

## SETTLEMENT OF RECEIVABLES OF MURABAHAH CONTRACT ACCORDING TO DSN FATWA NUMBER 47 OF 2005 AT BANK SYARIAH INDONESIA KCP LHOKNGA ACEH BESAR

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### Abstract

This article aims to analyse the practice of settling murabaha receivables at BSI KCP Lhoknga with a study of Fatwa DSN-NO 47 of 2005. The fatwa provides guidance on sharia principles that must be adhered to in the settlement of murabaha receivables. The analysis is carried out on banking practices in settling murabaha receivables in community life. The aim is to ensure the development of an Islamic banking system that is free from usury. Because at this time there are still many people who think that Islamic banking and conventional banks are the same. This research is written with a conceptual approach, the type of research conducted in writing this scientific work uses a qualitative form, namely data collection in a scientific setting using scientific methods and conducted by scientifically interested people or researchers. The data used are primary data and secondary data. Primary data is obtained from interviews and observations. The results showed that the practice of settling murabahah receivables at BSI KCP Lhoknga seen from the review of DSN-MUI fatwa No. 47 of 2005 discusses the settlement of murabahah receivables for customers who are unable to pay, and the fatwa provides settlement requirements that must be followed as well as the responsibilities of customers and LKS to carry out settlements in accordance with the provisions in the fatwa. Therefore, the settlement practice has complied with the commandments of sharia principles including fairness and transparency in determining the amount of debt that must be paid by the debtor, and the fatwa which also regulates procedures when settling debts in situations of late payment or inability to pay. So, basically this contract is a direct agreement where the desired profit is predetermined. Fatwa DSN-NO 47 of 2005 explains that the settlement must be complied with, such as the object of collateral being sold by the customer at an agreed price and then the customer paying off the remaining forest to the Islamic financial institution (LKS) from the proceeds of the sale.

**Keywords:** *Settlement of receivables, Murabahah, Fatwa DSN-NO 47 Year 2005*

### **Abstrak**

Artikel ini bertujuan untuk menganalisis praktik penyelesaian piutang murabahah pada BSI KCP Lhoknga dengan suatu kajian Fatwa DSN-NO 47 Tahun 2005. Fatwa tersebut memberikan panduan tentang prinsip-prinsip syariah yang harus dipatuhi dalam penyelesaian piutang murabahah. Analisis dilakukan terhadap praktik perbankan dalam menyelesaikan piutang murabahah dalam kehidupan masyarakat. Tujuannya adalah untuk memastikan adanya pengembangan sistem perbankan syariah yang bebas dari riba. Dikarenakan saat ini masih banyak masyarakat yang menganggap bahwa perbankan syariah dengan bank konvensional itu sama saja. Penelitian ini ditulis dengan pendekatan konseptual, jenis penelitian yang dilakukan dalam penulisan karya ilmiah ini menggunakan bentuk kualitatif, yaitu pengumpulan data pada suatu latar ilmiah dengan menggunakan metode ilmiah dan dilakukan oleh orang atau peneliti yang tertarik secara ilmiah. Data yang digunakan adalah data primer dan data sekunder. Data primer diperoleh dari hasil wawancara dan observasi. Hasil penelitian menunjukkan bahwa praktik penyelesaian piutang murabahah pada BSI KCP Lhoknga dilihat dari tinjauan fatwa DSN-MUI No. 47 tahun 2005 membahas tentang penyelesaian piutang murabahah bagi nasabah yang tidak mampu memmbayar, dan fatwa tersebut memberikan persyaratan penyelesaian yang harus diikuti serta tanggung jawab nasabah dan LKS untuk melaksanakan penyelesaian yang sesuai dengan ketentuan yang ada dalam fatwa tersebut. Maka dari itu praktik penyelesaian tersebut telah mematuhi perintah prinsip-prinsip syariah termasuk keadilan dan transparansi dalam menetapkan jumlah hutang yang harus dibayar oleh pihak yang berhutang, dan fatwa tersebut yang juga mengatur prosedur ketika menyelesaikan hutang dalam situsasi keterlambatan pembayaran atau ketidakmampuan untuk membayar. Jadi, pada dasarnya akad ini merupakan perjanjian langsung dimana keuntungan yang diinginkan telah ditentukan sebelumnya. Fatwa DSN-NO 47 Tahun 2005 menjelaskan penyelesaian itu harus dipatuhi seperti objek jaminannya dijual oleh nasabah dengan harga yang disepakati lalu nasabah melunasi sisa hutangnya kepada lembaga keuangan syariah (LKS) dari hasil penjualan.

