

ANALYSIS OF LEGAL ASPECTS OF THE MURABAHAH AGREEMENT IN ISLAMIC BANKING

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Abstract

Islamic Banking According to Law Number 21 of 2008 concerning Islamic Banking, specifically Article 1 number 7, Islamic Banks are banks that carry out their business activities based on Islamic principles and by their nature, consisting of Islamic Commercial Banks and Islamic Commercial Banks. Islamic People's Financing. In general, Islamic banks are banks whose operational activities are based on Islamic law, or banks that base their operational activities on interpreting the Qur'an and Hadith as the basis for Islamic law. It is stated that according to Law Number 21 of 2008 concerning Islamic Banking, in Article 1 number 12, the basis of Islamic faith for bank operations is a fatwa issued by an institution authorized to issue fatwas in the field of Islamic banking. The National Sharia Council confirms that murabahah sales and purchase transactions, whether in cash or installments, with the terms and conditions being met, are financed under a murabahah contract at a Sharia bank in terms of determining profits by Sharia principles. In the Islamic banking system, there is always a need for collateral or a loan prepared with the understanding that every debtor must adhere to Islamic law, as previously explained to parents. Islamic banking allows customers to be more cooperative when purchasing goods on credit or cash.

Keywords: *Legal Aspects, Murabahah Contract, Islamic Banking*

Abstrak

Perbankan Syariah Menurut Undang-Undang Nomor 21 Tahun 2008 tentang Perbankan Syariah, khususnya Pasal 1 angka 7, Bank Syariah adalah bank yang melaksanakan kegiatan usahanya berdasarkan prinsip-prinsip Islam dan sesuai dengan sifatnya, terdiri dari Bank Umum Syariah dan Bank Umum Syariah. Pembiayaan Rakyat Syariah. Secara umum, bank syariah adalah bank yang kegiatan operasionalnya berlandaskan pada syariat Islam, atau bank yang mendasarkan kegiatan operasionalnya pada penafsiran Al-Qur'an dan Hadist sebagai

landasan hukum Islam. Sebagaimana yang tercantum dalam Pasal 1 angka 12 Undang-Undang Nomor 21 Tahun 2008 tentang Perbankan Syariah, bahwa dalam kegiatan perbankan syariah berlaku prinsip-prinsip syariah berdasarkan fatwa-fatwa yang dikeluarkan oleh lembaga-lembaga yang berwenang mengeluarkan keputusan tersebut dalam bidang Syariah. Dewan Syariah Nasional menegaskan bahwa transaksi jual beli murābahah, baik kontan ataupun cicilan dengan syarat dan rukunnya dapat terpenuhi, adalah pembiayaan akad murābahah di bank syariah dalam hal penentuan keuntungan sesuai dengan prinsip-prinsip syariah. Dalam sistem perbankan Islam, selalu diperlukan adanya agunan atau pinjaman yang telah dipersiapkan dengan pengertian bahwa setiap debitur harus berpegang teguh pada syariat Islam, sebagaimana yang telah dijelaskan sebelumnya kepada para orang tua. Dalam perbankan Islam, memungkinkan nasabah lebih kooperatif ketika membeli barang secara kredit atau tunai.

Kata Kunci: *Aspek Hukum, Akad Murabahah, Perbankan Syariah*

Introduction

Currently, the growth of Islamic banks is relatively slow, and public opinion towards it is very significant. One of the most important developments in Indonesia's Islamic currency is its realm. Bank Indonesia reports that Islamic banks are growing at a rate of 40–60% per year. (Good, 2015). Islamic banks play an important role in Indonesia's national development, in addition to being a financial institution that plays an important role in maintaining the health of the country's economy as a whole. The ability of Islamic banks is applied as a means of storing and distributing funds to the community effectively and efficiently so that the funds distributed can be used wisely by the community. (Putra et al., 2024)

To ensure that bank operations run well, solidly, and by Islamic principles, a disciplined and effective strategy is needed to consistently monitor the amount of money coming in and out of the bank. As we know, banks have high risks (Journal et al., 2022). If they are unable to manage their money responsibly and compassionately, the bank will go bankrupt and suffer the consequences. One of the most important principles in banking is the principle of prudence, which states that banks must be very careful when handling public funds that have been promised to them. Islamic law states that everyone must respect the advice or trust that has been given to them (Mustakim et al., 2024).

