

**UNLAWFUL ACTS BY THE NOTARY/PPAT AGAINST LAND RIGHTS  
ACQUISITION DUTY (BPHTB) (STUDY OF DETERMINATION OF BPHTB  
CORRUPTION SUSPECTS IN BATU CITY GOVERNMENT)**

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**Abstract**

In practice, Notaries/PPATs often act as intermediaries for depositing BPHTB payments to facilitate the process of transferring land rights. The problem is that several Notary/PPAT individuals often abuse their authority in the realm of unlawful acts in carrying out their office in paying BPHTB Tax. This type of research is Normative Juridical. Based on the results of the discussion in this paper, the consequences of unlawful actions by a Notary in terms of reducing the land transaction price below the market value price by collaborating and providing compensation to other parties carries criminal and administrative sanctions. The conclusion from this discussion is that Notaries are responsible for helping clients pay BPHTB, not abusing their authority by lowering transaction prices and providing compensation to unscrupulous state administrators, thereby causing losses to the state. The legal consequences received by Notaries who abuse their authority are subject to criminal and administrative sanctions against their position. The unlawful nature of the criminal law alleged against the notary is stated expressively *verbis* in the formulation of the offense as having consequences as an element that must be and. Acts against the law can be used as a basis for criminal liability by fulfilling the formal and material elements that form the basis for criminal acts in BPHTB practice.

**Keywords: Unlawful Acts, BPHTB, Sanctions**

**A. INTRODUCTION**

Taxation is considered to have an important role in development because it is one of the largest sources of state income (Nugraheni & Purwanto, 2015). That is why, people who neglect/neglect to pay taxes have a negative impact on the country's development process. One potential source of tax and whose existence must be clarified based on the current economic situation and development of the country is Land Acquisition and Building Rights Tax (BPHTB). In land buying and selling transactions, there are tax obligations that need to be fulfilled by both parties. The seller is obliged to fulfill responsibility for income tax, while the buyer is responsible for BPHTB. BPHTB is a type of factual tax or material tax that is objective or substantive in nature where the tax payable is initially based on the taxpayer, taking into account who the taxpayer is. Responsibility for this tax must be fulfilled first during the process of buying and selling land or buildings.

Notaries are appointed by the government. Notaries are responsible for general administrative tasks in the field of civil law (Muhjad, 2018). Notaries are legally authorized to make deeds

with complete and correct evidentiary value. Thus, the Notary's status is independent and non-partisan. Its duties and authority are the product of definitive legal decisions and guarantees.

Income from land and building rights occurs through the transfer of legal activity rights. Legal actions sometimes take place between individuals and legal entities on the basis of current laws and regulations. Notaries play a special role in repayment of BPHTB. In tax collection, there are three systems and procedures when determining the amount of tax that must be paid by taxpayers, namely the official tax system. In tax collection, especially at BPHTB, taxpayers are a group that actively fulfills their tax responsibilities. Notaries can actively collect funds from taxpayers, meaning that taxpayers are able to guarantee repayment from BPHTB to the Notary. However, in practice, land and/or building sale and purchase negotiations are obtained where the land and/or building acquirer entrusts BPHTB payments to a Notary. However, the Notary agreed to the BPHTB payment by lowering the transaction price and cooperating with government officials with a reward later.

In practice, money custody is often accepted by several Notaries whose main goal is to facilitate the transaction process. Notaries have obligations in accordance with Article 16 of Law Number 2 of 2014, amendments to Law Number 30 of 2014 concerning the Position of Notaries), namely that one of them must act honestly and protect the needs of the parties in preparing the deed. Apart from that, the Notary's code of ethics also regulates the good behavior and personality of the person carrying out the duties of a Notary. Some people abuse their power and position, so this activity is considered "embezzlement"

In this case, investigators from the Batu City District Prosecutor's Office named the Batu City Regional Financial Agency (ASN) as a suspect in corruption, irregularities in the collection of regional taxes in the form of Land and Building Rights Acquisition Fees (BPHTB). Apart from ASN, the Batu Prosecutor's Office also named a private party as a suspect. One suspect with the initials AFR is a Tax Analyst Staff at the Batu City Bapenda. Meanwhile, the second suspect, with the initials J, works as a private sector agent or land broker. Both are suspected of causing state financial losses amounting to IDR 1,084,311,510.

