

CHAPTER 1

INTRODUCTION

1.1 Background of Study

Humans are created by Allah SWT as social beings who need each other, where humans are required to interact with one another because they will need help from others in carrying out all their tasks. Therefore, humans must be aware of the orderliness of others in this life, which means interacting with each other to meet their living needs together and achieve a more advanced life purpose.

In this world, especially in the field of economics today, has developed very rapidly, and has many agreements, for example, cooperation agreements. An agreement is the agreement of an act where a person binds himself to one or more people, in Islam an agreement or union is called a contract.¹

Economic growth over time has a significant impact on the welfare of society and the realization of a nation's or country's independence in financing domestic infrastructure development by tapping into domestic funding sources while keeping up with the latest technological advancements and innovations.

In the development of all infrastructure and facilities, there must be something called cooperation. In this case, cooperation is characterized by concern for one person or one party towards another person or party, based on the principles of mutual trust and mutual respect.

¹ Nungki Ekawati, “*Analisis Pelaksanaan Perjanjian Kerjasama Pt. Asindo Tech Natar Lampung Selatan Terhadap Kegiatan Jasa Konstruksi Dalam Perspektif Ekonomi Islam*”, (Lampung, 2016), p. 3

The meaning of that sentence is believed to be that to fulfill someone's needs, there must be involvement or interaction among various elements of society, so that the direction and goals in fulfilling those needs can be achieved and also able to provide a point of convergence for any problems that may arise, allowing them to be resolved as quickly as possible.²

Thus, it can be interpreted that all humans must help and cooperate with each other in the community environment because in society there are many different religions, tribes, races, and ethnicities. Cooperation is a prerequisite for a better life in a society that relies on each other; cooperation is found almost in social life, from children to family life, groups, and within social communities.

Cooperation can occur because it is driven by shared goals or benefits that will be gained within the group.³ Cooperation arises when people realize that they have the same interests at the same time and possess sufficient knowledge and self-control to fulfill those interests. Awareness of the existence of common interests and the presence of an organization are forms of important facts in useful cooperation.

² Clara Oktaviani, *“Analisis Bentuk Kerja Sama Antara Masyarakat Local Dan Transmigrasi Dalam Penyelesaian Pembangunan Gedung”*, (Jakarta, 2018), p. 12

³ Dr. Yusuf Qardhawi, *“Sistem Masyarakat Islam Dalam Al-Qur'an Dan Sunnah”*, (Solo: Citra Islami Press, 1997), p. 33

This form of cooperation develops if individual communities can be mobilized to achieve common needs and goals so that there must be awareness that these goals will later have benefits for all.

The discussion of building construction is inseparable from construction services, construction services are one of the businesses in the economic sector related to the planning, implementation, and supervision of a construction activity to form a building or other physical form where the use of the building concerns the interests and safety of the community using the building.⁴

Along with the growth and development of society, the demand for quality and sustainable infrastructure is increasing. In this context, the construction services industry plays an integral role in building a solid foundation for sustainable economy and community welfare.

The growth of the national economy and development in the economic sector in the business world, including in the field of construction services, the growth rate is accelerating. Economic actors, including the government and the community as individuals and legal entities, need large funds to develop the economy and economic development. The construction services industry is one of the business worlds that requires the use of capital in the implementation of projects that are being worked on.⁵

⁴ Enggar Sukma Pertiwi, “Implementasi Pemotongan Pajak Penghasilan Atas Jasa Konstruksi Berdasar Pp No. 40 Tahun 2009 Pada Cv. Utama Teknik Di Sidoarjo”, (Surabaya, 2020), p. 1

⁵ Ahmad Syahputra, “Analisis Yuridis Perjanjian Kerja Konstruksi Sebagai Jaminan Kredit Di Pt. Bank Lampung”, (Lampung, 2022), p. 1

An explanation of construction services certainly involves cooperation between one party and another, resulting in many parties working together to achieve a common goal. Cooperation can be found almost in social life, from children to family life, groups, kinship, and even in social communities. Cooperation can occur because it is driven by shared goals or benefits within the group.

