

REVIEW OF MUAMALAH FIQH IN THE PRACTICE OF DURIAN PLANTATION LAND MANAGEMENT USING THE PARON SYSTEM

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(Submitted by The Author: 02-07-2024)

(Accepted by The Editorial Board: 04-10-2024)

(Published by The Editorial Board: 31-12-2024)

ABSTRACT

Based on the review of the fiqh of muamalah Ibn Taymiyah (Qardawi, No. 328) regarding the development of plantation land management, the most appropriate contract to be used is the Musaqah contract scheme. However, there is often a discrepancy between agricultural theory and practice that occurs in the field, both in terms of profit sharing, the application of contracts, and even other reviews of muamalah fiqh. The many problems that arise in the implementation of the profit-sharing system and the sale and purchase of durian fruits that are still on the tree cause unhappiness in one of the parties who perform the contract. This study uses a qualitative method with a case study approach. The goal is to focus on the review of muamalah fiqh on the paron (profit sharing) system and the durian fruit buying and selling system that is still on the tree. The results of the study show that the durian tree plantation paron system in Sumberrejo Village, Purwosari District, Pasuruan Regency is carried out only based on trust and honesty because they already know each other. However, because the cooperation agreement is not written or oral, the terms and conditions of the contract can be concluded not following Islamic sharia (fiqh muamalah). Likewise, the review of fiqh muamalah on the system of buying and selling durian fruits that are still on the tree, this system is not allowed, because the profit is not known.

Keywords: akad musaqah; profit sharing; buying and selling; fiqh muamalah

Khusnia, C., Asnawi, N., Meldona. 2024. Review of Muamalah Fiqh in The Practice of Durian Plantation Land Management Using The Paron System. *Jurnal Syarikah : Jurnal Ekonomi Islam* 10(2): 195-201.

INTRODUCTION

The agricultural sector has the potential to contribute significantly to the national economy. Empowerment in the economic field is an effort to build strength (community) by encouraging and motivating, increasing awareness of economic potential and making efforts to develop it (Fitria & Fahrullah, 2023). The fact that there is still high employment with a total of 2,674 land managers in the plantation sector and a considerable foreign exchange contribution from the rapidly growing agribusiness sector by providing raw materials for downstream industries shows the resilience of the agricultural sector in the face of the Covid-19 pandemic (BPS JATIM, 2023).

Agriculture is a sector that still has the potential to meet the needs of local communities. Agriculture is not only a source of food for the nation, but also a source of income to meet the needs of local communities (Astutik *et al.*, 2023). Nasution *et al.* (2023) stated that every community that owns land, whether owned through *Ihya al-Mawat*, *Tahir* or *Iqsa*, should be able to manage the land and utilize it productively in development. Agriculture itself is a business that develops to meet the needs of local communities (Putra *et al.*, 2023). The agricultural sector is the most desirable sector because it is an activity that does not require high qualifications. In addition, the agricultural sector also has an impact on the economic and social realities of the community (Aminullah, 2020). It makes it the most profitable sector (Khairani & Shomedran, 2023). This advantage is of course inseparable from the role of Islam in providing agricultural land management arrangements, thus creating a sense of justice among contractual actors (*'āqidaīn*).

Various types of contracts are used, such as the *musaqah*, *muzarah*, *ijara*, and *muhabara* contract systems. According to Ibn Taymiyyah (in Qardawi, No. 328)

regarding the development of plantation land management, the *musaqah* contract scheme is used. The contract is considered the most appropriate and fair contract and is in accordance with sharia principles. This is because *musaqah* is a form of cooperation where the landowner hands over the land and seeds to the farmer, and the terms of receiving the results according to the agreement are 1/2, 1/3, etc. (Zulhanif & Raus, 2021). Every income is obtained by both parties. Profit equals profit and loss equals loss. According to Yusuf Qardawi (Sirait, 2018), justice cannot be upheld without using the *musaqah* contract.

