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IMPLEMENTATION OF THE MINIMUM INVESTMENT RETURN SYSTEM ON THE PROFIT SHARING OF MUDARABAH FINANCING: A CONTEMPORARY MUAMALAH FIQH PERSPECTIVE

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ABSTRACT

Mudarabah financing is one of the products of sharia banking which has been approved by Fatwa of DSN MUI No: 07-DSN-IV/2000 which discusses mudarabah financing and its provisions. This research aims to determine the implementation of minimum investment returns for Mudarabah financing profits at KSPPS Tamzis Bina Utama Branch Office of Batur Banjarnegara and contemporary muamalah fiqh perspectives on the implementation of minimum investment returns for mudarabah financing profits. The field research study is descriptive qualitative in nature with the research object being revenue sharing from mudarabah financing based on minimum investment returns at KSPPS Tamzis Bina Utama. Data collection by interviews and documentation. The data was then tested for data validity using theoretical triangulation and qualitative descriptive analysis. The research results show that the profit sharing of mudarabah financing at KSPPS Tamzis Bina Utama is in accordance with the theory of profit sharing of mudarabah financing because there are no elements of gharar, maisir, compulsion and disadvantage from either party. This financing is in the nature of a loan so that when members do not make a profit, they are only obliged to repay the loan at the beginning of the contract without any additional profit sharing. Meanwhile, the determination of profit-sharing provisions at the beginning of the contract is permitted by Imam Syafi'i based on sales or money that has been generated from mudarabah financing and KSPPS Tamzis Bina Utama uses a minimum investment return system to determine the profit sharing. This system which is run by KSPPS Tamzis Bina Utama is a form of ijtihad which is used as a reference for the profits that will be obtained, not as a certainty in the profits that will be obtained, and still be negotiated if the mudarib has not met the profits determined by the investment return requirements minimum. So, it can be concluded that the system of minimum investment returns on mudarabah financing loans applied at KSPPS Tamzis Bina Utama according to contemporary muamalah fiqh is legally valid because of the principle of mutual consent, permissibility, and the absence of gharar elements that are uncertain in the transaction.

Keywords: minimum investment return, mudarabah financing, profit sharing, contemporary muamalah fiqh

1.0 INTRODUCTION

Sharia financial institutions in Indonesia are increasingly in demand by the public, especially those who are developing businesses with various contracts offered in collaboration between banks and customers. The development of sharia financial institutions was marked by the formation of Bank Muamalat Indonesia and Baitul Maal wat Tamwil or more commonly known as BMT. In line with efforts to meet inclusive financial needs, BMT is a microfinance institution that has the opportunity to meet the needs of underprivileged communities because the process is not as difficult as at banks (Mi'raj & Ryandono, 2015).

One of the work systems that applies in sharia financial institutions and sharia microfinance institutions is to use a profit & loss sharing system pattern without any additional elements or interest as is applied in conventional financial institutions in general. The agreed profit-sharing contract is the proportion of profit sharing (profit sharing ratio) in terms of percentage of real productivity results. The nominal value for the results that are actually received can only be known after the results of the use of the funds actually exist (ex post phenomenon, not ex ente). The profit-sharing ratio is determined based on the contract of the collaborating parties. The amount of the ratio will usually be influenced by consideration of the contribution of each party in working together and the prospects for obtaining profits as well as the level of risk that may occur (Medias, 2018). In sharia financial institutions, financing products using profit sharing patterns are most popular, one of which is mudarabah financing.

Mudarabah financing is one of the cooperative contracts carried out between capital owners (sahibul mal) and business actors (mudarib) by prioritizing the values of honesty, trust, and mutual contract regarding the business that will be carried out later, in this cooperation contract the profits and losses are shared. Meanwhile, when running a business there is a loss and it is not caused by the manager, the loss will be borne by the capital owner or sharia bank (Andiyansari, 2020). According to Qardhawi as quoted by Arifin and Sa'diyah, mudarabah based on the profit and loss sharing principle is an appropriate alternative for sharia financial institutions that avoids the interest free system which some scholars consider to be the same as with forbidden usury (Arifin & Sa’diyah, 2013). One of the sharia microfinance institutions that uses mudarabah financing is KSPPS (Sharia Financing Savings and Loans Cooperative) Tamzis Bina Utama. What is interesting about this KSPPS is that there is a system applied to the profit sharing of mudarabah financing, namely the Minimum Investment Return system

