

Determination And Determination Of The Acquisition Of Rights To Land And Building (Bphtb) In Switching Rights In North Aceh District

Aidil Saheri¹, Ilyas Ismail², Dahlan³

¹ Law Faculty, Syiah Kuala University, Banda Aceh, Indonesia

² Law Faculty, Syiah Kuala University, Banda Aceh, Indonesia

³ Law Faculty, Syiah Kuala University, Banda Aceh, Indonesia

Abstract: Any transfer of land rights shall be subject to the acquisition of rights on land and building (BPHTB). Based on article 4 paragraph (1) Qanun of North Aceh Regency which is the basis of calculation of BPHTB is tax object acquisition value (NPOP). Tax Object Acquisition (NPOP) value is a transaction value that is agreed by both parties that is between the seller and the buyer. However, in practice the basic value for the calculation of BPHTB is determined by the BPKD of North Aceh Regency which is not expressly entitled to interfere with the determination of the fundamental value in the calculation of BPHTB of the transitional rights to the land and building. The study used a type of normative and empirical legal research. In normative legal studies examine principles and norms as well as secondary data or literature materials. While the empirical legal studies are examined by the law as a symptom of society or patterned behavior. The results revealed that implementation in the mechanism of determination of BPHTB in the transition of rights in North Aceh District is not as mandated by Qanun and in the North Aceh district, according to article 4 paragraph (1) the establishment of the basic value to calculate BPHTB payment is tax object acquisition value (NPOP) which is the value of the transaction of the agreement But the practice still exists intervening from the BPKD in North Aceh regency. BPHTB payment system in North Aceh District no longer use the system Self assessment system because of the field verification (VERLAP) conducted by the BPKB North Aceh District so that it becomes the official Assesmet system, where the practice of BPKD North Aceh District which calculates the determination of the tax amount payable by the taxpayer. Expected implementation of the rules on the determination of the BPHTB in the future can run in accordance with the mandated by Qanun and the act of North Aceh regency for the creation of legal certainty and protection of the related parties.

Keywords: PPAT/PPATS, Determination of BPHTB, Switching of Buying and Selling Rights..

Date of Submission: 25-07-2020

Date of Acceptance: 09-08-2020

I. INTRODUCTION

The acquisition of property rights on land may be switched due to legal action by one party to another. The switching of rights resulted in a person losing its right to the land. Possession of the land of a person then transferred his rights to another person, the person who is no longer able to control the land, because his rights have already turned to others (Adimas, 2016).

Any deed intended to divert property rights on land is governed by government regulations. It is regulated by article 26 of Basic Agrarian Regulations (hereinafter abbreviated UUPA). Provisions of land registration in Indonesia shall be stipulated in the Constitution of article 19 Jo article 37 paragraph (1) of government Regulation Number 24 year 1997 concerning land registration i.e. "transitional land rights and property rights of units of the house through buying and selling, exchange, grants, income in the company and other rights transfer law, unless the transfer of rights through the auction can only be registered if evidenced by the deed made by the Land Deed Enforcement Office (hereinafter abbreviated PPAT) authorized according to the provisions of the legislation". Thus means any transfer of property rights in the land, which is done in the form of sale, Exchange or grant must be made in the presence of PPAT (Murni, 2018).

This sale, Exchange or grant in the conception of customary law is a legal act of light and cash. By light It is intended that the act should be made before the competent officer who witnessed the implementation or the act of the law. Meanwhile, in cash, it is interpreted that with the completion of the legal action in the presence of PPAT/PPATS means the completion of legal actions carried out with all its legal consequences (Rashid, 1987).

The transition of land rights is done in two ways, namely switching and diverting. The switch shows the amendment of land rights without any legal action done by the owner, for example through devolution. While the diverted refers to the transfer of rights to the land through the legal deed done by the owner, for example through buying and selling (Ardiyanto, 2012).

The transition of land rights is more common with the transfer of rights, i.e. through buying and selling. The word buy and sell in everyday sense can be interpreted, where a person is releasing money to get the desired item voluntarily. Then according to the Civil Law (BW) Article 1457 mentioned that the buy and sell of land is an agreement with which the seller bind himself (meaning to promise) to submit the land in question to the buyer who bind himself to pay the seller the price has been delivered (Hastuti, 2015).

The requirements for the transfer of land rights to the material are as follows:

1. The transfer must be made by the person who has the right to transfer the material.
2. The transfer was done in real. This means that the transfer has to be really happening and done from hand to hand. Seeing these requirements above the diversion of moving objects is enough only to do so, but against the object not moving, the recording of the item into a deed is very important to establish the validity of the object. Against the immovable object, in addition to the real diversion, then to transfer the property rights on the goods do not move should be done with a juridical transfer (Mokoagow, 2017).

