

The Role of BPKPD in Determining the Price of Land Buying based on the Online BPHTB System

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Abstract. *This study aims to identify and analyze the role of the Regional Revenue and Financial Management Agency (BPKPD) in determining the price of buying and selling land and to find out and analyze the process of determining the price of buying and selling land by the BPKPD based on the Online Land and Building Rights Acquisition Fee (BPHTB) system. in Cirebon City. The approach method used in this research is the sociological juridical legal research method. The specification of this research uses descriptive analysis. The type of data used is primary data, namely data obtained directly through interviews and secondary data which includes books, journals, and applicable laws and regulations. The analytical method used is an inductive descriptive analysis which describes the data logically and then makes a conclusion.*

Keywords: *Buying; BPHTB; Price; Selling.*

1. Introduction

Land as a basic right of every person, its existence is guaranteed by the 1945 Constitution. Further confirmation of this matter was realized by the issuance of Act No. 11 of 2005 concerning Ratification of the International Covenant on Economic, Social and Cultural Rights.¹ Land rights are rights received by individuals or legal entities as holders of land rights. Land rights give authority to those who have land to use the land in question as stated in Article 4 paragraph 1 of Act No. 5 of 1960 concerning Basic Agrarian Regulations that on the basis of the right to control from the state it is determined that there are various types of rights over surface of the earth called land which can be given to and owned by people either alone or together with other people and legal entities.²

Buying and selling is an act by which one or more people bind themselves to one or more other people. Broadly speaking, this is regulated in Book III of the Civil

¹Maria SW Sumarjono, 2007, Land in the Perspective of Economic, Social and Cultural Rights, Yogyakarta: Faculty of Law, Gajah Mada University, p. 3.

²Hasan Wargakusumah, 1995, Agrarian Law 1: Student Handbook, Jakarta: PT. Gramedia Pustaka Utama, p. 67.

Code (Burgelijk Wetboek, also known as BW or Civil Code) concerning engagement. In Article 1233 of the Civil Code it is stated that the source of the engagement is an agreement born from an agreement and an agreement born from a law.

The implementation of buying and selling is regulated in Article 1457 of the Civil Code which emphasizes that buying and selling is an agreement in which one party binds himself to surrender an object and the other party to pay the price that has been promised. The process of buying and selling land and/or buildings that occurs between the seller and the buyer does not just happen, instead both parties must reach an agreement regarding the object and price agreed upon. This is regulated in Article 1313 of the Civil Code that consent is an act by which one or more people bind themselves to one or more other people.

The agreement is one of the conditions for the validity of the agreement. This is contained in Article 1320 of the Civil Code, which states that the conditions for a valid agreement include:³ There is agreement, skill, object that has been determined, and a lawful reason. The agreement regarding the price and object of sale and purchase is the initial stage before making the Deed of Sale and Purchase before the PPAT. In this stage both parties are free to determine the price.⁴ When the price submitted by the parties has been agreed upon by both parties, in accordance with the principle of consensualism, then proceed with paying off.

The process of buying and selling land and/or buildings creates a burden of tax obligations for the parties. Provisions regarding taxes are regulated in Article 23 letter A of the 1945 Constitution. This article is one of the legal bases for establishing the General Provisions and Tax Procedures Act (UU KUP) which contains the principle of legality which gives authority to the state to collect taxes based on provisions legislation.

Taxes are people's contributions to the state treasury based on law (which can be enforced) by not receiving direct counter-performance (lead services), but are used to pay general expenses for the wider community.⁵ Taxes were originally a tribute or a free gift but are mandatory in nature which can be forced and must be carried out by the community.⁶

Based on the implementation of these provisions, one of the potential sources of tax that should be explored by the state in accordance with the current economic situation and condition is the tax on land and building rights acquisition fees, hereinafter referred to as BPHTB. The government began collecting BPHTB as a central tax in 1997, namely by issuing Act No. 21 of 1997 as

³Boedi Harsono, 2000, Indonesian Agrarian Law, Jakarta: Djbatan, p. 25.