Head of Intelligence at the Batu City Prosecutor's Office, Edi Sutomo, said that the investigation into the case had been carried out since January 17 2022. A total of 53 people have been examined as witnesses. They consist of ASN within the Batu City Government, land deed making officials (PPAT) and taxpayers. From the results of the investigation, it was revealed that the actions of the two suspects were proven to be against the law by reducing the NJOP (Sales Value of Tax Objects) or changing the class of tax objects without a determination by the Mayor of Batu. This violates article 51 paragraph (3) in the Batu City Regional Regulation Number 7 of 2019 concerning Regional Taxes in conjunction with article 15 paragraph (3) of the Batu City Mayor's Regulation Number 54 of 2020 concerning Procedures for Collecting PBB. The suspect AFR acted according to his title and position as operator of the SISMIOP (Tax Object Information Management System) application. The AFR suspect has changed the NJOP by changing the tax object class, creating a new Tax Object Number (NOP). Then print the SPPT-PBB without complying with the provisions. "This action resulted in the amount of BPHTB and PBB that should have been paid by

taxpayers being reduced," said Edi when contacted via short message on Thursday (8/9/2022). Meanwhile, suspect J had cooperated and given a sum of money to suspect AFR for the purposes of reducing BPHTB, who then made a profit.

The actions of the two suspects have caused financial losses to the state because there is a difference between the BPHTB and PBB determined by the Batu City Government and those that have been changed by the suspects. Both suspects are caught in Article 2 paragraph (1) or Article 3 in conjunction with Article 18 of Law Number 31 of 1999 concerning the Eradication of Corruption Crimes as amended by Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes in conjunction with Article 55 paragraph (1) 1 of the Criminal Code. The maximum prison sentence imposed by the two suspects is 20 years. The two suspects are currently being held in Malang Class I Prison.

## **B. DISCUSSION**

### **1. Responsibility of a Notary in the case of proven abuse of authority in paying Land and Building Rights Acquisition Fees (BPHTB)**

In paying BPHTB tax, if the Notary is determined to be a suspect or convicted of carrying out unlawful activities, the tax payment should be paid to the treasury. Notary as an official who because of his position can authorize third party deposits to the state treasury based on the sale and purchase of land and/or buildings, buyers mostly entrust BPHTB payments to the Notary because they don't want to be bothered. This notary authorized to verify that the allottee has deposited the land acquisition and rental fees (BPHTB) that must be paid to the Treasurer before the official signs the certificate. This is an opportunity for the Notary to embezzle the transaction amount and collaborate with local government officials entrusted to him by the taxpayer.

H abib Adjie believes that responsibility is guaranteed due to the characteristics of the denial and its legal impact. Notary responsibilities arise from criminal, administrative and civil responsibilities. This question illustrates the consequences of the Notary's denial or carelessness in executing the notarial deed. If the official in charge, namely the Notary, is seen before the Taxpayer makes the BPHTB payment for the land and/or the land deed, it remains valid, but the notary's administrative sanction in the form of a fine will be imposed for the violation. As a Notary, in buying and selling land and/or buildings you must always prioritize vigilance along with your obligations, because it can be said that the Notary is the main partner of the State. A Notary is expected to be able to compare or interpret the prevalence of property prices, whether they are common or not. In buying and selling, a Notary is not expected to participate as a Notary in carrying out price agreements between the seller and the buyer. It is worth confirming that behind the various tax issues related to Notaries, it appears that the existence of tax responsibilities, whether general or specific, then the responsibility of a Notary becomes increasingly heavier due to related laws, sanctions, laws related to Notaries, such as Notaries. carelessly carrying out his duties as an intermediary between the tax authorities and taxpayers.