Minimum Investment Return is a system used by KSPPS Tamzis Bina Utama to determine the percentage of profit sharing from profits obtained by members from Mudarabah financing. In the mudarabah theory which has been explained by several scholars, mudarabah financing is not determined by the size of the rupiah earned but in the form of a percentage divided by the results at the end of the income. However, in this system, Tamzis and mudarib can calculate the rupiah they get at the beginning of the contract, so that later the mudarib will know how much nominal value must be handed over to Tamzis (M. R. W. Wibowo, personal communication, 2023).

Contemporary fiqh is another term for Bahtsul Masail or Masail Fiqhiyah, so it may lead to reducing the meaning of contemporary fiqh to the area of fiqh studies or contemporary issues. So it can be stated that what is meant by contemporary fiqh with the term masail fiqhiyah is the perspective of Islamic law on current (contemporary) problems (Jamil et al., 2017). Qardhawi explicitly emphasized the significance of serious studies in contemporary Islamic law. He said, "with this quite basic progress, the question arises for us, is fiqh able to face the modern era? Of course, as a Muslim, you will answer that Islamic law is able to face the times and is still relevant to apply. However, to get there, conditions need to be met consistently, namely the opening of the door to ijtihad (Qardhawi, 1986). Mudarabah financing should be able to make it easier for micro economic business actors to collaborate with sharia financial institutions, after the business they are running is completed, they can easily pay the installments from the profits obtained from collaborating with sharia financial institutions. Mudarabah financing is an ideal type of financing for micro business activities because financing with this profit-sharing scheme can provide relief in installment payments because the owner of the capital can wait patiently until the mudarib is able to pay the installments even though the business being run has not made a profit at all. The mudarabah financing scheme focuses on fairness, balance and the results of work benefits as well as the risks faced (Odha & Rukmana, 2021).

Looking at the Minimum Investment Return system implemented by KSPPS Tamzis Bina Utama with the determination of the rupiah that the mudarib must later pay to Tamzis, according to Ruchayatun, this is one of the easiest alternatives for Tamzis to implement sharia-based economic financing which is expected to be easier for the lay public to understand (Ruchayatun, 2016). Based on this, the researcher tried to examine and examine it from several contemporary muamalah fiqh references, so the research is focused on the implementation of Minimum Investment Return for profit sharing from mudarabah financing at KSPPS Tamzis Bina Utama Batur Branch and then analyzed from the perspective of contemporary muamalah fiqh.

2.0 METHODOLOGY

This research is field research using qualitative descriptive methods, namely the researcher goes directly into the field to research and explore the implementation of Minimum Investment Return in profit sharing from mudarabah financing at KSPPS Tamzis Bina Utama Batur. Data collection through interviews and documentation. After the data was collected, the validity of the data was tested using theoretical triangulation and continued with qualitative descriptive analysis with stages of data reduction, data display, and verification/conclusion (Sugiyono, 2017).

3.0 FINDINGS AND ARGUMENTS

Based on the findings in the field and the focus of discussion in the research, namely 1) the implementation of Minimum Investment Return for profit sharing from mudarabah financing at KSPPS Tamzis Bina Utama, and 2) the perspective of contemporary muamalah fiqh towards the implementation of Minimum Investment Return in profit sharing for mudarabah financing. at KSPPS Tamzis Bina Utama Batur.

3.1 Implementation of Minimum Investment Return for Mudarabah Financing Profit Sharing at KSPPS Tamzis Bina Utama

KSPPS Tamzis Bina Utama has its own characteristics in sharing the results of mudarabah financing which other BMTs do not have. KSPPS Tamzis Bina Utama has a profit-sharing system based on Minimum Investment Returns. Minimum Investment Returns is a provision agreed upon in the mudarabah contract to determine the percentage of profit sharing from both parties based on the survey that has been carried out. (M. R. W. Wibowo, personal communication, 2023).

