MANIPULATION OF TRANSACTION VALUE TO REDUCE FEES FOR ACQUISITION OF LAND AND BUILDING RIGHTS

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Received: 01/02/2021; Reviewed: 21/02/2021; Accepted: 17/04/2021.

DOI: https://doi.org/10.24815/kanun.v23i1.19785

ABSTRACT

The purpose of this study is to analyze the responsibility of taxpayers who manipulate transaction values in order to reduce Fees for Acquisition of Land and Building Rights (BPHTB). This research is inspired by the results of previous research that many BPHTB taxpayers manipulate transaction values to reduce BPHTB, but they are missed from legal responsibility, so that their actions seem normal in society and are not perceived as despicable and violating of the law. This research is a normative legal research using a statutory approach, so that it can be seen how the responsibility of taxpayers who are not honest in paying BPHTB. The results showed that in statutory regulations cannot be found administrative sanctions imposed on taxpayers who manipulated transaction values to reduce BPHTB. In fact taxpayer's actions are really detrimental regional finance, because their taxes are paid to the Regional Treasury as the original financial resources. Sanctions contained in statutory regulations are only criminal sanctions, as regulated in Article 174 of Law Number 28 of 2009 with the threat of imprisonment for a maximum of one year if due to negligence and a maximum of two years if done intentionally.

Key Words: value transaction engineering; bphtb.

INTRODUCTION

The government administration system in Indonesia is familiar with the existence of a centralized system and a decentralized system. However, since 1999 as a result of the spirit of reform in 1998, precisely when Law Number 22 of 1999 concerning Regional Government was enacted, there has been a paradigm shift in the governance system in Indonesia from a centralized system to a decentralized one. However, not all government affairs have changed from a centralized system to a decentralized system, because there are certain functions that cannot be transferred to local governments through the decentralized system. This is as stated in Article 4 paragraph (1) of Law Number 22 of 1999, namely: "In the framework of implementing the principle of

decentralization, provinces, regencies and municipalities have the authority to regulate and manage the interests of the local community according to their own initiatives based on the aspirations of the community".

Although Law Number 22 of 1999 is now no longer valid, but in a new provision, namely Law Number 23 of 2014 on Regional Government, the provisions regarding not all government affairs are left to regional governments, which are still adhered to. This problem is contained in Article 5 paragraph (4) of Law Number 23 of 2014 which states that: "The administration of government affairs in various government affairs in the regions is carried out based on the principles of decentralization, deconcentration and assistance tasks".

Centralization is a system of government administration whose power and authority rests entirely with the central government, while decentralization is the opposite, namely a system of government in which more power and authority is devolved to regional governments. According to Wijaya (Wijaya, 2004), it is intended to "develop regions in various fields, improve services to the community, foster regional independence and increase regional competitiveness in the growth process". As a consequence of the change in the paradigm of government administration from a centralized system to a decentralized system, "local governments are given greater authority to regulate and manage affairs in their own households" (Ridwansyah, 2020). This is also one of the goals of the decentralization system, which according to Mudrajad Kuncoro, "one of the objectives of decentralization and regional autonomy policies is to bring the government closer to its people, so that the government can be carried out more efficiently and effectively". Thus, by granting greater authority to regions to regulate their own regional affairs, the government will be closer to its people and the implementation of government programs can run more efficiently and effectively.

One of the government policies in the success of the decentralization system is the stipulation of BPHTB as regional taxes, namely as one of the “Types of District/City Regional Taxes”. This is as regulated in Article 2 of Law Number 28 of 2009 concerning Regional Taxes and Regional

Levies (hereinafter referred to as Law Number 28 of 2009), which divides the Types of Regional Taxes into two types, namely: provincial taxes and regency/city taxes.

Types of regency/city taxes according to Article 2 paragraph (2) of Law Number 28 of 2009 are: (a) hotel tax; (b) restaurant tax; (c) entertainment tax; (d) advertisement tax; (e) street lighting tax; (f) non-metal mineral and rock tax; (g) parking tax; (h) groundwater tax; (i) swallow's nest tax; (j) rural and urban land and building tax; and (k) fees for acquisition of rights on land and buildings.

