

Performance of Islamic Law Against Pawn Implementation Systems in Betung Village Lubuk Keliat Sub-District Ogan Ilir District

Nova Yanti Maleha, Saprida

Abstract: *The practice of pawning is not always in accordance with what is happening on the ground. The implementation of a land mortgage in the village of Betung, Lubuk Keliat District, Ogan Ilir Regency, South Sumatra Province in Indonesia so far has not been in accordance with Islamic Law. In line with this problem, this study aims to find out the rahn system in Betung village, Lubuk Keliat sub-district, Ogan Ilir Regency, South Sumatra Province in Indonesia, and to find out a review of Islamic law on the rahn implementation system in the village. In this study used qualitative data types, with primary data sources obtained using field studies through interviews with some of the wombs and murtahin who carry out rahn or pawn in the village of Betung. While secondary data is taken from documentation and literature relating to the problem under study, then the data collected has been analyzed qualitatively using interpretive deductive analysis instruments. The observations obtained through this research are the pawning system carried out by a part of the Betung village community that is using the use pawn system and trondol which is contrary to rahn.*

Keywords: *Islamic law, Rahn, Rahin Murtahin*

I. INTRODUCTION

Heaven and earth and everything in this universe belongs to God. God is the true owner of all of that, even though God has given humans some of the rights to fulfill whatever they need to sustain their existence on earth. However, the rights granted to humans are limited, the human position is actually only the holder of the mandate and the recipient of an abundance of power. The limited ownership or mandate that God bestows on humans in relation to the assets given to them is not without the meaning of God's wisdom that underlies the principle of trust is that humans should not hoard their wealth by treating it as their own and completely preventing others from using it. Instead the excess human wealth must flow to others who need [1].

Islam as a universal celestial treatise, came to deal with human life in various aspects, both spiritual and material aspects. This means not only creed, but also includes political, social, cultural and economic systems aimed at all people. This is what is expressed in terms of: Islam is an *ad-din* that covers matters of faith and sharia.

Revised Manuscript Received on September 22, 2019.

Nova Yanti Maleha, College of Economics and Business Sharia Indo Global Mandiri, STEBIS IGMJI. Jendral Sudirman Km.4 No.629 Palembang, Indonesia

Saprida, College of Economics and Business Sharia Indo Global Mandiri, STEBIS IGMJI. Jendral Sudirman Km.4 No.629 Palembang, Indonesia

As a perfect religion, Islam is equipped with economic systems and concepts. This system can be used as a guide for humans in carrying out economic activities. The teachings about Islam about the economy, will always be interesting to discuss. In everyday life, the economy is a wheel of life as a container to meet human material needs, both in individual and social life.

In everyday life, the economy is a wheel of life as a container to meet human material needs, both in individual and social life. As a devout Muslim, certainly various business activities or businesses are based on Islamic financial transactions [2].

Betung villagers usually pawn the fields or plantations to their own relatives or neighbors. The pawn system is carried out by a part of the Betung village community, namely the use pawn system and *trondol*. Pawn use means that goods that are mortgaged by *rahin* are used by *murtahin*, for example, rice fields managed by *murtahin* the results return to *murtahin* without reducing the amount of *rahin* debt. The *trondol* system, namely *murtahin*, which lends money to *rahin* requires more money when returning money to *murtahin*, for example *rahin* borrows money to *murtahin* in the amount of Rp. 1,000,000 within two months with a guarantee of a motorcycle (STNK), *murtahin* granted *rahin* request on condition that the repayment of *rahin*'s debt must exceed the payment to Rp. 1,200,000. Whereas in Islam the act of taking benefits against mortgages and the excess in paying debts is usury, usury acts that are prohibited in Islam. Based on this background, this research will design a rahn implementation system in Betung village, Lubuk Keliat sub-district, Ogan Ilir Regency, then conduct a review of Islamic law on the implementation of rahn in Betung village, Lubuk Keliat sub-district, Ogan Ilir Regency, and find out the rahn implementation system in Betung sub-district. Lubuk Keliat Ogan Ilir Regency. From this research, it is expected that the pawn implementation system in the village of Betung can run according to the purpose of rahn to help one another in accordance with Islamic law, so that the rahn implementation system has a contribution to the welfare of society.

II. LITERATURE REVIEW

A. Understanding Rahn / Pawn

Rahn is also named *al-habsu*. *Rahn* is etymologically that is permanent and long, while *al-habsu* is the containment of



Performance of Islamic Law Against Pawn Implementation Systems in Betung Village Lubuk Keliat Sub-District Ogan Ilir District

an item with rights so that it can be used as payment for the item [3].

