

Reconstruction of Collateral Rights Guarantee Regulations in Musyarakah Financing Products in Sharia Banking Based on Justice Values

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Abstract

Product Islamic Musyarakah Banking consists of Musyarakah and Musyarakah Mutanaqishah. The purpose of this study: 1) analyze regulation guarantees right liability on product financing musyarakah has not based on mark justice; 2) analyze weaknesses regulation guarantees right liability on product financing musyarakah; 3) reconstruct regulation guarantees right liability on product financing musyarakah in sharia-based banking mark justice. Research methods use paradigm constructivism, with socio-legal research, and types study descriptive. Types and sources of data used material secondary in the form of material primary law, material law secondary, and materials law tertiary. Research results are; 1) Regulation guarantees right liability on product financing musyarakah has not yet based on mark justice namely Bank and customer bear loss in a way proportional according to each capital; 2) Weaknesses regulation guarantees right liability on product financing musyarakah consists of substance law, structure law and culture law; 3) Reconstruction regulation guarantees right liability on product financing musyarakah in sharia-based banking mark justice namely; Reconstruction of regulatory norms guarantee right liability on product financing musyarakah in sharia-based banking mark justice in law Number 21 of 2008 Concerning Islamic Banking in explanation Article 55 paragraph 2 and PERMA Number 2 of 2008 Article 534

Keywords: *Reconstruction; Regulation; Mortgage Rights Islamic Banking*

Introduction

System Sharia - based banking in operate activity operation based on sharia principles with operate its function as fundraiser and fund distributor for public.

The existence of a fatwa is needed Because part from the DSN- MUI fatwas has adopted by Bank Indonesia or Ministry Finance specifically Directorate General Finance. Directorate General Debt management, and the Capital Market and Financial Institutions Supervisory Agency (Bapepam LK) as well as Ministry Cooperatives and SMEs to become regulation binding legislation. Even part has been

adopted by the state to become part from law. law Number 19 of 2008 concerning State Sharia Securities (SBSN) is stated the importance of the DSN-MUI fatwa in Article 25 that in frame SBSN issuance, against principle sharia principles of institution finances that have authority in determination of fatwa in the field sharia economy. then in explanation chapter the it is said that institutions that have authority in establishing a fatwa in the field of sharia is Indonesian Ulema Council or other designated institutions government. With Thus the fatwa in question is a DSN-MUI fatwa, because only DSN-MUI has authority issue a fatwa in the field of Islamic economics.¹

In Law Number 21 of 2008 in Article 26 paragraphs (1), (2), and (3) it is stated that activity business as meant in Article 19, Article 20, and Article 21 and/ or Sharia products and services, mandatory bow down to sharia principles ; (2) there are sharia principles as referred to in paragraph (1) is issued a fatwa by the MUI; (3) the fatwa as intended in paragraph (2) is issued in Bank Indonesia Regulation, (4) in frame compilation Bank Indonesia regulations as referred to in paragraph (3) Bank Indonesia forms committee Islamic banking.²

As for the settings about third function mentioned above besides referring to the Law Number 10 of 1998 concerning change on Constitution Number 7 of 1992 concerning banking, can also guided by the fatwa of the National Sharia Council - Indonesian Ulema Council and technical referring to Bank Indonesia Regulation (PBI), in particular that is Bank Indonesia Regulation Number 7/46/PBI/2005 concerning contract collection and distribution of funds for banks that carry out activity business based on sharia principles. DSN Fatwa on financing musyarakah ³, where stated that guarantee in a sharia financing, in general specific to the concept financing charity only For show a certainty to party giver financing that party recipient financing will using financing funds the in accordance with the agreement that has been promised and for mitigation so as not to happen a deviation.

Islamic banking provides service interest free to its customers. Payments and interest withdrawal is prohibited in all form transaction because the flowers are identical with usury. Prohibition this is what it is differentiator between Islamic banking and banking conventional.

Islamic banks do not charge interest, but invite participation in field funded ventures. Depositors also share equally get part from bank profit accordingly with the ratio that has been set previously. Products laws produced by institutions religious courts have shown that Islamic law does not only produced through the ijtihad of the ulama but also by passing judges the verdict.⁴

Mortgage right No can released from agreement credit, that's it the reason so right liability it is said accessoir (follow) the agreement the main thing is.⁵ In accordance provision regulation legislation, collateral defined in Article 1 paragraph (26) of Law No. 21 of 2008 concerning Islamic Banking, namely with object No move or movable given by the owner to the Sharia Bank and/ or UUS as guarantee addition on settlement obligation Customer Recipient Facility.⁶ Giving collateral in Islamic banking brings a number of ideas and benefits that are needed considered.⁷

¹ Adam, Panji. *Fatwas on Islamic Economics: Concepts, Methodologies, and Their Implementation in Islamic Financial Institutions*. Jakarta: Amzah, 2018. p.190

²Ibid

³Fatwa of the National Sharia Council of the MUI No. 8/DSN-MUI/IV/2000 concerning Financing Musharaka.

⁴Amran Suadi, Opportunities and Challenges of Sharia Financial Institutions in Dealing with Free Market Era, *Journal of Law and Justice*, Volume 7 Number 1, March 2018: 1 - 22

⁵ Nurjannah, S. (2018). *Existence right liability as institution guarantee right on land* (review) philosophical). *Jurisprudence*, 5, 195–205.

