



ANALYSIS OF DEFAULT IN SHARIA ECONOMIC LAW DISPUTES: A REVIEW OF THE PRINCIPLES OF JUSTICE AND GOOD FAITH IN CONTRACTS

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Abstract: *This research focuses on the analysis of defaults in sharia economic law disputes, by highlighting aspects of justice and good faith in contracts. In the sharia economy, the application of the principles of justice and good faith is the main basis in guaranteeing the rights and obligations of the parties and resolving disputes fairly in accordance with sharia values. This research uses a juridical normative approach and case studies. Primary data is in the form of court decisions related to defaults in sharia contracts, while secondary data includes laws and regulations (KHES, Civil Code), DSN-MUI fatwas, and academic literature. The analysis was carried out descriptively and comparatively based on the principles of justice and good faith in positive law and sharia law. The results of the study show that the application of the principles of justice and good faith shows a significant influence on the resolution of default disputes. The application of sharia values in the practice of banking and Islamic financial institutions is able to uphold justice, avoid unjust actions, and ensure balanced treatment for all parties. The discussion emphasized that the implementation of the values of justice and good faith in contracts and dispute resolution must be carried out consistently and comprehensively. The application of these principles is important to maintain the harmony of sharia law and values in sharia economic practices, so that its sustainability and justice can be guaranteed.*

Keywords : *Default, Sharia Economics, Justice, Good Faith, Dispute Resolution*

Abstrak: Penelitian ini berfokus pada analisis wanprestasi dalam sengketa hukum *ekonomi syariah*, dengan menyoroti aspek keadilan dan itikad baik dalam akad. Dalam ekonomi syariah, penerapan prinsip keadilan dan itikad baik menjadi dasar utama dalam menjamin hak dan kewajiban para pihak serta menyelesaikan sengketa secara adil sesuai dengan nilai-nilai syariah. Penelitian ini menggunakan pendekatan normatif yuridis dan studi kasus. Data primer berupa putusan pengadilan terkait wanprestasi dalam akad syariah, sementara data sekunder meliputi peraturan perundang-undangan (KHES, KUHPperdata), fatwa DSN-MUI, serta literatur akademik. Analisis dilakukan secara deskriptif dan komparatif berdasarkan prinsip keadilan dan itikad baik dalam hukum positif dan hukum syariah. Hasil penelitian menunjukkan bahwa penerapan prinsip keadilan dan itikad baik menunjukkan pengaruh signifikan terhadap penyelesaian sengketa wanprestasi. Penerapan nilai-nilai syariah dalam praktik perbankan dan lembaga keuangan syariah mampu menegakkan keadilan, menghindari tindakan zalim, dan memastikan perlakuan yang seimbang bagi semua pihak. Pembahasan menegaskan bahwa implementasi nilai keadilan dan itikad baik dalam akad dan penyelesaian sengketa harus dilakukan secara konsisten dan komprehensif. Penerapan prinsip-prinsip ini penting untuk menjaga harmoni hukum dan nilai-nilai syariah dalam praktik ekonomi syariah, sehingga keberlanjutan serta keadilannya dapat terjamin.

Kata Kunci : Wanprestasi, Ekonomi Syariah, Keadilan, Itikad Baik, Penyelesaian Sengketa

Introduction

Humans basically need each other to meet various needs of life, one of which is through buying and selling activities. Buying and selling is a social interaction that takes place based on certain principles and conditions, known as *al-bai*, *al-tijarah*, and *al-mubadalah*. In essence, a sale and purchase are an agreement to exchange goods between a seller and a buyer that is based on a mutual agreement. This economic activity is carried out almost all the time by the community, but not all Muslims understand or apply the provisions of buying and selling according to the principles of Islamic law.¹

The rapid growth of the Islamic economy has also led to an increase in the number of disputes in various Islamic financial institutions. Sharia economic cases entering religious courts continue to increase every year, including default disputes and unlawful acts in the Islamic banking sector, Islamic insurance, and Islamic cooperatives. The national legal framework through Law No. 3 of 2006 confirms that the settlement of sharia economic disputes is under the exclusive jurisdiction of the Religious Courts.² Various empirical data also show that there have been hundreds of decisions in sharia economic disputes in recent years, reflecting the ever-growing complexity of sharia transactions and demanding an in-depth understanding of the characteristics of Islamic law in their resolution.³

The sharia economy itself is a system based on the Qur'an and Sunnah with the main goal of realizing the welfare of the community. If welfare has not been achieved, then the goals of the sharia economy have not been implemented optimally. It is in this context that conflicts or disputes have important relevance. A dispute is understood as a condition when there is a difference in interest or opinion between two or more parties regarding a matter. Disputes can arise due to differences in perception, which is the difference in the way a person understands social or economic conditions based on the knowledge he has. Conflict develops into a dispute when the aggrieved party expresses their dissatisfaction or objection, either directly or through an intermediary.⁴

