

## REVIEW OF *SHARIA* ECONOMIC LAW ON THE DEFAULT OF BUYING AND SELLING TRANSACTIONS IN THE *SHOPEEPAYLATER* SYSTEM AMONG STUDENTS OF THE *SHARIA* ECONOMIC LAW STUDY PROGRAM AT THE STATE ISLAMIC UNIVERSITY (UIN) MATARAM

Ayuni Rizki Hidayati<sup>1)</sup>, Parida Angraini<sup>2)</sup>

<sup>1,2</sup>State Islamic University of Mataram

[Ayuni19@gmail.com](mailto:Ayuni19@gmail.com), [Parida.Angraini@gmail.com](mailto:Parida.Angraini@gmail.com)

### *Abstract*

This study aims to determine the practice of default in buying and selling transactions in the shopeepaylater system and the analysis of sharia economic law on these defaults among students of the sharia economic law study program at UIN Mataram. The shopeepaylater system is one of the easiest ways to make shopping transactions for consumers, especially students. On the one hand, the shopping system using shopeepaylater makes student consumers unable to measure their ability to make payments in the future. As a result of this, researchers found that many students made defaults intentionally and negligently so as to create a burden in the future for student consumers in the Sharia Economic Law Study Program.

This type of *research* uses qualitative with a field research approach by collecting data using observation, interviews and documentation conducted by researchers.

This research shows that *first*, the practice of defaults committed by students of the sharia economic law study program at UIN Mataram is carried out intentionally or negligently due to the inability of these student consumers to measure their overall financial capacity. Forms of default such as late payment of installments and not paying installments until the following month. *Second*, based on these activities in sharia economic law, the shoppe has the right to collect fines based on the delays made by the student consumers.

**Keywords:** *Default, Shopeepaylater, Sale and Purchase, Sharia Economic Law*

### 1. INTRODUCTION

Buying and selling is a common transaction carried out by the community, both in meeting daily needs and for investment purposes. Buying and selling is often defined as an agreement to exchange objects or goods or with money, where the seller and buyer voluntarily release property rights to each other.<sup>1</sup>

With the times, especially in the field of information technology that is increasingly sophisticated today, it can provide various conveniences for the community, especially in buying and selling activities. Buying and selling activities that are usually done face-to-face can be done online through online shopping applications on *cellphones*. The online shopping applications that can be downloaded via *mobile phones* such as Shopee, Facebook, Instagram, Lazada, Tokopedia, Tiktoshop and other *online* shopping applications. In addition, the price of goods traded through *online* media is

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<sup>1</sup> Hendi Suhendi, *Fiqh Muamalah*, (Jakarta: PT Rajagrafindo Persada, 2016), pp. 2.

cheaper and more affordable. Therefore, people today tend to prefer to shop *online*, because it is more practical and can save time.

The *online* shopping application that is often used by the public, namely the shopee application. Shopee application is an *e-commerce platform* that provides an easy, safe and fast *online* shopping experience for its users. Shopee provides a wide selection of products from various categories ranging from care and beauty, health, *fashion*, electronics, home equipment and others. Shopee also provides free shipping *vouchers*, discounts, and *cashback* for new and existing users. In addition, shopee also provides various payment methods such as *shopeepay*, *shopeepaylater*, *COD*, transfer via ATM and others.<sup>2</sup>

The payment method that is often used by shopee users is *shopeepaylater*. This *Shopeepaylater*, has been registered and is directly supervised by the OJK as regulated in POJK Number 77 / POJK.01 / 2016 concerning Information Technology Based Money Lending and Borrowing Services Article 5 Paragraph 2, which reads: "information technology-based financial service providers" include information technology-based financial service providers in the fields of payment systems, insurance, pension funds, microfinance institutions, financing, venture capital, pawnshops, or guarantees.<sup>3</sup> *Shopeepaylater* is a buy now pay later payment method, provided by PT Commerce Finance that provides loans for eligible shopee users.<sup>4</sup> *Shopeepaylater* also incurs an installment fee (interest rate and other fees) of at least 2.95% for buy now pay later completed within 1 month, as well as installments of 3 months, 6 months and 12 months. In addition, the use of *Shopeepaylater* is also subject to a handling fee of 1% of the product price and shipping costs per transaction.<sup>5</sup> With the *shopeepaylater* payment method with the installment system, it can make it easier for shopee users to buy an item, especially with the buy now pay later payment system.

