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ANALYSIS OF THE DECISION OF THE LANGSA SYARIAH MAHKAMAH NO 355/Pdt.G/Ms.Lgs ON THE OWNERSHIP OF THE LEASING OBJECT BY THE LESSOR UNDER THE CONCEPT OF BA'I MURABAHAHAH

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Abstract

This study analyses the decision of the Langsa Syariah Court No. 355/Pdt.G/Ms.Lgs regarding the repossession of leasing objects by the lessor in a *bai' murabahah* contract. Sharia financing companies often utilise *murabahah* contracts in their operations, emphasising transparency and fairness. However, this case highlights a violation of sharia principles due to the forced repossession of leasing objects without consultation or court orders. The study aims to evaluate the conformity of the lessor's actions with *murabahah* principles and Islamic economiclaw.This research employs a normative juridical approach with a descriptive-analytical method. Primary data is derived from the Langsa Syariah Court decision No. 355/Pdt.G/Ms.Lgs, while secondary data includes Islamic legal literature and relevant regulations. The analysis examines the pillars and conditions of *murabahah* contracts as well as the judges' considerations in the ruling. The findings reveal that the repossession of leasing objects was triggered by the debtor's default in installment payments. The lessor based their actions on a contractual clause granting full authority to execute the leased object. However, such actions contradict sharia principles, which require consultation or arbitration to resolve disputes. The court rejected the plaintiff's claim due to insufficient evidence of unlawful acts by the defendant. The repossession was deemed consistent with the agreement, despite procedural violations.

Keywords: *Murabahah* Contract, Leasing Object Repossession, Sharia Principle

INTRODUCTION

Finance companies and Islamic financial institutions (LKS) are entities whose existence provides convenience to the community in meeting both

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productive needs (fulfilment of business capital), and consumptive ones (fulfilment of needs for vehicles, houses, and others). In its operational system, Islamic finance companies use several types of sharia contracts in accordance with the type of financing proposed. In the context of buying and selling consumptive goods, finance companies generally use murābaḥah contracts.[1]

The concept of *murabahah* can be understood as a model of buying and selling transactions that refers to the principle of justice and the principle of openness or price transparency in bai' (buying and selling). *Murabahah* in Islamic economics refers to a form of sale and purchase where the seller offers his merchandise by telling the price to be obtained by adding value as profit with the type of credit or cash payment.[2] This is what makes the concept of *murabahah* different from other Islamic economic concepts because in its provisions the profit or margin must be notified to the buyer through the agreement of each party.

In the book al-Fiqh *al-Islām wa Adillatuhu,* Wahbah az-Zuhaili said about *murabaha* sale and purchase, which is selling goods according to the purchase price, by adding a certain profit. An example of *murabaha* sale, as mentioned by the Malikiyah scholars, is that the owner of the goods states how much he bought the merchandise, after which he asks for a certain profit, either globally (such as by saying, "I bought this item for ten dinars, and I ask for a profit of one or two dinars") or in detail (such as by saying, "I ask for a profit of one dirham for each dinar," and so on). In other words, the seller can ask for a specific profit, or ask for a profit according to a certain percentage.[3]

Sayyid Sābiq also said that *murabaha* is the sale of goods at the purchase price plus a known profit, this kind of sale and purchase is permissible on condition that each of the seller and the buyer must know the purchase price of the goods beforehand.[4]

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[1] Sri Wahyuni et al., 'THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS', *JURISTA: Journal of Law and Justice* 7, no. 1 (10 June 2023): 1–23, https://doi.org/10.1234/jurista.v7i1.42.

[2] Burhanuddin Al-Butray, "The Concept of *Murabahah* in the Dictum of Islamic Economic Philosophy", *Journal of Islamic Economics and Business*, Vol. 8, No. 1, June, 2021. p.58.

[3] Wahbahaz-Zuḥailī, *al-Fiqh al- Islām waAdillatuhu*, Volume 5, transl. Abdul Hayyie al-Kattani, et al (Jakarta: Gema Insani, 2011), pp. 357.

[4] Sayyid Sābiq , *Fikih Sunnah*, volume 5, transl. Muhammad Nasiruddin al-Albani (Jakarta: Cakrawala Publishing, 2008), p. 190.