⁴Tis'at Afriyandi, 2018, Authority of Local Governments in Determining Selling Prices in Land and or Building Purchase Transactions, Journal of Volkgeist Law Volume 3 Number 1 December 2018, ISSN 2528-360X, e-ISSN 2621-6159, Hal. 27-28.

⁵ Mardiasmo, 2011, Taxation, Revised Edition, Andi Offset Publisher, Yogyakarta, p. 1

⁶Boedi Harsono, Op. cit., p. 25.

last amended by Act No. 20 of 2000. These two laws are the legal basis governing the main provisions regarding the imposition of BPHTB.

The state stipulates that land and buildings that have socio-economic functions are required to pay taxes to the state.⁷Based on applicable regulations, the tax levied on individuals or entities that obtain rights to land and or buildings is BPHTB.⁸As an effort to reorganize the national taxation system that is linked to Regional Autonomy and Fiscal Decentralization, the government issued Act No. 28 of 2009 concerning Regional Taxes and Regional Levies (hereinafter referred to as the PDRD Law) as the legal basis for BPHTB collection by Regencies/Cities which is confirmed that BPHTB is one of the Regional Taxes whose authority to regulate and collect it lies with the Regional Government.

To be able to collect BPHTB, then each Regency/City Regional Government must first stipulate a Regional Regulation concerning BPHTB. This regional regulation is the legal basis for regulating BPHTB policies in an area which contains provisions regarding tax objects, tax subjects, tax rates, tax bases and other provisions needed for BPHTB collection.⁹

Regulations regarding BPHTB in Cirebon City are regulated in Cirebon City Regional Regulation Number 9 of 2010 concerning Fees for Acquisition of Land and Building Rights (BPHTB). Collection procedures are regulated in Chapter V of Cirebon City Regional Regulation Number 3 of 2019 concerning the second Amendment to Cirebon City Regional Regulation Number 3 of 2012 concerning Regional Taxes. The provisions of Article 88 of the PDRD Law stipulate that the basis for the imposition of the BPHTB rate is set at a maximum of 5% (five percent) with the amount of the tax rate determined by a Regional Regulation. The BPHTB imposition rate is 5% (five percent) of the tax base, namely the transaction price or Selling Value of Land and Building Tax Tax Objects (NJOP PBB). The parties involved in the implementation of BPHTB collection in Cirebon City are the Regional Government of Cirebon City, the Cirebon City Financial and Regional Revenue Management Agency (BPKPD), Land Deed Making Officials (PPAT) in the work area of Cirebon City, Bank Jabar Banten as deposit recipients taxes and the Cirebon City National Land Office.

Based on these observations, there are often differences of opinion between taxpayers and the Cirebon City BPKPD as well as between PPATs in the work area of Cirebon City, who in this case act on the basis of the power of attorney from the parties and the Cirebon City BPKPD, in terms of determining the buying and selling price of land in the collection of BPHTB. The provisions of Article 5 paragraph (3) Regional Regulation Number 9 of 2010 concerning BPHTB stipulates that if the NPOP is unknown or lower than the NJOP which is subject to

⁷ Preamble to Act No. 21 of 1997 concerning Fees for Acquisition of Land and Building Rights.

⁸ Mardiasmo, 2011, Taxation, Revised Edition, Andi Offset Publisher, Yogyakarta, p. 1.

⁹ Chandra Fajri Ananda, et al, Analysis of the Impact of Transferring BPHTB Collection to the Regions on Regional Fiscal Conditions, Jakarta, Director General of the Ministry of Finance for Fiscal Decentralization, 2012, p. 3.

PBB in the year the acquisition occurs, then the tax base used is the NJOP PBB. However, in its implementation, the Regional Revenue and Financial Management Agency (BPKPD) of the City of Cirebon often rejects the sale and purchase price agreed upon by the parties. Even though the sale and purchase price agreed upon by the parties does not conflict with applicable regulations and is not under the NJOP, in accordance with the PDRD Law and Cirebon City Regional Regulation Number 9 of 2010 concerning Fees for Acquisition of Land and Building Rights (BPHTB).