The organization of the construction of a building and the regulation of all activities related to the construction, operation, maintenance, demolition, and reconstruction of a building. Construction services are one of the tangible proofs of the development in Indonesia, playing an important role in achieving various goals to support the realization of national development.

Through the organization of construction services, benefits can be obtained such as: the community enjoying the necessary infrastructure/facilities, enhancing industrial development and other sectors like tourism and business, supporting various production activities, providing business and job opportunities, contributing to gross domestic product (GDP), attracting both domestic and foreign investors thereby boosting the regional economy in particular and Indonesia in general, and supporting the enhancement of national resilience. supporting the increase in foreign exchange savings and the increase in foreign exchange earnings.⁶

⁶ Oktariyani, “*Tanggung Jawab Hukum Perjanjian Pekerjaan Konstruksi*”, (Jakarta, 2019), p. 2

The construction service industry in Indonesia has currently experienced very rapid development. It is through this sector that the physical progress of Indonesia's development can be seen directly. In the implementation of the construction service business, project owners or parties who want to carry out a physical development, both government and private, generally do not do it themselves.

The project owner usually delegates the construction work to a construction service company involving a contractor building contractor or a project consultant who all have their own role in the development.

The construction service sector, includes elements of cooperation between one party and another, which will arise in each individual when they realize that they have the same interests at the same time. So that within the group, there is sufficient knowledge and self-control to meet the common interests and goals. Awareness of the intention to cooperate within an organization or group can fulfill the interests and goals of that organization.

Islam was revealed to the world as *rahmatan lil alamin*, Islam is a true religion so its order it can regulate life perfectly. The Islamic religion has regulated all aspects of life, for example, starting from the form of cooperation that has been regulated.⁷

⁷ Heri Sudarsono, “*Bank Dan Lembaga Keuangan Syariah Deskripsi Dan Ilustrasi, edisi 4*”. (Yogyakarta: Ekonisia, 2015), p. 76

As in the world of the construction services business, it has regulations that have been regulated in Islam, namely there is an agreement to achieve goals and benefit each other or can be called an *akad*, in Islam the agreement can be called the term contract. Meanwhile, in the Islamic sharia system, there exists a type of contract known as the *musyarakah* or *shirkah* contract.

The definition of a contract is to bind two parties who agree with each other, namely each party is bound to carry out their respective obligations that have been agreed upon in advance,⁸ while the definition of *al-musyarakah* is based on *sharakah* or *shirkah* itself is a cooperation contract between two or more parties for a certain business where each party provides a contribution to charity funds or expertise with an agreement that the benefits and risks will be borne jointly according to by agreement.⁹

However, this *musyarakah* appears to be an agreement founded on Sharia principles at first sight. Certainly, it cannot currently be claimed that this contract fulfils the criteria of sharia contracts, as numerous banks with sharia branding have appeared, yet they do not truly apply the system. *Musyarakah* is designed as a unique financing option for working capital, wherein the funds provided by the bank become a portion of the customer's business capital, and the profits are distributed based on a predetermined ratio.

The benefits arising from this contract are; First, it is more profitable because it is based on the principle of profit sharing; and second, the facilities provided are flexible financing repayment mechanisms.

⁸ Darmawati H, "*Akad Dalam Transaksi Ekonomi Syariah*", p. 145

⁹ Muhammad Syafi'I Antonio, "*Bank Syariah Dari Teori Ke Praktik*", (Jakarta: Gema Insani, 2001), p. 90

After the description above, the author will explain the problems related to this writing, namely in the Bekasi city area there is a company PT. Anugrah Mas Utama, which is engaged in the manufacturing industry of mining machinery aids following KBLI (Indonesian standard classification of business fields) registered with the Ministry of Justice, and also NIB (business identification number) issued by the OSS (online single submission) management and implementation institution, and is also engaged in the industry of manufacturing heavy equipment attachments such as: buckets, safety guards, reinforce boom, and other arm attachments.

