

## The Occurrence of a Difference Between the Actual Transaction Price and the Transaction Price Listed in the Notary's Deed of Sale and Purchase in Semarang Regency

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**Abstract.** *The land sale and purchase process must be made in the form of an authentic deed made by an authorized official, in this case a Notary and/or PPAT (Land Deed Making Official). In a sale and purchase, there is a transaction price that must be stated in the deed. However, the price stated in the Sale and Purchase Agreement deed does not match the actual transaction price. The purpose of this study is to analyze: 1) Why There Is a Difference Between the Actual Transaction Price and the Transaction Price Listed in the Deed of Sale and Purchase Agreement. 2) How to Anticipate So That There Is No Difference Between the Actual Transaction Price and the Transaction Price Listed in the Deed of Sale and Purchase Agreement. This type of research is empirical legal research. The approach method in this research is a Qualitative approach. The types and sources of data in this research are primary and secondary data obtained through interviews and literature studies. The analysis in this research is Descriptive Analytical. The results of the study found that the factor of the difference in transaction prices was to avoid high taxes so that the parties wanted to include a cheaper price in the Notary Sale and Purchase Agreement compared to the actual transaction price. To anticipate this, namely by integrating the National Land Agency (BPN) with the Regional Finance Agency (BKUD), this will make it easier to carry out land sales and purchases.*

**Keywords:** *Buying; Notary; Selling; Transaction.*

### 1. Introduction

Sale and purchase where between the seller and the buyer before it is carried out there are elements that must be met for the sale and purchase. The land sale and purchase process must be made in the form of an authentic deed made by an authorized official, in this case a Notary and/or PPAT (Land Deed Making Official). However, before the Sale and Purchase Deed is made hereinafter

referred to as AJB, because the requirements have not been met, the parties bind themselves by means of a Sale and Purchase Binding Agreement called PPJB.

Along with the increasing number of people and the increasingly narrow amount of land today, the need for land control will always increase. This is different from the situation in the field where there are often obstacles, especially regarding price. There is no understanding and consistency in determining the price, because the regulations themselves are still ambiguous. So the determination of the price is adjusted to the parties. However, the difference between the parties and the government is that the parties want the price listed in the deed to be the lowest nominal so that the tax is low, but the government determines the price listed in the deed is the highest price so that state income increases, while the determination of the price has a very significant influence on taxes, PNBP, and others.<sup>1</sup>

Tax is the largest contribution in the State Budget (APBN). This is in accordance with the budgetary function in taxation, in order to achieve this function, the government carries out various policies informThe existence and intensification of this policy greatly affects all groups, both the community, the business world and other parties related to the payment or deduction and collection of taxes, in accordance with the tax collection system, namely the self-assessment system which gives taxpayers the authority to determine the amount of tax owed in accordance with the applicable tax laws and regulations.<sup>2</sup>

The transaction price listed on the deed will be the basis for calculating taxes related to the transfer of land rights. However, notaries often do not know the actual price of the transfer of land rights, because sometimes there is a request or even cooperation between parties to request the price listed according to the NJOP (Taxable Object Sales Value) while their transaction is much larger than the price in the NJOP (Taxable Object Sales Value).<sup>3</sup>So if the contents of the deed made by the notary are not true, then the deed has a material error. The material error can in principle degrade the power of an authentic deed into a deed under hand, can be null and void by law or canceled by a court decision.<sup>4</sup>

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<sup>1</sup>Kristian Hutama & Ery Agus Priyono, 2023, Notary's Responsibility for Deeds of Sale and Purchase Agreements That Do Not Match the Actual Price, *Journal of Islamic Law and Social Institutions (AL-MANHAJ)*, Vol 5, No 1, p. 876, <https://ejournal.insuriponorogo.ac.id/index.php/almanhaj/article/download/2725/1491> accessed on July 2, 2024 at 02.30 WIB.

<sup>2</sup>Puji Rahayu, 2019, *Taxation (Adjusted to the Latest Piracy Regulations)*, Indomedia Pustaka, Sidoarjo, p.2

<sup>3</sup>Safira, 2019, Notary's Responsibility for Deeds of Sale and Purchase Agreements that Do Not Match the Actual Price, *Journal of Islamic Law and Social Institutions (AL-MANHAJ)*, Vol 5. No 1, p. 877.