**Kata Kunci:** *Penyelesaian piutang, Murabahah, Fatwa DSN-NO 47 Tahun 2005*

### **INTRODUCTION**

The development of Islamic banking in Indonesia is inseparable from the evolution of regulations that underpin banking operations. Since 1992, the Indonesian banking law has accommodated a banking system that operates based on the principle of profit sharing, known as Islamic banking. The need for financial

instruments that comply with sharia principles has been anticipated before, especially along with the development of Islamic banks.<sup>1</sup>

Islamic banks are financial institutions that operate based on sharia principles. The importance of the role of banking in people's lives, so that the activities of society as a whole are closely related to the role and function of banks. To increase its effectiveness, banking regulations continue to be refined with various steps and taken to improve the banking system, including the development of an Islamic banking system that avoids usury practices. Most people still think that Islamic banks and conventional banks are similar. This is due to the lack of efforts from Islamic banks to socialise their operations properly, so that people are less aware of the differences between the two.<sup>2</sup>

In everyday life, the role of banks is very significant. Banks are financial institutions that are responsible for collecting funds from the public and allocating them back to the public with the aim of achieving profits. In general, in the conventional banking system, the allocation of funds is done through the provision of credit, while in the Islamic banking system, the allocation of funds is done through sale and purchase transactions and profit sharing.<sup>3</sup>

The rapid development in Islamic banking has encouraged the development of a variety of service products and services to fulfil the needs of the community. Of the various products introduced by Islamic Banks, murabaha remains the most commonly provided form of financing. Murabahah is an agreement for the sale and purchase of goods in which the acquisition price and profit margin are determined by the seller and buyer. Initially, murabahah was a buying and selling concept that was not related to financing. However, Islamic Financial Institutions, especially Islamic Banking, utilised the concept of murabahah sale and purchase by adding some other aspects so that it became a form of financing. However, the validity of this kind of transaction depends on several conditions that must be considered so that the transaction is considered valid according to sharia principles.<sup>4</sup>

In a murabahah transaction, the seller must clearly specify the goods being sold, which do not include haram goods. In addition, the purchase price of goods, the profit margin charged by the bank, and the payment method must also be

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<sup>1</sup> M. Guffar Harahap et al., *Islamic Banking: Theory, Concept & Implementation* (Jakarta: Sada Kurnia Pustaka, 2023).

<sup>2</sup> Yusnedi Achmad, *Legal Aspects in Economics* (Yogyakarta: Deepublish, 2015).

<sup>3</sup> Nabila Afriola and Cecep Sholeh Kurniawan, "PROVISION OF SAHARA SAVINGS BONUSES AT BANK ACEH SYARIAH BANDA ACEH BRANCH," *JURISTA: Journal of Law and Justice* 7, no. 1 (June 30, 2023): 64–85, <https://doi.org/10.1234/jurista.v7i1.67>.

<sup>4</sup> Chairul Fahmi, "The Impact of Regulation on Islamic Financial Institutions Toward the Monopolistic Practices in the Banking Industry in Aceh, Indonesia," *Peuradeun Scientific Journal* 11, no. 2 (May 30, 2023): 667–86, <https://doi.org/10.26811/peuradeun.v11i2.923>.

explained in detail. It is intended that buyers or customers can understand with certainty the actual price of the goods they buy.<sup>5</sup>

Developing the economic sector is one of the objectives of sharia financial institutions when providing financing to the community. Through financing, shariah financial institutions can provide loans for various business activities or consumption needs, in accordance with the economic conditions and income of individuals. Various facilities are offered by shariah financial institutions, including credit financing, which are attractive to the public.

In credit financing, shariah financial institutions use collateral as a means to settle the debts of customers if they fail to fulfil their obligations. The collateral object is important in reducing the risk if the customer is unable to repay the debt to the shariah financial institution. If the debt cannot be repaid, the situation may result in unpaid receivables.<sup>6</sup>

Failure to fulfil obligations in an agreement can cause problems. Therefore, the management of a shariah bank must have the ability to manage risks in murabaha financing, even though the level of risk arising can be predicted. Typically, the risks associated with murabaha financing include credit risk, market risk, and operational risk.

There are several reasons that cause delays in payment of murabaha receivables by customers. One of them is if the buyer experiences an unexpected event such as a natural disaster or fire that consumes all his property. Due to various conditions that can affect customers, banks sometimes have to deal with receivables that cannot be repaid every month. In addition, there are also cases where late payment of murabaha receivables is caused by the negligence of customers who deliberately delay payments.

To prevent uncollectible receivables, banks need to observe prospective customers who are interested in obtaining murabaha financing by studying details such as life history, type of work, place of residence, and other information needed to assess creditworthiness. Making these observations allows banks to easily contact customers in the event of delays in fulfilling their obligations.

