



AKAD MURABAHAH AND IJARAH AND THEIR APPLICATION IN ISLAMIC FINANCIAL INSTITUTIONS

A.Habibi A

UIN Prof.K.H.Saifuddin Zuhri Purwokerto, Indonesia, ahmadhabibie47@gmail.com

Syufa'at

UIN Prof.K.H.Saifuddin Zuhri Purwokerto, Indonesia, syufaat@uinsaizu.ac.id

Abstract

The increase in people's needs is hampered by busyness and inability to meet their needs so that people need alternatives to help them fulfill their needs. Sharia Financial Institutions (LKS) have emerged as an alternative for people to meet their needs. The main product that LKS offers to the public is murabahah because there is little risk in its application. However, the murabahah application has caused a lot of criticism among the public. Islamic banks are often referred to as "murabahah banks" because murabahah and ijarah dominate and modifications to the murabahah and ijarah applications are considered the same as transactions at conventional banks. This study is a literature review with deductive analysis, namely the author analyzes from general to specific so that conclusions can be drawn. The results of this research conclude that the murabahah application in sharia banking makes sharia banks as fund providers, not sellers. The murabahah and ijarah contracts in classical jurisprudence have also undergone many modifications. These modifications to the murabahah and ijarah contracts have given rise to criticism among the public. Modifications to the murabahah contract include the murabahah contract which binds the customer before the bank has the goods the customer wants, giving rise to bai' ma'dum, murabahah lil amri bi al-syira' which is considered haram by some scholars because it is a loophole for usury, and murabahah bil wakalah which is legally permissible.

Keyword : murabahah, ijarah, Islamic financial institution

A. Introduction

Humans are social creatures who need each other both to socialize and to meet their needs, such as primary, secondary and tertiary needs. As a creature

created by Allah SWT, humans are not only commanded to worship, but also to make peace in order to meet the needs of their lives. For this reason, muamalah fiqh was born which is a rule or procedure that



can be used as a guide for humans to relate to other humans in a society. All human actions that do not constitute worship fall into this category, including the economic activities of the community.

In this life, there are 2 (two) groups of people, namely people who are overfunded and people who lack funds. Therefore, bank and non-bank financial institutions emerged as intermediary institutions between the 2 (two) groups of people so that balance can occur in meeting the needs of each other's lives. In Indonesia, there are many bank and non-bank financial institutions, both conventional and sharia, that provide financing services to meet human needs.

The fundamental difference between conventional and sharia financial institutions is the use of the interest system which is *riba* in conventional financial

institutions and the use of the profit-sharing system in Islamic financial institutions.

Financing is a sharia banking activity, where funds are channeled to parties other than banks, based on sharia principles. The distribution of funds in the form of financing is based on the beliefs that have been submitted by the owner of the fund or capital (*shahibul maal*) to the fund manager.

The owner of capital or funds (*shahibul maal*) relies on the recipient of funds / capital to ensure that the funds that have been given for financing will definitely be paid. Because the recipient of the financing fund has gained the trust of the owner of the fund (*shahibul maal*), the customer who will receive the financing is obliged to return the financing / funds that have been received by the time agreed in



the financing contract. Financing is one of the main functions of banks and provides equipment to fund the needs of customer departments that lack deficit funds.

Financing at Islamic Banks is certainly not the same as conventional bank credit financing. In Islamic banks, according to the contract offered by shariah banks, loan proceeds (ratio) profits are not in the form of interest, but in other forms. According to Banking Law No. 10 of 1998, financing is the provision of funds or bills equal to it.

Murabahah is an agreement in buying and selling a product whose sales price is equal to the price obtained and added to the agreed profit ratio, and the seller must notify the buyer of the price agreement of the product (PSAK 102 paragraph 5). In Murabahah transactions do not have to be in the form of deferred

or postpaid payments (credit), but can be deferred with cash at the time of receipt of goods orders, in installments at the time of receipt of goods or delayed because payment will be made in the future (PSAK 102 paragraph 8).

Financing with a Murabahah contract has been widely applied by Islamic financial institutions as a very large form of financing and has promising profit potential. Therefore, almost every Islamic financial institution makes financing products as one of the products in capital development.

This ijarah financing has a different concept from the concept of credit at conventional banks, ijarah financing is also said to be a driver for the business sector because ijarah financing has privileges compared to other types of Islamic financing. The privilege is that to



start their business activities, entrepreneurs do not need to have capital goods first, but can rent to Islamic financial institutions, so that entrepreneurs are not charged with the obligation to submit guarantees, so it can be said that ijarah financing is more attractive than other types of financing such as mudharabah and musharakah.

