JURIDICAL BARRIERS ON THE IMPLEMENTATION OF LAND AND BUILDING TAX OF RURAL AND URBAN AREAS (PBB P2) AFTER THE APPLICATION OF LAW NUMBER 28 YEAR 2009 ABOUT REGIONAL TAX AND RETRIBUTION IN MUSI RAWAS REGENCY

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ABSTRACT

This study examines the juridical on the collection of Land and Building Tax of Rural and Urban Areas in Musi Rawas Regency. The problem raised in this study was the obstacles in the implementation of Regional Regulation of Musi Rawas regency No. 2 of 2012 on Land and Building Tax of Rural and Urban Areas as amended into the Regional Regulation of Musi Rawas Regency No. 8 of 2013 on the Amendment Regional Regulation of Musi Rawas Regency No. 2 of 2012 on Land and Building Tax building Rural and Urban in Musi Rawas. Research conducted was empirical sociological legal research. The results showed that the barriers in the implementation of Musi Rawas Regional Regulation No. 2 of 2012 on Land and Building Tax Rural and Urban in Musi Rawas Regency sourced from the low awareness of law on the society, which can be seen from the high amount of arrears of PBB-P2; the still unorderly data collection of PBB-P2 object, such as the persistence of the data object and the subject of PBB-P2 in the field did not fit with the data in the Department of PPKAD, and stillunorderly administration of object registration of PBB-P2 in the form of the land/soil, due to the changes in ownership due to buying and selling activity, grants, endowments and so are not reported to DPPKAD. Therefore it is suggested to improve the collection of PBB-P2, DPPKAD of Musi Rawas Regency to coordinate with the Land Agency of Musi Rawas Regency in the discipline of the PBB-P2 object data, by registering the land and buildings of the PBB-P2 objects. In addition, it is necessary to enhance legal counseling on PBB-P2 regulation to the community of Musi Rawas.

Keywords: Tax, Land and Building, Rural, Urban

A. INTRODUCTION

Regional autonomy is a right, authority, and duties of the autonomous regions to set up and manage their own administration affairs and public interests in the system of the Unitary of Republic of Indonesia. With the existence of regional autonomy in which the central government handed over administration duties to local government, then in implementing the local autonomy, the local government needs some expenses, both of which came from the central government and from its own source revenues.

In General Explanation of Law Number 23 of 2014 on Regional Government, as amended several times, most recently by Law No. 9 of 2015 related to local taxes, explained that the
delivery of financial resources of Regions in the form of local taxes and levies as well as the form of balancing funds is the consequence of the submission of Government Affairs to the Local Government organized by the Autonomous principle. To run Governmental Affairs under its authority, Local Government must have the financial resources so that the area is able to provide services and welfare to the people in the region. The provision of financial resources to the region must be balanced with the expense or Governmental Affairs submitted to the Regional. The balance of financial resources is a guarantee of the implementation of Governmental Affairs handed over to local government. Furthermore, in the General Explanation of the Law of the Local Government also explained that: local taxes and levies is one form of public participation in the implementation of regional autonomy. Local taxes and levies are a source of local revenue that is essential to fund regional governance and development.

Based on the types of Locally-generated revenue above, the local tax in fact has been a mainstay for every autonomous region to add its Locally-generated revenue. It is very reasonable, as indicated by Tjip Ismail that "Ideally in the implementation of regional autonomy, the area should concentrate on Locally-generated revenue, especially those stemming from taxes and levies". Therefore, in order that the area can increase revenue from local taxes, the government formed the Law on Local Taxes regulated in Law Number 28 of 2009 on Regional Taxes and Levies.

Since the enactment of Law No. 28 of 2009 on Regional Taxes and Levies it, then there is a pretty fundamental policy changes in the realignment of the financial relationship between the center and regions, such changes include Property Tax of Rural and Urban (PBB P2) came into Local/City Tax.

Law Number 28 of 2009 on Regional Taxes and Levies, contains three main purposes, one of which is to give greater authority to local taxation and charges in line with increasing responsibility in the areas of governance and public service. Types of tax districts set forth in Article 2 verse (2) of Law Number 28 of 2009 on Taxes and Levies that specifies

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1 Tjip Ismail, Pengaturan Pajak Daerah di Indonesia, Yellow printing, Jakarta, 2007, p.6
11 types of taxes, one of which Property Tax of Rural and Urban.