The ease of making these payments makes shopee users dependent on using *shopeepaylater*. So that without realizing it, they become negligent in fulfilling their obligations. Therefore, default arises. Default occurs as a result of the negligence of *shopeepaylater* users in fulfilling their obligations as agreed at the beginning. One of them is the installment deadline which should be paid before the due date of each month, but is paid in the following month.

The results of researcher observations, found 7 of the sharia economic law study program students, who made buying and selling transactions on the shopee application using *shopeepaylater* as a payment method. Students tend to prefer to use *shopeepaylater* payments, because it can make it easier to install goods and help those who don't have *cash*. The ease of payment makes students dependent on purchasing goods using *shopeepaylater* payments. The amount of student spending in using the *shopeepaylater* payment method is in the range of Rp.100,000-Rp.500,000.

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<sup>2</sup>Shopee App, "What is Shopee", in <https://shopee.co.id>, accessed on May 13, 2023, at 10.10 WITA.

<sup>3</sup>POJK, "Information Technology-Based Money Lending and Borrowing Services", in <https://www.ojk.go.id>, accessed on July 11, 2023, at 10.10 WITA.

<sup>4</sup>Shopeepaylater, "What is Shopeepaylater", in <https://help.shopee.co.id>, accessed on May 13, 2023, at 10.10 WITA.

<sup>5</sup>Shopee, "How to activate Shopeepaylater", in <https://help.shopee.co.id>, accessed on May 13, 2023, at 10.10 pm.

dependence on using the *shopeepaylater*, making students negligent in paying *shopeepaylater* bills. This makes students classified as making defaults, which are caused by intent and negligence in paying *shopeepaylater* installments. The form of default committed by students is that the debtor is late in performing and the debtor does not perform at all, where these actions make the creditor or *shopee* disadvantaged. The factors that influence this are insufficient money, more urgent campus needs, financial limitations and no good faith to pay installments.

The *shopee* party in this case as a creditor party will impose sanctions on students who make defaults in the form of paying a 5% late fee in the next payment, limiting access to using the *shopee* application and *shopee vouchers*, registering with the OJK SLIK (Financial Information Service System) which can prevent *shopeepaylater* users from obtaining financing from banks or other companies, and finally billing by telephone or field collection.

Based on the background explanation above, the researcher is interested in conducting research with the title "Sharia Economic Law Review of Default in *Shopeepaylater* Sale and Purchase Transactions among Students of Sharia Economic Law Study Program at State Islamic University (UIN) Mataram".

## **2. RESEARCH METHODE**

Researchers use qualitative research methods where researchers examine scientifically which emphasizes the natural character of data sources, coupled with phenomena in the field. Researchers manage data in descriptive sentences which can describe and describe the practice of default in *shopeepaylater* selling transactions on the *shopee* application and analyze these practices using relevant theories so as to obtain conclusions from the research results.

The research approach used in this research is descriptive qualitative which aims to describe systematically the facts and characteristics of the object or subject under study so as to provide results in accordance with what will be studied.

One of the ways that researchers build interactions is by using the *shopee* application and participating in using *shopeepaylater* payments. In this case, the researcher tries to explore information about defaults made by *shopeepaylater* users.

The data collection method used by researchers is by observing the default practices of *shopeepaylater* users in the *shopee* application and conducting interviews with several who use the *shopeepaylater* payment method in the *shopee* application.

## **3. DISCUSSION**

Online buying and selling is a buying and selling activity which can be accessed via *cellphone*. Online buying and selling itself is more attractive to the public, especially students, because it can make it easier, time-efficient and can be done anywhere without any time limit.

*Online* buying and selling in sharia economic law is often associated with *salam* buying and selling. *Salam* sale and purchase is a sale and purchase where the price of the goods is paid first and the buyer will receive the ordered goods later. *Salam* buying and selling is also often referred to as order buying and selling, where at the time of

the contract the goods to be purchased are not yet available, so the buyer will be asked to pay first, then the order will be processed and the goods will be received.

An online shopping application that is often used is the shopee application. Shopee provides a wide selection of products, such as *fashion*, care and beauty, household needs and others. Shopee also provides various payment methods that can make it easier for users to make buying and selling transactions.

One of the payment methods that is often used is *shopeepaylater*. *Shopeepaylater* is a buy now pay later payment method, provided by PT Commerce Finance to provide loans for eligible shopee users. The purpose of this *shopeepaylater* payment method itself is to facilitate users in making buying and selling transactions. *Shopeepaylater* is subject to an installment fee (interest rate and other fees) of at least 2.95% for buy now pay later completed in 1 month, as well as installments of 3 months, 6 months to 12 months.