B. Problem Statement

Background discussed about the study of contracts in Islamic financial institutions Financing at Islamic Banks Financing with Murabahah and Ijarah contracts has been widely applied by Islamic financial institutions as a very large form of financing and has promising profit potential

C. Research Objectives

The purpose of this study is about Islamic banking activities, where funds

are channeled to parties other than banks, based on sharia principles.

D. Research Methods

In this writing, the author uses literature study or library research, which is collecting or collecting data using written materials. The author uses a type of normative legal research, namely research conducted or aimed only at written regulations and / or laws and regulations, and expert opinions. The source of data used in this study comes from literature, such as books, court decisions and others.

While the analysis used in this study uses qualitative methods, namely describing quality data in the form of sentences that are organized, systematic, logical, non-overlapping and effective so



as to facilitate the interpretation of data understanding the results of the analysis.

E. Research Results and Discussion

1. Akad Murabahah and its application in Islamic financial institutions

The Qur'an, however, never directly talks about murabahah, although there are references to buying and selling, profit, loss, and trade. Similarly in the hadith, it appears to have a direct reference to murabahah.

But this murabahah, although there is little discussion of buying and selling in the books of fiqh. The rules underlying murabahah transactions are the National Standard of the Indonesian Ulema Council (SN MUI) and PSAK 102.

According to Adiwarman Karim, "Murabahah is a contract to buy and sell goods by stating the acquisition price and profit (margin) agreed by the seller and buyer"¹

In Law of the Republic of Indonesia No. 21 of 2008 concerning Sharia Banking article 19 paragraph (1) letter d which is meant by "Akad murabahah is a Financing Agreement of an item by confirming its purchase price to the buyer and the buyer pays it at a higher price as an agreed profit."²

Murabahah is a form of buying and selling that is trustful. Bai' al-murabahah according to the scholars of fiqh is the buying and selling of goods at the original price with an additional agreed profit. In bai' al-murabahah, the seller clearly states

¹ Karim Adiwarman,. "Islamic Macroeconomics," Jakarta : PT. King Grafindo Persada

² Banking Law, Law no.21/2008 on Sharia banking



the purchase price of the goods to the buyer and then he requires a profit in a certain amount.³

Islamic economists and Fiqh scholars consider Murabahah to be part of buying and selling. As a contract of buying and selling, murabahah has pillars and conditions of buying and selling, including.

There are three pillars of murabahah buying and selling, namely those who contract (seller and buyer), contract (ijab qabul), and ma'kud alaih (object of contract).⁴ While the conditions that must be met on goods to be traded in accordance with fatwa DSN number 4 / DSN-MUI / IV / 2000 there are four conditions including;

- a. Goods must be present.
- b. The goods are treasures that are clearly priced.
- c. Own owned goods and.
- d. The goods are handed over at the time of contract.⁵

The murabahah financing mechanism of Islamic banks is as follows

- a. The customer submits a request for the purchase of goods to the bank.
- b. The bank studies the customer's application. If accepted, the bank purchases goods/assets according to the customer's order specifications legally from the first seller.
- c. The bank offers goods with the requested specifications and the

³ Anita Rahmawaty, "Sharia Economics: A Critical Review of Murabahah Products in Sharia Banking in Indonesia". Journal of Islamic Economics. Vol. I, No. 2, December 2007

⁴PajarRahmatuloh, "Akad Murabahah and Its Implementation in Sharia Linked to the Ability of Murabahah Practice According to Scholars." Scientika Vol. 1No. 2 2015

⁵National Sharia Council No: 04/DSN-MUI/IV/2000 on Murabahah



customer must buy them according to the agreed agreement.

- d. Banks and customers carry out murabahah buying and selling transactions including price negotiations, payment systems and terms, ijab and kabul, handover of goods.
- e. The customer pays his obligations to the bank, either in installments or all at once within a mutually agreed period.

Murabahah bilwakalah is buying and selling with a representative system (wakalah). Where buying and selling with this system the financial institution represents its purchase to the customer, thus the first contract is a wakalah contract

after the wakalah contract ends which is marked by the delivery of goods from the customer to the Islamic financial institution then the institution provides a murabahah contract.⁶

Akad murabahah bil wakalah is also a sale and purchase agreement where Islamic financial institutions represent product purchases to customers then after the product is obtained by the customer then the customer gives it to the Islamic financial institution.

