

ISLAMIC LAW PERSPECTIVE ON THE ROLE OF PAWNLOYERS IN THE DISTRIBUTION OF FUNDS TO MICRO- SMALL BUSINESS ENTERPRISES

PERSPEKTIF HUKUM ISLAM TERHADAP PERAN PEGAWAI DALAM PENYALURAN DANA KEPADA USAHA MIKRO KECIL

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Abstract

Difficult access to sources of capital is still a major problem in business development for Micro and Small Enterprises (UMK). This has attracted the attention of various parties, including the government. Different support and efforts of the government and the private sector in developing MSEs have been carried out, ranging from coaching to financing. One of the government's efforts is to establish a sharia pawnloymers as a non-bank financial institution that functions as a distributor of sharia-based funds. The purpose of this study was to determine the perspective of Islamic law on the procedures for distributing funds to MSEs in sharia pawnloymers. The research method used is descriptive qualitative, which is considered suitable to provide perspectives from various data sources. The results of the analysis explain that the procedure for distributing funds at Islamic pawnloymers is easy to do, and the process is fast so that it can ease the burden on customers. However, some obstacles are still encountered in the distribution process. According to the perspective of Islamic law, sharia pawnloymers are following sharia principles in channeling funds to MSEs.

Keywords: sharia pawnloymers; MSEs; fund distribution; sharia principles

Abstrak

Sulitnya akses terhadap sumber modal masih menjadi masalah utama dalam pengembangan usaha bagi pelaku Usaha Mikro Kecil (UMK). Hal ini menjadi perhatian berbagai pihak termasuk pemerintah. Berbagai dukungan dan upaya pemerintah dan swasta dalam pengembangan UMK telah dilakukan, mulai dari pembinaan hingga pembiayaan. Salah satu upaya pemerintah adalah dengan mendirikan pegadaian syariah sebagai lembaga keuangan non-bank yang berfungsi sebagai penyalur dana berbasis prinsip syariah. Tujuan penelitian ini adalah untuk mengetahui perspektif hukum islam terhadap prosedur penyaluran dana pada UMK di pegadaian syariah. Metode penelitian yang digunakan adalah metode deskriptif kualitatif yang

dirasa cocok untuk memberikan perspektif dari berbagai sumber data. Hasil analisis menerangkan bahwa prosedur penyaluran dana pada pegadaian syariah mudah dilakukan, prosesnya cepat, sehingga dapat meringankan beban nasabah. Tetapi, beberapa hambatan masih ditemui dalam proses penyalurannya. Menurut perspektif hukum Islam, pegadaian syariah telah sesuai dengan prinsip syariah dalam menyalurkan dana pada pelaku UMK.

Kata Kunci: *pegadaian syariah; UMK; penyaluran dana; prinsip syariah.*

A. INTRODUCTION

As a developing country, Indonesia feels the need to increase per capita income so that welfare is realized for its people. One of the businesses that are mushrooming in Indonesia is Micro, Small, and Medium Enterprises (MSMEs). Micro, small and medium enterprises play an important role in local economic growth and community empowerment (Bakhri, et.al, 2021). With a large number, MSMEs can contribute to a GDP of 61.97% in 2020 (BPKM, 2020).

The existence of MSMEs in Indonesia encourages the government to empower the perpetrators because MSMEs can absorb labor effectively and quite a lot (Nasution, 2017). During the Covid-19 pandemic which lasted quite a long time, MSMEs proved to be able to survive during a pandemic storm that incidentally destroyed various lines of the economy.

In the context of empowering MSMEs, there is a need for financing that allows MSME units to continue to be active and even expand their business. The definition of financing according to Law No. 20 of 2008 is the provision of funds by the government, local governments, businesses, and the public through banks, cooperatives, and non-bank financial institutions to strengthen business capital.

Pegadaian is one of the formal financial institutions in Indonesia whose job is to channel financing by providing loan funds to the public based on pawn law. The purpose of establishing a pawnloymers is contained in Article 33 of the 1945 Constitution which explains that pawnloymers contribute to realizing and implementing national development. (Apriyanti, 2019). According to (Sofiana, 2022) One pawnloymers is a financial institution, where movable goods can be exchanged as collateral to get cash quickly for the community.

The majority of Indonesian people adhere to Islam, so there is a fairly massive demand for sharia-based financial products (Bakhri, 2020). To meet the needs of the

Indonesian people, pawnloyers open a type of sharia pawnloyers. Sharia pawnloyers were established to avoid the occurrence of transaction processes that contain usury. In its operations, sharia pawnloyers refer to the DSN-MUI Fatwa No.25/DSN-MUI/III/2002 concerning Rahn.

