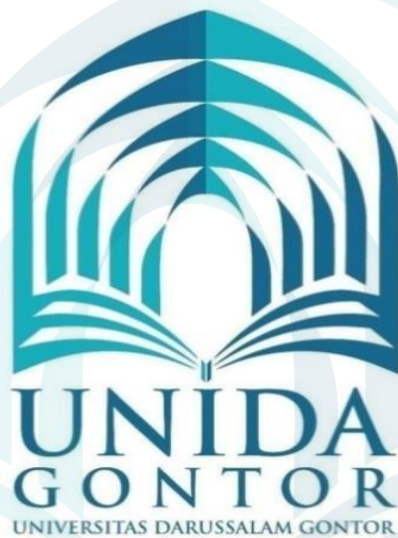


**THE RELEVANCE OF SUPREME COURT
DECISION NUMBER 881 K/AG/2020 ON CESSIE
DISPUTE WITH *MAQĀṢID SHARĪ'AH***

THESIS

Submitted to the Department of Islamic Economics Law
for the Master Degree



By:

Alfiya Utami

Reg. Number: 442023837015

POSTGRADUATE PROGRAM

UNIVERSITY OF DARUSSALAM GONTOR

PONOROGO-INDONESIA

1446 H/2025

**THE RELEVANCE OF SUPREME COURT
DECISION NUMBER 881 K/AG/2020 ON CESSIE
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THESIS

Presented to the Postgraduate Program of the University of Darussalam
Gontor in partial fulfillment of the requirements for completing a Master
Program in Department of Islamic Economics Law

By:

Alfiya Utami

Reg. Number: 442023837015

Supervisor:

Assoc. Prof. Dr. Drs. Y. Suyoto Arief, M.S.I.

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ABSTRAK

Alfiya Utami, 2025, *Relevansi Putusan Mahkamah Agung Nomor 881 K/Ag/2020 Tentang Sengketa Cessie dengan Maqāṣid Shari'ah*. Pembimbing: Assoc. Prof. Dr. Drs. Y. Suyoto Arief, M.S.I.

Kata kunci: Cessie, Sengketa Ekonomi, Putusan, *Maqāṣid Shari'ah*.

Ketidakpuasan nasabah terhadap pengalihan piutang melalui cessie dalam perbankan syariah sering kali menimbulkan sengketa hukum, seperti dalam putusan Mahkamah Agung No. 881 K/Ag/2020. Cessie diakui dalam hukum positif, tetapi masih diperdebatkan dalam hukum Islam terkait transparansi dan perlindungan hak nasabah. Ketidaksesuaian praktik cessie dengan *maqāṣid shari'ah*, khususnya dalam aspek *maqāṣid shari'ah* menjadi isu penting yang perlu dikaji lebih dalam.

Penelitian ini bertujuan untuk menganalisis kesesuaian putusan Mahkamah Agung No. 881 K/Ag/2020 dengan prinsip *maqāṣid shari'ah* serta dampaknya terhadap perlindungan hak nasabah dan praktik perbankan syariah. Hasil penelitian ini diharapkan dapat memberikan pemahaman yang lebih jelas mengenai penerapan hukum syariah dalam penyelesaian sengketa ekonomi syariah.

Penelitian ini merupakan penelitian kualitatif deskriptif dengan pendekatan normatif yuridis untuk memeriksa keputusan pengadilan mengenai sengketa cessie berdasarkan hukum ekonomi syariah. Fokus penelitian ini adalah penerapan prinsip *maqāṣid shari'ah* melalui peninjauan aturan, keputusan pengadilan, dan literatur akademik, termasuk buku dan artikel. Pengumpulan data dilakukan melalui studi pustaka, analisis dokumen, dan dokumentasi. Data yang diperoleh dianalisis menggunakan pendekatan analisis konten deskriptif induktif guna mengidentifikasi penerapan *maqāṣid shari'ah* serta menarik kesimpulan melalui triangulasi teori.