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Leasing as a form of financing is an agreement to provide goods by the *lessor* for use by the *lessee* within a certain period of time with an instalment payment scheme. The essence of *leasing* is a lease agreement which is commonly called a leasing agreement or lease.[5]

Financing institutions such as *leasing* must legally own the goods before selling them to customers. The selling price, including the profit margin, must be agreed transparently. Payment is made in instalments without elements of usury, and the contract must be free from uncertainty (*gharar*). The *leasing* institution must take physical or legal possession of the goods before the contract is made. After the contract, the goods become the property of the customer, although they can be used as collateral until the instalments are completed. Goods can also be insured using sharia principles.[6]

The application of the *bai' murabahah* contract in leasing financing has an important urgency in supporting compliance with sharia principles. It ensures that the transaction is free from usury, *gharar* and maysir, thus fulfilling the requirements of halalness in the Islamic economy. Price transparency in *murabahah*, by stating the cost and profit margin, creates fairness between the financing institution and the customer. In addition, this contract guarantees legal ownership of the goods by the financing institution before they are sold to the customer, and avoids prohibited buying and selling practices.[7]

In Indonesia, leasing practices are regulated in Minister of Finance Regulation Number 84 of 2006 concerning Finance Companies and Minister of Finance Decree Number 1169/KMK.01/1991 concerning *Leasing* Activities which states that leasing is a financing activity in the form of providing capital goods either on a leasing basis with option rights (*finance lease*) or leasing without option rights (*operating lease*) for use by the *lessee* for a certain period of time based on payments in instalments.[8]

In *leasing*, control of the object becomes under the power of *the lessee* but does not become a property right but the right to benefit from the *leasing* object, for property rights is still under the control of *the lessor* until the *lesse* pays the full instalment and even then if the lesse chooses the *finance lease*

[5] R. Subekti, (1979), Civil Principles, Jakarta: Intermasa, pp. 55

[6]Financial Services Authority Regulation Number 31/POJK.05/2014 concerning the Implementation of Sharia Financing Business.

[7] DSN-MUI Fatwa No. 04/DSN-MUI/IV/2000 concerning Murabahah

[8] Article 1 Letter C Minister of Finance Regulation No. 84/PMK.012/2006 Year 2006 Regarding Financing Companies

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option. What is meant by the *finance lease* option is the *lessee*'s right to purchase capital goods leased (*Finance Lease*) or extend the term of the leasing agreement (*Operating Lease*).[9]

In the event of default, it will certainly result in one of the parties suffering losses, because there is a party that is harmed, the party that causes the loss must be responsible. A debtor who commits default will be subject to sanctions or penalties. In the event that there are already symptoms that *the lessee* will default or if the *lessee* has clearly defaulted, the *lessor* can demand what is his right to the guarantee such as the withdrawal of the *leasing* object. However, if there is a refusal by the *lessee* to take the goods, legal action can be taken by filing a lawsuit in court.[10]

In contrast to the mechanism of control of the *leasing* object according to sharia perspective, as stipulated in the DSN MUI Fatwa Number 4 of 2000 concerning *Murabahah* financing, that if there is a dispute or dispute such as the customer is unable to pay his obligations again which results in the *lessor* suffering losses, the settlement is carried out through the Sharia Arbitration Board after no agreement is reached through deliberation.[11]

Regarding the issue of control of *leasing* objects, there is one case in the Syar'iyah Court of Langsa in decision Number 355/Pdt.G/Ms.Lgs, this case stems from the existence of a *murabahah* financing agreement between the Plaintiff as the debtor and the Defendant as a sharia financing institution starting from 10 September 2023 to 10 August 2028 with monthly instalments of Rp.5,728,000. The Plaintiff has paid instalments for up to 2 consecutive months but is in arrears for one month of instalment payments, as a result the collateral object was forcibly withdrawn by a debt collector appointed by the Defendant without receiving an official warning before the vehicle which was the object of the guarantee was withdrawn. This withdrawal was carried out without deliberation, without a court decision and was accompanied by coercion to the plaintiff's colleague who was using the vehicle.[12]

The Plaintiff considers the Defendant's actions to be unlawful because they were not in accordance with sharia principles, used burdensome standardised clauses, and did not fulfil the procedures of consumer

[9]Article 1 letter o Decree of the Minister of Finance Number 1169/KMK.01/1991 of 1991 concerning *Leasing* Activities

[10] Article 1239 of the Civil Code which reads: "every obligation to do something or not to do something, must be completed by providing compensation for costs, losses and interest, if the debtor does not fulfil his obligations".