After the goods are owned by the institution and the price of the goods is clear, the institution determines the margin obtained and the return period that will be agreed upon by the Islamic financial institution and the customer

⁶ Permana, A. A (2017). *Analysis of murabahah bil wakalah financing in increasing customer*

productivity and welfare at UJKS KSU Jabal Rahmah Sidoarjo



2. Ijarah and application in sharia financial institutions

Etymologically, ijarah means the wages you give in one job. The terminology is a transaction on a changing benefit in the form of certain goods, or a transaction on a known job with a known wage as well.⁷

Scholars differ in defining ijarah among others Shaykh al-Imam Abi Yahya Zakaria al-Anshori in the book *Fath AlWahab*, defines "ijarah is owning or taking advantage of an item by taking or remuneration with predetermined conditions."⁸ Sayyid Sabiq, in *fiqhu-sunnah* defines ijarah as a type of contract

to benefit by way of replacement.⁹

According to Imam Shafi'i, ijarah is "Akad on a benefit that contains a specific purpose and changes and accepts the substitute of something capable with a certain substitute."¹⁰ According to Hasbi Ash-Shiddiqy, ijarah is "An agreement whose object is the exchange of benefits for a certain time, that is, the possession of benefits in return, is equal to selling benefits"¹¹

According to DSN's fatwa, ijarah is a contract to transfer the right to use (benefit) of a good or service within a certain time through the payment of rent/wages, without being followed by the transfer of ownership of the goods themselves. Thus, in the ijarah contract

⁷ Ath-Thayyar, *Encyclopedia of Muamalah Fiqh in 4 Madzab* (Yogyakarta: Wadaruwathan Lin-Nasyr, Riyadh, KSA, 2004),

⁸ Abi Yahya Zakaria, *Fath al-Wahab*, Maktabah wa Maktabah (Semarang: Toha Putra, t.t.)

⁹ Sayyid Sabiq, *Jurisprudence of the Sunnah* (Jakarta: Cakrawala Publishing, 2009),

¹⁰ Muhammad Al-Khatib Al-Sharbayniy, *Mughniy al-Muhtaj* (Beirut: Dar al Fikr, t.t.),

¹¹ Hasbi Ash-Shiddiqy, *Introduction to Muamalah Fiqh* (Jakarta: Bulan Bintang, 1989)



there is no change of ownership, but only the transfer of use rights from the tenant to the tenant.¹² Akad ijarah is divided into 2, namely: Ijarah benefit (Al-Ijarah ala alManfa'ah) This relates to service rent, which is to hire one's services at a wage in exchange for hired services. The employing party is called musta'jir, the worker party is called ajir, the wages paid are called ujah.¹³ Ijarah that is work (AlIjarah ala Al-"Charity) This relates to the lease of an asset or property, which is transferring the right to use from a certain asset or property to another person in exchange for a rental fee. This form of ijarah is similar to leasing in conventional business.¹⁴

The contracts used by Islamic financial institutions, especially shari'ah

banking in Indonesia in their operations are non-controversial contracts agreed by most scholars and are in accordance with the provisions of shari'ah to be applied in shari'ah financial products and instruments.

These contracts include contracts for funding, financing, product services, operational services, and investment services. Related to that, here the compiler only explains the practice of financing ijarah and ijarah muntahiya bit tamlik in shari'ah financial institutions. According to circular letter No. 10/14/DPBS issued by Bank Indonesia dated March 17, 2008, in providing ijarah financing Bank

¹² Adiwarman Karim, *Fiqh and Financial Analysis* (Jakarta: Rajawali Press, 2001)

¹³ Ascarya, "Akad & Products Bank Syari'ah", 3rd cet, (Jakarta: Rajawali Pers, 2011)

¹⁴ Ibid



Syari'ah or Sharia Business Unit (UUS) must fulfill the following steps: ¹⁵

- a. The Bank acts as the owner and/or party who has the right to control the rental object either in the form of goods or services, which rents the rental object to the customer in accordance with the agreement,
- b. Goods in ijarah transactions are movable or immovable goods that can be taken advantage of rent,
- c. The Bank is required to explain to the customer the characteristics of financing products on the basis of ijarah, as well as the rights and obligations of customers as stipulated in Bank Indonesia regulations regarding transparency of Bank product information and the use of customer personal data,

- d. Banks are required to conduct an analysis of financing plans on the basis of ijarah to customers which include, among others, personal aspects in the form of analysis of business character and/or aspects, including analysis of business capacity, finance and/or business prospects,
- e. The object of the lease must be assessable and identifiable specifically and clearly stated including the amount of the lease value and its term.
- f. The Bank as the party providing the rental object, must guarantee the fulfillment of the quality and quantity of the rental object and the timeliness of the provision of the

¹⁵ Ibid



rental object according to the agreement.

g. The bank is obliged to provide and to realize the provision of rental objects ordered by customers.

h. Banks and customers are required to enter an agreement in the form of a written agreement in the form of a financing contract on the basis of ijarah.

i. Rental payments can be made either in installments or all at once.

j. Rental payments cannot be made in the form of receivables or in the form of debt relief.

k. The Bank may require the customer to maintain the integrity of the rental object, and bear the cost of maintaining the rental object in accordance with the agreement where the material and structural

description of maintenance must be stated in the contract, and the Bank cannot ask the customer to be responsible for damage to the rental object that occurs not due to breach of contract or customer negligence.