Any transfer of rights to the land will be subject to tax in the form of Income Tax (hereinafter abbreviated (PPh) and land and Building Rights Acquisition (hereinafter abbreviated as BPHTB). BPHTB is imposed for both individuals and legal entities that will divert and acquire rights to such lands and buildings. This type of tax is known as the buyer's duty due to its perole based on the buying and selling process. However, when referring to the BPHTB rules, this tax is not only exposed to the acquisition of buying and selling, but all types of land and building rights can also be subject to BPHTB.

The implementation of the voting and/or payment of BPHTB is governed by the law No. 21 of 1997 concerning the acquisition of land and building rights amended by law No. 20 of 2000 concerning the amendment of Law No. 21 of 1997 concerning the acquisition of land and Building Rights (hereinafter abbreviated as BPHTB Law) which was originally a central tax, however, after the enactment of Law No. 28 year 2009 concerning local tax and regional levy (hereinafter abbreviated as LAW of PDRD) then BPHTB becomes local tax.

In general, a tax poll must be the basis of the rules. The basis of this imposition to be a reference or guideline in the determination of the imposition of BPHTB can subsequently be used in calculating the outstanding BPHTB. North Aceh District Government governs the BPHTB in Qanun regency of North Aceh No. 9 of 2010 concerning the acquisition of rights on land and Building (hereinafter abbreviated Qanun), and as also stipulated in the regulation of the regent of North Aceh No. 17 of 2014 about Qanun implementation Instruction No. 9 year 2010 about BPHTB (hereinafter the conversation).

Provisions on the basis used as the basis of calculation of BPHTB as stipulated in article 6 paragraph (1) of the law BPHTB Jo Article 87 paragraph (1) PDRD LAW is the value of acquisition of tax Object (hereinafter abbreviated NJOP). NJOP in buying and selling is the price obtained from the value of the transaction or the value of agreement from both parties. It is also as stipulated in article 4 paragraph (1) of North Aceh Regency.

BPHTB is collected using a self assessment system where the taxpayer is given the trust to calculate and pay the taxes owed by using local tax deposits (SSPD) and report it to the Regional device work unit (SKPD), so that in the collection of BPHTB many of the parties involved therein are:

1. Society,
2. Regional financial Management Agency (BPKD),
3. Bank,
4. PPAT/PPATS,
5. National Land Agency.

Any transfer of land and building rights must be carried out in front of the authorized officers, namely the Land Deed official (PPAT) or Camat, as the provisional land Deed-maker (PPATS) office in order to create legal certainty in possession of the land and building. The transition of rights is done in writing which is stated in the Transitional Rights Act which then must be registered to the competent institution, namely in the district Land/local government office (Purnawan, 2017).

The act of buying and selling is a document proving the transfer of land rights from the seller to the buyer. In principle, buying and selling of land and building is bright and cash, that is done by the Parties shall be made using the authentic deed before PPAT/PPATS, and the price has been paid in full, if the price of the buy and sell land has not been paid in full, then the creation of land sale and purchase deed can not be done then one of the obligations of PPAT/PPATS in making the deed is to ensure that the payment of BPHTB owed has been settled by the taxpayer by showing evidence of the regional tax.

Before the sale deed is made, the seller and the buyer must first pay the transitional tax on land and building that is the PPh charged to the seller and the BPHTB charged to the buyer. Without the first payment of both taxes, both the seller and the buyer are considered in violation of the rules because the payment of both taxes is one of the requirements that must be fulfilled in the transition of rights on land and buildings, so that PPAT may refuse to make the deed of purchase if both parties do not submit proof of payment of PPH and BPHTB. This provision as stipulated in article 39 paragraph (1) Letter g of Government Regulation number 24 year 1997 on Land Registration (hereinafter abbreviated as land Registration PP), PPAT refused to make the deed, if: "not met other conditions or violated restrictions specified in the legislation in question."

PPAT's practice often helps its clients to deposit BPHTB as a person trusted by its clients. This is because PPAT only strives to provide the best service for its clients. BPHTB Law provides provisions that must be followed by officials authorized in the signing of land and building rights that are:

1. PPAT can only sign the deed of transfer of land and/or building at the time after the taxpayer submits the proof of payment of BPHTB in the form of BPHTB deposit letter.
2. Head of Auction office can only sign the treatise on acquisition of land rights and or buildings after the taxpayer submits the payment proof BPHTB in the form of BPHTB deposit letter.
3. The competent authority to sign and issue a decree granting the right to land can only sign and issue the letter referred to at the time the taxpayer submits the proof of payment of tax in the form of duty of acquisition of rights on land and building.
4. The registration of land rights transition because the beneficiary or will can only be done by the Land Office/city government at the time of the taxpayer to submit the tax payment evidence in the form of a deposit letter of the acquisition of rights on land and building (Hardiawan, 2016).

