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IMPLEMENTATION OF *BAI 'BITSAMAN AJIL* FINANCING SANCTIONS IN *BAITUL MAAL WAT TAMWIL (BMT)* PAHLAWAN TULUNGAGUNG TO DELAY IN INSTALLMENT PAYMENTS

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HIGHLIGHT

- *Application* of fine sanctions on *bai 'bitsaman ajil* financing at BMT Pahlawan Tulungagung for delays in installment payments

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ABSTRACT

*This research aims to know applying sanctions and penalty on financing *ba'i bitsaman ajil* at the BMT Pahlawan Tulungagung for the delay in payment of the installments. The author's methods of research conducted in this study using a qualitative approach. As for the type of research is descriptive, meaning that the data collected is in the form of words, images, and not the numbers. The results showed that the application of fines in BMT Pahlawan Tulungagung is in compliance with the Shariah Board Fatwa of the national assemblies of scholars of Indonesia No. 17/DSN-MUI/IX/2000. In its application of fines charged to borrowers who can afford but procrastinate the payout as well as clients who do not have good faith to settle the payment.*

Keyword :

Penalty, Baitul Maal Wat Tamwil, Bai Bitsaman Ajil

A. INTRODUCTION

Islamic financial institutions (LKS) in the millennial era have developed very rapidly. There have been many variations of Islamic financial institutions established in Indonesia, such as Sharia Banks, Sharia Rural Banks, Sharia Cooperatives and Baitul Maal Wat Tamwil (BMT), etc.

Baitul Maal Wat Tamwil has two terms namely Baitul Maal and Baitul Tamwil. Baitul Maal is more directed at efforts to channel non-profit funds such as zakat, infaq, alms and endowments. While baitul tamwil is an activity that leads to efforts to collect and distribute funds that are profit by using a system of profit and loss sharing. So BMT is an integrated independent hall that is core in bayt al maal wa at-tamwil with activities to develop productive businesses and investments in improving the quality of small entrepreneurs to support financing in economic activities and can receive zakat, infaq, alms and endowments(Djazuli, 2002).

Regarding the operational of Baitul Tamwil, BMT has two products, namely fund collection and fund distribution. Both of these products, BMTs have two types of funds that can support their operations, namely business funds as input funds that can be withdrawn by the owner after the worship fund as an input of funds that cannot be withdrawn by the owner except for funds input for loans(Syamsuir, 2015).

The use of buying and selling contracts in the distribution of funds in BMT has differences with Islamic banks. The product of channeling funds in Sharia Banks is known today to use the term murabahah contract in which the bai 'bits and bills' payment mechanism is used. Whereas in BMT, they use the two contracts separately, so that BMT has two types of contracts on financing products, namely financing of murabahah buying and financing of small bits and bills. Karim says murabahah is the same as the *bai 'bitaman ajil*, that is, actually the financing product of al-bai al-bitsamanil aji in *fiqh* is al-bai' al-bitsamanil ajil the *murabaha*(Karim, 2002).

In sharia financial institutions there are still frequent delays in paying installments for members / customers. With the cost of late payments or fines on the provision of financing facilities, it is considered that it is still very burdensome to prospective customers. The amount of the fee is determined by the financial institution which includes the nominal value and the method of calculation. Determination of fees for late payment of installments or fines is one of

the conditions that must be approved by prospective customers in the process of providing financing facilities.

The imposition of late fees for installment payments or fines is in accordance with the Fatwa yes issued by the National Sharia Board NO: 17 / DSN-MUI / IX / 2000 concerning Sanctions for Customers Able to Postpone Payment. In the Fatwa of the National Sharia Council, customers may be penalized only to capable customers who delay payments and / or do not have the willingness and good will to pay their debts. In the case of the official funding for BMT Pahlawan, the provision of sanctions is applied to customers who do not have good intention to pay, but for customers who experience late payments but have a good intention to pay, ensuring payment is not subject to fines (*Laporan Perkembangan BMT Pahlawan Tulungagung*, 2018).

The unique thing about the application of late installment payments or penalties in BMT Tulungagung Pahlawan is that each member/customer who gets a fine is allowed to bid the amount of the fine set. The amount charged 0.2% per day will be eliminated if the customer already has good faith to pay it. Even fines given to customers will be lost / deleted by the BMT if the customer promises to pay off the arrears and will reappear when the customer experiences a deliberate delay in payment.

B. METHOD

The research method uses a qualitative approach. Qualitative research is a research procedure that produces descriptive data in the form of written or oral words and behavior of the person being observed (Moleong, 2017). The type of research is descriptive, meaning that the data collected is in the form of words, images, and not numbers.

The instruments in this study were the leaders and employees of BMT Pahlawan. Data collection techniques in this study include: interview, observation, and documentation techniques. The research field stages that the researcher went through were: pre-field stage, field work stage, data analysis stage. While checking the validity of the data used is the researcher using source triangulation, namely the results of the research obtained from the speakers (Subagiyo, 2017). Source triangulation is a way to check the degree of trust in information obtained through different tools in qualitative research.

