

Murābaha Reconstruction: Its Application in the Electronic Journal in Indonesia

Muhammad Hasan

Fakultas Syariah Institut Agama Islam Negeri Pontianak – Indonesia
e-mail: hasaniain@gmail.com

Abstract

This study aims to look at changes in *murābaha*, both in terms of theory and practice in contemporary banking. Contemporary *murābaha* practices refer to articles and research results that are circulating very dynamically and in some aspects undergo an update or modification. This research explores contemporary scientific articles on *murābaha* circulating in cyberspace, which do not experience changes at the concept level but change in practice. Murabaha, like special sales, often does not appear to be a *murābaha* practice, even the terms of the sale and purchase agreement cannot be done. This study found that *murābaha* changed in terms of contracts, pricing, and some conditions.

Keywords; *murābaha*, contemporary *murābaha*, contract dynamics

Penelitian ini bertujuan untuk melihat perubahan *murābaha*, baik dari segi teori dan praktik di perbankan kontemporer. Praktik *murābaha* kontemporer mengacu pada artikel dan hasil penelitian yang beredar sangat dinamis dan dalam beberapa aspek mengalami pembaruan atau modifikasi. Penelitian ini mengeksplorasi artikel ilmiah kontemporer tentang *murābaha* yang beredar di dunia maya, yang tidak mengalami perubahan pada tingkat konsep tetapi berubah dalam praktik. *Murābaha*, seperti penjualan khusus, sering tidak tampak sebagai praktik murabahah, bahkan ketentuan akad jual beli tidak dapat dilakukan. Penelitian ini menemukan bahwa *murābaha* berubah dalam hal kontrak, penentuan harga, dan beberapa persyaratan.

Kata Kunci; *murābaha*, *murābaha* kontemporer, dinamika akad

Introduction

There are two methods of transfer of ownership in Islam, *ijbārī* and *ikhtiārī*.¹ The *ijbārī* method occurs due to someone dying, while the *ikhtiārī* method occurs because of the wishes of certain parties through a contract. Including examples of the *ikhtiārī* method, namely buying and selling transactions in Islamic law, one of which is done with a *murābaḥa* contract.

Murābaḥa comes from the word *al-ribḥ* which means to grow and develop. Whereas in terms, *murābaḥa* means selling goods at the original price plus profit. This means that in a *murābaḥa* contract, the seller must tell the price of the product purchased and determine the profit as an addition.² *Murābaḥa* as a special contract is bound by contract and sales rules.

Several conditions of sale and purchase according to Wahbah Al-Zuhaylī are: 1) knowing the purchase price, 2) knowing the amount of profit requested by the seller, 3) the capital expended should be in the form of *mithliya* goods, 4) buying and selling *murābaḥa* on *ribawi* goods should not cause the occurrence *nasi'ā* usury at the first price, 5) the first transaction should be legal. While the pillars are: 1) *al-āqidayn* (seller and buyer), with the condition that a) is reasonable, b) *bāligh*, c) different people. 2) *al-ṣiḡhat*. There is an agreement between Kabul and consent and is carried out in one assembly. 3) Objects of buying and selling must exist (not camouflage) and be perfectly owned by the seller. The specification of the object of sale and purchase must be clear as it relates to the honesty and willingness of both parties. 4) The exchange rate (price) must be certain and clear, both in type and amount.³

There are two price terms in *fiqh muamalah*, *al-thaman* and *al-si'r*.⁴ *Al-thaman* is the benchmark price, while *al-si'r* is the actual price prevailing in the market. Determination of the selling price takes into account the purchase price

¹ Divisi Pengembangan Produk dan Edukasi Departemen Perbankan Syariah Otoritas Jasa Keuangan, *Standar Produk Buku Musyarakah dan Musyarakah Mutanaqishah* (Jakarta: Otoritas Jasa Keuangan, 2016), 9–10.

² Syafi'i Antonio, *Bank Syariah Wacana Ulama dan Cendekia* (Jakarta: Tazkia Institut, 1999), 121; Maskur Rosyid and Fitria Nurdina, 'Mudharabah dan Murabahah; Pengaruhnya terhadap Laba Bersih BUS', *Islaminomic* 6, no. 2 (August 2015): 57, <http://jurnal.stesislamicvillage.ac.id/index.php/JURNAL/article/viewFile/39/34>.