PPAT in carrying out his office must provide explanation about the transitional deed of rights and obligations to be fulfilled by the parties, including the original showing the payment of tax papers owed hence PPh and BPHTB. PPAT as General officer is required to always work professionally by mastering the ins and outs of his profession of duty, PPAT must realize its obligation to work independently, honest, impartial and full of responsibility and professional (Harnita, 2018).

Related to BPHTB which is one of the requirements that must be met in the transition of rights to the land and the building in practice still poses a problem in the community that conducts the law of the transition rights to land based on the buying and not in accordance The problem occurred in the community of North Aceh, whose reality shows that the determination and determination that is the basis of the calculation of BPHTB based on the sale of land and building in North Aceh District still does not comply with the prevailing rules.

Examples of some of the cases in North Aceh district:

1. Cases that occur in the buy and sell Act number: 493/2018. Mrs. Fauziah Hanum sells a plot of land to Mrs. Saudah Muhammad Ali, which is located in Cempeudak village, Tanah Jambu Aye Sub-district, North Aceh Regency, with an area of 720 m² (seven Rarus twenty square meters) with the price of the actual selling value of Rp. 110.000.000,-(one hundred ten million Rupiah), the value of selling tax object (hereinafter in brief NJOP) amounting to RP. 74.160.000,-(seventy four million as many as sixty thousand rupiah), while the value listed in the Deed of buy and sell land is Rp. 119.000.000,-(one hundred nineteen million rupiah). BPHTB paid by Mrs. Saudah Muhammad Ali is based on the value contained in the sale deed.
2. Cases that occur in the buy and sell Act number: 496/2018. Mrs. Nurul Fahriati sells a plot of land to Mr. Muhammad Jafar, located in Cempeudak Village, Tanah Jambu Aye Sub-district, North Aceh Regency, with an area of 690 m² (six hundred ninety square meters) with the price of the actual selling value of Rp. 105.000.000,-(one hundred five million rupiah), the value of selling tax object (hereinafter in brief NJOP) amounting to RP. 71.070.000,-(Seventy one million seventy thousand rupiah), while the value listed in the Deed of sale and purchase of land is Rp. 112.000.000,-(one hundred twelve million five million rupiah). BPHTB paid by Mr. Muhammad Jafar is based on the value contained in the sale deed.
3. Cases that occur in the buy and sell Act number: 19/2019. Mr. Amiruddin sold a plot of land to Mrs. Rufaida, located in Cempeudak Village, Tanah Jambu Aye Sub-district, North Aceh Regency, with an area of 393.75 m² (three hundred ninety and three commas seventy five square meters) with the price of the actual selling value of Rp. 156.000.000,-(one hundred and fifty Six million rupiah), tax object selling value (hereinafter in brief NJOP) amounting to RP. 119.306.250,-(one hundred nineteen three hundred six thousand two hundred fifty Rupiah), while the value stated in the Deed of sale and purchase of land is Rp. 196.870.000,-(one hundred ninety six million eight hundred seventy thousand Rupiahs). BPHTB paid by Mrs. Rufaida is based on the value contained in the sale deed.

The determination of BPHTB value on both sale deed is payable in accordance with the prescribed tax verification/validation officer at the local BPKD. The buyer should then act on the order to pay BPHTB in accordance with the value of the real transaction that has been agreed by both parties or the value contained in

the NJOP in the PPB, but the fact that the officer verification/validation rate is not appropriate, and the verification/Validation officer determines the base price of the BPHTB value is greater than the actual transaction price Acts like this often occur in the process of making the land sale and purchase of BPHTB in North Aceh district.

Basically the value of transactions in the buy and sell transactions is determined solely by the parties concerned based on the agreement or from the value of NJOP, and no one party can determine, let alone compel to use a certain value, it is as stated in article 6 paragraph (2) of the conversation. However, by default, not infrequently, the value of the transaction filed by the taxpayer is deemed to be inappropriate by the verification/Validation officer, so that not infrequently the verification/Validation officer in the verification/validation process requesting that the transaction value be changed and adjusted according to the assessment of the verification/validation officer The verification/Validation officer is only authorized to examine the correctness of the filling which must comply with the NJOP calculation, not to determine the basic value in the imposition of the BPHTB.

The use of transaction value in accordance with the market price tends to be higher than NJOP in the United Nations, so the officer verification/validation in determining the value of the actual transaction is not easy, in conducting research on the truth of the value of the transaction used taxpayer to calculate BPHTB, verification/validation officers must seek data and information from various parties, which is not easy to Not even close the possibility of the transaction value specified by this verification/validation officer is not in accordance with the actual reality, this is the problem because there is no certainty about the basic value for calculations in determining BPHTB.

From the picture, the value of the transaction that is proposed by the taxpayer contained in the deed and as the basis of the calculation of BPHTB with the value of transaction according to the assessment of the verification/Validation officer in the verification/validation process is relative and subjective, so that it can cause uncertainty. This uncertainty can lead to various legal consequences that can even harm the public, because it must pay a higher tax than it should. In addition, it also poses a complex and lengthy procedure, because the validation process that sometimes takes a long and complicated time.

