

CHAPTER 1

INTRODUCTION

1.1. Background

Bank as institutions is able to mobilize the sources of public funds. Through its function has a strategic position in supporting the national economy. Recently, able to raise the financial capital for the country in supporting the economy. In the Law of Islamic Banking No. 21 of 2008 renewal of Act No. 7 of 1992 and Law No. 8 of 1998 explained that Indonesian banks began to apply dual system, they are the conventional banking system with interest and Islamic banking with Islamic jurisprudence contracts.¹Applying this law shows that the government has legalized and supported the operations of Islamic Banking in Indonesia.

Islamic banks and conventional banks have similar function as intermediary institution, which is collecting funds from the public and redistributing these funds to whom in need by financing form. In that case, the manifestation of bank as an agent of development has a main role in the activities of the finance portfolio.²

According to Article 1 paragraph 25 in the Law of Islamic banking, finance is a supplying the funds or claims of that. Definitely banks and other Islamic business unit have made an agreement to require financed party or by facilities fund to return the funds after a predetermined period of time with retainer (Ujroh).³

¹ Ahmad Kamil and M. Fauzan, *Kitab Undang-Undang Hukum Perbankan dan Ekonomi Syariah*, (Jakarta: Kencana, 2007), first edition, p. 1.

² H. Sudarsono, *Bank dan Lembaga Keuangan Syariah: Deskripsi dan Ilustrasi*, Second Edition, (Jakarta: PT Raja Grafindo Persada 2005), p. 22.

³ Trisadini P.Usanti and Abd. Shomad, *Hukum Perbankan*, (Jakarta: Kencana, 2017), p. 155

Islamic Banks in general applied murabaha contract in their products with the aim for customers to give a short term in buying goods, though the customers doing transaction buy a good without having a capital. In 2017 shown each financing increasingly in Indonesian Islamic banks compared to previous years. Murabaha contract has obviously increased to 13,96% or Rp.17,03 Trillion as a higher financing nominal at Islamic banking. Afterwards, Musyaraka contract with the percentage to 27,72% or Rp.16,89 Trillion.⁴

Murabaha Financing has increased, it is shown the best part of financing those given in banking sectors in Indonesian rest on consumptive sectors. So that the products of consumptive financing as financing for supplying of motor vehicles, the purchase of houses and other household needs make the customer interesting.⁵

Islamic banks doing business activity for distributing the funds will be faced with a finance risk. If the Islamic bank confronted with financing risk, so will have an affected on bank's rating assessment it's measuring by finance working indication that shows through non performing financing ratio. Financing risk be related to insolvency risk. Insolvency risk can refer to potential loss when the financing given to debtor default or debtor failure to fulfill obligation for return the capital from the bank.

Statistic center agency give the information concerned to operational banking has conducted business activity at Magelang city. Contains 20 banks has helped the public for doing economic activities and 3 of them from Islamic banks are BRI Syariah, Syariah Mandiri Bank and Muamalat Bank.⁶

In the Financial Services Authority (OJK) shows the data Non

⁴ Estu Suryowati, *Ini Alasan Pembiayaan Macet Perbankan Syariah Cukup Tinggi*, <https://www.ekonomi.kompas.com/>, (Accessed on 1 September 2018, At 22.31WIB)

⁵ Rifqi Muhammad, *Akuntansi Keuangan Syariah: Konsep dan Implementasi PSAK Syariah*, (Yogyakarta: P3EI Press, 2008), p. 138.

⁶ Badan Pusat Statistik, *Perbankan di Kota Magelang*, <https://magelangkota.bps.go.id/>, (accessed on 7 April 2019, 21.03 WIB)

Performing Financing (NPF) Gross Islamic Bank as of June 2016. The first rank is indicated to Maybank Syariah with a percentage 29.31% and non-performing financing with the lowest percentage 0.55% was shown to BCA Syariah. Rising non-performing financing due to the decreased of the business impact of domestic and global economic slowdown. However PT.BRISyariah shows the nominal non-performing financing amounted to 4.87% indicating that the handling is quite good financing problems than other Islamic banks.⁷

In PT.BRISyariah Annual Report 2017 tells us that in 2013 the percentage of Non-Performing Financing reached 3.26% and increased 3.65% next years, afterwards in 2015 increased to 3.89%. However, in 2016 the percentage of Non-Performing Financing decreased to 3.19%. And increased in 2017 to 4.72%.⁸

Also in financing report of PT. BRISyariah on murabaha financing if it is looked specifically, in 2015 murabaha financing hit Rp.8,741 million, has increased to Rp.9 million in 2016 and in 2017 increased hit Rp.9,128 million. However, the financing of PT.BRISyariah on murabaha financing makes increased non performing financing ratio at PT.BRISyariah too. Data of Non performing financing at PT.BRISyariah shown in 2015 total loss financing hit Rp.302 million, in 2016 hit Rp.314 million, and increasingly hit Rp.389 million it 2017.⁹

Loss of financing at PT.BRISyariah shows increasingly make the bank parties must be careful the risk management and enhancing the prudence principles. Because of loss financing resulted non-current in cash flow on financing banking system. Therefore the effort overcoming of non performing financing applied has a function for liquid fund financing circulation and minimizing losses for getting profit.