The provisions regarding the settlement of murabahah receivables for customers who are unable to pay are contained in the DSN MUI fatwa No. 47/DSN-MUI/II/2005 including the following:

- a. The object of murabahah or other collateral is sold by the customer to or through LKS at an agreed market price.
- b. The customer repays the remaining debt to LKS from the proceeds of the sale.

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<sup>5</sup> Afriola and Kurniawan, "PROVISION OF SAHARA SAVINGS BONUSES AT BANK ACEH SYARIAH BANDA ACEH BRANCH."

<sup>6</sup> Harahap et al., *Islamic Banking*.

- c. If the proceeds from the sale exceed the remaining debt, the LKS returns the rest to the customer.
- d. If the sale proceeds are less than the debt, the remaining debt remains the customer's debt.
- e. If the customer is unable to pay the remaining debt, the LKS can release it.

In the context of murabahah transactions regarding debtors' debts, the DSN MUI has issued a fatwa stating that if the debtor sells the goods purchased during the transaction period, either making a profit or incurring a loss, the debtor is still responsible for repaying his debt to the bank in accordance with the agreement that has been determined. However, if the debtor delays payment or experiences bankruptcy in the context of a murabahah contract, postponement of payment is only acceptable if the debtor experiences bankruptcy, and for debtors who are able to pay but deliberately delay payment, the settlement will be carried out through the Sharia Arbitration Board if no agreement is reached through deliberation.<sup>7</sup>

In the murabahah financing agreement, the bank provides capital in the form of business products such as houses, and then sells them to customers by adding a profit margin according to the agreement stated in the clause. However, it turns out that this agreement did not meet expectations, resulting in errors in the financing.<sup>8</sup>

Usually, murabaha financing is arranged with monthly instalment payments by the customer in accordance with the agreement at the time of the agreement. Often, this instalment system poses challenges for Islamic banks, such as late payment of instalments by customers or even the unwillingness of customers to pay instalments at all. These problems are clearly detrimental to Islamic banks. Therefore, Islamic banks need to take firm action against customers who experience these problems.<sup>9</sup>

Difficult financing is one of the risks that every bank always faces, which is often referred to as credit risk. At BSI KCP Lhoknga, there are 3 products, namely rahn, murabahah and mudharabah. In murabahah financing there are two forms carried out by BSI Lhoknga, namely:

1. The bank provides funds to the customer, who then uses the funds to purchase the goods needed, by reporting the purchase receipt to the bank. In this concept, the bank only provides funds to customers in accordance with the proposed financing request.

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<sup>7</sup> Sutan Remy Sjahdeini, *Islamic Banking: Products and Legal Aspects* (Jakarta: Kencana, 2018).

<sup>8</sup> Ismail Ismail, *Islamic Banking* (Jakarta: Kencana, 2017).

<sup>9</sup> Nabilah Anika -, Nabila Indah Chairunnisa -, and Aditya Wahyu Saputro, "Potential Monopolistic Practices in Indonesian Islamic Bank Mergers: A Review of Islamic Economic Law and the Law of Monopoly Prohibition," *Journal of Law Lex Generalis* 2, no. 2 (February 22, 2021): 174-94, <https://doi.org/10.56370/jhlg.v2i2.22>.

2. The bank purchases the goods according to the specifications provided by the customer. The customer submits a form of financing to the bank by providing details of the goods to be purchased, and then the bank purchases the goods. After that, the bank delivers the goods to the customer through a murabaha contract.

## DATA AND METHODS

The research method of this article uses a qualitative research type, empirical normative approach, the data source of this research includes primary data and secondary data. Primary data is obtained from respondents through data from researcher interviews with customers and documentation to obtain receivable data related to murabahah.<sup>10</sup> And secondary data is obtained by researchers indirectly through intermediary media, in the form of books, hadiths, documents, and records related to the problem of murabahah receivables based on the provisions of Fatwa DSN-MUI.<sup>11</sup> The author uses descriptive analysis method is a method to describe events that occur today in the community. The data collected with the results of interviews conducted by researchers, then described with logical and good words. The data collection techniques that the author uses are observation, interviews, and documentation of the research results described in the form of sentences arranged systematically and in detail so as to facilitate the drawing of conclusions.<sup>12</sup> The legal issues discussed in this article are legal issues related to the settlement of murabahah receivables, as contained in DSN-MUI Fatwa Number 47 of 2005. This research was conducted at BSI KCP Lhoknga.

