

Comparative Analysis of Implementation of Murabahah Bil Wakalah Contracts and Musyarakah Mutanaqisah Contracts for Sharia Financing Products

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Abstract

A home is a basic human need that plays an important role in the continuation of human life. The problem of housing and settlement has existed and will continue to exist in response to population growth, demographics and socio-economic needs. The high demand for housing and population growth provide opportunities for Islamic financial institutions to provide products that help people purchase housing. The purpose of this study is to determine the application of the Murabaha Contract and the Musharaka Mutanaqisah Contract and find a comparison of her two contracts in Islamic KPR funding. Knowing the mechanism and type of research represents field research. This research was conducted using qualitative methods with a descriptive approach. As a result of the research and analysis, it was found that the application of the Murabaha Bil Wakala Convention takes precedence over the Musharaka Mutanaqishah Convention. A comparison of the two loan agreements can then be viewed in terms of similarities and differences between the two agreements.

Keywords: *kpr; murabahah bil wakalah; musharaka mutanaqishah*

INTRODUCTION

According to Imam Al-Ghozali, needs (hajat) are a person's desire to obtain what they need in order to continue or survive in life. As Imam al-Ghazali said, people are actually concerned with his three needs: food, shelter and clothing. Food to overcome hunger and sustain life, clothing to withstand heat and cold, shelter to prevent decay (Rohman, 2010).

In conventional economics, need is defined as the desire to acquire a particular facility, either in the form of a service or a commodity (Sukirno, 1997). From an Islamic point of view, human needs are divided into his three types of levels: Maqasid Dharuriyah (primary), Maqasid Hajiyyah (secondary) and Maqasid Tahsiniyah (tertiary). Basic or basic human needs consist of clothing, food and shelter. Like clothing and food, boards play an important role in a person's life. Article 1 of the Law of the Republic of Indonesia No. 1 of 2011 on Houses and Residential Lands states that a house means a building that serves as a place to live, a facility for family growth and a reflection of one's personal dignity. property to its occupants as well as its owners. A dwelling is a collection of dwellings as

part of urban and rural settlements, equipped with infrastructure, facilities, and public facilities as a result of efforts to create habitable dwellings.

In accordance with the words of Allah SWT of the Qur'an, which states that man is destined to need a place to live, this is stated in QS. An-Nahl : 81:

وَاللَّهُ جَعَلَ لَكُمْ مِمَّا خَلَقَ ظِلَالًا وَجَعَلَ لَكُمْ مِنَ الْجِبَالِ أَكْنَانًا وَجَعَلَ لَكُمْ
سَرَائِيلَ تَقِيكُمْ الْحَرَّ وَسَرَائِيلَ تَقِيكُمْ بِأَسْكُمْ ۚ كَذَلِكَ يُتِمُّ نِعْمَتَهُ ۗ عَلَيْكُمْ
لَعَلَّكُمْ تُسَلِمُونَ ٨١

It means:

“Allah protected you from what He created. He made for you a closed place in the mountains (caves and passages for dwelling). Protect yourself from the heat. and clothing (armor) to defend yourself in battle. Thus Allah will complete his bounty on you so that you surrender (to Him).” (Q.S An- Nahl 81).

Islamic financial institutions, or Islamic financial institutions in general, are financial institutions whose operating procedures are based on Islamic Muarat procedures, which means that they refer to the provisions of Al-Quran and Al-Hadith (Kasmir, 2003). Bank BTN started operating under Shariah principles on February 14, 2005 and opened its first Shariah branch in Jakarta. Bank BTN Syariah has six competitive advantages. A home loan or mortgage market leader focused on the middle-to-lower consumer segment, loans backed by high-quality real estate collateral, a broad and proprietary distribution network, and high mortgage potential. and good management. Experienced (Bank BTN, 2021).

KPR Syariah is a product of the Islamic financial institution system related to financing homeownership needs. Mortgage products used by Islamic financial institutions have some differences from traditional bank mortgage products. One of the fundamental differences used by Islamic financial institutions is the concept of profit and loss sharing. It replaces the traditional bank interest rate system (Haris, 2007). The KPR product available from Bank BTN Syariah is KPR BTN Syariah.

