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## Legal Review of The Determination of The Estimated Price As A Basis For Calculation of The Cost of Acquisition of Rights To Land and Buildings In The Sale and Purchase of Land and Buildings In Karawang Regency

Dede Nurhayatie<sup>1</sup>, Yuniar Rahmatiar<sup>2</sup>, Muhamad Abas<sup>3</sup>

<sup>1</sup> Universitas Buana Perjuangan Karawang, Indonesia, [hk20.dedenurhayatie@mhs.ubpkarawang.ac.id](mailto:hk20.dedenurhayatie@mhs.ubpkarawang.ac.id)

<sup>2</sup> Universitas Buana Perjuangan Karawang, Indonesia, [yuniar@ubpkarawang.ac.id](mailto:yuniar@ubpkarawang.ac.id)

<sup>3</sup> Universitas Buana Perjuangan Karawang, Indonesia, [muhamad.abas@ubpkarawang.ac.id](mailto:muhamad.abas@ubpkarawang.ac.id)

Corresponding Author: [muhamad.abas@ubpkarawang.ac.id](mailto:muhamad.abas@ubpkarawang.ac.id)

**Abstract:** The reciprocal relationship established by humans involves engaging in legal transactions, such as buying and selling. According to the provisions of the prevailing laws and regulations in Indonesia, any transfer of rights to land and/or buildings is subject to taxation. Article 87, paragraph (1) of Law Number 28 of 2009 concerning Regional Taxes and Levies (commonly referred to as UU PDRD) stipulates that the basis for calculating the Acquisition Fee for Rights to Land and/or Buildings (BPHTB) is the Tax Object Acquisition Value (NPOP). The issue at hand pertains to how the appraised price is determined as the basis for calculating the acquisition costs of rights to land and buildings in land and building transactions within the Karawang Regency. The legal consequences of setting the appraised price as the basis for calculating these costs are as follows: Uncertainty in Calculation and BPHTB Amount: The lack of clarity in determining the appraised value may lead to uncertainty in calculating the BPHTB amount. Legal Consequences: Incorrectly assessing the appraised value can render the transaction invalid and void. Legal Violations: Failure by taxpayers to use the appropriate basis for assessment constitutes a legal violation. The qualitative research method employed in this study utilizes a Normative Juridical approach. Based on Law Number 28 of 2009, the Acquisition Fee for Rights to Land and Buildings has officially become a local tax. The purpose of transferring this fee is to enhance regional autonomy and support financial management for regional development.

**Keyword:** Buying and Selling, Rights to Land, BPHTB.

### INTRODUCTION

Humans cannot live alone. In life, every human being has relationships with fellow humans. Marcus Tullius Cicero said Ubi Societas Ibi Ius, which means "where there is society there is law." This means that law is created simultaneously with human existence, because when humans exist and interact, law also already exists (Peter Mahmud Marzuki, 2014).

When humans interact with each other, rights and obligations are created. This kind of conflict can cause losses due to violations of the fulfillment of rights and obligations. Therefore, legal means are needed to resolve the conflict. The presence of law is very important to resolve various conflicts that occur (Sri Wardah & Bambang Sutiyoso, 2007) .

As a tax object, sellers are subject to PPh, while buyers are subject to BPHTB. Tax payments which include PPh and BPHTB are for buying and selling land that has rights. Taxes are a community contribution to the state that is coercive and is used to finance public expenditure. Taxes have 2 roles, first as a financial source, second as a regulatory tool (Mardiasmo, 2005) .

Obtaining property is not easy and requires fulfilling various requirements. The process of acquiring property, involving land or buildings, is more complex than buying and selling movable goods because it involves agreement on the object and price. This agreement is the basis for forming an agreement which results in the emergence of rights and obligations. Without an agreement, transactions cannot occur and the agreement is not legally valid.

Before making the deed, there is an agreement regarding the price first, this is known as the PPJB process (Nico, 2003) . The parties may determine the price freely (the principle of freedom of contract), but the price proposed must be reasonable and in accordance with the market (the principle of good faith). When a price agreement is reached (the principle of consensualism), they can proceed to the payment and delivery stage.

Land and building buying and selling transactions generate tax obligations to the government, which becomes a source of income for routine expenditure and socio-economic development. Therefore, paying taxes is the responsibility of citizens to support state needs such as national development, in accordance with the Taxation Law. Buyers will be subject to BPHTB as part of their tax obligations (Rochmat Soemitro, 2000) . Based on the Regional Tax and Regional Retribution Law, the BPHTB rate for buyers is regulated in Article 85, with a maximum amount of 5% as stated in Article 88. This implies that the BPHTB rate cannot exceed 5%, and the rate can be determined through a Regional Regulation. It is further explained that the determination of NJOP varies. Sale and purchase transactions are determined at the price stated in the sale and purchase deed.