BPHTB is the responsibility of the party receiving the land and/or development lease, not the Notary as regulated in Article 1 paragraph (45) of the Regional Tax and Regional Retribution Law No. 28 of 2009, which states: "Taxpayers are individuals or entities, including taxpayers, tax collectors, who have tax rights and obligations based on local tax laws and regulations. Notaries who work together to reduce the value of transactions by collaborating with local government officials by providing compensation can be charged under the field of Corruption Crimes in terms of bribery.

## **2. Legal Consequences Against Notaries If Proven to Abuse Authority in Payment of Fees for Acquisition of Land and Building Rights (BPHTB) to Reduce the Selling Price of Tax Objects**

BPHTB is the responsibility of the party receiving the land and/or development lease, not the Notary as regulated in Article 1 paragraph (45) of the Regional Tax and Regional Retribution Law No. 28 of 2009, which states: "Taxpayers are individuals or entities, including taxpayers, tax collectors, who have tax rights and obligations based on local tax laws and regulations. The Indonesian self-assessment system allows taxpayers to calculate or pay the tax owed themselves by calculating and paying the tax that must be paid, the Notary can support the taxpayer as a third party. Notaries who collaborate with local government officials to reduce the selling value of BPHTB or PPh tax objects who deal precisely with their duties can be charged under the criminal act of Corruption which results in the tax deposit not being appropriated into government money. The interpretation regarding embezzlement is regulated in Chapter XXIV (book II) of the Criminal Code, consists of 5 articles (372-376). One of them, namely Article 372 of the Criminal Code, is a criminal act of embezzlement in the main form whose formulation reads: "*Any person who intentionally unlawfully controls an object which should or partly belongs to another person who is in his possession not because of a crime, because he is guilty of embezzlement, shall be punished.*" with a maximum imprisonment of 4 (four) years or with a maximum fine of 900 (nine hundred) million rupiah."

Legal consequences for Notaries who are guilty of embezzling taxpayers' money by paying land and building taxes according to criminal law, Article 374 of the Criminal Code, with a maximum fine of 5 years, according to tax law. Notaries in accordance with Article 41 C Paragraph 4, are threatened with imprisonment for a maximum of 1 (one) year and a fine of a maximum of IDR 500,000,000 (Five Hundred Million Rupiah), Article 8 of the Corruption Crime Law already applies to Notaries. Article 415 of the Criminal Code, imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 150,000,000,- (one hundred and fifty million rupiah) and a maximum of Rp. 750,000,000,- (seven hundred and five tens of millions of rupiah). Regarding the criminal act of embezzlement carried out by a Notary, aspects of the Notary's responsibility for breach of duty and negligence of other Notary agents (clients) are discussed first. Thus, actions that conflict with the Notary Law (*wedersrechtelijk*) can be considered civil, administrative and criminal, even though the UUJN does not provide for criminal sanctions.

In Article 63 paragraph (2) of the Criminal Code, it is stated that: "*If an act falls within a general criminal regulation, it is also regulated in a special criminal regulation, then only the*

*specific one is applied.*" This section can be interpreted to mean that in the case of a criminal offense where special criminal provisions can also be punished with additional criminal penalties, special criminal provisions apply. If the violation is not regulated by special criminal provisions, it will result in general punishment, namely the Criminal Law. Basically, if a Notary has committed a criminal act, he can be given criminal sanctions based on the Criminal Code, even though the UUJN does not formulate regulations regarding criminal sanctions. A notary is useless against the law, with impunity or cannot be refuted, a notary can be sued if it can be shown in court that the notary is planning or not planning to carry out actions at the same time as the parties and the stated aims and objectives will only benefit the party or cause harm, if there is evidence, The notary must be punished. A criminal act (*strafbaar feit*) is any activity that is prevented by law, combined prohibitions and ultimatums (sanctions) in the form of specific sanctions against anyone who exceeds the stated prohibitions. What is meant by the official behavior of a Notary is the actions of a Notary that are prohibited by law in carrying out their duties and obligations, namely that the Notary's actions are in the nature of a criminal act (*strafbaar feit*).