The use of BPHTB as a regional tax (regency/city) by Law Number 28 of 2009, it is hoped that the BPHTB can become a source of regional income. "BPHTB, which was previously a central tax, has been converted into a district / city tax. There are several objectives that are expected to be achieved by transferring BPHTB from the Central Government to Regency/City Governments. It is hoped that the transfer of BPHTB to the regions can increase the Regional Original Revenue (PAD) and improve the structure of the Regional Expenditure Budget (APBD) or in Aceh it is called the Regency Budget (APBK). Likewise, the transfer of BPHTB to the regions is expected to improve services to the community, and improve transparency and accountability aspects in its management" (Ikramullah, Ismail, & Syahbandir, 2016).

"BPHTB adheres to a self-assessment system where taxpayers are entrusted with calculating, reporting and paying the amount of tax payable by themselves using a Deposit of Taxes for Acquisition of Land and Building Rights, and reporting it without being based on the issuance of a tax assessment" (Ikramullah, Ismail, & Syahbandir , 2016). According to Ridwansyah (Ridwansyah, 2020), "the procedures used by BPHTB taxpayers in compliance are based on a self-assessment system, namely the taxpayer calculates and pays his own tax debt. With this self-assessment, especially at BPHTB, it is hoped that the public can easily fulfill their tax obligations and increase tax awareness, especially taxes that arise when the acquisition of rights to land and buildings occurs".

In Article 87 paragraph (1) of Law Number 28 of 2009 stipulates that: The basis for the imposition of BPHTB is the Acquisition Value of Tax Objects. Specifically for sale and purchase of rights over land and buildings, the intended Tax Object Acquisition Value is the transaction price in the sale and purchase of land and building rights. The consequence of the selft assessment system in calculating and paying BPHTB is that the calculation and payment of BPHTB is not in accordance with the applicable provisions, because certain parties manipulate or reduce the transaction price in the process of buying and selling land and buildings. This action is done to minimize or reduce the amount of BPHTB that will be paid.

Based on the results of previous research, several problems were found in BPHTB payments: First, Ridwansyah research results (Ridwansyah, 2020), "The average transaction price submitted by BPHTB taxpayers is below 50% of the actual transaction price". "If the Regional Financial Management Agency (BPKD) can accept the price submitted and the price is already above the Tax Object Selling Value (NJOP), then the BPKD sets the price as the basis for determining the BPHTB. Meanwhile, if the price submitted is not reasonable and is still below the NJOP, the BPKD will raise the price to above the NJOP and the price is determined as the basis for determining the BPHTB" (Ridwansyah, Yani, & Suhaimi, 2020). Second, Ravianto & Purnawan research results (Ravianto & Purnawan, 2017), "The reality that occurs in the people of Surakarta City shows that BPHTB tax deposits are not in accordance with the real conditions in the field, which is not in accordance with the value of land sale and purchase transactions between sellers and buyers, most of which are stated in the transaction value. below market price, to avoid paying BPHTB tax".

Based on the results of the above research, it is clear that the finding of taxpayers who are not honest in reporting the transaction price when paying BPHTB, some even report the transaction price is less than 50% of the actual transaction price. This is of course very detrimental to the regions, because some of the BPHTB that should have entered the Regional Treasury and became PAD, eventually just disappeared. However, this study does not discuss the responsibilities of the

parties who manipulate the transaction value in order to reduce BPHTB payments. So this research is different from the research mentioned above.

Based on this description, it is necessary to examine how the responsibility of taxpayers who manipulate transaction values in order to reduce or minimize the imposition of BPHTB. This responsibility includes responsibility according to administrative law and liability according to criminal law. By knowing the taxpayer's responsibilities as intended above, later on taxpayers who manipulate the transaction value in order to reduce or minimize the BPHTB imposition, of course, they can be held accountable legally, both in administrative law and criminal law. So that later taxpayers do not dare to manipulate the transaction value in the process of buying and selling rights to land and buildings. In addition, the PAD of a district/city will increase. In general, the higher the contribution of local revenue and the higher the ability of the region to finance its own capacity, it will show a positive regional financial performance. In this case, positive financial performance can be interpreted as regional financial independence in financing regional needs and supporting the implementation of regional autonomy in the area (Rani, Syahbandir, & Purnama, 2010).