<sup>4</sup>Ibid, p. 877.

The Land Rights Transfer System has provisions on land rights prices related to the amount of tax, or in the taxation system it is also called Land and Building Acquisition Tax (BPHTB). The legal basis for determining the Land and Building Acquisition Tax (BPHTB) is Law Number 21 of 1997 as last amended by Law Number 20 of 2000 concerning BPHTB.

The determination of the sale and purchase value of land in Semarang Regency is currently determined by the Regional Finance Agency. The regulation refers to Law Number 28 of 2008 concerning Regional Taxes and Retribution. The Regional Government whose provisions are 5% of the agreed provisions. Although there are no regional regulations that specifically regulate the Land Value Zone (ZNT). The agreement of the parties when submitting an application to determine the price of their land in the sales and purchase agreement submitted to the Regional Finance Agency (BKUD) must not be arbitrary, the parties (buyer and seller) must pay attention to or be guided by the Taxable Object Sales Value (NJOP) of land and/or buildings listed in the Tax Payable Notification Letter (SPPT) at the time of the sale and purchase transaction. In determining the NJOP classification, the Regional Government has the authority to make its regulations based on the legal basis of the Regulation of the Minister of Finance of the Republic of Indonesia Number 208/PMK.07/2018 concerning Guidelines for Rural and Urban Land and Building Tax Assessment.

The local government as a tax collector can validate the Land and Building Acquisition Fee (BPHTB). The local government has the authority to conduct research, calculations and field research related to the sale and purchase object. The validation process of the Land and Building Acquisition Fee (BPHTB) can affect the sale and purchase transaction price because it is considered that the agreed transaction price is still too low from the market price. However, the government in this case does not pay attention to the actual transaction price,<sup>5</sup> from this, several problems arise related to determining the sale and purchase price because the price of the land sale and purchase transaction greatly affects the amount of tax on the Tax Payment Letter (SSP) and Land and Building Acquisition Fee (BPHTB) which will later be paid to the state through the local government and the pratama tax office. Based on the background above, the author raises the title "The Occurrence of Differences in Actual Transaction Prices with Transaction Prices Listed in the Notary's Sale and Purchase Agreement Deed in Semarang Regency"

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<sup>5</sup>Muhammad Amin, 2021, Legal Analysis of the Difference in Land Sale and Purchase Transaction Prices Between the Actual Price and the Price Listed in the Sale and Purchase Deed, Thesis of the Faculty of Law, Unisma University, p. 9.

## 2. Research Methods

The type of research used in this thesis is Empirical Legal research. Empirical legal research is research or observation in the field or field research where the research focuses on collecting empirical data in the field.<sup>6</sup>The approach method used is qualitative, namely research which can be interpreted as research that does not involve calculations. Types and sources of data come from primary data and secondary data. Data collection methods include interviews, observations, Document Studies or Library Materials. The data analysis method used is analytical descriptive, research that attempts to explain the solution to existing problems based on data, so it also presents data, analyzes and interprets it.<sup>7</sup>.

## 3. Results and Discussion

### 3.1. The Occurrence of a Difference Between the Actual Transaction Price and the Transaction Price Listed in the Notary's Deed of Sale and Purchase in Semarang Regency

Because the transaction price listed on the deed will be the basis for calculating taxes related to the transfer of land rights. However, notaries often do not know the actual price of the transfer of land rights, because sometimes there is a request or even cooperation between parties to request the price listed according to the NJOP (Taxable Object Sales Value) while their transactions are much larger than the price in the NJOP (Taxable Object Sales Value).<sup>8</sup>So if the contents of the deed made by the notary are not true, then the deed has a material error. The material error can in principle degrade the power of an authentic deed into a deed under hand, can be null and void by law or canceled by a court decision.<sup>9</sup>

The researcher conducted a study at one of the Notaries in Semarang Regency, namely as follows, in the Notary's Deed of Sale and Purchase Agreement in Article 2 (two) it is written as follows "This Sale and Purchase is carried out at a price of IDR 230,000,000.00 (Two Hundred and Thirty Million Rupiah)" while the actual price paid by the buyer to the seller of the land is IDR 250,000,000.00 (Two Hundred and Fifty Million Rupiah). Where the actual price that occurred was higher than the price stated in the Notary's Deed of Sale and Purchase Agreement, the difference between the actual price and the price stated in the

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<sup>6</sup>Mukti Fajar ND & Yulianto Achmad, 2010, Dualism of Normative Legal Research and Empirical Law, Pustaka Pelajar, Yogyakarta. p. 34

<sup>7</sup>Narbuko & Achmadi, 2009, Research Methodology, PT. Bumi Aksara, Jakarta, p.44.