### **3. Acts Against the Criminal Law of Notaries Convicted of Embezzling Land Rights Acquisition Fees (BPHTB) BPHTB Corruption Study in Batu City Government**

Unlawful is the equivalent of the word *wederrechtelijk* in Dutch which indicates the illegal nature of an action or an intention. Van Bemmelen interprets against the law in two senses, namely contrary to appropriate accuracy in social interactions regarding other people or goods, and contrary to the obligations stipulated by law. Meanwhile, Suringa defines against the law in three meanings, namely without one's own rights and authority, contrary to the rights of others, and contrary to objective law. Van Hattum believes that the word *wederrechtelijk* must be limited only to written law or is in conflict with written law. This is similar to Simons' opinion that breaking the law is an element of a crime as long as it is stated explicitly in the law (Mahrus Ali, 2017: 141).

There are three views on elements of unlawfulness, namely the formal view, the material view and the intermediate view. (Eddy Hiariej, 2016: 226). Looking at the definition of against the law according to Suringa, this definition is a middle view. As in Suringa's opinion, the nature of being against the law is an absolute element if it is mentioned in the formulation of the offense, otherwise, breaking the law is only a sign of an offense (Eddy Hiariej, 2016: 230). This means that the element against the law becomes absolute and has the consequence of being proven by the public prosecutor if it is mentioned expressively *verbis*, on the other hand, if the word against the law is not contained in the formulation of the offense then this element does not need to be proven by the public prosecutor even though the element is still deemed to exist.

According to the doctrine of criminal law, there are two types of unlawful nature, namely the nature of being against the formal law and the nature of being against the material law. The nature of being against formal law is that an act is said to be against the law, if the act is punishable by crime and is formulated as an offense in the formulation of the law (Soedarto, 1975: 65). In the nature of formal unlawfulness there are two discussions, namely unlawful acts are acts which have been formally formulated in the Law as criminal acts and the

unlawful nature of acts which have been formulated in the Law can only be abolished by Law (Tongat, 2008: 196).

The doctrine of the unlawful nature of material law holds that the unlawful nature of actions is not only based on written law, but is also based on unwritten legal principles (Soedarto, 1975: 63). According to Moeljatno, the nature of breaking the material law is divided into two more, namely the nature of breaking the law materially with a negative function (even though the act fulfills the elements of an offense but does not conflict with the sense of justice of society, then the act is not punished) and the nature of breaking the law materially with a positive function (even though the act is not punished). regulated in written law, but if the act is considered reprehensible because it is not in accordance with the sense of justice and social norms in society, then the act can be punished) (Eddy Hiariej, 2016:243)

The team of investigators from the Batu City District Prosecutor's Office named the state civil servant (ASN) of the Batu City Regional Financial Agency as a suspect in corruption, irregularities in the collection of regional taxes in the form of Land and Building Rights Acquisition Fee (BPHTB) and Land and Building Tax (PBB). One suspect with the initials AFR is a Tax Analyst Staff at the Batu City Bapenda. Meanwhile, the second suspect, with the initials J, works as a private sector agent or land broker. Both are suspected of causing state financial losses amounting to IDR 1,084,311,510. Head of Intelligence at the Batu City Prosecutor's Office, Edi Sutomo, said that the investigation into the case had been carried out since January 17 2022. A total of 53 people have been examined as witnesses. They consist of ASN within the Batu City Government, land deed making officials (PPAT) and taxpayers. From the results of the investigation, it was revealed that the actions of the two suspects were proven to be against the law by reducing the NJOP (Sales Value of Tax Objects) or changing the class of tax objects without a determination by the Mayor of Batu.