RESEARCH METHODS

This research is a normative legal research, namely research by conducting an assessment of the application of legal principles or norms in positive legal rules (Ibrahim, 2007). Regarding the research approach, this study uses a statutory approach, namely by examining statutory regulations relating to local taxes, especially those related to BPHTB.

The research method used in this research is the socio-legal method, by looking at the law which is influenced by various factors. This method continues to depart from legal norms (Sulaiman, 2018), especially those related to the legal accountability of BPHTB taxpayers. Based on the empirical conditions obtained from previous research, then researched and examined the legal rules governing it, it turns out that taxpayers who manipulate transaction values in order to

reduce BPHTB taxes can be held accountable legally. Thus the data researched and examined in this study are still data obtained from legal materials relating to local taxes, especially those related to BPHTB. The legal material is a guideline for seeing the reality that occurs in society. Furthermore, the data analysis was carried out qualitatively.

DISCUSSIONS AND ANALYSIS OF RESULTS

1) Regulation and Stipulation of Land Rights Acquisition Fees (BPHTB)

In line with the change in the paradigm of the government administration system from a centralized system to a decentralized system, one of the government policies in making the system change a success is to establish BPHTB as a Regional Tax, namely as a type of Regency/City Regional Tax. According to Article 2 paragraph (1) of Law Number 28 of 2009, "the types of local taxes consist of provincial taxes and regency/city taxes". Among several types of Regency/City taxes according to Article 2 paragraph (2) of Law Number 28 of 2009, one of which is BPHTB.

Considering that tax collection (including BPHTB as Regency/City Regional Tax) must be approved by the people, tax collection is regulated and based on law. Article 23 letter A of the 1945 Constitution of the Republic of Indonesia states that: "Taxes and other levies which are forcing for state purposes shall be regulated by law". According to Simanjuntak and Mukhlis (Simanjuntak & Mukhlis, 2012) "that tax is an obligation which is a form of transfer of income from the citizen sector to the state, with provisions made based on laws that can be enforced and used in the interests of the state (public)". According to Siahaan (Siahaan, 2003): "One type of tax which is a tax potential source that should be explored according to the economic situation and conditions as well as the current development of the nation is the type of Tax on Acquisition of Rights on Land and Building (BPHTB) and Rural and Urban Land and Building Tax (PBB-P2)".

The law referred to above is Law Number 21 of 1997 concerning Fees for Acquisition of Rights to Land and Buildings, as amended by Law No. 20 of 2000 concerning Amendments to Law

Number 21 of 1997 concerning Fees for Acquisition of Land and Building Rights (hereinafter referred to as the BPHTB Law). Then as a manifestation of the decentralized system, a year after the enactment of Law Number 28 of 2009, the BPHTB Law was declared invalid. This is confirmed in Article 180 of Law Number 28 of 2009 which states that: "Law Number 21 of 1997 concerning Fees for Acquisition of Rights to Land and Buildings as amended by Law Number 20 of 2000 concerning Amendments to Law Number 21 of 1997 concerning Fees for the Acquisition of Rights to Land and Buildings shall remain in effect no later than 1 (one) year since the enactment of Law Number 28 of 2009".

The Law Number 28 of 2009 as a manifestation of the decentralization system is clearly stated by Prastiwi et al (Prastiwi, Zain, & Suryaman, 2011) which states that "the government has compiled various policy instruments in implementing fiscal decentralization, including Law Number 34 of 2000 concerning Regional Taxes and Regional Levies which has been updated to Law Number 28 of 2009 concerning Regional Taxes and Regional Levies. This law provides more autonomy for local governments to manage their finances. One form of financial autonomy is realized in the form of delegation of tax collection authority from the Central Government to Regional Governments".