A sharia economic dispute is a dispute that arises from a disagreement about how two or more economic actors who conduct business in accordance with sharia economic law understand an interest or property rights. Both parties can face legal repercussions from this disagreement, and either side can even face penalties. In practice, the existence of this dispute shows that the application of sharia principles does not always run smoothly, especially when the interpretation of the contract, rights, and obligations of the parties is different. Therefore, the dispute resolution mechanism is a crucial element to maintain justice, certainty, and sustainability of sharia economic activities. This mechanism is expected to be able to restore the relationship between the parties to a harmonious condition in accordance with sharia

¹ Sherly Nur Salsabilla, "Kajian Hukum Ekonomi Syariah Dalam Penyelesaian Wanprestasi Praktik Jual Beli Kayu Jati Secara Kredit Pada Usaha Dagang Berkah Jati Mlonggo Jepara" 6, no. 2 (2023): 258–75.

² Safitri Mukarromah, "Penyelesaian Sengketa Ekonomi Syari'ah Di Lembaga Keuangan Syari'ah Kabupaten Banyumas" 6, no. 3 (2010).

³ fikri Pathurohman, 'Putusan-Putusan Perkara Ekonomi Syariah Pengadilan Agama Sebagai Yurisprudensi Hukum Islam, (Studi Di Wilayah Pengadilan Tinggi Agama Yogyakarta Tahun 2011-2018)', 2018.

⁴ Mukarromah, "Penyelesaian Sengketa Ekonomi Syari'ah Di Lembaga Keuangan Syari'ah Kabupaten Banyumas."

guidance.⁵

Most sharia economic disputes are rooted in default, which is the failure of one party to fulfill its obligations in the contract. Yanti and Habriyanto's study confirmed that cases in Islamic financial institutions "generally occur in cases of default where the customer is unable to fulfill his obligations". However, the assessment of default in the sharia legal system is not identical to the Civil Code. Although both regulate defaults, the Civil Code emphasizes the aspect of legal certainty, while the Compilation of Sharia Economic Law (KHES) places the value of justice and the balance of rights and obligations as the main principles. Therefore, the settlement of sharia disputes should ideally consider the objectives of sharia (maqāṣid al-shari'ah) and substantive justice, not just the legal-formality of the contract.⁶

In the tradition of Islamic law, the principles of justice (al-'adl) and good faith (husn al-niyyah) are the main pillars in every akad. As a manifestation of transcendental Islamic values, every sharia contract should reflect justice and good faith, so that the contracting parties are required to act honestly and responsibly. Therefore, individuals in the sharia economy are always "encouraged to act in good faith and put the collective interests ahead of mere personal gain". The implication of these principles is the simultaneous application of the principles of freedom of contract, good faith, and justice to ensure transparency and fair accountability between parties. This approach is expected to be able to create inclusive and sustainable economic justice, in accordance with the main goals of the sharia economy.⁷

From an institutional perspective, the Religious Court plays a strategic role in shaping sharia economic jurisprudence. Various studies show that Religious Court judges refer to the KHES, DSN-MUI fatwa, as well as Qur'an verses and hadith as the main basis for assessing disputes. The contract is used as the basis for primary assessment, then its fairness is tested based on the principles of Islamic law. This confirms that the decisions of the Religious Court not only function to resolve individual disputes, but also play a role in shaping the practice of modern Islamic economic law that integrates laws and regulations with fiqh muamalah.⁸

It is at this point that the analysis of the coherence of the verdict becomes important. The coherence analysis model is a method to assess the harmony between the main elements in a decision, including sitting cases (posita), petitum, legal considerations, and verdicts. A good decision must contain elements that are interconnected and answer all the arguments and requests of the parties consistently. For example, when the petitum only asks for a divorce, but the marriage contains the division of child custody without adequate consideration, it shows the existence of a lack of coherence. Similar inconsistencies can also occur in sharia economic dispute decisions, such as an amar that is not in line with the facts of the contract or a default consideration that is not comprehensively explained.

The coherence analysis is used by the decision reviewer to assess whether the judge's consideration is consistent with the posita and petitum submitted by the parties, and in

⁵ Ulya Adila, Oyo Sunaryo Mukhlas, and Ramdani Wahyu Sururie, "Penyelesaian Sengketa Ekonomi Syariah Berdasarkan Peraturan Undang-Undang" 6 (2024): 26–35.

⁶ Anggi Wirakusuma dkk, "Wanprestasi Dalam Perjanjian Sewa Menyewa Properti Komersial Berdasarkan KUHPerdata Dan Kompilasi Hukum Ekonomi Syariah", 2.2 (2025), pp. 391–97.

⁷ Ahmad Hasan Ridwan Ade Suryawirawan, "Pemikiran Ekonomi Syariah Dan Prinsip - Prinsip Hukum Dalam Penerapan Akad Mudharabah Muqayyadah," no. September (2025).