Regarding the case above, before starting to dissect the unlawful nature of criminal acts, we start from the definition. The definition of Fee for Acquisition of Land and Building Rights (BPHTB) in Article 1 number 41 of Law Number 28 of 2009 concerning Regional Taxes and Regional Retributions is a tax on the acquisition of rights to land and/or buildings. This definition is similar to the sound of Article 1 number 7 PERWALI Batu City Number 19 of 2021 concerning Procedures for Collecting BPHTB.

Apart from the definition, the PERWALI emphasizes in Article 10 Paragraph 4 that Bapenda officers only carry out research/verification of administrative completeness regarding each receipt of SSPD documents as documents that must be attached in accordance with the provisions of Article 10 Paragraph 3 in the same regulation.

In addition, the Tax Object Sales Value Determination, hereinafter referred to as NJOP, is carried out or determined by the Mayor based on the tax object. This is stated in Article 15 Paragraph 3 of PERWALI Batu City Number 54 of 2020 concerning Procedures for Collecting PBB. Looking at these provisions, of course AFR's actions have violated the administrative PERWALI Batu City Number 54 of 2020 by changing the NJOP and lowering or changing the tax object class, creating a new tax object number, then printing the SPPT-PBB which does not comply with the provisions. Also following, PERWALI Batu City Number 19 of 2021. So, how does criminal law view this case, especially from the

perspective of its unlawful nature? Is the element of unlawfulness an obligation that must be proven by the Public Prosecutor? And what criminal liability can be imposed?

Answering the first question, the author quotes Suringa's statement that if a Land Deed Official (PPAT) is proven to have committed an act against the law then it is interpreted in three meanings, namely without his own rights and authority, contrary to the rights of others, and contrary to objective law. So the PPAT's actions in the chronology of the case fulfill three meanings in terms of being against the law. The first meaning is, without any rights and authority of their own, as in the provisions mentioned above, the task of Bapenda officers is to research/verify the administrative completeness of every SSPD document received as the documents that must be attached. On the other hand, the authority to determine NJOP is the Mayor, not Bapenda officials, especially tax analysts. This is related to the second meaning, conflicting with other people's rights.

The third meaning, contrary to objective law, has also been fulfilled as per the provisions of PERWALI Kota Batu Number 54 of 2020 on Procedures for Collecting PBB and PERWALI Kota Batu Number 19 of 2021 concerning Procedures for Collecting BPHTB which PPAT is suspected of violating. Apart from that, Article 372 of the Criminal Code in conjunction with Article 374 of the Criminal Code and Article 2 in conjunction with Article 3 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes.

Then, answering the second question regarding whether the element is or is against the law is an obligation that must be proven by the Public Prosecutor. The things that must be dissected for the first time are the elements of several of the criminal articles above.

*Article 372 of the Criminal Code:*

*Any person who intentionally and unlawfully owns something which wholly or partly belongs to another person, but which is in his or her control not because of a crime, is threatened with embezzlement, with a maximum imprisonment of four years or a maximum fine of IDR 900 thousand.*

*Article 374 of the Criminal Code:*

*Embezzlement committed by a person whose control of goods is due to a work relationship or because of a search or because he received wages for it, is punishable by a maximum imprisonment of five years.*

Elements in these two articles:

1. Whoever;
2. Intentionally and unlawfully;
3. Owning goods wholly or partly belonging to another person
4. Not because of a crime
5. Done because there is a work relationship or because of dancing or getting paid.

Article 2 paragraph (1) Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes.

*Any person who unlawfully commits an act of enriching himself or another person or a corporation which can harm state finances or the state economy is punished with*

*imprisonment for a minimum of 4 years and a maximum of 20 years and a fine of at least 200 million rupiah and a maximum of 1 billion rupiah.*

Elements in the article above:

1. Each person;
2. Unlawfully;
3. Enrich yourself/others/corporation;
4. Harming state finances or the state economy;

Article 3 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes.

