

## Implications Legal Reduction of Land Sale and Purchase Value by Land Deed Making Officials at the Request of the Parties to Reduce Land and Building Acquisition Tax in Brebes Regency

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**Abstract.** *This research aims to find out and analyze the validity of the Deed of Sale and Purchase made by reducing the value of the land sale and purchase carried out by the PPAT at the request of the parties to avoid land and building acquisition tax and to find out and analyze the legal implications of the reduction in the value of the land sale and purchase carried out by the PPAT to reduce the land and building acquisition tax in Brebes district. This study uses an empirical legal research method, in this study using primary data in the form of interviews and documentation. Based on the study, it was concluded that 1) The validity of the deed of sale and purchase of land whose value was reduced by the PPAT to avoid BPHTB tax creates a dilemma for the PPAT between fulfilling the client's wishes and maintaining professional ethics. Although this practice is common, it violates tax regulations and the principle of legal certainty. Professional PPATs should reject such requests and consistently apply ethical standards. Prevention through education, supervision and law enforcement is needed to maintain the integrity of the PPAT profession. 2) Legal implications of the reduction in the value of land sales and purchases carried out by PPAT to reduce the tax on land and building acquisition rights in Brebes Regency, namely the reduction in the value of land transactions by PPAT in Brebes Regency to reduce the BPHTB tax has the potential to cause criminal and civil implications for PPAT. In addition, this practice also harms regional income from BPHTB tax. Preventive efforts include socialization, supervision, and law enforcement. Increasing the transparency of land value information and public education are also needed to overcome tax compliance problems.*

**Keywords:** Land; Purchase; Reduction; Sale; Transaction.

## 1. Introduction

Law is something that cannot be separated or avoided in everyday life. The role of law as already known by the public is to maintain and regulate so that it remains balanced between the interests or desires of each individual with the common interest to minimize the occurrence of a conflict in the present or the future. So that it makes law enforcers to maintain the existing balance or even uphold justice so that it remains in harmony. Likewise with the PPAT profession which is one of the professions in the field of law, especially civil law. PPAT works by offering a service where the service consists of making authentic deeds that cover all actions, sales and purchase transaction activities, agreements and so on.

Everything done by PPAT has a big impact on the lives of the people in this society. For example, a deed made by PPAT becomes a basis or guideline for the status of property, rights and obligations owned by a person. If there is uncertainty over the deed made by PPAT, it can cause various impacts, one of which is the loss of a right or the transfer of rights without being known so that it becomes a burden on someone for an obligation. Although PPAT is considered an official in the public domain, it does not mean that it can be equated with a public official of state administration. It can be distinguished from what is produced or offered between PPAT and other state officials. Thus, PPAT as a public official produced is in the form of an authentic deed, which is related to the provisions of civil law, especially in terms of evidence.<sup>1</sup>The purpose of proof here is so that people who use PPAT services receive legal certainty and are protected by law.

One of the duties of a PPAT is to convey an objective between the parties who will deal with it. So that this PPAT stands alone, does not side with any party, but rather becomes a mediator for the parties who will carry out an act. As a result of the issuance of Law No. 5 of 1960 concerning Basic Agrarian Principles (UUPA), a Government Regulation Number 37 of 1998 concerning the Regulation of the Position of Land Deed Making Officials (PPAT) was issued which strengthened the Government Regulation on Land Registration. Therefore, the authority of the PPAT is not only to make a letter of agreement, but basically this Notary profession usually also doubles as a Land Deed Making Official (PPAT) so that the Notary has the right to make a deed which is a deed of change of name to obtain land rights. Furthermore, regarding the sale and purchase of land has been regulated in the UUPA, which is also regulated in Government Regulation No. 10 of 1961 concerning the Implementing Regulations of the UUPA. Article 19 also shows that the sale and purchase of land must be proven by a deed made and

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<sup>1</sup>Suhrawadi K. Lubis, 2006, *Ethics of the Legal Profession*, Sinar Grafika, Semarang, p. 34.

witnessed by the PPAT.<sup>2</sup> However, in this UUPA there is no specific mention regarding what is meant by sale and purchase, therefore the definition of sale and purchase of land according to UUPA must be interpreted as a legal act in which a seller hands over or encumbers ownership rights to his land to a buyer when the parties have agreed on an agreement regarding the sale price and also when carrying out the transfer must be witnessed in the presence of a Notary.

Often in acting, a PPAT is also not free from mistakes. Moreover, in this day and age where everything seems easy and modern, it gives the impression that everything can be done easily, even just to cover up a mistake. Several violations that are often committed by a PPAT are usually related to the PPAT professional code of ethics. In fact, according to reports for several months this year, there have been 67 cases of PPATs suspected of violating the code of ethics. This clearly shows that in carrying out their duties, PPATs can also make mistakes, therefore it is recommended that PPATs must also be careful in carrying out their duties as public officials who make authentic deeds.