Currently, we know that there are several types of Islamic banks, namely salam, ijarah, qardh, murabahah, mudharabah, musyarakah, and istishna. Based on Islamic bank

statistics published by the Financial Services Authority (OJK), the most widely reported types of mortgages are murabahah and musyarakah contracts (Mughtar, 2021).

Financing is a term used in Islamic banks, while credit is a term used in conventional banks. In credit transactions, profits are based on margins or yields, while in leasing, profits are based on contracts (Nurul, 2020). The qualitative aspects of a project or business can also be classified based on the characteristics of the transaction in question. Transactions for yield, namely mudarabah and musyarakah, are contracts or business characteristics that occur naturally and generally cannot be determined based on expected results (Mashudi et al., 2024).

According to the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) No.04/DSN-MUI/IV/2000, buying and selling is defined as the sale of a product by listing the price on the product and asking the buyer to pay the seller at a price slightly higher than the actual price. As stated in PSAK 102, murabahah refers to the sale of goods at a price commensurate with the calculated profit margin, and the seller must disclose the profit margin of the goods to the buyer. (Irawan et al., 2021).

Murabahah is the exchange of goods at a price equal to a margin set by the parties, where the seller informs the buyer of the price of the goods as soon as possible. (Ramadana, 2024). Payment for purchased goods can be made in cash or credit. One thing that distinguishes it from other purchases is that the seller must inform the buyer of the price of the goods to be sold along with the amount of profit to be obtained. Transaction payments can be made in two ways: either all at once at an agreed time or all at once within a certain period. (Khasanah et al., 2022).

Murabahah is an Islamic term for sale that refers to the selling price of a product. Murabahah is the difference between the price of the product and another price that may be used to determine the desired profit level. (Fitria Andriani, 2014). Meanwhile, according to the study (Putri dan Martana, 2021), Murabahah is a purchase agreement in which goods are traded at the opening of the market. After that, the bank sets the selling price of the goods that have been discounted with a profit margin and the cost of the goods, so that the discounted price cannot change as long as the transaction is still ongoing.

The sale and purchase agreement agreed upon by the bank and the customer is murabahah financing. The bank facilitates funds for the purchase of goods or working capital needed by the customer. The customer's return will be paid by the bank based on the bank's selling price at a certain time. (Mashudi et al., 2024).

Based on the background above, the author wants to know more about this topic to obtain information that is not considered by academics. Therefore, the title that we will use in this study is "Legal Analysis of Murabahah Contract in Islamic Banking".

Research Methods

The method used in this research is called "library research" or "library study", namely research conducted using literature review techniques, which can be in the form of journal articles, books, or summaries of previous research findings (Fadli, 2021). Academics are willing to explain what they understand and illustrate it through research questions. Furthermore, descriptive methods are used to conduct qualitative research. Data can be collected using methods that facilitate the analysis of various sources, such as books, journals, and previous research projects related to this research topic to identify case studies, journals, and other materials that are relevant to the focus of the research. Materials from various sources need to be critically analyzed and handled carefully to ensure that the proposal and its implementation are sound. (Wahyudin, 2017)

Results and Discussion

1. Analysis of the Legal Aspects of Murabahah Contracts in Islamic Banking Techniques for Implementing Murabahah in Islamic Banking

According to Islamic convention, murabahah refers to trade. The only thing that distinguishes this method of sale from other sales strategies is that the seller who offers the goods at a low price informs the buyer about the value of the goods and the amount of profit he will make from it. This profit can be a lump sum or a percentage (Saleh et al., 2023). If someone sells a commodity or goods for a lump sum without knowing how much it is worth, it is not necessarily a stolen sale, although they also receive a profit from the sale. This transaction is known as musawamah. (Fadli, 2021).