Some scholars define Rahn as follows:

1. According to sayyid sabbiq is to make a valuable item from the perspective of syara 'as collateral for debt.
2. According to Muhammad Rawwas Qal'ahji rahn, namely to strengthen debt with debt guarantees
3. According to Masjfuj Zuhdi *Rahn* is a loan agreement or loan agreement by handing over goods as a debt dependent.
4. According to Nasrun Haroen *Rahn* is to make a (goods) as collateral for rights (receivables) that may be used as payment of rights (receivables), either in whole or in part [4]
5. According to Sheikh Wahban Zuhaili, rahn is to make an object as collateral for a debt, where the debt can be repaid (paid) from the object (the collateral) when the repayment is experiencing difficulties [5].

B. Pillars and Pawn Terms (Rahn)

In carrying out an agreement, there are harmony and pawn requirements that must be met. In harmony language is what must be fulfilled for the validity of a job. While the terms of the provisions (regulations, instructions) that must be moved and carried out. Plans or loans with collateral objects have several pillars, including:

1. Lafaz is a contract stating that the two agree to owe by providing collateral and receiving collateral within a certain time.
2. The person who pawned and the person who received the mortgage goods. Both are mature and intelligent.
3. Insurance item. Each of these collateral items can be traded again and not damaged before the promise of debt must be paid.
4. Debt as borrowed money [6].

Rahn's requirements include:

- a. *Rahin* and *murtahin*. Regarding the giver and recipient of the pawning, both of them are required to be able to do something legal in accordance with the provisions of the Islamic Shari'a, namely understanding and *baligh*.
- b. *Sighat*. Hanafiyah scholars argue that *sighat* in rahn may not use conditions or be associated with something. This is because *Rahn* buying and selling, if you use certain conditions, these conditions are canceled and rahn remains valid.
- c. Marhun bih (debt). Regarding the existence of debt, that debt is required to be a permanent debt, in other words the debt is not an increasing debt or debt that has interest, because if the debt is an interest-bearing debt, the agreement is an agreement that contains elements of usury, while this usury acts contrary to the provisions of Islamic law.

According to Nasrun Haroen *Rahn* is to make a (goods) as collateral for rights (receivables) that may be used as payment of rights (receivables), either in whole or in part.

C. Utilize Mortgaged Goods

In utilizing the mortgaged goods, the scholars differed. Jumhur Fuqaha argues that *murtahin* should not take advantage of these pawn items, even though the womb allows it, because this includes the debt that can attract benefits, so when used including usury. Rasulullah Saw. said which means: "Animal mounts may be ridden because of financing if mortgaged, animals can be taken milk to drink

because the financing if mortgaged for people who hold and drink it must provide fees".

The taking of benefits on the pawn items above is emphasized on the cost or energy for maintenance so that those who hold the pawn items as above have additional obligations. The lien holder is obliged to provide food if the pawned item is an animal. Must provide gas if the holder of a mortgage goods in the form of a vehicle. So, what is allowed here is an effort to maintain the pawn items on him.

Regarding the use of mortgaged goods by mortgaged people, there are two opinions from ulama circles, besides Syafiyah argues that mortgages should not use mortgages. According to the Syafi'iyah it is permissible for the mortgaging party to use mortgaged goods as long as it does not cause a dispute with the recipient of the pawn. Hanafiyah opinion that the mortgaged party may not use the goods that have been pawned, regardless of the type and shape of the goods, both vehicles, residences and others, unless the pawn recipient allows it. This also applies to the recipient of the pawn, he is not permitted to make use of pawned goods or collateral unless authorized by the mortgaging party.

Arguments of the Hanafiyah, because the right to hold the goods in the hands of pawn recipients. Meanwhile, according to the more extreme Malikiyah circles, for those who pawned may not take advantage of pawning goods, even though the recipient of the pawn allows it. Permission granted by the recipient of the pawn cancels the pawn. For Malikiyah, the benefits of mortgage goods are a right for the owner of the goods, but he must submit it to the recipient of the pawn. While the Syafi'iyah believes that the owner of the goods is entitled to the benefits of his belongings. What is produced from mortgage goods also belongs to the owner of the goods [7].

Problems regarding the use of pawning goods by the pawn recipient. Jumhur ulama, except Hanabilah do not allow pawn recipients to use pawning goods. Malikiyah argues, if the owner of the goods or the mortgaging party allows or requires it, it is permissible for the recipient of the pawn to utilize the pawned goods if the debt in the pawning agreement is debt for sale and purchase. If the debt is qardh, then no. While the Hanbaliyah opinion, if the pawned goods are goods that do not require maintenance costs, the pawn recipient may not use it without the permission of the pawning party, because the pawned goods and what they produce are the property of the pawned party. If pawning goods require care and maintenance, such as livestock, the pawning party may use them. (Al-Daraqutni, Sunan Al-Daraqutni, 3/33 (Kitab al-Buyu', No. 127) [8].