<sup>8</sup>Safira, 2019, Diponegoro University, Semarang, Indonesia, Notary's Responsibility for Deeds of Sale and Purchase Agreements that Do Not Match the Actual Price, Volume 5 page 2.

<sup>9</sup>Vicky, 2023, Diponegoro University, Semarang, Indonesia, Notary's Responsibility for Deeds of Sale and Purchase Agreements that Do Not Match the Actual Price, Volume 5 page 2.

Notary's Deed of Sale and Purchase Agreement is IDR 20,000,000.00 (Twenty Million Rupiah).

This states that the transaction price stated in the Deed does not match the price paid by the buyer to the seller of the land, the PPAT Notary who made the Deed of Sale and Purchase Agreement with a transaction value that is not the same as the actual transaction value is not called a violation, but in this case, Notary Taufan Fajar Riyanto did not know at all about the difference between the actual transaction price and the transaction price stated in the Deed of Sale and Purchase Agreement. because the PPAT Notary always refers to the rules and prices stated in the Deed of Sale and Purchase Agreement based on the wishes of the parties, because the PPAT Notary cannot reach if the client does not tell the Notary the actual price. As long as the formal and material requirements are met and the making of the Deed of Sale and Purchase Agreement is in accordance with the Laws and Regulations, the Deed is valid and does not reduce the status of the Deed to a Deed under hand.<sup>10</sup>

The calculation of taxes that must be paid by both parties is as follows:

- a. Seller tax:  $\text{IDR } 230,000,000.00 \times 2.5\% = \text{IDR } 5,750,000.00$  (PPH).
- b. Buyer's tax:  $\text{IDR } 230,000,000.00 - \text{IDR } 80,000,000.00 = \text{IDR } 150,000,000.00 \times 5\% = \text{IDR } 7,500,000.00$  (BPHTB).

Taxpayers who have fulfilled the subjective and objective requirements in accordance with the provisions of laws and regulations in the field of regional taxation are required to register with the Regional Finance Agency (BKUD) of Semarang Regency in accordance with the provisions of laws and regulations.

There are various reasons that cause differences between the actual transaction price and the transaction price stated in the Notary's Deed of Sale and Purchase Agreement, namely as follows:

#### 1) Background according to the Notary's point of view

Based on an interview with notary PPAT Doctor Taufan Fajar Riyanto., SH, M.Kn. notary of Semarang Regency, according to him, the background of this problem is as follows:

- a. The local government wants to obtain large Regional Original Income (PAD).
- b. There is no equal value between the Taxable Object Sales Value (NJOP) and the value determined by the National Land Agency (BPN), so for example the same object but the Taxable Object Sales Value (NJOP) of the land with the Land Value Zone (ZNT) determined by the National Land Agency (BPN) is different, so

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<sup>10</sup>Interview with Taufan Fajar Riyanto, Notary of Semarang Regency, August 8, 2024

for example in sub-district A the Land Value Zone is IDR 1,000,000.00/M2 (One Million Rupiah Per Square Meter) while in the Regional Finance Agency (BKUD) the land value in the area is IDR 1,300,000.00/M2, (One Million Three Hundred Thousand Rupiah Per Square Meter) with this difference, the information provided by the public to the Notary PPAT is automatically a cheaper price.

c. Some clients do this perhaps because there is no integrated data on the value between the Regional Finance Agency (BKUD) and the National Land Agency (BPN), so clients try to provide different information to the PPAT Notary, to the Regional Finance Agency (BKUD) or also to the National Land Agency (BPN).

d. as a PPAT notary in Semarang Regency, he did not know about it. Because, the notary only has the authority to verify the data provided by the client in the form of a payment receipt, if the receipt has been manipulated by the client, it is beyond the reach of the notary.