In KHES article 251, there are four pillars of ijarah, namely the party who rents, the party who rents, the object of ijarah and the contract. In contrast to the National Sharia Council Fatwa NO: 09/DSN-MUI/IV/2000, the pillars of ijarah contract are divided into three, namely:

Sighat ijarah, which is ijab and kabul in the form of statements from both parties who contract (contract), either verbally or in other forms.

Contracting parties: consist of the lessee/service provider and the tenant/service user.



The object of the ijarah contract is the benefit of goods and rent or the benefit of services and wages.

F. Conclusion

Murabahah financing is in the system of buying and selling transactions, As we already know in general that in carrying out buying and selling transactions in Islamic sharia there must be pillars and conditions in the transaction. Murabahah financing is based on the fatwas of DSN-MUI, UU, and PSAK. These regulations underlie murabahah financing, but in Sharia banks in practice there are many irregularities, and there is no uniformity in the application model of murabahah financing.

Overall, the contents of the Lease Financing Agreement Benefit Akad Ijarah

Number: 10669/IJR/IX/2012 are in accordance with the provisions of the ijarah contract in fatwa DSN-MUI No. 09/DSN-MUI/IV/2000

About ijarah financing. Both in terms of the pillars and conditions of ijarah, the purpose of the contract, ijab and kabul, and the existence of parties to the agreement. Likewise, the provisions of the object have been fulfilled.

However, there are several clauses that burden customers, because one party is not balanced in bearing risks and it is felt that there is a striking imbalance in performance that is not in accordance with the principle of balance (mabda' at-tawazun fil al-mua'wadah). The cost article also still does not pay attention to the principle of benefit (not burdensome) which guarantees the benefit of the parties,



without burdening either party and must not cause losses.

But on the other hand, the agreement in Article 18 concerning Late Payment and Late Payment Fines is in accordance with Fatwa DSN No. 43/DSN-MUI/VIII/2004 concerning Compensation (Ta'widh) and Fatwa DSN No. 17/DSN-MUI/IX/2000 concerning Sanctions for Customers Who Delay Payments. Likewise, Article 19 on Dispute Settlement as a whole is in accordance with Islamic principles. Basically, dispute resolution using the concept of *alsulh* (peace) is highly recommended in Islam.

Bibliography

- Abi Yahya Zakaria, Fath al-Wahab, *Maktabah wa Maktabah* (Semarang: Toha Putra, t.t.)
- Adiwarman Karim, *Fiqh and Financial Analysis* (Jakarta: Rajawali Press, 2001)
- Anita Rahmawaty, "EkonomiSyari'ah: A Critical Review of Murabahah Products in Sharia Banking in Indonesia". *Journal of Islamic Economics*. Vol. I, No. 2, December 2007
- Ascarya, "Akad & Products Bank Syari'ah", 3rd cet, (Jakarta: Rajawali Pers, 2011)
- Ath-Thayyar, *Encyclopedia of Muamalah Fiqh in 4 Madzab* (Yogyakarta: Wadarulwathan Lin-Nasyr, Riyadh, KSA, 2004),
- National Sharia Council No: 04/DSN-MUI/IV/2000 on Murabahah
- Hasbi Ash-Shiddiqy, *Introduction to Muamalah Fiqh* (Jakarta: Bulan Bintang, 1989)
- Karim Adiwarman,., "Islamic Macroeconomics," Jakarta : PT. King Grafindo Persada
- Muhammad Al-Khatib Al-Sharbayniy, *Mughniy al-Muhtaj* (Beirut: Dar al Fikr, t.t.),
- PajarRahmatuloh, "Akad Murabahah and Its Implementation in Sharia Linked to the Ability of Murabahah Practice According to Scholars." *Scientika* Vol. 1No. 2 2015
- Permana, A. A (2017). *Analysis of murabahah bil wakalah financing in increasing customer productivity and welfare at UJKS KSU Jabal Rahmah Sidoarjo*



E-NISN : 2614-2643

P-NISN : 2541-7037

Journal Equitable

**Vol 9 No 1
2024**

Sayyid Sabiq, Jurisprudence of the Sunnah
(Jakarta: Cakrawala Publishing, 2009),

Banking Law, Law no.21/2008 on Sharia
banking