One of the most frequently used fiqh systems in Islamic banking is murabahah. In Islamic banking, murabahah is referred to as a change management service used in the exchange of goods between banks and customers through an installment payment method. Within the framework of murabahah, the bank facilitates the purchase of goods or assets needed by customers by first purchasing the goods from the supplier and then selling them to the customer in question by increasing the markup or profit margin. (Tama Anggika, 2023).

One type of currency exchange used in the Islamic financial system is the murabahah contract. The term "murabahah" refers to the price agreed upon and accepted by both parties as soon as the transaction begins. When a bank or other financial institution engages in the exchange of goods, it will buy the goods needed by the other party and then resell them to the other party at a previously agreed price. This principle of no interest not only prevents blessings but also allows you to maximize your profits in abnormal conditions. This is evident in the current crisis, which is caused by Islamic banks. In these banks, resources come from various sources and, in general, the government does not need much support. (Ramadana, 2024; Liza, 2022 dan Liza Hilwa, 2023).

The implementation of murabahah financing can be done as one type of financing, namely investment financing, working capital, and consumption. For example, in managing consumption, customers, furniture or other electronics (Mashudi et al., 2024). In contrast, a murabahah contract can be used in investment management to purchase productive assets such as a production line or office doors. In the context of work-related expenses, a murabahah contract can be used to purchase inventory or raw materials needed to start a business. (Sijabat et al., 2024). Based on this, the implementation of the murabahah learning contract can provide benefits for banks or other financial institutions by providing benefits from both the selling price and the purchase price of goods. Meanwhile, for customers, the implementation of the murabahah contract allows them to obtain the funds they need without having to pay interest or usury which is prohibited in the Islamic monetary system. This is done through a mechanism for purchasing goods with a margin as a potential profit for the bank.

2. Pillars of Murabahah Contract

1. The party acting as the seller (ba'i) is the party who has the goods to be sold to consumers or customers.
2. The party acting as the buyer (musytari) is someone who needs the goods to be used and can be found when making a transaction with the seller.
3. The object of the contract (mabi') or the goods that are traded to customers.
4. The price of the goods traded (tsaman)
5. Ijab and Qabul

3. Legal Basis for Murabahah Agreements in Sharia Banking

Islamic banking is based on muamalah law, especially the law of contracts. Islamic jurisprudence scholars have discussed various forms of sale and purchase contracts. There are three types of contracts that are often used as the main basis for the renewal of Islamic banks. Namely, bai' al-murabahah (selling goods at a discounted price according to the agreed profit or margin), bai' as-salam (buying goods at a discounted price followed by cash payment at the store on that day), and bai' al-istishna (equivalent to salam in istishna, namely the work order must be completed as soon as possible according to certain provisions, and payment must be made according to those provisions.(Irawan et al., 2021).

Murabahah is one of the terms that is prohibited in Islam and is not agreed upon by the majority of pious scholars from among the companions, as well as scholars from various schools of thought and religious communities. (Tama Anggika, 2023). By the word of Allah in Surah Al-QS. An-Nisa': 29, which reads: "O you who believe!" There is no need for you to constantly compare yourselves with others in a wrong or dishonest way, except in the context of mutual interest between you. And please do not harm yourselves. Whatever it is, Allah is Most Merciful to you. Furthermore, the verse of QS. Al-Baqarah: 275 states that a person who steals a goat will not be able to live a normal life, as will a person who is born lame. This is the result of their statement that "buying is the same as giving." Allah has established a prohibition on buying selling and enslaving women. After receiving revelation from Allah, the person who sees it becomes

pensive, and whatever has been revealed to him eventually becomes his and his prayer (supplication) to Him. Whoever returns, these are the people of Hell, they will abide therein forever (Irawan et al., 2021).

QS. Al-An'am:6 means, they do not realize how many generations have passed before they were born, which means that this generation has seen its position in the body or steadfastness that We have not had the chance to inherit you. We convey warm greetings to them and make sure that they have a safe and secure future before them. After that, We return them to them because of their goodness, and We create generations after them".(Fitria Andriani, 2014).

Hadith narrated by Ibn Majah, from Syaib: Meaning: "But the third thing in which there is a blessing: selling with deferred payment, muqaradhah (another name for mudharabah) and mixing wheat with flour for household needs and not for sale." (Nurul, 2020).