Since the BPHTB Law is only given 1 (one) year after the enactment of Law Number 28 of 2009, so that there is no legal vacuum Law Number 28 of 2009 takes over all norms related to BPHTB contained in the BPHTB Law into Law Number 28 of 2009. Provisions regarding BPHTB are regulated in Article 85 to Article 93 of Law Number 28 of 2009. BPHTB is a tax imposed on the acquisition of rights to land and buildings. Acquisition of rights to land and/or buildings is a legal act or event that results in obtaining rights to land and or buildings by individuals or bodies (Mardiasmo, 2009). Obtaining land rights can be through a legal act of buying and selling, exchanging, grants, inheritance, gifts and so on. Meanwhile, the rights to land and buildings are the rights to land and buildings as referred to in Law Number 5 of 1960 concerning Basic Agrarian

Principles (known and abbreviated as UUPA) and other statutory regulations. Article 85 paragraph (1) of Law Number 28 of 2009 explains that "the object of BPHTB tax is the acquisition of rights to land and/or buildings". Acquisition of rights to land and buildings according to Article 1 Number 42 of Law Number 28 of 2009 are "legal actions or events that result in obtaining rights to land and / or buildings by individuals or bodies".

Thus, "there are two ways to obtain the right to land and buildings, namely by the existence of legal events and legal actions. Acquisition of rights to land and buildings through inheritance occurs due to legal events, namely the death of the heir as the original owner of the inheritance and the existence of an heir who directly obtains rights to the inheritance. Acquisition of rights over land and buildings that occurs due to inheritance from the original owner to the heirs is regulated in Article 26 of the UUPA" (Sutedi, 2006). Meanwhile, the acquisition of rights to land and buildings due to legal actions includes: buying and selling, exchanging, grants, income in the company, separation of rights and other legal actions.

This acquisition has been detailed in Article 85 Paragraph (2) of Law Number 28 of 2009 includes: (a) Transfer of rights due to: 1) buying and selling; 2) interchangeable; 3) grants; 4) will grants; 5) inheritance; 6) entry into a company or other legal entity; 7) separation of rights resulting in a transfer; 8) appointment of buyers in the auction; 9) implementing the decision of a judge who has permanent legal force; 10) business combination; 11) business consolidation; 12) business expansion; 13) gifts; (b) granting new rights because: 1) continuation of waiver of rights; or 2) apart from waiving rights".

Thus the object of BPHTB in general is the acquisition of rights to land and/or buildings. However, not all acquisition of land and building rights automatically become objects subject to BPHTB, because there are certain standards or measures regulated in statutory regulations so that the acquisition of rights to land and buildings qualifies as BPHTB objects. In Article 85 Paragraph (4) of Law Number 28 of 2009 stipulates several tax objects that are not subject to BPHTB are tax

objects that are obtained: (a) Diplomatic and consular representatives based on the principle of reciprocity; (b) the state for administering governance and/or for the implementation of development in the public interest; (c) bodies or representatives of international institutions stipulated by the Minister of Finance Regulation on condition that they do not run a business or carry out other activities outside the functions and duties of the agency or representative of the organization; (d) private persons or Entities due to conversion of rights or due to other legal actions without a change in name; (e) private persons or entities due to waqf; and (f) private persons or entities that are used for religious purposes.

Regarding the standard basis for the imposition of BPHTB, according to Article 87 Paragraph (1) of Law Number 28 of 2009 is: "Tax Object Acquisition Value (NPOP)". However, the acquisition value varies from one legal act to another, some even have an acquisition value of 0 (zero) or no acquisition value at all. One example is a grant of land and/or building rights from parents to their children, where the parents never determine the price or value of the object of land and/or building being given. On the other hand, children who receive rights to land and/or buildings by receiving these grants also do not know and the acquisition value is not determined. In this case, even though the acquisition value is 0 (zero), the rights to the land and/or buildings that are obtained are still valuable tax objects, and those who receive or receive them also receive additional value for the assets in the form of land and/or buildings, so that those who get it are still subject to BPHTB.