The company can also serve the sale/lease of heavy equipment, provide home properties, and provide building construction services. The many production activities produced by PT Anugrah Mas Utama ranging from the manufacture of heavy equipment for building construction, buying and selling and leasing heavy equipment, as well as providing building construction services have many agreements that exist in transacting it.

One example is in terms of a work payment agreement in accordance with the progress that has been achieved, in the agreement there is a scheme of procedures for implementing payment, namely: The first payment is paid at 20% of the contract value after the work progress reaches 25%, accompanied by the minutes of the BAPP work inspection (calculation and financing budget section) which is approved and signed by the work supervisor.

From the description of the scheme of implementing the work payment agreement above after the progress is running, the agreement has an obstacle to the disbursement of funds after the progress of the work takes place, namely the payment of 20% of the contract value after the progress of the work reaches 25% has not yet been released, so the obstacle arises so that the author will examine from this unique agreement where the agreement in it has been written in the regulations but The implementation is often not by what has been written in the regulations of the agreement that has been made in the business because that the owner of the company is out of town so that there are difficulties in disbursing the budget in the project.

So that the problem arises where the construction service party bears the cost not from the organizer of the work until the signing of the budget disbursement has come out, then the money spent from the construction service is returned, and this problem needs to be reconsidered because it is a bad ability in an agreement.

Therefore, based on the issues mentioned above, the researcher is keen to explore the aforementioned issues through a study titled **"Implementation of Cooperation Agreements at PT. Anugrah Mas Utama of Bekasi City towards Construction Services Activities in the Perspective of *Fiqh Musyarakah*"**

1.2 Problem Formulation

Based on the background of the research problem above, the research formulation is as follows:

1. How is the implementation of the cooperation agreement of PT Anugrah Mas Utama in Bekasi City regarding construction services activities?
2. How is the implementation of the cooperation agreement of PT Anugrah Mas Utama of Bekasi city on construction service activities from the perspective of *fiqh musyarakah*

1.3 Research objectives

1. To find out how the implementation of the cooperation agreement at PT. Anugrah Mas Utama of Bekasi city.
2. To find out how the implementation of cooperation financing at PT. Anugrah Mas Utama of the city of Bekasi in the perspective of *fiqh musyarakah*.

1.4 Research Benefits

1. Theoretical Benefits

The discussion of the problems as described above, is expected to provide an understanding for readers about the application of cooperation agreements to building construction service activities at PT Anugrah Mas Utama in the perspective of *fiqh musyarakah*. Theoretically, the benefits of writing will bring development to science and can be used as a consideration as well as a reference and to add insight into the application of *musharakah* contracts to enforce cooperation from the aspect of building construction.

2. Benefits of Practitioners

The benefits of practical research are expected to be used as an example in the application of cooperation between two parties in building construction, especially understanding and re-implementing the *musharakah* contract. As well as being beneficial for the wider community, especially for people who want to deepen about Islamic economic law and become a contribution of scientific thought to positive law in Indonesia and normative related to Islamic economic law.

1.5 Literature Review

Previous research or literature review means examining the results of previous research in the library. for this research not to overlap with research conducted by other researchers, it is necessary to conduct a literature review, the goal is to find out whether there are students who have researched and discussed this problem. After conducting a search, the author found that there was one thesis that had researched it first.¹⁰

The first study, conducted by Adul Karim, examines project financing using the *musyarakah* contract system at PT BPRS Safir Bengkulu. This research identifies two key issues: The first issue explores how the *musyarakah* contract system is applied in project financing at PT BPRS Safir Bengkulu. The second issue examines the challenges encountered in financing through the *musyarakah* contract system.

¹⁰ Suduri Ahmad, “*Tinjauan Hukum Islam Tentang Syirkah Antara Pemilik Kapal Dan Nelayan*,|| Repository UIN Raden Intan Lampung” (Bandar Lampung: 2017), p. 27

Conclusion: One of the most common obstacles in project musyarakah financing occurs in developer housing projects. These projects often face challenges related to builder issues, leading to delays in construction. As a result, the project cannot be completed on time, hindering the marketing of housing units and causing financial bottlenecks. When financing becomes stalled, losses are shared among the parties involved, who then collaborate to find solutions and resolve the issue effectively.¹¹

The difference between previous research and the author's research lies in the focus of the investigation. While prior research examines the constraints of financing under the *musyarakah* contract system, the author's study explores the implementation of project financing at PT Anugrah Mas Utama in Bekasi City from the perspective of *Fiqh Musyarakah*.