Although the *musaqah* contract is considered the most appropriate and fair form of contract for implementation in the field, many problems arise in its implementation between tenants and landlords. The author conducted an initial survey with two interviewees, namely: Roni and Putra, a durian farmer in Sumberrejo Village, found that the paron system between landowners and cultivators, this system is very rare because cultivators often feel disadvantaged because when cultivators fail to harvest they are often blamed and relatively low shares, but when profits are high they get standard profit sharing in general without any more reward. In addition to the relatively high price of fertilizers, the maintenance of durian trees is not as easy as planting rice, so it is prone to disharmony between landowners and cultivators if they use a partial profit-sharing contract. Likewise, Putra prefers to do a sale and purchase transaction where there is a system used is the sale and purchase of durian fruit that is still on the tree. This results in relatively low prices and high profit levels. So that in addition to the problems related to deviating from the *musaqah* contract in the paron system (profit sharing) of landowners and cultivators, this research also raises existing problems, related to

buying and selling durian fruit that is still on the tree.

The problems that have been described above, there is a mismatch between theory and practice that occurs in the field both in terms of profit sharing which prioritizes the benefits of both parties but in fact there are still gaps in one of the parties involved. Empirical studies in this study are mostly carried out on agricultural agreements such as rice or grain crops. In accordance with the results of research by Astutik et al., (2023) which states that landowners give up their land on the basis of trust without direct supervision, in contrast to Ariyanto's research, (2017) in his research states that the chosen contract is in accordance with the practice in the field with all the conditions being met between the owner and the cultivator of the rubber plantation. Likewise, with the durian fruit sale and purchase contract, where the sale and purchase is carried out when the fruit is still on the tree, this also has a discrepancy in the theory of buying and selling. In accordance with the results of research conducted by (Burhani, 2020) which states that the sale and purchase of fruit that is still on the tree is considered invalid because of the uncertainty of the results which results in injustice between the parties. From the explanation above, researchers are interested in conducting further research related to the review of fiqh muamalah on the paron system (profit sharing) and at the same time buying and selling durian fruit that is still on the tree. Where these two systems are still strongly applied in Sumberrejo Village, Purwosari District, Pasuruan Regency.

MATERIAL AND METHODS

Fiqh Muamalah

One aspect of fiqh muamalah that is often applied is land leasing in accordance with Islamic law. In principle, all forms of muamalah are allowed, except those determined otherwise by the Qur'an and

the Sunnah of the Prophet. This principle includes the importance of Islamic law providing various opportunities to develop new forms and types of muamalah in response to the needs of society. Muamalah does not contain elements of coercion and is carried out on a voluntary basis. This means that the freedom of the parties who want to make transactions must be in accordance with muamalah fiqh and is highly valued and safeguarded. If the implementation of a muamalah contract is not in accordance with muamalah fiqh, then the contract is considered invalid. Muamalah itself is carried out on the basis of bringing benefit, avoiding evil and upholding the values of justice (Hakiki, 2022).

Sistem Paron (Bagi Hasil)

The paron system is a method of profit sharing practiced by most people in the plantation/agriculture community. The contract that is suitable for the paron system for plantations is the musaqah contract. Musaqah is a plantation cooperation between a landowner and a farmer, in which the landowner gives land to the farmer to care for and maintain and receives a certain share (percentage) of the harvest in return. The musaqah profit-sharing system is widely used by farmers in different regions. As a landowner, farmers entrust farmers who do not have their own farmland with their skills. Thus, there is a paron system between the two parties, the owner and the cultivator (Hidayatullah et al., 2022).

Research Methods

This research was conducted using a qualitative method with a case study approach. The aim is to focus on what will be the case by directly observing the informants using the grounding system on the farm where they work together (Sandu Siyoto & Sodik, 2015). This type of qualitative method is suitable for researchers who examine the implementation of the agricultural land muzaraah contract from an Islamic economic point of view, with the problems

that occur in Sumberrejo Village, Purwosari District, Pasuruan Regency as a research site. Researchers chose this location because most of the residents of Sumberrejo work as farm laborers, and it is also one of the best durian producing villages in the Pasuruan region. This is evidenced by the results of cucur durian which is famous for its consistency and its legit and sweet taste.