³ Wahbah Al-Zuhaylī, *Al-Fiqh al-Islāmī wa Adillatuh*, 2nd ed. (Damaskus: Dār al-Fikr al-'Arabī, 1985), vols V; 3767–3770.

⁴ Nasrun Haroen, *Fiqh Muamalah* (Jakarta: Gaya Media, 2000), 139.

and the benefits to be gained. While profits are calculated based on the cost of goods acquisition, risk anticipation, and profit. According to Al-Ghazzālī, profits are compensation from travel difficulties, trade risks, and personal security threats to traders.⁵ Meanwhile, according to Al-Zuhaylī, profit always follows capital, so profits from illegitimate capital are also illegitimate, even including the category of consuming other people's property in vanity.⁶

The object of sale must meet five conditions, namely 1) net, 2) beneficial to religion, 3) can be submitted, 4) the seller's property or at least he has the right to it, 5) type, amount, and nature are known by both parties.⁷ Thus, the unclear object of sale, either because it is not legally owned by the seller or the size is unclear, results in damage to the sale and purchase agreement.

The scholars differed on the fees charged to the selling price of goods. Malikiyah argues that it allows direct and indirect costs associated with sales transactions, but adds value to the goods. Al-Shāfi'iyah and Ḥanafiyah are of the opinion that the imposition occurs on costs that generally arise in sales transactions except for the cost of his own labor because this component is included in his profits. Likewise, costs that do not add to the value of the goods are not included as cost components. While Ḥanābilah states that all costs, both direct and indirect, can be charged to the selling price as long as it is paid to third parties and will add value to the goods to be sold.⁸

The above explanation provides an understanding that the ulema of the *madhhab* allows direct costs to be paid to third parties. They also agreed to prohibit the imposition of costs, both directly and indirectly, related to things that are useful. In addition, they also allow indirect costs to be paid to third parties and the work must be carried out by third parties. If the work is carried out by the seller, Malikī school does not allow its loading, while the other three schools allow it. They agreed to prohibit the imposition of indirect costs if they did not add value to the goods or were not related to collateral matters.⁹

⁵ Abū Ḥāmid Muḥammad bin Muḥammad Al-Ghazzālī, *Iḥyā' 'Ulūm al-Dīn* (Beirut: Dār al-Fikr, n.d.), vols IV; 118.

⁶ Al-Zuhaylī, *Al-Fiqh al-Islāmī Wa Adillatuh*, vols V; 5055.

⁷ Al-Zuhaylī, vols V; 2011.

⁸ Ibn Rushd, *Bidāyah al-Mujtahid wa Nihāyah al-Muqtaṣid* (Dar al-Kutub al-Ilmiyyah, n.d.), 161.

⁹ 'Abd al-Raḥmān Al-Juzayrī, *Kitāb al-Fiqh 'alā al-Madhāhib al-Arba'āh* (Beirut: Dār al-Fikr, 1986), vols I; 203.

In Indonesia, the implementation of the *murābaḥa* contract is applied in the distribution of Islamic banking fund products with the *murābaḥa bi al-wakāla* model. Yenti Afrida describes that *murābaḥa* in its application involves three parties, namely customers as buyers, banks as sellers, and suppliers as suppliers of goods to banks at the request of customers. In reality, *murābaḥa* is applied to the *murābaḥa bi al-wakāla* contract, which means that the customer is given the authority to buy and sell goods that are needed by entering into a *wakāla* agreement. The customer then provides a purchase receipt as proof that the *murābaḥa* is in accordance with the procedure.¹⁰ More than that, Rahkul Amin stated that *murābaḥa* became the most famous mark-up instrument in Islamic financial institutions. *Murābaḥa* contract in Islamic banking is a form of natural certainty contract, which is a form of contract that provides payment certainty, both in terms of amount and time, because it is determined how much profit level is needed.¹¹

The application of *murābaḥa* is very dynamic and has a new pattern when applied in the sharia financial and banking system. Therefore, the authors are interested in examining "contemporary *murābaḥa*" because there is a gap between the concept and practice in sharia financial institutions. Theoretically, *murābaḥa* is a sale and purchase agreement with terms and conditions, whereas in its application the sales requirements are not met.