This study was specifically to target research that examines the bottleneck problem of juridical application of Property Tax of Rural and Urban (PBB P2) after the enactment of Law No. 28 of 2009 in Musi Rawas. Local Government of Musi Rawas already has a legal basis to collect taxes from property tax of rural and urban areas, the local regulation of Musi Rawas No. 2 of 2012 on Property Tax in Rural and Urban Areas, as amended by the Regional Regulation of Musi Rawas No. 8 of 2013 on Amendment Musi Rawas Regional Regulation No. 2 of 2012 on Property Tax of Rural and Urban.

The problems studied were what the barriers to implementation Regional Regulation Musi Rawas No. 2 of 2012 on Property Tax of Rural and Urban as amended by the Regional Regulation of Musi Rawas No. 8 of 2013 on Amendment District Regulation of Musi Rawas No. 2 2012 on Property Tax of Rural and Urban in Musi Rawas.

B. RESEARCH METHODOLOGY

This study was carried out the empirical legal research, the research used primary data sourced from survey respondents and was also equipped with a secondary data obtained from the study of literature, such as books and legislation that has to do with the object of this study.

The location of this study was in Musi Rawas. The reason used to conduct studies in the region was based on objective considerations, namely the Government of Musi Rawas already set and enforce District Regulation Musi Rawas No. 2 of 2012 on Property Tax of Rural and Urban Areas, as amended by the Regional Regulation of Musi Rawas No. 8 of 2013 on Amendment of Musi Rawas Regional Regulation No. 2 of 2012 on Property Tax of Rural and Urban.

Respondents in this study were parties related to the research problem. In determining the respondents it was taken by purposive sampling, the samples were deliberately chosen because there was the intent and purpose that has been considered to provide information related to property tax of rural and urban areas, namely the Head of PPKAD of Musi Rawas, Head of Tugumulyo District, Head of Subdistrict of TP. Kepungut, and 10 (ten) taxpayers at the sites.

The primary data collection techniques in this study, for the primary
data sourced from the respondent government officials that have been defined as respondents, was conducted by interview. Guidelines of the question was used to direct and capture the necessary data in this study in order to not widen or expand the irrelevant data. Furthermore, for the collection of primary data sourced from mandatory respondents of PBB-P2 was done by providing a list of questions (questionnaire).

Data analysis technique applied was the technique of juridical qualitative analysis, which is a way of research that produces descriptive data analysis that is what is stated by the respondent in written and oral, and also conduct a real investigation as a whole. Qualitative data analysis is as a way of elaboration of the data based on the findings in the field and literature studies, then it is organized and carried out the reduction and processing of data to produce a data presentation of the data which is then drawn to a conclusion.

C. RESULTS AND DISCUSSION

There are 2 types of barriers juridical in the implementation of the Musi Rawas Regional Regulation Number 2 of 2012 on Land and Building Tax Rural and Urban in Musi Rawas, the barriers that come from the orderly administration of the PBB P2 object, and barriers relating to legal awareness of tax payers.

About the barriers associated with the orderly administration of the PBB P2 objects, based on interviews with the Head of PPKAD Musi Rawas Gotri Suyanto, in practice the PBB-P2 data is double and the number of data object and PBB-P2 subject are not in accordance with existing data in the PPKAD Departement and in the community.\(^3\)

The barriers juridical problems related to yet orderly administration of the PBB P2 objects, it can evident from the fact that there PBB P2 data are the same, according to researchers it is an obstacle that is sourced from internal DPPKAD Musi Rawas was not optimal in updating the PBB P2 object data, so consequently PBB P2 still occurring objects that overlap and create uncertainty for the public.

In addition, the barriers relating to the PBB P2 subject data which is not in accordance with the data contained in DPPKAD, according to the researchers this obstacle has to do with the issue is not orderly proof of earth ownership /

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3\(^3\)Interview with Head of PPKAD of Musi Rawas, Gotri Suyanto, on Tuesday, 19th April 2016 in DPPKAD Office of Musi Rawas.
soil and / or buildings that became a PBB P2 object itself.

