

Conceptual Analysis of Musyarakah Mutanaqishah Contract and its Implementation in Islamic Banking

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Abstract: The concept of Musyarakah Mutanaqishah (MM) is a form of partnership contract in Islamic banking that has rapidly developed as an alternative financing method, where both the bank and the customer jointly provide capital for a business, and the bank gradually reduces its ownership of the business as the customer makes payments. In this contract, the customer is not only a borrower but also a partner in sharing profits and losses based on the proportion of each party's capital contribution. The implementation of Musyarakah Mutanaqishah in Islamic banking offers a solution for financing the purchase of assets such as homes or vehicles, while adhering to Islamic principles, including the prohibition of *riba*, *gharar*, and *maysir*. In practice, the MM contract benefits both parties and provides a sense of fairness and transparency in transactions. However, the implementation of this contract still faces challenges in terms of operations, regulations, and market understanding, which need to be continuously developed in order to maximize its benefits. This article aims to analyze the fundamental concept of Musyarakah Mutanaqishah, its implementation mechanism in Islamic banking products, as well as the challenges and opportunities faced in its execution

Keywords: *Musyarakah mutanaqishah, Implementation, Islamic banking.*

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Abstrak: Konsep akad Musyarakah Mutanaqishah (MM) merupakan salah satu bentuk akad kemitraan dalam perbankan syariah yang berkembang pesat sebagai alternatif pembiayaan, di mana pihak bank dan nasabah bersama-sama menyediakan modal untuk suatu usaha dan secara bertahap bank akan mengurangi kepemilikan atas usaha tersebut seiring dengan pembayaran oleh nasabah. Dalam akad ini, nasabah tidak hanya berperan sebagai peminjam, tetapi juga sebagai mitra dalam berbagi keuntungan dan kerugian berdasarkan proporsi kontribusi modal masing-masing. Implementasi Musyarakah Mutanaqishah dalam perbankan syariah memberikan solusi bagi pembiayaan pembelian aset seperti rumah atau kendaraan dengan tetap menjaga prinsip-prinsip syariah, di antaranya larangan riba, gharar, dan maysir. Pada praktiknya, akad MM tidak hanya menguntungkan bagi kedua belah pihak, tetapi juga memberikan rasa keadilan dan transparansi dalam transaksi. Meskipun demikian, implementasi akad ini masih menghadapi tantangan dalam aspek operasional, regulasi, serta pemahaman pasar yang perlu terus dikembangkan agar dapat memaksimalkan manfaatnya. Artikel ini bertujuan untuk menganalisis konsep dasar Musyarakah Mutanaqishah, mekanisme implementasinya dalam produk perbankan syariah, serta tantangan dan peluang yang dihadapi dalam pelaksanaannya.

Kata kunci: *Musyarakah mutanaqishah, Implementasi, perbankan syariah.*

INTRODUCTION

Any company engaged in the financial sector, such as collecting funds, distributing funds, or both, is called a financial institution. Banks are financial institutions that provide the most complete services, and their existence greatly affects business activities. Banks are considered the core of a country's economy. The more advanced a country is, the greater the role of banks in its government. In other words, the position of the banking world is very important for the government and its people.¹

The birth of Islamic Bank is a bank or institution that carries out banking activities and is part of the very rapid growth and development of banking. Its efforts refer to the principles of sharia and are in accordance with the Qur'an and hadith.² Islamic Banks offer various types of services, including deposits such as wadiah yad amanah and wadiah yad ad-dhamanah; loans such as mudharabah and musyarakah;³ buying and selling such as murabahah and salamdan, and so on. istishna; rental patterns such as ijarah⁴ and ijarah muntahia bittamlik; and other patterns such as wakalah,⁵ kafalah, and rahn or

¹ Kasmir, *Bank Dan Lembaga Keuangan Lainnya* (Jakarta: Rajagrafindo Persada, 2012). p.3

² Sari Wahyuna and Zulhamdi Zulhamdi, "Perbedaan Perbankan Syariah Dengan Konvensional," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 2 (2022): 183–96, <https://doi.org/https://doi.org/10.47766/alhiwalah.v1i2.879>.

³ Yusriadi Yusriadi, "Aturan Utang Dalam Akad Pembiayaan Mudharabah Pada Bank Syariah," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 1 (2022): 18–36, <https://doi.org/https://doi.org/10.47766/alhiwalah.v1i1.881>.