⁸ H. Khairunnas Jamal Kemala Dewi, "Konsep Keadilan Dalam Ekonomi Islam," *Jurnal Ekonomi Syariah: Theory and Application* 3, no. 1 (2022): 56.

accordance with the verdict. When these elements are incoherent, this has the potential to reduce the quality of the decision and can give rise to legal uncertainty. Therefore, coherence analysis is a relevant instrument to examine how judges apply the principles of justice, good faith, and sharia values in deciding sharia economic cases.⁹

In this research, coherence analysis is employed as an analytical framework to evaluate the quality of judicial reasoning in sharia economic dispute decisions. Through this approach, the study examines whether the relationship between *posita*, *petitum*, legal considerations, and the operative part of the decision reflects logical consistency and adequately addresses the claims of the parties in accordance with sharia principles.

Thus, it is important to examine how default is interpreted in the context of sharia economics as well as how the principles of justice, good faith, and coherence of judgments are implemented in the decisions of the Religious Courts. The analysis is expected to provide an overview of the consistency of the enforcement of sharia economic law and the extent to which sharia values are reflected in dispute resolution.

This research is normative because it focuses on the analysis of positive legal doctrines (laws in books), including the Compilation of Sharia Economic Law (KHES), the Civil Code (KUHPerdata), fatwas, and court decisions. The normative juridical approach is chosen in accordance with the general definition that normative legal research refers to norms in legislation. The legal approaches used include statutory approaches, conceptual, and case studies.¹⁰ The legislative approach is carried out by reviewing the KHES, Civil Code, MUI fatwa, and other relevant provisions. The conceptual approach compares the foundations of Sharia theory (e.g. the concepts of justice and good faith) with conventional legal principles. The case approach examines court decisions (Supreme Court and Religious Court decisions) that contain default disputes in sharia economics, to see the application of the principles of justice and good faith in practice.

The data sources used in this research consist of primary and secondary legal materials. Primary data include court decisions related to default disputes in sharia contracts, particularly decisions of the Religious Courts and the Supreme Court. Secondary data comprise statutory regulations such as the Compilation of Sharia Economic Law (KHES), the Civil Code, relevant Supreme Court Regulations, DSN-MUI fatwas, textbooks on sharia economic law, and scientific journal articles. These legal materials serve as the normative foundation for examining the regulation and judicial treatment of defaults in sharia economic transactions. Data analysis is conducted qualitatively using descriptive and comparative methods. Legal materials are analyzed based on sharia principles, particularly justice and good faith, as well as positive legal principles reflected in civil law regulations. This analysis emphasizes the interpretation of legal texts and doctrines to assess the alignment and differences between positive law and sharia values in resolving default disputes.¹¹

Based on the normative juridical approach and the analysis of statutory regulations, legal doctrines, fatwas, and court decisions, this research proceeds to examine the concept of default within the framework of sharia economic law. This discussion is essential, considering that default constitutes the core issue in many sharia economic disputes adjudicated by the Religious Courts. Understanding the concept of default from a sharia perspective provides a fundamental basis for assessing how the principles of justice and good faith are normatively regulated and judicially applied. Therefore, the discussion begins with a conceptual exploration

⁹ Ramdani Wahyu Sururie, *Putusan Pengadilan* (CV. Mimbar Pustaka, 2023).

¹⁰ Salsabilla, "Kajian Hukum Ekonomi Syariah Dalam Penyelesaian Wanprestasi Praktik Jual Beli Kayu Jati Secara Kredit Pada Usaha Dagang Berkah Jati Mlonggo Jepara."

¹¹ Fadli Hudaya Riza Mukhayati, Yohani, Nur Kholidah, 'Perspektif Hukum Islam Terhadap Biaya Penalty Pada Produk Tabungan I-Mapan Islamic Legal Perspective On Penalty Fees On I- Mapan Savings Products', 20 (2024), pp. 1–15.

of default in sharia economic law, which serves as a starting point for analyzing the consistency of judicial reasoning and the reflection of sharia values in dispute resolution practices.

The Concept of Default in Sharia Economic Law

In general, default means failing to fulfill contractual obligations. Within the framework of Sharia, KHES Article 36 states that default includes "not doing what is promised late, or doing something that according to the agreement is not allowed to be done".¹² This means that default includes not carrying out the agreed achievements, doing but not according to the conditions, or being late in making achievements. This definition is in line with the classic notion that default is an act of harm to the opposing party due to intentionality or negligence in fulfilling an engagement. Default (*wanprestasi*) refers to a condition in which one party to an agreement fails or neglects to fulfill its contractual obligations as agreed, either by not performing the obligation, performing it improperly, performing it late, or performing it with defects. In civil law, default is considered a breach of contract that may lead to legal consequences such as compensation for damages, termination of the agreement, and other remedies, as provided in Article 1243 of the Civil Code.¹³