Based on the background description above, there is a need for formulation of problems to facilitate further discussion. As for the problem that will be presented is how the mechanism and implementation of the settlement of customs duties on land and building in the transitional rights (BPHTB)?

II. RESEARCH METHODS

This study used the normative type of legal research and empirical legal research. Normative legal research according to Soejono Soekanto and Sri Mamuji is: "Legal research conducted by researching a library material or secondary data". Meanwhile, empirical law research examines the implementation or implementation of positive law provisions (legislation) and factual contact at any particular event that occurs in the community in order to achieve the specified objectives. Empirical research on law is conducted through field studies to find and determine the source of the law in sociological sense as the desire and interests that exist within the community (Sumantri, 2000).

To get the primary data in the research thesis is done by collecting data and discovery information from the field, both information from the respondent as well as from the informant through observation studies and interviews to get clarity on the facts that occur in the field. The analytical descriptive nature in the study aims to create a systematic, factual, and accurate depiction of the facts, traits and relationships with the problems to be examined (Soekanto, 1998).

According to the type of research used in this study, the research of normative law here uses the of approach, namely by studying all the laws and regulations that are relevant to the legal issues that are being addressed. In addition, it also used a conceptual approach (conceptual approach) from the views and doctrines that developed in the science of law. While empirical research here uses a legal sociology approach, an approach that analyzes how reactions and interactions occur when the norm works in the community.

The data source to be used in this research is obtained based on library research and field research. Field research is conducted by collecting primary data as the primary data source and secondary data as supporting data. Primary data is derived from interviews with respondents and informant that is carried out directly within the community, while secondary legal data in legal research is data derived from the literature or study of various literature or the library material relating to the problem or research material often referred to as legal material (Achmad, 2010).

The Data and legal materials in this study were analyzed by existing legal theories as well as statutory regulations. Data obtained from the results of literature research and field research is analyzed with a qualitative approach, which is arranged in a sitematis and analysis to completely answer the proposed legal issues.

III. LITERATURE REVIEW

Certainty is a definite subject, provision or provision. The law in essence must be certain and fair. It must be a proper and fair guideline because the code of conduct should support a reasonably valued order. Just because it is fair and implemented with certainty the law can perform its functions. Legal certainty is a question that can only be answered normatively, not sociology (Rato, 2010).

According to Kelsen, Law is a system of norms. Norma is a statement that emphasizes aspects of "supposed" or *Das Sollen*, by including some rules about what to do. Norms are human products and actions that are deliberative. The law which contains the rules of the general nature is a guideline for individuals acting in society, whether in relationship with individual or in relation to society. These rules are a limitation to the community in burdening or committing actions to individuals. The existence of the rules and the implementation of the rules led to legal certainty.

Normative legal certainty is when a rule is made and is reacted for certainty as it regulates clearly and logically. It is evident in the sense of not giving doubts (multi interpretation) and logical. It is evident in the sense that it becomes a system of norms with other norms so that it does not clash or pose a conflict of norms. Legal certainty refers to the enforcement of clear, fixed, consistent and consequent laws whose implementation cannot be influenced by circumstances of subjective nature. Certainty and justice are not merely moral demands, but factual characterizes the law. A law that is uncertain and unwilling is not just a bad law (Sulistiyawan, 2019).

According to Sudikno Mertokusumo, legal certainty is a guarantee that the law can be performed properly. Of course, the legal certainty has become an integral part of this is preferable to the written legal norm. Because self-certainty is essentially the main purpose of the law. This legal certainty becomes the regularity of society closely related to the certainty itself because the essence of the regularity will cause a living give certainty in conducting the activities necessary in conducting the life activities of the community itself (Muhammad Ridwansyah, "Mewujudkan Keadilan, Kepastian dan Kemanfaatan Hukum dalam Qanun Bendera dan Lambang Aceh, 2016).

Herlien Budiono said that legal certainty is a characteristic that cannot be separated from the law, especially for the legal norm in writing. Law without a value of certainty will lose meaning because it cannot serve as a code of conduct for everyone. According to Utrecht, legal certainty contains two understandings, namely the first, the existence of a common rule to make individuals know what to do or not to do, and secondly, the form of legal security for individuals from government due to the existence of a general rule that individuals can know what can be imposed or done by the State against the individual (Syahrani, 1999).

Herlien Budiono said that legal certainty is a characteristic that cannot be separated from the law, especially for the legal norm in writing. Law without a value of certainty will lose meaning because it cannot serve as a code of conduct for everyone. According to Utrecht, legal certainty contains two understandings, namely the first, the existence of a common rule to make individuals know what to do or not to do, and secondly, the form of legal security for individuals from government due to the existence of a general rule that individuals can know what can be imposed or done by the State against the individual.