With the ease of the payment system, students in this case as debtors become negligent in fulfilling their responsibilities. An agreement can be carried out properly if both parties can fulfill their obligations as agreed at the beginning, without harming either party. However, in practice, there are defaults committed by the debtor, in this case students of the sharia economic law study program at the sharia faculty of UIN Mataram.

This default in the compilation of sharia economic law (KHES) is the same as breaking promises. According to article 36 of KHES, a party can be said to have broken a promise if he does what was promised but is late and does not do what he promised to do.<sup>6</sup> This default is caused by an element of intent and negligence on the part of the debtor, namely students, in fulfilling their achievements, namely not giving creditors their rights as they should.

Every agreement that is made properly, must be followed in good faith, free from fraud, forgery, or violation. If we stick to the principle of the agreement, then we will be kept away from things that are prohibited by Islamic Sharia. The factors that influence debtors to default are insufficient money, more urgent campus needs, financial limitations and no good faith to pay installments.

According to Article 38 KHES, if a person breaks a promise or defaults, he will be subject to sanctions, namely paying compensation and fines.<sup>7</sup> In this case, shopee will impose sanctions on users who make defaults in the form of late payment fines of 5% of the total installments of the last month and paid the following month, access restrictions in using the shopee application and shopee *vouchers*, registered with the OJK SLIK (Financial Information Service System) which can prevent *shopeepaylater* users from obtaining financing from banks or other companies, on the *black list of shopeepaylater* users and finally telephone collection or field collection.

Sale and purchase is an exchange of ownership rights from one party to another. this sale and purchase activity is carried out between the seller and the buyer. The pillars and conditions that must be met in this sale and purchase agreement, namely:

### **1. Akad/Contract**

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<sup>6</sup> *Ibid*, p. 20.

<sup>7</sup> *Ibid*, p. 21.

A contract can occur if the pillars and conditions of the contract can be fulfilled, namely:

- a. The contracting party in this case is the *aqid* (the person who makes the contract / subject), namely the party who can make the transaction in this case the shopee and shopee users.
- b. *Ma'qud 'Alaih* or the object of the transaction, which belongs to the seller, the object being traded must be clear and pure from impurity.
- c. *Shighat* or *ijab* and *qabul* is an expression of agreement between the two parties in making a contract or agreement. *Ijab qabul*, which is carried out by shopee and shopee users, is carried out in writing through the shopee application where only sellers, buyers and third parties, namely those who provide *shopeepaylater* payments, know the contents of the agreement.
- d. The division of contracts in this *shopeepaylater* transaction process is included in a valid contract whose pillars and conditions have been fulfilled so that there are binding legal consequences.

## **2. Buying and selling**

The perspective of buying and selling on this *shopeepaylater* based on the theory above shows that the buying and selling process in terms of delivery is included in buying and selling with payment first and receiving goods later. In this case, the sale and purchase is included in the salam sale and purchase. The pillars and conditions of buying and selling that must be fulfilled:

- a. The parties to the contract in buying and selling on this *shopeepaylater* have been fulfilled, *first* the seller and buyer are reasonable people, because they can run the application *platform* provided. *second* is a person who is pubescent, this can be seen from the sources who are shopee users from among capable students. *Finally*, people who have the right to use their property, this is clear and visible when users who make buying and selling transactions are entitled in terms of age, the origin of the property used and are able to be responsible for the legal consequences.
- b. *Shigat* or *ijab kabul shopeepaylater* has met the requirements because the person who makes the transaction is said to be *baligh*. The *Kabul* is in the form of delivery of goods sent via expedition and payment with an installment system that is subject to interest and fines if there is a delay. As for the *ijab* and *kabul* carried out in an assembly, this is done but not in an assembly, because the *ijab* and *kabul* in this *shopeepaylater* transaction are carried out in an application that already has its own provisions so that if the user agrees to these provisions, then the user has made *ijab* and *kabul*.
- c. The goods traded must be clearly *halal*, useful for its users, clear origin and both parties know the type and substance contained in the goods.
- d. This type of *shopeepaylater* sale and purchase is classified as a type of *salam* sale and purchase, where *salam* sale and purchase is exchanging debt for goods. The entry of this *shopeepaylater* into *salam* buying and selling because in the transaction process the buyer first gives money to the seller and receives the goods later.

*Online* buying and selling in sharia economic law is often associated with salam buying and selling. Salam sale and purchase is a sale and purchase where the price of the goods is paid first and the buyer will receive the ordered goods later. Salam buying and selling is also often referred to as order buying and selling, where at the time of the contract the goods to be purchased are not yet available, so the buyer will be asked to pay first, then the order will be processed and the goods will be received.