A Murabahah contract is a sales contract in which the seller sells goods to the buyer by telling the buyer the purchase price of the goods and requiring that the expected profit be equal to a certain amount (Ismail, 2013). The Murabahah contract execution system can be implemented in a variety of ways, such as cash on receipt of goods or installment payment on receipt of goods (Andriani, 2019). Mortgage financing under Murabaha contracts is permitted with the issuance of DSN MUI Fatwa No. According to 04/DSN-MUI/IV/2000, one of the reasons for allowing funding for Murabaha is that the community needs a lot of support to circulate funds from Islamic financial institutions on a buy and sell basis. (DSN, 2000).

One Islamic financial institution product that may also be widely used by Islamic financial institutions is Musyarakah Mutanaqisah. This product is an alternative to Murabaha products, which are primarily used by Islamic financial institutions around the world. Musyarakah Mutanaqisah admissibility and form is described in DSN MUI Fatwa No. 73 of 2008. A Musyarakah Mutanaqisah contract is a conditional agreement under which a portion of one partner's funds are gradually transferred to the other partner such that a portion of the funds is reduced at the end of the contract period (Safitri, 2020).). Musyarakah mutanaqisah is a cooperation agreement between two or more parties using a reduced partnership scheme with, at the end of the cooperation, there is a transfer or transfer of rights from one party to another cooperating party through a tiered financing mechanism. Also called (Hijrah Safitri, 2020). The system of enforcement of the Musyarakah Mutanaqisah contract is that each party contributes and adheres to the agreed agreement (Andriani, 2019).

Basically, the two treaties were based on Islamic Shariah. However, there is a negative impression from the public that the Murabaha contract is no different from the existing lending system of conventional banks, and in fact the Murabaha contract is stifling in terms of installments compared to the conventional bank lending system. There was also an opinion. one Banks Banks (Andriani, 2019). In addition, Osmani and Abdullah (2010) apply musharaka his mutanaquisa contract to finance his mortgage because of the contractual flexibility agreed upon by many parties and the risk sharing between the Islamic financial institution and the client. states that it is more beneficial to Razak and Amin (2013) also state that mortgage financing under Musyarakah Mutanaqisah can prevent financial crises under these circumstances.

LITERATURE REVIEW

Previous research serves as learning in the development of research being conducted and can be a source of research being studied. From the research conducted by the researcher, it can be used as an important reference in conducting this research. There are several sources of information.

First, Ruslaini Sitorus' letter entitled "Application of Musyarakah-Mutanaqisah Agreement in KPR (House Ownership Credit) Bank BRI Syariah Branch Office Medan S. Parman". A study conducted by Ruslaini Sitorus revealed similarities in the mortgage financing debate. The difference from this study lies in the subject of discussion and the subject of research. Ruslaini Sitorus' investigation focused solely on the implementation of the Musyarakah Mutanaqisah contract in BRI Syariah Bank.

As a result of the research conducted by Ruslaini Sitorus, firstly the implementation of Mutanaqisah Musyarakah Funding at Bank BRI Syariah KC Medan S. Parman is DSN

MUI Fatwa No. 73/DSN-MUI/XI/2008. Secondly, there is a common obstacle in applying Mutanaqisah Musyarakah contracts, i.e. customers' lack of interest in obtaining financing under Mutanaqisah Musyarakah contracts. This is because clients find it difficult to carry out the process of submitting major payments, Hisbah, Ujrohand capital financing

Next is an academic paper by Misbahus Sholeh Bachtiar titled "Comparative Analysis of Mortgage Financing Using Murabahah Contract with IMBT (Ijarah Muntakiya Bit-Tamlik) Contract at BRIS Syariah KCP Menganti". In Misbahus Soleh Bachtiar's research, the arguments show similarities. It's about mortgage financing. The difference between this study and this study lies in the subject matter of the study and the comparison with other treaties, namely the Musharaka Mutanakeesa Treaty.

According to Misbahus Sholeh Bachtiar's research findings, firstly, Mortgage Financing Application by Murabaha Contract is a Buy and Sell Practice Scheme and Mortgage Financing Application by Ijarah Munt Tamlik Bit Tamlik Financing Practice Scheme. Secondly, the differences between the Murabaha contract and the Ijara Muhammiya Bitamric contract lie in the characteristics of the contract, the contract scheme and contract procedure, the ownership of financial assets, and the installment scheme. Indeed, similarities can be found in the terms of the individual contract documents and the system of early repayment.