[11] Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 *concerning* Murabahah

[12] Decision Number 355/Pdt.G/MS.Lgs

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protection law. As a result of these actions, the Plaintiff suffered material and immaterial losses. In the lawsuit, the Plaintiff requested cancellation of the agreement, return of the vehicle, and compensation, on the basis that the Defendant's actions were unlawful. The Defendant defended itself by stating that the claim lacked parties, was vague, and should have been examined by the District Court, not the Syar'iyah Court.

The reason for the possession of the leasing object by the lessor in this decision is related to the arrears of instalment payments by the lessee. In this case, the lessee was late in paying the instalment for one month, which became the basis for the lessor to take possession of the vehicle which became the object of financing. The lessor assumed that based on the agreed financing agreement, the late payment gave it the right to take back the vehicle. The lessor also bases its action on the standard clause in the agreement which gives full power to itself to carry out execution actions.

In addition, another reason used by *lessors* is the protection of their assets that are the object of financing. As the party providing the financing facility, the *lessor* views the vehicle as collateral for the payment obligations by the *lessee*. The judge in this decision favoured the *lessor* by rejecting the plaintiff's lawsuit as a whole.[13]

Unilateral control of the leasing object by the *lessor* in a bai' murabahah contract is contrary to sharia principles, because it violates transparency, justice and deliberation. In this contract, the *lessee* has the right of ownership even though he has not paid off the payment. Fatwa DSN-MUI states that the settlement of defaults must be through sharia deliberation or arbitration, not by forced withdrawal. This unilateral action is legally void and can be considered a violation of the property rights of *the lessee*, who has the right to request the return of the object and compensation.

RESEARCH METHODS

The approach used by the author in the research is normative juridical law with a *case approach*. And the author uses a case approach by examining cases related to the issue at hand and has become a court decision and has permanent legal force. Then the main study in the case approach is the *ratio*

[13] Chairul Fahmi, 'THE DUTCH COLONIAL ECONOMIC POLICY ON NATIVES LAND PROPERTY OF INDONESIA', *PETITA: JOURNAL* OF *LAW AND SYARIAH SCIENCE* 5, no. 2 (1 November 2020): 105–20, https://doi.org/10.22373/petita.v5i2.99.

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decidendi or *reasoning*, namely the court's consideration to arrive at a decision. Both for practical purposes and for academic studies.[14]

The type of research used is descriptive analytical, which is research that aims to provide a clear, systematic and comprehensive description of everything related to civil case issues, by applying applicable laws and regulations and is associated with the theory and practice of implementing positive law and Islamic law.[15]

The data used in this research consists of primary and secondary data. Primary data was obtained from a court decision, namely the decision of the Syar'iyah Court Number 355/Pdt.G/MS.Lgs. The secondary data sources consist of written legal materials in the form of legal opinions, legislation, books, legal dictionaries, and other literature materials related to the research topic.

RESULTS AND DISCUSSION

A. Consideration of Judges in Decision No. 355/Pdt. G/ 2023 Regarding the Lawsuit for Control of the Leasing Object Conducted by the

In resolving a case, the panel of judges must decide a case based on the arguments and applicable laws and must provide clear reasons for the parties concerned. Regarding legal considerations, describes how judges analyse facts or events. The judge will consider the whole and details of each case, from each litigant either from the applicant or the respondent. The judge's view of the law, which is influenced by the paradigm, determines the content of the decision. Therefore, the principles and concepts of restorative justice need to be understood and applied by judges in deciding cases.[16]

Judges have the main task of adjudicating according to the law every case submitted to them with fairness, by not distinguishing people based on ethnicity, religion, race, and class, position, and wealth based on the contents of Article 5 paragraph (1) of Law Number 4 Year 2004. In essence, the duty of judges to hear cases contains two meanings, namely upholding justice and enforcing the law.[17]

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[14] Peter Mahmud Marzuki, *Legal Research*, (Jakarta: Kencana, 2010), pp. 94

[15] Bambang Sunggono, *Legal Research Methodology*, (Jakarta: Rajawali Pers, 2018), pp. 38

[16] Diah Ratna Et Al., "Restorative Justice Paradigm in Judge Decisions Info Article" 42, No. 2 (2020): pp. 188

[17] Antonius Sudirman, The Conscience of Judges and Their Decisions (An Approach from the Perspective of Behavioural Jurisprudence in the Case of Judge Bisma Siregar), Cet. I, (Semarang: Citra Aditya Bakti, 2007), p. 51

