



**ANALYSIS OF ISLAMIC LAW ON THE EFFORTS OF COVERING
PHYSICAL EVIDENCE OF MURABAHA FINANCING TRANSACTIONS****Ubaid Aisyul Hana¹****Institut Pesantren KH. Abdul Chalim, Mojokerto, Indonesia****ubaidmedmed@gmail.com****Muhammad Syarifudin²****Institut Pesantren KH. Abdul Chalim, Mojokerto, Indonesia****udinbinayah@gmail.com**

Abstract

The research aims to answer the problem of how to cover physical evidence by PT. BPRS Jabal Nur according to Islamic legal analysis. The research data is collected through interviews and the documentation is then analyzed using descriptive analysis techniques, namely the most basic analysis to describe the data in general. The results of the study concluded that the policies agreed upon by the BPRS Jabal Nur Surabaya were expressly prohibited by Islamic law, because they did not comply with the regulations made by the government. As explained in the Koran Surat al-Nisa' verse 59. The policy is the covering (manipulation) of physical evidence in the form of notes for customers who do not deposit notes for certain reasons. It was done by the bank due to a lack of staff in handling the above problems and a lack of customer knowledge about the importance of these notes for the bank in their annual reports. In line with these conclusions, BPRS Jabal Nur must be firm with customers to submit physical evidence in the form of notes and tighten the recruitment process for the company so that it is better than what is expected by BPRS Jabal Nur Surabaya.

Keywords: Legal Analysis, Covering, Murabahah, Financing



INTRODUCTION

Humans cannot live alone. They support each other's lives by helping each other and exchanging things that are useful in all the interests of life, both personal interests and the benefit of the public.

Activities between humans include economic activities through what the scholars term *mu'amalah*. These economic activities are in the form of buying and selling, leasing, accounts payable, lending and borrowing, and various other economic activities found in the community. All of these economic activities are only intended to meet the needs of each individual life. Along with economic development, financial institutions were born that helped carry out people's economic activities, one of which was a bank.

Bank is a business entity that collects funds from the public in the form of savings and distributes it to the public in the form of credit and or other forms in the context of improving the standard of living of the people at large.

The term Islamic Bank or Sharia Bank is a phenomenon today with the background of the incessant efforts made by Islamic experts in supporting the Islamic economy which is believed to improve the conventional system based on interest which is expressly prohibited by the Koran.

Related to the label, Islamic banks are financial institutions based on Islamic law (Ascarya, 2011). It means that the sharia bank is the bank that carries out business activities based on sharia principles, namely the rules of an agreement based on Islamic law between banks and other parties for depositing funds and/ or financing business activities, or other activities declared in accordance with sharia (Nurhadi, 2020).



As Muslims who are careful in carrying out religious teachings that reject business relationships operating with the flower system. This is because the purpose of establishing a sharia financial institution is to promote and develop the application of Islamic economic principles into financial transactions and banking and other related businesses (Arifin, p. t.t).

The main form of product of Islamic banks is to use revenue sharing patterns according to their characteristics. In addition to revenue sharing patterns, Islamic banks also have funding and financing products with non-revenue sharing (buying and selling) patterns. In funding products, sharia banks can also use the principles of wadī'ah, qard, and ijarah. In financing products, Islamic banks can also use the pattern of buying and selling (with the principles of murabahah, salam, and istṣna ') and the pattern of renting (with the principles of ujarah and ijarah wa iqtina).

In addition, Islamic banks also provide various banking service products in the form of financial services, non-financial services, and agency services. The financial service products offered include *wakalah*, *kafalah*, *hiwalah*, *rahn*, *qard*, *sarf*, and *ujr*. Non-financial service products offered include *wadi'ah yad al-amanah* (safe deposit box). Meanwhile, agency services only offer *mudharabat al-muqayyadah* (bonded investment) products.

Of the products mentioned above, murabahah financing is the most widely used financing by Islamic banks and customers. Murabahah is the sale and purchase of goods at the original price with an additional agreed profit.

The purpose of filing process is based on Law no. 7 of 1971 concerning the main provisions of archives is to ensure the safety of the material of the national accountability regarding the plan, implementation, and



implementation of government activities. The archive storage procedure is the steps of work carried out in connection with the storage of a letter. In the document archival storage procedure, it is necessary to record, file, store and return it for the needs of the user. Of course, these activities require storage equipment and equipment along with management procedures. As in the case of BPRS Jabal Nur Surabaya, the largest amount of financing is murabahah financing. The advantage of this murabahah product financing is that the customer can buy something according to his/ her economic desire and capacity and the payment is made in installments so that it does not burden the customer himself. In addition, the process and practice is easier than other financing.