*Any person who, with the aim of benefiting himself or another person or a corporation, abuses the authority, opportunity or means available to him because of his position or because of a position that can harm the state's finances or the state's economy is subject to life imprisonment, or imprisonment for a minimum of 1 year and a maximum of 20 years and/or a fine of at least 50 million rupiah and a maximum of 1 billion.*

Elements in the article above:

1. Each person;
2. With the intention of;
3. Benefit yourself or any person or corporation;
4. Abuse existing authority, opportunities or means;
5. Because of position or position;
6. Which is detrimental to state finances or the country's economy.

Looking at the article elements of the four articles above, we clearly see that the word against the law, some of which are stated expressively *in* the formulation of the offense, and some which are not clearly stated. Refers to three views on the nature of unlawfulness, namely the formal view, material view and intermediate view. Or the division of the nature of being against the law into the nature of being against the formal law and the nature of being against the material law. Article 372 of the Criminal Code is part of the nature of formally formulating against the law which has legal consequences as an element that must be proven by the public prosecutor. Proof of the elements of the article is cumulative in nature as the type of offense is included in the classification of material offenses, namely offenses that focus on the consequences (Eddy Hiariej, 2016: 136). Apart from that, Article 372 of the Criminal Code also includes special unlawful characteristics, which require that the unlawful nature must be written down for an act to be punishable. A similar thing also happened to elements of Article 2 paragraph (1) of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes.

The elements of Article 3 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption are different from the three previous articles. In the elements of the article, the word against the law is not found, which is called expressive *verbis*. So, this article is a material violation of the law which does not require the word unlawful to be written in the formulation of the offense. The nature of violating material law is automatically attached to the offenses which are formulated materially. According to Eddy Hiariej, breaking the law is a general requirement for an act to



be punished so that it does not need to be included in the offense formula (Eddy Hiariej, 2016: 240) and does not have the consequence of proof by the public prosecutor, because if an act violates the law it is counted as an act against law without having to write it down in the offense formula. Article 3 in the Law on the Eradication of Corruption Crimes is also included in the classification of the nature of being against the general law because it places the nature of being against the law as a general requirement for an act to be punished (Eddy Hiariej, 2016: 237). Nevertheless, Article 3 is included in the type of material offense which requires a consequence, namely loss of state finances or the state economy.

PPAT cases, which is one of the legal subjects in BPHTB practices that violate the rules, we cannot ignore one important thing which is part of what must be proven, namely that errors include both intentional and negligent actions. Previously, the author was of the opinion that PPAT's actions could fulfill the elements of several articles that had been explained. AFR's actions can fulfill the elements of the embezzlement article in Article 372 of the Criminal Code, even with the aggravation in Article 374 of the Criminal Code which carries a maximum prison sentence of five years. Of course, it is first necessary to prove that the act fulfills the elements of the article, including intent.

Furthermore, the PPAT can also fulfill the elements of Article 2 in conjunction with Article 3 of Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. Connect it with the PPAT's actions, which, if proven to be collaborating with government officials, changed the NJOP and lowered or changed the tax object class, created a new tax object number, then printed the SPPT-PBB which did not comply with the provisions of his position as a tax analyst. So, in the end it all boils down to Article 2 and Article 3 in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes with the respective threats of imprisonment of a minimum of 4 years and a maximum of 20 years and a fine. a minimum of 200 million rupiah and a maximum of 1 billion rupiah, and imprisonment for a minimum of 1 year and a maximum of 20 years and/or a fine of at least 50 million rupiah and a maximum of 1 billion rupiah.

Proof of the elements of the two articles must also first be proven at trial by the public prosecutor because of their cumulative nature as well as a material offense which requires the consequences of the act itself to occur as a formal offense.

Specifically, Article 2 does not mention errors in the formulation of the offense. If Article 372 of the Criminal Code mentions the element of intent explicitly in the word 'deliberately' which can include all forms of intentionality (Eddy Hiariej, 2016: 184), likewise Article 3 of the Corruption Eradication Law mentions the element of intent in According to Van Bemmelen, the sentence 'with a purpose' must be viewed subjectively from the perspective of the perpetrator. This means that the intentionality in the deli formulation is focused on intentionality as an intention where a person's motivation for carrying out an action, the action and its consequences are actually realized (Eddy Hiariej, 2016: 172). A further

consequence of this intentional pattern is in terms of the public prosecutor's evidence to prove the motive for the act committed.