⁷ Financial Services Authority, *3 Bank Syariah Memiliki Kredit Bermasalah di Atas 10 Persen*, <http://www.databoks.co.id/>, (Accessed on 28 September 2018, at 10:14 pm)

⁸ BRISyariah Annual Financial Report 2017

⁹ BRI Syariah Annual Financial Report 2017

Risk can be occurred in bank financing caused by several factors. One of the factors of non performing financing is a debtor default who act inapplicable on his obligation. The debtor who act be that called by debitor default (wanprestasi). The effort from bank parties for overcoming of non performing financing to push the debtor paying the installment financing according to over a particular period or to give a sanctions to debtor by fines (ta'zir) on financing the delayed payment installment. This regulation is written on Fatwa DSN-MUI No.17/DSN-MUI/IX/2000 concerning ability costumer sanction who delayed a paying installment. Therefore a background of study and phenomena described above, the researcher interests in the conducting research by the title” An Overcoming of Non Performing Financing Analysis as Result of Debitor Default (Wanprestasi) (A Case Studi at PT.BRISyariah Magelang Branch Office 2018) “.

1.2. Problem Formulation

Based on the background of study described above, the problem formulation in this study are:

1. What are the causes of Non Performing Financing at PT.BRISyariah Magelang Branch Office?
2. How to Overcoming of Non-Performing Financing as result of debtor default (wanprestasi) at PT.BRISyariah Magelang Branch Office?
3. How Islamic law analysis in overcoming of Non-Performing Financing as result of debtor default (wanprestasi)?

1.3. Purpose of Study

This study has the intention and purpose that rest on problem formulation above, then there are several things to be achieved by the researcher:

1. To know the causes of Non-Performing Financing occurring in PT.BRISyariah Magelang Branch Office.
2. To know the procedures for overcoming applied by PT. BRISyariah

Magelang Branch Office for debtors default (wanprestasi).

3. To find out the overcoming of Non-Performing Financing for debtor default (wanprestasi) accordance to Islamic law.

1.4. Significance of Study

The usefulness of research the researcher discussed divided into two: theoretically and practically:

1.4.1. Theoretical Significance

Usability study researchers theoretically can provide are as follows:

- 1 To Add the depth of knowledge and that ideas in the repertoire of knowledge related to theories of Islamic banking on Non Performing Financing and tackling debtor defaults that occurred in PT.BRISyariah Magelang Branch Office.
- 2 As the evaluation of materials and information input for other research that will conduct research in terms of Non-Performing Financing and handling, the sanctions given to the debtor defaults on Islamic banking

1.4.2. Practical Significance

By this researcher gives practical significance research is as follows:

1. To Contributes result of research done thinking related to procedures for handling in the Non Performing Financing on defaulting debtors
2. To make reference or consideration for Islamic banking in the analysis of financing to minimize the Non-Performing Financing of default of the debtor and may reduce the risk of default in Islamic banking
3. To provide academic encouragement to the general public about their losses due to a debtor default (wanprestasi) in Islam banking.

1.5. Previous Studies

The previous studies give the information concerned research or erudition for perusal researcher. The data from researcher is refer to loss financing (non performing financing) occurred at Islamic banking. To avoid plagiarism in this research, the researcher discussed about overcoming of non performing financing analysis as result of debtor default (wanprestasi) occurred at Islamic banking. The researcher found the similarity previous studies with this research;

The thesis research compiled by Novianti Nurhalimah give the conclusion the overcoming of loss financing caused by . Her thesis described the effort to overcome a costumer at BTN Syariah Malang Branch Office devided into two stages, such as the effort to rescue loss financing stage and the effort to overcome loss financing stage. financing stagnant in overcoming caused by at BTN Syariah Malang branch office comes from two factors: internal factor originating from bank parties and external factor are from the costumer. The effort from BTN Syariah Malang branch office to avoid loss financing by providing employees training in financing prevention, to carry out intensive collection and persuasive approach. But, if occurred by problems as loss financing (non performing financing) must to prevention by prevailing laws regulation.¹⁰

Novita Nurhalimah research has a similarity with this thesis on overcome of non performing financing has occurred at Islamic bank by financing system. Hence the research can be based for researcher reference in thesis. Moreover, this thesis has difference such as a loss financing (non performing financing) factors at Islamic bank caused by debtor default (wanprestasi). Because of difference with the previous research, has the aim for avoid plagiarism on researcher thesis.