Sharia economic law contains the main provisions regarding engagement and agreements, by giving parties the freedom to choose the various forms of contracts they want to make. Therefore, if Ijab and Qabul have been properly executed, it is considered to have fulfilled the contract. The contract is valid as long as it is made and executed by the parties in accordance with the stipulated requirements and implementation.

This kind of sale and purchase is prescribed in Islam based on the word of Allah. Surat Al-Baqarah 2: verse 282 which reads:

﴿ يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَيْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ ۚ وَلْيَكْتُب بَيْنَكُمْ كَاتِبٌ بِالْعَدْلِ وَلَا يَأْب كَاتِبٌ أَنْ يَكْتُبَ  
كَمَا عَلَّمَهُ اللَّهُ فَلْيَكْتُبْ وَلْيَمْلِكِ الَّذِي عَلَيْهِ الْحَقُّ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلَا يَبْخَسْ مِنْهُ شَيْئًا فَإِنْ كَانَ الَّذِي عَلَيْهِ الْحَقُّ سَفِيهًا أَوْ  
ضَعِيفًا أَوْ لَا يَسْتَطِيعُ أَنْ يُمِلَّ هُوَ فَلْيَمْلِكْ وَلْيُهَادِلْ بِالْعَدْلِ ۚ وَأَسْتَشْهِدُوا شَهِيدَيْنِ مِنْ رِجَالِكُمْ فَإِنْ لَمْ يَكُونَا رَجُلَيْنِ فَرَجُلٌ  
وَأَمْرَاتْنِ مِمَّنْ تَرْضَوْنَ مِنَ الشُّهَدَاءِ أَنْ تَضِلَّ إِحْدَاهُمَا فَتُذَكَّرَ إِحْدَاهُمَا الْأُخْرَىٰ ۚ وَلَا يَأْبُ الشُّهَدَاءُ إِذَا مَا دُعُوا ۗ وَلَا  
تَسْمَعُوا أَنْ تُكْتَبَ لَهُ سَعِيرًا أَوْ كُبِيرًا إِلَىٰ أَجَلٍ ۚ ذَلِكُمْ أَقْسَطُ عِنْدَ اللَّهِ وَأَقْوَمُ لِلشَّهَادَةِ وَأَدْنَىٰ أَلَّا تَرْتَابُوا ۗ إِلَّا أَنْ تَكُونَ تِجَارَةً  
حَاضِرَةً تُدِيرُونَهَا بَيْنَكُمْ فَلَيْسَ عَلَيْكُمْ جُنَاحٌ أَلَّا تُكْتَبَوهَا ۗ وَأَشْهِدُوا إِذَا تَبَايَعْتُمْ ۗ وَلَا يُضَارَّ كَاتِبٌ وَلَا شَهِيدٌ ۗ وَإِنْ تَفَعَّلُوا  
فَإِنَّهُ فُسُوقٌ بِكُمْ ۗ وَاتَّقُوا اللَّهَ ۗ وَاعْلَمُوا أَنَّ اللَّهَ ۗ وَهُوَ بِكُلِّ شَيْءٍ عَلِيمٌ ۗ ﴿٢٨٢﴾ (البقرة/2: 282).

*Meaning: O you who believe, when you enter into debts for a fixed time, record them.*

*Let a recorder among you write it down correctly. Let not the recorder refuse to write it down as Allah has taught him. Let him record it, and let the debtor dictate it. Let him fear Allah, his Lord, and let him not deduct anything from it. If the debtor is of unsound mind, or incapable of dictating, let his guardian dictate it correctly. Seek the testimony of two male witnesses among you. If there are not two men, (it is permissible) one man and two women among those whom you like among the witnesses, so that if one of them forgets, the other may remind him. Let not the witnesses refuse when called. Do not tire of recording it until the time limit, whether the debt is small or large. That is fairer in the sight of Allah, more likely to corroborate the testimony, and less likely to leave you in doubt, unless it is a cash trade between you. Then there is no sin on you if you do not record it. Take witnesses when you buy and sell, and do not make it difficult for the recorder, and do not make it difficult for the witnesses. If you do so, it is indeed an unrighteousness on your part. Fear Allah,*

*<sup>8</sup>Allah will teach you, and Allah knows all things*

Any agreement that is made properly, must be followed in good faith, free from fraud, forgery, or violation. If we stick to the principles of the agreement, then we will be kept away from things that are prohibited by Islamic law.