This paper aims to explain contemporary *murābaḥa* contracts, explain prices and benefits, and explore the terms of contemporary *murābaḥa* transactions. For this purpose, researchers analyze *murābaḥa* content in articles in scientific journals, books relating to *murābaḥa*, articles circulating on the internet. The results of data collection are collected and recorded categorically according to the purpose of the study and then described using descriptive-analytical methods.¹²

Classical and contemporary *murābaḥa* theory is integrated and combined with social dynamics theory¹³ and finally, the difference between the original *murābaḥa* and the application of *murābaḥa* in the contemporary era is found.

¹⁰ Yenti Afrida, 'Analisis Pembiayaan Murabaha di Perbankan Syariah', *JEBI (Jurnal Ekonomi dan Bisnis Islam)* 1, no. 2 (2016): 155–66.

¹¹ Rukhul Amin, 'Dinamika Penerapan Murabahah dalam Sistem Perbankan Syariah', *Jurnal Masharif al-Syariah: Jurnal Ekonomi dan Perbankan Syariah* 1, no. 1 (2017): 5.

¹² Basrowi and Suwandi, *Memahami Penelitian Kualitatif* (Jakarta: Rineka Cipta, 2008), 196.

¹³ Piotr Sztompka, *Sosiologi Perubahan Sosial*, ed. Alimandan (Jakarta: Prenada Media, 2007), 7.

Contemporary *Murābaḥa* Contracts

As a form of contract, *murābaḥa* experiences rapid development. Meanwhile, some characteristics of *murābaḥa* in the current context in Indonesia are:

***Murābaḥa* Contract is Carried Out Before the Goods Are Purchased**

A contemporary *murābaḥa* contract in sharia banking is applied in the form of *bay' fuḍūli*. This is because Islamic banking *murābaḥa* contracts are generally signed before the bank gets the goods ordered by the customer and delegates all the consequences of the procurement of goods to the customer.¹⁴ The description is reinforced by the fact that Islamic banks do not initiate and do not contract with suppliers that Islamic banks as part of an agent or distributor of suppliers of certain goods or products. Thus, *murābaḥa* contracts made by banks and customers are pseudo *murābaḥa* contracts, because the object of the sale is not yet owned by the bank. Thus, it can be said that the sale and purchase contract undertaken by Islamic banks is actually a financing contract for the purchase of goods.

Murābaḥa contracts are generally signed before the bank, as the seller, gets the goods ordered by the buyer (*mushtarī*). In the contract, the buyer must be careful, obey the laws and regulations relating to the shipment of goods, the correct profit ratio, and specifications. Buyers themselves bear all responsibility for fines or legal sanctions resulting from violations of the law. Banks do not have responsibilities related to the procurement of goods, therefore, all risks associated with them, which theoretically must be borne by banks, are effectively avoided. The buyer settles the loss directly with the supplier, not with the bank.¹⁵ This description reinforces the opinion that says that Islamic banks in contemporary *murābaḥa* applications in Islamic banking, do not act as sellers, but only make contractual agreements to finance the purchase of goods. After the contract is concluded, the customer can buy the desired item to the supplier.

¹⁴ Lely Shofa Imama, 'Konsep dan Implementasi Murabahah pada Produk Pembiayaan Bank Syariah', *Iqtishadia: Jurnal Ekonomi & Perbankan Syariah* 1, no. 2 (2015): 221–47.

¹⁵ Bagya Agung Prabowo, 'Konsep Akad Murabahah pada Perbankan Syariah (Analisa Kritis Terhadap Aplikasi Konsep Akad Murabahah di Indonesia dan Malaysia)', *Ius Quia Iustum Law Journal* 16, no. 1 (2009): 116.

Financing contracts for purchases of goods are carried out by banks and customers in contemporary *murābaḥa* before the goods are owned by the bank. After the customer, as the buyer, proposes financing for the purchase of goods and the bank approves the financing, then a sale and purchase contract is held with a *murābaḥa* contract. The customer then buys the goods needed for the supplier. It can be said that the goods can be purchased by the customer to the supplier or seller if a contract has been concluded between the customer and the Islamic bank.

Murābaḥa financing which is the main product of Islamic banks is referred to as *ilzām al-wā'id bi al-shirā'* (must promise to buy) or *murābaḥa li amir bi al-shirā'* (*murābaḥa* for buying orders or promises to buy).¹⁶ This means that Islamic banks instruct customers to buy goods after an agreement is made. The contract of sale and purchase of goods with an Islamic bank must thus be made first, then the purchase of goods is carried out by the bank or by the customer.