Minimum Investment Returns are imposed because most members come from small traders and farmers who do not have definite financial reports. The profit-sharing ratio will be determined from the Minimum Investment Returns so that it makes it easier to determine the profit-sharing percentage between members and Tamzis. The profit-sharing ratio can still be negotiated if it is true that a member's loss occurs based on the report submitted, so this contract will be mutually beneficial for both parties.

Based on the provisions of the sharia system contract as stated in article 4 concerning distribution of business results, section 3 "if in the development of the business the member's income is less than the income submitted by the member, and the member shows proof of this, then the income is used as a reference for calculating the profit sharing , and if the development of the business, the member's income is greater than or equal to the income submitted by the member, then the calculation of profit sharing remains based on the income agreed upon by the parties. The excess income is a Tamzis grant to members" (KSPPS Tamzis Bina Utama, 2023). So it can be understood that the Minimum Investment Returns used in KSPPS Tamzis are only a reference for profit sharing when members get profits or are the same as those stated at the beginning of the contract and can still be negotiated if members experience losses due to certain reasons such as natural disasters, landslides and other reasons. so on, not as a definite reference for payments that cannot be negotiated (M. R. W. Wibowo, personal communication, 2023). The formula used in the Minimum Investment Returns system is (ceiling x 0.5% x ratio x loan period). Profit sharing at KSPPS Tamzis Bina Utama Batur Branch to mudarib in mudarabah financing varies in proportion, according to the business being run and the Minimum Investment Returns agreed upon by the members and the Tamzis ratio Tamzis:member = 24%:76%. Because in general the portion that is often used is 24%:76% (R. Yudhie, personal communication, 2023).

The profit-sharing system used by KSPPS Tamzis Bina Utama is decreasing according to the remaining balance of the mudarabah financing loan, so this system makes it easier for members in installments and profit sharing. So, it can be concluded that the Minimum Investment Returns system applies a rupiah determination at the beginning of the contract, which should not be determined unless there is a financial report held by each member on a monthly or annual basis. However, most members (mudarib) come from traders and farmers who do not have the ability to prepare financial reports, so the Minimum Investment Returns system is used to avoid elements of gharar.

3.2 Contemporary Muamalah Fiqh Perspective on the Implementation of Minimum Investment Returns in Mudarabah Financing Profit Sharing

Contemporary muamalah fiqh is a contemporary study which is often called bahtsul masail among young intellectuals and Islamic students. Through the Bahtsul Masail forum, Nahdlatul Ulama kyai are always active in scheduling discussions about these actual problems. And try optimally to find a solution to the deadlock in Islamic law resulting from the social development of society. Meanwhile, textually there is no basis in the Qur'an and Hadith or there is a basis but the expression is unclear (Mahfudin, 2021).

It is understood that mudarabah is a contract or contract between two or more people where the first party provides business capital, while the second party provides labor and expertise in accordance with the provisions shared between them and in accordance with the contract they made (Hasan, 2018). Business profits are shared according to the contract stated in the contract. If there is a loss, it is borne by the capital owner as long as it is not the result of the manager's negligence. If the loss is borne by the capital owner, as long as it is not the result of negligence, the manager must be responsible for the losses incurred. In mudarabah financing it is called profit sharing (Musfiroh & Sugiyanti, 2018).

Profit sharing based on Minimum Investment Returns is an opinion held only by KSPPS Tamzis Bina Utama with the aim of making it easier for members during their principal installments and monthly profit sharing income. In the book of contemporary muamalah fiqh written by several Islamic scholars and economic thinkers, it is explained:

يشترط باتفاق الفقهاء تحديد نصيب المتعاقدين من الربح بجزء شائع يتفقان عليه كالنصف والثلث وغيره لأن مقتضى عقد المضاربة الاشتراك في الربح الحاصل منها.

ذلك أن شرط مبلغ معين من الربح لأحد المتعاقدين يؤدي إلى قطع الشركة في الربح لاحتمال أن لا يربح المضارب إلا ذلك المبلغ فينفرد به أحدهما دون الآخر مما ينافي مقتضى العقد

وعليه لا يجوز تحديد لأحد الطرفين ربح فترة دون أخرى أو ربح سلعة أو صفقة معينة دون أخرى.