Article 87 Paragraph (2) of Law Number 28 of 2009 provides guidance in determining the acquisition value of tax objects in accordance with the types of legal actions, namely: Tax Object Acquisition Value (NPOP), in terms of: (a) sale and purchase is the transaction price; (b) exchange rate is market value; (c) the grant is market value; (d) testament grants are market value; (e) inheritance is the market value; (f) income in a company or other legal entity is market value; (g) separation of rights resulting in the transfer is market value; (h) the transfer of rights due to the implementation of a judge's decision which has permanent legal force is the market value; (i) the

granting of new land rights as a continuation of the release of rights is market value; (j) the granting of new rights over land beyond the relinquishment of rights is the market value; (k) business combination is market value; (l) consolidation of business is market value; (m) business expansion is market value; (n) prizes are market value; and/or (o) the appointment of the buyer in the auction is the transaction price stated in the minutes of auction.

Furthermore, in the event that the tax object acquisition value is not known, then according to Article 87 Paragraph (3) of Law Number 28 of 2009: "If the NPOP as referred to in Article 87 Paragraph (2) letter a to letter n is unknown or lower than the Tax Object Selling Value (NJOP) used in the imposition of Land and Building Tax (PBB) in the year the , the basic imposition used is NJOP PBB ". In principle, PBB NJOP is used as the basis for the imposition of BPHTB in the event that the NPOP is unknown or the NPOP is lower than the NJOP PBB.

The provisions regarding the imposition of BPHTB as described above are almost entirely adopted by the Regional Governments. This is as explained earlier that BPHTB is a regional tax and no longer a central government tax. So that the authority to collect it no longer rests with the Central Government, but has become the authority of the Regional Government, especially the Regency/City Government. This problem has been mentioned in Article 182 point 2 of Law Number 28 of 2009, which states that "the Minister of Finance together with the Minister of Home Affairs regulates the preparatory stages for the transfer of Customs for Acquisition of Land and Building Rights as Regional Tax no later than 1 (one) year after the enactment of Law Number 28 of 2009".

The basis for the Regional Government in imposing BPHTB is of course through the District/City Regional Regulations (Perda), especially for the Aceh Province area called the Regency/City Qanun. "BPHTB, which has now been converted into regional taxes, obliges the Regional Government to make regional regulations that specifically regulate the imposition of the BPHTB. The content of the regional regulations refers to the provisions of the BPHTB referred to

in the Regional Tax and Retribution Law, namely Law Number 28 of 2009" (Ridwansyah, 2020). This is also in accordance with the provisions stipulated in Article 95 paragraph (1) of Law Number 28 of 2009, which states that: "Taxes are stipulated by Regional Regulations". The tax referred to here is Regional Tax, as described in Article 1 Number 10 of Law Number 28 of 2009, which states that: “Local Taxes, hereinafter referred to as Taxes, are mandatory contributions to the Region that are owed by an individual or entity that is compelling based on the Law, without receiving direct compensation and used for the purposes of the Region to the maximum extent possible. prosperity of the people".

Some of the Perda or Qanun are examples, including: (1) Qanun (Local Regulation) of Banda Aceh City Number 7 of 2010 concerning Fees for Acquisition of Rights to Land and Buildings; (2) Provincial Regulation of the Special Capital Region of Jakarta Number 18 of 2010 concerning Fees for Acquisition of Land and Building Rights; (3) Local Regulation of Medan City Number 1 of 2011 concerning Fees for Acquisition of Rights to Land and Buildings; (4) Local Regulation of Palembang City Number 1 of 2011 concerning Fees for Acquisition of Rights to Land and Buildings; (5) Local Regulation Surakarta City Number 13 of 2010 concerning Fees for Acquisition of Rights to Land and Buildings; (6) Local Regulation of Makassar City Number 3 of 2010 concerning Makassar City Regional Taxes; (7) Local Regulation of Pontianak City Number 6 of 2010 concerning Regional Taxes of Pontianak City; (8) Local Regulation of Ambon City Number 9 of 2012 concerning Fees for Acquisition of Land and Building Rights; (9) Local Regulation of Kupang City Number 14 of 2011 concerning Fees for Acquisition of Rights to Land and Buildings; (10) Bangka Regency Regional Regulation Number 4 of 2010 concerning Fees for Acquisition of Land and Building Rights (BPHTB) as amended by Bangka Regency Regional Regulation Number 7 of 2020 concerning Amendments to Bangka Regency Regional Regulation Number 4 of 2010 concerning Fees for Acquiring Rights on Land and Buildings (BPHTB).