If associated with legal certainty related to the determination and determination that is the basis for the calculation of BPHTB in the sale of buying in North Aceh district. In practice there is no certainty in determining and setting the basic value that will be used as the basis for the imposition of tax in buying and selling of land and buildings in North Aceh regency. Where people in North Aceh district to pay BPHTB in buy and sell still do not get reassurance to determine the basic value of BPHTB imposition that they should pay.

Pursuant to article 6 paragraph (1) of the law of BPHTB Jo Article 87 paragraph (1) of LAW of PDRD Jo Article 4 paragraph (1) of North Aceh Regency, in order to payment of BPHTB by the buyer, which is the basis of the imposition of BPHTB is NJOP. NJOP in buying and selling land in the form of transaction price for the transition due to buying and selling market value for other switching. But in practice determining the basic value for the imposition of the BPHTB is to refer to the rules of law that apply but determined by the tax verification officer. It raises uncertainty to determine the value of the transaction or the value of this market that will be used by the people of North Aceh District to calculate BPHTB. Legal certainty is one of the fundamental values that sustain the legal mind.

Speaking of legal certainty, it cannot be removed from the legal mind (*Idee des Recht*). Related to the legal certainty, Gustav Radbruch as quoted by Theo Huijbers said that the legal certainty is one of the three necessary aspects in addition to fairness in the narrow sense and the purpose of justice or finality to come to a sufficient legal sense. The aspect of legal certainty or legality guarantees that the law can serve as a rule to be obeyed (Ridwansyah, 2016).

The existence of legal certainty is a hope for seekers of justice to the arbitrary actions of law enforcement officers who sometimes always have the arrogance in carrying out their duties as law enforcement. Because with the certainty of the law, people will get a clear clarity of rights and obligations according to the law. Without any legal certainty there is no clarity on which rules are the benchmark to follow in order not to violate the law. The certainty of this law can be realized through a good and clear publication in a law and will

be clear to its application. In other words, the legal certainty means precisely the law, its subject and its objects and its legal threats. However, the legal certainty should not be considered an absolute element at all times, but the means used according to the circumstances and conditions with regard to the basic benefits and efficiencies.

Legal certainty is an inseparable characteristic of the law especially for written legal norms. Law without the value of certainty will lose meaning because it can no longer be a guideline of conduct for all people. *Ubi Ius Incertum, Ibi Ius Nullum*, meaning that there was no legal certainty, there was no law.

As stated by Tata Wijayanta, legal certainty can be interpreted that a person will have something to expect under certain circumstances. Certainty is defined as the clarity of the norm so that it can be used as guidelines for communities imposed by this regulation. The sense of certainty is that there is clarity and firmness to the validity of the law in society. It is not to cause much misinterpretation.

IV. IMPLEMENTATION OF THE BPHTB DETERMINATION IN SWITCHING TO LAND AND BUILDING RIGHTS

A. Land and Building Rights Acquisition System (BPHTB)

Pursuant to article 10 paragraph (1) of the Law of BPHTB: "The taxpayer pays the tax owed by not based on the tax provision letter", meaning that the government does not establish how much tax is the obligation of the subject of BPHTB to be deposited into the State treasury. In accordance with the explanation of article 10 paragraph (1) of the law of BPHTB which determines, that "the voting system of land and building rights is Self Assessment, where the taxpayer is given the trust to calculate and pay the tax owed by using the letter of procurement levy (Prawiranegara, 2018).

The rights to land and building (SSB), and report it without publication of the tax assessment letter. The Self Assessment System is a tax-withholding system that authorizes the taxpayer to determine the amount of the tax owed itself. Its are (Yani Rizal, 2019):

1. The authority to determine the amount of tax owed is on its own taxpayers.
2. The taxpayer is active, from calculating, depositing and reporting its own taxes owed.
3. Fiscus does not intervene and only supervises. This Self Assessment system is generally applied to the type of tax where the taxpayer is deemed able enough to be assigned the responsibility to calculate and set its own tax debts. In this case, tax/taxpayer subjects are relatively limited, unlike the Earth and building taxes. For example is income tax (PPh), value added tax on goods and services (VAT), and also sales tax on luxury goods (PPNBM).

The voting principles adopted in the Land Rights Procurement Act (BPHTB) are:

1. The fulfillment of the obligations of PBHTB is based on the Self Assessment system, i.e. taxpayers calculate and pay their own tax debts.
2. The tariff amount is set at 5% (five percent) of the taxable tax object acquisition value.
3. In order for the implementation of the BPHTB law to be effective, both to the taxpayer and to the general officers who violate the provisions or do not carry out its obligations, shall be penalized under the applicable rules of abuse.
4. Proceeds from BPHTB is the acceptance of the State largely submitted to the local government, to increase regional revenue to finance regional development in order to utilize regional autonomy.
5. All levies upon acquisition of land and building rights outside these provisions are not permitted.