Default in the Compilation of Sharia Economic Law (KHES) is regulated in Article 36. This article states that a person can be said to be in default if he does not fulfill his obligations according to the agreement, is late in fulfilling his obligations, or does something that should not be done under the agreement.¹⁴

The concept of default in the KHES is basically similar to the Civil Code, namely injury to promises due to non-fulfillment of achievements (Article 1234 of the civil Code). However, according to Abdul Manan (quoted by Religious Justice Magazine), some provisions of the Civil Code cannot be fully enforced in the sharia economy. For example, Civil Code Articles 1244-1246 allow the provision of compensation in the form of recovery of achievements, costs, and interest, but Islam prohibits the element of usury. Therefore, in the event of default, settlements in the sharia economy must be free of usury. The sanctions imposed (e.g. compensation or fines) must be proportionate to the loss and do not contain an element of interest. Fines for late payment are allowed in Sharia only as a punishment (*ta'zīr*) for social and disciplinary purposes, and not as a source of profit for financial institutions. According to DSN-MUI Fatwa No. 17/DSN-MUI/IX/2000, such fines may only be imposed on customers who are financially capable but intentionally delay their payment obligations. Furthermore, the funds collected from these fines should not be recognized as income by the financial institution but must be allocated for social purposes. Conversely, fines that are predetermined as a source of profit or imposed on customers who are genuinely unable to pay are considered inconsistent with sharia principles. For example, the application of a 10% fine on the withdrawal of savings before maturity at certain KSPPS is seen as a violation of DSN-MUI Fatwa No.17/2000 because it was not agreed upon at the beginning of the contract.¹⁵

In Sharia, default is differentiated based on the intention (intention) of the defaulting party. The main criterion is the element of intentionality or negligence in not fulfilling the promise. If a buyer deliberately delays or stops installments without a justified reason, then

¹² Salsabilla, "Kajian Hukum Ekonomi Syariah Dalam Penyelesaian Wanprestasi Praktik Jual Beli Kayu Jati Secara Kredit Pada Usaha Dagang Berkah Jati Mlonggo Jepara."

¹³ Menikmati Dan Kehilangan Hak, "KITAB UNDANG-UNDANG HUKUM PERDATA (Burgerlijk Wetboek Voor Indonesie)," n.d.

¹⁴ Peraturan Mahkamah Agung RI No. 02 Tahun 2008, "Kompilasi Hukum Ekonomi Syariah," n.d.

¹⁵ Fadli Hudaya Riza Mukhayati, Yohani, Nur Kholidah, 'Perspektif Hukum Islam Terhadap Biaya Penalty Pada Produk Tabungan I-Mapan Islamic Legal Perspective On Penalty Fees On I- Mapan Savings Products', 20 (2024), pp. 1–15.

such action constitutes default in bad faith. On the other hand, if the delay is caused by force majeure or the fault of another party, the handling may be different. This is different from only applying automatic sanctions: Sharia views the intention and the factor of justice in determining the legal consequences.

Application of the Principle of Justice in the Shariah Contract

The principle of Shariah justice demands balance in every contract (agreement). This means that the rights and obligations of each party must be equal to what is received or given. Sharia underlines that the contract must provide balanced benefits: the capital giver and the capital recipient must get a fair portion of profits according to the contribution and risk. This balance includes clarity on the profit-sharing ratio, financing proportions, and business risk sharing. More broadly, balance is also reflected in the suitability of the transaction object; For example, in murabahah the seller is obliged to provide complete information about the profit margin to be obtained so that the buyer knows the portion of the benefit, and in ijarah (lease rent) the ownership rights remain with the lessee while the tenant only enjoys the right to use according to the contract.¹⁶

Standard Contract Clauses: The practice of using boilerplate clauses in financing agreements often leads to injustice. Standard clauses are generally drafted unilaterally by lenders without bargaining, so they tend to benefit financial institutions over customers. Erma Dwiyantri noted that although standard contracts are legally valid, their application often causes an imbalance in the position of the parties, so consumer protection must be strengthened so that the principle of justice is achieved. In the context of Sharia, standard clauses that do not fairly express rights and obligations are contrary to the principles of justice and openness (transparent governance). Therefore, the analysis of the contract must ensure that each clause does not unfairly burden one of the parties.¹⁷

