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THE ROLE OF LAND DEED OFFICIALS (PPAT) IN THE IMPOSITION OF ACQUISITION DUTY OF RIGHT ON LAND AND BUILDING IN THE EXCHANGE PROCESS OF LAND AND BUILDING IN DENPASAR CITY

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Abstract

In the process of exchanging land rights, the facts show that the use of market value as the basis for calculating the acquisition duty of right on land and building often creates problems in the field. This study aims to examine the basis for imposing acquisition duty of right on land and building in the process of exchanging land and buildings in Denpasar city and to examine the role of land deed officials and the obstacles faced in the imposition of acquisition duty of right on land and building in the process of exchanging land and buildings in Denpasar city. The method used in this study is an empirical juridical research method. The results of this study showed that (1) the imposition of acquisition duty of right on land and building in the exchange process in Denpasar City is applied with the provisions of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies calculated based on market value. (2) The Land Deed Official has a role in making the deed of exchange and in collecting acquisition duty of right on land and building in the process of exchanging the duties and authorities of the land deed official, namely assisting taxpayers in legal acts of exchange in the process of transferring rights to land and/or buildings from the exchange provider to exchange recipients in accordance with Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Maker Officials.

Keywords: Land Deed Official; Land Acquisition Fee; Land and Building Swapping

1. INTRODUCTION

The Acquisition Duty of Right on Land and Building is an objective tax or material tax, namely a recurring tax based first on what is the object of the tax and then paying attention to who is the subject of the tax. Furthermore, Article 87 regulates the Acquired Value of Tax Objects as the basis for collecting taxes in the process of transferring rights to the land and/or buildings in question. This general provision is also regulated in Denpasar City Regional Regulation Number 1 of 2016 concerning Amendments to Regional Regulation Number 7 of 2010 concerning Acquisition Duty of Right on Land and Building in Article 6.

In Article 85 paragraph (2) letter number 2 of Law no. 28 of 2009 stipulates that the acquisition of rights to land and/or buildings due to exchange is one of the objects of Acquisition Duty of Right on Land and Building. Exchange is regulated in the sixth chapter, from Article 1541 to Article 1546 of the Civil Code. In addition to regulating the exchange of land and/or buildings, the agreement must also regulate how the Acquisition Duty of Right on Land and Building and taxes are paid as a result of the exchange of land and/or buildings. Because there is a possibility that the land and buildings to be exchanged will have different selling values, it is important that it is regulated in the agreement how each subject of the

exchange agreement will pay the Acquisition Duty of Right on Land and Building. So that the parties can know what must be done to carry out the contents of the agreement in accordance with the applicable laws and regulations.

The imposition of Acquisition Duty of Right on Land and Building must have a clear and strong legal basis so that it is obeyed by the community and related parties because the purpose of the establishment of Law no. 28 of 2009 is that acquisition duty of right on land and building will become an important source of regional income to finance the implementation of regional development. The exchange of land rights is not always the object of the transaction in the same working area of the Land Deed Official (PPAT), in the sense that on the one hand, the object of the exchange is between districts or provinces. This can be done by Land Deed Official (PPAT) because it is based on Government Regulation of the Republic of Indonesia Number 24 of 2016 on Amendment Number 37 of 1998 concerning the Regulation of the Position of Land Deed Officials as referred to in Article 4 paragraph (2) namely the deed of exchange, deed of entry into the company, and a deed of sharing of joint rights regarding several rights to land and ownership rights to an apartment unit which are not all located within the working area of a Land Deed Official (PPAT) can be made by a Land Deed Official (PPAT) whose working area includes one parcel of land or an apartment unit whose rights are the object of legal action in the deed.

In practice, in the process of exchanging land rights, the facts show that the use of market value as the basis for calculating acquisition duty of right on land and building often creates problems in the field, because it is not uncommon for the tax rate benchmark submitted by taxpayers based on the sales value of taxable object to be deemed inappropriate by tax officials, but finally, the tax officer in the verification/validation process requested that the value be changed and adjusted according to the tax officer's assessment, namely market value and sales value of taxable object. This can happen because it is a natural thing that in general people want to pay taxes lightly so that the value stated in the deed and used as the basis for calculating acquisition duty of right on land and building does not match the actual facts that have been agreed by the parties.