## RESULTS AND DISCUSSION

### A. Concept of Financing

In the context of language, murabahah refers to the parallel form of the word *ribh* or *jama'* which means profit. The root of the word comes from "*rabiha*" which means fortunate, "*ribhan*" which means profit, and "*warabahan*" which indicates profit. The terms "*Ribhun*" and "*warabaahan*" here refer to an increase in the value of

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<sup>10</sup> Nur Indrianto and Bambang Supono, *Business Research Methodology for Accounting and Management* (Yogyakarta: BPFE Yogyakarta, 2013), p. 142. 142.

<sup>11</sup> Rusadi Ruslan, *Research Methods of Public Relations and Communication*, (Jakarta: Raja Grafindo Persada, 2004), p. 24.

<sup>12</sup> Eka Putrasari, *Juridical Review of Judges' Decision on the Crime of Theft of Evidence (Decision Number: 88/Pid.B/2018 PN.RBI)*, Thesis (Mataram: University of Muhammadiyah Mataram, 2021), p. 25. 25.



capital. Thus, murabahah can be understood as the concept of mutual gain.<sup>13</sup> In the Shafi'i school of Fiqh, murabahah is explained as the process of mentioning the cost of goods to prospective buyers with the requirement that the seller earn a profit.<sup>14</sup>

Another view explains that murabahah is a sale and purchase transaction in which the seller provides information about the cost of goods and the desired profit rate. Murabahah is a type of sale and purchase transaction that is carried out on the basis of trust, so it is important to know the cost of purchase and the level of profit transparently. <sup>15</sup>Thus, murabahah can be understood as a sale and purchase in which the selling price is equal to the purchase price plus the profit rate agreed upon by both parties.<sup>16</sup>

Financing provided by Islamic banks always has a solid foundation to run it. Usually, murabaha financing refers to references from the verses of the Qur'an, hadith, and fatwas issued by the Indonesian Ulema Council (MUI) through the National Sharia Council.

The legal basis for the implementation of murabaha in the main sources of Islamic law is as follows:

a. Qur'an

Al-Qur'an surat al-baqarah verse 275:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

Meaning: "And Allah has legalised buying and selling and forbidden usury."<sup>17</sup>

It is also found in Surah an-Nisaa' verse 29:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

Meaning: "O you who believe, do not eat of one another's wealth by unlawful means, except by way of a mutually agreeable trade between you. And do not kill yourselves; surely Allah is Merciful to you".<sup>18</sup>

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<sup>13</sup> A.W. Munawir, *Al-Munawir Arabic-Indonesian Dictionary* (Surabaya: Progressive Library, 1997), p. 463. 463.

<sup>14</sup> Idris Ahmad, *Fiqh According to the Shafi'i Madhhab*, Volume II (Jakarta: Widjaya, 1969), pp. 30.

<sup>15</sup> Dimyauddin Djuwaini, *Introduction to Muamalat Fiqh* (Yogyakarta: Pustaka Pelajar, 2008), p. 104.

<sup>16</sup> Chairul Fahmi, "The Dutch Colonial Economic's Policy on Natives Land Property of Indonesia," *PETITA: Journal of Law and Sharia Studies (PJKIHDs)* 5, no. 2 (2020): 105, <https://doi.org/10.22373/petita.v5i2.99>.

<sup>17</sup> Agus Hidayatulloh, *al-Qur'an Transliteration by Word and Word Translation*, (Bekasi: CiptaBagus Segara, 2012), p. 47.

<sup>18</sup> *Ibid.* p. 83

b. Al-Hadist.

The hadith foundation underlying this murabahah transaction is a hadith narrated by Ibn Majah no. 2289

Which means: "It was narrated from shuhaib r.a. that the Prophet Muhammad said: three things that contain blessings are buying and selling in cash, muqaradhah (mudharabah), and mixing wheat with flour for household use, not for sale." The hadith above explains the permissibility of buying and selling practices carried out on an overdue basis, as well as murabaha financing which is carried out on an overdue basis, meaning that customers are given a grace period to make repayments on the price of commodities according to the agreement.

c. Ijma'

The majority of scholars allow sale and purchase transactions through the murabahah system, because individuals in society always need goods and services produced and owned by others.<sup>19</sup>

Imam Shafi'i, without intending to defend his view, said that if a person shows goods to another person and says, "You buy for me, I will give you such and such a profit," then the person buys them, the transaction is considered valid.<sup>20</sup>

Imam Malik strengthened his argument by referring to the practice that took place in Madinah, where there was general agreement on the ruling of a person buying clothes in one city and then taking them to another place to sell under an agreement based on profit sharing.