Mistakes or errors that often occur and are made by some PPATs that may not be widely known by the general public are committing fraud by reducing the selling value of the original price of the land in order to avoid BPHTB (Land and Building Acquisition Fee). BPHTB is a regional tax whose authority is collected by the City/Regency government. It is very clear that taxes have an important role for the Republic of Indonesia, according to Law of the Republic of Indonesia Number 1 of 2022 concerning the Relationship between the Central Government and Regional Governments, which clearly states that related to BPHTB Tax (Land and Building Acquisition Fee) is an act or legal event that results in obtaining land rights and/or Buildings for individuals or entities. So that BPHTB Tax (Land and Building Acquisition Fee) is a regional tax whose authority is collected by the City/Regency government which is at the same level as a provincial area that is not divided into autonomous districts/cities. Apart from these various considerations, taxes are also an important thing, because taxes are used for government activities and development to achieve public welfare.<sup>3</sup>

As also written in the Law on Land and Building Tax stated in Articles 1 and 2, the basis of the tax object is the earth (land) and/or buildings. Where the earth is the surface of the earth or the surface of the land and the body of the earth or what is below the surface of the land. The responsibility of a Land Deed Making Officer is added to the field of tax law which is related to the fulfillment of obligations including stamp duty and other taxes that must be submitted, especially those

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<sup>2</sup>Herlina Ratna SN, 2014. "The Authority of Land Deed Making Officials in Land Sale and Purchase Agreements", *Jurnal Keadilan Progresif*, No. 2, Vol. 6, pp. 103-104, <https://core.ac.uk/download/pdf/236340721.pdf>

<sup>3</sup>Miyasto, 1997, *Taxation System*, PT. Liberty, Yogyakarta, p. 3.

related to letters made by a Notary who as a "Land Deed Making Officer" one of which is regarding BPHTB (Land and Building Acquisition Fee) which is stated in Law No. 20 of 2000 concerning Amendments to Law No. 21 of 1997 concerning BPHTB (Land and Building Acquisition Fee). Therefore, a PPAT is obliged to pay all taxes that he has collected from a client, because it is known to the general public that the PPAT in this case is also referred to as a Land Deed Making Officer who has automatically been designated as a tax collector by the tax authorities or tax apparatus.

Based on the results of observations that have been carried out by the author, there is a case where Mr. X as a land buyer wants to buy a 500 m<sup>2</sup> plot of land owned by Mr. Y in Brebes Regency with a market price of Rp500,000,000. Mr. X asked the PPAT who made the deed of sale and purchase to include the selling price of the land of only Rp300,000,000 in the deed of sale and purchase. This was done at the request of Mr. X so that he could pay cheaper land and building acquisition tax (BPHTB). The PPAT complied with Mr. X's request and included a selling price of the land lower than the market price in his deed of sale and purchase. After the deed of sale and purchase was completed, Mr. X paid BPHTB based on the selling value stated in the deed, which was Rp300,000,000.

As is known, in essence, the principle of buying and selling land is real and carried out in cash, where the two parties who are dealing have made a transaction and agreed that the sale and purchase agreement will be made and written in detail in a Deed of Sale and Purchase (AJB). Then if one party has not paid the costs at the time of the transaction, the Deed of Sale and Purchase cannot be made. Therefore, before the deed of sale and purchase is made, it must first be ensured that the BPHTB has been paid in full by providing proof of payment of the BPHTB. But often in practice there are many fraudulent acts carried out by some irresponsible individuals in the field by ignoring their existence from a rule and code of ethics of their position.

## **2. Research Methods**

This study uses a qualitative research method by going directly to the field to obtain data by building theories from the data found. This type of research is juridical-empirical, meaning that legal research is studied and then researched as law in action studies or examining, researching, and analyzing the reciprocal relationship between law and related social institutions.

The author uses the type of juridical-empirical research because the data needed is in the form of information distribution that does not need to be quantified. The distribution of information obtained by researchers from the results of observations and interviews with sources, so that the author will know the results obtained for further study and analysis based on the laws and regulations

that regulate it.

The analysis process is carried out by researchers by means of descriptive analysis by providing an accurate picture of individual characteristics, conditions, symptoms with other symptoms in society. The steps taken by the author to analyze include data collection, data reduction, data presentation, and drawing conclusions or data verification.<sup>4</sup>

### **3. Results and Discussion**

#### **3.1 The validity of a Deed of Sale and Purchase made by reducing the Land Sale and Purchase Value carried out by a PPAT at the request of the parties to avoid Land and Building Acquisition Tax**

Based on the interview results according to Wahyu Ririn Erawati, as a Notary-PPAT in Brebes Regency, stated that as a PPAT, he cannot provide specific information regarding the practices carried out by related parties in reducing the sale and purchase value of land for tax avoidance purposes. However, in daily practice, sometimes there are requests from related parties to him to adjust the transaction value.<sup>5</sup>

The practice of reducing the sale and purchase value of land to avoid BPHTB tax is indeed common in society. This is done with the aim of minimizing the tax that must be paid. However, as a public official, if the PPAT does this, he can be subject to sanctions in the form of dishonorable dismissal.

PPAT also cannot immediately reject requests from parties who want to reduce the transaction value. As a public official, PPAT must provide services to the public fairly. If they reject the requests of the parties, it can be considered unprofessional and potentially lose public trust. Therefore, PPAT is in a dilemma. On the one hand, they must uphold professional ethics and cannot help tax evasion practices. However, on the other hand, they must also serve the needs of the community for deed making services. Both are obligations that must be fulfilled by PPAT.

To overcome this dilemma, PPAT needs to apply the principle of caution. They can still serve the public's requests, but must really conduct research on the data and facts submitted by the parties. If it is considered unreasonable, PPAT can ask for further information or even refuse to make a deed if it is considered detrimental to the state. In addition, PPAT also needs to actively provide

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<sup>4</sup>Miles, Matthew B. and A. Michael Huberman. (2005). *Qualitative Data Analysis* (translation). Jakarta: UI Press. P. 6.

<sup>5</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

education and socialization to the public to comply with applicable tax regulations. It is hoped that tax evasion behavior such as reducing transaction values can be reduced.