2. Research Methods

The approach method used in this study is a sociological juridical approach, which is carried out by looking at the realities that exist in practice in the field.¹⁰ The specification of the research is analytical descriptive which aims to describe a situation or individual and whether or not there is a relationship between a symptom in society.¹¹ The data collection method was carried out through interviews with the Regional Revenue and Financial Management Agency or BPKPD and by collecting documents or library materials. Meanwhile, the analytical method used is a descriptive technique using an inductive mindset, which describes the data logically and then draws a conclusion.

3. Results and Discussion

3.1. The Role of the Regional Revenue and Financial Management Agency (BPKPD) in Determining Land Purchase Prices based on the Online Land and Building Rights Acquisition Fee System (BPHTB) in Cirebon City

The Regional Revenue and Finance Management Agency (hereinafter referred to as BPKPD) is a government institution whose implementation is regulated in Cirebon Mayor Regulation Number 103 of 2021 concerning Amendments to Cirebon Mayor Regulation Number 36 of 2021 concerning Position, Organizational Structure, Duties and Functions, and Work Procedures of the Agency Cirebon City Regional Finance and Revenue Manager. In Perwali Number 36 of 2021 it is explained that the BPKPD has the main task of assisting the mayor in carrying out supporting government affairs and assistance assignments given in the financial sector. Based on Article 4 of the Perwali, the BPKPD has the following functions:

- a) formulation of policies for the implementation of supporting government affairs and co-administration assigned to City Regions in the financial sector;
- b) implementation of supporting government affairs and co-administration tasks assigned to urban areas in the financial sector;

¹⁰Bambang Waluyo, 2002, *Legal Research in Practice*, Jakarta: Sinar Graphic, p. 15.

¹¹ Amiruddin and Zainal Asikin, 2004, *Introduction to Legal Research Methods*, Jakarta: PT Raja Grafindo Persada, p. 25.

- c) implementation of evaluation and reporting of supporting government affairs and co-administration assigned to City Regions in the financial sector;
- d) implementation of Agency administration in the implementation of Government Affairs in the financial sector; and
- e) implementation of other functions given by the Mayor related to his duties and functions.

The following is the regional revenue target for the City of Cirebon in 2017- May 2022.

No	Uraian	TARGET 2020	REALISASI 2020	PERSEN TASE	TARGET 2021	REALISASI 2021	PERSEN TASE	TARGET 2022	REALISASI 2022 (MEI 2022)	PERSEN TASE
	Pendapatan Pajak Daerah	190.037.719.434,00	153.938.723.961,00	80,48%	192.012.249.000,00	164.895.832.591,00	85,88%	196.512.249.000,00	73.681.487.455,00	37,49%
1	Pajak Hotel	13.485.000.000,00	11.341.824.236,00	84,11%	18.185.000.000,00	12.381.240.190,00	68,19%	18.185.000.000,00	7.026.634.836,00	38,61%
2	Pajak Restoran	46.655.141.000,00	38.827.288.317,00	83,22%	52.880.141.000,00	41.806.289.573,00	79,05%	54.380.141.000,00	23.072.258.854,00	42,42%
3	Pajak Hiburan	8.915.500.000,00	3.485.108.523,00	39,09%	11.511.658.000,00	2.143.812.877,00	18,52%	13.511.888.000,00	2.063.819.443,00	15,20%
4	Pajak Reklame	5.110.000.000,00	4.917.493.160,00	96,23%	6.020.000.000,00	5.207.800.749,00	86,51%	6.620.000.000,00	2.324.107.327,00	35,11%
5	Pajak Penerangan Jalan	25.190.000.000,00	24.043.858.824,00	95,45%	25.000.000.000,00	23.273.850.441,00	93,10%	25.800.000.000,00	10.476.136.197,00	40,61%
6	Pajak Parkir	4.325.000.000,00	2.767.487.133,00	63,99%	7.580.000.000,00	2.596.113.317,00	34,25%	8.580.000.000,00	1.410.876.368,00	16,44%
7	Pajak Air Bersih Tanah	87.000.000,00	65.418.924,00	75,19%	87.000.000,00	62.482.824,00	71,82%	87.000.000,00	24.515.738,00	28,18%
8	Pajak Bumi dan Bangunan Perdesaan dan Perkotaan	30.388.542.000,00	33.511.968.810,00	110,32%	31.968.450.000,00	35.263.820.174,00	110,32%	34.400.450.000,00	8.212.373.688,00	23,87%
9	Bee Persewaan Hak Atas Tanah dan Bangunan	28.151.527.424,00	35.051.291.834,00	124,51%	38.930.000.000,00	42.156.542.576,00	108,29%	38.430.000.000,00	10.974.678.835,00	28,56%