Second research: a juridical review of the construction contract for the establishment of the tax and retribution management agency with PT. Betesda Mandiri in North Sumatra Province, researched by Tuti Indah Sari. Based on this research, there are two issues, namely: First issue: How is the implementation of the building construction subcontracting agreement at the Tax and Retribution Management Agency in North Sumatra Province?

The second issue: What are the obstacles encountered in resolving disputes in the building construction contract of the Tax and Retribution Management Agency in North Sumatra Province?

¹¹ Abdul Karim, "Pembiayaan Dengan Sistem Akad Musyarakah Pada Proyek Pembangunan Gedung Oleh PT. BPRS", (Bengkulu, 2017), p. 45

Conclusion: the relationship between the assignor and the planner if the assignor is the government and the planner is also from the government, then there is an official relationship. If the assignor is from the government and/or the private sector, the planner is a private party who acts as an advisor to the assignee, then the relationship is outlined in the agreement to perform a single service. Meanwhile, if the assignor from the government or the private sector and the planner from the private party who acts as the deputy assignor (as a board of directors), the relationship is outlined in the authorization agreement.¹²

The difference between the previous research and the author's research lies in the issues under investigation, the previous research focuses on the implementation of the building wholesale agreement at the Tax and Retribution Management Agency in North Sumatra Province, whereas the issue explored by the author concerns the formation of the cooperation agreement at PT Anugrah Mas Utama, Bekasi city.

Third research: The legal construction of *musharakah* financing at the Yogyakarta branch of the Islamic Indonesian People's Bank as studied by Fahrudin presents two key issues: The first issue being: How is the legal construction of *musharakah* financing at the Yogyakarta branch of the Islamic Indonesian People's Bank Yogyakarta? The second issue: What is

¹² Tuti Indah Sari, “*Tinjauan Yuridis Terhadap Perjanjian Pemborongan Bangunan Gedung Badan Pengelolaan Pajak Dan Retribusi Dengan Pt. Batesda Mandiri Di Provinsi Sumatera Utara*”. (Sumatera Utara, 2019), p. 59

the Position of Guarantee in *Musharakah* Financing at Bank Rakyat Indonesia Syariah Yogyakarta Branch?.

Conclusion: The legal construction of *Musyarakah* financing at Bank Rakyat Indonesia *Syariah* Yogyakarta branch involves a relationship established between *Sharia*, specially between customers and banks to combine their funds/capital in a certain business with the distribution of profits and losses among fund/capital owners based on a previously agreed ratio.¹³

The difference between the previous research and the author's research lies in the issues being examined. The previous research focus on how to construct the legal construction of *musharakah* financing at the Yogyakarta branch of the Indonesian sharia people's bank, whereas the author's research investigates, how to development a cooperation agreement at PT Anugrah Mas Utama Bekasi city.

The fourth research: the application of *musharakah* contracts in working capital financing at the sub-branch of the North Sumatra Islamic Bank Prof. Hm Yamin Medan was conducted by Rapidah Btr, focusing on two issues. The first issues: how is the application of *musharakah* financing in the North Sumatra *sharia* bank sub-branch of Prof. HM Yamin Medan?

The second problem: how is the working capital financing system at the Islamic Bank of North Sumatra sub-branch Prof. HM Yamin Medan?