Murābaḥa contract, as explained above, violates the fatwa provisions of the National Sharia Board (DSN) No.4/DSN-MUI/IV/2000 point 9 which states that if the bank wants to represent the customer to buy goods from third parties, *murābaḥa* contract must be carried out after the item is purchased. *Murābaḥa* (Islamic banks or individuals) may not do *murābaḥa* contracts before the goods are owned by the seller.

The fatwa of DSN MUI is in line with the opinion of the scholars as explained by al-Zuḥaylī that transactions on goods that are not yet owned are prohibited transactions because they contain elements of manipulation (*gharar*). This is in accordance with the Prophet's prohibition. about not being able to make any transactions on goods that can move before they are received from the seller. While Abū Ḥanīfah and Abū Yūsūf allow selling goods before they are received from the first seller. This is based on *istiḥsān* supported by several verses about buying and selling that apply generally. This opinion is contrary to the opinion of Muḥammad, Ja'far, and al-Shāfi'ī who stated otherwise, based on a prohibition on selling goods before being accepted.¹⁷

¹⁶ Prabowo, 118.

¹⁷ Al-Zuhaylī, *Al-Fiqh al-Islāmī wa Adillatuh*, vols III; 80.

The basic principle of *murābaha* is to mention the cost of goods in hope so that the buyer benefits the seller.¹⁸ *Murābaha* contract is a sale and purchase agreement in a special form. Whereas the terms of agreement are a) *al-‘āqid*, the parties to the contract are people, partnerships, or business entities that have skills in carrying out legal actions, b) *al-ṣīghat*, behaviors that indicate the occurrence of contracts in the form of *ījāb* and *qābul*, c) *al-mawqūd* (contract object) is clear, lawful, and is a legitimate possession, d) the main purpose of the contract must be clear and recognized sharia and closely related to various forms to be performed.¹⁹ Based on these principles, selling or buying goods that are not yet legally owned are not *murābaha* contract characters.²⁰

1. *Murābaha* as a contract for the purchase of goods

Contemporary *murābaha* in practice in Islamic banking is a contract to finance the purchase of goods. The role of Islamic banks, in this case, is more as a provider of costs, not as a seller of goods. Sales contracts are only a formality, because, in reality, Islamic banks do not take the risk of selling that compensates for additional profits. So that the additions related to the price of goods are added based on late payments, which indirectly recognizes the principle of the time value of money.²¹ Buying and selling contracts with *murābaha* contracts in Islamic banking are *murābaha* practices in the form of financing of purchases of goods by Islamic banks to customers. This contract provides financing to customers to buy their needs. So that in this contract, there is no sale and purchase of goods other than the financing agreement to buy the goods. Both parties (bank and customer) sign a financing agreement for the purchase of goods with financing and mark-ups agreed during the contract. *Murābaha* contract,

¹⁸ Ibnu Mas'ud and Zainal Abidin, *Fiqh Madzhab Syafi'i* (Bandung: Pustaka Setia, 2007), vols II; 60.

¹⁹ Mardani, *Fiqh Ekonomi Syariah* (Jakarta: Kencana, 2012), 72–73.

²⁰ Syafi'i Antonio, *Bank Syariah: Dari Teori ke Praktik: Islamic Banking = Al-Masraf Islam* (Jakarta: Gema Insani Press, 2001), 104.

²¹ Imama, 'Konsep dan Implementasi Murabahah pada Produk Pembiayaan Bank Syariah', 230; Prabowo, 'Konsep Akad Murabahah pada Perbankan Syariah (Analisa Kritis Terhadap Aplikasi Konsep Akad Murabahah di Indonesia dan Malaysia)', 120.

which originally meant the sale and purchase agreement, has thus been turned into a financing agreement.²²

The above explanation provides an understanding that there are differences in the *murābaḥa* paradigm and practice. *Murābaḥa* paradigm shift from the concept of sale and purchase contract to the financing contract for the purchase of goods. If in a genuine concept, *murābaḥa* must fulfill several pillars and the requirements among which are *murābaḥa* objects must be clear and perfectly owned by the seller; then in the contemporary era, the application of *murābaḥa* in Islamic banking emphasizes the clarity of financing contracts and specifications of goods to be bought by a customer. As for goods, it can be purchased by the customer himself after entering into a financing agreement with the bank.