Meaning: *"Fiqh scholars agree that the conditions for determining profits by both parties who carry out the mudarabah contract, the profits are determined by their respective shares that they agree on, such as half, one third and so on. Because people who want a mudarabah contract need the profits. This is a condition for the amount of profit determined by one of the two parties which indicates the deduction of the profit partnership. If it is possible that the mudarib will not gain a profit other than that amount, then the mudarib can separate the contract from one of the two without other than causing injury based on the contract. Therefore, neither party may determine profits based on periods over the other or trading profits or buying and selling transactions determined over the other"* (Majmu'ah minal Mualafin, n.d.).

So, in determining the mudaraba contract, there must be a percentage requirement taken from one of the two. In accordance with the DSN MUI fatwa N0: 07/DSN-MUI/IV/2000 concerning pillars and financing conditions number 4 part C which states "the proportional profit share of each party must be known and stated at the time the contract is agreed and must be in the form of a percentage, for example; 20%: 80%, 50%:50%, 30%:70%, etc. From profits according to the contract. Changes in the ratio must be in accordance with the contract" (MUI, 2014).

The fatwa above shows that it is permissible to take profits according to each percentage, but this percentage is not intended to be determined based on profits from a period that has been obtained previously. As per the interview conducted by the researcher with Tamzis, the existence of this Minimum Investment Returns system aims to make it easier to determine profit sharing projections between sahibul mal and mudarib, so with this Minimum Investment Returns it can be used as a reference for preparing how much profit the mudarib will give to sahibul mal for the financing loan at the beginning of the contract. However, this is also explained in another fatwa, that the determination of profit may be determined at the beginning of the contract in accordance with the trading unit price and annual profit (Majmu’ah minal Mualafin, n.d.). The Minimum Investment Returns system used by Tamzis is a form of ijtihad in taking daily profits from the mudarib for the business it runs. Because most of the KSPPS Tamzis Bina Utama members who make loans come from people who have small businesses that do not have daily or monthly financial reports and farmers whose profits are taken from the period after harvest, this Minimum Investment Returns projection is not yet a definite reference in distributing profit sharing, but rather a plan to prepare the profits that will be obtained. Even if profits do not match Minimum Investment Returns’ targets, profit sharing can still be negotiated with contract from both parties.

The mudarabah financing carried out by KSPPS Tamzis Batur branch is in the form of a loan, that is, if you make a profit, it will be divided according to the percentage determined at the beginning of the contract and if you experience a loss, the mudarib will only pay the loan according to the ceiling at the beginning of the contract. By contract, this mudarabah financing loan is indeed in accordance with the predetermined theory explained by the Imam Shafi'I school of thought, among others; capital, shhat, aqidain, energy, and profit (Harun, 2007). From the contracts that have been determined, it can be concluded that the contracts carried out are valid and in accordance with the law. Because there is also the phrase "loan" here, this is two contracts combined in one contract and this must be understood by members or customers before entering into a mudharabah financing loan contract that what is meant in the contract is a loan and mudarabah financing.

Intention is a form of the pillars of the contract, namely entering into shigat, so shigat can be equated with intention because intention lies in the heart and is strengthened verbally. Ibn Qayyim said:

ألنية هي القصد والعزم على فعل الشئ ومحلها القلب لاتعلق لها أصلا
باللسان

Because the essence of intention is deliberate (al-qasd), the majority of fiqh scholars agree that the place of intention is in the heart. However, because inbiats (impressions) in the heart are difficult, the scholars recommend that besides intentions, it is also best to confirm them with verbal speech, just to help and assist the movement of the heart (Azhari, 2015). The person who carries out the financing must do it deliberately, so this contract can be legally ratified if the intention or contract is in accordance with what is said.

In qawaidul fiqhiyah it is also said: مقاصد اللفظ على النية اللفظ (the meaning of a lafadz is according to the intentions of the person who pronounces it) (Washil & Azzam, 2023) . For example, Mr. Sabar stated that he had agreed and accepted a mudharabah financing loan, then his intention was included in the mudarabah contract. However, if Mr. Sabar makes an contract and qabul in musarakah financing but his intention is to finance mudarabah then his intention is invalid.