Source: Regional Revenue and Financial Management Agency Office of Cirebon City

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Source: Regional Revenue and Financial Management Agency Office of Cirebon City

Based on the table above, it is clear that the BPKPD always has a target of achieving regional revenues every year. The realization of BPHTB acquisitions almost always reaches the target every year, except in 2019. In 2019, the BPHTB acquisition tax only reached 97.03%. However, this has been fulfilled in the following years. The acquisition of BPHTB can also offset the annual Land and Building Tax (PBB) revenue indicator in the City of Cirebon. This shows that the provision of regional income targets that have been set by the Regional Government of Cirebon City can be said to be fulfilled.

Regional income from the BPHTB sector is inseparable from various kinds of transactions, one of which is a sale and purchase transaction made before an authorized official, namely a Notary/Land Deed Making Officer (PPAT) or Temporary Deed Making Officer (PPATS). BPHTB tax payable is determined from the date the deed was drawn up and signed. Meanwhile, the PPAT/Notary can only sign the deed of sale and purchase after the Taxpayer submits proof of payment of the tax.

The role of BPKPD in this case is as a supervisory function and a validator function in the online BPHTB system. Oversight function, which means that the BPKPD is tasked with overseeing every transaction made and reported by a Notary/PPAT in the online BPHTB system, where the taxes entered in the system are in accordance with the calculations and have been paid to the Regional Government. The validator function means that the BPKPD ensures that the taxes that have been paid enter the local treasury.

The authority to collect and manage BPHTB as a type of Regional Tax according to the Law on Regional Taxes and Regional Levies is an important matter for the regions to welcome and complement it in the form of Regional Regulations concerning Regional Taxes and Regional Levies. The Regional Government has the authority to establish regional regulations regarding Fees for Acquisition of Land and Building Rights which form the basis for collection. The establishment of a Regional Regulation in the City of Cirebon regarding Fees for Acquisition of Land and Building Rights is regulated in the Regional Regulation of the City of Cirebon Number 9 of 2010 concerning Fees for Acquisition of Rights on Land and Buildings (BPHTB).

1. The Process of Determining the Sale and Purchase Price of Land by the Regional Finance and Revenue Management Agency (BPKPD) based on the Online Land and Building Rights Acquisition Fee System (BPHTB) in the City of Cirebon

The process of determining the sale and purchase price is carried out by the Regional Revenue and Financial Management Agency (or abbreviated as BPKPD) in 3 (three) ways, namely:

a) Market price. Market prices are obtained from an assessment or survey of the local environment. Usually the price is close to the actual transaction value.

b) There is a third party. The third party is the winner of the tender or work auction. The results of the work submitted by the third party are reviewed again by the BPKPD. This third-party system was started in 2017.

c) Field survey. The field survey was carried out by the BPKPD and third parties.

Based on the three methods mentioned above, a basic determination of the value that will be used as the Sales Value of Taxable Objects (NJOP) and Land Value Zones (ZNT) is obtained, namely as follows:

a) Selling Value of Tax Objects (NJOP). The value determination in the NJOP is used as the basis for determining the collection of Land and Building Tax (PBB). Article 1 point 37 Act No. 28 of 2009 concerning Regional Taxes and Regional Levies states that Rural and urban land and building taxes are taxes on land and/or buildings owned, controlled, and/or utilized by private persons or entities, unless areas used for plantation, forestry and mining business activities. A legal act such as inheritance, grants and distribution of joint rights in an area usually calculates the BPHTB based on the NJOP.

b) Land Value Zone (ZNT), obtained through a third party. The value determination on ZNT is used as the basis for calculating the amount of Land and Building Rights Acquisition Fees (BPHTB) for buying and selling transactions, granting of rights and so on.