Based on the interview results, related to the practice of reducing the value of land transactions in the sale and purchase deed at the request of the parties still often occurs. This is done to minimize the burden of BPHTB tax that must be paid. However, as a land deed official (PPAT), Wahyu Ririn Erawati always refuses to reduce the value of land transactions even though requested by the parties. She always records the transaction value according to the actual price in order to maintain the professionalism and integrity of her position as PPAT.<sup>6</sup>This action is important to ensure tax revenues in accordance with applicable provisions and prevent tax evasion practices through engineering land transaction values. The firm and integrity attitude shown by this PPAT deserves to be appreciated and used as an example for other PPAT colleagues in carrying out their professional responsibilities to help optimize state revenues from the taxation sector.

Ririn Erawati's Revelation as a Notary-PPAT stated that he had never lowered the value of the land transaction in the deed at the request of the parties. This shows commitment. In addition, recording the value of the land transaction in accordance with the actual price is also important to ensure the correct receipt of BPHTB tax. Lowering the transaction value means harming the state because the tax that should have been received is reduced. Therefore, the attitude of the PPAT deserves appreciation because it has upheld professional ethics and compliance with laws and regulations. He was not tempted to help the practice of tax evasion even though he might be under pressure from the parties.

Ideally, this attitude and commitment should be demonstrated by all PPATs in Indonesia, not just certain PPATs. Consistency in upholding professionalism and integrity is very important to maintain public trust in PPAT institutions. In addition, socialization and education to the public are also still needed so that there are no more requests to reduce the transaction value in the deed. The public needs to understand that such actions are unethical and detrimental to the state.

Based on the statement of Wahyu Ririn Erawati as Notary-PPAT, related to the deed of sale and purchase whose value was deliberately reduced at the request of the parties in order to avoid BPHTB tax is invalid and loses its legal status according to law. This is because the deed clearly violates the provisions of the law by falsifying data in the form of manipulating the value of land transactions without acceptable rational reasons.<sup>7</sup>The act of reducing the transaction value is

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<sup>6</sup>Revelation Ririn Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

<sup>7</sup>Revelation Ririn Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

only intended to reduce the tax burden that should be paid and is a form of illegal tax evasion. Therefore, this kind of deed is prone to being canceled and loses its legal force as valid evidence before the law. This opinion shows the PPAT's commitment to upholding the principles of legality and integrity in order to prevent misuse of the PPAT's position for interests that are contrary to the law.

Ririn Erawati's Revelation states that a deed of sale and purchase whose value is reduced at the request of a party in order to avoid tax is invalid or null and void. The PPAT deed must also meet the formal and material requirements stipulated in the PPAT job regulations. If the deed is made with a transaction value that is engineered to be lower, it means that the material requirements are not met so that the deed becomes invalid. In addition, such a deed also violates applicable tax provisions. The reduction in transaction value aims to reduce the tax that should be paid, which is clearly detrimental to the state. Therefore, this type of deed has no legal force and can be canceled and cannot be used as valid evidence in court. The PPAT's steps to declare the deed invalid are in line with the principle of caution to prevent violations of ethics and law. He does not want to be involved and legalize transactions that contain elements of tax evasion.

According to Wahyu Ririn Erawati as a Notary-PPAT, she is very aware of the legal risks that can arise if involved in the practice of reporting land sale and purchase transaction values lower than the actual price in order to minimize BPHTB tax. Although such requests often arise from clients, Wahyu Ririn Erawati always firmly rejects them because she is aware that such actions are illegal and have the potential to violate the law. She understands that if she is involved in such practices, she can be charged with the criminal article on document falsification and risks losing her license to practice as a PPAT. In the civil realm, PPATs also run the risk of being sued by the injured party such as the state and receiving administrative sanctions from the authorized agency. This significant legal risk is what drives Wahyu Ririn Erawati to always avoid involvement in efforts to reduce land transaction values in order to minimize taxes. She prioritizes integrity and compliance with regulations rather than the lure of profit from clients.<sup>8</sup>

If the PPAT is proven to have intentionally helped minimize taxes by reporting transaction values below the actual price, then he can be charged with Article 39 paragraph 1 letter d of Law No. 6 of 1983 concerning General Provisions and Tax Procedures. This article threatens the PPAT with a prison sentence of at least 6 months and a maximum of 6 years and a fine of at least 2 times the amount of tax payable that is not/underpaid and at most 4 times the amount of said tax.

In addition, PPAT can also lose their practice license because they are considered to have violated the code of professional ethics by intentionally falsifying

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<sup>8</sup>Revelation Ririn Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

documents. Therefore, I am very careful and consistent in always reporting land transactions according to their actual value, even if I have to reject the client's request. Maintaining integrity and compliance with regulations is the responsibility of PPAT.

In civil law, PPAT can be sued by the injured party such as the state that does not receive BPHTB tax according to its actual value. The lawsuit is filed with the District Court based on unlawful acts. PPAT is also at risk of receiving administrative sanctions in the form of verbal warnings, written warnings, temporary dismissal, or even dishonorable dismissal. If caught assisting in tax evasion, the PPAT's reputation will be damaged in the eyes of the public. Public trust as a public official who upholds integrity will be eroded. Therefore, PPAT must always adhere to the principle of professionalism and reject pressure from parties to manipulate transaction values in order to avoid BPHTB tax.

According to Wahyu Ririn Erawati's statement, she advised fellow PPATs to always uphold professional ethics and not be tempted to engage in violations of the law such as reducing the value of land transactions to avoid BPHTB tax even though there are requests from the parties. As land deed officials, PPATs must carry out their duties professionally and comply with all applicable regulations, not the other way around violating the rules for certain rewards. Integrity and compliance with the code of ethics and legislation must always be prioritized by every PPAT in carrying out their job practices. Thus, the practice of abusing the PPAT profession for unlawful purposes such as tax evasion can be prevented.<sup>9</sup>

PPATs should indeed uphold professional ethics in carrying out their duties. The Indonesian PPAT Code of Ethics has regulated various ethical provisions that must be adhered to by PPATs. One of the ethical principles of PPATs is integrity, which means that PPATs must be honest, brave, wise and responsible in carrying out their duties for the benefit of the community. PPATs are also required to refuse to make deeds according to the client's request if it is contrary to the law, regulations and code of ethics. PPATs must uphold justice and truth. Therefore, PPATs are advised not to be easily tempted by the lure of financial gain or pressure from other parties when asked to manipulate transaction values in order to avoid taxes.

