

OWNERSHIP OF LAND RIGHTS DUE TO THE EXISTENCE OF DUPLICATE PBB SPPTS FOR A PLOT OF LAND THAT IS NOT OWNERSHIP RIGHTS

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Abstract: Land rights are rights that contain the authority for the subject of the rights (person or legal entity) to use and take advantage of the land on which the land area is attached. The affirmation of the land rights is written in the formulation of Article 4 paragraph (2) of the UUPA, namely "The land rights referred to in paragraph (1) of this article provide the authority to use the land in question, as well as the earth and water bodies and the space above them are only needed for direct interests related to the use of the land within the limits according to this law and other higher legal regulations". The problem of double PBB is quite disturbing, double PBB is also one of the problems of the failure to implement the taxation system in Indonesia. Most cases of double PBB arise due to the lack of awareness of the community or landowners of the legal certainty of the land they own, then related to the transfer of land rights that violate the rules can also cause double PBB, for example if the transfer of land rights is not accompanied by valid data according to applicable law.

Keywords: Land Rights, Dual PBB, Ownership Rights.

Introduction

Land is one of the sources of life and livelihood for humans and society so that it becomes the most basic human need, with the belief that land is highly valued and beneficial for human life, even land and humans cannot be separated. Humans live and develop and carry out activities on land so that at all times humans are in contact with land (Siahaan, 2003).

The main basis for land management in Indonesia is regulated in Article 33 Paragraph (3) of the 1945 Constitution which reads: "The earth, water and natural resources contained therein are controlled by the State and used as much as possible for the prosperity of the people". Land is one of the natural resources that is very close to individual rights, where every individual needs the land to meet basic needs, both building shelters, managing land to earn income and so on (Chomzah, 2002).

Land rights are rights that contain the authority for the subject of rights (people or legal entities) to use and take advantage of the land on which the rights are attached. The affirmation of the land rights is written in the formulation of Article 4 paragraph (2) of the UUPA, namely "The land rights referred to in paragraph (1) of this article provide the authority to use the land in question, as well as the earth and water bodies and the space above them are only needed for direct interests related to the use of the land within the limits according to this law and other higher legal regulations". Land problems can befall anyone, there can be conflicts between citizens, between citizens and institutions, and even between citizens and the government. If we look at such conditions, land can be said to be a source of

disaster. It can be said to be a source of disaster if its ownership is not in accordance with procedures and is not equipped with proof of ownership. In fact, if we think about it further, for land that already has proof called a certificate, it does not guarantee security in land ownership, and we can imagine if land ownership is not equipped with a certificate. It is said that for land ownership which has been equipped with evidence of a certificate, it does not guarantee 100% security, because what is called evidence of a certificate is the strongest evidence but not absolute, meaning that the certificate can still be denied its validity if there is another party who can provide the opposite proof.

Literature Review

1. Land Rights

Before moving on to understanding land ownership rights, it is necessary to understand the meaning of land rights first. What is meant by land rights are rights that give authority to those who have the right to use or take advantage of the land they own. Land rights are the right to control land which contains a series of authorities, obligations and/or prohibitions for the right holder to do something regarding the land to which he has rights. Something that is permissible, obligatory or prohibited to do, which is the content of tenure rights, is the criterion or benchmark among land tenure rights regulated in Land Law (Harsono, 2003).

With the right to control from the State as stated in Article 2 paragraph (1) UUPA, namely: "on the basis of the provisions of Article 33 paragraph (3) of the Constitution and the matters as intended in Article 1, earth, water and space ", including the natural wealth contained therein, is controlled at the highest level by the State, as the ruling organization of all the people." Based on these provisions, the State has the authority to determine land rights owned by and/or granted to individuals or legal entities that meet the specified requirements. This authority is regulated in Article 4 paragraph (1) and paragraph (2) of the UUPA, namely "In Article (1): "On the basis of the State's right to control as referred to in Article 2, it is determined that there are various kinds of rights to the surface of the earth, called land, which can be given to and owned by people either alone or together with other people and legal entities". In paragraph (2): "The rights to land referred to in paragraph (1) of this Article provide the authority to use the land in question as well as the earth and water bodies and the space above them only as needed for the interests of the directly related to the use of the land, within the limits according to this law and other higher legal regulations".

Based on this article, the State determines land rights as regulated in Article 16 paragraph (1) of the UUPA, namely: a) Ownership Rights; b) Cultivation Rights; c) Building Rights; d) Usage Rights; e) Lease Rights; f) Land Clearing Rights; g) Forest Product Collection Rights. Other rights not included in the rights mentioned above which will be determined by law as well as temporary rights as referred to in Article 53. The temporary rights to the land mentioned above are further regulated in Article 53 paragraph (1), namely: "The temporary rights as referred to in Article 16 paragraph (1) letter h, are Mortgage Rights, "Profit Sharing Business Rights, Right to Hire and Right to Lease Agricultural Land are regulated to limit their characteristics that are in conflict with this law and these rights are attempted to be eliminated within a short period of time".