The third is from Fitria Andriani, entitled "Implementation of Murabahah and Musyarakah Mutanaqisah Contracts in Home Finance in Islamic Banking (a case study at Bank Muamalat Indonesia)". A study in the journal Fitoria Andriani studied can be found at Bank Muarat Indonesia. As a result of this research, Musyarakah Mutanaqisah has emerged as an alternative to housing finance, a complete package that benefits both customers and Islamic financial institutions, especially Bank Muamalat Indonesia. With an implementation based on his DSN MUI Fatwa number 73 from 2008, MMQ contracts aim to be easier for the community. On the other hand, Murabaja's contract has yet to do good and benefit the community in determining its profit margins.

The fourth is a journal by Gina Sonia and Andri Marta Sudirja entitled "Comparison of Murabahah and Ijarah Muntahiyah Bit-Tamlik Contracts for Faedah KPR Loan at BRI Syariah KCP Kopo (Bandung Regency) Bank". The journals studied by Gina Sonia and Andri Marta Sudirja have similarities and differences to the papers studied by the authors. The similarities lie in the subject of study, i.e. Islamic mortgage financing, and the differences lie in the subject of comparison and the location of the study.

According to the findings of the magazine, researched by Gina Sonia and Andri Marta Sudhirjah, Islamic mortgage financing under the Murabaha contract and Islamic mortgage financing under the Ijara Muntiya Bit Tamlik contract include: The thing is that there are differences that can be seen from several sides. Customers, Contract Design Aspects, Installment Mechanisms, Home Value Aspects, Prepayment Penalties, Bank Benefits in Contracts, Ultimate Transfer and Ownership

METHOD

This study uses descriptive qualitative analysis. That is, the collected data is in the form of words and images rather than numbers (Moleong, 2010). Using this method, researchers investigate and describe mortgage lending in Islamic financial institutions compared to the Murabaha Bir Wakala and Musharaka Mutanakeesa contracts.

The subject of this study is Islamic financial institutions and research subjects, investigating institutions specializing in homeownership products such as BTN Syariah KCP Purwokerto for comparison of Murabaha Bir Wakala and Musharaka Mutanakeesa contracts in mortgage lending. Targeted.

In this study, the data validation technique used was triangulation. Triangulation is defined as a data collection technique that combines various existing data sources and data collection techniques to test the reliability of the data. That is, we review the reliability of data from various sources and data collection techniques and times (Sugishirono, 2019:368).

Triangulation techniques mean that researchers obtain data from the same source using different data collection techniques. The triangulation that researchers use is source triangulation. Source triangulation is the observational and interview data of researchers, or what people say publicly versus what is said directly, what people say about research situations versus what they say all the time. A data processing technique performed by comparing that Investigate situations and perspectives with different opinions and views, such as low-educated, middle-educated, high-educated, wealthy, and government officials, and compare the interview results with the content of relevant documents.

RESULTS

1. Shariah KPR

A home equity loan is a line of credit offered by a bank to an individual customer wishing to purchase or renovate a home. Sharia Housing Ownership of the Minister of State Public Housing Regulation No: 08/PERMEN/M/2008 are funds issued by funding agencies, including subsidized KPR, subsidized micro KPR/KPRS, both conventional and Shariah principles.

One of the financial products developed by Islamic financial institutions is better known as Home Equity Finance, or Sharia KPR. KPR Syariah, i.e. home ownership loans for individuals to meet all or part of their housing needs. If the payment is made in installments, it will be paid monthly at the predetermined rate. The selling price is usually added to the profit margin agreed between the Islamic financial institution and the customer. The selling price of a home is initially determined in fixed installments until the customer enters into a home purchase and purchase financing agreement (Amalia, 2017).