⁴ Dara Fitriani and Nazaruddin Nazaruddin, "Ijarah Dalam Sistem Perbankan Syariah," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 1 (2022): 37–52, <https://doi.org/https://doi.org/10.47766/alhiwalah.v1i1.895>.

⁵ Ahmed Rizal, "Akad Wakalah Dalam Jual Beli," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 1 (2022): 1–17, <https://doi.org/https://doi.org/10.47766/alhiwalah.v1i1.906>.

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pawn contracts.⁶

Musyarakah is one of the products based on profit sharing; it is a cooperation contract between two or more parties for a certain business with each party contributing funds. with the agreement that both profits and losses will be borne together according to the agreement.⁷ All Islamic banks have implemented this musyarakah law through the project financing and venture capital systems.⁸

The development of the Islamic banking industry in Indonesia and the world has brought various innovations in financing products and services that are in accordance with Islamic principles. One concept that is increasingly popular and widely applied in Islamic banking is the Musyarakah Mutanaqishah (MM) contract. This contract is a form of partnership between the bank and the customer, where both parties contribute to the business capital and the bank gradually reduces ownership of the assets along with payments made by the customer.⁹ The Musyarakah Mutanaqishah contract not only offers financing solutions that are in accordance with Islamic principles, but also creates a partnership based on fair risk and profit sharing.¹⁰

The Musharakah Mutanaqishah contract has begun to be implemented

⁶ Ascarya, *Akad Dan Produk Bank Syariah* (Jakarta: PT Grafindo, 2007).

⁷ Athailah Junaidy, Muhammad Ikbil, and Zulhamdi Zulhamdi, "The Concept of Profit In Syirkah Al-'Inān Islamic Economic Perspective: Study at People's Banks Ipoh, Perak Malaysia," *Al-Hiwalah: Journal Syariah Economic Law* 2, no. 2 (2023): 167–90, <https://doi.org/https://doi.org/10.47766/alhiwalah.v2i2.1948>.

⁸ Muhammad Syafi'i Antonio, *Bank Syariah: Dari Teori Ke Praktik* (Gema Insani, 2001).

⁹ Maimun Maimun and Dara Tzahira, "Prinsip Dasar Perbankan Syariah," *Al-Hiwalah: Journal Syariah Economic Law* 1, no. 2 (2022): 125–42, <https://doi.org/https://doi.org/10.47766/alhiwalah.v1i2.878>.

¹⁰ Fatimah Tuzuhro and Noni Rozaini, "Perkembangan Perbankan Syariah Diindonesia," *PEKA* 11, no. 2 (2023): 78–87, [https://doi.org/https://doi.org/10.25299/peka.2023.vol11\(2\).15010](https://doi.org/https://doi.org/10.25299/peka.2023.vol11(2).15010).

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in banking products, but not all Islamic banks have implemented this contract. However, although this contract has great potential in providing transparent and fair financing alternatives, its implementation in Islamic banking still faces several challenges, both in terms of operations, regulations, and market understanding. In this context, it is important to conduct a more in-depth analysis of the basic concept of the Musharakah Mutanaqishah contract, its operational mechanisms in Islamic banking products, and the challenges faced by Islamic banking institutions in implementing this contract. The introduction must cover three things: (1) the problem being studied; (2) the importance of the issue; and (3) Literature Review; is a relevant concept/theory that can answer the problem.

Through this analysis, it is expected to provide a clearer picture of how the Musyarakah Mutanaqishah contract can be optimized to support the growth of a more inclusive and sustainable Islamic banking industry. In addition, this discussion also aims to explore the potential and opportunities that exist in the implementation of the MM contract, as well as provide recommendations for the development of more innovative Islamic financing products that are in accordance with market needs.

METHOD

This research is a library research which is a research study by reviewing the MUI Fatwa No.04/DSN-MUI/IV/2000 on murabahah and a number of books, opening websites to obtain data, theories and concepts related to this discussion. So by using these data collection methods and techniques, it is hoped that all the data needed to support the writing of this journal can be collected, and an objective conclusion can also be found.