In the systems and procedures that have been determined by BPRS Jabal Nur Surabaya, murabahah financing is carried out using the *wakālah* system, which is an effort to give the bank the power given to the customer or vice versa to buy goods that the customer wants independently. The physical evidence was removed due to a lack of manpower from the BPRS Jabal Nur Surabaya. So that the staff who handles the murabahah financing filing process sometimes forgets and customers who are required to submit a note do not immediately submit until a predetermined maturity.

From the information above, the author is interested in examining several things about the analysis of Islamic law on the systems and procedures for filing murabahah financing by manipulating physical evidence at BPRS Jabal Nur Surabaya.

RESEARCH METHOD



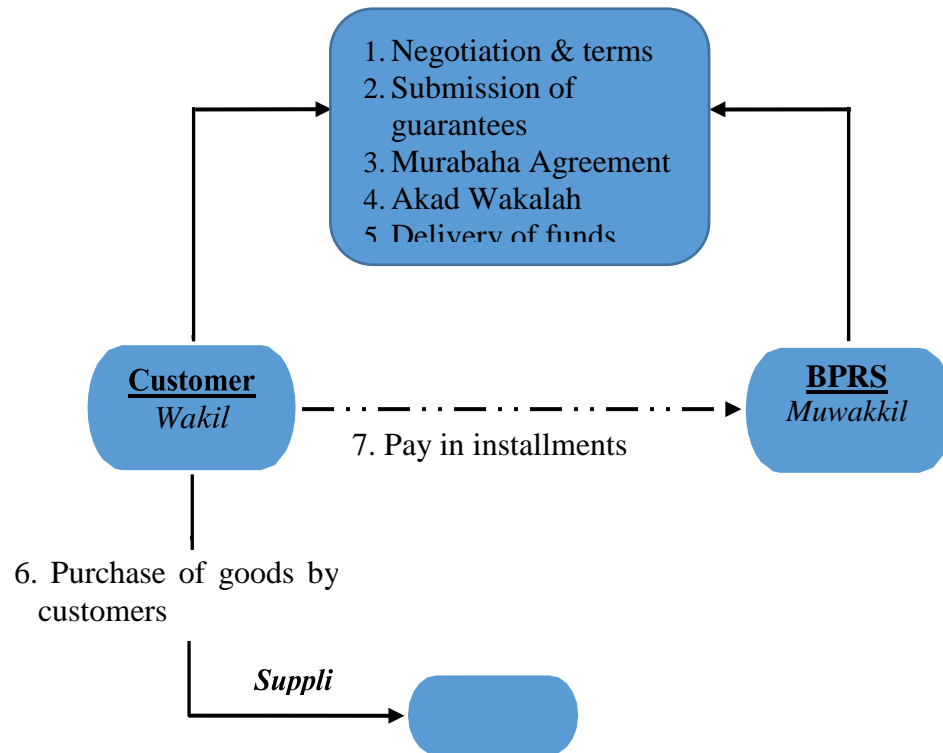
The study is done based on field research. The researcher goes to the field to make observations about a phenomenon in a natural state or 'in situ' with an approach related to participatory observation (Moleong, 2014). Thus, the author has a goal regarding the process of filling murabahah financing by manipulating the physical data that occurs in BPRS Jabal Nur Surabaya.

The data collected in the study are: a) Data on the *murabahah* contract at BPRS Jabal Nur Surabaya, b) Data on the process of covering physical evidence of *murabahah* transactions at BPRS Jabal Nur Surabaya in the perspective of Islamic law.

RESULTS AND DISCUSSION

The largest amount of financing at Bank BPRS Jabal Nur Surabaya is *murabahah* financing. The advantage of this *murabahah* product financing is that the customer can buy something according to his/ her economic desire and capacity and the payment is made in installments so that it does not burden the customer himself. In addition, the process and practice is easier than other financing. The process and practice can be seen in the chart below:

Figure 2.
Murabahah Financing Mechanism at BPRS Jabal Nur Surabaya



At BPRS Jabal Nur, *murabahah* is the sale and purchase between two parties, namely a bank and a customer, where the customer needs an item and buys (orders) it from the bank, then the bank buys the goods needed by the customer to the supplier. If the goods already exist, selling price of the goods and the profit between the bank and the customer will be determined according to the mutual agreement, then the customer pays for the goods in accordance with the agreed contract. The margin given by the bank to customers who carry out *murabahah* financing is 2%. Murabahah financing at PT. BPRS Jabal Nur Surabaya uses the *murabahah bi al-wakalah* contract. In short, the financing mechanism is as follows.



The customer submits a request for financing at the direction of the bank account officer who has socialized the product to him. The application for financing is of course accompanied by the completeness of the requirements for submitting financing that has been notified by AO when socializing the product. Furthermore, the prospective customer submits the required documents to the bank. Then the bank will verify the prospective customer documents. If a prospective customer is declared eligible by the bank, the bank will notify the customer verbally. However, if the customer is declared unfit by the bank, the bank will convey it verbally along with the reasons for the prospective customer's inadequacy to make financing.