2. Murabaha

Definition of Murabaha

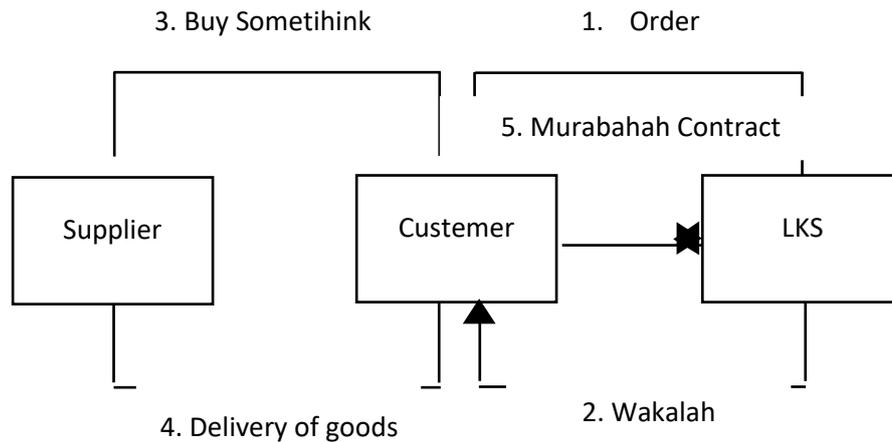
Murabaha is a Muammara contract in the form of a sale. Etymologically, Murabahah comes from the root ribh, which means profit, profit, addition (margin) (OJK, 2016). According to Hisham ad-Din Musa, there are several opinions by scholars regarding the meaning of Murabaha (Mahfudz, 2018).

- a. According to Imam al-Marginani al-Hanafi, Murabahah will transfer what he has in the first contract and achievement the first prize with additional profits.
- b. Ibn Rashed al-Maliki. The seller states the price/capital of the goods to be purchased and demands that the goods have a profit in dirhams or dinars.
- c. Shaykh Abu Ishak as-Syairaszi as-Syafii; the seller declares the original price/equity of the item and states the estimated profit from the item, If the seller says the price of this item is 100 dirhams for him and I sell this item to you according to the price/capital and from the capital he makes a profit of 1 dinar for every 10 dinars.
- d. Sheikh ibn Kudama al-Maqdisi al-Hanbari; to sell goods at a price and a known profit.

UU No. 21 of 2008 on Islamic Banking states that a Murabaha contract is a contract for the financing of an item for which the purchaser confirms the purchase price and the purchaser pays for it at a higher price. means a contract for As an agreed benefit (UU No. 21, 2004). According to Sharia Council Fatwa No. 04/DSN-MUI/IV/2000, what is meant by murabahah bil wakalah is that when a bank represents a customer to purchase goods from a third party, a sales contract It means that it must be completed later. It's property in principle. Execution of the Murabaja Agreement occurs after the conclusion of the Wakala Agreement, the Wakala Agreement ends when the customer delivers the purchased goods to the bank, and the Murabaja Agreement is formed after the bank receives the goods (Afrida, 2016). In summary, a Murabahah-bil-wakalah contract is a sales contract in which a bank offers to purchase a product to a customer and, after receiving the product from the customer, delivers it to the bank. After becoming the property of the bank, the bank determines the required margin and repayment period agreed between the customer and the bank (Khoeriyah, 2020).

In Islamic banking, Murabaha is generally applied to the financing of goods for the purchase or procurement of goods required by the customer (Nofinawati, 2016). Banks act as sellers, providing products that customers need. As a buyer, the customer purchases goods from the supplier and sells them to the customer at a price higher than the purchase price paid by the Islamic financial institution. Payments for Murabahah transactions can be made in one lump sum when due or in installments over an agreed period of time (Ismail, 2017).

Murabahah Bil Wakalah Scheme



3. Musyarokah Mutanaqisah

Musyarakah mutanaqisah comes from his two words musyarakah and mutanaqisah. Musyarakah (syiraka-yusriku-syarkan-syarikan-syirkah) means cooperation, sharing, association or partnership (partnership) and mutanaqisah (yatanaqishu-tanaqishan-mutanaqishun) means gradual decrease (decrease) (Husein, 2019). Musharaka is al-ikhtilath, which according to the original Arabic is the mixing of two or more parts so that one part is indistinguishable from the other. Musyarakah is a term commonly used in relation to funding schemes, often referred to as Syirkah. Mutanaqisah, on the other hand, etymologically means to decrease gradually (Ascarya, 2006).