The qualitative research method uses two types of data, namely primary data and secondary data to help researchers gain a deeper understanding of the problem under study. The main data source is data that explains the concept of the muzaraah contract in the paron system through direct interviews with informants. Observation and interview data were obtained through direct visits by researchers to the research location regarding the application of the muzaraah contract in the paron system on agricultural land from an Islamic economic perspective in Sumberrejo Village, Purwosari District, Pasuruan Regency. Secondary data sources are obtained from documents or reports related to the problem under study. Researchers will use library reference materials obtained from the official website of the Ministry of Agriculture of the Republic of Indonesia as research reference materials. Government Regulations on Agricultural Land, Fiqh muamalah books, journal articles and academic works (Sandu Siyoto & Sodik, 2015).

RESULTS AND DISCUSSION

The results show that the requirements of community-owned land have been met and field observations have been made to ensure that the trees are in good condition and can be taken advantage of so that the harvest can be achieved based on the practice of durian farmers. The cultivated trees are said to be plants of various types and plants that provide benefits to both parties and do not cause losses. When the harvest comes,

both parties can benefit from what is produced. Based on the results of the interviews and the documents submitted, the boundaries of the musaqah contract on durian trees are clear and meet the requirements.

Followed by a contract that is carried out by producing an agreement between the parties. The agreement between the two parties is often done verbally without a clear black and white statement such as the statements of the workers and managers. The process of distributing durian fruit in Purwosari District, Sumberrejo Village. In this case, the author conducted several interviews with respondents. The results of interviews by researchers to Roni as the cultivator of the durian garden stated that:

“seringnya disini cukup melakukan kesepakatan dengan lisan, dan lebih mengedepankan saling percaya antara kedua belah pihak dan tidak hanya pada perkebunana durian saja tetapi juga diberbagai sektor pertanian seperti lahan sawah untuk padi atau bahkan juga tanaman sayur”. (Roni, interview April 23, 2024)

Furthermore, in the form of interview results with Putra who prefers to buy durian fruit with the tebas system (the whole with the condition of the fruit still on the tree), where the interviewee stated as follows:

“disini memang banyak sistem untuk menjual buah durian hasil panenanya. Apalagi hampir semua warga memiliki kebun dengan tanaman buah durian namun terkendala dengan perawatannya. Memang merawat pohon buah durian lebih sulit dibanding petani penggarap sawah atau sayur karena, pohon durian harus dirawat sejak awal berbunga bahkan harus diperhatikan juga setelah buahnya mulai besar. Seperti, ditali agar tidak jatuh, diberi obat agar tidak digerumuni serangga, dll. Jadi warga yang tidak memiliki tenaga lebih mereka memilih untuk menjual

huriannya keseluruhan yang ada di pohon. Sistem ini berlaku selama musim durian dan kembali jika pohon sudah di panen” (Putra, interview May 4, 2024).

Likewise, the results of interviews by researchers to Nanang as a contractor (juragan with a system of buying fruit that is still on the tree). Where Nanang not only purchases durian fruit that is still on the tree but also various other types of fruit such as: avocados, bananas, pete, etc. Nanang feels that this system is more effective and more profitable in large quantities. Nanang feels that this system is more effective and more profitable in large quantities. As said:

“disini itu banyak tanaman buah seperti alpukat, durian, pisang, dll. Jadi sistem membeli buah yang masih di pohon lebih menjanjikan untuk mendapatkan keuntungan yang besar dibanding harus menggarap dan hasilnya dibagi sesuai kesepakatan, belum lagi nanti masih menyesuaikan kesepakatan dan kalau rugi selalu berujung adanya perselisihan” (Nanang, interview May 5, 2024).