Those are some examples of Regency/City Regulations governing BPHTB, where generally BPHTB is regulated separately in a Regional Regulation, but there are also regencies/cities that include it in Regional Tax Regulations, one of which regulates BPHTB, such as the Regional Regulations for Makassar City and Pontianak City.

2) Responsibilities of Taxpayers Who Maneuver Transaction Value to Reduce BPHTB Payments

As previously explained, BPHTB is a regional tax stipulated by a Regional Regulation or Qanun (the designation in the Aceh Province). BPHTB is imposed on the acquisition of rights to land and buildings with reference to Law Number 28 of 2009. Therefore, almost all material or norms in Law Number 28 of 2009 was adopted by the Regional Regulation or Regency/City Qanun which regulates BPHTB. In other words, what is regulated in the Regional Regulation or Qanun BPHTB is a "copy paste" of Law Number 28 of 2009.

According to Ridwansyah (Ridwansyah, 2020), it was found that there were taxpayers who were dishonest or manipulated in reporting the transaction value when paying BPHTB, some even reported the transaction value was less than 50% of the actual transaction value, there were also those who reported an unfair value and under the NJOP. The consequence is that it will be detrimental to regional finances, because some of the BPHTB that should have gone to the Regional Treasury and become PAD, eventually just disappeared because they did not go to the Regional Treasury.

Similar to the results of the above research, the results of research by Ravianto & Purnawan (Ravianto & Purnawan, 2017) show that the reality that occurs in the people of Surakarta City shows that BPHTB tax payments do not match the value of land sale and purchase transactions between sellers and buyers, where the value of the buying and selling transactions listed below the market price, to avoid paying BPHTB tax.

Transaction price manipulation occurred because the BPHTB collection system was carried out using a self-assessment system. "The collection of BPHTB is carried out using a self-assessment system, in which taxpayers are given the confidence to self-calculate and pay the tax owed themselves by using a Deposit of Taxes for Acquisition of Land and Building Rights (SSB) and reporting without being based on any tax assessment" (Ridwansyah, 2020). Self assessment system as one of the tax collection systems has its own characteristics, namely that the authority to determine the amount of tax lies with the taxpayer itself. So that taxpayers are required to participate in the calculation, payment and reporting (Handayani, 2007). According to this system, tax payable is paid by taxpayers themselves based on tax laws and regulations. In this case the taxpayer registers, calculates, calculates, pays/deposits and reports the tax owed with the Regional Tax Return (Ridwansyah, 2020).

In fact, "the Self Assessment system puts full trust in the Taxpayer (WP) to carry out their tax obligations" (Hadzil, Syahbandir, & Hasyim, 2019). However, in reality the Self Assessment system in collecting BPHTB has opened opportunities for taxpayers to manipulate or act dishonestly in reporting the transaction value as NPOP. So it is not impossible that the NPOP is under the NJOP. As a result, there are tax objects that should be taxable (must pay BPHTB), but are not taxable (do not pay BPHTB). Then there are also tax objects whose BPHTB should be high, but when they are paid the BPHTB is low, because the transaction value reported by the taxpayer has been fabricated and does not match the actual NPOP.

The taxpayer's act of manipulating or acting dishonestly in reporting the transaction value as NPOP, with the intention of avoiding the BPHTB or BPHTB imposition that is less than the actual one, is an act of dishonesty and cannot be legally justified. This is understandable because “taxes are used for the state's needs for the greatest prosperity of the people. Payment of taxes is a manifestation of the obligations and roles of taxpayers to participate directly and jointly carry out state financing and national development. In accordance with the philosophy of tax law, paying

taxes is not only an obligation, but it is the right of every citizen to participate and participate in state financing and national development" (Cermati, 2016).