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As for the main task of judges is to uphold justice, what is meant here is not justice according to the words of the law alone, according to the version of the authorities or based on the tastes of the strong, but justice based on the Almighty God in accordance with Article 4 paragraph (1) of Law Number 4 of 2004 that "justice is carried out for the sake of justice based on the Almighty God".[18]

In relation to decision No. 355/Pdt.G/2023 concerning the claim for control of the leasing object by the defendant, the author will first describe the relationship between the plaintiff and the defendant in decision No. 355/Pdt.G/2023. That the plaintiff is a consumer who obtained a credit facility from the defendant as a *leasing* company with a financing period of 60 months from 10 September 2023 to 10 August 2028 with monthly instalments of Rp. 5,728,000 and paid a first payment of Rp. 30,000,000. After paying instalments for 2 consecutive months the plaintiff was in arrears with payments in month 3, as a result the object of collateral was forcibly withdrawn by debt collectors appointed by the Defendant without receiving an official warning before the vehicle which was the object of collateral was withdrawn.

Regarding the forced withdrawal of the car that was being used by the plaintiff, the plaintiff considered the action unlawful because it was not in accordance with sharia principles and there were standard clauses such as the inclusion of clauses that exempted the creditor from claims for compensation by the debtor for losses suffered as a result of the debtor's actions and also the creditor could take any action that the creditor felt necessary without the debtor's consent. For these actions the plaintiff suffered material and immaterial losses and requested cancellation of the agreement, return of the vehicle and compensation on the basis that the defendant's actions were unlawful.[19]

In the decision of the judge of the Langsa Sharia Court containing the judge's consideration of decision No. 355/Pdt.G/2023, the panel of judges has reconciled the plaintiff with the defendant in accordance with the provisions of article 65 and article 82 of Law Number 7 of 1989 but was unsuccessful, after the mediation process did not reach an agreement to reconcile, then the trial of the case continued electronically and the parties

[18] *Ibid*

[19] 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 (30 May 2023): 667–86, https://doi.org/10.26811/peuradeun.v11i2.923.

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went through the trial stage with a series of electronic answers such as reading the lawsuit, answer, replication and duplicates.

The main arguments of the plaintiff's lawsuit and replication consist of:

1. That the defendant has committed an unlawful act against the plaintiff.
2. That the taking of the Terios car unit by the defendant of the object pledged by the plaintiff must be declared an unjustified act.
3. That the car unit to be repaid by the plaintiff to the defendant should be resumed.
4. That the defendant must pay the damages suffered by the plaintiff.

The response to the defendant's duplicates consisted of:

1. That the plaintiff from November to December did not carry out his obligations at all, namely paying the instalments stipulated in the agreed *murabaha* contract.
2. That the actions of the defendant in relation to the plaintiff who did not honour the contract were in accordance with the applicable law, where the defendant had made two billing and warning letters for the plaintiff's arrears, but the plaintiff still did not make deposits as required by the contract.

To strengthen the arguments of the lawsuit, the plaintiff has submitted evidence in the form of letters such as: Photocopy of murabaha financing agreement, findusia guarantee certificate, original copy of payment history, photocopy of statement letter, photocopy of handover letter, photocopy of vehicle handover minutes, photocopy of power of attorney.

The evidence presented by the defendant to confirm the arguments in his answer and duplicates consisting of letter and witness evidence is as follows:

A. Proof of letters such as: Photocopy of murabaha financing agreement, Photocopy of payment history, Photocopy of confirmation letter of understanding of prospective debtors, Photocopy of power of attorney, Photocopy of vehicle financing approval letter, Photocopy of findusia guarantee certificate, Photocopy of pictures/photos of employee visits, Photocopy of attachments to the financing agreement, Photocopy of Andre's statement letter (debtor), Photocopy of power of attorney to nanak sutrisna, Photocopy of car rental letter, Photocopy of notary deed,

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first warning letter, Photocopy of last warning letter, Photocopy of vehicle handover minutes.

B. Witness evidence namely: Abdul Munir SHI Bin M. Daud, position as collector, Nanak Sutrisna Bin Anssari, works at Pt. Mitra Solusi who partnered with the leasing company.