Afina Truly Rasidahadi thesis has conclusion about prevention of

¹⁰ Novianti Nurhalimah, *Penanganan Pembiayaan Bermasalah yang disebabkan Force Majeure Pihak Nasabah (Studi di Bank Tabungan Negara Syariah Cabang Malang)*, Faculty of Law, University of Brawijaya, Malang, Thesis Economics and Business, 2014

multipurpose loss financing, BNI Syariah Surabaya branch office has did main procedure such as applied a prudential principles seen at 5C aspect (character, capital, capacity, collateral, and condition). Implement of 5C aspect applied every financing by costumer. When perspective costumer has didn't correspond conditions to 5C aspect, the bank parties can't to cash down for prospective costumer. To use of costumer financing on monitoring, the bank parties responsible to monitoring via telephone and to visit the costumer on the spot every month or every three months for put in mind of return financing or to ask progress occur costumer and to help in solving problems.¹¹

After reviewed Afina Truly Rasidahadi, the researcher has difference refer to overcoming loss financing (non performing financing) according to Islamic law and fatwa DSN-MUI. Moreover, the researcher has similarity discussing about overcoming of non performing financing stage applied contract system.

Triana Apriliani Rois Mardiah W thesis give the conclusion to overcome of non performing financing has alternative way at BNI Syariah such as intensive billing restructure, providing a full of the sell collateral together. But at BNI Syariah always provide a several alternative way in order that the costumer not pay even greater. Then always provides the opportunities to costumer feel secure. BNI Syariah is effective on overcoming of non performing financing according to fatwa DSN-MUI No.17/DSN-MUI/IX/200 and DSN-MUI No.47/DSN-MUI/II/2005.¹²

The difference with researcher thesis is in overcoming of non performing financing form. The researcher reviewed the terms of debtor defaults (wanprestasi), whereas the previous study discussed about

¹¹ Afina Truly Rasidahadi, *Strategi Pencegahan Pembiayaan Multiguna Bermasalah (Studi Kasus Pada BNI Syariah Cabang Surabaya)*, Fakultas Ekonomi dan Bisnis Islam, UIN Sunan Ampel Surabaya, Skripsi Ekonomi Syariah, 2015

¹² Triana Aprillia Rois Mardiah W, *Efektifitas Penanganan Pembiayaan Macet dan Eksekusi Jaminan Produk KPR Akad di BNI Syariah KCP Mojokerto*, Fakultas Ekonomi dan Bisnis Islam, UIN Sunan Ampel Surabaya, Skripsi Ekonomi Syariah, 2015

overcoming of non performing financing in general term.

The journal by the title “Analisis Manajemen Kredit Kepemilikan Rumah untuk meminimalisir Kredit Macet pada Produk KPR BTN IB (Studi Pada Kantor Bank Tabungan Negara Syariah Cabang Malang)” concludes the financing given by BTN Syariah should conduct to clients by using 5C principles analysis (character , capacity, capital, conditional and collateral) and added by 7P principle analysis (personality, party, purpose, prespect, payment, profitability, protection) and by 3R principles analysis (return, repayment, risk bearing ability). BTN Syariah Malang branch office has monitored debtor financing in repayment installment and to organize a survey every five months. To overcome the arrears of installment financing, so the BTN Syariah Malang branch office doing several act such as compromise or corporation and auction.¹³

To avoid plagiarism, the researcher found the difference refer to overcome of non performing financing as result by debtor default (wanprestasi). The similarity research refer to overcome of non performing financing has occurred at Islamic bank.

The journal by the title “Manajemen Penyelesaian Pembiayaan Bermasalah pada Lembaga Perbankan Syariah” concluded the overcoming of non performing financing management can by applying standard risk control, prevention of financing risk by character analysis or personality prospective costumer, then can to handle by rescheduling, reconditioning, restructuring, settlement by guarantee and write off.¹⁴

The similarity with this thesis to overcome of non performing financing at Islamic bank institution. To avoid plagiarism, so the researcher

¹³ Norlesta Juni Wardhani, Moch. Dzulkrirom dan Dwiatmanto, *Analisis Manajemen Kredit Kepemilikan Rumah Untuk Meminimalisir Kredit Macet pada Produk KPR BTN IB (Studi pada Kantor Bank Tabungan Negara Syariah Cabang Malang)*, Jurnal Administrasi Bisnis (JAB), (Volume 1 Nomor 1, Januari 2015)

¹⁴ Muhammad Turmudi, *Manajemen Penyelesaian Pembiayaan Bermasalah pada Lembaga Perbankan Syariah, Li Falah Jurnal Studi Ekonomi dan Bisnis Islam*, (Volume 1 Nomor 1, Juni 2016)

have the difference research in overcoming of non performing financing based on Islamic law and fatwa DSN-MUI concerning to applicable financing.