PPAT must consistently apply the principle of caution and always check the accuracy of the data and facts submitted by the parties before making a deed. PPAT also needs to continue to improve their knowledge of related laws and regulations so that mistakes do not occur. Socialization of the Law and code of ethics to the public is also important to prevent unlawful requests.

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<sup>9</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024



Wahyu Ririn Erawati stated that the best way for PPAT to prevent requests for reduction in the value of the deed from clients is:<sup>10</sup>

1. Provide a detailed explanation to the client regarding the potential legal risks that will arise if the request is made, including criminal, civil, administrative and reputational risks.
2. Be firm in rejecting the request because it is contrary to the PPAT professional code of ethics.
3. Reminding clients of their obligations as good citizens to pay taxes in accordance with applicable regulations.
4. Prioritize good communication with clients to provide an understanding of why such requests are unethical and cannot be done.

By implementing these methods wisely, it is hoped that PPAT can effectively prevent requests for reductions in transaction values from clients, so that the integrity of the PPAT profession can be maintained and tax evasion can be prevented as early as possible.

The best way for PPAT to prevent requests for reduction in the value of the deed from clients is the first way is to provide a detailed explanation to the client regarding the legal risks that will be faced if the PPAT reduces the value of the deed. These risks include criminal, civil and administrative sanctions for PPAT. This explanation is important so that clients understand that their requests can actually harm the PPAT, with this understanding it is hoped that clients will not force the PPAT to manipulate the value of the deed.

In addition, PPAT also needs to remind clients of their obligations as good citizens to pay taxes according to applicable provisions. Tax evasion practices such as reducing the value of deeds are actually unethical and can harm the state. If the client persists, the PPAT must be firm and professional in rejecting the request. He must explain that the action is contrary to the PPAT code of ethics. Communicating well and wisely, generally professional and responsible clients can understand the reasons for the PPAT's rejection. They will not force their will.

If the client's request remains unethical, the PPAT can refuse to serve the making of the deed. The obligation to be ethical must be prioritized by the PPAT. By implementing these methods, it is hoped that the PPAT can effectively prevent requests for a reduction in the value of the deed from clients in order to maintain the integrity of the PPAT profession.

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<sup>10</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

Based on Wahyu Ririn Erawati's statement, she views the issue of reducing the value of property transactions for the purpose of avoiding BPHTB tax as a complex topic. As a professional PPAT, she realizes the importance of being careful and not being reckless in assessing whether an action can be categorized as an attempt to avoid tax or not. Because in some cases, the motivation and intention behind reducing the value of the transaction can vary and are related to other factors that require in-depth analysis. Therefore, even though there is a strong indication that the reduction in the value of the deed is intended to minimize BPHTB tax, a thorough examination of the relevant data and regulations is still needed before concluding with certainty that an action is a form of tax evasion. This cautious attitude is important so that there is no erroneous assessment and tarnishing the reputation of the PPAT profession.<sup>11</sup>

PPAT realizes that the practice of reducing the value of property transactions in deeds for the purpose of avoiding BPHTB tax is a sensitive topic. He does not immediately justify or categorize it as tax evasion. This cautious and non-hasty attitude in making assessments is in line with the PPAT professional code of ethics to be wise. Tax issues are included in the realm of civil law so they require in-depth analysis. Indeed, in some cases, indications of BPHTB tax avoidance can be seen from efforts to significantly reduce the value of land/property transactions without rational reasons. However, there is also the possibility that the reduction in the value of the deed was carried out due to the real condition of the asset, not merely to escape tax. For example, because the actual condition of the land does not match the owner's initial data. Therefore, PPAT needs to adhere to concrete facts and data in each case. If there is an indication of an intention to evade tax, PPAT is obliged to refuse to make a deed. However, if the reason for adjusting the value is rational, PPAT can make a deed according to the facts found after in-depth research. Most importantly, PPAT must be objective and have integrity. PPAT must indeed be aware of the possibility of tax evasion in property transactions. However, the assessment must be carried out proportionally and comprehensively by adhering to the facts and ethics of the PPAT profession.

Based on an interview with WahyuRirin Erawati as Notary-PPAT, it is known that the practice of reducing the sale and purchase value in property transactions can occur. The PPAT said that requests to adjust the transaction value can arise in some cases, but there is no statistical data showing how often this happens in general.<sup>12</sup>

PPAT cannot state with certainty how often the practice of reducing the value of property transactions occurs. He can only speak based on his personal

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<sup>11</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

<sup>12</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

experience. There are indeed indications that requests to reduce the transaction value often arise in the process of making deeds of sale and purchase and transfer of rights to land/property. However, it is difficult to ascertain whether this practice is very massive or not, because there is no representative statistical data that describes the phenomenon nationally. What is clear is that the rampant news about tax cases involving property entrepreneurs indicates that the potential for tax evasion in land and building asset transactions is quite high in Indonesia.

However, it does not mean that all property transactions contain elements of tax evasion. There are still many property business actors who comply with applicable tax regulations. Therefore, it is not wise to generalize that all or most property transactions contain value manipulation to avoid taxes. Further data and evidence are needed. What is clear is that the role of PPAT in preventing tax evasion in every transaction handled is very important for the sake of creating justice and compliance with the law.