Putusan Nomor 881 K/Ag/2020 menetapkan bahwa cessie yang dilakukan oleh Tergugat I dan II dianggap sah serta sejalan dengan prinsip hukum syariah. Pengalihan piutang tersebut dikategorikan sebagai *hawālah* tanpa memerlukan syarat *ijāb* dan *qabūl*. Gugatan ganti rugi Penggugat ditolak karena tidak ada bukti kerugian yang jelas, dan hakim memberikan kesempatan kepada Penggugat untuk melunasi sisa utangnya. Putusan ini mencerminkan prinsip *maqāṣid shari'ah* seperti keadilan, perlindungan hak, dan pencegahan kerugian, serta memberikan kepastian hukum atas transaksi dan kewajiban kreditur mengembalikan agunan setelah utang lunas. Penolakan gugatan ganti rugi mencegah kerugian yang tidak berdasar, dan putusan ini menjadi pedoman pelaksanaan cessie yang adil sesuai *maqāṣid shari'ah*.

Penelitian ini juga menyarankan perbankan syariah untuk meningkatkan edukasi kepada nasabah, memperluas pemahaman hakim tentang *maqāṣid shari'ah*, serta meningkatkan kesadaran masyarakat tentang transaksi keuangan syariah.

ABSTRACT

Alfiya Utami, 2025, *The Relevance of Supreme Court Decision Number 881 K/Ag/2020 On Cessie Dispute with Maqāṣid Sharī'ah*. Supervisor: Assoc. Prof. Dr. Drs. Y. Suyoto Arief, M.S.I.

Keywords: Cessie, Economic Dispute, Decision, *Maqāṣid Sharī'ah*.

Customer dissatisfaction with debt transfers through cessie in Islamic banking often leads to legal disputes, as seen in Supreme Court Decision No. 881 K/Ag/2020. While cessie is recognized in positive law, it remains debated in Islamic law, particularly concerning transparency and the protection of customer rights. The misalignment of cessie practices with *maqāṣid sharī'ah*, especially in justice and public welfare, is a critical issue that requires further examination.

This research aims to analyze the conformity of Supreme Court Decision No. 881 K/Ag/2020 with the principles of *maqāṣid sharī'ah* and its impact on customer rights protection and Islamic banking practices. The findings of this research are expected to provide a clearer understanding of the application of Islamic law in resolving disputes within the Islamic economic system.

This research is a descriptive qualitative study employing a normative juridical approach to examine court decisions on cessie disputes based on Islamic economic law. The focus of this study is the application of *maqāṣid sharī'ah* principles through a review of regulations, court rulings, and academic literature, including books and articles. Data collection is conducted through literature studies, document analysis, and documentation. The collected data is analyzed using an inductive descriptive content analysis approach to identify the application of *maqāṣid sharī'ah* and to conclude theoretical triangulation.

Decision Number 881 K/Ag/2020 confirms the validity of the cessie conducted by Defendants I and II, aligning with Sharia law principles. The transfer of receivables is classified as *hawālah* without requiring *ījāb* and *qabūl*. The Plaintiff's compensation claim was dismissed due to insufficient evidence of financial loss, while the judge allowed the Plaintiff to repay the remaining debt. This decision upholds *maqāṣid sharī'ah* principles, including justice, protection of rights, and harm prevention, while also ensuring legal certainty in transactions. Additionally, it reinforces the creditor's duty to return collateral once the debt is settled and prevents unwarranted financial claims, serving as a benchmark for the fair application of cessie in accordance with *maqāṣid sharī'ah*.

This research also suggests that Islamic banking should enhance education for customers, broaden judges' understanding of *maqāṣid sharī'ah*, and increase public awareness of sharia-compliant financial transactions.

