

**REVIEW OF SHARIA ECONOMIC LAW ON THE SALE AND PURCHASE
OF PROPERTY AT PT INTAN NIRWANA NUSANTARA HOUSING
GOLDEN VIEW IN MAKASSAR CITY**

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Abstract

The labeling of Sharia in a business today is due to the popularity of the term sharia which is free from usury. However, from this, there are still many problems, especially for businesses that only label their business as sharia but in reality do not implement it in accordance with Islamic law. This research is field research which is very close to qualitative research which uses Sharia Economic Law and empirical approaches. The data sources used are primary data sources sourced from the Al-Qur'an, Hadith, Sharia Economic Law Compilation and interviews from PT Intan Nirwana Nusantara Golden View Inn Housing, and secondary data obtained from archive books of property purchases at Golden View Inn Housing. . The research results show that the form of contract implemented by Golden View Inn is the Ishtishna' contract or order which in its implementation is in accordance with the provisions of Sharia Economic Law. Then, regarding the settlement of stalled installments, it is also in accordance with Islamic principles because a deliberation was held to discuss it in good faith first. The implications of this research relate to improving the SPPJB regarding disputes to include the court to be addressed if the good faith process does not run properly.

Keywords: *Bad Installments, Sharia Economic Law, Istishna.*

A. INTRODUCTION

Mu'amalah regulates human relations with one another, which is a very important activity for every human being. Economic activity must have clear, good and correct rules. Economic issues that occur in society are basically endless, this is because every time there will be born and appear so many terms and systems in the economy, especially Indonesia.

Humans have three types of needs, namely, clothing, food, and shelter. Clothing is a human need for clothing, food is a need for food, and shelter is a need for a house or place to live. Home is a place to shelter and gather the family as well as a place to educate the character of children who live in a family.¹

As the human population grows, the need for housing will also increase. As well as the increase in house prices that are skyrocketing from year to year

¹ Retno Nur Indah, "Emergency Board Needs in the Millennial Era" [djkn.kemenkeu.go.id](https://www.djkn.kemenkeu.go.id/kpknl-singkawang/baca-artikel/15037/Darurat-Kebutuhan-Papan-di-Era-Milenial) 23 May 2022, <https://www.djkn.kemenkeu.go.id/kpknl-singkawang/baca-artikel/15037/Darurat-Kebutuhan-Papan-di-Era-Milenial> (3 December 2023).

which is not matched by the increase in people's income, it is certain to make it difficult for people who want to own housing. This is what then resulted in the property business very much growing in the community in order to meet people's needs for housing.²

The increasing desire of the public to consume sharia products and the development of sharia concept products, a property business with a sharia concept is currently developing without any intermediaries with banks which aims to facilitate the general public and Muslims in particular in buying houses without intermediaries of banking institutions. With the existence of this sharia property concept business, it is hoped that it can fulfil the wishes of the community in meeting the need for housing or as a means of investment without a complicated administrative process and free from bank interest. In conducting transactions, contracts in buying and selling houses, Islamic property developers do not use banking services, but apply contracts and transactions as in Islamic banking, namely no interest, fines, confiscation, and do not involve insurance.³

As the word of Allah swt. in QS Ali-Imran / 3: 130

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا الرِّبَا أَضْعَافًا مُضَاعَفَةً وَاتَّقُوا اللَّهَ لَعَلَّكُمْ تُفْلِحُونَ ۝ ١٣٠

Translation:

“O you who believe, do not eat usury with double and fear Allah so that you may be fortunate.”⁴

Meanwhile, PT Intan Nirwana Nusantara Golden View Inn Housing labelled its property sales with sharia mechanisms such as no interest, no fines, no confiscation. From this, researchers are interested in further research related to the truth of the sharia mechanism, because currently so many businesses are labelled sharia but in fact are not in accordance with Islamic principles.

B. RESEARCH METHODS

This research uses a type of *field research (field research)*, using two research methods with a Sharia Economic Law approach, namely an approach that is carried out by making the al-Qur'an, hadith, Compilation of Sharia Economic Law as the main reference then an empirical approach which is an approach to the reality and implications that occur in reality. As for the data sources of this research, primary sources are based on the Qur'an, Hadith, Compilation of Sharia Economic Law and interviews with the *CEO of PT Intan Nirwana Nusantara Housing Golden View Inn, General Manager of PT Intan Nirwana Nusantara Housing Golden View Inn, HRD Manager of PT Intan Nirwana Nusantara Housing Golden View Inn, and Users of Golden View Inn Housing* and secondary data obtained from archive books of property purchases at

² Sri Nurhayati and Wasilah, *Sharia Accounting in Indonesia* (Jakarta: Selemba Empat, 2009), p. 207.