As we know that is the PBB P2 object in Article 5 Paragraph (1) Musi Rawas Regional Regulation Number 2 of 2012 on Land and Building Tax Rural and Urban, that is the "Objects of Building Tax Rural and Urban is the Earth and / or the buildings are owned, controlled, and / or utilized by an individual or agency, except the area used for plantation, forestry, and mining ".

In conjunction with the PBB P2 voting, then the barriers for the PBB P2 object data that is a different subject, has been linked with the orderly administration of the PBB P2 object registration. The PBB P2 object in the earth/soil form, if it is changed the ownership for buying and selling, grants, endowments and so on, then when the change of ownership is not reported to DPPKAD will cause the differences in DPPKAD existing data with the actual data in the field. Therefore, for the implementation of the PBB P2 regulation itself, that the local governments of Musi Rawas must own the orderly administration of the earth / soil and / or buildings on it, so that any change of ownership, the data was kept up to date.

About the barriers caused by problems with the legal awareness of taxpayers, where the conditions are still many taxpayers who do not pay for the PBB P2 because they lack awareness of the community itself, the arrears potential is around 10%. With the arrears amount PBB-P2 then it indicates a problem of public awareness.

In accordance with the theory of legal awareness, basically the legal awareness on issues of whether a particular legal provision known, recognized, respected and adhered to. If the residents are only aware of a legal provision, then the level of legal awareness lower than if they admit it, and so on.4

Regarding to the sense of justice of taxpayers of PBB-2 in Musi Rawas Regency, there is still possibility of ignorance from society upon Local Regulation of Musi Rawas Regency No. 2 of 2012 concerning on Tax on land and Building in Village and Town in Musi Rawas Regency.

In overall, the problem regarding to sense of justice of taxpayers doesn’t only depend on people’s knowing upon Local Regulation of Musi Rawas Regency No. 2 of 2012 concerning on Tax on land and Building in Village and

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Town, but there are still other factors such as poverty/economy.

According to Soerjono Soekanto, there are four indicators that influence sense of justice. The first is the knowledge of law itself, it means that the person is aware that certain actions are bound by law. The understanding towards law should cover both written and unwritten law covering something allowed or prohibited by law.

The second is understanding of law, it means the person has knowledge and understanding toward certain regulations particularly on content aspect.

The third is law attitude, it means that the person tend to have to assess the law. And the last indicator is law behavior where the person acts according to the law. Those for indicators determine the level of sense of justice. If the person merely knows about law, it could be concluded that his sense of justice is still low but oppositely if the person has acted according to the law then his sense of justice is high.

The problem regarding the sense of justice of taxpayers of PBB-2 in Musi Rawas Regency is in line with the theory of sense of justice stated by Soerjono Soekanto particularly on knowledge of law where the person is aware that certain actions are bound by law.

Knowledge of law related to the knowing of Local Regulation of Musi Rawas Regency No. 2 of 2012 concerning on Tax o land and Building in Village and Town. If the knowledge of law level of taxpayers of PBB-2 regarding local regulations in Musi Rawas is good, then eventually the second stage stated by Soejono Soekanto could happen, namely understanding of law. At this state, the person that is a taxpayer of PBB-2 has knowledge and understanding toward regulations of PBB P2 as it is stated in Local Regulation of Musi Rawas Regency No. 2 of 2012 concerning on Tax o land and Building in Village and Town. Thus theoretically the expected sense of justice will be built in form law abiding actions. As it is stated by Soejono Soekanto, the low or high of sense of justice can be seen from the degree of law abiding behavior showed in the society. When the law is followed, it indicates the law effectively achieves its goal.

Regarding to the sense of justice of taxpayers of PBB-2 in Musi Rawas Regency, Gotri Suyanto- Head of

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5 Soerjono Soekanto, Loc. Cit p.227
6 Soerjono Soekanto, Loc. Cit p.230
Department of PPKAD, stated that Department of PPKAD still gives counseling and socialization concerning Local Regulation of Musi Rawas Regency No. 2 of 2012 on Tax of Land and Building in Village and Town to many sub districts in order to increase the knowlede and understanding of taxpayers of PBB P2 to pay the tax.