OFFICE NOTE

To Honorable:
Director of Postgraduate Program
University of Darussalam Gontor

Assalamualaikum warahmatullahi wa barakatuh

It is my honor to present this thesis written by:

Name : Alfiya Utami
Reg. Number : 442023837015
Department : Master of Islamic Economics Law
The Tittle : The Relevance of Supreme Court Decision
Number 881 K/Ag/2020 On Cessie Disputes
with Maqashid Sharia

I declare that this thesis has been processed and corrected to fulfil the requirement for completing the Postgraduate Degree in the Department of Islamic Economics Law. Therefore, I request that the thesis could be examined soon.

Wassalamualaikum Warahmatullahi wa barakatuh

Ponorogo, 28 January 2025
28 Rajab 1446

The Supervisor,



Assoc. Prof. Dr. Drs. Y. Suyoto Arief, M.S.I.

NIDN. 8970680023

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LETTER OF LEGITIMATION

The Committee of thesis examination impartial fulfillment of the requirement of the degree of Magister in Islamic Economics Law, having held the thesis examination on:

Day and Date : Thursday, 13 February 2025

Venue : Postgraduate 103

State the student below:

Name : Alfiya Utami

Reg. Number : 442023837015

Program of Study : Master of Islamic Economics Law

The Title : The Relevance of Supreme Court Decision Number
881 K/Ag/2020 On Cessie Disputes with *Maqāṣid*
Syarī'ah

Has been successfully defended in front of the Board of Examiners and accepted as part of the requirements for a degree of Magister in Islamic Economics Law.

1. Assoc. Prof. Dr. Drs. Y. Suyoto Arief, M.S.I. (Chairman)



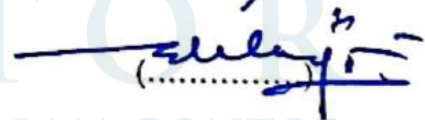
2. Assoc. Prof. Dr. Mulyono Jamal, M.A. (Examiner I)



3. Assoc. Prof. Dr. Syamsuri, M.Sh. (Examiner II)



4. Dr. Eko Nur Cahyo, M.A. (Examiner III)



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CERTIFICATION

Bismillahirrahmanirrahim,

Assalamu 'alaikum Warahmatullah Wabarakatuh.

Hereby, the Postgraduate Program of University of Darussalam Gontor Ponorogo has received a thesis,

Entitled : The Relevance of Supreme Court Decision
Number 881 K/Ag/2020 On Cessie Disputes
with *Maqāṣid Syarī'ah*

Researcher : Alfiya Utami


Reg. Number : 442023837015

Program of Study : Master of Islamic Economics Law

Declaring that she has been accepted as one of the conditions for obtaining a master's degree in Islamic Economics Law.

Wassalamu 'alaikum Warahmatullah Wabarakatuh.

Ponorogo, 21 February, 2025
Director of Postgraduate Program,



Assoc. Prof. Dr. M. Kholid Muslih, M.A.
NIDN. 2119067301

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DECLARATION

I here by:

Name : Alfiya Utami
Reg. Number : 442023837015
Degree : Magister
Program of Study : Master of Islamic Economics Law

I declare sincerely that this thesis for a master's degree is original and purely my work and does not belong to other researchers for a different degree. Furthermore, this thesis is not a work published before, except for some parts with their original reference.

Ponorogo, 28 January 2025
28 Rajab 1446

The Researcher,



Alfiya Utami
NIM. 442023837015

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MOTTOES



قال الله تعالى:

وَإِنْ كَانَ دُوْ عُسْرَةٌ فَنظِرَةٌ إِلَىٰ مَيْسَرَةٍ ۖ وَأَنْ تَصَدَّقُوا خَيْرٌ لَّكُمْ ۖ إِنْ كُنْتُمْ تَعْلَمُونَ
﴿سورة البقرة (١): ٢٨٠﴾

إِنَّا أَنْزَلْنَاهُ إِلَيْكَ بِالْحَقِّ لِنُحْكِمَ بَيْنَ النَّاسِ بِمَا أَرَاكَ اللَّهُ ۖ وَلَا تَكُنْ
لِّلْخَائِنِينَ خَصِيمًا
﴿سورة النساء (٤): ١٠٥﴾

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DEDICATION

Millions and countless thanks to My Lord Almighty, Allah Subhanahu Wa Ta'ala.