Rahn Islamic fiqh is defined; as a pawn, some assets owned as collateral for a loan and can be taken back after the loan is paid off. In the process, the pawnloyers carries out financing with a fiduciary scheme or transfer of ownership rights to an object that is pledged (guaranteed) on the loan, but the actual ownership rights are the borrower, then the loan repayment scheme can be paid in installments. (Astuti, 2020). The Fee Based Income (FBI) or mudharabah (profit sharing) method is an operating system used in sharia or rahn pawnloyers (Sofiana, 2022).

Ar-Rum Micro or often referred to as Ar-Rum BPKB is one of the superior products in PT. Cipto Sharia Pawnloyers. This program is a government program that aims to assist MSMEs in increasing their business capital capacity. Customers who need additional funds or capital for their business can pawn the BPKB of their vehicle, provided that the vehicle can still be used for entrepreneurship.

The presence of the Ar-Rum Micro product is considered very helpful to ease the burden borne by MSMEs in obtaining business capital. In this case, PT. Pegadaian Syariah Cipto plays a role in channeling funds/capital to SMEs in need. So it is hoped that this research can be used as reference material as well as consideration for MSMEs in obtaining business capital.

B. LITERATURE REVIEW

Sharia Pawnloyers

Financial institutions in Indonesia are divided into conventional and Islamic financial institutions. Conventional financial institutions carry out their business activities conventionally, while Islamic financial institutions carry out business activities based on sharia principles(Adam, 2018). The sharia principles described in Article 1 paragraph 12 of Law No. 12 of 2018 are Islamic legal principles that are used as the basis for banking activities.

Pegadaian Syariah is one of the non-Islamic non-bank financial institutions in Indonesia that function as a financing institution by providing loans based on the principle of pawning to business sectors that require additional capital or funds. (Putri, 2020). In the process, the sharia pawnlovers provides loans for loans with collateral for the pawned goods.

In Sharia pawning, the mechanism and operation of the pawn practice are essentially carried out on two Sharia transaction contracts, namely Rahn and Ijarah contracts. Rahn is holding property belonging to rahin (customer) as a guarantee for a loan received by a murhatin party (a sharia pawnlovers) to take back part or all of his receivables. The borrower can return the debt using an installment scheme until maturity it cannot pay the debt, then the collateral that is pawned can be transferred to the property of the murtahin or the party holding it. While an ijarah contract is a contract for the transfer of usability rights from goods and services by paying maintenance fees and there is no transfer of ownership rights from the pawned goods (Sofiana, 2022).

The legal basis for sharia pawnlovers has several sources, including the Qur'an QS Al-Baqarah verse 283 which is the basis for rahn, hadith, and ijma' ulama, in this case, DSN-MUI Fatwa number 25/DSN-MUI/III/2002 which mentions the terms of the pledge. It is explained in the fatwa regarding the pillars and terms of the pledge by sharia principles, both the provisions of murtahin (recipient of goods), marhun (goods that are pawned), and rahin (borrowers).

Sharia pawnlovers have several objectives, including implementing and supporting the distribution of funds or financing to participate in national development, preventing bonded payments, avoiding the practice of usury, and helping people who need funding quickly in an easy way.

Ar-Rum Micro

There are various rahn products offered by Islamic pawnlovers, one of the most popular being Ar-rum Micro products. Ar-rum micro is a system of lending funds to micro, small and medium enterprises to develop their business by pledging their gold and vehicle BPKB and being able to repay their loans with an installment scheme (Lubis & Rahma, 2022).

Ar-rum product types are divided into Hajj ar-rum and BPKB ar-rum(Harahap, 2020). The application process for Ar-rum hajj is quite fast because the requirements are light and easy. Meanwhile, BPKB ar-rum has no easier requirements than hajj ar-rum. This product helps MSME customers continue to be productive and develop their businesses. Most MSME entrepreneurs who use this product feel the benefits of developing and growing their businesses by utilizing ar-rum products (Arfah, 2019).

Micro Small Enterprises

Micro Small Enterprises According to the Decree of the Minister of Finance No. 40/KMK.06/2003, "micro business" is a profitable business owned by a family or individual who is an Indonesian citizen and has sales proceeds of a maximum of Rp. 100,000,000.00 per year (one hundred million rupiahs) (Hapsari et al., 2017). Micro business categories include:

- 1) Running a farming business with individual farmers, cultivators, and fishermen
- 2) Food and beverage industry, furniture industry, wood and rattan handling, workshop industry, device manufacturing
- 3) Businesses that trade, such as market traders and street vendors, fish farmers, ducks and chickens
- 4) Service businesses such as banks, beauty salons, motorcycle taxis, and tailors (convection).