RESULTS AND DISCUSSION

Definition of Musharakah Mutanaqishah Contract

Musyarakah Mutanaqishah (MMQ) is a concept in muamalah fiqh that is often used in the Islamic banking sector, especially related to financing property or asset ownership. In this contract, two or more parties (such as a bank and a customer) agree to jointly finance an asset or property, with the ultimate goal that one party (usually the customer) can fully own the asset. According to the definition of syirkah mutanaqishah, the bank's capital ownership decreases as a result of installment purchases by customers. However, when viewed from an ownership perspective, this decrease is not significant. customer capital, which is added from the proceeds of capital purchases by the bank. Therefore, from the customer's perspective, this contract is better known as a syirkah ziyadah contract than a syirkah mutanaqishah.

In terms of language, MMQ consists of two words: musyarakah and mutanaqishah. Musyarakah is usually called syirkah,¹¹ which in terms of language syirkah means Al-ikhtilath, which means mixed or blending. The term mixing here means someone who mixes his property with the property of others, so that it is impossible to distinguish. Syirkah also means cooperation, while mutanaqishah comes from naqasa, which means decreasing; decreasing gradually. Therefore, syirkah mutanaqisah is also referred to as decreasing participation or decreasing participation.

After being formulated and introduced by scholars in the 1900s (precisely in 1997), the Musyarakah Mutanaqishah Contract was created by businessmen and scholars, who combined the musyarakah values contained in

¹¹ Junaidy, Ikbal, and Zulhamdi, "The Concept of Profit In Syirkah Al-‘Inān Islamic Economic Perspective: Study at People’s Banks Ipoh, Perak Malaysia."

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sharia and the needs of rapidly developing business instruments.¹² Scholars such as Najih Muhammad (1997) and Muhammad Ali al-Qadiri have tried to find the origins of the Musyarakah Mutanaqishah Contract.

According to the Fatwa of the National Sharia Council Number 73/DSN-MUI/XI/2008, Musyarakah financing has advantages in fairness and togetherness, both in the distribution of profits and risks of loss, so that it can be an option in the process of asset or capital ownership.¹³ This fatwa explains that the law of Musyarakah Mutanaqishah may be applied by stipulating that Musyarakah Mutanaqishah is Musyarakah or Syirkah in which the ownership of assets (goods) or capital of one party (syarik) is reduced as a result of gradual purchases by another party.¹⁴ Syarik is a partner, which means the party that carries out the syirkah contract (musyarakah); Hishshah is the portion or part of the syarik from the Musyarakah wealth which is musya'; Musya' is the portion or part of the syarik from the Musyarakah wealth which is musya', the physical limits of which are unknown.

The Musyarakah mutanaqishah contract is justified/allowed in sharia because as ijarah¹⁵ muntahiyah bittamlik it is based on a promise from the bank to its partners or customers that the bank will sell to its portion of ownership in the musyarakah if the partner has paid the bank the price of the bank's portion. This is confirmed in the hadith narrated by Abu Dawud from Abu Hurairah:

¹² Zulhamdi Zulhamdi, *Hukum Bisnis* (Cv. Pusdikra Mitra Jaya, n.d.), https://doi.org/https://scholar.google.com/citations?view_op=view_citation&hl=id&user=rLY_zfsAAAAJ&citation_for_view=rLY_zfsAAAAJ:ISLTfruPkqC.

¹³ Majelis Ulama Indonesia. Dewan Syariah Nasional and Bank Indonesia, *Himpunan Fatwa Dewan Syari'ah Nasional*, vol. 1 (Kerjasama Dewan Syariah Nasional, Majelis Ulama Indonesia [dan] Bank Indonesia, 2006).

¹⁴ Junaidy, Ikbal, and Zulhamdi, "The Concept of Profit In Syirkah Al-'Inān Islamic Economic Perspective: Study at People's Banks Ipoh, Perak Malaysia."

¹⁵ Fitriani and Nazaruddin, "Ijarah Dalam Sistem Perbankan Syariah."