C. RESULT AND DISCUSSION

Many customers need financing from LKS (Islamic Financial Institutions) by paying installments. There are some customers who have the ability to pay installments, but sometimes delay payment obligations, both in the sale and purchase agreement and other contracts, the time determined based on the agreement between the two parties. This also happened to BMT Pahlawan of Tulungagung, there were customers who were able to deliberately delay payments so that the BMT made a policy of giving fines.

The implementation of the BMT Pahlawan fine imposed on all members is 0.2% per day from the outstanding balance. The number of LKS asks for a fatwa to the National Sharia Council (DSN) about what actions or sanctions can be done against capable customers who delay the payment according to Islamic shari'ah. Therefore, DSN needs to establish a fatwa on sanctions on capable customers who delay payments according to Islamic shari'ah principles, to be used as guidelines by sharia financial institutions, especially BMT Pahlawan (Sam, 2002).

For the calculation, the arrears balance is multiplied by 0.2% multiplied by 30 days, then the monthly penalty will be found. To avoid undesirable things in the payment and repayment of financing debts, the DSN - MUI issued a fatwa number 17 of 2000 concerning sanctions on capable customers who delay payments. There are sounds of fatwas as follows:

1. The sanctions referred to in this fatwa are sanctions imposed by LKS to customers who are able to pay, but delay the payment intentionally.

In fact BMT Pahlawan has given fines to customers who have the ability to pay, but deliberately prolong payment. Not all customers / members are fined, only for certain people. BMT will provide concessions in the payment of these fines and be carried out bargaining without coercion. Paying for the fine is seen from the customer's capacity / capacity as well.

2. Customers who do not / have not been able to pay due to force majeure may not be subject to sanctions

Not all BMT customers are subject to late sanctions. For example, there are customers who postpone payments and even experience a maturity that is not subject to a fine, but the customer still has the desire to pay the installments. Delinquent customers who promise payment dates are also not subject to fines by BMT Pahlawan. In addition, customers who experience business bankruptcy will also not be given a fine by BMT Pahlawan.

3. Affordable customers who postpone payments and / or do not have the will and good faith to pay their debts may be subject to sanctions.

BMT Pahlawan will provide penalties to customers who do not have good faith, customers who are difficult to negotiate will be subject to fines. This is because customers who have already broken a promise that has been agreed at the beginning. Previously, BMT will provide bills, warning letters, and conduct intense hospitality and billing, to customers. BMT Pahlawan will provide leeway in the period and amount of installment payments. BMT Pahlawan will not immediately give fines to customers.

4. Sanctions are based on the ta'zir principle, which aims to make customers more disciplined in carrying out their obligations

BMT Pahlawan provides penalties for the purpose of disciplining customers to pay installments. However, many customers do not want to pay the fine. BMT Pahlawan does not force the fines that have been given to customers. According to the BMT Chairperson, fines that appear in the warning letter and the bill will not be directly charged to the customer must have an agreement between the two parties. Even customers do not have to pay fines in accordance with the nominal stated in the letter. The penalty stated in the letter can be written off if the customer has a good intention to pay and clarity on the date of payment, the fine will be raised again when the customer fails to repay the installment obligation.

5. Sanctions can be in the form of fines in the amount of money whose amount is determined based on an agreement and made when the contract is signed

In the contract agreement of BMT Pahlawan article 4 states that if the installment passes from that date without a clear reason, the second party (the customer) is willing to pay ta'jir (penalty) in the form of a fine (0.2% per day of arrears) to be channeled to Baitul Maal for the benefit of the poor. If there is a billing, then the collection costs that appear in the form of transportation costs, telephone fees, billing accommodation costs etc. are borne by the second party (II).

In the contract BMT Pahlawan will provide fines to customers of 0.2% per day from delinquent balances if the installments pass from the agreed date without having a clear reason. In the contract the description of the amount of the fine is to give a warning to the customer to discipline in paying installments. However, as stated earlier, the installments are not directly imposed by customers who still have good intentions. The amount of fines given by the customer must be in accordance with the agreement and in accordance with the capabilities of the customer.

6. Funds from fines are intended as social funds.

Based on the BMT Pahlawan contract that the fine will be channeled to the Baitul Maal BMT Pahlawan. This field of baitul maal manages activities such as zakat, infaq, alms and endowments from *aghnia* 'and will be channeled to the poor and 8 *asnaf* groups according to the Qur'an Taubah verse 60 besides other diversion for social activities such as scholarship assistance, development mosques, and so on.

The above explanation has been elaborated that BMT Pahlawan Tulungagung when applying fines in accordance with the fatwa of the Indonesian Ulama-Islamic National Sharia Council (DSN MUI). The application of fines is permissible for customers who are able but delay in paying their debts which are intended so that customers do not neglect their obligations and are more disciplined to pay their debts.