Several studies have previously conducted a similar study with this present study, they are Yohana (2021), Gupito (2020), Ravianto (2017). The study conducted by Yohana (2021) examined 1) Arrangements for the transfer of land rights in the Sale-Purchase Deed made before the PPAT. 2). Position of the Deed of Sale and Purchase, which payment has not been fully paid. 3). PPAT responsibility for the preparation of the Sale and Purchase Deed, the payment of which has not been fully paid. The results of this study showed that 1) The PPAT of the Official for Making Land Deeds is appointed by the government, in this case the National Land Agency with certain duties and authorities in the transfer of land rights, deeds of assignment of land rights, and deeds of granting power to impose mortgage rights as regulated in the prevailing laws and regulations. PPAT has responsibility for the deed it makes, namely administrative responsibility, civil responsibility and criminal responsibility. 2). Whereas if the PPAT has been negligent either intentionally or unintentionally made a Sale and Purchase Deed even though the land payment has not been paid off so that it is detrimental to the PPAT client, then the PPAT will be liable administratively and can also be sued to be accountable for its negligence in civil terms. 3). Efforts made by the Official for Making Land Deeds (PPAT) if the payment for the sale and purchase of land has not been paid off is by making a Sale and Purchase Agreement (PPJB). The land sale and purchase agreement was made because one of the conditions for the implementation of the Land Sale and Purchase Deed had not been fulfilled, namely the payment of land which had to be paid in full according to the agreed price. After paying off the remaining payment, then a Sale and Purchase Deed can be made. Meanwhile, the study conducted by Gupito (2020) analyzed the role of Land Deed Making Officials (PPAT) in optimizing the collection of Transfer of Land and Building Rights (BPHTB) in order to achieve legal certainty in Sleman Regency and identify the obstacles for PPAT in optimizing BPHTB collection in order to realize legal certainty in Sleman Regency. The results of this study revealed that (1) as the vanguard of PPAT in optimizing BPHTB payments in Sleman Regency, namely providing accurate information to taxpayers about the basis for the imposition of BPHTB in accordance with the Sleman Regency Regional

Regulation and appealing to prospective taxpayers to provide real information data on the amount of the sale and purchase price of land as the basis for the calculation of BPHTB tax. This is the key to creating legal certainty for the Sleman Regency government itself and taxpayers, the realization of this condition will lead optimization of BPHTB collection in Sleman Regency. (2) The obstacles come from taxpayers from taxpayer ignorance, past buying and selling transactions, to dishonesty from taxpayers in BPHTB payments. It is PPAT's duty to explain and escort taxpayers in the BPHB collection process to comply with the Sleman Regency Regional Regulation. Another similar study has previously been conducted by Ravianto (2017) that examine the dynamics of management BPHTB after redirected into tax areas as well as to examine the role of Conveyancer to support the implementation of the regulations of the Surakarta Area No. 13 Year 2010 against the application of the system of self assessment on ballots in buying and selling BPHTB rights over land and buildings. The results of this study showed that a transfer of tax areas become BPHTB Surakarta is the right policy to improve the fiscal capacity of local governments. Local government city of Surakarta is quite ready in the face of the transfer tax be BPHTB area. This can be seen in terms of institutional arrangements (legislation, organization and procedures of implementation), infrastructure and human resources, although in some aspects still need to be improved. The role of the Notary as a conveyancer in the application of the system of Customs self assessment on voting rights over Land Acquisition (BPHTB) relating to the deed of notary public as he is expected to play an active role requires payment of the conveyancer Bea Acquisition (land rights BPHTB) in conducting the transfer of rights over land and buildings, which after the deal and the payment transaction is carried out, the tax shall be paid as soon as possible, and then examined the truth so that he can act immediately signed.

Based on the background and the previous studies above, this study aims to examine the basis for imposing acquisition duty of right on land and building in the process of exchanging land and buildings in Denpasar city and to examine the role of land deed officials and the obstacles faced in the imposition of acquisition duty of right on land and building in the process

of exchanging land and buildings in Denpasar city.