III. METHODOLOGY

A. Research sites

This research was conducted in the village of Betung, it is approximately 6 KM from Lubuk Keliat District, Ogan Ilir Regency, South Sumatra Province in Indonesia.



B. Types of research

The data used in this study are qualitative data, in the form of the data which was taken from direct interviews with some Betung villagers.

C. Data source

In this study there are two sources of data used, namely primary and secondary. Primary data is the main data obtained by using a field study interviewing respondents who carry out the sale and purchase of rubber in the village of Betung. While secondary data is taken from documentation in the Betung village head's office such as population, livelihoods and literature related to the problem under study, such as literature books that are related to the issues discussed.

D. Population and Sample

The population in this study is less than 100 respondents, They are the people who made pawn transactions in the village of Betung. The sample of respondents in this study consisted of 30 people who carried out a rubber pawning transaction in the village of Betung.

E. Data collection technique

Data collection techniques use the following steps:

1. The method of observation, data collection begins by making observations / observations to some Betung village community. This method is carried out to see the objective atmosphere of the pawning behavior, this is the initial data in direct observation at the research location and observing pawn activities in the village of Betung.
2. Interviews were conducted directly and conducted in a directed and in-depth manner. The type of interview chosen using the interview guide (guided interview) in a planned manner (based) on *rahin* and *murtahin* in Betung village in order to find out their opinions about the pawn implementation system in Betung village.
3. The documentation method, in this case the researcher will research and study in depth about the pawn in the village of Betung. This tool is used to obtain data from sources that have been documented at the research location, especially about population, education level data, religious understanding, community economic status and other data related to the problem.

F. Data analysis technique

The collected data is then analyzed qualitatively using interpretive deductive analysis instruments. With deductive means the researcher will analyze the interpretations that come from the answers of all respondents and then drawn to the interpretation specifically. Interpretation means the researcher will interpret, make interpretations that are based on evidence (facts, evidence and information) in order to obtain objective results. So with this instrument, the researcher tries to outline the views of each party included in the sample first then looks for the substance.

IV. RESULT AND DISCUSSION

Data collection was carried out in this study by interviewing some Betung village people, *rahin* 20 people and *murtahin* 10 people. This interview was conducted in

the village of Betung, Lubuk Keliat District, which was conducted from May 2 to June 30, 2019, so as to get the results of the pawn transaction between *rahin* and *murtahin*.

A. Pawn Implementation System in Betung Village, Lubuk Keliat District, Ogan Ilir Regency, South Sumatra Province in Indonesia

In the culture of the village of Betung, a pawn is defined as giving up land to receive an amount of cash in cash, provided that the seller (pawner) remains entitled to return his land by redeeming it. Complete and perfect religion of Islam has laid down the basic rules and rules in all aspects of human life both in worship and also *mu'amalah* (relations between beings). Everyone must need to interact with each other to cover each other's needs and help one another help. Debts and receivables sometimes it cannot be avoided, even though there are many phenomena of mistrust among humans, especially in this day and age. So people are urged to ask for collateral for objects or valuables in lending their property.

The pawn system has long been implemented in the midst of the community in the village of Betung, Lubuk Keliat District, South Sumatra Province in Indonesia. The paddy or pawn farm system that is carried out in the village of Betung can be explained as follows, First, the pawn system is used, the maturity is according to the agreement between *rahin* and *murtahin*. As long as *rahin* debt has not been paid to *murtahin*, the results of the mortgaged business belong to *murtahin*, assuming *rahin* debt is not reduced. Second, borrowing interest or childbirth or the term in the village of Betung *trondol* money, assuming repayments are paid monthly and interest is 10% per month from the amount of the initial debt of the womb.

Mortgage use means goods that are mortgaged by *rahin* are used by *murtahin*, for example estate land managed by *murtahin* results return to *murtahin* without reducing the amount of *rahin* debt. This pawning system is carried out without coercion from both parties, *murtahin* will give loan money to *rahin* with the agreed amount. Likewise, the land management carried out by *murtahin*, as long as *rahin* has not been able to return the loan money to *murtahin*, the results of the processing will return to *murtahin*.

The *trondol* system, namely *murtahin*, which lends money to *rahin* requires more money when returning money to *murtahin*, for example *rahin* borrows money to *murtahin* in the amount of Rp. 2,000,000. within a period of five months with collateral for securities, *murtahin* granted the request of *rahin* on the condition that when returning the debt, *rahin* must increase the payment to Rp. 2,500,000.

