

Penulisan denda dalam akta notaris pada jual beli rumah secara murabahah di Bank Syariah = The writing of the late charge in the notary deed on the murabaha homes purchases and sales in the shari ah Banks / Afiati Budiarsih

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Abstrak

[ABSTRAK

Setiap bank syariah mempunyai produk pembiayaan berdasarkan akad murabahah, yaitu akad pembiayaan suatu barang dengan menegaskan harga belinya kepada pembeli dan pembeli membayarnya dengan harga yang lebih sebagai keuntungan yang disepakati. Dalam prakteknya, tidak semua pembiayaan berdasarkan akad murabahah berjalan sesuai kesepakatan antara bank syariah dan nasabah debitur. Untuk keterlambatan pembayaran angsuran murabahah, pada umumnya bank syariah menjatuhkan sanksi berupa denda sejumlah uang yang besarnya disetujui oleh nasabah. Peraturan mengenai pengenaan denda terdapat dalam fatwa Dewan Syariah Nasional No.17/DSN-MUI/IX/2000 mengenai sanksi bagi nasabah mampu yang menunda-nunda pembayaran. Dalam penelitian ini, bentuk penelitian yang digunakan adalah yuridis normatif, dimana sumber hukum dalam agama Islam yaitu dari Al-Quran dan hadis Rasulullah shallallahu 'alaihi wa sallam, fatwa-fatwa DSN, buku-buku mengenai jual beli dalam Islam, peraturan-peraturan mengenai bank syariah, hukum riba dan akad-akad murabahah secara Notariil ditelaah, diteliti dan dievaluasi untuk menuliskan klausul denda yang sesuai dengan ketentuan fatwa DSN dan memenuhi prinsip syariah sebagaimana ditentukan oleh Bank Indonesia. Selain menggunakan jenis data sekunder, penelitian ini juga menggali data dari karyawan di 3 (tiga) bank syariah yang berbeda. Hasil dari penelitian ini diharapkan berguna bagi kaum muslimin agar memahami bahwa akad yang telah ditandatangani harus dipenuhi tepat waktu dengan itikad baik sehingga tidak terkena sanksi berupa denda akibat keterlambatan pembayaran kewajiban pada bank syariah.

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ABSTRACT

Each shari'ah bank has a financing product based on a murabaha contract, namely a financing agreement of goods by affirming the purchase price to the client and the client pays them at a cost plus, as an agreed profit. In practice, it is not all of the financing based on murabaha contract goes according to the agreement between the shari'ah banks and its debtors. For the murabaha installment payment delays, the shari'ah banks are generally impose sanction in the form of a late charge of a sum of money in the amount approved by the client. The regulations regarding the late charge imposition is contained in the National Shari'ah Board fatwa No.17/DSN-MUI/IX /2000 on the sanctions for the capable clients who delay payments. In this study, the research uses a normative juridical, where the source of law in Islam namely the Al-Quran and the Hadith of Prophet Rasulullah shallallahu 'alaihi wa sallam, the DSN fatwas, the books on buying and selling in Islam, the rules regarding shari'ah banks, the usury laws and the murabaha-contracts is studied, researched and evaluated from the notary standpoint to write the late charge clause in accordance with the provisions of DSN fatwa and meet the shari'ah principles as determined by Bank Indonesia. In addition using the secondary data, this study also explores the data from the employees in three (3) different shari'ah banks.

Results from this study are expected to be useful for the Muslims to comprehend that the contract that has been signed must be met on time in good faith so it is not exposed to a late charge due to late payment obligations to the shari'ah banks Shari'ah Bank, Murabaha Contract, Late Charge, Fatwa of the National Shari'ah Board; Each shari'ah bank has a financing product based on a murabaha contract, namely a financing agreement of goods by affirming the purchase price to the client and the client pays them at a cost plus, as an agreed profit. In practice, it is not all of the financing based on murabaha contract goes according to the agreement between the shari'ah banks and its debtors. For the murabaha installment payment delays, the shari'ah banks are generally impose sanction in the form of a late charge of a sum of money in the amount approved by the client. The regulations regarding the late charge imposition is contained in the National Shari'ah Board fatwa No.17/DSN-MUI/IX /2000 on the sanctions for the capable clients who delay payments. In this study, the research uses a normative juridical, where the source of law in Islam namely the Al-Quran and the Hadith of Prophet Rasulullah shallallahu 'alaihi wa sallam, the DSN fatwas, the books on buying and selling in Islam, the rules regarding shari'ah banks, the usury laws and the murabaha-contracts is studied, researched and evaluated from the notary standpoint to write the late charge clause in accordance with the provisions of DSN fatwa and meet the shari'ah principles as determined by Bank Indonesia. In addition using the secondary data, this study also explores the data from the employees in three (3) different shari'ah banks. Results from this study are expected to be useful for the Muslims to comprehend that the contract that has been signed must be met on time in good faith so it is not exposed to a late charge due to late payment obligations to the shari'ah banks Shari'ah Bank, Murabaha Contract, Late Charge, Fatwa of the National Shari'ah Board, Each shari'ah bank has a financing product based on a murabaha contract, namely a financing agreement of goods by affirming the purchase price to the client and the client pays them at a cost plus, as an agreed profit. In practice, it is not all of the financing based on murabaha contract goes according to the agreement between the shari'ah banks and its debtors. For the murabaha installment payment delays, the shari'ah banks are generally impose sanction in the form of a late charge of a sum of money in the amount approved by the client. The regulations regarding the late charge imposition is contained in the National Shari'ah Board fatwa No.17/DSN-MUI/IX /2000 on the sanctions for the capable clients who delay payments. In this study, the research uses a normative juridical, where the source of law in Islam namely the Al-Quran and the Hadith of Prophet Rasulullah shallallahu 'alaihi wa sallam, the DSN fatwas, the books on buying and selling in Islam, the rules regarding shari'ah banks, the usury laws and the murabaha-contracts is studied, researched and evaluated from the notary standpoint to write the late charge clause in accordance with the provisions of DSN fatwa and meet the shari'ah principles as determined by Bank Indonesia. In addition using the secondary data, this study also explores the data from the employees in three (3) different shari'ah banks. Results from this study are expected to be useful for the Muslims to comprehend that the contract that has been signed must be met on time in good faith so it is not exposed to a late charge due to late payment obligations to the shari'ah banks Shari'ah Bank, Murabaha Contract, Late Charge, Fatwa of the National Shari'ah Board]