According to the Theory of Legal Certainty put forward by Gustav Radbruch, the law aims to realize justice, benefit, and certainty. Legal certainty requires clear, permanent, consistent, and consequently implemented laws.

When the value of a land transaction is intentionally reduced in a deed of sale without a clear reason, it clearly damages legal certainty. This practice violates the principle of legal certainty because the deed as authentic evidence that should reflect the truth of the transaction becomes inaccurate and misleading. The value of the engineered deed is contrary to the actual facts and circumstances. This certainly harms the interests of the state in terms of reduced tax revenues, which means damaging the principle of legal benefit.

Therefore, PPAT must refuse to record incorrect transaction values even if requested by the client. PPAT has played an active role in realizing legal certainty according to the duties and authorities of his position. PPAT who continues to make deeds with fictitious values has neglected to uphold legal certainty and has the potential to cause losses to the state and society. In order to maintain legal certainty, optimal supervision and increased understanding of PPAT regarding ethics and job responsibilities through ongoing education and training are needed. PPAT who are professional and have integrity, it is hoped that the practice of reducing the value of land transactions that damages legal certainty can be prevented.

The practice of reducing the value of land/property sales transactions to avoid Land and Building Acquisition Fees (BPHTB) that occurs in Indonesia shows the weakness of the legal certainty aspect. According to Jan Michiel Otto, legal certainty has five important elements, namely:

First, clear, consistent, and easily accessible legal rules. In the case of BPHTB, the rules regarding tax objects, tax subjects, tax bases, and tax rates are actually quite clearly regulated in Law No. 20 of 2000 concerning BPHTB. However, the rules regarding sanctions for manipulation of transaction values are still not firm and detailed. So that tax avoidance loopholes are still exploited by certain individuals. Weak regulations also encourage the behavior of parties who ask PPAT to reduce transaction values.

Second, the consistency of government agencies in implementing legal regulations. In this case, the performance of the Directorate General of Taxes is still not optimal in ensuring that BPHTB receipts are in accordance with the actual transaction value. Supervision of property transactions is still weak, making value engineering difficult to detect. Socialization of tax obligations is also still lacking. This causes low public awareness and compliance with BPHTB regulations.

Third, public compliance with legal regulations. The practice of requesting a reduction in transaction value shows that awareness of a number of parties regarding tax obligations is still low. They try to find loopholes to avoid taxes that should be paid by asking PPAT to report a lower value. This behavior clearly violates applicable tax regulations.

Fourth, the role of the judiciary in enforcing the rule of law. Based on the existing facts, it seems that law enforcement by the judiciary against cases of property transaction value manipulation for tax avoidance is still weak. Relatively few cases end up in court. In fact, the potential for tax evasion through this method is quite high. The judiciary should play a more active role in handling and deciding tax avoidance cases so that they can provide a deterrent effect.

Fifth, the effectiveness of the implementation of judicial decisions. Administrative sanctions in the form of warnings and temporary suspension of PPATs involved in reducing transaction values have not been effective enough to prevent the practice. Likewise, the threat of imprisonment and fines has not been able to completely change tax avoidance behavior. Comprehensive law enforcement efforts are needed by tax officials, police, prosecutors and courts so that sanctions for violations can be implemented effectively.

Looking at the five elements of legal certainty above, it can be concluded that there are still a number of weaknesses in the Indonesian taxation legal system, especially related to BPHTB tax. Therefore, to realize legal certainty, the following recommendations can be made:

1. Revise the provisions of the BPHTB Law and the KUP Law regarding sanctions for manipulation of transaction values. Sanctions must be strengthened both

administratively and criminally. Also regulated regarding the obligations of PPAT in preventing the practice of reducing the value of deeds.

2. Improve the Directorate General of Taxes' supervision of property transactions. For example, by developing an integrated data system between PPAT, tax offices, BPN and related agencies to monitor transaction values.

3. Conducting massive tax socialization and education to the public including parties in property transactions. This is to increase their voluntary compliance with tax obligations.

4. Encourage the active role of law enforcement and the judiciary in handling cases of transaction value manipulation for tax avoidance. Cases that are revealed need to be processed until a court decision to provide a deterrent effect.

5. Taking persuasive and preventive steps such as warnings/reprimands or economic sanctions for tax avoidance behavior before undergoing legal proceedings.

6. Provide guidance and supervision to PPATs so that they are not involved in ethical code violation practices in the form of reducing the value of deed transactions.

7. Improving the professionalism of PPAT in implementing the principle of prudence so as to prevent misuse of PPAT services for tax avoidance.

8. Providing incentives for PPAT and reporting parties who detect and report indications of property transaction value manipulation in order to optimize state revenue from BPHTB tax.

### 3.2 Legal Implications of Reducing the Value of Land Sale and Purchase carried out by PPAT to reduce Land and Building Acquisition Tax in Brebes Regency

According to Wahyu Ririn Erawati, Notary-PPAT of Brebes Regency, the act of reducing the sale and purchase value of land to reduce BPHTB tax in Brebes Regency is an unethical practice and has the potential to violate the law. As a PPAT, she prioritizes professional actions and avoids behavior that violates the law. Wahyu Ririn Erawati always records the value of land transactions according to the actual conditions in the deed of sale and purchase, without dishonestly reducing the value.<sup>13</sup>

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<sup>13</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

Wahyu Ririn Erawati as Notary-PPAT firmly stated that he had never carried out the practice of reducing the value of land transactions in the sale and purchase deed for the purpose of reducing the amount of BPHTB tax that must be paid. Wahyu Ririn Erawati realized that this action was contrary to the code of ethics of the profession PPAT and potentially violate applicable tax provisions. As a public official, PPAT have an obligation to act professionally and uphold integrity in carrying out their duties. Therefore, PPAT chooses to always record the value of land transactions according to the actual price, as agreed by the parties in the land sale and purchase transaction in Brebes Regency. Recording the transaction value honestly, PPAT has contributed positively to the efforts of the Brebes Regency government to optimize tax revenues from the BPHTB sector. The attitude PPAT this is worthy of appreciation and emulation by colleagues PPAT others in Indonesia, so that practices of manipulating transaction values that are detrimental to the state can be prevented and avoided.