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حَدَّثَنَا مُحَمَّدُ بْنُ سُلَيْمَانَ الْمِصِّصِيُّ حَدَّثَنَا مُحَمَّدُ بْنُ الزَّبْرِقَانِ عَنْ أَبِي حَيَّانَ التَّيْمِيِّ عَنْ أَبِيهِ عَنْ أَبِي هُرَيْرَةَ رَفَعَهُ قَالَ إِنَّ اللَّهَ يَقُولُ أَنَا ثَالِثُ الشَّرَكَيْنِ مَا لَمْ يَخُنْ أَحَدُهُمَا صَاحِبَهُ فَإِذَا خَانَ خَرَجْتُ مِنْ بَيْنَهُمَا

"Has told us Muhammad bin Sulaiman Al Mishshishi, has told us Muhammad bin Az Zibriqan, from Abu Hayyan At Taimi, from his father from Abu Hurairah and he rafa'lah. He said: Verily Allah says: "I am the third party of two people who are partners, as long as none of them betrays his friend. If he has betrayed him, then I will leave both of them." (HR. Abu Daud: 2936)

Terms and Conditions of the Musharakah Mutanaqishah Contract

Based on the presentation of the two DSN-MUI products, the DSN-MUI has determined a form of musyarakah mutanaqishah contract with provisions, including:

First, the partners, both banks and customers, enter into a musyarakah contract, where each partner contributes their business capital. Business capital can be in the form of money or goods that will later be used to purchase capital goods, or inventory goods.

Second, the capital goods are estimated and determined in the form of portions or parts based on the capital participation of each partner. Then, the partners promise to sell (for the bank) and buy (for the customer) the portion of the capital goods carried out.

Third, capital property can be rented by customers or leased to other parties with agreed ujah. Profits from partner collaboration can be shared according to the agreed ratio. So, if one of the partners (customer) rents the capital goods, he must also pay for the purchase of the portion of one of the partners (bank). Thus, at the end of the contract, ownership of capital goods by the partner (bank) will decrease and become the property of the customer as a whole.

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Fourth, when the entire portion of the other partner's capital (bank) is purchased, the portion of the business capital will belong to the customer. It never changes from the beginning to the end of the contract. What changes is the ownership of the bank's capital goods, which will be fully owned by the customer.

Implementation of the Musyarakah Mutanaqishah Contract in Islamic Banking

Musyarakah Mutanaqishah contract is an alternative in ownership of goods or assets. As in other contracts, in Musyarakah Mutanaqishah financing, it also has advantages in togetherness and justice, both in sharing profits and risks of losses. Several Islamic banks, including Islamic Commercial Banks (BUS) and Islamic Business Units (UUS), have used Musyarakah Mutanaqishah (MMQ) products to meet the needs of the community through collaboration-based financing. The Bank and Customers ultimately reach an agreement that all assets financed will belong to the Customer. MMQ products can be used to finance property such as houses and cars. The product structure based on the MMQ contract is a hybrid of various contracts. In addition to the musyarakah contract, there are *istisna'* (manufacturing), *bai al musawamah* (sales), *ijarah* (leasing), *ijarah mawsufah fi zimmah* (advance/forward lease), and *ijarah* contracts.

In Indonesian Islamic banking, MMQ products are intended for productive and consumptive financing, such as financing vehicles and property or houses. purchasing new property (ready-to-use goods), old property (second-hand goods), or new property that is indented, taking and refinancing. The implementation of MMQ in Islamic banks is shown by the following description: OJK, as the relevant regulator, stated that there was a problem with

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the principle of "two-contracts-in-one-goods", and the implementation of the MMQ contract was carried out through a hybrid contract. MMQ is a combination of three contracts: partnership, ijarah, and sale. They occur when a lease and purchase contract are made at the same time.

KESIMPULAN

Musharakah Mutanaqishah is a cooperation contract between two parties; one party acts as an investor, and the other party acts as a business partner. In this contract, each party contributes capital to a particular project or asset; profits and losses are divided according to the portion of capital provided. But musharakah mutanaqishah has a unique aspect: the party receiving the financing promises to gradually buy the other party's shares in the jointly owned asset or project until it eventually becomes the full owner.

In Islamic banks, the musyarakah mutanaqishah contract is applied to provide financing to purchase a house, car, or other assets that allow the bank to participate in the ownership of the asset with its client. This financing is based on sharia principles, which ensure that there is no usury, gharar (uncertainty), or maysir (gambling). The Islamic bank acts as a partner that provides capital, and the customer acts as a manager or party that takes over part of the ownership through agreed payments.

By using this system, Islamic banks can help people gradually by buying houses or other assets without burdening customers with interest or conventional financing. In addition, the principles of fairness and transparency protect consumers involved in this contract, creating better business relationships. In addition, musharaka mutanaqishah supports financial inclusion and provides financing options that are in accordance with Islamic principles. It also expands people's access to fair financing.

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