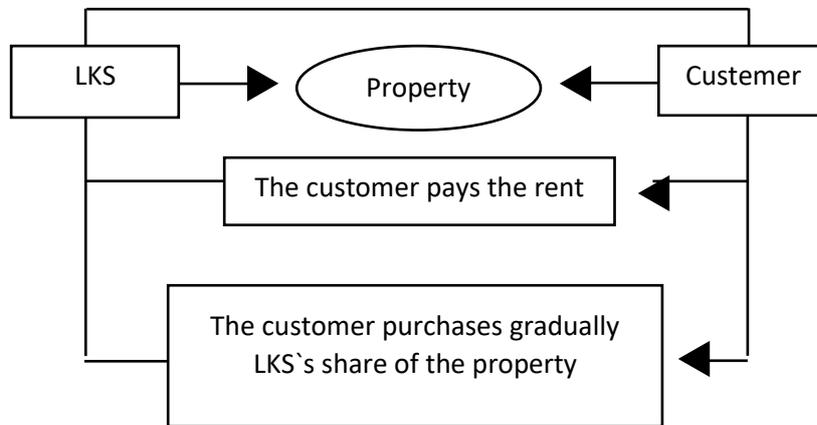
A Musyarakah mutanaqisah (MMQ) is a derivative of the Musyarakah contract and is a form of contract of cooperation between two or more parties. A Musyarakah Mutanaqishah (decreasing partnership) is a form of cooperation between two or more parties of his for ownership of an item or asset. Where this cooperation reduces the property rights of one party and increases the property rights of the other party. This transfer of ownership is through other ownership payment mechanisms. This form of cooperation ends with the handover of one party to another (Hosen, 2009).

According to Fatwa DSN-MUI No. 73/DSN-MUI/XI/2008 dated November 16, 2008 regarding Musyarakah Mutanaqisah, Musyarakah or Shirkah, property (goods) or one party (Syarik) In musharaka the share of the capital owner is reduced or the bank is gradually transferred to the partner, the share of the fund owner or bank capital is reduced and the partner becomes a partner at the end of the contract. Whole Business Owner (Wangzavidjadja, 2012).

Musyarakah mutanaqisah (MMQ) is one of the Musyarakah-based development products, applied as a form of Sharia bank loan product based on Syirkh 'inan principles, and capital share (hishhah) is one of Shari'aks (partner), i.e. the bank's biz by the buyer or commercial transferor, is in turn passed on to other customers. According to the Syariah Financial Fatwa Compendium, Syarik is a partner, the party fulfilling her Syirkah contract.

Hishah is part or part of the wealth partnership of Musyarakah, who is Musya'. Musya' is part or parcel of Musyarakah property (common property) in terms of value, the limits of which cannot be physically determined (Edwin Rahmat Yulianto).

Mutanaqisah Musyarakah Scheme



DISCUSSION

Analysis of the Application of Murabahah Bil Wakalah Contracts and Musyarakah Mutanaqisah Contracts in Sharia KPR Financing.

A multi-contract or hybrid contract or al-aqd al-murakkabah, according to fiqh terminology, is defined as an agreement between two parties to execute a muamara involving two or more contracts. The majority of Hanafiyah scholars, Malikiyah scholars, Shafiyah scholars, and some of Hanbari's opinions hold that the original law of the treaty is permissible and valid, and unless there is a legal argument prohibiting or revoking it, It claims it has neither been banned nor repealed. Get it out (Septina, 2022).

Article 19(1)(d) of Law No. 21 of 2008 on Islamic Banking states that a Murabaha contract is a contract for the financing of an item for which the purchaser confirms the purchase price and the purchaser pays for it at a higher price. means a contract for As an agreed benefit (UU No. 21, 2004). Simply put, a Murabaja is a contract for the sale and purchase of goods, stating the purchase price and profit (margin) agreed upon between the seller and the buyer. A characteristic of Murabaja is that the seller must inform the buyer of the purchase price of the item and state the amount of profit added to the cost (Andriani, 2019). The goods traded shall be governed by the provisions of DSN MUI Fatwa No. 04/DSN-MUI/IV/2000 stating that the goods traded shall not be considered illegal. And in his verse 275 of al-Quran al-Bakala, Allah states that all trades in Murabaha must be free from usury, including that the goods traded must also be halal (Anshori, 2009).

A wakala is a transfer from someone as a first party to another person as a second party (second party in this case) to do something only to the extent that the power or authority of the first party is lied to. Delegation of authority. However, if the service is

performed as required, all risk and liability for the performance of the assignment rests entirely with the initial party or agent (Januari, 2015). Theoretically, in his book titled *Fiqh Muamalah*, Harun argues that if first he made the Wakalah contract and after the item in question became the property of the bank he made the Murabahah contract., stated that Murabahah bil Wakalah can be called Sharia (Harun, 2013). The Murabaha-bil-wakalah mechanism is also maintained by DSN MUI Fatwa No. 04/DSN-MUI/IV/2000 Point Nine. The bank must belong first.