The legal implications that may arise if a PPAT is involved in reducing the sale and purchase value of land are serious and potentially illegal. According to Wahyu Ririn Erawati, as a PPAT, being involved in the practice of reporting the sale and purchase transaction value of land lower than the actual price can result in serious legal consequences. If proven to have done so, the PPAT can be charged with Article 263 paragraph (1) of the Criminal Code concerning forgery of documents, with a maximum prison sentence of 6 years. In addition, the PPAT's practice permit is also at risk of being revoked based on Article 39 of PP No. 24 of 2016 concerning PPAT. Therefore, PPAT must maintain professionalism and avoid involvement in illegal practices in order to maintain the reputation and legality of their profession.<sup>14</sup>

The criminal sanctions of imprisonment and revocation of PPAT permits will certainly be very detrimental to me. Moreover, my reputation as a professional PPAT will also be damaged in the eyes of the public. Therefore, I am very careful and avoid involvement in any form of fraud related to the sale and purchase value of land. Integrity and compliance with the rules must be upheld in order to protect the PPAT profession.

From a civil perspective, PPAT risk being sued by the injured party such as the state that does not receive taxes according to the actual value. The lawsuit was filed with the District Court based on an unlawful act. PPAT can also be subject to administrative sanctions in the form of verbal warnings, written warnings, temporary dismissal, even dishonorable dismissal. If proven guilty, the reputation and credibility PPAT will be damaged in the eyes of the public. This can have a broad impact on the sustainability of the practice PPAT. Therefore, in order to avoid such legal implications, PPAT must always act professionally and resist

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<sup>14</sup>Revelation Ririn Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

pressure to engage in practices that reduce the value of land/property transactions. PPAT also need to continue to improve capacity and understanding of related laws and regulations to minimize the risk of violating the law.

According to Wahyu Ririn Erawati, Notary-PPAT of Brebes Regency, prevention of dishonest land sale and purchase value reduction practices can be done through several steps. First, socialization about the ethics and responsibilities of PPAT to their fellow professionals is very important. PPAT must realize that such actions not only violate the professional code of ethics, but also have the potential to harm the wider community. Close cooperation with related agencies such as the Tax Service Office is also an important step to prevent such practices. Most importantly, PPAT must uphold integrity and professionalism in every transaction they carry out, in order to protect the interests of the community and maintain public trust in the PPAT profession.<sup>15</sup>

The way to prevent the practice of reducing the value of land transactions in Brebes Regency is by increasing the understanding and awareness of PPAT themselves regarding the prohibition and consequences of these actions through the socialization of the professional code of ethics. Enforcement of the PPAT code of ethics must also be strengthened through optimization of the function of PPAT Supervisors and strict sanctions for violators. A deterrent effect can be created. Cooperation with related agencies such as KPP Pratama is also needed so that there is an understanding in preventing tax evasion practices in property transactions.

The Brebes Regency Government also needs to increase supervision of land transactions and transfer of land rights to ensure compliance with the rules. Socialization and education to the community are also important so that there are no more requests to PPAT to reduce transaction values. PPAT must uphold integrity and professionalism, and reject pressure from any party that is contrary to the code of ethics and applicable laws.

According to Wahyu Ririn Erawati, Notary-PPAT of Brebes Regency, determining whether the practice of reducing the value of land sales violates applicable tax regulations or is a legitimate tax strategy depends on the complexity of the tax rules and the specific context of each transaction. Reducing the value of sales can raise questions about compliance with tax regulations, but to assess whether this is a violation or a legitimate tax strategy, an in-depth analysis of the details of the transaction and applicable legal provisions is required. Therefore, the assessment

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<sup>15</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

of this practice must be carried out carefully and based on a strong understanding of applicable tax regulations.<sup>16</sup>

PPAT emphasized that determining whether the practice violates or complies with tax regulations requires an in-depth analysis of each case. It is true that tax regulations are often complex and the situation is very specific to each land or property transaction. In general, a significant reduction in the sale and purchase value of land without a clear rational reason has the risk of violating tax provisions. However, there are times when the adjustment of fair value due to the condition of the transaction object and sufficient supporting evidence, this cannot immediately be categorized as tax evasion.

Therefore, a detailed analysis of relevant facts, data and tax regulations is required before concluding that an action constitutes tax avoidance or not. The tax authorities, in this case the local KPP Pratama, are authorized to conduct research and determine whether or not there are indications of tax violations in a transaction. PPAT must also remain vigilant, but cannot act rashly without strong evidence of the intention to violate taxes in every land transaction handled.