2. METHODS

The approach used in this study is an empirical juridical approach. The juridical approach is the approach used in analyzing a norm or *das sollen* because in discussing the problems in this study, primary legal materials and secondary legal materials are used. While the empirical approach means that the law is analyzed as *das sein*, based on primary data obtained from the field, namely the patterned behavior of the social culture of society which is reflected in interacting daily life. Furthermore, empirical juridical means identifying and conceptualizing law as a real and functional social institution in a patterned life system.

3. RESULT AND DISCUSSION

The basis for imposing acquisition duty of right on land and building in the process of exchanging land and buildings in Denpasar city

A tax subject is an individual or entity that obtains rights to land and or buildings. Tax subjects are obliged to pay taxes to the state as taxpayers. The obligation is defined as something that is required or required to be done, then the payment of tax in this case the Customs on the Acquisition of Land Rights is a must for the person or legal entity that acquires the rights to land and buildings.

In the provisions of Article 12 paragraph (1) of Law Number 16 of 2000 concerning General Provisions and Tax Procedures, it is stated that every taxpayer pays the tax owed based on the provisions of the tax laws and regulations, without relying on the existence of a tax assessment letter. Likewise, the provisions of Article 10 paragraph (1) of Law Number 20 of 2000 concerning amendments to Law Number 21 of 1997 concerning Customs for Acquisition of Rights on Land and Buildings, that taxpayers are required to pay taxes owed without basing on the existence of an assessment letter tax.

The basis for the imposition of Acquisition Duty of Right on Land and Building in the process of exchanging land and buildings in Denpasar City, Denpasar City is an area with the very fast development of land selling value in Bali Province. Along with the implementation of regional autonomy, the authority to collect the acquisition duty of right on land and

building is delegated to the Regional Government in accordance with Law No. 28 of 2009 on regional taxes and regional levies. The Acquisition Duty of Right on Land and Building as part of the source of regional income is imposed not only at the time of sale and purchase, but also on any acquisition of land and building rights, such as in legal events of exchange, grants, inheritance, land entry into the company and others. To explore Acquisition Duty of Right on Land and Building as part of regional income more optimally, regulations relating to acquisition duty of right on land and building are made, including Article 3 paragraph (2), which states that the object of the tax is the acquisition of land and or building rights. Acquisition of rights to land and/or buildings. Article 3 paragraph (3) states that the rights to land and buildings as referred to in paragraph (2) include: property rights, business use rights, building use rights, use rights, ownership rights to flat units, and management rights. Article 4 states that the object of tax which is not subject to a duty on the acquisition of land and building rights is the object of the tax obtained. Article 5, which states that the tax subject is an individual or entity that acquires land and/or building rights. Article 6, which states that the taxpayer is an individual or entity that acquires land and/or building rights. Article 7, which states on the basis of tax imposition. Article 8, which states that the amount of NPOPTKP is set at Rp 60,000,000.00 (sixty million rupiahs) for each taxpayer. Specifically for the acquisition of rights to land and/or buildings that are still in a blood family relationship in a straight lineage one degree up or one degree down by granting a will including husband or wife, the NPOPTKP is set at Rp. 300,000,000.00 (three hundred million rupiahs). Article 9, which states that the tax rate is set at 5% (five percent), specifically for inheritance and testamentary grants are set at 2.5% (two and a half percent). Article 10 states that the principal amount of tax payable is calculated by multiplying the tax rate by the market value after deducting the NPOPTKP. Article 13 paragraph (3), which states that the SSPD must be filled out clearly, correctly and completely and signed by the taxpayer. I. Article 29 paragraph (2), states that SSPD research is carried out. Article 31 paragraph (1), states that the Land Deed Author/Notary can only sign the deed of transfer of rights to land and/or buildings after the taxpayer