The main objective in entering into a mudarabah contract must also be based on the principle of mutual consent between both parties. The condition is that they must have the same information (complete information) so that no party feels cheated/cheated because there is something unknown to one party, or a situation where one party does not know the information that the other party knows, also called asymmetric information, which in The language of fiqh is called tadlis, which can occur in four ways, namely quantity, quality, price and delivery time. So if one of the two is not willing to share the profits or the results obtained are hidden, then the contract is declared invalid. In the Al-Qur'an, Surah An-Nisa verse 29 reads:

يٰٓاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَأْكُلُوْٓا اَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ اِلَّآ اَنْ تَكُوْنَ تِجَارَةً عَنْ
تَرَاضٍ مِّنْكُمْ ۗ وَلَا تَقْتُلُوْٓا اَنْفُسَكُمْ ۗ اِنَّ اللّٰهَ كَانَ بِكُمْ رَحِيْمًا

From this verse, it is explained that in carrying out business or a contract there must be a basis of mutual consent between both parties. The aim is so that no one feels disadvantaged and establishes brotherly relationships based on justice (Departemen Agama, 2017). So the existence of Minimum Investment Returns conditions and mudarabah financing loans that must be paid according to the contract at the beginning of the contract is due to the willingness of both parties. If the mudarib feels disadvantaged by the existence of the contract, the owner of the funds will enter into usurious financing.

However, in the practice of Minimum Investment Returns and mudarabah financing loans at KSPPS Tamzis Bina Utama, there is still a negotiation system where even though the profit has been determined at the beginning of the contract, the mudarib can still reduce the distribution if the profit does not match what was determined at the beginning of the contract. This is what is meant by the principle of mutual willingness between both parties, and this principle also brings a good name to the Batur branch of KSPPS Tamzis Bina Utama, especially in the Batur sub-district area and its surroundings, so that people are more comfortable taking out financing loans at KSPPS Tamzis Bina Utama.

So, it can be concluded that the mudarabah financing loan applied at KSPPS Tamzis Bina Utama is legally valid because of the principle of mutual consent and is permitted because there is no element of gharar which is uncertainty in the transaction. The Minimum Investment Returns system implemented by KSPPS Tamzis Bina Utama is a form of ijtihad which is used as a reference for the profits that will be obtained, not a certainty regarding the profits that will be obtained, so that the Minimum Investment Returns can still be negotiated if the mudharib has not met the specified profits. by this Minimum Investment Returns requirement.

4.0 CONCLUSIONS

Based on the results of the discussion above, it can be concluded that the system of minimum investment returns on mudarabah financing loans applied at KSPPS Tamzis Bina Utama according to contemporary muamalah fiqh is legally valid because of the principle of mutual consent, permissibility, and the absence of gharar elements that are uncertain in the transaction. This financing is in the nature of a loan so that when members do not make a profit, they are only obliged to repay the loan at the beginning of the contract without any additional profit sharing. Meanwhile, the determination of profit-sharing provisions at the beginning of the contract is permitted by Imam Syafi'i based on sales or money that has been generated from mudarabah financing and KSPPS Tamzis Bina Utama Batur Branch uses the Minimum Investment Returns system to determine the profit sharing. The calculation of the profit-sharing ratio for mudarib to KSPPS Tamzis Bina Utama is calculated from the smallest Minimum Investment Returns, namely 0.5% of daily income multiplied by the frequently used profit-sharing ratio percentage, namely 24%: 76%. The Minimum Investment Returns system implemented is a form of ijtihad which is used as a reference for the profits that will be obtained, not a certainty regarding the profits that will be obtained, so that the Minimum Investment Returns can still be negotiated if the mudarib has not met the profits determined by the Minimum Investment Requirements returns.

Author Contributions

Musfiroh, M.F.S., is the principal author and contributed on the discussion. Miftakhussurur, M.Q., Kaukab, M.E., Sabrina, L., Hartiyah, S. & Nugroho, A.F., contributed to the content, literature and summary.

Conflicts Of Interest

The manuscript has not been published elsewhere and is not under consideration by other journals. All authors have approved the review, agree with its submission and declare no conflict of interest on the manuscript.

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