

Tinjauan yuridis perbandingan akad Ijarah Muntahiyah Bit Tamlik (IMBT) dan akad musyarakah Mutanaqisah dengan jaminan hak tanggungan dalam pembiayaan pembelian rumah : studi penerapan akad pada bank syariah ("bank X") dan unit usaha syariah bank konvensional ("Bank Y" = A comparative juridical review akad Ijarah Muntahiyah Bit Tamlik (IMBT) and akad Musharaka Mutanaqish with guarantee mortgage financing in buying houses : application study at the Islamic Bank ("Bank X") and the Islamic Unit of Conventional Bank ("Bank Y"))

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Abstrak

Adanya keterpaduan antara ilmu ekonomi dan ilmu fiqh guna mengembangkan produk Syariah sangat diperlukan. Metode penelitian berbentuk yuridis normative. Alat pengumpulan data berupa studi dokumen dan wawancara. Jenis data yaitu data sekunder, mencakup dokumen resmi, buku, hasil penelitian berwujud laporan, buku harian. Type penelitian ini adalah deskriptif. Metode analisis data yaitu kualitatif. Akad Syariah pada Bank Syariah dan Unit Syariah Bank Konvensional memiliki karakteristik tersendiri. Namun ada persamaan dan perbedaan Akad Ijarah Muntahiyah Bit Tamlik (IMBT) dan Musyarakah Mutanaqisah. Persamaan itu berupa persamaan atas subjek, objek dan tujuan akad. Namun perbedaannya yaitu dari segi pembayaran Ijarah, dan pengembalian porsi kepemilikan bank, dan nilai pertanggungan. Umumnya penerapan akad Ijarah Muntahiyah Bit Tamlik (IMBT) dan Musyarakah Mutanaqisah, memberikan posisi Bank Syariah dan Unit Syariah Bank Konvensional selaku kreditor dan nasabah selaku debitor. Ini berarti terjadi perubahan tujuan akad itu. Pengkajian ulang atas produk Ijarah Muntahiyah Bit Tamlik (IMBT) dan Musyarakah Mutanaqisah harus segera dilakukan. Hal ini didasarkan pada kerangka teori yang berbeda jauh dengan praktik. Nasabah adalah selaku penyewa untuk Ijarah Muntahiyah Bit Tamlik (IMBT) dan selaku pemilik modal dalam akad Musyarakah Mutanaqisah. Konsistensi penerapan produk Ijarah Muntahiyah Bit Tamlik (IMBT) dan Musyarakah Mutanaqisah harus segera dilakukan oleh Bank Syariah dan Unit Syariah Bank Konvensional. Jika tidak maka akan banyak terjadi penyimpangan Syariah atas produk perbankan tersebut. Peningkatan profesionalisme dan efisiensi akan dapat mengurangi tidak sempurnanya penerapan produk Syariah.

.....The existence of integration between economics and the science of fiqh in order to develop Islamic products is required. Form of juridical normative research methods. Data collection tools in the form of documents and interview studies. The type of data is secondary data, including official documents, books, reports tangible results, diary. Type this research is descriptive. The method of qualitative data analyst. Akad Sharia in the Islamic Bank and the Islamic Unit of Conventional Bank has its own characteristics. But there the similarities and differences Akad Ijarah Muntahiyah Bit Tamlik (IMBT) and Musharaka Mutanaqisah. Equation in the form of the equation on the subject, object and purpose of the contract. But the difference is in terms of Ijarah payments, and the return portion of ownership of banks, and insurance coverage. Generally, the application of the contract of Ijarah Muntahiyah Bit Tamlik (IMBT) and Musyarakah Mutanaqisah, giving the position of the Islamic Bank and the Islamic Unit of Conventional Bank as creditors

and customers as debtors. This means there is a change that contract goals. Review of the product of Ijarah Muntahiyah Bit Tamlik (IMBT) and Musharaka Mutanaqisah must be done immediately. It is based on the theoretical framework that differs significantly with practice. Client is as a tenant for Ijarah Muntahiyah Bit Tamlik (IMBT) and as the owner of capital in Mutanaqisah Musharaka contract. Consistency of application of the product Ijarah Muntahiyah Bit Tamlik (IMBT) and Musharaka Mutanaqisah should be carried out by the Islamic Bank and the Islamic Unit of Conventional Bank. If not it will be many deviations above the Sharia banking products. Increased professionalism and efficiency will be able to reduce imperfections in the application of Sharia products.