³ Mardani, *Sharia Business Law* (Jakarta: Prenadamedia Group, 2014), p. 167.

⁴ Ministry of Religious Affairs of the Republic of Indonesia, *Al-Qur'an and its Translations* (Solo: TigaSerangkai, 2012), p. 66.

Golden View Inn Housing. The data collection methods used are observation, interviews and documentation. While data management and analysis techniques are carried out in three stages, namely; 1) data management techniques 2) data analysis techniques and 3) conclusion drawing.

C. RESULTS AND DISCUSSION

1. Provisions of Sharia Economic Law on Property Sale and Purchase Agreements at PT Intan Nirwana Nusantara Golden View Inn Housing in Makassar City

Sharia Economic Law is a rule that regulates the practice of Mu'amalah, Mu'amalah is a law that regulates the relationship between one another, both from individuals with other individuals, individuals with the Islamic state, as well as the relationship between one state and another.⁵

Sharia Economic Law is also a term that is always associated with contemporary fiqh muamalah studies in fiqh books. Therefore, the term is closer to the term fiqh muamalah in classical fiqh discussions than al-iqtishad al Islami.⁶

Economic Law as according to Rachmat Soemitro quoted by Abdul Manan, that Economic Law is all norms made by the government or ruler as a personification of the community that regulates economic life where individual and community interests are interrelated.⁷

The public in general knows, "Sharia Economic Law" with the term Islamic Economic Law which is extracted from the Islamic Economic system, which is the implementation of fiqh in the economic field by the community. The implementation of the economic system by the community requires rules to regulate the economic order in order to create legal order and resolve disputes that will arise at any time in the interaction in economic activities, therefore the Sharia Economic system requires the support of Sharia Economic Law in resolving various disputes that may arise in society, especially in the economic field.⁸

Akad in Arabic, etymologically comes from ar-rabtu baina athrāf al-syai, which can be interpreted as a bond between the ends of a matter. In other words, a contract indicates a binding bond or relationship between the parties involved in the transaction. This statement also states that a contract in the context of Islamic law occurs after the execution of two statements of will, namely an offer (ijab) and an agreement (qabul). An

⁵ Abdul Aziz Muhammad Azzam, *Fiqh Muamalat* (Jakarta: Amzah, 2010), p. 6..

⁶ Moh. Mufid, *Philosophy of Sharia Economic Law: A Study of Ontology, Epistemology, and Axiology of Contemporary Muamalah Agreements* (Jakarta: Kencana, 2021), p. 1.

⁷ Abdul Manan, *Sharia Economic Law: In the Perspective of the Authority of Religious Courts* (Jakarta: Prenada Media, 2012), p. 5-6.

⁸ Eka Sakti Habibullah, "Sharia Economic Law in the National Legal Order," *Al-Mashlahah: Journal of Islamic Law and Social Institutions*, vol. 5 no. 09 (2017), p. 700.

<https://jurnal.staialhidayahbogora.c.id/index.php/am/article/view/190/188> (Accessed 06 June 2023).

offer is a statement of intent uttered by one party, while an agreement is a statement of intent indicating the other party's acceptance or agreement to the offer. With the offer and consent, the contract is deemed to be formed, and the parties are deemed to have agreed to engage in a transaction or agreement. This concept reflects the principles of Islamic law relating to agreements and ties in various legal transactions.⁹

The definition of a contract mentioned in the Compilation of Sharia Economic Law Article 20 paragraph 1 is in accordance with the basic concept of a contract in Islamic law. In this context, a contract is defined as an agreement in an agreement between two or more parties. This agreement may include an obligation to perform an act or to refrain from performing a certain act.¹⁰

Property sale and purchase transactions are activities that are permitted in Islam, both mentioned in the Qur'an, Hadith and scholarly consensus as well as Islamic economics experts. The legal basis for buying and selling property is as follows:

1. Qur'an

1) QS al-Baqarah/2:275

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ ٢٧٥

Translation:

“Those who eat usury cannot stand up except as one who is possessed by a demon through insanity stands up. That is because they say that buying and selling is the same as usury. But Allah has made buying and selling lawful and usury unlawful. Whoever receives a warning from his Lord and stops, then what he had earned is his, and his affair is for Allah. And whoever repeats it, then they are the inhabitants of Hell; they shall abide therein.”¹¹

2) QS al-Nisa'/4: 29

يَبَاءُهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ٢٩

Translation:

“O you who have believed, do not eat of one another's wealth by unlawful means, except by way of mutual trade between you. And kill not yourselves; surely Allah is Most Merciful to you”¹²

2. Hadith

عَنْ رِفَاعَةَ بْنِ رَافِعٍ رَضِيَ اللَّهُ عَنْهُ { أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ سُئِلَ : أَيُّ الْكَسْبِ أَطْيَبُ ؟ قَالَ : عَمَلُ الرَّجُلِ بِيَدِهِ ، وَكُلُّ بَيْعٍ مَبْرُورٍ } رَوَاهُ الذَّرَارِيُّ وَصَحَّحَهُ الْحَاكِمُ

Meaning:

⁹ Abdul Aziz Muhammad Azzam, *Fiqh Muamalat* (Jakarta: Amzah, 2010), p. 15-18.

¹⁰ PERMA No.2 of 2008, "Compilation of Sharia Economic Law", p. 10.

¹¹ Ministry of Religious Affairs of the Republic of Indonesia, *Al-Qur'an and Translations*, p. 47.

¹² Ministry of Religious Affairs of the Republic of Indonesia, *Al-Qur'an and Translations*, p. 48.

“Rifa'ah ibn Rafi' reported that the Prophet was asked what is the best work. The Prophet's answer was: "Labour with one's hands and all trades that are acceptable” [narrated by Bazzar (3731) and judged saheeh by al Hakim]¹³

3. Theologian Agreement

The Theologian have agreed on the permissibility of sale and purchase contracts. This Ijma' provides wisdom that human needs are related to something that is in the ownership of others, and ownership of something will not be given just like that, but there must be compensation in return. So that the sale and purchase is one way to realise human wants and needs, because basically humans cannot live alone without contact and help from others as long as it is in accordance with the principles of Islamic law.¹⁴

4. Sharia Economics Expert

According to Adiwarmar Karim, who is one of the experts in Sharia Economics in Indonesia, argues that buying and selling has basically been legalised by religion. Therefore, as long as it follows the principles of Islamic economics then buying and selling is halal. There are several principles of Islamic economics according to him, namely those based on values, faith (*tawhid*), justice (*'adl*), according to the guidance of prophets and messengers (*Nubuwwah*), Government (*Khilafah*), and results (*ma'ad*).¹⁵

Akad occupies a central position in the economic traffic between people (muamalah). Akad is the key to the birth of rights and obligations (achievements) born as a result of contractual relations. Although the contract gives birth to the consequences of the obligation to do or not do something, as a logical result of the existence of a contractual relationship, but for the binding force, there are several requirements that must be met so that the contract is legally considered valid. This is because Islamic Covenant Law considers the contract to be very important because without a correct and valid agreement, the contract will not be valid and not lawful. The meaning of an invalid contract is things that damage the contract because the voluntary element between the parties concerned is not fulfilled.¹⁶

The terms of sale and purchase of property at PT Intan Nirwana Nusantara Golden View Inn Housing in Makassar City use *Istishna'*

¹³ Ibn Hajar Al-Asqalani, *Bulughul Al-Maram*, ed. Irfan Maulana Hakim, *Bulughul Maram* (Bandung: PT Mizan Pustaka, 2010), p. 316.

¹⁴ Qamarul Huda, *Fiqh Muamalah* (Yogyakarta: Teras, 2011), p. 54.

¹⁵ Adiwarmar Karim, *Islamic Macroeconomics Fourth Edition*, (Jakarta: RajaGrafindo Persada 2012), p. 57.

¹⁶ Imam Rosyadi, *Immovable Guarantees Based on Sharia Law* (Depok: Kencana, 2017), p. 4.