This finding is reinforced by the statement that in the *murābaḥa* contract, the bank should provide the goods needed by the customer and then the bank takes advantage of the price of the goods purchased as the selling price, so the bank raises the selling price for the customer. This is where banks benefit by marking up the purchase price. However, in practice, the bank does not provide goods. The bank makes a contract agreement (representative) to the customer to find the items needed.²³

2. *Murābaḥa* contract agrees on payment in installments

A contemporary *murābaḥa* contract in practice is to make an installment financing and payment contract. Payment and repayment of financing in the *murābaḥa* contract in the bank is done within the specified time period. The payment is made in installments. At a glance, *murābaḥa* payments are the same as credit payments made at conventional banks.²⁴

More than that, the mechanism of *murābaḥa* payment that is mostly carried out by Islamic banks is by delaying payment including 1) payment

²² Prihantono, 'Akad Murābahah dan Permasalahannya dalam Penerapan di Lembaga Keuangan Syariah', *Al-Maslahah* 14, no. 2 (2018): 228.

²³ Abdullah Saeed, *Bank Islam dan Bunga Studi Kritis dan Interpretasi Kontemporer Tentang Riba dan Bunga* (Yogyakarta: Pustaka Pelajar, 2003), 143.

²⁴ Prabowo, 'Konsep Akad Murābahah pada Perbankan Syariah (Analisa Kritis Terhadap Aplikasi Konsep Akad Murābahah di Indonesia dan Malaysia)', 118.

in *bay' mu'ajjal*, namely payment made within a certain period after the contract and requires certainty of time, for example, 3, 4, or 5 months. 2) *bay' li al-āmir bi al-shirā'*, which is a formidable payment, but with periodic installments. For example, payments are made for a year with 12 installments.²⁵

3. *Murābaḥa bi al-wakāla* contract

The granting of authority in contemporary *murābaḥa* contracts from banks to customers is carried out in the form of *wakāla* contracts. In this case, the customer is authorized to buy the goods he wants himself. Regarding *murābaḥa* contract with *wakāla* (*murābaḥa bi al-wakāla*) is a form of satisfying service and does not disappoint customers, for example, to avoid purchasing goods by banks that do not meet the criteria or specifications desired by the customer. Islamic banks, as the seller, allows customers to buy the desired goods themselves from suppliers.²⁶

Murābaḥa bi al-wakāla is applied because Islamic banking has not been able to provide customer ordered items. *Murābaḥa* contracts carried out in a contemporary manner in Islamic banking thus appear to avoid operational risk responsibilities, both depository risk and operational cost risk, therefore, Islamic banks represent the buying process to customers.²⁷

Freedom from banks to customers as buyers is given in the form of freedom (*wakāla*) to choose and determine their own suppliers. On the one hand it is called a promise to buy goods with the terms *bay' al-murābaḥa li al-āmir bi al-shirā'* (buying and selling *murābaḥa* for purchase orders) or *ilzām al-wā'id bi al-shirā'* (need for promises to buy)²⁸ and on the other hand is called *al-wakāla*.²⁹ In this case, I am more inclined to use the term *murābaḥa bi al-wakāla*.

²⁵ Amin, 'Dinamika Penerapan Murabahah dalam Sistem Perbankan Syariah', 8.

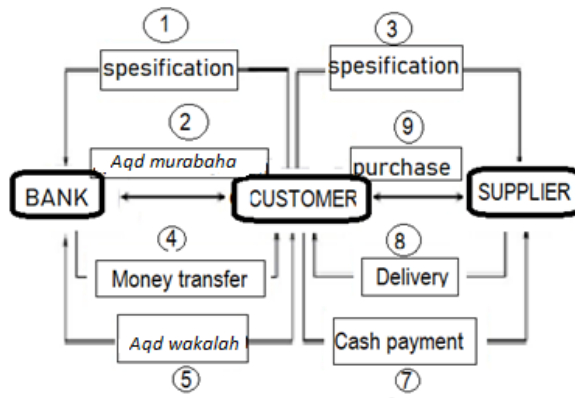
²⁶ Prabowo, 'Konsep Akad Murabahah pada Perbankan Syariah (Analisa Kritis Terhadap Aplikasi Konsep Akad Murabahah di Indonesia dan Malaysia)', 113; Abdul Rahman, 'Analisis Akad Pembiayaan Murabahah pada Bank Syariah Mandiri', *Jurnal Nestor Magister Hukum* 4, no. 4 (2018).