From the explanation of the results of the interviews with Roni and Nanang, it is clear that they consider the benefits and avoid disharmony with other residents. Then seen from the review of fiqh muamalah which is the main guide in muamalah. Islamic law is a law that regulates faith and morals, not mu'amara itself. Mu'amara itself is a rule (law) of Allah SWT which aims to regulate human life in matters relating to secular and social society. Profit sharing in agriculture, especially durian fruit plantations, is one form of land use. In Islam, there are profit-sharing agreements in this field, including the musaqah agreement. In the musaqah contract itself, there are political parties that own the capital (in this case the durian plantation) and there are political parties that control the durian fruit. One of the things that can be done is to establish a

benefit-sharing partnership that involves a form of cooperation that is mutually beneficial and intended to benefit both parties. According to the language, musaqah comes from the word al-saqah which means a person who works on tamal trees, grapes (taking care of them) or other trees that bring profit, gets a certain share of the results, and is maintained as a reward (Mahyuni et al., 2022).

This musaqah contract is a form of profit-sharing partnership between the plantation owner and the plantation manager. The meaning of musaqah here is an agreement to give a tree to those who want to work on it, with the condition that the fruit is shared between them (Khaerudin, 2019). Basically, musaqah specializes in agriculture, planting trees with strong roots and trees more than one year old. However, there is no definite and patent professionalism of the contract. Then there are those who have capital and skills but no time. On the other hand, there are people who have time and skills, but who lack capital. So if there is a partnership for results that drives the economy, it will be a solution in the welfare of both parties.

The paron (profit-sharing) system with a musaqah contract that occurs in Sumberrejo Village is appropriate regarding the existence of land and cultivators. However, it is still lacking with the contract system that is carried out verbally only by prioritizing trust between related parties. It is feared that this could lead to disputes at the end of the harvest period in the distribution of profits according to the percentage at the beginning.

Then it was found that the practice used in the cooperation or profit-sharing system and also the sale and purchase of durian fruit still on the tree that occurred in Sumberrejo Village was only carried out during the durian fruit season. Then for the law of the contract that is carried out even though in practice it is still lacking, it

can be said to be valid and not wrong in making decisions, the contracts will be legally weak. Everything is halal (permissible) in Islamic law, and in Islam it is also allowed to be a law as long as it does not harm one of the parties and is beneficial for the common good. However, if the owner of the capital receives the proceeds of the sale to which he is entitled and the salary of the management as a substitute for the losses incurred, then this does not cause harm to other parties and violates Islamic law (Mahyuni *et al.*, 2022). A fiqh muamalah review of the musaqah contract and the sale and purchase of durian fruit that is still on the tree in Sumberrejo Village, Purwosari District, Pasuruan Regency. In practice, the terms of the musaqah contract must be fulfilled by the contracting parties. The parties to the contract must be legally capable (healthy) and the tree used in the contract agreement must actually be utilized. Ratification requires the approval of an authorized party, in this case the village apparatus or usually a designated village official. The existence of this last requirement is very important to avoid conflicts in the future (Hidayatullah *et al.*, 2022).

CONCLUSIONS AND IMPLICATIONS

The paron (profit sharing) system for durian fruit plantations in Sumberrejo Village, Purwosari Subdistrict, Pasuruan Regency is only based on trust and honesty, on the grounds that neighbors or even relatives and already know each other are understandable. In addition, the alignment of the two types and timing of the agreement described above is also inappropriate because it is not clear when the implementation will take place or when the profit-sharing agreement will end, although in general it ends at the end of the harvest period. However, because the cooperation agreement is not a written or oral contract, the terms are not clear and the contract can be concluded not to

be in accordance with Islamic law or fiqh muamalah.

The fiqh muamalah review of buying and selling durian fruit that is still on the tree is basically not allowed because it is not clearly known about the profit. However, this sale and purchase system is more practiced by the people of Sumberrejo Village on the grounds that it is more profitable for the buyer and even the tree owner also knows and agrees to it, which is the reason for the tree owner to be able to get a profit even though it is small rather than not making any income at all due to crop failure due to durian tree maintenance which is considered difficult.

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