax collection exists because of the transfer of rights to land and buildings so that PPAT submits tax payments to taxpayers who are indebted.

Legal actions that require a deed that are part of the PPAT's duties are buying and selling, exchanging, grants, *inbreng*, sharing of joint rights, granting building rights/use rights on land, property rights, granting mortgage rights, granting power of attorney to encumber mortgage rights.

PPAT will make the deed of sale if the taxpayer pays the BPHTB tax first. After the taxpayer has deposited his BPHTB tax. The taxpayer submits proof of tax payment to the PPAT after which the PPAT is authorized to make a deed of sale and is authorized to sign the deed of sale and purchase after the BPHTB has been paid.

Based on the Law on Regional Taxes and Regional Levies, the role of PPAT is authorized to determine several authorized officials in fulfilling BPHTB tax obligations, because their authority is in making deeds and ratifying the acquisition of rights. This can be seen from article 91 (1) Regional Taxes and

Regional Levies if PPAT violating the PPAT will be subject to sanctions in the form of administrative sanctions in the amount of IDR 7.500.000,- (seven million five hundred thousand) for each violation.

These officials are given the authority to examine and at the same time supervise whether the BPHTB owed has been paid by the party who obtained the rights before signing the document in question.

Based on the results of the analysis described above, the authors formulate the following hypotheses:

"The better the role of the Land Deed Making Official (PPAT), the better the verification process for BPHTB Payments in Batang City will go."

4. Conclusion

The role of the Land Deed Maker Officer in the verification process for BPHTB payments in Batang City is to examine and supervise the signing of the deed. BPHTB tax collection exists because of the transfer of rights to land and buildings so that PPAT will make a deed of sale if the taxpayer pays the BPHTB tax first. After the taxpayer has deposited his BPHTB tax, the taxpayer submits proof of his tax payment to the PPAT after which the PPAT is authorized to make a deed of sale and purchase and sign the deed of sale after the BPHTB has been paid by the taxpayer. However, because people are often reluctant to pay taxes directly and provide PPAT to pay them. This is not justified, only taxpayers who are authorized to deposit their BPHTB Tax are allowed.

5. References

Journals:

- [1] Eko Puji Hartono, Akhmad Khisni, "The Role of PPAT in Making the Deed of Transfer of Rights to Land and/or Buildings Formerly of Customary Ownership Related to the Payment of Duty on the Acquisition of Rights to Land and/or Buildings", *Jurnal Akta* VOL. 5, No. 1, March 2018
- [2] Harnita, dkk. "Tanggung Jawab PPAT dalam Penetapan Nilai Transaksi Jual Beli Tanah dan Bangunan di Kota Banda Aceh", *Udayana Master Law Journal*, Vol. 8 No. 3 September 2019, p. 354-370.
- [3] Yunita Budi Chrissanni dan Amin Purnawan, Peranan PPAT dalam Pemungutan Bea Perolehan Hak Tanah dan Bangunan (BPHTB) On Line Atas Transaksi Jual Beli Tanah dan Bangunan di Kota Magelang. *Jurnal Akta*, 4 (3) 2017, p. 3.

Books:

- [1] Ali, Achmad. (2002). *Menguak Tabir Hukum (Suatu Kajian Filosofis dan Sosiologis)*. Jakarta: Toko Gunung Agung.