Akad both in terms of pillars and conditions. The following is the order of the pillars and conditions in *istishna'*:¹⁷

a. The Pillars of *Istishna'*

- 1) *Al-'aqidain* (the two parties to the transaction) must have the right to spend property. In this practice, the seller and buyer are people who have reached puberty, so they have the right to their property,
- 2) *Shigat*, which is anything that shows the mutual consent of both parties, namely the seller and the buyer. This can be seen in the bargaining of prices and the resulting price agreed by both parties,
- 3) The object being transacted, which is the production of goods.

b. Terms of *Istishna'*

- 1) Explaining the type of goods made, the type, level, and nature because these goods are the goods being sold (the object of the contract). In this case, the developer has explained the types of goods such as types of houses and how to pay for them.
- 2) The goods ordered are goods that are commonly used for purposes and are commonly used, such as clothing, home furnishings, furniture, and so on. In this discussion, a house is the object of *istishna'* sale. This is valid, because a house is a necessity for every human being who cannot make it himself.

This makes the *istishna'* contract practiced at PT Intan Nirwana Nusantara Housing Golden View Inn in Makassar City has fulfilled the provisions of the pillars and conditions, because in addition to the seller and buyer, the object being transacted, there is also bargaining during the contract so that the principle of mutual consent or mutual pleasure is formed to carry out the contract. As the word of Allah swt. in QS Al-Nisa'/4: 29 as follows:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا
أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا ۚ ٢٩

Translation:

“O you who believe, do not eat of one another's wealth by unlawful means, except by way of trade between yourselves, and do not kill yourselves; surely Allah is Most Merciful to you”¹⁸

Bargaining is a form of *khiyar* (right to choose) in buying and selling that must be applied in every transaction, especially buying and selling. Like the practice of buying and selling housing, which has given consumers the right to choose in terms of bargaining over prices. Because bargaining and producing a price that has been agreed by both parties is one way that the transaction carried out gets the blessing of Allah SWT. because there is no coercion in it.¹⁹

¹⁷ Mardani, *Fiqh of Sharia Economics: Fiqh Muamalah* (Jakarta: Kencana Prenadamedia Group, 2012), p. 125.

¹⁸ Ministry of Religious Affairs of the Republic of Indonesia, *Al-Qur'an and its Translations*, p. 48.

¹⁹ Arif Mubarak and Lulu Naimatul Khairiah, "Patterns of Bargaining in Traditional Markets in Palangka Raya City: Is it Suitable in the Review of Islamic Business Ethics?",

2. Mechanism for Handling Bad Installments in Property Sale and Purchase at PT Intan Nirwana Nusantara Golden View Inn Housing in Makassar City

Whether an employment agreement/contract is in oral or written form, honesty and trust are key. However, it is important to remember that trust alone is not the benchmark to prevent default. In the Islamic context, the main principle of labour agreements is justice. Therefore, it is important to accompany all forms of agreements with a written form.²⁰

Default in the context of an agreement is a condition where the performance of the agreement is not as promised or not performed at all. This can happen for various reasons, such as delays in performance, not fulfilling the promised quality, or even not performing at all. Default can have a negative impact on both parties involved in the agreement, be it in the form of financial loss, reputational damage, or legal consequences. In law, default is often considered a breach of the agreement and can be the basis for taking legal action, such as a lawsuit or enforcement. In many cases, default may be considered as grounds to seek compensation or adjustments in the agreement, or even to terminate the agreement.²¹

The handling of defaulted installments at PT Intan Nirwana Nusantara Golden View Inn Housing basically relies on Islamic law to deliberate. The standardisation of the mention of default on installments made by Golden View Inn Housing when the user is no longer able to continue the installments of the house they ordered and when the user / user is late paying and when it has been explained to the Golden View Inn Housing and agreed upon, it can still be tolerated as long as there is good faith on the part of the user / user. As the results of an interview with the HRD Manager of Golden View Inn Housing said "As long as the user / user is frank and there is good faith, then what we appreciate the most is when they first convey their obstacles without us contacting them first, well that's what we really like and not infrequently we give them the opportunity to continue their installments, in essence as long as they try and be open to us then that is what we make as our basis for helping the user"²²

Regarding instalments, not all humans have the same and fixed ability and fortune, sometimes it has problems that are not expected to occur, as stated by the HRD Manager of Golden View Inn regarding this matter, namely "Regarding instalments that are stuck, of course we still return to

REVENUE: Journal of Islamic Business Management, vol. 4 no. 1 (2023), p. 56. <http://ejournal.radenintan.ac.id/index.php/RJMBI/article/view/16038> (Accessed 22 March 2024).