Therefore, there is a background because there is no integrated system for the value of an object. If the value of an object is integrated between the National Land Agency (BPN) and the Regional Finance Agency (BKUD), this will make it easier to carry out land sales and purchases.

#### b. Background from the perspective of the Parties

Tax is a citizen's obligation to pay contributions on income earned to finance the development of a country. This tax is mandatory, mandatory and protected by law. The laws and regulations regarding taxation clearly state that the obligation of a Taxpayer is to pay tax. Indonesia used to adopt the Official Assessment System. The Official Assessment System is a collection system that gives the government (tax authority) the authority to determine the amount of tax owed by Taxpayers. In the Official Assessment system, there are several characteristics, including: the authority to determine the amount of tax owed lies with the tax authority, the taxpayer is passive, tax debt arises after the tax assessment letter is issued by the tax authority. In the Official Assessment system, the determination of the amount of Taxpayer's tax is the responsibility of the tax authority, so that all tax risks that arise are the responsibility of the tax authority, for example late payment or reporting due to the delay in the tax authority determining the amount of tax owed. This delay could be due to the limited number of tax officers to calculate the amount of tax to be paid by Taxpayers, which is not a small amount.<sup>11</sup>

So, the reason behind the parties not stating the actual price to the PPAT Notary is to avoid high taxes so that the parties want to include a cheaper price in the Notary's Sale and Purchase Agreement compared to the actual transaction

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<sup>11</sup>Setiaji & Amir, 2009, Tax News Magazine, Granite, Jakarta, p.15.

price.<sup>12</sup>Even though the parties concerned are able to pay taxes and they know the regulations regarding tax payments.

### **3.2. How to Anticipate So That There Is No Difference Between the Actual Transaction Price and the Transaction Price Listed in the Notary's Deed of Sale and Purchase in Semarang Regency**

As a Notary, PPAT always asks the parties how much the transaction price of the land is, if the client says it is IDR 230,000,000.00 (Two Hundred and Thirty Million Rupiah), then the Notary will include the price mentioned by the client in the Deed of Sale and Purchase Agreement. If the parties do not state the actual price, the Notary does not know about it, because what is stated in the deed is based on what the parties convey to the Notary. So in essence the Notary cannot reach the extent to which they carry out the transaction, the evidence of the transaction shown by the client to the Notary may be fabricated.

Moeljatno is of the opinion that intent (*dolus*) according to criminal law is an act that is consciously carried out in defiance of a prohibition, while negligence or negligence (*culpa*) is the perpetrator's lack of attention to an object without realizing that the result is a prohibited condition, so that an error in the form of negligence is essentially the same as intent, only the gradation is different.<sup>13</sup>

The way to anticipate this is by integrating the National Land Agency (BPN) with the Regional Finance Agency (BKUD), this will make it easier to carry out land sales and purchases.

Government the region as a tax collector can validate the Land and Building Acquisition Fee (BPHTB). The Regional Government has the authority to conduct research, calculations and field research related to the sale and purchase object. Process Validation of Land and Building Acquisition Fee (BPHTB) can affect the transaction price of buying and selling because it is considered that the agreed transaction price is still too low compared to the market price. However, the government in this case does not pay attention to the actual transaction price,<sup>14</sup>from this, several problems arise related to determining the sale and purchase price because the transaction price of the land sale and purchase greatly influences the amount of tax on the Tax Payment Slip (SSP) and Land and Building Acquisition Fee (BPHTB) which will later be paid to the state through the local government and the Pratama Tax Office.

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<sup>12</sup>Interview with Mrs. X & Mr. X Clients of Notary Tufan Fajar Riyanto, October 22, 2024

<sup>13</sup>Moeljatno, 2008, Principles of Criminal Law Revised Edition. Jakarta: Rineka Cipta, p. 199.

<sup>14</sup>Muhammad Amin, 2021, Legal Analysis of the Difference in Land Sale and Purchase Transaction Prices Between the Actual Price and the Price Listed in the Sale and Purchase Deed, Thesis of the Faculty of Law, Unisma University, p. 9.