The problem in Karawang Regency lies in the lack of socialization and dissemination of regulations related to BPHTB collection, causing a lack of public understanding of the procedures and their obligations in paying BPHTB. The transition to a digital system, such as the implementation of the Integrated BPHTB Online System (SOBAT) version 31, may be a challenge for taxpayers who are not familiar with digital technology, although it is expected to increase efficiency and transparency. Substantially, the listed price does not match the market price of land, which can occur due to the low NJOP determination compared to the actual market price. The Fiscus, or Regional Government, is currently aware of this and validates the SSB before payment by the taxpayer, due to a lack of confidence in the transaction price in the sale and purchase deed. Several regions have set their own market value as a guideline for determining transaction prices in cases like this, which often creates confusion for taxpayers because it gives the impression that the tax authorities determine transaction prices independently.

Karawang Regional Regulation No. 4 of 2011 determines the tax base and rates. BPHTB uses NJOP, NJOP PBB can be used. Non-Taxable NJOP: Rp. 60,000,000.- for Taxpayers, Rp. 300,000,000.- for inheritance/testament gifts. Release of rights by PPAT/Notary. Sales with location permission and transaction price.

After the BPHTB validation process by the regional government, a transaction price was determined which was deemed inappropriate, even though the parties had agreed on a price based on the NJOP. As a result, the agreement between the seller and the buyer is affected by changes in the previously agreed transaction value.

Determining the estimated price or market price in the buying and selling process has an impact on society. First of all, in the context of tax obligations, Law no. 28 of 2008 regulates that buyers are subject to BPHTB of 5%. Therefore, determining the estimated price or market price greatly influences the amount of tax that must be paid.

Furthermore, the BPHTB validation process by the Regional Government gives the regional government the authority to check whether the agreed transaction price is in accordance with the fair value based on the NJOP. If the transaction price is deemed too low, the government can influence the price.

In terms of legal consequences, a discrepancy between the price stated in the sale and purchase deed and the value of the BPHTB tax object can affect the legal validity of the transaction. Therefore, the price agreement in the sale and purchase deed must reflect fair market value for the transaction to be legally recognized.

Apart from that, setting the right price also has a significant socio-economic impact. If land and building prices are regulated properly, this can reduce the risk of inequality and speculation in the property market. Realistic prices also enable better access for buyers and strengthen local economic stability.

Lastly, transparency and trust in the buying and selling process increases when land and building prices are set based on market value. This helps reduce future conflicts and disputes and provides parties with a better understanding of the basis for pricing. The problem in this research is: What is the Juridical Aspect of Determining Estimated Prices as a Basis for Calculating Costs of Acquiring Land and Building Rights in Buying and Selling Land and Buildings in Karawang Regency? and What are the legal consequences of determining the estimated price as a basis for calculating the cost of acquiring land and building rights in buying and selling land and buildings in Karawang Regency?

Based on the problems above, the author researched with the title Juridical Review on Determining Estimated Prices As A Basis For Calculation of The Cost of Acquisition of Building Land Rights In The Sale And Purchase of Land and Buildings In Karawang District.

## **METHOD**

The legal research used is normative juridical with a descriptive analytical approach. This approach involves analysis primarily of secondary legal sources. The main aim is to understand and interpret certain aspects of the legal system (Bambang Sugugono, 2010).

## **RESULTS AND DISCUSSION**

### **Juridical Aspects of Determining Estimated Prices as a Basis for Calculating Costs of Acquiring Land and Building Rights in Buying and Selling Land and Buildings in Karawang Regency**

With Law Number 28 of 2009, BPHTB was transferred from central tax to become part of regional tax. This gives local governments more authority in collecting taxes and levies. The birth of this law occurred in the context of fiscal decentralization in Indonesia, where the central government gave more tax authority to regional governments to provide greater autonomy. This step aims to strengthen regional fiscal capacity and reduce dependence on transfers from the central government. Law No. 28 of 2009 regulates various aspects, including the types of taxes that can be collected, collection procedures, and the use of income. Apart from that, this law also provides guidelines for conflict resolution.

This law has a significant impact. There has been an increase in sources of income to support local government programs and projects. This also has the potential to increase the accountability of local governments, as they have greater responsibility for managing tax revenues effectively. Although this law brings many benefits, challenges also arise. One of them is how to ensure that local governments have sufficient capacity to manage their own

tax systems. In addition, it is important to ensure that tax levies do not burden the community, especially those in underprivileged areas. The future of local taxation in Indonesia will be greatly influenced by how these challenges are addressed.