From a banking perspective, micro businesses are a potential customer base that can be served to enhance their role as intermediaries. In essence, micro-enterprises have superior and unique characteristics that non-micro businesses do not have, such as high employee turnover rates, the ability to absorb expensive funds, and the ability to continue to operate and develop even during an economic crisis; can continue to grow even in a financial and economic crisis; and, in general, can accept directions done right (Marlina & Rahmat, 2018).

According to Law no. 9 of 1995, what is meant by a small business is an economic activity that is small regularly and meets the criteria for net assets, annual sales, or ownership, for example having a maximum net worth of Rp. 200,000,000.00 (two hundred million rupiahs), excluding buildings and buildings. commercial; maximum

annual sales proceeds of one billion rupiahs; owned by Indonesian citizens; stand-alone, not as a subsidiary or branch of a company owned and controlled by medium or large businesses, either directly or indirectly, in the form of individual businesses, legal entities such as cooperatives, non-legal entities such as corporations, and legal entities such as fellowship (Hapsari et al., 2017). Examples of small businesses are:

- 1) Individual farming with labor.
- 2) wholesale market traders (agents) and various collectors.
- 3) craftsmen in the food and beverage industry, the furniture, wood, and rattan industries, household appliances, apparel, and handicrafts.
- 4) Livestock and fisheries.
- 5) Small-scale cooperatives

C. METHODOLOGY

The research method uses descriptive qualitative, intending to analyze a phenomenon/event, activity, and perception of individuals or groups (Meleong, 2013). The descriptive method is suitable for use in this research to find out the comprehensive perspective of Islamic law and its practice in sharia pawnloymers. The data sources used are primary data sources by interviewing and secondary data sources obtained through a literature review. The data obtained were then analyzed using analytical procedures for qualitative data which included; data review, data reduction, data presentation, and data verification (Ahmadi, 2014). The location of this research was carried out at PT. Sharia Pegadaian Cipto Branch Head Office, Cirebon City.

D. RESEARCH AND DISCUSSION

The Role of Sharia Pawnloymers on MSEs

Pegadaian as a non-bank financial institution that functions to channel funds or conduct mortgage financing is oriented to assisting small communities in growing their economies of scale. One of the prioritized steps to increase business competitiveness is to facilitate access to sources of capital/finance (Bakhri, 2017). Sharia pawnloymers have the same function as conventional pawnloymers, but in the process avoid the practice of usury. The definition of a pawnloymers is also followed by Law No. 20 of 2008 concerning funding carried out by financial institutions (Apriyanti, 2019).

The results of the analysis show the role of sharia pawnloyers as an alternative solution to capital problems experienced by MSEs or entrepreneurs who need additional capital in the context of business development. One of the popular financing programs is the ar-rum BPKB, which is a program that provides loans of a certain amount of funds on the condition that the BPKB of the vehicle they own is either a motorcycle or a car.

Muhammad Istifahu Syifa (2022) in his research explains that sharia pawnloyers are an alternative short-term solution for meeting financial needs. Lilis Muhlisoh (2019) explained that sharia pawnloyers have a strategic and important role to help people with middle to lower economic levels, in this case, micro-entrepreneurs, both consumptive and productive interests.

Support from various parties (government and private) has been carried out to create a prosperous community economy, including micro-entrepreneurs (UMK). The forms of support that have been carried out include; providing coaching, mentoring, and financing. Especially in the financing element, the government seeks to help it through bank and non-bank financial institutions (Ministry of Trade, 2013).

Procedure for Distribution of Sharia Pawnloyers Funds to MSEs

The procedure for distributing funds at sharia pawnloyers for sharia-based micro and small business actors is carried out to help overcome the capital problems they face based on sharia principles. This is expected to ease the burden on customers in urgent situations without having to face a difficult process.

In its implementation, sharia pawnloyers have procedures for channeling funds to their customers with the following flow:

1. The customer comes directly to the nearest sharia pawnloyers branch to apply;
2. Sharia pawnloyers officers provide explanations to customers regarding the conditions that must be completed;
3. The customer who has understood can approve and submit the pledged goods which will then be assessed by the appraiser;
4. If all the requirements have been met, the pawnloyers will determine the amount of the loan based on the estimated results; and
5. Finally, if the above procedure has been completed and the customer agrees on the loan amount and the given deadline, the officer will make a contract which will then

be signed by both parties, and the pawned goods will be stored by the pawnloyers and returned after being paid off.