1.6. Research Methods

This research is field research, the research activities carried out in certain communities both in intitutions of civil organizations as well as government agencies.¹⁵ This research refer to overcome of non performing financing as result of debitur default (wanprestasi) (case study at PT.BRISyariah Magelang Branch Office). The stage of this research such as:

1) Type of Research

This type of research the researcher used by descriptive qualitative research. The data compiled in this study refer to source of data, qualitative method based on interviews data and also field observation related to the title and the data.

2) Place of Research

The research was conducted at BRISyariah Magelang Branch Office addressed at St.Singosari No.98, South Rejowinangun, South Magelang, Central Java 5612, Telephone (0293) 367 380.

3) Source of Data

The data used in this study are as follows:

a. Primary Data

Primary data is data obtained directly from the subject of research by taking the data directly on the subject as a source of information.¹⁶ This data obtaining from BRISyariah Magelang branch office parties refer to costumer financing transaction and to overcome of non performing financing if occur. Taking

¹⁵ Sumadi Suryabrata, *Meotodologi Penelitian*, (Jakarta: PT Raja Grafindo, 1998), p. 22

¹⁶ Lexy J. Moelong, *Metode Penelitian Kualitatif*, (Bandung: PT Sigma 1996), p.28

data method by interview, observation or special instrument measure researcher designed.

b. Secondary data

Secondary data obtaining from indirect method in data collection. There are can taking from books, journals, internet and data related to problem.¹⁷

1.7. Collecting Data Method

To obtain the necessary data in this study, the researcher used data collection techniques as follows:

1) Interview Method

Interview is question answer method in directly research by talk face to face two parties or more, to listen directly the information.¹⁸ The researcher will try to do interview to chief of institution, director and several parties at BRISyariah Magelang branch office to get information refer to this main problem.

2) Documentation Method

Documentation is collection method by reading and taking decisions on the files or archive documents with the agreement between the costumer of PT.BRISyariah Magelang Branch Office and rules that apply to PT.BRISyariah Magelang Branch Office.

1.8. Data Analysis Method

After gathering the data obtained by researcher and managed the data accordance to researcher research, then analyzed the data and criticized by reviewing the Islamic law and fatwas accordance with these problems. Data analysis is gathering data organizing such as field information and researcher opinion, photos, picture, and document (report, biography and article).

¹⁷ Sugiyono, *Memahami Penelitian Kualitatif*, (Bandung: Alfabeta, 2012), p.62

¹⁸ Cholid Narbuko and Abu Achmadi, *Metodologi Penelitian*, (Jakarta: Bumi Aksara, 2009), p. 83

Gathering the data analysis in this research prejudiced by descriptive qualitative method, the aim for description the problems based on the data of costumer transaction in financing and default (wanprestasi) model in repayment financing at BRISyariah Magelang branch office. The data obtained by recording, analyzing and interpreting. The data to develop by inductive mindset used to express of result then drawn general conclusion about overcoming of non performing financing as result of debtor default (wanprestasi) accordance to Islamic law and fatwa MUI.

1.9. Discussion Systematic

To easy understanding in this research, the researcher has discussion systematic as follows:

Chapter I is an introduction outlining the background of study, problem formulation, purpose of study, previous studies, research method, collecting data method, data analysis method and discussion systematic.

Chapter II contains a theoretical framework for analyzing the problem of study. Theoretical framework will be relied upon in discussing the research object of analysis which will be conducted in chapter IV. Without the theoretical framework then the research of study will uncertainty. Chapter II contains the theoretical framework, conceptual framework, and framework.

Chapter III contains the main data refer to general picture or subject research background, the result of research and result of data analysis. The main data obtained by recording, observation, interviews about overcoming of non performing financing and the factors of debtor default (wanprestasi) in repayment financing. The result of interviews obtained from informant, then gathering the descriptive information by collection data method. The result of data covered with overcoming of non performing financing mechanism and implementation of sanction to debtor default (wanprestasi) at BRISyariah Magelang branch office and then to verification by Islamic law and fatwa MUI related to this research of study.