BPHTB is one of the focuses in regulating regional taxes in Karawang Regency, which is regulated through several related regulations. Karawang Regional Regulation Number 4 of 2011 is the main guideline related to BPHTB, while changes and adjustments to these regulations are regulated in the Karawang Regency Regent Regulation, as seen in Law No. 9 of 2022. In addition, the importance of maintaining a database related to Land and Building Tax is regulated in Karawang Regency Regent Regulation Number 50 of 2017, which provides the basis for updating tax receivables data. Through this series of regulations, the regional government ensures comprehensive regulations in managing BPHTB, as well as providing clear direction regarding the regulation and utilization of regional taxes.

In Karawang Regency, determining the sale and purchase price of land and buildings as the basis for BPHTB is regulated legally. This transaction is considered a binding legal act, in accordance with Law No. 5 of 1960. The implementation of land registration is further regulated by PP No. 24 of 1997. However, in practice, this process often shifts from self-assessment to official assessment, indicating the potential for abuse of authority. The BPHTB amount is calculated by multiplying the tariff by the NPOP value after deducting the NPOPTKP. Validation by tax officials is often subjective and pays little attention to legal procedures, opening up opportunities for corruption.

### **Legal Consequences of Determining Estimated Prices as a Basis for Calculating Costs of Acquiring Land and Building Rights in Buying and Selling Land and Buildings in Karawang Regency**

Legal impact is the foundation of legal relations between parties in carrying out their obligations and rights. Responses to actions taken by each party, such as implementing or accepting rights from legal agreements, are the result of legal impacts. According to Soeroso's view, legal impacts are results that are regulated by law, while actions taken are legal actions that comply with applicable legal provisions. Article 1267 of the Civil Code, for example, allows parties who do not fulfill contractual obligations to request fulfillment of these obligations through the courts. In this context, when an agreement is not fulfilled, cancellation through the courts is a reasonable step to enforce the rights regulated in the agreement.

Regulations are provisions that regulate relationships between individuals by providing protection limits for individual interests and regulating the rights and obligations between parties in the context of family relationships, with implementation left to each individual. Legal consequences function as standards for parties involved in legal actions, whether in accordance with regulations or violating them. Evaluation of the consequences of these actions may include the occurrence of losses, breach of contract (default), or fulfillment of obligations (performance). According to Soeroso, legal consequences are the result of actions to achieve certain results.

Based on an analysis of expert views, the author highlights that the regulations or norms governing the determination of BPHTB refer to the Karawang Regional Regulation No. 4 of 2011. Article 4 subpoints (2), (4), and (6) of this regulation are the focal point, which regulates that If the Land and Building Tax NJOP has not been determined at the time of BPHTB payment, the NJOP can be sourced from the Land and Building Tax NJOP Certificate.

From the explanation above, it was found that in Karawang Regency there are problems related to the application of estimated prices in BPHTB which have not been well socialized, causing a lack of public understanding of their BPHTB payment procedures and obligations. Apart from that, the adoption of an integrated BPHTB online system such as

SOBAT version 31 also poses challenges for taxpayers who are less familiar with digital technology, although it is hoped that it can increase efficiency and transparency. The Fiskus, which is currently represented by the Regional Government (Pemda), validates the SSB. Some regions even set their own market value as an alternative guideline for determining transaction prices. However, local government actions in setting transaction prices after BPHTB validation that are deemed not to be in accordance with NJOP can affect the agreement between sellers and buyers, changing the previously agreed transaction value.

SKPDKB issued by local governments after going through a field validation process should not be justified. This is because according to the Constitutional Regulations, SKPDKB may only be issued if the responsible taxpayer does not fulfill his obligations properly. SKPDKB is not intended to be issued based on the determination of new estimated prices by the regional government. In collecting BPHTB, the determination of SKPDKB that is not in accordance with statutory regulations needs to be evaluated regarding its legal consequences. This can result in three possibilities: null and void, void, or voidable. Government actions in determining transaction prices must be based on the principle of *vermoeden van rechtmatigheid*, which means they can only be canceled (*vernietigbaar*) and not null and void by law. Abuse of authority by local governments can occur if they do not comply with statutory regulations and AUPB. In the context of Karawang Regency, determining the estimated price for BPHTB has several legal consequences, such as uncertainty in payment and legal consequences that are detrimental to the community if it is not in accordance with the law.

## CONCLUSION

The juridical aspect of determining the estimated price as the basis for calculating BPHTB in transactions in Karawang is that BPHTB has officially become a regional tax, this is based on Law No. 28 of 2009. This transfer aims to increase regional independence and support regional development in financial management.

Determining the estimated price as the basis for calculating BPHTB in Karawang Regency produces several legal consequences. First, there is uncertainty in the BPHTB calculation which can hinder the registration of the transfer of land rights. Second, this uncertainty can cause transactions to become invalid or cancelled, as well as harming the public by paying taxes that are higher than they should be. Third, non-compliance with the calculation of the law can be considered a violation of the law.

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