The judge's consideration related to the plaintiff's claim regarding the forced withdrawal of the leasing object, the action was taken by the defendant because the plaintiff did not carry out his obligation to pay instalments in this case proving that the plaintiff was in a state of breach of promise or default. The defendant had also sent a warning letter to the plaintiff to pay the arrears of instalments but the plaintiff did not pay. With this, the panel of judges was of the opinion that the defendant's action of withdrawing the object of collateral to avoid losses was not contrary to the agreement that had been made and outlined in the contract.[20]

This is in accordance with Law No. 42 of 1999 concerning fiduciary guarantees, article 29 paragraph 1. If the debtor or fiduciary is in default, the execution of the object of fiduciary can be done by means of:

a. Implementation of the executorial title as referred to in Article 15 paragraph 2 by the fiduciary recipient
b. Sale of the object of fiduciary guarantee at the fiduciary's own authority through a public auction and taking repayment of the debt from the proceeds of the sale.
c. An underhand sale is conducted based on the agreement of the grantor and the fiduciary if the highest price favourable to the parties can be obtained in this way.[21]

Based on the facts at trial where the plaintiff and defendant have each proven the arguments of the lawsuit and rebuttal and also submitted evidence, the evidence submitted by the plaintiff was only 1 piece of evidence in the form of a letter while the defendant had 2 pieces of evidence, namely letters and witnesses. As the facts at trial to strengthen the arguments of the plaintiff's claim turned out to be insufficient evidence, the panel of

[20] 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 (23 July 2023): 28-39, https://www.journal.ar-raniry.ac.id/index.php/mudharabah/article/view/3047.

[21] Law Number 42 of 1999 article 29 paragraph 1

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judges considered that this actually strengthened the defendant's evidence and paralysed the plaintiff's evidence.

Based on the argument of the plaintiff's lawsuit stating that the defendant has committed an unlawful act cannot be proven, the plaintiff's claim must be rejected entirely. The results of the judge's consideration of the decision are:

-Rejecting the defendant's exception in its entirety

-Rejecting the plaintiff's lawsuit entirely

-To charge the costs of this case to the plaintiff in the amount of Rp. 320,000, (three hundred and twenty rupiah).

B. Review of the *Bai' Murabahah* Agreement Against the Decision of the Langsa City Sharia Court No. 355/Pdt..G/Ms.Lgs.

The murabahah agreement according to the Compilation of Sharia Economic Law is defined as a type of mutually beneficial financing carried out by the owner of capital with the party in need through a sale and purchase transaction with an explanation in the contract that the price of procurement of goods and the selling price has an excess value which is a profit or profit for the owner of the capital and the return is made in cash or instalments.[22] Murabahah agreement is a form of sale and purchase in which the seller informs the buyer of the cost of production (cost price) and the desired profit, then offers the total price of the goods. Unlike ordinary buying and selling, the seller in murabahah is obliged to mention the details of the profit beyond the cost of goods.[23]

Based on DSN-MUI Fatwa No.11/DSNMUI/IX/2017, the definition of bai al murabahah is a sale and purchase agreement of an item by confirming its purchase price to the buyer and then the buyer pays more as profit.[24] Related to seeing the suitability between the concept of murabahah in sharia economic law and the implementation of this concept in the contract made by the plaintiff and the defendant, before that the author will see whether the pillars and conditions of murabahah have been fulfilled or not in this case. The pillars of murabahah are the same as the pillars found in ordinary buying and selling, namely:

[22] Compilation of Sharia Economic Law, article 20 point 6.

[23] See Abu Bakr Ibn Mas'udal-Kasani, Bada'i wa al-Sana' fi Tartib al-Shara'i, Volume 4, (Beirut: Dar AL-Arabi, t.th), 226-229.

[24]FATWA DSN-MUI NO: 111DSN-MUUIX / About MURABAHAH SELLING ACADS

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1) The existence of sellers and buyers in the context of this study, the seller means the leasing party, the defendant, while the buyer is the plaintiff.
2) The existence of money or a medium of exchange.
3) The existence of sighat or ijab qabul. This has been explained in the analysis of the contract theory where the plaintiff and defendant have been proven to have made a contract.