BPHTB related arrangement in North Aceh Regency is set in Qanun and the conversation p of North Aceh regency. From the results revealed that the implementation of the payment determination BPHTB in the transaction to buy land and building in North Aceh district can be said not to be stipulated in Qanun, the conversation and PDRD LAW, which still has third party interference in determining the basic value that will be used as a benchmark price for the payment of BPHTB by the buyer.

Some cases are related to the determination of the price independently by the buyer and the seller that occurred in North Aceh district as described in the previous chapter, that the benchmark price of transactions used as the basis value of BPHTB voting in North Aceh district does not correspond to the price of transactions that have been agreed by both parties between the seller and the buyer. In accordance with article 4 paragraph (1) Qanun of North Aceh regency that is used as a benchmark in the imposition of BPHTB is NJOP or transaction price. So that is used as the benchmark as the basic value for the BPHTB payment is NJOP.

If in Qanun regency of North Aceh is mentioned that the initial determination of the payment of BPHTB is the value of acquisition of tax object or sell value of tax object, most of the land and building transactions in North Aceh District does not comply with the rules. A few complaints expressed by some buyers and sellers in the transaction to buy and sell in North Aceh district is about confusion in determining the basic value made by the imposition of BPHTB that should be implemented in accordance with the rules and determination mechanism of BPHTB.

According to Asnawi, head of village Ceumpeudak North Aceh Regency which became the benchmark as the basic value for the payment of BPHTB in North Aceh district is somewhat problematic, taxpayers are confused in counting BPHTB costs because there is no clear assurance and determination that applied to the basic value to calculate the cost of BPHTB that they should pay. In practice, although taxpayers have calculated the BPHTB themselves paid, the BPKD refuses and releases SKPKB (a less pay tax) against the BPHTB which has been paid by the taxpayer as it is considered to be the calculated BPHTB is not correct and less paid (Asnawi, 2020.).

It is also justified by Fauziah, one of the taxpayers who conduct buy and sell transactions, Fauziah before paying or counting the BPHTB fees that will be paid in advance find the BPKD district North Aceh to ask the right basic value to calculate BPHTB payments. This is done so that the time of payment can be minimized to be shortened because considering having to repeat the process in paying from the beginning that takes days because of less pay (Fauziah, 2020).

In addition, it has become a barrier to the process of making sale and purchase deed because it takes days for the payment phase, moreover there are several stages such as validation or tax verification/validity that must be done after the BPHTB payment which takes at least 7 days even more. Although it is clear in the Qanun Regency of North Aceh period of the verification/Validasasi at least 5 days, but in fact it takes 7 days even more.

Jamaluddin said the PPAT party must wait for the verification/validation process, and the creation of the sale and purchase deed could not be listed day, date and time. The numbering of sale and purchase deed will be done after the validation process is completed and the parties have paid the tax deposit to be paid. The numbering on the sale and purchase act constitutes the identity of a document, in which case it is the identity of a deed made by PPAT. The function of numbering in the deed made by PPAT is for administrative purposes and to refer the document to certain legal interests, so ordered in order based on the specific numbering of the deed made by PPAT stored in the Deed book record (Jamaluddin, 2020).

The numbering of deed made by PPAT is by numbering per year, so suppose the numbering on the deed is sorted from the beginning of the year to the end of the year in accordance with the deed made by PPAT. How many deeds made by PPAT are numbering in accordance with the order made when the parties face. However, because the verification/validation process is not done yet, so the sell deed is made without including the day, date and time. The inclusion of day, date and time when the parties face up after the verification/validation process is done by BPKD North Aceh Regency (Adiwijaya, 2020).

Nila Rufaidah, PPAT Aceh District said that related to the payment system BPHTB in North Aceh District no longer use the system Self assessment system because of the field verification conducted by the BPKB North Aceh District to become the official Assesmet system, where should the calculation of BPHTB should be done on a self assessment system that means the taxpayer calculates the BPHTB itself for the transition of rights to the land and the building in accordance with the price of agreement between the seller and the buyer, but the practice of BPKD North Aceh District which calculates the determination of the tax amount payable by the taxpayer and BPHTB whose transaction value is stated in the CNS and the transitional deed on land and the building must be done field verification by BPKD North Aceh Regency in advance, thus the PPAT or taxpayer must wait for the results of the field verification by BPKD in advance.

If the field verification has been completed, the results of the field verification report will be submitted or notified to PPAT or taxpayer. The result of that field verification is the outline or benchmark of the BPHTB tax and the final PPh which must be paid by the taxpayer. If the calculations made by PPAT are lower than the result of field verification, the product deed automatically is rejected and returned to the PPAT and delivered to the SKPKB (Payment tax Decree less pay) (Rufaidah, 2020).