Considering how great the tax benefits are for the public and the state, it is only right that dishonest taxpayers who manipulate the transaction value as NPOP in the imposition of BPHTB are legally responsible. The responsibilities that can be imposed on the taxpayer are: First, liability under state administrative law. The taxpayer's act of manipulating the transaction value as NPOP in the imposition of BPHTB is an act that violates the law, especially the State Administrative Law. Administrative sanctions are the lowest and lowest sanctions given to taxpayers who do not comply with taxes. These sanctions include several parts, namely interest, penalties and tax increases (Linovhr.com, 2019). The form of administrative sanctions that can be imposed is in the form of fines. However, in Law Number 28 of 2009 which is used as a guideline for BPHTB regional regulations in all districts/cities, there is not a single article that regulates administrative sanctions that can be imposed on taxpayers who perform the actions referred to above. So that in the regional regulations in all regencies/cities, there are no administrative sanctions imposed on BPHTB taxpayers.

In Law Number 28 of 2009 and a number of Regency/City Regulations only regulate administrative sanctions for Land Deed Making Officials (PPAT) who sign deeds of transfer of rights to land and/or buildings, whose taxpayers have not paid BPHTB or have not submitted proof of BPHTB his. The administrative sanction is in the form of a fine of Rp. 7,500,000.00 (seven million five hundred thousand rupiah). The imposition of witnesses is regulated in Article 93 paragraph (1) of Law Number 28 of 2009 which states that: "PPAT/Notary and head of offices in charge of state auction services, violating the provisions referred to in Article 91 paragraph (1) and paragraph (2) subject to administrative sanctions in the form of a fine of Rp. 7,500,000.00 (seven million five hundred thousand rupiah) for each violation ". Article 91 paragraph (1) of Law Number

28 of 2009 states: "PPAT/Notary can only sign the deed of transferring Rights to Land and/or Buildings after the taxpayer submits proof of tax payment".

Furthermore, administrative sanctions are also contained in Article 93 Paragraph (2) of Law Number 28 of 2009, namely: PPAT/Notary and head of offices in charge of state auction services, which violate the provisions referred to in Article 92 Paragraph (1) of Law Number 28 of 2009 is subject to administrative sanctions in the form of a fine of Rp. 250 thousand for each report. Article 92 Paragraph (1) of Law Number 28 of 2009 states that: PPAT/Notary and heads of offices in charge of state auction services report the preparation of deeds or auction minutes of Acquisition of Rights to Land and/or Buildings to the Regional Head no later than the 10th (ten) of the following month. Based on these provisions, the PPAT/Notary and the head of the offices in charge of state auction services who do not submit reports until the 10th (tenth) of the following month to the Regional Head, regarding the preparation of deeds or minutes of auction of Acquisition of Rights to Land and/or Buildings, they may subject to administrative sanctions in the form of a fine of Rp. 250 thousand for each report.

Thus the administrative sanctions that can be imposed on BPHTB taxpayers are not regulated in Law Number 28 of 2009. Even though the imposition of these sanctions is important, namely as: (a) Efforts to enforce the provisions of laws and regulations, that a norm that contains prohibitions, orders (musts), or necessities in general will experience difficulties in its enforcement if it is not accompanied by sanctions. The imposition of sanctions will facilitate the enforcement of these norms and in turn we will see the usefulness/efficacy of these laws and regulations; (b) Efforts to provide punishment for anyone who violates a norm of statutory regulations, because that person should be given punishment according to the severity/lightness of the offense. Punishment is commensurate/appropriate if the person is intentionally violating a norm, because the person who commits the violation on purpose can be assumed to have bad intentions / intentions, so that he deserves a punishment/reward in kind; (c) To deter someone from committing violations of the law

again. With the imposition of sanctions, it is hoped that there will be no more violations; (d) Prevent other parties from committing violations of the law. With the threat of sanctions it is hoped that people will not violate the law (Setiadi, 2009).

The description above shows how important a sanction is, especially administrative sanctions for BPHTB taxpayers who deliberately commit violations as mentioned above. "In terms of implementation, administrative sanctions are actually more effective than criminal sanctions, because administrative sanctions can be carried out directly by administrative officials without waiting for a court ruling, as long as the specified conditions are not obeyed or violated. Meanwhile, criminal sanctions must wait for a court decision that has obtained permanent legal force" (Setiadi, 2009).