²⁰ Alfira Zaenal and Basyirah Mustarin, "Islamic Law Review of the Borongan Home-Building Agreement", *El-Iqtishady Journal of Sharia Economic Law*, vol. 4 no. 1 (June 2022), p. 70. <https://journal.uin-alauddin.ac.id/index.php/iqthisadi/article/view/29688>. (Accessed 19 April 2024).

²¹ Yahya Harahap, *Aspects of Covenant Law*, (Bandung: Alumni, 1986), p. 60.

²² Aslam (33 years old), HRD Manager of PT Intan Nirwana Nusantara, Interview, Makassar, 13 January 2024..

the contract that we built at the beginning, and what we wrote on the brochures that we distributed, that indeed related to no confiscation and no fines is true. So if we find that our users are having problems related to their instalments (stuck), then the first thing we do is contact the user again regarding what the problem is, that's why we are very happy if there are users who confirm early, and after that they continue the instalments, because that is what follows Islamic principles. However, if we have built communication and deliberation properly and then there is no bright spot (default) with this having happened three times, then with the muswarah we also ask for a re-agreement, the last way is that the house that was temporarily in instalments will be resold to another party and it really has to be an agreement between the two parties because in Islam there can be no unilateral cancellation, therefore after being sold, we will reduce the costs related to maintenance, workmanship, and marketing and the rest we return to our users earlier"²³

This form of settlement actually implements the principle of good faith which reflects the commitment of both parties to act with honesty, trust and equality in carrying out the agreement. This principle is very important in treaty law because it helps create a safe and fair environment for both parties. In Mr Ashar Sinilele's writing, it is explained that humans in pursuing their life interests are based on good faith and some are based on bad faith. as in the sale and purchase of property carried out by PT Intan Nirwana Nusantara Housing Golden View Inn, basically has good faith in every sales process carried out with users / users, but in the ongoing sales process the user / user parties cannot be perfectly guaranteed of their good faith, there will be things that can make defaults occur.²⁴

D. CONCLUSION

Based on research that has been conducted by researchers regarding the Sharia Economic Law Review of Property Sale and Purchase at PT Intan Nirwana Nusantara Golden View Inn Housing in Makassar City. So the researchers concluded that the property buying and selling system at PT Intan Nirwana Nusantara Golden View Inn Housing is in accordance with Sharia Economic Law. This is because of the following:

1) The contract applied in the process of buying and selling property at PT Intan Nirwana Nusantara Perumahan Golden View Inn is an Istishna 'or order contract which in its application is in accordance with Sharia Economic Law or Islamic Sharia because at the beginning before the contract occurs, all forms of orders related to the property to be purchased by prospective users / users are discussed properly, both from specifications, plans, funds, even to

²³ Aslam (33 years old), HRD Manager of PT Intan Nirwana Nusantara, Interview, Makassar, 13 January 2024.

²⁴ Ashar Sinilele, 'Good Faith in Land Sale-Purchase Agreement According to Kuh-Perdata', *El- Iqtishady Journal of Sharia Economic Law*, vol. 2 no. 2 (December 2020), p. 62. <https://journal.uin-alauddin.ac.id/index.php/iqthisadi/article/view/18350>. (Accessed 19 April 2024).

the legal consequences that will be carried out if there is a default as long as the agreement has not expired, 2) Settlement of defaulted installments at PT Intan Nirwana Nusantara Housing Golden View Inn in Makassar City does not apply confiscation, because in its application if there is a user who is stuck in his installment, he will be called or met first and ask about the obstacles to his arrears, and if in the end it is still in arrears, the golden view inn housing will deliberate with the user regarding its repayment, whether to continue or just sell it to cover the remaining arrears from the user and if it is more, it will be returned to the user. Then the suggestion for PT Intan Nirwana Nusantara, especially in the SPPJB regarding cancellation, the editorial word cancellation should be replaced with the end of the contract, because in legal language cancellation is not too strong to be used as a basis for resolving dispute cases if one day this happens and in the SPPJB regarding disputes, it should also be explained regarding which District Court will be resolved if the process of deliberation and good faith does not run properly.

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