**1) The pillars of Murabahah**

As part of a sale and purchase transaction, the basic principles and requirements in murabaha sale and purchase are basically the same as the principles and requirements in sale and purchase in general. According to the Hanafi school of thought, the main elements of buying and selling are the offer (*ijab*) and acceptance (*qabul*) that indicate an exchange or mutual giving activity represented by the offer and acceptance.<sup>21</sup> However, according to the majority of scholars, there are 4 main elements in buying and selling, namely the seller, buyer, agreement, and

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<sup>19</sup> Wiroso, *Murabahah Sale and Purchase*, (Yogyakarta: uii press, 2005), p. 47.

<sup>20</sup> Chairul Fahmi, "THE CONCEPT OF IJMAK ACCORDING TO FAZLUR RAHMAN AND THE REFORM OF ISLAMIC LAW," *Futura Islamic Scientific Journal* 11, no. 1 (February 3, 2017): 35-49, <https://doi.org/10.22373/jiif.v11i1.59>.

<sup>21</sup> Wiroso, *Murabahah Sale and Purchase*, p. 16.



goods or objects that are the subject of the transaction. Meanwhile, in the context of murabaha sale and purchase, the main elements are:<sup>22</sup>

a. Seller (*Ba'i*)

The bank or BMT is responsible for financing the purchase of goods requested by borrowing customers with payment arrangements made on a delayed basis. Usually, in practice, the bank or BMT will purchase the goods requested by the customer on behalf of the bank or BMT itself.<sup>23</sup> Although in some cases the bank or BMT uses a wakalah contract for the purchase of goods, where the customer directly purchases the desired goods on behalf of the bank.

b. Buyer (*Musytari*)

The buying party in a murabaha financing transaction is the customer who applies for financing to the bank.

c. The object of sale (*Mabi'*)

The most common murabaha financing application submitted by most customers is to acquire consumptive goods used in production, such as houses, land, cars, motorbikes, and so on.<sup>24</sup>

Even so, it should be remembered that there are provisions that must be considered as well, that the object or goods that are the subject of the agreement must fulfil the conditions in accordance with the principles of Islamic law, among others

1. It is not valid to sell unclean objects such as dogs, pigs, and so on that fall under the category of unclean.
2. Based on this, it is not permissible to sell something for which there is no benefit according to sharee'ah.
3. *It should not be imposed*, in the case where it is linked to or dependent on other things, such as: "If my father leaves, I will sell this vehicle to you".
4. *It is not time-limited*, in the case of saying, "I sell this vehicle to you for one year". This sale is not valid, because buying and selling is one of the causes of full ownership that is not limited by Shara'.
5. *Transferable/deliverable*, because in buying and selling, the goods that are the object of the contract must change ownership from the seller to the buyer.

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<sup>22</sup> Muhammad, *Models of Financing Agreements in Islamic Banks (Technical guidelines for making Financing Agreements in Islamic Banks)*, Yogyakarta: UII Press, 2009, p.58.

<sup>23</sup> Warkum Sumitro, *Principles of Islamic Banking and Related Institutions (BUMI and Takaful)*, (Jakarta: PT Grafindo Persada, 1st cet., 1996), pp. 93.

<sup>24</sup> Karnaen A. Perwata Atmadja and M. Syafi'i Antonio, *What and How of Islamic Banking*, (Yogyakarta: Dana Bhakti wakaf, 1992), pp. 25.

Whether the delivery is quick or slow depends on the distance or place where the goods are delivered.

6. It is not permissible to sell someone else's property without the permission of the owner. The same applies to goods that are about to become his property.
  7. *It is known (seen)*, the goods that are the object of sale and purchase must be known specifications such as the amount (quantity), size, model, colour and other related matters. Hence, a sale that leaves one party in doubt is not valid.<sup>25</sup>
  8. *Price (Tsaman)*. The price in murabaha financing is analogous to pricing or financing ceiling.
- d. Ijab qabul.

In the Islamic banking industry or Islamic Financial Institutions (BMT), where all activities are based on the principles of Islamic law, the contracts made also have worldly and afterlife consequences. In the contract, it usually includes the specifications of the goods desired by the customer, the commitment of the Islamic bank or BMT in acquiring the goods, as well as notification to the customer of the cost of purchase and the amount of profit proposed (through bidding). Furthermore, an agreement regarding the period of instalments is also regulated in the event of a murabahah transaction.

## 2) Terms of Murabahah

In addition to the pillars in murabaha financing, there are also conditions that should be a guideline in financing as well as the identity of a product in Islamic banks or BMT with conventional banking. The terms of the murabaha sale and purchase include:

- a. The seller tells the cost price to the prospective buyer.<sup>26</sup> This is logical, because the price that the second buyer or customer will pay is based on the capital of the initial buyer, the Bank or BMT.
- b. The first contract must be valid in accordance with the prescribed pillars.
- c. The agreement must be free from usury.
- d. The seller must explain to the buyer any defects in the goods after purchase.
- e. The seller must convey all matters relating to the purchase, for example, the purchase is made on a debt basis.