¹³ Fahrudin, "Konstruksi Hukum Pembiayaan Musyarakah Pada Bank Rakyat Indonesia Syariah Cabang Yogyakarta". (Yogyakarta, 2009), p. 63

Conclusion: the implementation of the *musyarakah* contract at the North Sumatra *sharia* bank sub-branch Prof. HM Yamin Medan is deemed fulfilled, as evidenced by the presence of *ijab* and *qabul*. In addition, both banks and customers invest capital to run business projects, with profits divided according to the portion of capital contribution (ratio).¹⁴

The difference between the previous research and the author's research lies in the issue being examined; the previous research focuses on the implementation of *musharakah* financing at the North Sumatra *sharia* bank sub-branch Prof. HM Yamin Medan, while the issue explored by the author is the formation of a cooperation agreement at PT Anugrah Mas Utama Bekasi City.

The fifth research: the implementation of the *musharakah* financing contract in the Perspective of Dsn-Mui fatwa No:08/Dsn-Mui/lv/2000 concerning *musharakah* financing (case study at Bank Jateng Kcp Syariah Boyolali) examined by Ani Krismiati presents two issues, the first being: How is the implementation of the *musharakah* financing contract at Bank Jateng KCP Syariah Boyolali? The second issue: What is the review of the DSN-MUI Fatwa No:08/DSN-MUI/IV/2000 concerning *Musharakah* Financing in the implementation of the *Musharakah* financing contract at Bank Jateng KCP Syariah Boyolali?

¹⁴ Rapidah, "Penerapan Akad Musyarakah Pada Pembiayaan Modal Kerja Di Bank Sumut Syariah Cabang Pembantu Prof. Hm Yamin Medan", (Medan, 2018), p. 44

Conclusion: The establishment of the contract was founded on mutual negotiations between the partners, and the terms of the contract have been stated in writing in the agreement document in accordance with the DSN-MUI Fatwa No.05/DSNMUI/IV/2000 regarding *musharakah* financing. The guarantee submitted by the customer has an assessment value, which is a crucial factor in determining the financing aspect¹⁵

1.6 Research Methods

1. Types and nature of research

This research is a descriptive - qualitative research. The data obtained is qualitative data developed by descriptive methods. Qualitative descriptive research is one of the types of research that is included in the type of qualitative research. Descriptive research is a research strategy in which the researcher investigates events, the phenomenon of the lives of individuals and asking a person or group of individuals to tell their lives. This information is then retold by the researcher in a descriptive chronology.¹⁶

Qualitative research methods emphasize more on the aspect of in-depth understanding of a problem or problem rather than looking at the

¹⁵ Ani Krismiati, “*Pelaksanaan Akad Pembiayaan Musyarakah Dalam Perspektif Fatwa Dsn Mui No.8 Tentang Pembiayaan Musyarakah (Studi Kasus Di Bank Jateng Kcp Syariah Boyola)*”, (Surakarta, 2020), p. 52

¹⁶ Herdiansyah Haris, “*Metodologi Penelitian Kualitatif untuk Ilmu-Ilmu Sosial Perspektif Konvensional dan Kontemporer*”, (Jakarta: Salemba Humanika, 2010), p. 13

problem to be generalized. This can be seen from several types of research used in qualitative research.¹⁷

The type of research is field research. Field research is a method to find specifically and realistically what is happening in society. In this study, the researcher tried to describe or explain the results of the interview and compare it with existing book or library literature.¹⁸

2. Data Source

To collect the data and information obtained in this study, the following data sources were used:

a. Primary Data Sources

Primary data sources in qualitative research can generally be explored in more depth through interview techniques. Data collection with interview techniques is the main method as well as the main characteristic for qualitative researchers.¹⁹

The primary data of this research collected through interviews with managers and field research methods. Regarding the literature that serves as guidelines and references for this research, there are two guidebooks, namely the company profile book and the Islamic *fiqh wa adillatuhu* written by Prof. Dr. Wahbah Al-Zuhaili.