If observed in the fatwa there are still many verses of the Qur'an, al-Hadith, and the opinions of the scholars quoted by the DSN-MUI as references, all of which are still global. Both explicitly and implicitly, no one has discussed the late fees (Abdurahman, 1974). The hadiths used as references by the DSN-MUI are also still global. It's just that there is a hadith which is more specific to be used as a reference by the DSN MUI to allow late fees in payment in installments of the financing of Bai 'Bitsaman Ajil, namely the hadith. This hadith mentions that people who procrastinate on paying off debts even though they are capable, can be penalized.

Likewise with the opinions of the scholars who were used as references by the MUI DSN regarding the imposition of late payment penalties in the sale and purchase contract. It is precisely *ijtihad* that is the most dominant being used as a foothold by the MUI DSN. Therefore, there are no verses of the Qur'an, hadith, or opinions that are used as references by the MUI DSN which allow the imposition of late fines. On the contrary, it was ordered to provide concessions for people who have difficulty paying debt.

Indeed, there is one of the hadiths used as reference by the MUI DSN stating that people who postpone debt repayments even though they are capable, may be subject to sanctions (Susanto, 2010). However, of course the sanctions should not be in the form of fines. Because, fines are part of "attracting benefits from debt" which in other traditions includes usury.

If there is a reason that is recognized in *syar'i*, then the reason invalidates the obligation to pay the fine until the reason ends. If the nominal fine is too excessive according to the consensus of the local community, so that the main objective is a threat with a fine, and the

nominal is far from the demands of the Shari'ah rule, then the fine must be returned to a fair nominal amount, in accordance with the amount of lost profit or the amount of loss. If the nominal value is not agreed upon, then the fine is returned to the court's decision, after listening to the advice of experts in the field, in order to carry out the word of God, namely surat an-Nisa '. So, the assumption of some people that syarth jaza'i absolutely contains elements of usury is a false assumption. This assumption is not wrong if it is intended for transactions which are originally debts, such as buying and selling credit and greeting transactions.

Table
Fines Compliance in BMT Tulungagung Hero with provisions in the DSN-MUI Fatwa
No. 17 / DSN-MUI / IX / 2000

No	Provisions	Application	Information
1	The sanctions referred to in this fatwa are sanctions imposed by LKS to customers who are able to pay, but delay the payment intentionally	BMT Pahlawan provides fines to customers who are able to pay installments but delay until the specified time limit	Corresponding
2	Customers who have not / cannot afford to pay due to force majeure may not be subject to sanctions	BMT Pahlawan will not give fines to all customers, only certain customers who are subject to fines by BMT Pahlawan	Corresponding
3	Affordable customers who delay payments and / or do not have the will and good faith to pay their debts may be subject to sanctions.	BMT Pahlawan will provide penalties to customers who do not have good faith, customers who are difficult to negotiate will be subject to fines. This is because customers who have already broken a promise that has been agreed at the beginning.	Corresponding
4	Sanctions are based on the ta'zir principle, which aims to make customers more disciplined in carrying out their obligations.	BMT Pahlawan provides penalties for the purpose of disciplining customers to pay installments. BMT Pahlawan does not force the fines that have been given to customers.	Corresponding

5	Sanctions can be in the form of a fine of money, the amount of which is determined on the basis of an agreement and made when the contract is signed.	The amount of fines given by the customer is in accordance with the agreement and in accordance with the capabilities of the customer.	Corresponding
6	Funds from fines are intended as social funds.	As in the BMT Pahlawan contract that fines will be channeled to the Baitul Maal BMT Pahlawan.	Corresponding

D. CONCLUSION

From the results of the analysis and discussion above it can be concluded that the practice of applying fines in BMT Pahlawan includes:

1. The penalty is imposed by certain customers if they do not have good faith to pay. For customers who still have a bond, either paying a fine will be written off, and will be reappeared when the customer is injured.
2. The application of fines to the financing of Bai 'Bitsaman Ajil at BMT Tulungagung Pahlawan is in accordance with DSN No. Fatwa. 17 / DSN-MUI / IX / 2000. The application of the fine is imposed on customers who are able and postpone payments and customers who do not have good faith in paying off their payment.
3. Funds obtained by BMT Pahlawan are channeled to the field of Baitul Maal. This field of baitul maal manages activities such as zakat, infaq, alms and endowments from religion 'and will be channeled to the poor and 8 asnaf groups according to the Qur'an Taubah verse 60 other diversion for social activities such as scholarship assistance, development mosques, and so on.

Based on the results of the discussion and conclusions, the following recommendations can be made, namely:

1. BMT Pahlawan is the largest financial institution in Tulungagung, should be a role model for other BMTs to implement fines in accordance with sharia principles, so that socialization to BMT networks needs to be done so that they are synergized.

2. Maintain the application of fines based on sharia principles (in accordance with the DSN-MUI Fatwa) that have been built to continue to run in accordance with Islamic law.
3. Using funds obtained not for social activities that are consumptive, but also used for productive social activities such as cash wakat, qordhul hasan financing, productive financing, so that there is an even distribution of funds from fine money.

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