Justice in Various Contracts: The principle of justice must also be manifested in various forms of contracts. For example, in the murabahah contract, capital and profits must be clearly determined from the beginning; The seller is required to mention the benefits so that the transaction is transparent. In the mudharabah contract, justice is realized through the ratio of the shared results that have been agreed upon and the appropriate sharing of risks. The profit-sharing ratio is determined based on the manager's capital contribution and responsibility, so that the rights of the capital owner and the mudharib (manager) are balanced. In the ijarah contract, justice is guaranteed by a clear lease agreement regarding the rental time, rental value, and maintenance of goods, without the presence of interest; The owner of the goods bears the risk of damage to the goods, while the tenant only pays according to the agreement. "*Lā tazlīmūna wa lā tuẓlamūn*": The Qur'anic phrase "do not be unjust, and do not be wronged" (QS. 2:279) is the ethical principle of the Shari'ah contract. Islamic law commands to be fair (Q.S. 5:8) and to avoid oppression. Therefore, every contract must uphold a sense of justice: no party is excessively harmed and no party oppresses the other party. In the context of default, the implementation of this principle is tested: whether the performance of the contract (including dispute resolution) reflects the fairness of *lā tazlīmūna wa lā tuẓlamūn*, i.e. both parties are equally protected in their rights and obligations.¹⁸

¹⁶ Lince Bulutoding and Abdul Wahab, 'Konsep Keadilan Dalam Pembiayaan Mudharabah : Kajian Teoretis Pada Praktik Perbankan SYARIAH Pembiayaan Mudharabah , Sejalan Dengan Tujuan Maqashid Syariah Dalam Menjaga Maslahat Dan Agen . Dalam Akad Mudharabah , Kepercayaan Menjadi Faktor Utama Yang Memengaruhi', 4.6 (2024), pp. 3104–18.

¹⁷ Dwiyantri, "Kontrak Baku Dalam Perspektif Hukum Perjanjian Di Indonesia."

¹⁸ Imaniyati, "Asas Dan Jenis Akad Dalam Hukum Ekonomi Syariah : Implementasinya Pada Usaha Bank Syariah."

In judicial practice, this principle becomes an important guideline for judges when assessing contracts that appear unbalanced. Judges do not merely examine the formal validity of the contract but also evaluate whether the contractual clauses reflect fairness and proportionality between the parties. If a contract contains provisions that excessively burden one party or create an unfair advantage for the other, judges may interpret the contract based on sharia principles, the Compilation of Sharia Economic Law (KHES), and relevant DSN-MUI fatwas. Through this approach, judges aim to ensure that the enforcement of the contract does not result in oppression but instead restores balance and protects the legitimate rights of both parties in accordance with the principle of *lā tazlīmūna wa lā tuzlamūn*.

Application of the Good Faith Principle in Shariah Transactions

The principle of good faith requires customers/debtors to be honest, open, and responsible. The debtor is obliged to run the business according to the contract and not misuse the funds provided. As exemplified by PT. Bank NTB Syariah, the debtor must use capital according to the agreement and report the use of capital and its business results (profit/loss) periodically to the capital lender. A breach of good faith occurs, for example, when a customer deliberately conceals financial information, such as actual income, to avoid fulfilling payment obligations, thereby violating the contractual agreement. Such conduct violates the principle of good faith, which requires that no party exploits its stronger bargaining position to gain an unreasonable advantage over the other party".

Financial Institution Responsibility: On the other hand, Islamic financial institutions must also uphold good faith by being transparent and fair. The bank is required to explain each clause of the contract to the prospective customer so that both parties understand the rights, obligations, costs, and risks associated with the financing agreement. For example, the financing structure, profit sharing ratio, or administrative costs should be communicated openly. This kind of openness builds trust and prevents disputes. A breach of good faith by a bank occurs if there is a practice of concealing fees or penalties outside of the original agreement. For example, the determination of additional fines that are not informed when the contract is made, such as the case of the 10% penalty of i-Mapan savings, is considered contrary to Sharia because it is considered to contain elements of usury and oppress customers.¹⁹

Example of Problem: If the customer defaults, for example because he is dishonest about his income, then he has violated good faith and can be asked to pay compensation or fines according to the agreed Sharia provisions. Conversely, if the bank acts in bad faith, for example by including hidden fees or unannounced penalties, the customer has the right to challenge the policy or request the cancellation of the clause. Both examples show that good faith (*al-amanah*) binds the rights and obligations of both parties in the Sharia agreement.

The case of the 10% penalty imposed on early withdrawal of i-Mapan savings provides a concrete illustration of a violation of the good faith principle from the institutional side. In such situations, the financial institution imposes a penalty that was not clearly agreed upon at the time the contract was concluded. From the perspective of Sharia economic law, such a practice contradicts the principles of transparency, fairness, and the prohibition of unjust enrichment in Islamic financial transactions. In judicial practice, judges may examine whether the penalty clause was clearly disclosed and mutually agreed upon. If the penalty is found to be imposed unilaterally or without proper disclosure, the judge may consider it inconsistent with the principle of good faith and the Sharia principle of *lā tazlīmūna wa lā tuzlamūn* (do not wrong and do not be wronged). Consequently, such a clause may be declared invalid or

¹⁹ Ghina Aini, I Gusti Agung Wisudawan, and Nizia Kusuma Wardani, "Penerapan Asas Itikad Baik Dalam Akad Pembiayaan Pada Pt. Bank NtB Syariah" 3, no. 2 (2023).

unenforceable.

