

# BPHTB Payment Problems Before Signing the Sale and Purchase Deed at PPAT: The Case of Tanjungpinang City

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**Abstract.** Fees for land and building rights (from now on referred to as BPHTB) is a tax levied on acquiring land and building rights. There have been problems related to the payment of building BPHTB in land and creating sales transactions before signing a sales certificate before PPAT in Tanjung Pinang City. The investigation method used is the normative legal investigation method. A problem arises if the party agrees to cancel the sale of land/building before signing the certificate, but the party has already paid BPHTB. Law No. 1 of 2022 on the financial relationship between the central government and local government cancels the sale of land or buildings based on legal certainty.

**Keywords:** Payment of BPHTB; land deed official; Tanjungpinang city

## 1 Introduction

Since the issuance of PP No. 10 of 1961 on land registration, parties have been buying and selling before PPAT and have met clear conditions (no secret ambiguous legal activity). The sales contract signed by the parties turned out to be a transfer of rights from the seller to the buyer with payment. It meets the cash requirements and indicates that the legal act of buying or selling was genuine or genuine [1]. A land sale certificate is a legally binding document certifying the transfer of land rights from the owner (seller) to the new owner (in this case, the buyer). A sale certificate for this land can only be issued once the transaction has been settled [2]—Certificate of Sale and Land Purchase functions.

The functions of Certificate of Sale and Land Purchase are as follows. 1. For certified lands, and for land construction, music is the basis of the renaming. On the other hand, land not certified as a working document is the basis for issuing new rights (Issuance of Land Rights Certificate – Article 106 PMNA/KBPN No. 3/1997). A land sale certificate is a legally genuine evidence that the seller has wholly acquired the land or building. However, that is not all. AJB processes letters from the old owner to the new owner. AJB when issuing a certificate for a new owner. The state government that gives the certification requires the AJB required for registration. Before signing a land sale certificate, the applicant for the right to vote for the sale of land must meet a specific fee obligation. Costs incurred when applying for land [3] Regency / City Commission land inspection costs, measurement fees, land and building rights acquisition costs (BPHTB), and state income [4]. It will be. For BPHTB payments in 2022, Law No. 1, previously regulated by Law No. 28 of 2009, the BPHTB fee is 5% (5%) of taxable value.

BPHTB is one of the property taxes from the perspective of verification in property tax management.

1. Revenue (Revenue) Aspects Property taxes are a potential source of revenue for the region and are appropriate if managed by the local government. 2. Management Aspects (Management) Includes all management activities such as object/subject identification, the database, evaluation, and collection. 3. Improve the aspect of prescribing ability (policy). Since BPHTB is a local tax, this means decentralizing BPHTB to the county/city government. Essential and Building Rights Obligations (BPHTB) belong to objective or significant taxes, the tax paid is first based on the taxable object and then pays attention to the taxable person. Purchase land and building rights (from now on, referred to as BPHTB). It is a tax levied on the acquisition of land and building rights. It is a legal act or event that leads to the acquisition of land and building rights by a natural person or legal entity. The tax is not PPAT, but PPAT can file the BPHTB tax as a customer-paid individual [5].

Historically, the legal certainty of PPAT's liability in the BPHTB tax violates the provisions of Law No. 28 of 2009, which prepares tax returns, calculates taxpayers, and provides government auction services. Increase. It was to support. Therefore, Article 93, described in "Articles 91 (1) and (2), is subject to administrative sanctions in the form of a fine of IDR 7,500,000.00 (Rp7 million) for violations" [6]. However, these sanctions were abolished after Law No. 1 of 2022 came into force. Tanjung Pinang is the capital of the Riau Islands and has 60 PPATs (land certificate makers). In 2020, six taxpayers applied for refunds of payments to BPHTB. From 2020 to 2021, the BPPRD (Badan Management of Regional Taxes and Leaves (Tanjungpinang City)) service will refund if the taxpayer cancels the land sale transaction, but in 2022 the taxpayer will cancel. Increase. If you do this, BPPRD will not refund BPP HTB. Land sale is the transaction. This raises an issue that makes it attractive for authors to carry out a survey entitled Payment of Obligations in the Acquisition of Land and Buildings.