²⁷ Prihantono, 'Akad Murabahah dan Permasalahannya dalam Penerapan di Lembaga Keuangan Syariah', 228.

²⁸ Prabowo, 'Konsep Akad Murabahah pada Perbankan Syariah (Analisa Kritis Terhadap Aplikasi Konsep Akad Murabahah di Indonesia dan Malaysia)', 118.

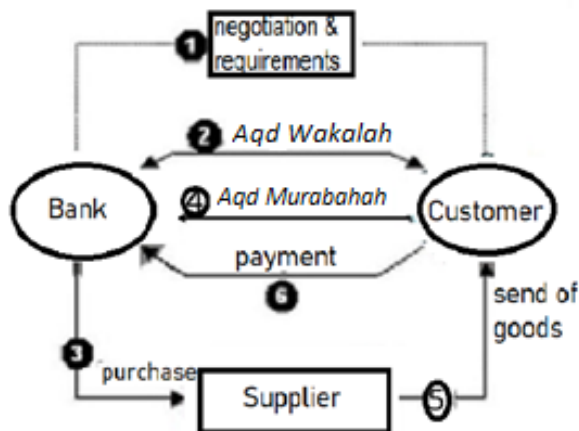
²⁹ Prihantono, 'Akad Murabahah dan Permasalahannya dalam Penerapan di Lembaga Keuangan Syariah', 228.

Figure 1: contemporary *murābaḥa bi al-wakāla* practices in Islamic banking



I conclude that there is a change in mechanism in contemporary *murābaḥa* in sharia banking practices. In the original concept, *wakāla* can be given by the buyer to the seller for the supply of goods that have not been owned by the seller in the context of buying and selling *murābaḥa* (*bay' al-murābaḥa li al-āmir bi al-shirā'*). *Murābaḥa bi al-wakāla* basically contains risks and responsibilities related to the purchase. Whereas *murābaḥa bi al-wakāla* in the contemporary context applied in sharia banking today suggests that Islamic banks are free from operational risks and responsibilities related to purchases.

Figure 2: The original *murābaḥa bi al-wakāla* mechanism



There are fundamental differences related to the application of the concept of time between contemporary *murābaḥa* and the genuine concept of *murābaḥa*, namely in the process of procurement of goods. In a genuine *murābaḥa*, customers represent to the bank to buy goods that are in accordance with the wishes of the customer, while in contemporary *murābaḥa*, the bank represents the customer to buy the goods themselves after the *murābaḥa* contract is conducted.

Prices and Benefits in Contemporary *Murābaḥa*

Pricing in *murābaḥa* is based on cost and profit. While the benefits, as explained earlier, are compensation for travel difficulties, trade risks, and the threat of personal safety of traders.³⁰ In contemporary *murābaḥa*, the price of *murābaḥa* financing is usually an Islamic bank taking into account its benefits. The profit from buying and selling is calculated based on the cost of getting goods, anticipated risk, and profit. As a trustworthy sale and purchase, the price given in *murābaḥa* is the capital spent plus the desired profit. Islamic banks are required to notify customers about the acquisition of goods and desired profits.³¹ The selling price is determined based on the purchase price, the cost of obtaining the goods, the risks, and profits. In practice, *murābaḥa* financing is operated by an Islamic bank with an agreement to finance the purchase of goods. Profits are obtained by marking the amount determined by calculating the financing risks borne by Islamic banks. It is understood that high-risk financing, mark up is also large.

Profits derived by Islamic banks from *murābaḥa* transactions are determined by the amount of costs incurred to finance a mutually agreed transaction. Other factors that determine profit are: a. Turnover speed of goods. b. The amount of funds allocated by the bank for *murābaḥa* investments. c. The amount of down payment from the client to the bank. d. Comparison of the applicable profit, should be lower than the loan interest rate.³²

One of the *murābaḥa* financing risks is related to goods. When a bank buys a customer's ordered item, it will risk loss or damage. So in contemporary *murābaḥa* requires 1) payment in installments, 2) late fees, and 3) debt

³⁰ Al-Ghazzālī, *Ihyā' 'Ulūm Al-Dīn*, VI; 118.