Analysis of Default Dispute Decisions

1. Analysis of Decision Number 2426/Pdt.G/2020/PA. Lmg

Decision Number 2426/Pdt.G/2020/PA. Lmg is a case of a sharia economic dispute in 2020 between PT Bank Tabungan Negara (Persero) Tbk Surabaya Sharia Branch Office as the Plaintiff and KJKS Hidup Mulya as the Defendant. This dispute originated from the Mudharabah Financing Agreement Number 29 dated February 14, 2012, with a financing value of Rp 1,000,000,000 and a period of 36 months, accompanied by a guarantee in the form of receivables of 150% of the financing and SY045058 deposits worth Rp 100,000,000 in the name of the Defendant. However, the Defendant did not pay the obligations after the addendum was made, resulting in bad loans with a total liability of IDR 813,239,679 as of October 22, 2020. The defendant also did not respond to SP1—SP3 and then disappeared and his address is unknown.

The plaintiff postulated that the Defendant committed a default based on KHES Article 36 and Civil Code Articles 1234, 1246, and demanded compensation, repayment of obligations, permission to disburse security deposits, and forced money (*dwangsom*). However, in the trial process, the Defendant was never present even though he had been summoned through the Lamongan Regency Government in accordance with Article 390 paragraph (3) of the HIR. The panel of judges considered that the identity of the defendant was unclear, either related to his existence, address, or legal entity status. Even the abbreviation of KJKS is not explained and there is no information about the management.

Because of this ambiguity, the Tribunal declared the lawsuit to be vague (*obscur libel*) and not worthy of further examination. The panel also emphasized that accepting a lawsuit with an unclear identity of the defendant could set a bad precedent for religious justice. Therefore, the judge declared the lawsuit unacceptable (*niet ontvankelijk verklaard*) and charged the Plaintiff with the costs of the case.

From the perspective of procedural law, the settlement of this case shows that the court continues to carry out the usual examination procedures, including proper summons, panel advice, and recording of the defendant's absence. However, because the identity and address of the defendant could not be ascertained, the examination could not proceed to the subject matter. This shows that the civil procedure law provides a protection mechanism against the ambiguity of the subject of the law, so that the judicial process is not used inappropriately. In assessing the quality of the decision, three basic principles of the judge's decision can be used: justice, legal certainty, and usefulness.

Principle of Justice: In terms of procedural fairness, the Tribunal has given the Plaintiff sufficient opportunity to explain the identity of the defendant, but the Plaintiff is still unable to include complete data. The judge then issued a ruling that protected the principle of substantive justice by preventing an unclear verdict against the party, thus avoiding the potential for a party that may no longer even operate or do not know the existence of a case. This decision maintains the integrity of the judicial process.

Principle of Legal Certainty: The decision emphasizes that even though this case falls within the absolute authority of the Religious Court (Article 49 letter i of Law 3/2006), the lawsuit must still meet the formal requirements, especially the identity of the parties. The judge firmly applied the doctrine of a fugitive lawsuit, thus providing certainty that sharia economic disputes can only be examined if the parties are clear, legitimate, and legally accountable. This creates strict procedural standards for the sake of legal certainty.

Principle of Utility: This decision provides benefits in maintaining the effectiveness and efficiency of the judiciary. By declaring the lawsuit inadmissible, the Tribunal avoided a lengthy examination process that was ultimately unenforceable because the subject of the law

was unclear. The ruling also encourages Islamic financial institutions to be more careful in verifying the identities of their partners, so that in the future it can reduce unenforceable disputes and increase the prudence of the Islamic finance industry.

Overall, Decision 2426/Pdt.G/2020/PA. Lmg shows that the success of resolving sharia economic disputes does not only depend on the substance of the contract, but also on the clarity of the legal subject in the lawsuit. The panel of judges has applied the principles of prudence, justice, and legal certainty well. However, this case is also an important note that Islamic financial institutions must tighten the administrative aspects and the validity of the identity of financing partners so that similar disputes do not recur and judicial decisions really bring benefits to all parties in the Islamic economic ecosystem.²⁰

2. Analysis of Decision Number 4/Pdt.G.S/2020/PA. Pdlg

Decision Number 4/Pdt.G.S/2020/PA. Pdlg is a dispute in default in the financing of Murabahah bil Wakalah between PT Bank BRIsyariah as the Plaintiff and Safei as the Defendant. This dispute stemmed from two murabahah financing agreements signed on August 15, 2017, with a selling price value of Rp31,445,976 and Rp115,487,964, respectively, so that the total financing received by the Defendant reached Rp146,933,940. However, the Defendant only made 6 installment payments at each facility, then stopped making payments at all since the beginning of 2018. As a result, the remaining arrears until the lawsuit was filed amounted to IDR 109,289,204, as evidenced by the printout of the bank statements and the calculation table of outstanding financing in the case file.