Murabahah Contract Scheme

SKEMA MURABAHAH



Murabahah Scheme Highlights. Parties involved in the transaction:

- Customer
- Provider or vendor (eg: House vendor)

- c. Islamic Financial Institution (Bank Muamalat, for short)
Transaction agreements carried out:
 - a. A sale and purchase agreement between the customer and the Islamic Financial Institution
 - b. A sale and purchase agreement between the Islamic Financial Institution and the house seller
 - c. Transaction stages carried out by Islamic banks in their Murabahah:
 - d. The customer submits a request for procurement of goods, and the bank observes the customer's eligibility. If the customer's request is accepted, the bank will carry out a credit purchase transaction with the customer. The customer pays a down payment (DP) and the remainder will be paid in installments over a period determined by the bank. The bank buys the goods (house) from the seller in cash. After the goods are received (become the customer's property), the customer is required to pay installments to the bank.
 - e. The bank makes a profit from the difference in the seller's price of the house and the customer's price.(Tama Anggika, 2023).

Legal Guarantee Based on the Decree of DSN-04/DSN-MUI/IV/2000 concerning the Crime of Money Laundering Collateral is an agreement between the creditor and the debtor, where the creditor withholds a large amount of money for the use of funds by the ongoing agreement, if within the agreed period there is a delay in payment of funds to the debtor. (Mustakim et al., 2024). Murabahah is one type of akad that is based on the principle of selling for a fair price, unlike salam and istishna akads.

According to DSN Number 04/DSN-MUI/IV/2000, there are general rules and specific rules regarding murabahah; the first is Collateral in murabahah. The bank can provide collateral that can be held seriously in its order, as well as collateral in murabahah that is permissible. The interest rate given is low enough to ensure that the repayment of the principal and interest margin will occur on the date agreed upon by both parties based on this contract . Given this, customers will be careful and will take advantage of this to prepare themselves for repayment of the principal in the future and also to apply for a loan to the bank by the applicable permutation rules, which are parts

that are not affected by this contract. Types of collateral presented in the murabahah contract No.YGS.005.2003. MRA adheres to the guidelines in Article 1813 of the Civil Code for a period of each day without the purpose of the recipient of financing being authorized for bank guarantees in Article 8 of the Murabahah Financing Agreement. The murabahah agreement is a standard agreement. (Putra et al., 2024 dan Mustakim et al., 2024).

4. Law Number 10 of 1998 concerning Banking

According to Article 1 number (12) of Law Number 10 of 1998 concerning Banking, financing based on Sharia principles states that: "Financing based on Sharia principles is the provision of money or bills that are considered equivalent to that based on an agreement or deal between the bank and another party which requires the financed party to return the money or bill after a specified period with a return. (Yunisa, 2024).

5. Law Number 21 of 2008 concerning Islamic Banking

Article 1 point (25) of Law No. 21 of 2008 concerning Islamic Banking defines financing as the provision of funds or bills that are considered equivalent in the form of profit sharing transactions in the form of mudharabah and musyarakah, rent in the form of ijarah or hire purchase in ijarah bittamlik, sale and purchase in murabahah receivables, salam, istisna, loans in the form of qardh, and rental services in the form of ijarah for multi-service transactions. (Fadli, 2021).

Conclusion

Murabahah refers to a business practice where a product is sold and its price is consulted with the buyer during the purchase; in this case, the buyer pays a higher price as a margin. If we observe the application of the mortgage modification process in Islamic banks, we can observe that consumer goods can be sold or taken over (a process known as mortgage modification of the principal amount) through a credit system that can be carried out with a high degree of flexibility, depending on the system applied in Islamic banks.

Legal protection is a material guarantee in a murabahah contract that is not in good etiquette in Islamic banking. Legal Protection through Murabahah Financing Agreement. Protection of Human Rights Based on DSN04/DSN-MUI/IV/2000 Concerning Murabahah Fatwa. Standard contracts for murabahah financing in several Islamic banks have contained clauses that are the characteristics of murabahah financing and have contained minimum requirements that must be in the contract as determined in the Fatwa of the National Sharia Council stipulated in the Bank Indonesia Regulation.

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