Foreign Citizens or foreign legal entities that have representatives in Indonesia very limited, only the right to use or the right to rent. This is as regulated in Article 42 and Article 45 of the UUPA. For legal entities established under Indonesian law and domiciled in Indonesia, they may have all rights to land except for ownership rights which are limited to

legal entities determined by the government, as regulated in Article 30 paragraph (1) letter b and Article 36 paragraph (1)) letter b UUPA.

Method

A study cannot be said to be research if it does not have a research method (Koto & Faisal 2021). The research method is a process of collecting and analyzing data that is carried out systematically, to achieve certain goals. Data collection and analysis is carried out naturally, both quantitatively and qualitatively, experimentally and non-experimentally, interactively and non-interactively (Koto, 2020). The research method used is normative juridical research, namely legal research conducted by examining literature or secondary data (Koto & Zainuddin 2022). In qualitative research, the process of obtaining data is in accordance with the research objectives or problems, studied in depth and with a holistic approach (Rahimah & Koto, 2022).

Result and Discussion

Indonesia is one of the developed countries in the world that continues to carry out development in various sectors throughout the regions in Indonesia. To meet the financing needs of this development requires a large budget. The Indonesian government optimizes the sources of revenue in the country. When carrying out development, each country requires quite a large cost, therefore the source of funds that can be expected to increase can come from taxes. On this occasion, the Land and Building Tax will be discussed. One way to meet the operational needs of government administration can be obtained from the tax sector, where tax is an important source in terms of state revenue for financing development. Tax revenue has an important role for the government to create an expansion of national fiscal capacity which leads to increased government spending. Tax is knowledge that must be possessed by every taxpayer, mastery of tax regulations for taxpayers will increase compliance with tax obligations in order to avoid sanctions that apply in general tax provisions (Hirawan and Widyasari, 2021).

Land and Building Tax (PBB) is a State Tax imposed on land and/or buildings based on Law Number 12 of 1985 concerning Land and Building Tax as amended by Law Number 12 of 1994. In other words, Land and Building Tax is a state tax, most of the revenue of which is regional income which is used, among other things, for the provision of facilities that are also enjoyed by the central government and regional governments. The definition of land here includes the surface of the earth and the body of the earth beneath it. And a building is a technical construction that is planted or placed permanently on land and/or waters and used as a place of residence or place of business.

Based on Law Number 1 of 2022 concerning Financial Relations Between the Central Government and Regional Governments, specifically in Article 4 paragraph (2), it states that the collection of land and building tax is then delegated to the regional government to make Regional Regulations concerning PBB. In Medan City, Medan City Regional Regulation Number 3 of 2011 concerning Rural and Urban Land and Building Tax was issued. Determination of land and building tax is carried out by conducting data collection in the region. In Article 9 of Medan City Regional Regulation Number 3 of 2011 concerning Rural and Urban Land and Building Tax, it is stated that Data Collection is carried out using the Tax Object Notification Letter (SPOP). SPOP is a letter used by Taxpayers to report data on subjects and objects of urban Land and Buildings in accordance with the provisions of regional tax laws and regulations. Then, based on the SPOP, the regional government will

issue a Tax Payable Notification Letter (SPPT), SPPT is a letter used to notify the amount of Urban Land and Building Tax owed to taxpayers.

Basically, whoever controls a piece of land is the one who is required to pay PBB based on the SPPT of the piece of land that is controlled and utilized by him. Therefore, sometimes there are many land disputes because someone controls a piece of land and then he takes care of the PBB from that piece of land while someone else claims that the land is his. The problem will be more complex if there is no strong legal basis on the land as evidence that shows ownership of the piece of land, if only a letter of proof of payment of PBB, of course everyone can have it, therefore there are many cases of double PBB from the same piece of land. To make PBB payments is through the Land and Building Tax Payable Notification Letter (SPPT PBB). The Tax Payable Notification Letter, hereinafter abbreviated as SPPT, is a letter used by the Regional Government to notify the amount of tax owed to taxpayers. The main function of the SPPT PBB is as a document that shows the amount of debt on PBB that should be paid by the taxpayer at a predetermined time. The existence of double PBB payments is of course caused by the existence of double SPPT PBB. The Regional Government in this case the Regional Revenue Agency (Bapenda) is still having difficulties related to the existence of duplicate SPPT PBB. Quoted from the Bapenda website, it states that one of Bapenda's homeworks to date is the existence of duplicate Land and Building Tax Payable Tax Notification Letters (SPPT PBB). For this reason, in order to optimize regional tax revenue, Bapenda is verifying and cleansing data on Land and Building Tax (PBB) objects.

Conclusion

The problem of double PBB is quite disturbing, double PBB is also one of the problems of the non-implementation of the taxation system in Indonesia. Most cases of double PBB arise due to the lack of awareness of the community or landowners of the legal certainty of the land they own, then related to the transfer of land rights that violate the rules can also cause double PBB, for example if the transfer of land rights is not accompanied by valid data according to applicable law.

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