³¹ Imama, 'Konsep dan Implementasi Murabahah pada Produk Pembiayaan Bank Syariah', 234.

³² Aminah Lubis, 'Aplikasi Murabaha dalam Perbankan Syariah', *FITRAH: Jurnal Kajian Ilmu-Ilmu Keislaman* 2, no. 2 (2016): 195.

repayment.³³ This is to avoid defaults by customers whose clause payment for late fines is approved when the contract. There are two things that become stressing points, 1) payment by the buyer is made in installments, 2) payment of fines in the event of late installments.³⁴

In principle, the settlement of a customer's debt in a *murābaḥa* transaction has nothing to do with other transactions he has made with a third party on an item. Although he resells the goods, both profit, and loss, he is still obliged to settle his debts to the bank. But when he sells it before the installment period ends, he is not obliged to immediately pay off all installments. Meanwhile, if the sale causes losses, the customer still has to settle the debt according to the initial agreement. He must not slow down the installment payment or ask for the loss to be calculated. And if he is bankrupt, the bank can suspend his debt until he is able to repay or according to the agreement.³⁵

The profit obtained by the bank is through mark-ups (profits) from the sale of goods in *murābaḥa* financing. The amount of the mark up for each financing varies depending on the amount of risk borne for the financing. It is not influenced by the length of the financing maturity, as is usually applied in credit agreements with conventional banks that use the principle of the longer a credit is given, the more interest earned by the bank (time value of money).³⁶

Murābaḥa financing is operationalized by an Islamic bank with a sale and purchase agreement. Profits are obtained by marking the amount determined by calculating the financing risks borne by Islamic banks. It is understood that the higher the risk of financing, the greater mark up, in addition to markup taken from financing. This explains that the practice that is often carried out by Islamic banks is not purely as a seller of goods as in the trading industry that sells goods directly to buyers, because in general, banks do not have stock of goods, not as investment agents, and do not offer goods that are objects of sale.³⁷

Some examples of *murābaḥa* financing conducted by sharia banks.³⁸

³³ Prabowo, 'Konsep Akad Murabahah pada Perbankan Syariah (Analisa Kritis Terhadap Aplikasi Konsep Akad Murabahah di Indonesia dan Malaysia)', 112.

³⁴ Lubis, 'Aplikasi Murabaha dalam Perbankan Syariah', 196.

³⁵ Lubis, 196.

³⁶ Prabowo, 'Konsep Akad Murabahah pada Perbankan Syariah (Analisa Kritis Terhadap Aplikasi Konsep Akad Murabahah di Indonesia dan Malaysia)', 112.

³⁷ Prabowo, 113.

³⁸ Prabowo, 114.

- a. *Murābaḥa* financing for home improvement. The customer proposes home improvement financing for Islamic banks. After approval, the bank provides funds with a power of attorney from the bank, the customer is given the mandate to purchase the required materials by being given 30 days as evidenced by the purchase receipt. This is done because the bank will encounter difficulties if it buys the items needed by the customer.
- b. *Murābaḥa* finances the purchase of a car. If the financing of the purchase of an object car is certain and the owner (supplier) is known, the Islamic bank will immediately present the supplier (car seller) in a contract that will be entered into between the bank and the customer (buyer). That is, Islamic banks directly provide money to suppliers, then a sale and purchase agreement is held between the Islamic bank and the customer in a *murābaḥa* contract. Although proof of ownership of goods from suppliers directly submitted to the customer and ownership directly moved from owner to customer.
- c. *Murābaḥa* financing for house purchases, for example KPR BTN Syariah. In the customer's interest, the bank first buys the house from the developer, then sells it to the customer at the developer's purchase price plus the profit requested by the bank and approved by the customer.
- d. *Murābaḥa* financing for working capital (working capital goods) such as factory equipment. Just like the *murābaḥa* financing agreement for other goods procurement in general, the bank first buys the goods from the supplier and then sells the goods to the customer through the *murābaḥa* contract at a price equal to the base price plus the profits they have agreed on.³⁹

Requirements of Contemporary *Murābaḥa* Transactions

1. Procurement of goods with *wakāla* contract

The application of financing in the Muamalat bank with a *murābaḥa* system is a hybrid contract, because it combines the two contracts in one transaction, namely the *murābaḥa* contract and the *wakāla* contract, but in

³⁹ Al-Juzayrī, *Kitāb Al-Fiqh 'alā al-Madhāhib al-Arba'ah*, vols III; 271–272.

the implementation, there are still discrepancies. During the *murābaḥa* contract process, the bank has given a sum of money to be used by the customer to buy the desired item. Furthermore, when the customer has purchased the item, he only needs to provide a receipt or proof of payment to the bank within a certain period. The implementation of the contract is called *murābaḥa bi al-wakāla*, namely the bank authorizes customers to buy their own needs.