From the many references and relationships used in this writing so

¹⁷ Muhamad Rusli, “*Merancang Penelitian Kualitatif Dasar/Deskriptif Dan Studi Kasus*”, (Makassar, 2019), p. 2

¹⁸ Abdussamad Zuchri, “*Metodologi Penelitian Kualitatif*”, (Makassar: Syakir Media Press, 2021), p. 21

¹⁹ Farida Nugrahani, “*Metode Penelitian Kualitatif Dalam Pendidikan Bahasa*”, (Surakarta, 2016), p. 62

that it can meet accurate data for the author in his research and meet the requirements of this writing.²⁰

3. Data Collection Technique

The data collection method is a systematic and standardized procedure to obtain the necessary data clearly. In data collection, the research methods used by the researcher in this study are:

a. Observation

A method of data collection that is carried out by conducting systematic observation and recording both directly and indirectly at the observed place.²¹

In this study, the researcher observes and records how the work mechanics in the problems to be researched by the researcher and observes how the implementation of the cooperation agreement at PT. Anugrah Mas Utama of the city of Bekasi on construction service activities in the perspective of *fiqh musyarakah*.

b. Interview

Interview is a data collection technique by conducting a series of interviews or questions and answers with predetermined informants or resource persons. Which interview can be defined as a meeting of two people to exchange

²⁰ Saifudin Azwar, “Metode Penelitian”, (Yogyakarta, 2004), p. 91.

²¹ Kiki Joesyana, “Penerapan Metode Pembelajaran Obeservasi Lapangan”, (Pekanbaru, 2018), p. 6

information and ideas through questions and answers, so that the meaning of a certain topic can be constructed. One of the two acts as an interviewer, namely the one who asks the question and the other who becomes the interviewee, namely the one who answers the question.²²

In this study, the researcher uses an interview method with resource persons from building construction services or contractors by asking several questions about the company, and the obstacles that occur in the work process, namely in terms of contracts. The interviews that will be interviewed by the researcher use the type of structured interview.

c. Documentation

Documents are data sources used to complete the research in the form of written sources and images (photos), all of which provide important information for the progress of the research. By using this method, the research can produce results that are in accordance with what happens in the field and complement the methods used in this research.

4. Data Analysis Techniques

²² Sobry Sutikno dan Prosmala Hadisaputra, "*Penelitian Kualitatif*", (Lombok: Holistica percetakan, 2020), p. 130

Qualitative data analysis is an effort made by working with data, finding patterns, choosing to rate them into manageable units, finding out what is important and what is being learned and deciding what others can tell.²³ The data analysis method used in this study is a field qualitative analysis method, because the data obtained is information in the form of descriptions.

Inductive analysis is an analysis based on specific events to confirm general theories, laws, and concepts. Inductive analysis begins by presenting a theory that has exclusive limitations when making a statement that ends with a statement that has a general character.

The problem-solving process used by the researcher is through the process of systematically searching and compiling data obtained from the results of interviews, field notes, and by organizing the data into categories. Elaboration into units synthesizes into patterns, chooses what is important and what will be learned, and makes conclusions so that it is easy to understand by yourself and others.

1.7 Systematics of Discussion

CHAPTER I. INTRODUCTION

This chapter contains the background of the problem, the formulation of the problem, the benefits of research (theoretical benefits and practical benefits), along with a literature review.

CHAPTER II. THEORETICAL FRAMEWORK

²³ Lexy J, “*Metode Penulisan Kualitatif Edisi Revisi*”, (Bandung, 2009), p. 248

This chapter contains a description of the relevant theoretical framework related to the *musharakah* contract in Islamic law.

CHAPTER III. RESULTS AND DISCUSSION

This chapter contains a profile of PT, Anugrah Mas Utama of Bekasi city, the implementation of cooperation agreements at PT. Anugrah Mas Utama of the city of Bekasi on construction service activities in the perspective of *fiqh musyarakah*.

CHAPTER IV. CLOSING

The last chapter contains conclusions, suggestions or conclusions recommendations that present in a concise manner all research findings related to the research problem. The conclusion was obtained based on the results of the analysis and interpretation of the data that had been described in the previous chapters.

The suggestions are formulated based on the results of the research, containing a description of what steps need to be taken by the parties related to the results of the research concerned. The advice is directed to two things, namely:

1. Suggestions in an effort to expand research results, for example, suggested the need to conduct follow-up research.
2. Suggestions for defining policies in areas related to the problem or focus of the research.