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<sup>25</sup> Hendi Suhendi, *fiqh Muamalah*, (Jakarta: PT Raja Grafindo Persada, 1st cet. 2002), pp. 71-72.

<sup>26</sup> Muhammad Ridwan, *Construction of Islamic Banks in Indonesia*, (Yogyakarta: Pustaka SM, 2007), p. 79.

### 3) Benefits and Advantages of Murabaha

The advantages of Murabahah are in accordance with the characteristics of the business, this transaction provides several benefits to Islamic banks, including:

- a. *Profit* obtained from the difference between the price purchased from the seller and the selling price to the customer.
- b. The simple murabaha system is very helpful in handling administration in Islamic banks.<sup>27</sup>
- c. The benefit to the bank lies in the function of channelling funds that generate income through margins
- d. The advantage for the customer is to obtain certain goods through financing facilities from the bank. Customers can pay in fixed instalments during the agreement period

Murabahah is often chosen for sale and purchase transactions because it has a number of advantages and benefits compared to other methods. Here are some of them:<sup>28</sup>

- a. The profit in the Murabahah Agreement is explicitly determined at the beginning of the transaction, in accordance with the agreement between the two parties. The difference with Mudharabah or Musyarakah contracts is that in both contracts, the profit cannot be fixed at the beginning because it must be adjusted after knowing the business results of the customer.<sup>29</sup>
- b. The margin or profit in Murabahah is fixed and cannot be changed once agreed by both parties.
- c. Murabahah transactions carried out on credit are considered to have lower risk because they are not related to the performance of the customer's business, whether it makes a profit or suffers a loss. Settlement of debts and receivables in this transaction must be carried out by the customer in accordance with the established agreement.<sup>30</sup>

## B. Settlement of Murabahah Receivables for Customers who are unable to

### 1. Definition of Debt and Credit

A debt and credit agreement involves an agreement between two parties where usually the object of the agreement is money. One party acts as the lender

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<sup>27</sup> Antonio, *Islamic Banking*, ... pp. 106-107.

<sup>28</sup> Lukmanul Hakim and Amelia Anwar, "Murabahah Financing in Islamic Banking in Legal Perspective in Indonesia," (*Al-Urban: Journal of Islamic Economics and Islamic Philanthropy* Vol. 1 No. 2, 2017), pp. 212-23.

<sup>29</sup> Muhammad Iqbal, Chaliddin, "Akad Murabahah in Islam" (Institut Agama Islam Negeri Lhokseumawe: *Al-Hiwalah Journal: Sharia Economic Law*, Vol. 1 No. 2, 2022), pp. 143-156

<sup>30</sup> Hendi Suhendi, "*Fiqh Muamalah: Discussing Islamic Economics*," Cet. I. (Jakarta: Raja Grafindo Persada, 2002)

while the other receives the loan. The money borrowed will have to be returned within a pre-agreed time.<sup>31</sup>

Al-Qardhu, which is the Arabic term for debt, has the basic meaning of giving or lending. Etymologically, debt (*al-qardhu*) can be interpreted as a gift or a cut, but in the context of sharia, it refers to the act of handing over money to someone who needs it, with the expectation of returning the same amount. Within the fiqh framework, qard is classified as a *tathawwu'i* agreement or mutual aid agreement, which is not included in commercial transactions.<sup>32</sup>

## 2. Legal Basis and Mechanism for Settlement of Murabahah Receivables for Customers who are unable to

One of the crucial aspects of the murabaha financing system is how to handle receivables that are not paid by customers who are experiencing financial difficulties. When customers are unable to fulfil their obligations in accordance with the agreement made regarding the amount and period of payment, several steps can be taken to resolve the situation.

The legal basis for settling murabahah receivables for customers who are unable to pay can be found in Fatwa DSN MUI Number 47/DSN-MUI/II/2005. The following steps are some of the mechanisms that can be taken in settling murabahah receivables for customers who have difficulty paying:

1. **Settlement:** Islamic financial institutions (LKS) have the ability to settle murabahah transactions for customers who have difficulty in repaying payments in accordance with the agreed amount and time.
2. **Deliberation to reach consensus:** Settlement of receivables for customers who are unable to pay can be done through deliberation to reach consensus.
3. **Reduction of Instalments:** the customer has the right to request a reduction in the amount of instalments in murabaha financing according to his financial situation.
4. **Reduction of Purchase Price:** The customer has the right to request a reduction in the purchase price of the goods purchased in a murabaha transaction.
5. **Profit Reduction:** The customer has the right to request a reduction in the rate of profit earned by the seller in a murabaha transaction
6. **Reduction of Financing Period:** The customer has the right to request an adjustment of the financing period that is more suitable for his/her financial condition.

