

Late Payment Fines for buying and Selling Using Shopee Pay Latter in Sharia and Legal Studies

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Abstract: *One of them is business activity using internet media that serves non-cash online buying & selling which's offered by Shopee, namely Shopee Pay Later.*

Formulation of the problem: (1) What is the process for implementing fines for late payments for buying & selling using Shopee Pay Later according to Civil Law? (2) What are the fines for delays in buying & selling using Shopee Pay Later according to Fiqh Muamalah? This research is Normative Judicial research. . The data

processed is secondary data. This secondary data consists of: 1. Primary legal materials, namely the Civil Code, books that discuss fines, the Koran and Hadith.2. Secondary Legal Materials, namely books or writings that support Primary Legal Materials. 3. Tertiary Legal Materials, the sources referred to here are dictionaries, encyclopedia dictionaries and others. From the results of the study it can be concluded that late payment for buying & selling using Shopee Pay Later will incur a fine of 5% of the total invoice. According to Civil Law, the issuance of fines is permissible because this's regulated in Article 1243 Paragraph 1 of the Civil Code. Meanwhile, the provision of fines for delays in payment of purchases using Shopee Pay Later according to Fiqh Muamalah, there're 2 opinions of scholars who're contradictory. Opinion of scholars who support the awarding of fines, there's no delay in the next payment. Meanwhile, other scholars don't support, that late payment fines are included in the category of jahiliyah riba.

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Introduction

Humans are social creatures, namely creatures that cannot live alone without the help of other humans. In society, humans are always in contact with each other, to fulfill their life needs (A. A. Basyir, 2004). Relationships between humans are very important to create harmony and shared goals

between other humans (Hasibuan, 2017; Pangestu et al., 2020; Rosalina & Apiska, 2018).

Islam regulates a strong relationship between morals, aqidah and sharia. Sharia consists of the field of muamalah (social) and the field of worship (ritual). Worship is a means for humans to connect with the Almighty Creator. Meanwhile, Muamalah is used as a rule of thumb in dealing with others (Suprayitno, 2005).

In Islamic teachings, Bermuamalah has sharia rules and principles, where Allah has encouraged His servants to worship with all efforts on earth and all ways to obtain sustenance. Allah has given boundaries and ethical principles in carrying it out, so that their efforts will obtain halal and blessed results without mere lust and egoism (Al-Mushlih & Ash-Shawi, 2004).

The rapid development of globalization in this modern era has had a major impact on life in various sectors, including technology and the internet. The development of technology, information and communication is increasingly influencing changes in social lifestyles, including the life of modern Muslim society (Hibatullah, 2022; Nur Inayati, 2019; Prasetyo & Trisyanti, 2018). Activities can be carried out more easily with various technological and internet innovations. One of them is the muamalah activity.

In this era of globalization, efforts are made to carry out all human activities quickly, easily and efficiently. Many services are offered to make transactions easier via the internet, starting from online buying and selling, e-banking, smart business, bill payments, ordering transportation tickets, booking hotel rooms, online loans, even what is currently being developed is online credit. The various conveniences offered by e-commerce attract people's attention to shift their choices from manual ones to using internet-based technology.

One e-commerce company that offers online credit is Shopee.co.id. Shopee is an electronic trading platform launched in 2015 under the auspices of the SEA Group which is headquartered in Singapore. To date, Shopee has expanded its reach to Malaysia, Thailand, Taiwan, Indonesia, Vietnam and the Philippines (Wikipedia, n.d.). Shopee Indonesia always tries to provide the best service to Shopee friends. This is realized by providing many features to make it easier for sellers and buyers to interact with each other, so that many people are interested in using the Shopee application. Some of the features on Shopee are 7.7 sales, all 10 thousand, flash sales, free shipping for minimum purchase of IDR 0,- Cashback & vouchers, Shopee games, Shopee Pay, and the newest is Shopee Pay later and many more. The publication of the Pay later service seems like it is still new in e-commerce. Moreover, Shopee Pay Later was only rolled out in March 2019. Those interested in the Shopee Pay Later feature presented on the LDN website as of April 2020 have a total accumulated loan disbursement of IDR 88.3 billion. Borrowers reached 102,971 people with 81,423 people being active borrowers (Lentera Dana, 2020)

The payment and billing system is similar to payment via credit card. After making a transaction using Shopee Pay Later, the user will be required to pay the bill according to the bill amount and due date.

Buying goods in installments according to the agreement at the time of the contract, with a clear time limit and a clear installment amount, then there is no problem with this. Because buying and selling with payment within a certain time limit is permissible in Islamic Sharia. In credit buying and selling there is additional financing, because this addition is a reward for delaying payment. It is possible that the practice of buying and selling credit online is not free from various problems

Thus, the author is interested in conducting research related to this matter. The problems studied include the process of implementing fines for buying and selling payments using Shopee Pay Later according to Civil Law as well as the law of imposing fines for late payments for buying and selling using Shopee Pay Later according to Fiqh Muamalah.