The above statement contradicts the results of research conducted by researchers, where there are defaults made by students of the sharia economic law study program at UIN Mataram. In this case, students are called defaulting if they do not fulfill their obligations, namely paying installments according to the specified deadline. Default is

<sup>8</sup>QS. Al-Baqarah [2]: 282

classified as a prohibited act according to sharia economic law, because it does not provide obligations for what belongs to the rights of others. So the debtor, namely the student, will be subject to sanctions in the form of payment of compensation and fines to the creditor.

Both parties in the sale and purchase contract must not violate the agreed agreement, if one of the parties violates this, it is considered to be in default. According to article 36 KHES, a party can be considered to have broken a promise, if due to his fault:

- a. Not doing what was promised to do.
- b. Performs what it promises but not as promised;
- c. Perform what was promised, but late; or
- d. Doing something that according to the agreement should not be done.<sup>9</sup>

Based on article 36 KHES above, students in this case as debtors are included in points a and b. Because their mistakes can harm the creditor in this case shopee.

Islamic economic law emphasizes seriousness in carrying out the agreements they make, so that anyone who ignores or violates the agreement is considered a hypocrite, as said by the Prophet Muhammad PBUH, classified as:

Abu Hurairah ra The Messenger of Allah PBUH said: *There are three characteristics of a hypocrite, namely, when speaking he lies, when promising he reneges, and when trusted he betrays.*<sup>10</sup>

Looking at the above Hadith, we can understand that people who commit violations intentionally are called hypocrites, namely not carrying out or fulfilling the duties assigned to them.

As stipulated in article 38 KHES, if a party breaks a promise, it will be subject to sanctions, namely:

- a. Paying compensation
- b. Cancellation of the contract
- c. Transfer of risk
- d. Fines
- e. Paying the case<sup>11</sup>

Therefore, if the debtor breaks the promise, he will be subject to sanctions, namely in accordance with points a and d, namely paying compensation in the form of a late fee of 5% of the total installments and paid in the following month.

Based on the facts found in the field, it can be concluded that both parties in the sale and purchase agreement must not violate the agreed agreement, if one party violates this, it is considered to have committed a default. The practice of default is a prohibited act. Allah swt forbids his people to just take advantage of the goodness of others by not considering the common good. If both parties have bound themselves in an agreement, then both parties, namely the debtor and the creditor, must fulfill their responsibilities as agreed at the beginning. However, if one party violates the agreement, it is considered to have made a default, because it has harmed the other

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<sup>9</sup>*Ibid*, p. 20.

<sup>10</sup>Ghufron Masadi, *Contextual Muamalah Fiqh*, (Jakarta: Raja Grafindo Persada, 2002), p. 56. 56.

<sup>11</sup>*Ibid*, p. 21.

party. These are the main provisions in sharia economic law regarding default and if the legal event is carried out intentionally then it is a form of default. However, if there is negligence for some reason, it is called a state of force (*overmacht*).

#### 4. CONCLUSION

Based on the results of research conducted by researchers on *Sharia Economic Law Review of Default Fines in Shopeepaylater Sale and Purchase Transactions Case Study of Sharia Economic Law Study Program Students at State Islamic University (UIN) Mataram*, the following conclusions can be drawn:

1. The form of default committed by students of the *sharia* economic law study program, in making buying and selling transactions using *shopeepaylater* in the shopee application, namely the debtor is late in performing and the debtor does not perform at all, which has fulfilled the elements of default, both intentional errors as regulated in article 1453 of the Civil Code and errors due to negligence regulated in article 1238 of the Civil Code. The factors that influence this are insufficient money, more urgent campus needs, financial limitations and no good faith to pay installments. Shopee will impose sanctions on users who make defaults in the form of late payment fines of 5% of the total installments of the last month and paid the following month, access restrictions in using the shopee application and shopee *vouchers*, registered with the OJK SLIK (Financial Information Service System) which can prevent *shopeepaylater* users from obtaining financing from banks or other companies, *blacklisted* from *shopeepaylater* users and finally carried out telephone collection or field collection.
2. Both parties in the sale and purchase contract must not violate the agreed agreement, if one of the parties violates this, it is considered to have made a default. In the compilation of sharia economic law (KHES), default is the same as breaking promises. According to article 36 of KHES, a party can be said to have broken a promise if it does what it promised but is late and does not do what it promised to do. According to article 38 KHES, if a person breaks a promise or defaults, he will be subject to sanctions, namely paying compensation and fines. In this case, the party who made the default, namely the debtor or student, must pay compensation to the creditor or shopee by paying a fine of 5%. In addition, the sale and purchase transaction using shopeepaylater payment in the shopee application is in accordance with the pillars and conditions in the sale and purchase contract.

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