These causes the registration process of the transition to land and buildings in North Aceh district becomes hampered because it has to wait for the validation process is completed by paying the drawback when there is less pay. There is an obstacle in the process of transitional registration of land rights not in accordance with the expectations of society, which generally requires a fast and simple process. It is in accordance with the statement that, is the expectation of all of us, that in the case of the certificate process after the complete requirements can be completed within a reasonable timeframe.

B. Authorized Officers in Compliance With BPHTB Provisions

The law of BPHTB determines that some officials are authorized to fulfill BPHTB provisions for obtaining land and building rights. These officials are given the authority to check whether the payable BPHTB has been deposited to the State Treasury by the acquiring of rights before the authorized officer signs the document in respect of the acquisition of such rights. The officer in question is appointed because of its authority in the making of deed and ratification of the acquisition of rights. The official was the Land Deed official (PPAT), auction office and the State office (Sundry, 2018).

The competent officer as referred to by the BPHTB Act, in its execution shall have the main duties and functions as stipulated in article 24 paragraph (3) and article 25 paragraph (1) of the BPHTB Act. PPAT in the implementation of the Law on BPHTB has a basic task and function to make and to handle the transitional deed of land and/or building after the subject/taxpayer BPHTB submit evidence of deposit tax fees to the State treasury. Then PPAT reports the creation of the land acquisition deed and/or the building to the Directorate General of Taxation no later than on the 10th (tenth) of the following month. There are several PPAT, namely as stated in Article 1 government Regulation No. 37 year 1998 on regulation of the Department of Land deed, that is meant.

1. Land Deed official hereinafter referred to as PPAT is a general officer given the authority to create authentic deeds concerning certain legal acts regarding land rights or property rights in the unit of House.
2. PPAT While is a government official appointed because of his position to continue the task of PPAT by making PPAT deed in an area that is not yet there is PPAT.
3. Special PPAT is a National Land agency officer appointed because of his position to carry out the duties of PPAT by making certain special PPAT deed in the framework of implementing the Program or certain government duties.

V. CONCLUSIONS

Implementation in the mechanism of determination of rights acquisition of land and building in the transitional Rights (BPHTB) in North Aceh district is not as mandated by the Qanun and the province of North Aceh, which is related to the establishment of a basic value to calculate BPHTB payments the transfer of land and building rights in North Aceh district which should be based on article 4 paragraph (1) of North Aceh Regency which is the benchmark base value of BPHTB calculation is tax object Acquisition (NPOP) where the NPOP is the value of The transaction of the agreement between the seller and the buyer, but the practice still has to intervene from the BPKD of North Aceh Regency to determine the fundamental value of the BPHTB to calculate the transitional rights to the land and building. In addition to the payment system BPHTB in North Aceh District no longer use the system Self assessment system because of the field verification (VERLAP) conducted by the BPKB North Aceh District so that it becomes the official Assesmet system, where should the calculation of BPHTB must be done on a self assessment , but the practice of BPKD North Aceh District which calculates the determination of the tax amount payable by the taxpayer.

REFERENCES

- [1]. *Analisis Pengenaan Bea Perolehan Hak Atas Tanah dan Bangunan dalam Proses Jual Beli Tanah dan Bangunan dalam Proses Jual Beli Tanah dan Bangunan di Kabupaten Kebumen*. Adimas, Wahyu. Juli 2016., Lex Renaissance, Vol. 1, p. 167. 2.
- [2]. *Peralihan Hak Atas Tanah Tanpa Sertifikat*. Murni, Christiana Sri. Juni 2018, Jurnal Lex Librum, Vol. 4, p. 681. 2.
- [3]. Rashid, Harun Al. *Sekilas tentang Jual Beli Tanah (Berikut Peraturan-peraturannya)*. Jakarta : Ghalia Indonesia, 1987. p. 50.
- [4]. *Akuntansi dan Efektivitas Pemungutan Bea Perolehan Hak atas Tanah dan Bangunan (BPHTB) dan Kontribusinya terhadap Pendapatan Daerah Di Kota Semarang Periode Tahun 2008-2011*. Ardiyanto, Muhamad Fauzan & Moh. Didik. 2012, Diponegoro Journal Of Accounting , Vol. 1, p. 3. 2.
- [5]. *Keabsahan Jual Beli Hak Atas Tanah dibawah Tangan di Desa Patihan Kecamatan Sidoharjo Kabupaten Sragen (Tinjauan Beberapa Kasus Terkait di Pengadilan Negeri di Surakarta)*. Hastuti, Prancisca Romana Dwi. Juli 2015, Jurnal Repertorium, Vol. 2, p. 118. 2.
- [6]. *Proses Balik Nama Sertifikat Hak Milik Jual Beli Tanah Berdasarkan Undang-Undang Nomor 5 Tahun 1960*. Mokoagow, Areini Airin. Juni 2017, Lex Privatum, Vol. V, p. 19 . 4.
- [7]. *Peran Pejabat Pembuat Akta Tanah (PPAT) dalam Pemungutan Bea Perolehan Hak Atas Tanah dan Bangunan (BPHTB) dengan Pendekatan Self Assessment System*. Purnawan, Ronal Raviyanto & Amin. Desember 2017, Jurnal Akta, Vol. 4, p. 568. 4.
- [8]. *Peranan Notaris Selaku Pejabat Pembuat Akta Tanah dalam Proses Verifikasi Bea Perolehan Hak Atas Tanah dan Bangunan di Kabupaten Bayuasin*". Hardiawan, Yudi. November 2016, , Jurnal Fakultas Hukum Universitas Sriwijaya, Vol. 5, p. 245. 2.
- [9]. *Tanggung Jawab PPAT dalam Penetapan Nilai Transaksi Jual Beli Tanah dan Bangunan di Kota Banda Aceh*. Harnita, (et. al). 2018, Jurnal Magister Hukum Udayana, Vol. 8, p. 356. 3.
- [10]. Sumantri, Jujun S. Suria. *Filsafat Hukum Suatu Pengantar Populer*. Jakarta : Pustaka Sinar Harapan, 2000. p. 328.
- [11]. Soekanto, Soerjono. *Metodologi Research*. Yogyakarta : Andi Offset, 1998. p. 3.
- [12]. Achmad, Mukti Fajar dan Yulianto. *Dualisme Penelitian Hukum Normatif dan Empiris*. Yogyakarta : Pustaka Pelajar, 2010. p. 156.