According to Wahyu Ririn Erawati, Notary-PPAT of Brebes Regency, the responsibility of a PPAT in managing property transactions, including those involving reductions in the sale and purchase value for tax purposes, is very important. PPAT has a professional responsibility to ensure that all information listed in the transaction documents, including the sale and purchase value, is in accordance with the truth and applicable laws. Thus, PPAT must act with integrity and ensure that there is no manipulation of the transaction value for certain purposes, including reductions in the sale and purchase value for tax purposes. By adhering to ethical and professional standards, PPAT can maintain public trust and ensure the validity and enforceability of the property transaction documents they issue.<sup>17</sup>

PPAT has a big responsibility in every property transaction, especially in listing the actual sale and purchase value in the deed. This is part of the professional responsibility of PPAT to ensure the validity and legality of all information contained in the deed in accordance with the facts and laws and regulations. If PPAT deliberately lists the sale and purchase value below the actual transaction price at the request of the client to avoid taxes, it clearly violates the professional responsibility of PPAT. PPAT is responsible for refusing to record incorrect transaction values for the purpose of tax evasion or other unlawful reasons. If PPAT still does so, then he has been negligent in carrying out his professional

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<sup>16</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024

<sup>17</sup>RevelationRirin Erawati, Notary-PPAT Brebes Regency, Interview dated January 11, 2024



obligations properly. Therefore, PPAT must always prioritize integrity and professionalism rather than the interests of certain parties who want to avoid taxes. PPAT has been responsible for maintaining public trust in the PPAT institution and contributing positively to the country.

The practice of reducing the value of land sales to reduce the amount of BPHTB tax is still often found in various regions in Indonesia, including in Brebes Regency. This is done to minimize the tax that must be paid to the state from land and building sales transactions. According to Brebes Regent Regulation Number 22 of 2011, the BPHTB rate in Brebes Regency is 5% for taxable objects up to IDR 1 billion, and 10% for taxable objects above IDR 1 billion. This rate is what encourages some parties to try to reduce the transaction value so that the tax rate is lower.

This practice certainly harms regional income from the tax sector, especially BPHTB. Based on data from the Brebes Regency Revenue, Financial Management and Regional Asset Service (DPPKAD), BPHTB revenue in 2021 reached IDR 29.8 billion or 64.5% of the target of IDR 46.2 billion.<sup>18</sup>

This less than optimal acceptance figure is thought to be influenced by the still widespread practice of reducing the sale and purchase value of land. Therefore, a discussion of this practice is important to be carried out in depth.

#### a. Legislation

The practice of reducing the sale and purchase value of land can be categorized as an attempt at tax evasion, where taxpayers intentionally avoid taxes that should be paid in a manner that violates the law. A number of laws and regulations can be used as a legal basis to prohibit and punish this practice:

##### 1. Law No. 28 of 2009 concerning Regional Taxes and Regional Retributions

Article 95 states that violations of regional tax obligations can be subject to administrative and criminal sanctions.

##### 2. Brebes Regency Regional Regulation Number 6 of 2011 concerning Regional Taxes

Article 89 paragraph 1 states that violations of regional tax obligations are subject to a maximum imprisonment of 6 months and/or a fine of 4 times the amount of tax owed that is not or is underpaid.

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<sup>18</sup><https://radartegal.com>.

### 3. Criminal Code

Article 372 and Article 378 regulate the criminal acts of tax evasion and forgery of documents which can be imposed on perpetrators of reducing the sale and purchase value of land.

### 4. Law No. 7 of 2016 concerning Protection and Empowerment of Farmers

Article 37 prohibits the transfer of rights to agricultural land at a price below the real or actual price.

#### b. Aspects of unlawful acts

Reducing the sale value of land can also be seen as an unlawful act according to Article 1365 of the Civil Code, because it is detrimental to the interests of the state and society. The elements of an unlawful act that are fulfilled:

- 1) There is an act, in this case recording the transaction value below the actual price.
- 2) This act is against the law, namely violating tax regulations.
- 3) There are losses incurred for the country in the form of loss of potential tax revenue.
- 4) There is a causal relationship between the act and state losses.
- 5) There was an error on the part of the perpetrator, namely intentionally reducing the transaction value.

Based on research conducted by Herdiansyah et al., several factors that cause the practice of reducing the sale and purchase value of land in Indonesia to continue to be widespread are:<sup>19</sup>

#### a. Weak supervision by authorized agencies

The suboptimal supervision by DPPKAD, Tax Service Office, and other related institutions makes this practice difficult to detect. In fact, routine supervision and surprise inspections are needed to prevent and uncover tax evasion cases.

#### b. Low tax compliance

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<sup>19</sup>Herdiansyah, RY, et al., 2021. "Factors Causing Reduction in Transaction Value in Land and Building Sales and Purchases", *Journal of Accounting and Finance*, 7(2), pp. 148-157.

The level of tax compliance in society still needs to be improved. Many try to avoid taxes because they feel the tax burden is too heavy. Intensive socialization and education are needed to increase tax compliance.

c. Weak law enforcement

Sanctions for violations of tax obligations have not been optimally enforced. As a result, there is no deterrent effect for the perpetrators, so that the practice of tax evasion continues to recur. Strict and consistent law enforcement is essential to eradicate this practice.

d. The role of PPAT is less professional

Some PPATs are still willing to be involved in recording transaction values below the actual price for short-term profits. PPATs should reject client pressure and always uphold professionalism.

e. Lack of transparency of land value information

The absence of a publicly accessible land price list at each location makes it easy for perpetrators to manipulate land values. The government needs to issue land NJOP benchmarks periodically so that transaction values are in accordance with fair prices.

Based on the analysis of the causal factors above, the practice of reducing the value of land transactions has the potential to cause various negative impacts, including:

a. Reducing regional tax revenues

b. This practice directly harms local revenue from the tax sector, especially BPHTB tax, which has an impact on hampering regional development.

c. Reducing tax fairness and compliance

d. Compliant taxpayers are harmed by the rampant tax evasion. This also has the potential to weaken tax compliance in general in society.

e. Damaging the image of PPAT

f. The involvement of certain PPAT officials in facilitating the reduction of transaction values damages the reputation and public trust in this institution.

g. Encouraging unfair business competition

- h. Parties who evade taxes have an unfair competitive advantage over business actors who pay taxes according to the rules.
- i. Increases potential for conflict and disputes
- j. Disputes can occur if the actual transaction value is later discovered by the tax authorities, thus potentially triggering conflicts and disputes.