submits proof of tax payment in the form of SSPD. Article 32 paragraph (1) states that Land Deed Official (*PPAT*) or Notary and the head of the office in charge of state auction services report the making of the deed or minutes of the auction of the acquisition of land and/or building rights to the Regent no later than the 10 (ten) month. next. Article 33 paragraph (1), states that the Land Deed/Notary Official and the head of the office in charge of state auctions, who violate the provisions of Article 31 paragraph (1) are subject to administrative sanctions in the form of a fine of Rp. 7,500,000.00 (Seven million five hundred thousand rupiahs) for each violation. Article 33 paragraph (2) states that the Land Deed Maker/Notary Officer who violates the provisions in Article 32 paragraph (1) is subject to administrative sanctions in the form of a fine of Rp. 250,000.00 (Two hundred and fifty thousand rupiah). Article 36 paragraph (1) states that a taxpayer who due to negligence does not submit the SSPD or fills in incorrectly or incompletely or attaches incorrect information so that it is detrimental to regional finances can be punished with imprisonment for a maximum of one year or a fine of a maximum of two years. times the amount of tax owed that is not or underpaid. Article 36 paragraph (2) states that a taxpayer who due to negligence does not submit the SSPD or fills in incorrectly or incompletely or attaches incorrect information so that it is detrimental to regional finances can be punished with imprisonment for a maximum of two years or a fine of not more than two years. four times the amount of tax owed which is not or underpaid.

The role of Land Deed Officials (PPAT) and the obstacles faced in the imposition of acquisition duty of right on land and building in the process of exchanging land and buildings in Denpasar City

Land Deed Officials also have an important role in the imposition of acquisition duty of right on land and building. Because in making the deed as evidence of the transfer of rights to land and or buildings before the Land Deed Making Officer, a Payment Certificate for the Acquisition of Land and or Building Rights is required. If the appears has not paid the Customs and or Buildings, then the Land Deed Official (*PPAT*) cannot act to sign the deed of transfer of land rights.

This is because the Customs for the Acquisition of Rights on Land and or Buildings is one of the requirements that must be met first by the Taxpayer (WP) before the Land Deed Official (*PPAT*) makes the deed and signs it.

The formal requirements for the validity of an exchange of land rights are related to the necessity of having a *PPAT* Deed (Deed of Exchange) for the purpose of registering the transfer of land rights at the local Land Office as referred to in Article 37 paragraph (1) PP No. 24 of 1997 the *PPAT* Deed (Deed of Exchange) serves to prove that the parties concerned have exchanged land rights. The Land Office must refuse to register the transfer of land rights if the legal act of transferring land rights carried out by the parties is not proven by the *PPAT* Deed. However, in certain circumstances as referred to in Article 37 paragraph (2) PP No. 24 of 1997, the Head of the Land Office can register the transfer of land rights even though it is not proven by the *PPAT* Deed.

A land Deed Official (*PPAT*) is a position and any position in this country have its own authority. Every authority must have a legal basis. The authority must be based on the existing legal provisions so that the authority is a legitimate authority. Therefore, the authority of any office must be clear and firm in the laws and regulations governing the official or position.

In the acquisition duty of right on land and building payment, there is still an acquisition duty of right on land and building payment counter at the Bank that closes prematurely. So that taxpayers have difficulty paying taxes. Another action that can be taken by local governments to address this problem is the need to expand the acquisition duty of rights on land and building payment points. In practice, the SSB Form does not include the address column for the acquisition duty of right on land and building object and the certificate number, so that KPPBB officials have difficulty in matching acquisition duty of right on land and building data. In this case, the role of the relevant agency that issues the SSB is to be more thorough in making or issuing documents related to taxation. In addition, there is a Land Deed Official (*PPAT*) who has not submitted transaction reports on the acquisition of rights to land and or buildings. Land Deed Official (*PPAT*) who do not submit these reports should be dealt with firmly in accordance with

applicable regulations because if this continues, it will hamper the implementation of acquisition duty of right on land and building collection.

Obstacles in the Imposition of Duties on the acquisition duty of right on land and building for Taxpayers, especially the obligation to pay the acquisition duty of right on land and building owed arising from the legal act of exchange. The Land Deed Official (*PPAT*) will only make and sign the deed of exchange if the acquisition duty of right on land and building owed has been paid or repaid and the Taxpayer shows proof of payment of the acquisition duty of right on land and building to Land Deed Official (*PPAT*). In practice, Land Deed Official (*PPAT*) faces several obstacles, both when the imposition of acquisition duty of right on land and building in the exchange process takes place and the obstacles that exist when in the legal act of exchange itself.