- [13]. Rato, Dominikus. *Filsafat Hukum Mencari : Memahami dan Memahami Hukum*. Yogyakarta : Laksbang Pressindo, 2010. p. 59.
- [14]. *Pemahaman Terhadap Asas Kepastian Hukum Melalui Kontruksi Penalaran Positivisme Hukum*. Sulistyawan, Mario Julyano dan Aditya Yuli. Juli 2019, Jurnal Crepido, Vol. 01, p. 15. 01.
- [15]. *Muhammad Ridwansyah, "Mewujudkan Keadilan, Kepastian dan Kemanfaatan Hukum dalam Qanun Bendera dan Lambang Aceh*. Juni 2016, Jurnal Konstitusi, Vol. 13, p. 285. 2.
- [16]. Syahrani, Riduan. *Rangkuman Intisari Ilmu Hukum*. Bandung : Citra Aditya Bakti, , 1999. p. 23.
- [17]. *Mewujudkan Keadilan, Kepastian dan Kemanfaatan Hukum dalam Qanun Bendera dan Lambang Aceh*. Ridwansyah, Muhammad. Juni 2016, Jurnal Konstitusi, Vol. 13, p. 285. 2.
- [18]. *Pengelolaan BPHTB dalam Meningkatkan PAD Kabupaten Tasikmalaya*. Prawiranegara, Annisa Fitriani dan Benny. September 2018, Jurnal Wawasan dan Riset Akuntansi, , Vol. 6, p. 50. 1.
- [19]. *Pengaruh Bea Perolehan Hak Atas Tanah dan Bangunan (BPHTB) Dan Pajak Bumi Bangunan (PBB) Terhadap Pendapatan Pemerintah Daerah Kota Langsa*. Yani Rizal, (et. al). 2019, Jurnal Samudra Ekonomika, Vol. 3, p. 136. 2.
- [20]. Asnawi. *Penentuan dan Penetapan BPHTB*. [interv.] Kepala Desa Cempeudak Kabupaten Aceh Utara. April 16, 2020.
- [21]. Fauziah. *Penentuan dan Penetapan BPHTB*. [interv.] Pembeli Tanah. April 13, 2020.
- [22]. Jamaluddin. *Penentuan dan Penetapan BPHTB*. [interv.] Majelis Pengawas Daerah. April 16, 2020.
- [23]. Adiwijaya, Syarifuddin. *Penentuan dan Penetapan BPHTB*. [interv.] Notaris/PPAT Kabupaten Aceh Utara. April 15, 2020.
- [24]. Rufaidah, Nila. *Penentuan dan Penetapan BPHTB*. [interv.] Notaris/PPAT/Pengwil INI/MPD. April 17, 2020.
- [25]. *Pengalihan Bea Perolehan Hak Atas Tanah dan Bangunan (BPHTB) dari Pajak Pusat Menjadi Pajak Daerah Sebagai Upaya Peningkatan Pendapatan Asli Daerah (PAD)*. Sundary, Rini Irianti. Juni 2018, AKTUALITA, Vol. 1, p. 289. 1.

Aidil Saheri, et. al. "Determination And Determination Of The Acquisition Of Rights To Land And Building (Bphtb) In Switching Rights In North Aceh District." *IOSR Journal of Humanities and Social Science (IOSR-JHSS)*, 25(8), 2020, pp. 33-41.