From the findings, it can be concluded that BTN Syariah KCP Purwokerto Bank complies with DSN MUI Fatwa No. 04/DSN-MUI/IV/2000 in conducting mortgage financing under Murabahah bil wakalah contract. increase. As for its application, there is no usury as the base price and margin are pre-declared and the goods traded are halal.

A Musyarakah mutanaqisah (MMQ) is a derivative of the Musyarakah contract and is a form of contract of cooperation between two or more parties. A Musyarakah Bentaqisah (decreasing partnership) is a form of cooperation between two or more parties of his for ownership of an item or asset. If this collaboration reduces the ownership of one party and increases the ownership of the other party. This transfer of ownership is through other ownership payment mechanisms. This form of cooperation ends with the handover of one party to another (Hosen, 2009).

From the results of the study, the application of KPR financing in Islamic financial institutions with musyarakah mutanaqisah contracts is in accordance with DSN MUI fatwa No. 01/DSN-MUI/X/2013 where there is a transfer of hishshah (portion) to one of the parties when the contract ends. This characteristic must indeed be shown by making an agreement from the start with one of the parties (the customer) to buy hishshah (portion) owned by a financial institution.

Murabahah bil Wakalah Treaty and Musyarakah Mutanaqisah Sharia KPR Financing Agreement Equations

Equation of the Murabahah Bil Wakalah Agreement and the Musyarakah Mutanaqisah Agreement on Sharia KPR financing

1. Terms and conditions for applying for Sharia KPR financing
 2. The method of payment
 3. Policies taken by Islamic financial institutions when customers commit
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The difference between the Murabahah bil Wakalah Contract and the Musyarakah Mutanaqisah Agreement in Sharia KPR financing

Aspect Comparison	<i>Murabahah bil Wakalah</i>	<i>Musyarakah Mutanaqisah</i>
contract characteristics	Using 2 contracts, namely the murabahah contract and the wakalah contract	Using 3 contracts, namely musyarakah (cooperation), ba'I (buying and selling) and ijarah (leasing) contracts.
Mechanism to use the contract	First, the customer comes to the financial institution to apply for mortgage financing, the two banks collect data related to the object of financing, then the bank conducts interviews and analyzes the feasibility of the customer for financing. After the financing is approved by the bank, a murabahah bil wakalah financing contract is executed. The requirement before entering into a contract is that the customer has checked the location and condition of the object or house that is ready for occupancy. The selling price of the object or house is the purchase price plus profit/margin according to the agreement.	First, the customer comes to the bank to apply for mortgage financing, the two banks collect data related to the object of financing, then the bank conducts interviews and analyzes the feasibility of the customer for financing. After the financing is approved by the financial institution, a musyarakah mutanaqisah financing agreement is entered into, followed by the two parties giving each other a portion of funds to purchase a house. Then, the financial institution and the customer will buy the house that the customer wants accompanied by a notary. When the house has been purchased, every month the customer will gradually pay the financial institution's portion until it is fully owned by the customer.
Object transfer and ownership	Changes at the time of contract conclusion	After the end of the contract, we will completely switch to the customer.

CONCLUSIONS

Based on a comparative analysis of sharia mortgages using Wakalah Bill Murabahah and Mutanaqisah Musyarakah contracts in sharia financial institutions, the authors conclude:

1. Application of sharia housing loans using Murabahah-bil-wakalah contracts in Islamic financial institutions, DSN MUI Fatwa No. 04/DSN-MUI/IV/2000 points nine. In particular, it stipulates that, in principle, if a financial institution wishes to sell a product, the product must first be owned by the financial institution. The application of this contract is liber-free as the basic price and margin are declared in advance and the goods traded are halal.
2. A comparison of the application of murabahah bil wakalah and musyarakah mutanaqisah contracts in sharia KPR financing can be seen from the loan application requirements, method of installment payments and policies where the customer stands out. The differences are found in the characteristics of each contract, the mechanisms for implementing each contract, and the transfer of objects within each contract.

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