Research Method

This research method is normative juridical research. The data processed is secondary data. his secondary data consists of: First, primary legal materials, namely the Civil Code, Al-Quran and Hadith. second, secondary legal materials, namely books discussing fines or writings that support primary legal materials. Third, tertiary legal materials, the sources referred to here are dictionaries, encyclopedia dictionaries and others. Data was collected through documentation studies, while data analysis used descriptive qualitative.

Results and Discussion

Implementation of Fines in Buying and Selling Payments using Shopee Pay Later according to Civil Law

After applying for the Shopee pay Later feature has been confirmed, users can make transactions according to the limits that have been given. Talking about Shopee Pay Later loans, there are several terms and conditions that Shopee Pay Later loan users must understand, One of them is the amount of the fine charged if the user is late in paying the bill (Fauziah, 2021).

To avoid this fine, users must always be diligent in paying Shopee Pay Later bills. Shopee Pay Later bills will appear every 25th of every month. Meanwhile, the due date for payment of ShopeePay Later bills is the 5th of the following month (Fauziah, 2021).

The amount of the fine charged by the Shopee Pay Later service to users who are in arrears in bill payments is 5% of the total bill. The payment will later be included in the principal bill. So, for example, a loan of IDR 100,000, which means times 5%, the total bill is IDR 105,000, every month.

When a user is late paying a Shopee Pay Later bill, they will face several risks, including:

1. The Shopee account will be temporarily frozen
2. You will receive a fine of 5% of the total bill. The fine will continue to increase along with the repayment period. Not to mention the addition of interest of up to 2.95% per month.
3. The opportunity to upgrade the Shopee Pay Later Limit will be reduced
4. Enter the BI Chesking blacklist or now known as SLIK OJK
5. Shopee has the right to carry out field charges with the Debt Collector who terrorizes them so they can pay the bill.

If this matter is studied according to the realm of Civil Law, what has been explained previously can be justified, because this has been regulated in detail in Article 1243 in conjunction with Article 1247 of the Civil Code. This means that the imposition of fines as a result of late Shopee Pay Later payments is justified

The formulation of Article 1243 of the Civil Code is as follows, namely: Compensation for costs, losses and interest due to non-fulfillment of an agreement, Only then does it become obligatory if the debtor, after being declared negligent in fulfilling his obligation, continues to neglect it, or if something must be given or made within the time limit that has already passed. Furthermore, the formulation of Article 1247 of the Civil Code is: The debtor is only obliged to compensate for costs, losses and interest that were, or should have been foreseen when the agreement was entered into, unless the non-fulfillment of the agreement was caused by a deception committed by him.

If an agreement has been agreed upon by the parties who made it, then the agreement can bind the parties who made it like law (Anggraeni & Rizal, 2019; Anom, 2015; Kunarso & Sumaryanto, 2020; Mabhan, 2019). This is in accordance with Article 1338 paragraph 1 of the Civil Code. The formulation of the article is; All agreements made legally apply as law to those who make them.

The law of imposing fines for late payments for buying and selling using Shopee Pay Later according to Muamalah Fiqh

Shopee Pay Later is one of the options or options in terms of payment that can be used to make transactions on Shopee e-commerce. Or in other words, Shopee Pay Later is a loan or installment product available in Shopee e-commerce (Fauziah, 2021). If related to Islamic banking, the buying and selling scheme using ShopeePay Later can be analogous to the Murabahah buying and selling scheme. because Murabahah is part of buying and selling. This Murabahah transaction was commonly carried out by Rasullah SAW and his companions in a simple way. The definition of Murabahah is the sale of goods for the price of the goods, plus the agreed profit (Azhari & Harahap, 2018; Farid, 2013; Zaherina & Ilyas, 2021).

Murabahah financing is specifically regulated in the Sharia Banking Law, namely Law no. 21 of 2008 in article 21 point b whose formulation is Distribute funds to the community in the form of:

1. Profit sharing financing based on a Murabahah or Musyarakah agreement
2. Financing based on Murabahah, Salam or Istishna contracts
3. Financing is based on a Qardh contract
4. Financing the delivery of movable or immovable goods to customers based on an Ijarah or hire purchase agreement in the form of Ijarah Muntahiya Bittamlik
5. Debt repayment based on the Hawala agreement

Shopee Pay Later is a loan or installment, in which case repayment can be done either in cash or in installments. Shopee Pay Later bills will appear every 25th of each month, while the Shopee Pay Later payment due date is the 5th of the following month. If the installment payment process can have risks, such as installment payments not being on time or payment delays. So from the beginning of the contract, Shopee made an agreement with Shopee Pay Later users who would be subject to a fine, if Shopee Pay Later users were late in paying installments. The fine charged to Shopee Pay Later users is 5% of the total bill. The payment will later be included in the principal bill.