Then, what about Article 2 which does not include any form of error? According to Eddy Hiariej, whether there is a mention of the element of intent in the formulation of the offense has an important meaning in the context of evidence. If an offense formulation explicitly states that the error was intentional, then this element becomes the burden of proof for the public prosecutor. On the other hand, if the formulation of the offense does not explicitly state the form of the error, then if the elements of the offense can be proven, the form of the error in the form of intent is deemed to have been proven by itself (Eddy Hiariej, 2016: 188).

As if the PPAT was later named by the Batu City District Attorney as a suspect and charged under Article 2 paragraph (1) in conjunction with Article 3 in Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning the Eradication of Corruption Crimes. In terms of evidence, the Public Prosecutor must be able to prove all the good elements in Article 2, one of which is to prove that it is against the law. And all the elements in Article 3, including the motive for the act carried out, as well as its deliberate nature, are intentional as an intention.

## C. CLOSING

### 1. CONCLUSION

The legal consequences for PPATs who are guilty of embezzlement and reducing the transaction value of Tax Object Sales Value (NJOP) are that in the Criminal Code, the maximum penalty regulated in Article 374 of the Criminal Code is 5 (five) years, in the Notary Taxation Law it is regulated in Article 41 C, Paragraph 4, is threatened with imprisonment for a maximum of 1 (one) year and a fine of a maximum of IDR 500,000,000 (Five Hundred Million Rupiah). Article 8 of the Corruption Law already applies to Notaries. Article 415 of the Criminal Code, imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years and a fine of at least Rp. 150,000,000,- (one hundred and fifty million rupiah) and a maximum of Rp. 750,000,000,- seven hundred and fifty million rupiah). That the law concerning the position of Notary and the Notary's code of ethics do not regulate the obligations of Notaries for services in the form of paying taxes, if they are found to have violated a criminal law. UUJN only regulates provisions regarding civil and administrative sanctions. However, the Notary's criminal responsibility is justified, if the Notary is caught committing a criminal act, the Notary can be subject to criminal sanctions according to the Criminal Code.

The unlawful nature that can be alleged against PPAT is stated expressively *verbis* in the formulation of the offense which has the consequence of being an element that must be proven by the public prosecutor. On the other hand, if *expressive verbs* are not mentioned in the formulation of the offense, then proof of the unlawful nature is not required because the occurrence of an unlawful act is already counted as an unlawful act. Acts against the law can be used as a basis for criminal liability by fulfilling the formal and material elements that form the basis for criminal acts in BPHTB practice.

## 2. SUGGESTION

It is necessary to create clearer and more detailed implementing regulations regarding procedures, authority or professional obligations related to BPHTB tax payments. Apart from that, it also needs to be equipped with sanctions provisions for those who violate the provisions, so that legal certainty and clarity in the BPHTB tax payment process can be achieved.

### Bibliography

#### A. Book

Ali, Mahrus. 2017. *Basics of Criminal Law* , Sinar Graphics: Jakarta.

Hiariej, Eddy OS 2016. *Principles of Criminal Law Revised Edition* , Cahaya Atma Pustaka: Yogyakarta.

Soedarto. 1975. *Criminal Law Diktat Volume AB* , Faculty of Law, Diponegoro University: Semarang.

Stick. 2008. *Basics of Indonesian Criminal Law in a Reform Perspective* , UMM Press: Malang.

Law Number 20 of 2001 concerning Amendments to Law Number 31 of 1999 concerning Eradication of Corruption Crimes.

#### B. Criminal Code

Mayor of Batu City Number 54 of 2020 Procedures for Collecting PBB

Batu City Mayor Regulation Number 19 of 2021 concerning Procedures for Collecting BPHTB