ABSTRAK

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

Kata kunci: Cessie, Sengketa Ekonomi, Putusan, *Maqāṣid Sharī'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 sharī'ah*, khususnya dalam aspek *maqāṣid sharī'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 sharī'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 sharī'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 sharī'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 *ḥawālah* tanpa memerlukan syarat *ījāb* 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 sharī'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 sharī'ah*.

Penelitian ini juga menyarankan perbankan syariah untuk meningkatkan edukasi kepada nasabah, memperluas pemahaman hakim tentang *maqāṣid sharī'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 *ḥawālah* 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.