Meanwhile, related to the terms of murabaha sale and purchase stipulated by the Compilation of Sharia Economic Law are as follows:

1) The seller is required to finance part or all of the purchase price of the goods whose specifications have been agreed upon by both parties.
2) The seller purchases the goods required by the buyer on the seller's own behalf, and the purchase must be free from elements of usury
3) The seller must tell honestly about the cost of goods to the buyer along with the costs required for the purchase of the goods in question.[25]
4) The buyer must pay the price of the goods agreed in the *murabahah* contract at a mutually agreed time.[26]
5) If the seller wants to represent the buyer to purchase the goods from a third party, the murabaha sale and purchase agreement must be made after the goods have become the legal property of the seller in principle.[27]
6) If the seller accepts the buyer' request for an item or asset, then the seller must first purchase the ordered asset and then the buyer must consummate a valid sale with the seller.[28]
7) If the buyer subsequently declines to purchase the goods, the seller's real costs must be paid by deducting from the down payment.[29]

As for when referring to the DSN-MUI fatwa Number 4 of 2000 concerning Murabahah, among the conditions stipulated in general include:

[25] For points 1,2, and 3, see Compilation of Sharia Economic Law, article 116.
[26] Compilation of Sharia Economic Law, article 117.
[27] Compilation of Sharia Economic Law, article 119.
[28] Compilation of Sharia Economic Law, article 120.
[29] Compilation of Sharia Economic Law, article 122.

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1) The bank and the customer must enter into a usury-free murabaha contract
2) The goods traded are not prohibited by Islamic law
3) The bank finances part or all of the purchase price of the goods whose qualifications are agreed upon.
4) The bank purchases the goods required by the customer on its own behalf, and this purchase must be legal and free of usury.
5) The bank must disclose all matters relating to the purchase, for example if the purchase is made by debt.
6) The bank then sells the goods to the customer (the customer) at a selling price equal to the purchase price plus profit.
7) The customer pays the agreed price of the goods at a certain agreed period of time[30]

While the provisions of murabahah to customers specified in the DSN-MUI fatwa are:

1) The customer must submit an application and agreement to purchase an item or asset to the bank.
2) If the bank accepts the request, the customer must first purchase the asset legally with the trader.
3) The bank then offers the purchased asset to the customer and the customer must accept (buy) it in accordance with the agreed terms.[31]

Based on the Compilation of Sharia Economic Law which discusses murabahah dispute resolution, it only regulates the settlement procedure, which is contained in article 133 where it is explained that if one of the parties (in murabahah conversion) cannot fulfil its obligations, or if there is a dispute between the parties involved in the contract, then the settlement is carried out through deliberation or peace or shulh. If it cannot reach an agreement, it is resolved through the court.[32] The regulation is strengthened by the DSN-MUI fatwa number 47 of 2005 concerning Settlement of Murabahah Receivables for Customers Unable to Pay in the second part of point 1 which states that if one of the parties does not fulfil its obligations or if there is a dispute between the parties concerned, then the settlement is

[30] See DSN-MUI fatwa No. 4 Year 2000, first part points 1-7.
[31] See DSN-MUI fatwa No. 4/2000, second part points 1,2, and 3.
[32] Compilation of Sharia Economic Law Article 133.

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carried out through the National Sharia Arbitration Board after no agreement is reached through deliberation.[33]

According to the author, this stage is in accordance with the procedures established by the panel of judges in resolving the murabaha dispute discussed in this study. The procedure taken by the panel of judges is also in line with the provisions in Law Number 21 of 2008 concerning Islamic Banking Article 55 points 2 and 3, which explain that dispute resolution must be in accordance with the contents of the agreed contract. [34][35]The meaning of "dispute resolution must be carried out in accordance with the contents of the contract" is that the process of dispute resolution needs to be carried out through a series of stages, including deliberation, banking mediation (for example through the National Sharia Arbitration Board (Basyarnas) or other arbitration institutions), and/or through court decisions.[36]

Regarding the forced withdrawal or control of the leasing object carried out by the defendant against the plaintiff, this was done with the aim of avoiding the loss of one of the parties, which is clearly prohibited by Islamic law, especially leasing parties who have made financing contracts with their customers. The possession of the leasing object was also carried out after the leasing party sent a warning letter to the plaintiff but still did not carry out its obligations so that the leasing party forcibly withdrew the collateral object.

CLOSING

Based on the description above related to the decision of the Langsa Syariah Court No. 355/Pdt.G/MS.Lgs regarding the control of the leasing object by the lessor, the panel of judges decided to reject the claim of the plaintiff in its entirety after going through various considerations related to the lawsuit filed and the evidence provided by the plaintiff was also unable to prove that the defendant had committed an unlawful act. As for the forced withdrawal of the car which is the object of collateral in murabahah financing, it was carried out because the plaintiff made a default by not

[33] See Fatwa DSN-MUI number 47 of 2005 concerning Settlement of Murabahah Receivables for Customers Unable to Pay, second part point 1.