In practice, BPHTB collection in Cirebon City adheres to the Official Assessment System, meaning that the collection system determines the amount of tax owed by the government, in this case the BPKPD is authorized. While the taxpayer is only passive. Thus, when a Notary/PPAT or PPATS inputs the Tax Object Number (NOP) of the Notice of Taxes Payable on Land and Building Tax (SPPT PBB) on the Cirebon City online BPHTB web, what automatically appears is the ZNT value and not the NJOP value listed in the PBB. . This only applies to legal actions in the form of buying and selling, it is different with grants, inheritance, and distribution of joint rights.

The Cirebon City online BPHTB web system seems to have been locked. In this system, taxpayers cannot determine the amount of tax owed, which also affects the price of buying and selling transactions carried out by the parties. Thus, the transaction price entered in the BPHTB web system is also close to the actual sale and purchase transaction price because it is based on the Land Value Zone (ZNT). This is based on Article 87 paragraph (1) of the PDRD Law that the basis for the imposition of BPHTB is the Acquired Value of the Tax Object, in this case the transaction price. Determination of the market value is used as a guideline for determining the price of buying and selling transactions in the city of Cirebon.

The existence of a locked BPHTB system has positive and negative impacts. The positive impact of the existence of this system is the awareness of taxpayers to pay taxes in accordance with the provisions of the applicable laws and regulations, in addition to minimizing the difference in price given by the Notary/PPAT to the parties making the sale and purchase. While the negative

impact of the system is that there are taxpayers who sometimes object to paying the acquisition tax.

Taxpayers who object to the payment of the tax owed can submit an objection to the Mayor or appointed official, namely the BPKPD. This is regulated in Article 83 of Cirebon City Regional Regulation Number 3 of 2012 concerning Regional Taxes that objections are submitted in writing in Indonesian accompanied by clear reasons. Objections can be submitted if the Taxpayer has paid at least the amount agreed upon by the Taxpayer.¹²The Mayor's decision on objections can be in the form of granting it in whole or in part, rejecting it, or even increasing the amount of tax owed.¹³

The valuation of the selling price carried out by the Regional Government outside the provisions of the NJOP creates legal uncertainty for the people who make transactions. In carrying out its authority, the government should be based on statutory regulations that clearly regulate BPHTB. With the existence of the BPHTB system, the BPHTB payment system has changed, which was originally carried out using the Self Assessment system to become the Official Assessment System.

Determining the price of transactions carried out by the Regional Government of Cirebon City through this process is a form of discretionary action in order to increase Regional Original Revenue (PAD), but if the authority obtained by the Regional Government is not carried out in accordance with the parameters of statutory regulations and the principles General Good Governance (AUPB) will have the potential for abuse of authority by the Regional Government.

4. Conclusion

The role of BPKPD in the buying and selling process is as a supervisory function and a validator function in the online BPHTB system. The supervisory function means that the BPKPD is tasked with supervising every transaction made and reported by a Notary/PPAT in the online BPHTB system, where the taxes entered in the system are in accordance with the calculations and have been paid to the Regional Government. The validator function means that the BPKPD ensures that the taxes that have been paid enter the local treasury. In determining the buying and selling price, 3 (three) ways are determined according to the BPKPD, namely through market prices, the presence of a third party, and field surveys. These three methods are processes for obtaining a value determination in the form of a Tax Object Selling Value (NJOP) and Land Value Zone (ZNT) which will be used as a basis for determining prices in buying and selling transactions. The delegation of authority from the central government to the local government is an act of discretion, but in practice, the Regional Government should first make policies or regulations governing the process of determining buying and selling prices through the online BPHTB system so that there is no legal uncertainty and

¹²Cirebon City Regional Regulation Number 3 of 2012 concerning Regional Taxes, Article 83 paragraph (5).

¹³Ibid., Article 84 paragraph (2).

misunderstanding among parties. participating in the sale and purchase transaction.

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Regulation:

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