Tax is the largest contribution in the State Budget (APBN). This is in accordance with the budgetary function in taxation, in order to achieve this function, the government carries out various policies inform the existence and intensity of the policy greatly influences all circles both the community, the business world and other parties related to the payment or deduction and collection of taxes, in accordance with the tax collection system, namely the self-assessment system which gives taxpayers the authority to determine the amount of tax owed in accordance with applicable tax laws and regulations.<sup>15</sup>

The national tax census is essentially to uphold justice. It is truly unfair if there are people who have paid taxes but there are still people who have not paid taxes. People should have a sense of pride when they have fulfilled their obligation to pay taxes. Through the National Tax Census implemented by the government, it is hoped that all people can realize a sense of pride in paying taxes. The targets of the National Tax Census are those who do not have a NPWP (Taxpayer Identification Number) so they will be given a NPWP, those who have not paid taxes so they should pay taxes, those who have not submitted an SPT (Tax Return) so they should submit an SPT, those who have tax debts so they can pay them off. So that this national tax census program can increase and optimize state revenues from taxes. In its implementation, the Directorate General of Taxes is assisted by the RT (Neighborhood Association) and RW (Citizens Association) by providing NPWP for new taxpayers.

#### **4. Conclusion**

It is certain that no one likes to pay taxes. Even if they want to pay taxes, it is because there is an element of coercion to pay and avoid sanctions. However, even though they want to pay, they always try to find a way so that the taxes they pay are not too large. This is what often drives them to take avoidance actions (tax avoidance) which often leads them to evasion practices (tax evasion), which is a form of criminal act in taxation. A high educational background and a more than sufficient economy also do not rule out the possibility for them to cover up the actual price in order to take avoidance actions (tax avoidance) which often leads them to evasion practices (tax evasion), because as Sri Mulyani said, one of the factors that people take avoidance actions (tax avoidance) is the lack of public trust in tax administrators. There are still many Indonesian people who do not know where the money they use to pay taxes will go. The lack of public trust makes people unwilling to carry out their obligations. The way to anticipate is by integrating the National Land Agency (BPN) with the Regional Finance Agency (BKUD), this will make it easier to carry out land sales and purchases. So that clients will not engineer the

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<sup>15</sup>Puji Rahayu, 2019, Taxation (Adjusted to the Latest Piracy Regulations), Indomedia Pustaka, Sidoarjo, p.2



transaction price carried out with the price that will be listed in the Notary's Deed of Sale and Purchase Agreement.

## 5. References

### Books:

- Achmadi & Narbuko, (2009), *Metodologi Penelitian*, Jakarta: PT. Bumi Aksara.
- Amir & Setiaji, (2009), *Majalah Berita Pajak*, Jakarta: Granit.
- Moeljatno, (2008), *Azas-azas Hukum Pidana Edisi Revisi*. Jakarta: Rineka Cipta.
- ND Fajar Mukti & Achmad Yulianto, (2010), *Dualisme Penelitian Hukum Normatif dan Hukum Empiris*, Yogyakarta: Pustaka Pelajar.
- Rahayu Puji, (2019), *Perpajakan (Disesuaikan dengan Peraturan Perbajakan terbaru)*, Sidoarjo: Indomedia Pustaka.

### Journals:

- Amin Muhammad, (2021), Analisis Yuridis Terhadap Perbedaan Harga Transaksi Jual Beli Tanah Antara harga Sebenarnya Dengan Harga Yang Tercantum Pada Akta Jual Beli, *Tesis Fakultas Hukum Universitas Unisma*, Malang.
- Hutama Kristian & Priyono Ery Agus, (2023), Tanggung Jawab Notaris Terhadap akta Perjanjian Pengikatan Jual Beli Yang Tidak Sesuai Dengan Harga Sebenarnya, *Jurnal Hukum Dan Pranata Sosial Islam (AL-MANHAJ)*, Vol 5, No 1.
- Safira, (2019), Tanggung Jawab Notaris terhadap Akta Perjanjian Pengikatan Jual Beli yang Tidak Sesuai dengan Harga Sebenarnya, *Jurnal Hukum Dan Pranata Sosial Islam (AL-MANHAJ)*, Vol 5. No 1.
- Vicky, (2023), Tanggung Jawab Notaris terhadap Akta Perjanjian Pengikatan Jual Beli yang Tidak Sesuai dengan Harga Sebenarnya, *Universitas Diponegoro, Semarang, Indonesia* Vol 5.