## **2 Research Method**

Given that the investigation method used in this investigation is a legal investigation, the method used is a prescriptive law aimed at finding solutions to legal problems and problems that have arisen. The survey method and, as a result, the survey results are legal issues [7]. Legal Research is the process of finding the rule of law, the principles of law, and the law answering the legal questions asked. Normative studies include Research on the positive legal status, basic legal Research, Legal Research to investigate the system of law and regulation, and Research to examine the synchronization of legal code [8].

This study focuses on the complex issue of paying land and building rights purchase tax (BPHTB) before signing a sales certificate before the PPAT in Tanjung Pinang. A resource person can provide information and opinions with scientific and professional abilities. Based on this survey on land and agricultural aspects, the sources of information for this survey are the BPPRD (Local Tax and Tax Collection Authority) and PPAT (Official Land Certificate Creator) agencies of Tanjung Pinang City. The data source used in this study is primary data. Primary legal data consists of the following secondary and tertiary legal materials. The primary legal material is legally binding legal material.

Applicable laws and regulations related to Research. As mentioned above, it is expected that this Research will be used as information on rules and regulations. Data collection methods The modes of data collection in this normative study are library research by reviewing the literature on research issues and documentary research by checking laws and regulations on

research issues and conducting interviews with stakeholders. In this case, the Problem approach is a normative study with a legal approach. Legal Data Analysis the legal data analysis used is a qualitative or prescriptive legal analysis. That is, providing explanations, explanations, and explanations of the findings related to the provisions of applicable law.

### 3 Result and Discussion

Based on the 2011 Tanjung Pinang City Ordinance No. 2, granting new rights to land as a continuation of liberation is market value, and giving new rights to land other than a transfer of ownership is market value. So, the business combination is market value, business integration is market value, business expansion is market value, the price is market value, and the buyer's appointment at the auction is the transaction price listed in the auction record. Suppose the acquisition price of the taxable object is unknown or lower than the NJOP used to collect property tax and building tax for the year of acquisition. In that case, the basis for the collection is the property tax and building tax NJOP. Then, the acquisition amount of tax-exempt tax items is set at a minimum of IDR 60,000,000.00 (60 million rupiahs) for each taxpayer.

Receives tax-exempt acquisitions from persons who are linearly related to the deceased to a degree above or below the dead, including spouse/wife. The minimum is set to IDR 300,000,000.00 (300 million rupiahs). Tariffs for acquiring land and building rights are set at a maximum of 5% (5%). State regulations set fees for obtaining land and building rights. Taxes on the acquisition of land and building rights are natural persons or legal entities that acquire land and building rights. Taxpayers of customs duties on land and building rights are natural persons or legal entities that receive land and building rights. The basis for taxation when acquiring land or building rights is the acquisition price of the taxable object. Acquisition price subject to tax related to a. Buying and selling is the transaction price. b. Exchange is market value. c. Grants are market value. In other words, a testamentary trust is a market value. e. Inheritance is market value. f. The income of a company or other legal entity is market value. G. Separation of rights by transfer is market value. H. Market value is the transfer of rights that results from the execution of a final court decision—the basis for tax collection after deducting the acquisition price of tax-exempt objects. In areas where land and buildings are located, fees are levied on acquiring unpaid land and building rights.

2011 Tanjung Pinang City Ordinance Article 2 Article 77 (1) (to). "When taxes are paid on the acquisition of land and building rights, it shall be determined as follows. Signature"; On the other hand, in Article 2, Article 78 (1) of the 2011 Local Ordinance, the land registrant / Notaries can only sign a deed of the transfer of rights to land and buildings after the taxpayer has submitted proof of tax payment. It creates ambiguity between the two provisions and legal uncertainty about when BPHTB should be mandated after BPHTB signs the sales contract. A problem arises if the party agrees to cancel the sale of land/building before signing the certificate, but the party has already paid BPHTB. The tax to return the payment of BPHTB. By canceling a land/building sale transaction, for example, B. Cancellation of a mortgage contract with a bank. From a legal point of view, the agreement is acceptable as long as the parties agree not to continue the agreement in principle.