B. Overview of Islamic Law Against a Pawn Implementation System in Betung Village Lubuk Keliat District Ogan Ilir Regency South Sumatra Province in Indonesia

According to Ulema Syafi'iyah, the womb may make use of pawn items as long as it does not reduce or damage the material value of the goods such as driving a vehicle, occupying a house,



Performance of Islamic Law Against Pawn Implementation Systems in Betung Village Lubuk Keliat Sub-District Ogan Ilir District

wearing clothes and so forth from pawning property. This ability is based on the legal proposition that the benefits and proceeds of the pawning property belong to *rahn* and cannot be related to the debt incurred. Malikiyah scholars do not allow pawning holders to use pawning goods, if the debt is in the form of a loan.

Hanafiyah must not use pawning goods, because he only has the right to master them and may not use them, despite obtaining permission from the person who pawned the goods. According to some Hanafiyah scholars, pawning items may be used by pawning holders if they have obtained permission from the person who pawned the goods.

According to Hanabilah scholars, if a pawning item is in the form of an animal, the pawning holder may make use of it such as driving or taking his milk merely to reimburse the fee, even if it is not permitted by the person who pawned the item. As for pawning goods other than animals, may not be used, except with the permission of the person who pawned the goods.

Jumhur scholars of jurisprudence, in addition to scholars' Hambali school of thought, believes that the collateral holder must not make use of the collateral goods, because the goods do not fully belong to him.

The right of the collateral holder of the goods is only as collateral for the receivables he gives, and if the debtor is unable to repay his debt, the debtor must sell or value the item to repay the debt. The reasons for jumhur ulama are based on the words of Rasulullah SAW which means "collateral must not be hidden by the owner, because the results (from collateral) and the risk (arising from the item) are his responsibility" (HR. Al-Hakim, Al-Baihaqi and Ibn Hibban from Abu Hurairah) [9].

However, if the owner of the property allows the collateral holder to use the item while in his hand, then some Hanafi School of Law scholars allow it, because with the permit there is no obstacle for the collateral holder to use the item. However, the Maliki school of scholars, and the Shafi'ite School argue, even though the owner of the item allows the collateral holder to be able to utilize the collateral goods but still the creditor may not use the collateral item. The reason is because, if the collateral is utilized, the results of the utilization constitute usury which is prohibited by syara', although permitted and approved by the owner of the item. In fact, according to them, pleasure and permission are actually more inclined in the heart of a forced state, for fear of not getting the money to be borrowed. In addition, according to usury issues, permission and approval do not apply.

V. CONCLUSIONS

The pawn system is carried out by some Betung villagers using the use of pawnshop and *trondol* system. The use of the pawn system and the *trondol* system carried out by some Betung villagers is against Islamic teachings, because the used pawn system and the *trondol* system are usury.

Sharia pawn or *Rahn* must be socialized to the Betung Village community especially because understanding of *Rahn* is still very minimal by the community. This is very important considering *Rahn* is one of the contracts allowed in Islam, but must be in accordance with the pillars and

conditions contained in the provisions of Islamic Law.

REFERENCES

1. Chaudhry, Muhammad Sharif. 2014. *Sistem Ekonomi Islam: Prinsip Dasar*. Kencana (Prenada Media Group), Jakarta.
2. Rozalinda. 2016. *Ekonomi Islam: Teori dan dan Aplikasinya pada Aktivitas Ekonomi*. PT. Raja Grafindo Persada, Jakarta.
3. Mardani. 2015. *Fiqh Ekonomi Syariah Fiqih Muamalah*. Kencana (Prenada Media Group), Jakarta.
4. Ghazali, Abdul Rahman. dkk. 2012. *Fiqh Muamalat*. Kencana (Prenada Media Group), Jakarta.
5. Muslich, Ahmad Wardi. 2010. *Fiqh Muamalat*. Amzah, Jakarta.
6. Nurhayati dan Ali Imran Sinaga. 2018. *Fiqh dan Ushul Fiqh*. Kencana (Prenada Media Group), Jakarta.
7. Mustofa, Imam. 2016. *Fiqh Muamalah Kontemporer*. PT. Raja Grafindo Persada, Jakarta.
8. Internasional Shariah Research Academy for Islamic Finance (ISRA). 2015. *Sistem Keuangan Islam: Prinsip dan Operasi*. PT. Raja Grafindo Persada, Jakarta.
9. Sjahdeini, Sutan Remy. 2015. *Perbankan Syariah dan Aspek-aspek Hukumnya*. Kencana (Prenada Media Group), Jakarta.