[34] Law Number 21 of 2008 concerning Islamic Banking Article 55 point 2.

[35] Law Number 21 of 2008 on Sharia Banking Article 55 point 3.

[36] Chairul Fahmi and Syarifah Riyani, 'ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT', *Wahana Akademika: Journal of Islamic and Social Studies* 11, no. 1 (2024): 89–104, https://doi.org/10.21580/wa.v11i1.20007.

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paying the instalments even though a warning letter had been given by the defendant. This is also done so that there are no losses obtained by both parties, especially the defendant as an institution that provides financing to its customers.

LITERATURE

Abu Bakr Ibn Mas'udal-Kasani.*Bada'iwaal-Sana' fiTartibal-Syara'i*. Volume 4. (Beirut: Dar AL-Arabi, t.th

Antonius Sudirman.*The Conscience of Judges and Their Decisions (An Approach from the Perspective of Behavioural Jurisprudence) The Case of Judge Bisma Siregar*. Semarang: Citra Aditya Bakti, 2007.

Bambang Sunggono, *Legal Research Methodology*. Jakarta: Rajawali Pers, 2018.

Burhanuddin Al-Butray. "The Concept of *Murabahah* in the Dictum of Islamic Economic Philosophy". *Journal of Islamic Economics and Business*, Vol. 8, No. 1, June, 2021.

Diah Ratna Et Al., "Restorative Justice Paradigm in Judge Decisions Info Article" 42, No. 2 (2020).

Fahmi, Chairul. 'THE DUTCH COLONIAL ECONOMIC'S POLICY ON NATIVES LAND PROPERTY OF INDONESIA'. *PETITA: JOURNAL OF LAW AND SYARIAH SCIENCE* 5, no. 2 (1 November 2020): 105–20. https://doi.org/10.22373/petita.v5i2.99.

---. '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 (30 May 2023): 667–86. https://doi.org/10.26811/peuradeun.v11i2.923.

Fahmi, Chairul, 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 (23 July 2023): 28-39. https://www.journal.ar-raniry.ac.id/index.php/mudharabah/article/view/3047.

Fahmi, Chairul, and Syarifah Riyani. 'ISLAMIC ECONOMIC ANALYSIS OF THE ACEH SPECIAL AUTONOMY FUND MANAGEMENT'. *Wahana Akademika: Journal of Islamic and Social Studies* 11, no. 1 (2024): 89–104. https://doi.org/10.21580/wa.v11i1.20007.

Wahyuni, Sri, Chairul Fahmi, Riadhus Sholihin, and Laila Muhammad Rashid. 'THE ROLE OF COURTS IN RESOLVING CASES OF BANKRUPTCY OF ISLAMIC BANK CUSTOMERS'. *JURISTA: Journal of Law and Justice* 7, no. 1 (10 June 2023): 1–23. https://doi.org/10.1234/jurista.v7i1.42.

Vol.5 No.2, December 2024
P-ISSN: 2655-0547 E-ISSN: 2829-3665
DOI: http://doi.org/10.22373/al-mudharabah.v5i2.6561

Fatwa DSN-MUI No. 04/DSN-MUI/IV/2000 *concerning* Murabahah

Minister of Finance Decree No. 1169/KMK.01/1991 of 1991 on *Leasing* Activities

Compilation of Sharia Economic Law

Minister of Finance Regulation Number 84/PMK.012/2006 Year 2006 Regarding Financing Companies

Financial Services Authority Regulation Number 31/POJK.05/2014 concerning the Implementation of Sharia Financing Business.

Peter Mahmud Marzuki.*Legal Research*. Jakarta: Kencana, 2010

R. Subekti.*Civil Principles*. Jakarta: Intermasa, 1979

Sayyid Sābiq.*Fikih Sunnah*.transl. Muhammad Nasiruddin al-Albani. Jakarta: Cakrawala Publishing, 2008.

Law Number 42 Year 1999 on Fiduciary Guarantee

Law Number 21 Year 2008 on Sharia Banking

Wahbahaz-Zuḥailī.*al-Fiqh al-IslāmwaAdillatuhu*. transl. Abdul Hayyieal-Kattani. Jakarta: Gema Insani, 2011.