4. CONCLUSION

Based on the results described above, it can be concluded that 1) the imposition of Customs on the acquisition duty of right on land and building in the exchange process in Denpasar City is applied with the provisions of Law Number 28 of 2009 concerning Regional Taxes and Regional Levies calculated based on market value, then the Denpasar city government through Denpasar City Regional Regulations Number 1 of 2016 concerning Amendments to Regional Regulation Number 7 of 2010 concerning acquisition duty of right on land and building which equates exchange with other transactions, such as buying and selling, on the grounds that the exchange is included in the transfer of rights so that the tax imposition is calculated based on the market value. Meanwhile, the reality on the ground is that the community strongly objected and many cancelled exchange transactions. 2) A land Deed Official (*PPAT*) has a role in making the Deed of Exchange and in collecting acquisition duty of right on land and building in the process of exchanging the duties and authorities of the Land Deed Official (*PPAT*), namely assisting taxpayers in legal acts of exchange in the process of transferring rights to land and/or buildings from the exchange provider to exchange recipients in accordance with Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Position Regulations for Land Deed Maker Officials.

REFERENCES

- Gupito, J. G. S. (2020). Peranan Pejabat Pembuat Akta Tanah Dalam Pemungutan Bea Peralihan Hak Atas Tanah Dan Bangunan. *Jurnal Lex Renaissance*, 5(3), 663–676. <https://doi.org/10.20885/JLR.vol5.iss3.art10>
- Ravianto, R. & A. P. (2017). Peran Pejabat Pembuat Akta Tanah (PPAT) Dalam Pemungutan Bea Perolehan Hak Atas Tanah Dan Bangunan (BPHTB) Dengan Pendekatan Self Assessment System. *Jurnal Akta*, Vol. 4(4), 567–574. <https://doi.org/http://dx.doi.org/10.30659/akta.v4i4.2499>
- Yohana, D. (2021). Responsibilities of Land Deed Making Officials (PPAT) for Preparing Unsettled Land Deeds of Sale and Purchase. *Sultan Agung Notary Law Review (SANLaR)*, 3(1), 309–320. <https://doi.org/http://dx.doi.org/10.30659/sanlar.v3i1.13959>
- Undang-Undang Dasar Republik Indonesia Tahun 1945. Kitab Undang-Undang Hukum Perdata Burgerlijk Wetboek.
- Undang-Undang Republik Indonesia Nomor 5 Tahun 1960 tentang Peraturan Dasar Pokok-Pokok Agraria (UUPA).
- Undang-Undang Republik Indonesia Nomor 4 Tahun 1996 tentang Hak Tanggungan Atas Tanah Beserta Benda benda yang Berkaitan dengan Tanah.
- Undang-Undang Republik Indonesia Nomor 16 Tahun 2008 tentang Ketentuan Umum dan Tata Cara Perpajakan.
- Undang-Undang Republik Indonesia Nomor 36 Tahun 2008 tentang Perubahan Keempat Atas Undang-Undang Nomor 7 Tahun 1984 tentang Pajak Penghasilan.
- Undang-Undang Republik Indonesia Nomor 28 Tahun 2009 tentang Pajak Daerah dan Retribusi Daerah.
- Peraturan Pemerintah Nomor 24 Tahun 1997 tentang Pendaftaran Tanah.
- Peraturan Pemerintah Nomor 24 Tahun 2016 tentang Perubahan Atas Peraturan Pemerintah Nomor 37 Tahun 1998 Tentang Peraturan Jabatan Pejabat Pembuat Akta Tanah.
- Peraturan Pemerintah Nomor 34 Tahun 2016 tentang Pajak Penghasilan Atas Penghasilan dari Pengalihan Hak Atas Tanah dan/atau Bangunan dan Perjanjian Pengikatan Jual Beli Atas Tanah dan/atau Bangunan Beserta Perubahannya
- Peraturan Daerah Kota Denpasar Nomor 1 Tahun 2016 tentang Perubahan Atas Peraturan Daerah Nomor 7 Tahun 2010 tentang Bea Perolehan Hak atas Tanah dan Bangunan (BPHTB).