Fines can be categorized as Ikhraah, because the imposition of fines includes subtle coercion, the late fines are mutually agreed between the Bank and the customer as stated in the Contract. Even though in the initial agreement both parties mutually agreed and agreed to each other, in this context there was a coercion to give more money which was referred to as a fine. This is important, because a fine can eliminate the element of willingness. The fine controversy among the ulama has given rise to a very long debate. Some scholars allow fines and some scholars reject it. Each of them has an opinion accompanied by their own reasons.

Sanctions in the form of fines (al-gharama, al-uqubah, al maliyyah) including the ijthadi area (Marasabessy, 2020). Therefore, there are scholars who allow it and there are also scholars who prohibit it. According to Muhammad Az-Zuhaili (1993) stated the following:

1. Imam Abu Yusuf (follower of Abu Hanifah), allows sanctions in the form of material Tazir (al-gharamah, al-Uqubah, al-maliyyah), for example fines.
2. Most of the ulama forbade it, because they were afraid that they would fall prey to usury or the unjust taking of another party's property because it was not their right.

In line with Muhammad Al-Zuhaili's explanation, Ahmad Mustafa Afifi (2003), said two things:

1. In the book Radd al-Muhtar'ala al-Durr al-Mukhtar (4/61-62) by Ibn Abidin, the book al-Ta'zir fi al-Syariah al-Islamiyyah (331-333) by Abd al-Aziz Musa Amir, book Tabsirat al-Hukkam fi Ushul al-Aqdhiyyah wa Manahaj al-Ahkam (2/137-138), by Burhan al-Din al-Maliki and the book al-Hisbah fi al-Islam (19-20) by Ibn Taimiah, It was explained that the Jumhur Ulama had agreed (ijma') regarding the

- prohibition of taking another party's property as a ta'zir sanction, because it was an act of persecution (zhulm) and without a valid basis.
2. The hadith that is used as the basis is a hadith narrated by Ibn Majah and Imam al-Baihaqi from Fatimah bint Qaisy which states that Rasullah SAW said: "There is no right to take someone's property by force other than taking zakat."

Abu Yusuf's opinion which allows sanctions/ta'zir in the form of punishment also received support from other ulama. Among the arguments used are the Hadith of the Prophet SAW, the history of Nasa'i and Sanksin Syuraid bin Suwaid, Rasullah SAW said: "Delaying (debt payments) carried out by capable people makes the person concerned halal in their self-esteem and halal in sanctions." The forms of sanctions and their application are Ijtihadi, as explained by Abd al-Qadir Audah in the Book of al-Tasyri'al-Jina'i)

Review of Muamalah Fiqh regarding the imposition of fines for late payments for buying and selling using Later Shopee Pay later, there are opinions that allow it and there are also opinions that reject it. The opinion that allows this fine to be given has reasons, among others, that it aims to discipline Shopee Pay Later users so that they are not late in their next payment. Meanwhile, the opinion that rejects the imposition of fines for late payments for buying and selling using Shopee Pay Later, argues that fines can be categorized as Riba Jahiliyah.

In the Qur'an, Allah has explained that riba is prohibited as stated in the QS. Al-Baqarah:275

الَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَخَبَّطُهُ الشَّيْطَانُ مِنَ الْمَسِّ
ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ
مِّن رَّبِّهِ فَآتَتْهَا فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَٰئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا
خَالِدُونَ

"those who consume usury cannot stand but stand like a person who is a demon because he is crazy. This is because they say that buying and selling is the same as usury. Even though Allah has permitted buying and selling and prohibited usury. Whoever receives a warning from his Lord, then stops, then what he has previously obtained becomes his and his business (is up to) Allah. Whoever repeats it, then they are the inhabitants of hell, they will remain there forever."

Even Allah and His Messenger will fight those who do not obey His command to abandon usury as stated in the QS. Al-Baqarah: 279


 وَإِنْ تَبَيَّنَ فَلَكُمْ رُءُوسُ أَمْوَالِكُمْ لَا تَظْلِمُونَ وَلَا تُظْلَمُونَ

“whose translation is : “..So if you do not do it (abandon the remainder of usury), then know that Allah and His Messenger will fight you.”

Conclusion

Imposing fines due to late payments on Shopee Pay Later in the realm of Civil Law is permitted. Because it is clearly regulated in detail in two articles, namely Article 1243 in conjunction with Article 1247 of the Civil Code. As for Fiqih Muamalah, there are two opinions regarding the provision of fines for late payments using Shopee Pay Later, There are those who allow it and there are also those who refuse to issue this fine, this is because fines fall into the category of Riba Jahiliyah.

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