Based on Gustav Radbruch's Theory of Legal Certainty, law aims to realize certainty. Legal certainty requires clear, consistent, and consequential legal rules to be applied.

The practice of reducing the value of land transactions carried out to avoid BPHTB tax clearly violates the principle of legal certainty. The unilateral reduction in value without clear reasons results in uncertain data regarding the value of tax objects. This inaccurate data has the potential to harm the state because tax revenues are reduced.

This action also violates the professional responsibility of PPAT as an official making authentic deeds to record data correctly. PPAT involved in this practice has neglected to uphold legal certainty and has instead produced deeds that do not reflect the actual situation.

Therefore, in order to ensure legal certainty, PPAT must consistently apply professional standards and reject pressure to record transaction values that are not in accordance with the facts. Enforcement of the PPAT code of ethics is also important to ensure that PPATs always act in accordance with applicable laws.

Based on Hans Kelsen's Theory of Legal Responsibility, a person must be responsible for unlawful acts that harm another party. If proven to be involved in helping manipulate the value of land transactions to avoid taxes, the PPAT can be held legally responsible. The form of responsibility is individual because it is carried out personally by the PPAT. The PPAT can also be held liable based on errors because it is considered to have intentionally recorded incorrect transaction values in the deed. Even without malicious intent, such actions are still against the law and detrimental to the state.

For such violations, PPAT can be subject to criminal and civil sanctions. Criminal sanctions are in the form of imprisonment or fines, while civil sanctions are in the form of compensation to the state for tax losses incurred.

In order to avoid legal liability, PPAT must always act professionally and reject pressure to engage in practices that reduce the value of land transactions that

are detrimental to the country. PPAT must prioritize professional responsibility and compliance with applicable laws.

In conclusion, the practice of reducing the value of land transactions to avoid BPHTB tax clearly violates the principle of legal certainty and can result in legal liability for the PPAT involved. Therefore, PPAT must consistently uphold professionalism and reject pressure to record incorrect transaction values in order to avoid violating the law.

Based on the theory put forward by Hans Kelsen, PPAT has individual responsibility in every transaction of buying and selling land and buildings that he handles. This responsibility arises because PPAT is a public official who is directly involved in the legalization and administration process of land transactions through the making of deeds.

Individually, PPAT is responsible for ensuring the validity and truth of all data and information listed in the deed in accordance with the existing facts. This includes the value of the sale and purchase transaction which is the basis for imposing BPHTB tax. If PPAT intentionally records the sale and purchase value lower than the actual price to help avoid tax, then he has neglected to carry out his individual responsibilities as PPAT.

PPAT cannot be burdened with collective responsibility for the mistakes of other parties such as Taxpayers who try to evade taxes. PPAT's responsibility is individual based on actions or negligence carried out in his/her official capacity when making the deed.

PPAT can only be held accountable if it is proven that individually they have intentionally assisted in the practice of tax evasion by recording transaction values lower than the reality. This is a form of accountability based on the element of deliberate error. On the other hand, if the PPAT has done his job well, namely recording transaction values according to the actual price even though asked to do otherwise by the client, then the PPAT cannot be held accountable. Because individually, the PPAT has acted correctly according to the responsibilities of his position.

Wahyu Ririn Erawati as Notary-PPAT of Brebes Regency has been responsible properly by always recording transaction values according to real prices even though there are requests from clients. She cannot be held individually responsible because she has personally carried out her duties well and professionally according to the regulations. If in a case the PPAT is proven to be negligent in recording the actual transaction value, then she can be held individually responsible based on the element of deliberate error. The PPAT can be subject to sanctions according to applicable regulations.

In the context of liability based on fault, the burden of proof lies with the plaintiff, namely the state, which must first prove the fault of the individual PPAT in order to be able to request compensation for losses due to potential unfulfilled taxes.

While in strict liability, the burden of proof is not required because the fault is considered inherent in the act of violating the regulation itself. In cases of tax violations, this principle is less appropriate because an in-depth examination is needed to prove the element of fault individually.

The principle of liability based on fault that emphasizes proof of individual error is more appropriate to enforce the legal responsibility of PPAT for acts of assisting in tax evasion. PPAT can only be held accountable if it is proven that individually they intentionally recorded transaction values that are lower than reality. If there is no such evidence, PPAT cannot be held accountable unilaterally.

Thus, in every transaction of transfer of land and building rights, PPAT has an individual responsibility to record the transaction value correctly according to the facts. If PPAT neglects to carry out this obligation and is proven to individually assist in tax evasion, then he can be held accountable based on intentional errors according to the principle of liability based on fault in Indonesia.

#### **4. Conclusion**

The validity of the deed of sale and purchase made by reducing the value of the land sale and purchase carried out by the PPAT at the request of the parties to avoid land and building acquisition tax, namely the practice of reducing the value of the land sale and purchase by the PPAT in the deed of sale and purchase to avoid BPHTB tax, shows the complexity and dilemma faced by the official. The practice of reducing transaction values in the context of regional taxes can harm regional income, especially BPHTB. Obstacles in the implementation of tax collection involve the lack of taxpayer compliance, weak supervision, and low public understanding of the imposition of BPHTB tax. Socialization, increased supervision, and strict law enforcement are needed in order to realize tax justice and compliance. Administrative reform, transparency of land value information, and education to the public are also important to overcome these obstacles.

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