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<sup>31</sup> Gatot Supramono, *Debt and Credit Agreement* (Jakarta: Kencana, 2013), p. 9.

<sup>32</sup> Ismail Nawawi, *Classical and Contemporary Muamalah Jurisprudence* (Bogor: Ghalia Indonesia Publisher, 2012), p. 178.

The settlement of murabahah receivables for customers who cannot pay can be carried out through a series of steps that have been agreed upon by the seller and buyer. This procedure must be carried out transparently and based on the legal principles governing murabaha.

### **C. Analysis of murabahah receivables settlement practices at BSI KCP Lhoknga (A Study of DSN-MUI Fatwa No.47 of 2005)**

#### **1. Murabahah practices and murabahah receivables settlement mechanism at Bank Syariah Indonesia BSI KCP Lhoknga**

According to interviews with Bank Syariah Indonesia KCP Lhoknga staff, the initial step before providing murabaha financing involves identifying around 100 customers who fail to pay. In the settlement of non-performing financing at this bank, there is no practice of selling or auctioning collateral because their financing products do not include collateral that can be sold. Instead, Bank Syariah Indonesia KCP Lhoknga only asks for a Certificate (SK) from the customer or employee as collateral. However, when viewed from the Fatwa, SK cannot be used as collateral because SK cannot be traded as a process in resolving problematic financing. The destruction of the goods owed is due to a mismatch in the purchase of consumptive goods, meaning that the customer uses the financing to meet other needs, for example for lending costs, business capital, home renovations, and others, so it is difficult for the bank to sell the murabahah object. If the murabaha object does not exist (destroyed) then the bank will find it difficult to make the item an effort to resolve problem financing at Bank Syariah Indonesia KCP Lhoknga.<sup>33</sup>

The author explains that if the customer is late in paying the instalments or does not pay the debt, the bank as the lender is authorised to make collections, either directly or indirectly. In simple terms, murabahah is the process of selling goods at a certain price plus an agreed profit, such as when someone buys goods and then resells them with a certain profit margin. The amount of profit can be expressed in nominal rupiah or as a percentage of the purchase price, for example 10% or 20%. Therefore, this contract is basically a direct agreement in which the desired profit is predetermined. In murabahah, the object or goods are sold by the customer to the bank at an agreed market price, and the customer pays the remaining debt from the proceeds of the sale. The customer's debt is the difference between the selling price

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<sup>33</sup> Saifullah Ali, Zalva Amalia, and Yusriaina Yusuf, "THE APPLICATION OF MURABAHAH CONTRACTS IN THE INSTALLMENT SERVICES OF DHUFA PARTNER COOPERATIVES IN INDONESIA," *JURISTA: Journal of Law and Justice* 7, no. 2 (November 17, 2023): 119-43, <https://doi.org/10.1234/jurista.v7i2.70>.

(principal and margin), although the bank may give a discount on repayment. The murabaha object should be used as collateral in case of problems in financing.<sup>34</sup>

The flow of settlement for customers who do not pay the sanctions depends on the type of financing, because this financing is a perfect increase with notary and under hand, for those under hand it is resolved in a family manner, and for perfect improvement it is resolved by going to the field. And for customers who are still trying to pay but are constrained by their lack of ability, the bank will offer structuring or rescheduling. A customer has a credit of 50,000,000, with the current condition the customer is only able to pay a month 4,000,000, therefore the bank will reschedule according to the agreement and the customer's ability to pay in one month until completion. And for payments can be made in instalments according to the agreement between the two parties.

In this murabaha financing, the bank takes a margin profit of 6% of the financing submitted by the customer. And the exemption of the margin is permissible, but the bank as an intermediary institution, which collects funds from parties who have a financial surplus and then redistributes these funds to parties who need funds in the form of financing, must first consider the impact arising from this problem because if the margin is waived it will have an impact on the company's profit.