However according to Radisman F.S. Sumbayak, the factors influencing people to obey the law are people’s interest protected by law, compliance, identification and internalization.\(^7\)

At this state, writer only concerns on one of factors stated by Radisman F.S. Sumbayak namely internalization, the explanation for people obey the law is due to the principles of law are in line with the values believed in the society. It means that people obligate the law based on in-depth reasons, the principles are meaningful for them. In the other words, the fourth factor influencing people to obey the law is internalization of norms of law in society. The internalization happens due to certain principles of law are in line with the values believed in the society.

When linked with the PBB P2 of legal awareness, then the legal awareness of society in paying the PBB P2 will bemaximally if the taxpayer of P2 attaced to be aware to the tax was purposed for common interests / development. In accordance with the purpose of PBB P2 tax is to finance regional development. The taxpayer of PBB P2 who wishing to participate in regional development, it will motivate them obliged to obey tax.

The next obstacle is the obstacle that caused by the presence of same of PBB-P2 data and also the number of the data object and subject of PBB-P2 that are not in accordance with the existing data in the PPKAD office and in the society. This is explained by the informant in this case the Head of PPKAD of Musi Rawas regency, that the same ofPBB-P2 data and also the number of the data object and subject of PBB-P2 are not in accordance with the existing data in the Office PPKAD and in the community, so it is necessary for reorganize of data collection in each sub-district in the Musi Rawas regency.

Based on informant information, then according to the researcher, these obstacles are related to the problem that has not been orderly administration of the PBB-P2. It is evident from the fact

\(^7\) Radisman, F.S. Sumbayak, Beberapa Pemikiran ke Arah Pemanatpan Penegakan Hukum, Jakarta, Ind Hill, 1985, p.37
that stills same of the PBB-P2 data. According to researcher that was an obstacle that is sourced from internal of DPPKAD of Musi Rawas which is not optimal in updating the object data of PBB-P2, as the effect it is still going overlap on objects data of PBB-P2, and effects to raises the uncertainty for the community.

In addition, barriers relating to the data subject of PBB-P2which is not in accordance with the data that contained in the DPPKAD, according to the researcher this obstacle has relation with the not orderly issue of ownership letter of the land / soil and / or building that became an object of PBB-P2itself.

In relation to the PBB-P2obstacles in implementing local regulation of PBB-P2, then the obstacles for the PBB-P2object data P2 was same to a different subject, then these obstacles have relevance to the orderly administration of the PBB-P2 object registration. PBB-P2object in the form of the earth/soil, if changed ownership for buying and selling, grants, endowments and so on, then when the change of ownership is not reported to DPPKAD will cause differences in DPPKAD existing data with actual data in the field. Therefore, for the implementation of PBB-P2regulation, the local governments of Musi Rawas regency should orderly administration of ownership of the earth / soil and / or building on it, so that any change of ownership, the data is kept up to date.

D. CLOSING

Obstacles in the implementation of the Local Regulation of Musi Rawas Regency No. 2 of 2012 on Land and Building Tax on Rural and Urban as amended by the Local Regulation of Musi Rawas Regency No. 8 of 2013 on Amendment District Regulation of Musi Rawas Regency No. 2 of 2012 on Land and Building Tax Rural and Urban in Musi Rawas regency was sourced from low awareness of the law society, which is seen from the magnitude arrears of PBB-P2; still non orderly on PBB-P2 data collection, such as the persistence of the data object and the subject of PBB-P2 on the field which does not fit in the Department of PPKAD, and yet orderly administration of registration of PBB-P2 objects in the form of the earth / soil, due to changes in ownership due buying and selling, grants, endowments and so are not reported to DPPKAD.

Therefore it is suggested should be to improve the PBB-P2 collection, DPPKAD of Musi Rawas Regency should coordinate to Land Office of Musi Rawas Regency in the discipline of the PBB-P2 object data, by
registering the land and building the PBB-P2 object. In addition, should to improve the information of PBB-P2 local Regulation law to the Musi Rawas society.

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