

**VALIDASI BPHTB TERHADAP PENETAPAN NILAI TRANSAKSI
JUAL BELI TANAH DAN/ATAU BANGUNAN BERDASARKAN
KESEPAKATAN PENJUAL PEMBELI DI KOTA
DENPASAR DAN KAITANNYA DENGAN
ASAS *PACTA SUNT SERVANDA***

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ABSTRAK

Penelitian ini bertujuan untuk mengkaji dan menganalisis pelaksanaan validasi BPHTB terhadap nilai jual beli tanah dan/atau bangunan yang telah disepakati oleh para pihak berdasarkan asas *pacta sunt servanda* namun berbeda dengan yang ditetapkan oleh pejabat Bapenda kota Denpasar dan penegakan asas kepastian hukum dalam proses validasi BPHTB di kota Denpasar.

Penelitian ini bersifat deskriptif analitis dengan jenis penelitian yang menggabungkan jenis penelitian normatif dan penelitian empiris. Penelitian hukum normatif ialah penelitian yang dilakukan dengan cara meneliti bahan pustaka atau data sekunder dan penelitian empiris ialah penelitian dengan melihat suatu kenyataan hukum dalam masyarakat. Subyek penelitian ini ialah pejabat pajak Badan Pendapatan Daerah (BAPENDA) kota Denpasar dan Notaris/Pejabat Pembuat Akta Tanah di kota Denpasar dengan teknik pengambilan sampel secara *purposive sampling*. Hasil penelitian yang diperoleh baik data primer maupun data sekunder dianalisis secara kualitatif dan disajikan secara deskriptif.

Berdasarkan hasil penelitian diketahui bahwa pelaksanaan validasi BPHTB di Kota Denpasar diutamakan menggunakan Peta Indikasi Nilai Tanah (INT). Penjual pembeli yang sepakat harga jual beli menimbulkan akibat hukum yaitu asas *pacta sunt servanda* yang berlaku dan mengikat layaknya UU bagi para pihak selama perjanjian dilakukan dengan itikad baik dan tidak bertentangan dengan UU, kesusilaan, ketertiban umum. Jika melanggar Batasan itu, maka tidak berlaku asas tersebut dan beresiko batal demi hukum serta melakukan pelanggaran hukum dibidang pajak dan ada sanksi sesuai Perda kota Denpasar tentang BPHTB. Peta INT yang digunakan dalam pengenaan BPHTB jual beli yang hanya bisa diakses petugas dan tidak diregulasikan menimbulkan ketidakpastian hukum karena dasar pemungutan pajak harus dengan undang-undang maupun peraturan perundang-undangan dibawahnya yang jelas, tegas, dan tidak mengandung arti ganda.

Kata kunci : validasi BPHTB, harga transaksi, *Pacta Sunt Servanda*

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THE VALIDATION OF BPHTB ON THE DETERMINATION OF TRANSACTIONS VALUE OF LAND AND/ OR BUILDING SALES AND PURCHASE BASED ON AGREEMENT OF BUYER SELLERS IN DENPASAR AND ITS ASSOCIATION WITH *PACTA SUNT SERVANDA* PRINCIPLE

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ABSTRACT

This study has purpose to examine and analyze the implementation of BPHTB validation on the value of sale and purchase of land and/ or buildings agreed upon by the parties based on the principle of *pacta sunt servanda* which is different from those set by Denpasar Bapenda officials and the enforcement of legal certainty in the BPHTB validation process in Denpasar.

This study was conducted using a descriptive analytical research with a type of research that combines normative and empirical research. Normative legal research is a research conducted by examining library materials or secondary data and empirical research is a research conducted by observing a legal reality in the society. The subjects of this study were the tax authority of the Regional Revenue Agency (BAPENDA) of Denpasar and Notary/ Land Deed Officer in Denpasar with purposive sampling technique. The results of the study obtained from both primary and secondary data were analyzed qualitatively and presented descriptively.

Based on the results of the study, it can be noticed that the implementation of BPHTB validation in Denpasar was prioritized using the Land Value Indication Map (INT). The seller and the buyer who agrees with the sale price raises legal consequences, namely the principle of *pacta sunt servanda* that applies and binds the Law according to the parties during the agreement which is carried out in good faith and does not conflict with Law, decency, public order. If it violates the Limitation, then the principle is not applied and is at risk of being null and void and committing a violation of the law in the field of taxation and there are sanctions according to the Denpasar City Regulation concerning BPHTB. INT maps that are used in the imposition of BPHTB buying and selling that can only be accessed by officers and are not regulated cause a legal uncertainty since the basis for tax collection must be with laws and regulations under it that are clear, firm, and do not contain multiple interpretations.

Keywords: validation of BPHTB, Transactions value, *Pacta Sunt Servanda*

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