The termination of the contract is when the parties terminate the contract. Law No. 1 of 2022 on the financial relationship between the central and local governments abolished Law No. 28 of 2009 on the acquisition of rights to land and buildings, and Article 49 states: ..., Will be determined: a. Signed on the day of the purchase agreement; this is a firm declaration that you must pay BPHTB when you sign the purchase agreement (PPJB), that is before you sign

the purchase agreement (AJB). Has the legal implication of closing the faucet when returning the BPHTB? Both parties have agreed to terminate the contract. Procedure for Creating a Land Sales Certificate Before obtaining a land sales certificate, you need to do the following: 1. Check the authenticity and validity of the ownership certificate at the relevant land registry. 2. The parties must pay land and building purchase and sale tax. 3. The tax amount is calculated as follows. Consumption tax (Pph) = NJOP / Sales price x 5% b. Buyer Tax (BPHTB) = {NJOP / Selling Value} x 5% Management of sales and purchase certificates includes: 2. How to manage certificates. 3. Land registration of the land that was the previous owner.

Seller's sales contract requirements: the original certificate of rights to the land to be sold, identification, proof of property, and construction tax payments (last ten years), from husband or wife for married person Consent form; and the family card. At the same time, the requirements for a land sale certificate for future buyers are ID (KTP) and Card Family (KK). To create a land sales certificate at the PPAT office [10].: (1) PPAT checks the authenticity of the certificate of land in the office before creating a sales certificate. Next, in front of the seller and potential buyer or authorized person, in front of at least two witnesses, PPAT reads the certificate and explains the content and intent of his actions. Sheets for PPAT and other real estate offices to transfer names to sellers and buyers. After the sale certificate is created, PPAT submits the sale certificate and purchase file to the land register for the name transfer. Delivery within seven business days after signing. This process takes place at the land office after PPAT has submitted all the documents of the land sale certificate.

Analyzing the contract law, the legal condition of the contract under Article 1320 of the Civil Code is the contract between the parties. An agreement was born because of the mistakes and incompetence of the will and the understanding. b. Contracts that violate the objective terms of the validity of the warranties outlined in Article 1320, paragraphs 3 and 4 do not meet the requirements for a particular purpose or have unacceptable reasons such as B. Violations of law, public order, morals, and morals. As a result, the contract becomes legally invalid. For example, suppose a party agrees to pay BPHTB to terminate a real estate sale contract. What is the legal requirement of the agreement related to the party's assurance that the legal effect of the contract is not invalidated, which is essential? It is not a tax obligation but an agreement, and you still have to pay? When signing a PPJB (the sales contract), the payment of BPHTB is mandatory as it validates the tax concept that establishes the contract. In the legal sense, purchase and sale were made between the two parties when an agreement was reached: the item and its price. The object was delivered, but the price.

After signing the sales contract, that is, submitting it to the court, but tax law requires payment at the time of PPJB. Based on the theory of legal certainty related to this issue, the issuance of Law No. 1 of 2022 on the financial relationship between the central and local governments of Article 49 cannot be further refunded due to the cancellation of BPHTB and created legal certainty. The Contracting Parties have agreed that the 2011 Tanjung Pinang City Regional Regulation No. 2 contains conflicting provisions, namely Article 77 (1), the 2009 Law Concerning the Acquisition of Land and Building Rights. I am still referring to issue 28. You will be paid for the acquisition of land and building rights. Sales and purchases begin on the date of the certificate and signature. As of early 2022, BPPRD in Tanjung Pinang will no longer issue refunds to taxpayers who cancel their transactions. As in 2020 and 2021, the articles are inconsistent with each other due to questions about the interpretation of the rules. Explaining to the customer the legal consequences of PPJB signing a BPTHB payment is a notice to PPAT.

## 4 Conclusion

A problem arises if the party agrees to cancel the sale of land/building before signing the certificate, but the party has already paid BPHTB. Refunds of BPHTB payments due to cancellation of land sales transactions, such as a mortgage contract with a bank, are legally permitted unless the contract is allowed and the parties agree.

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