Prayer and greetings for the prophet Muhammad SAW with the sincerity of my heart, I dedicate this thesis to

My beloved parents, "Sarni and Sumirah"

Who instilled in my conscience a love of effort and gratitude and filled me with a love of knowledge in life. Who taught me life, guided me with patience, loved me infinitely for a long time, cared for me with all affection, gave me the best upbringing, and nourished me with their pure advice. Therefore, I pray that Allah forgives their sins, elevate them to the highest rank, grant them success in their work, and may He bestows His mercy upon them.

And for my beloved brother, "Muhammad Nur Priandana"

He encourages me a lot to seek knowledge and accompanies and entertains me always; his presence is a big encouragement in my life to become a better person. May Allah reward and grant him success in his affairs and guide him to goodness in every step.

And I say thank you from a sincere heart to my supervisor, "Assoc. Prof. Dr. Drs. Y. Suyoto Arief, M.S.I." who has guided, taught, and directed me with patience and sacrifice. And to my beloved teachers and lectures of the University of Darussalam Gontor, who have motivated me to keep going and rise so that I can struggle and reach this stage.

I want to express my deepest gratitude to my beloved friends who have given me attention and advice and helped me during the work of this final project.

ACKNOWLEDGMENT

In the name of Allah, the beneficent, the merciful, praise be to Allah the Lord of the world, the Owner of the Day of Judgment. Pray and peace be upon Prophet Muhammad SAW, his families, companions, and his followers.

With the mercy and blessing of Allah SWT, I could complete this thesis of Magister. Therefore, I would like to extend my deep gratitude to those in graduate study at the University of Darussalam Gontor. Besides, I wish to extend my appreciation due to the following:

1. The honor Headmasters of Modern Pesantren Darussalam Gontor, K.H. Hasan Abdullah Sahal, Prof. Dr. K.H Amal Fathullah Zarkasyi, M.A and Drs. K.H. M. Akrim Mariyat, Dipl.A.Ed, who has sincerely given me the most incredible opportunity to dedicate myself to this institution.
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3. The Director Postgraduate Program, Assoc. Prof. Dr. Mohammad Kholid Muslih, M.A
4. The Head of the Magister of Islamic Economics Law Department, Assoc. Prof. Dr. Syamsuri, M.Sh, and all the lecturers of Darussalam Gontor, for the priceless knowledge and education to be the real wise economist.
5. My worthy thesis supervisor Assoc. Prof. Dr. Drs. Y. Suyoto Arief, M.S.I., had sincerely taught me not only invaluable new knowledge but also everything, advised and motivated me when I was drowning in the confusion of doing a thesis project until I had done it perfectly. The researcher expresses a thousand thanks for the guidance that was sincerely and patiently given to the author. may he always be protected by Allah.

6. Beloved parents Sarni and Sumirah persistently motivate the writer to keep fighting without giving up, with drops of sweat, tears, and prayers sincerely given. I love both of you to the moon and never back.
7. My beloved older brother Muhammad Nur Priandana, who always provides constructive feedback to encourage his little sister and is patient with all of her heartfelt confessions.
8. So I would be remiss if I did not thank my classmates in postgraduate HES 2023 who have struggled together to complete this master's study and always provide a lot of direction and advice.
9. So extraordinary is that all postgraduate friends who have struggled together to complete this master's study and always provided a lot of direction and suggestions, best friends during college in joy and sorrow.

I ask Allah to avenge their deeds, forgive their sins, write success for them, reward them with the best reward and happiness, and help them in their work. And may Allah reward them in proportion and bless them for them and bless them, and may this humble thesis be valuable and useful for readers, especially researchers. Finally, the researcher would like to offer her most profound respect and gratitude to all her companions for their support and help in completing this thesis. May Allah give great rewards in this world and hereafter.

Ponorogo, 28 January 2025
The Researcher,

Alfiya Utami

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