Document requirements that must be included in the process of disbursing funds include the following: (1) Photocopy of KTP husband/wife (2) Photocopy of marriage book (3) Photocopy of family card (4) Photocopy of electricity bill attachment (5) Photocopy of PBB payment (land and building tax) (6) Photocopy of STNK (7) Photocopy of BPKB (8) Business certificate (SKU) from the local village.

The distribution of sharia-based funds to micro-enterprises is recognized by the community as something that helps micro-entrepreneurs to continue to develop their businesses. The requirements that must be attached to the procedure are also quite easy to fulfill. The fast distribution process is also a consideration for micro-entrepreneurs to try to get financing through pawnloyers. Then the process based on sharia principles also increases public confidence in financing at sharia pawnloyers.

Barriers to Sharia Pawnloyers in Distributing Funds to MSEs

Limited capital is still a major problem in the development of micro and small businesses, what often happens is that MSEs often find it difficult to access sources of capital. Therefore, this financing institution for micro-enterprises has a strategic role in distributing funds to micro-enterprises. Nevertheless, obstacles still encountered along the way, among the obstacles encountered were as follows:

1. Many customers who apply for financing do not meet the requirements;
2. Many customers who apply for financing have a business age of less than one year;
3. Customers who apply for financing provide inappropriate guarantees;
4. Customers who apply for financing are often still tied to loans from other institutions;
and
5. Customers who apply for financing are not by the provisions.

The above conditions cause the proposed financing application to be unable to be channeled. This is because sharia pawnloyers have a fairly accurate analytical process in conducting financing to minimize the risks that will arise during the financing period. Likewise, the due diligence process carried out by sharia pawnloyers on MSEs (Rosa, 2020).

Distribution of Funds to MSEs by Sharia Pawnloyers from an Islamic Law Perspective

Sharia pawnloyers function as non-bank financial institutions that channel funds to lend to people in need based on the law of pawning (Purbasari, 2017). In sharia pawnloyers, every transaction that contains "interest" (riba) is not allowed, because in Islamic law the pawn has a purpose to help, not to reap the maximum profit.

After analyzing the data obtained, the process of distributing funds at the Sharia Pawnloyers to MSEs uses several contracts in Islamic law, such as; ijarah and rahn. While the principles used in practice are based on the Qur'an QS. Al-Baqarah verse 283, DSN-MUI Fatwa No. 25/DSN-MUI/III/2002 concerning Rahn.

By its definition, a rahn contract is used to hold the borrower's property as collateral for his debt. While the ijarah contract is used to transfer the usufructuary rights to goods or services through rental wages without being followed by the transfer of ownership of the pawned goods. To avoid usury, the imposition of service fees on deposited goods is carried out in the following manner:

1. Must be stated in nominal terms;
2. Its nature must be real, clear, and certain for absolute matters if required in the contract;
and
3. There are no additional costs that were not previously mentioned in the first contract.

These two contracts are interesting because they are different but are important instruments for sharia pawnloyers as non-profit financial institutions in which the rahn contract can generate profits through the ijarah contract (Azizah, 2009). From some of the descriptions above, it can be concluded that based on the perspective of Islamic law, the contract used in the process of distributing funds at sharia pawnloyers is following its principles, namely based on the Qur'an, Hadith, and DSN-MUI Fatwa No.25/DSN-MUI/III/2002.

E. CONCLUSION

Some conclusions obtained based on the description above are; *First*, Sharia pawnloymers have an important role in encouraging the people's economy, this is evidenced by the existence of sharia pawnloymers financing which is mostly intended for micro and small business actors (UMK). *Second*, The procedure for disbursing funds at a sharia pawnloymers to MSEs is very easy and fast. So customers who want to apply for financing can easily do so, and this is expected to be able to lighten the customer's burden. *Third*, obstacles that occur in the financing process encountered include; requirements that cannot be met, the age of the business being less than one year, the collateral submitted is not appropriate, the customer is still tied to another financing institution, and the age of the customer is not by the provisions. *Fourth*, the perspective of Islamic law on the process of disbursing funds carried out in sharia pawnloymers to MSEs is based on ijarah and rahn contracts. The rahn contract is used to hold collateral and the ijarah contract is used to use benefits and services as compensation. This is following the legal basis in the Qur'an QS. Al-Baqarah verse 283, hadith, and MUI fatwa No. 25/DSN-MUI/III/2002.

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