Several types of legitimate sale and purchase are, 1) sale and purchase of objects whose objects can be seen immediately, 2) buying and selling of which only the specifications are mentioned, as in *salam*, 3) buying and selling *sharaf*, namely buying and selling currencies with other currencies, whether similar or not, 4) buying and selling *murābaḥa*, selling at capital prices plus profits, 5) buying and selling *ishrak*, partnerships, 6) buying and selling *mu'atṭah* buying and selling at reduced price (loss), 7) buying and selling *tawliyah* (trusteeship), 8) buying and selling *ḥayawān bi al-ḥayawān*, 9) buying and selling *khiyār*; the right to choose whether to continue the contract or not, 10) buying and selling on conditions that are traded.⁴⁰ Some of these types have different unification and conditions, including *murābaḥa*. He has requirements that must be obeyed.

2. The existence of collateral during the installment period

A contemporary *murābaḥa* contract requires collateral from the customer to the bank. Collateral can be returned after the installments are paid off. Therefore, a customer who cannot provide collateral to the bank does not fulfill the *Murābaḥa* contract requirements. To avoid the risk of customers not paying in full or in part from a down payment, Islamic banks ask for collateral, enter into written agreements, and contract clauses that state that all proceeds from *murābaḥa* goods are sold to third parties, whether in cash or credit, must be placed at the bank until the bank's rights are paid in full.⁴¹

The existence of the collateral is in line with the fatwa of DSN MUI No. 04/DSN-MUI/IV/2000 which allows Islamic banks to request guarantees from customers and instruct customers to prepare collateral that can be held. This is because of the clear relationship between the two parties,

⁴⁰ Al-Juzayrī, vols III; 271–272.

⁴¹ Amin, 'Dinamika Penerapan Murabahah dalam Sistem Perbankan Syariah', 8.

namely the indebtedness relationship. Therefore, the bank is allowed to secure its financial position as a cautious step to avoid customers who do not keep promises.⁴²

Conclusion

The *murābaḥa* paradigm and practice have experienced the following changes. 1. A contemporary *murābaḥa* contract is carried out before the goods are purchased. It is a contract of purchase of goods which agrees with installment payments and is carried out with a "*wakāla*" contract. 2. Pricing in contemporary *murābaḥa* is done by calculating the benefits, costs in obtaining goods, and risks in obtaining goods. It is practiced and operationalized by Islamic banks with financing agreements for the purchase of goods. Profits are obtained by marking up the amount determined by calculating the risk of financing borne by Islamic banks. 3. Some of the requirements for contemporary *murābaḥa* transactions, namely a. payments must be made in installments and must pay fines for those who are late paying the installments. b. procurement of goods is carried out with a *wakāla* contract, namely an Islamic bank grants the representative authority to the customer to purchase the goods needed. c. the existence of collateral from the customer to the bank during the payment installment period as collateral for default.

Some of the suggestions made include that along with the change in paradigm and *murābaḥa* practices of the concept that is genuine, it often does not appear the practice of buying and selling, even the pillars cannot be implemented perfectly. Therefore, the term *Murābaḥa* buying and selling becomes less precise. Supposedly, the change is going for the better by not destroying the pillars and conditions agreed upon by the scholars and exemplified by the Prophet. Improvements in contemporary *murābaḥa* systems and practices should lead to how the *murābaḥa* system can be implemented perfectly. The shift of *murābaḥa* to *murābaḥa bi al-wakāla*, *murābaḥa bi al-taqṣīt* (installments), and *murābaḥa bi al-rahn* (collateral), on the one hand leads to the improvement of the *murābaḥa* system in a better direction. However, it should be practiced according to its original characteristics.[a]

⁴² Lubis, 'Aplikasi Murabaha dalam Perbankan Syariah', 195.

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