Prior to the lawsuit, the Plaintiff had provided Warning Letters I, II, and III, but never received a response from the Defendant, who finally admitted that he no longer had the ability to pay off the obligations. In the trial, the Defendant admitted all the arguments of the lawsuit, so that based on Article 174 of the HIR, the confession has perfect and decisive evidentiary force for the judge to declare that the default really occurred. The plaintiff also presented evidence of letters P-1 to P-22 which were all declared valid and valuable by the panel of judges.

The panel of judges in its consideration stated that the Murabahah bil Wakalah contract used by the parties constituted a valid sharia agreement that fulfilled the legal principles and requirements of a contract. The bank, acting through a wakalah mechanism, had carried out its obligation to provide the goods, while the customer had received the financing in accordance with the agreed selling price. Since the Plaintiff had fulfilled its contractual obligations, the Defendant was required to perform the counter-performance, namely repaying the selling price as stipulated in the agreement. After examining the calculation of losses submitted by the Plaintiff, the panel of judges corrected the amount of the claim so that it corresponded to the actual loss proven in court. As a result, the total liability imposed on the Defendant was limited to Rp109,289,204, even though the Plaintiff had requested broader sanctions. This correction demonstrates the prudence of the judges in ensuring that the obligations imposed on the Defendant were proportional and based on factual losses. More importantly, this step reflects the role of judges as guardians of substantive justice, not merely as a “mouthpiece” of contractual provisions. In this context, the court did not automatically grant the entire claim submitted by the bank but carefully examined whether the amount requested truly reflected the real loss suffered by the Plaintiff. This approach is consistent with the principle of justice in Sharia economic law, which requires that contractual enforcement must avoid excessive burden (*zulm*) and ensure fairness between the parties in accordance with the principle of *lā tazlimūna wa lā tuzlamūn*.

On the other hand, the Plaintiff also requested that the judge impose a confiscation

²⁰ Pengadilan Agama Lamongan P, ‘Putusan Nomor: 2426/Pdt.G/2020/PA.LMG’, 2020.

of the guarantee (conservatoir beslag) on the land and buildings based on AJB No. 6/2017. However, the judge rejected the application because the guarantee document was already in the possession of the Plaintiff, so according to Article 227 paragraph (1) of the HIR, the seizure was irrelevant and had no legal basis to be re-enforced. This ruling shows the judge's efforts to prevent excessive action against guarantees that are not factually at risk of changing hands.

The case examination process is carried out with a simple lawsuit mechanism, in accordance with Perma 2/2015 jo Perma 14/2016 concerning Procedures for Settlement of Sharia Economic Cases. The panel of judges considered that this case met the requirements of the subject, object, and nominal value of the lawsuit as a simple lawsuit. The parties were also present at the trial and were given the opportunity to reconcile, but no agreement was reached until the verdict was handed down. This concise and efficient procedure demonstrates the court's purpose in providing procedural certainty for the parties.²¹

- a. The decision of the panel of judges in the end was:
- b. Grant the Plaintiff's claim in part;
- c. Declaring that the Defendant has defaulted;
- d. Punishing the Defendant to pay a total of Rp109,289,204;
- e. Declaring AJB land No. 6/2017 valid as a financing guarantee;
- f. Refuse other than and the rest;
- g. Sentenced the Defendant to pay a case fee of Rp416,000.
- h. The verdict was handed down on August 13, 2020 in an open hearing.

If analyzed from the three main principles of justice, legal certainty, and utility, this decision shows an adequate quality of consideration:

Procedural fairness can be seen from a transparent process, a balanced opportunity for the parties to attend, and the judge's correction of the calculation of losses. The Defendant's confession was considered proportionately, but the judge did not necessarily grant the Plaintiff's entire *petitum*, especially regarding the seizure of bail and additional requests. This shows the judge's efforts to prevent potential harm to customers.

The judge emphasized that the Religious Court has the authority to adjudicate sharia economic cases based on Article 49 letter (i) of the Religious Courts Law and the Constitutional Court Decision No. 93/PUU-X/2012. In addition, the implementation of Perma 2/2015 and Perma 14/2016 clarifies the procedural framework of simple lawsuits so that the process becomes fast, measurable, and has certainty for the parties.

The judgment provides direct benefits for both parties: For banks, the judgment provides certainty of the recovery of rights and the payment of losses proportionately. For the customer, the rejection of security confiscation prevents undue losses and opens up space for the settlement of obligations without unnecessary execution actions. For the justice system, a simple lawsuit mechanism increases efficiency and reduces the burden of cases.