Second, liability according to criminal law. Although it cannot be accounted for administratively, but dishonest BPHTB taxpayers who fabricate the transaction value as NPOP, can be held accountable according to criminal law. Criminal liability for BPHTB taxpayers who manipulate the transaction value as NPOP is regulated in Article 174 of Law Number 28 of 2009 which states that: (1) Taxpayers who due to their negligence do not submit Regional Tax Returns (SPTPD) or fill in incorrect or incomplete information or attach false information so as to cause losses to regional finances can be sentenced to imprisonment for a maximum of one year or a fine. a maximum of two times the amount of unpaid or underpaid taxes; (2) Taxpayers who deliberately fail to submit SPTPD or fill in incorrect or incomplete information or attach false information so that they are detrimental to regional finances can be punished with imprisonment of up to two years or a maximum fine of four. times the amount of unpaid or underpaid taxes.

The actions of BPHTB taxpayers can be subject to this article because the elements of the article have been fulfilled, namely: (a) Article 174 paragraph (1) of Law Number 28 of 2009: Taxpayers, namely people who have met the requirements to be subject to the obligation to pay BPHTB tax in accordance with the prevailing laws and regulations; Because his/her negligence did

not submit SPTPD, or filled it incorrectly or incompletely, or attached incorrect information; Adverse regional finances; (b) Article 174 paragraph (2) Law Number 28 of 2009: Taxpayers, namely people who have met the requirements to be subject to the obligation to pay BPHTB tax in accordance with the prevailing laws and regulations; Intentionally not submitting SPTPD, or intentionally filling it in incorrect or incomplete, or deliberately attaching false information; Adverse regional finances.

Article 174 paragraph (1) of Law Number 28 of 2009 is an act of BPHTB taxpayers committed because of their negligence (accidentally), while Article 174 paragraph (2) of Law Number 28 of 2009 is an act that is done on purpose. If we look at the acts committed by the taxpayer as described above, it can be said that the act is not actually a criminal act as is the case with a common criminal act. Initially, the act did not constitute a criminal act, but was later criminalized into a criminal act.

This is in accordance with the function of criminal law is to protect and at the same time maintain a balance between the interests of the State and society, the interests of the State and individuals and the interests of the perpetrator of the crime and the victim. In order to protect and maintain a balance between the interests of the State and the interests of the community, the interests of individuals and the interests of the perpetrator of the criminal act and the victim and to prevent the occurrence of criminal acts, it is necessary to criminalize several acts that were previously not criminal acts (Rizanizarli, 2014).

Based on the description above, it can be understood that dishonest taxpayers, who report the transaction value of the acquisition of land and/or building rights not properly, manipulate the transaction value that is not in accordance with the NPOP, can be held accountable according to the criminal law. If this is done intentionally, a maximum imprisonment of two years may be imposed or a maximum fine of four times the amount of unpaid or underpaid taxes. If the act is committed because of his negligence, he may be subject to a maximum imprisonment of one year or a

maximum fine of two times the amount of unpaid or underpaid taxes. This is a natural thing, especially if the taxpayer's actions can harm state finances.

CONCLUSIONS

In Law Number 28 of 2009 and a number of Regional Regulations or Regency/City Qanuns, there is no administrative sanction imposed on taxpayers who manipulate transaction values in order to reduce BPHTB. Even though the taxpayer's actions are very detrimental to regional finances, because they do not enter the Regional Treasury as PAD. Law Number 28 of 2009 and a number of Regional Regulations or Regency/City Qanuns only regulate administrative sanctions for PPAT/Notaries who sign deeds of transfer of rights to land and/or buildings, whose taxpayers have not paid BPHTB or have not submitted proof of BPHTB payments. Whereas taxpayers who manipulate transaction values in order to reduce BPHTB are not subject to administrative sanctions, but are only subject to criminal sanctions as stipulated in Article 174 of Law Number 28 of 2009. In this case the maximum sentence is one year or a maximum fine of two times the tax payable for a taxpayer who commits due to his negligence and a maximum penalty of two years or a maximum fine of four times the tax payable for the taxpayer who commits it on purpose.

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