## **2. Review of DSN-MUI Fatwa No. 47 of 2005 on the settlement of murabahah receivables at Bank Syariah Indonesia BSI KCP Lhoknga**

DSN-MUI Fatwa No. 47 of 2005 discusses how to settle debts in murabahah transactions at Bank Syariah Indonesia (BSI) KCP Lhoknga. Murabahah, which is a sale-purchase transaction with a predetermined profit, must comply with sharia principles, including fairness and transparency in setting the amount of debt to be paid by the debtor. This involves aspects such as fair profit calculation and timely payment. In addition, the fatwa also prescribes procedures for settling debts in certain situations, such as late payment or inability to pay.<sup>35</sup>

DSN-MUI Fatwa No. 47 of 2005 regulates the settlement of murabahah receivables for customers who are unable to pay. Here are some aspects explained in the fatwa:

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<sup>34</sup> Chairul Fahmi and Wira Afrina, "ANALYSIS OF LEGAL ASPECTS ON DEBT TRANSFER FROM CONVENTIONAL BANK TO SHARIA BANK POST THE APPLICATION OF QANUN ACEH NO. 11 OF 2018," *Al-Mudharabah: Journal of Islamic Economics and Finance* 4, no. 1 (July 23, 2023): 28-39, <https://www.journal.ar-raniry.ac.id/index.php/mudharabah/article/view/3047>.

<sup>35</sup> Yusuf Al Qaradhwai, *Contemporary Fatwas* 3 (Jakarta: Gema Insani, 1995).



- a. Murabahah Settlement: This fatwa explains about the settlement of murabaha that can be done by customers who cannot complete/repay their financing according to the agreed amount and time.
- b. Terms of Settlement: DSN-MUI Fatwa No. 47 of 2005 explains the settlement provisions that must be complied with, such as the object of murabahah or other collateral is sold by the customer to or through LKS at an agreed market price, the customer pays off the remaining debt to LKS from the proceeds of the sale, and others.
- c. Remaining Debt: This fatwa also explains about the remaining debt that remains the customer's debt if the sale proceeds are less than the remaining debt.
- d. Customer Obligation: This fatwa increases the customer's obligation to repay the remaining debt to the LKS from the sale proceeds.
- e. Obligation of LKS: This fatwa also explains the obligation of the LKS to release the customer if he is unable to pay the remaining debt.
- f. Closing If No Agreement is Reached: This fatwa also explains about the closing if one of the parties does not fulfil its obligations or if there is a dispute between the parties, then the settlement is carried out through the National Shari'ah Arbitration Board.
- g. Effective from the Date of Stipulation: This Fatwa is effective from the date of its enactment, but if in the future there is any mistake, it will be amended and perfected accordingly.
- h. Established in Jakarta: This fatwa was issued in Jakarta on 13 Muharram 1426 AH / 22 February 2005.

DSN-MUI Fatwa No. 47 of 2005 provides a more detailed explanation of murabahah debt settlement for customers who are unable to pay. The fatwa outlines the settlement requirements that must be followed as well as the responsibilities of customers and Islamic financial institutions (LKS) to implement the settlement in accordance with the provisions presented in the fatwa.

## **CONCLUSIONS**

Murabahah is a type of sale and purchase transaction that is carried out on the basis of trust, so it is important to know the cost of purchase and the level of profit transparently. Murabahah transactions carried out on credit are considered to have lower risk because they are not related to the performance of the customer's business, whether it makes a profit or suffers a loss. Settlement of debts and receivables in this transaction must be carried out by the customer in accordance with the agreement that has been determined.

The legal basis for settling murabahah receivables for customers who are unable to pay can be found in Fatwa DSN MUI Number 47/DSN-MUI/II/2005. Steps taken in settling murabahah receivables for customers who have difficulty paying, *settlement*, consensus, reduction of instalments, reduction of purchase price, reduction of profit, reduction of financing period. In the settlement of non-performing financing at this bank, there is no practice of selling or auctioning collateral because their financing products do not include collateral that can be sold. Instead, Bank Syariah Indonesia KCP Lhoknga only asks for a Certificate (SK) from the customer or employee as collateral. when viewed from the Fatwa, SK cannot be used as collateral because SK cannot be traded as a process in resolving problematic financing. then for customers late in paying installments or not paying their debts, the bank as the lender is authorised to collect, either directly or indirectly.

The flow of settlement for customers who do not pay the sanctions depends on the type of financing, because this financing is a perfect increase with notary and under hand, for those under hand it is resolved by family, and for perfect improvement it is resolved by going to the field. And for customers who are still trying to pay but are constrained by their lack of ability, the bank will offer structuring or rescheduling. The review of DSN-MUI Fatwa No. 47 of 2005 on the settlement of murabahah receivables at Bank Syariah Indonesia BSI KCP Lhoknga is the settlement of the murabahah object or collateral sold by the customer through the LKS at the agreed market price, the customer pays off the remaining debt to the LKS from the proceeds of the sale, and the remaining debt remains the customer's debt.

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