Overall, Decision No. 4/Pdt.G.S/2020/PA. PDLG shows good implementation between procedural and substantial aspects in resolving sharia economic disputes. The judge not only ensures that contractual obligations are enforced but also maintains the proportionality of the decision to be in line with the principles of sharia justice and legal protection for the parties. This decision can be considered balanced, rational, and reflects the values of substantive justice in the context of sharia financing.²²

Comparison of Palembang PA Decision No. 2426/Pdt.G/2020/PA. Lmg and PA Pandeglang Decision No. 4/Pdt.G.S/2020/PA. Pdlg

²¹ Pengadilan Agama Pandeglang Yang, "PUTUSAN Nomor 4/Pdt.G.S/2020/PA.Pdlg.," no. April (2020).

²² Pengadilan Agama Pandeglang Yang, "PUTUSAN Nomor 4/Pdt.G.S/2020/PA.Pdlg.," no. April (2020).

Decision of the Palembang Religious Court Number 2426/Pdt.G/2020/PA. Lmg and the Decision of the Pandeglang Religious Court Number 4/Pdt.G.S/2020/PA. The PDLG is two examples of sharia economic dispute decisions that show significant differences both in terms of formal and material aspects of the case. Although both cases are related to sharia financing disputes and are postulated as default cases, the direction of the examination and the results of the verdict are very different because the conditions of the legal subject and the evidence submitted by the parties are not similar.

Aspects	PA Palembang 2426/Pdt.G/2020/PA.Lmg	PA Pandeglang 4/Pdt.G.S/2020/PA.Pdlg
Year of Verdict	2020	2020
Types of Items	Sharia Economics – Default	Sharia Economics – Default
Mechanism	Ordinary lawsuits	Simple lawsuit
Final Status of Decision	Unacceptable Lawsuit (NO)	Lawsuit Partially Granted

From the perspective of justice, both decisions reflect the court's efforts to maintain the principle of justice based on the context of each case. The Palembang PA prioritizes procedural justice by ensuring that the court does not decide cases against parties whose identities are unclear. Meanwhile, PA Pandeglang prioritizes substantive justice by proportionally deciding payment obligations based on evidence of real losses and considering the conditions of both parties. In the Pandeglang decision, the judge even corrected the calculation of losses so that it was in accordance with sharia principles and did not burden the defendant excessively.

This comparison shows that the success of lawsuits in sharia economic cases is greatly influenced by the accuracy of the legal subject, the clarity of the identity of the parties, and the completeness of the evidence. The Palembang PA decision provides an important lesson that lawsuits whose subject matter is unclear cannot be processed further. Meanwhile, the Pandeglang PA Decision emphasizes that if all formal elements are met, the court can issue a decision that provides legal certainty, utility, and substantive justice to the parties to the dispute. Thus, these two rulings provide a comprehensive overview of how the differences in formal and material aspects can determine the direction and final results of sharia economic dispute resolution in religious courts.

Conclusion

Based on the analysis of the principles of justice and good faith in the context of default in the field of sharia economics, it can be concluded that the application of these values is the main foundation in achieving fair and sharia-based dispute resolution. In practice, courts both in their decisions and Islamic financial institutions consistently strive to uphold substantive justice, namely ensuring that the rights and obligations of each party are fulfilled proportionately and do not unfairly harm one of the parties. The application of the principle of justice does not only apply when the contract takes place, but also when resolving disputes through judicial mechanisms, which must prioritize procedural and material justice in accordance with Islamic teachings.

In addition, the aspect of good faith greatly determines the success of the enforcement of sharia economic law. Good faith requires the parties to be honest, open, and responsible in carrying out the contract and resolving disputes. The application of this principle can also

be seen from the judicial mechanism that emphasizes transparency, procedural justice, and fair treatment of all parties, including in the regulation of standard contract clauses that must contain balance and justice.

Experience from court practice shows that a fairness-oriented and good-faith approach can strengthen the sustainability of the Islamic economy and increase public trust in the Islamic financial system. The application of these principles not only ensures that the dispute resolution process runs efficiently and quickly, but also ensures that the results contain justice based on sharia values, and are able to protect the rights and obligations of the parties in an equal and fair manner.

Furthermore, practical lessons can also be drawn for Islamic financial institutions from judicial practice. Financial institutions should exercise greater diligence in verifying the legal identity, address, and legal status of their business partners or customers before entering into contractual relationships. As reflected in several court cases, disputes may encounter procedural obstacles when the identity or legal existence of one of the parties cannot be clearly established, which may ultimately hinder the legal process and create uncertainty in dispute resolution. Therefore, strengthening due diligence procedures and verification mechanisms is essential to ensure legal certainty and to prevent similar disputes in the future.

Overall, the integration of the values of justice and good faith in the practice of contracts and dispute resolution is an essence that must continue to be pursued so that sharia principles are truly implemented consistently and comprehensively in the sharia economic law system. This will provide not only legal certainty, but also realize a just, civilized, and sustainable economic system in accordance with the spirit of Islamic law

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