After the prospective customer is declared eligible to receive financing, the customer will then submit the guarantee to the bank. Then, it was continued with the implementation of the financing agreement attended by two witnesses. When the contract is in progress, documentation is required as a condition of completing the financing application document as well as proof that on that day the customer has entered into a financing contract with the bank.

Besides using the murabahah contract, the murabahah financing also uses the *wakalah* contract. So, the customer acts as a wakil representing the bank to buy the goods the customer wants. Customers are considered more capable of finding and understanding the criteria for goods desired by customers. Thus, it is hoped that in the future there will be no protests from customers on the grounds that the goods do not match the desired criteria.

For costs arising from financing, they are debited directly to the financing ceiling. Then the bank will disburse the funds to the customer's account. Realization of financing is carried out first to the customer's account and then



transferred according to the financing needs to a third party (the party supplying the customer's goods as stated in the agreement).

During the implementation of the murabahah financing contract at PT. BPRS Mandiri Mitra Sukses, apart from being attended by the two parties who entered into the financing agreement (customer and bank), it was also attended by two witnesses as previously mentioned.

In the existing systems and procedures at the BPRS Jabal Nur Surabaya, murabahah financing is carried out using the wakālah system, which is an effort to give the bank the power given to the customer or vice versa to buy goods that the customer wants independently.

After the process of submitting murabahah financing from the customer is complete and can be disbursed, the BPRS Jabal Nur Surabaya carries out an filing process in order to fulfill the financial reports on the Sharia Supervisory Board every year. Physical evidence in the form of notes must be returned to the bank as proof that the customer has used the funds as needed.

In the event that a bank asks a customer to submit a note, the bank has a policy that has been agreed upon by the bank. If the customer does not submit the note according to the specified time period, the bank will cover the note manually, namely browsing the place of purchase that is closest to the domicile of the customer concerned. This is done for evidence of financial reports to DPS (Sharia Supervisory Board) and OJK (Financial Services Authority) every year. Because the note is one of the requirements that must be met in the annual financial statements or in filing.

At BPRS Jabal Nur, the archive storage activity consists of 2 (two) systems, namely online (computer) and manual (files/ documents). This is done



with 2 (two) systems so that one day if there is an inspection of data from parties inside or outside the bank, the data on the computer and files will be easily checked.

The filing process carried out by PT BPRS Jabal Nur by covering the data described above is prohibited for banks according to the Banking Law Number 21 of 2008 Article 63 paragraph 1. Although the article expressly prohibits, the BPRS still insists on always having an existence in its field.

It was done by the bank due to a lack of staff in handling the above problems and a lack of customer knowledge about the importance of these notes for the bank in their annual reports. So that the policy was agreed upon in order that the bank could still carry out its duties perfectly. Lack of staff is caused by the new establishment of the bank and still in the period of recruiting bank employees.

The policy above was agreed upon solely for the benefit of the ummah against the backdrop of the incessant efforts made by the leadership of the bank in supporting the Islamic economy which is believed to improve the conventional system based on interest which is expressly prohibited by the Koran.

In Islamic law, covering the note is prohibited because it does not comply with existing regulations. In chapter 2 it was explained that we as people led by the government must obey all existing regulations. As explained in the Qur'an Surah al-Nisa' verse 59.

In the above verse, it is explained that we are obliged to obey Allah, the Messenger and the leader in all matters to get a decision or policy that brings benefit to all people. Therefore, the covering carried out by BPRS Jabal Nur is



prohibited and must carry out the filing process as it should be without falsification in the report. Because it is not in accordance with the existing provisions and violates the Banking Law Number 21 of 2008 Article 63 paragraph.

CONCLUSION

After researching, discussing, describing and analyzing the systems and procedures for filing murābaḥah financing at BPRS Jabal Nur, the study produces several conclusions which are the answers to the problems that have been formulated.

Recovering of notes carried out by BPRS Jabal Nur is browsing the place of purchase closest to the domicile of the customer concerned. This is done for evidence of financial reports to DPS (sharia supervisory board) and OJK (financial services authority) each year. Because the note is one of the requirements that must be met in the annual financial statements.

According to Islamic law, efforts to recover physical evidence by BPRS Jabal Nur are prohibited due to the act of obeying the government stipulated by the issuance of the banking law no 21 of 2009. The prohibition is in accordance with the rules of the *tasarruf al-imam manutun bi al-maslahah* which means the Imam's (government) policy must be related to the benefit. The policy that has been implemented by the government is the issuance of a banking law which prohibits the covering of physical evidence.

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