- [2] Badruzaman, Mariam Darus. (2006). *KUH Perdata Buku III*, Alumni, Bandung
- [3] Bastari, M., dkk. (2015). *Perpajakan Teori dan Kasus*. Medan: Perdana Publishing.
- [4] Chaizi Nasucha, (2004). *Reformasi Administrasi Publik, Teori dan Praktik*: Grasindo.
- [5] Djindang, Moh. Saleh. (1983). *Pengantar Hukum Indonesia*, Jakarta, Ihtiar Baru.
- [6] Gede, Djameluddin dan Muhammad Gede, (2004). *Hukum Pajak*, Jakarta, Fakultas Ekonomi Universitas Indonesia.
- [7] Ibrahim, Johnny. (2006). *Teori dan Metodologi Penelitian Hukum Normatif*. Malang: Bayumedia Publishing.
- [8] Indroharto, (1993). *Usaha Memahami Undang-undang Tentang Peradilan Tata Usaha Negara*, Buku I, Penerbit Pustaka Sinar Harapan: Jakarta.
- [9] Kartodirdjo. Sartono. (1983). *Metodologi Penelitian Masyarakat*. Jakarta Gramedia.
- [10] Lubis, M. Solly. (2007). *Filsafat Ilmu dan Penelitian*. Bandung: Mandar Maju.
- [11] Mardiasmo. (2011). *Perpajakan Edisi Revisi*. Yogyakarta: Andi Offset.
- [12] Marzuki, Peter Mahmud. (2008). *Pengantar Ilmu Hukum*. Jakarta: Kencana,
- [13] Miyasto. (1997). *Sistem Perpajakan*. Yogyakarta: PT. Liberty.
- [14] Moleong, Lexy. J. (2004). *Metodologi penelitian Kualitatif*. Bandung: PT Remaja Rosdakarya.
- [15] Muhammad Yamin Lubis dan Rahim Lubis. 2008. *Hukum Pendaftaran Tanah*, Bandung, Mandar Maju.
- [16] Mustofa, *Tuntutan Pembuatan Akta-Akta PPAT*, (Yogyakarta: Karya Media, 2010)
- [17] Nasution dan Albani, Muhammad Syukri. (2017). *Hukum dalam Pendekatan Filsafat*, Ctk. Kedua. Jakarta: Kencana.
- [18] Ngadino. (2019). *Ketentuan Umum Tata Cara Pembuatan dan Pengisian Akta PPAT*. Semarang: Universitas PGRI Semarang Press.
- [19] *Pedoman Peraturan Pejabat Pembuat Akta Tanah di Indonesia*, Seri Pertanahan, CV Mitra Karya, Jakarta, 2003.
- [20] Prakosa, Kesit Bambang. (2005). *Pajak dan Retribusi Daerah Edisi Revisi*. Yogyakarta: UII Press.
- [21] Rahardjo, Satjipto. (2014). *Ilmu Hukum*, Ctk. Kedelapan. Bandung: Citra Aditya Bakti.
- [22] Rato, Dominikus. (2010). *Filsafat Hukum Mencari: Memahami dan Memahami Hukum*. Yogyakarta: Laksbang Pressindo.
- [23] Saleh, Wantjik. (1982). *Hak Anda Atas Tanah*. Jakarta: Ghalia.

- [24] Salim dkk. (2017). *Penerapan Teori Hukum Pada Penelitian Tesis dan Disertasi*. Jakarta: Rajawali Pres.
- [25] Santoso, M. Agus. (2014). *Hukum, Moral & Keadilan Sebuah Kajian Filsafat Hukum*. Jakarta: Kencana.
- [26] Siahaan, Marihot Pahala. (2005). *Bea Perolehan Hak Atas Tanah dan Bangunan Teori dan Praktek*, Edition I, Print. I. Jakarta: PT. Raja Grafindo Persada.
- [27] Siahaan, Marihot Pahala. (2010). *Kompilasi Peraturan di Bidang BPHTB, Panduan dalam Penyusunan Aturan Pelaksanaan Peraturan Daerah Tentang BPHTB*. Yogyakarta: Graha Ilmu.
- [28] Sidharta, B.Arief. (2011) *Refleksi Tentang Hukum Pengertian-Pengertian dasar dalam Teori Hukum* Bandung: PT.Citra Aditya Bakti.
- [29] Singarimbun, Masri dan Efendi, Sofyan. (1999). *Metode Penelitian Survei*. Jakarta: LP3ES.
- [30] Soerjono, Soekanto. (1998). *Pengantar Penelitian Hukum*. Jakarta: UI Press.
- [31] Soetomo. (1991). *Buku Tuntunan Bagi Pejabat Pembuat Akta Tanah*.
- [32] Sugiyono. (2013). *Metode Penelitian Pendidikan: Pendekatan Kuaatitaf, Kualitatif dan R&D*. Bandung: Alfabeta.Yunita Budi Chrissanni dan Amin
- [33] Thesis of Master of Notary, University of North Sumatra, 2016.

Internet:

<https://sarjana.Ekonomi.co.id/task-ppat/>, accessed on 7 April 2021 at 11.22 WIB.

Regulation:

Act No. 21 of 1997 concerning Customs for the Acquisition of Land and Building Rights (BPHTB).