⁶Simanjuntak, Komis. 2019. “*Legal Aspect of Warranty in Sharia Banking*.” *Journal Pioneer of LPPM Asahan University*5, no. 3: 90–94

⁷Hafiya1, Muhammad Ersya Faraby, *Analysis of Islamic Business Ethics on the Auction Price Determination Mechanism for Collateral Goods at Bank KB Bukopin Syariah Surabaya*, *Journal Distribution*, Vol. 12, No. 1–March 2024

There is another way is with method asset takeover or collateral owned by debtor by party creditors (banks/ institutions) finance giver credit) which is usually known with term Collateral Taken transfer (AYDA). In the Bank Indonesia Regulation on Evaluation Asset Quality of General Banks in particular Article 1 number 15 explains The meaning of AYDA is; (PBI No. 14/15/PBI/2012 concerning Evaluation Asset Quality of General Banks, 2012). Collateral Taken Over for furthermore called AYDA, is assets acquired by the Bank, good through auction and outside auction based on handover in a way voluntary by the owner collateral or based on power For sell outside auction from owner collateral in matter debtor No fulfil his obligation to the Bank.⁸

In the case party banking has carry out auction Mortgage Guarantee outside court with parate execution before application and case default enter to Religious Court matters the associated with Standard Product Banking *Sharia Musyarakah* and *Musyarakah Mutanaqishah* Financial Services Authority that The BUS/UUS/BPRS party does not allowed do execution collateral and guarantees in a way direct moment after happen arrears or default before There is decision the court stated that Customer neglect and give right to BUS/UUS/BPRS for execution collateral and guarantees. Weakness position *Islamic* banking law does not can use letter confession debt, and to put right liability (APHT) for diversion ownership.⁹

Based on description background behind on interesting for researcher for take title; “Reconstruction Regulation Guarantee of Liability on Products Financing Musyarakah in Islamic Banking Based on Justice Values.”

Research Methods

In research This writer use paradigm constructivism, a paradigm that views that knowledge law That only deal with regulation legislation solely. Law as something that must be done applied, and more tend for No to question mark justice and its usefulness for public.

Types of research used in finish dissertation This is method study legal descriptive analysis, namely research conducted with method researching material library (secondary data) or study law library¹⁰, then described in the analysis and discussion. Approach research used in study This is study law sociological or normal called *socio- legal research*. In research this, law conceptualized as a symptom empirical that can observe in life real.

Types of data used are primary and secondary data. For obtain primary data from researchers referring to to data or facts and cases law obtained direct through field research including information from related respondents with object research and practice that can see as well as relate with object research. Secondary data This useful as runway theory for underlying analysis the main points existing problems in this study.

⁸Grace Ayu Prabandari, 2021, *Completion Credit Guaranteed by Mortgage with AYDA (Collateral Taken Over) Bank Through Auction*, Journal Notarius, Volume 14 Year I, 2021.

⁹Sofa Fathiyah, 2019, *Execution Mortgage Guarantee Customer Default Contract Musyarakah in Perspective Protection Consumers*, Replica Law Journal, Volume 7 No.1, March 2019.

¹⁰Ed iwarm an, 2010, *Monograf, Metodologi Study Law*, Medan: Program Postgraduate Univ. Muhammadiyah, North Sumatera, Medan, hlm. 2 4.

Discussion

1. Regulation of Guarantee of Mortgage Rights on Products Financing Musyarakah in Islamic Banking is Not Yet Based on Justice Values

Through function intermediation banking to move wheel economy a country begins from money creation, money circulation, providing money for support activity business, place secure money, place do investment and services finance others. ¹¹In traffic money circulation role banking has to move life economy public in various activity business and trade as connector thousands even millions perpetrator transaction.

Many Islamic banking fighters themselves Still retired conventional, so that terms used use term conventional. If the Guarantee is auctioned, the distribution must see whether is error customers. In more specific banking be one of institution that manages riches public that is fulfil need investment customer, help Customer in fulfil need transactional that is not Can released in life daily Good regarding with business or personal. ¹²From its origin banking moved with flower instruments in various transaction his finances. While Islamic banking removes flower instrument in all over the transaction with replace it in form of bonuses, profit margins, and sharing results. Islam views interest system in modern banking is part from potential usury the occurrence exploitation that can destroying the core teachings of Islam about justice social and justice economy. Therefore, interest must be removed from system Islamic finance for give justice economy and justice social. ¹³This is become foundation operational sharia banking to realize common good with sharia principles in all over the transaction. That is operate business the main thing is For give financing and services other in Then cross payment as well as money circulation according to principle Islamic law.¹⁴

Article 1 number 12 of the Law Invite Number 21 of 2008 concerning Islamic banking states that the principle of sharia is principle law Islam in activity banking based on a fatwa issued by an institution that has authority in stipulation of fatwas in the field of sharia. With based on the Law Number 21 of 2008, then can withdraw conclusion that which is meant with institutions that have authority in The fatwa is determined by the National Sharia Council - Indonesian Ulema ¹⁵Council (DSN-MUI).

That matter based on to concepts and principles Islamic economics which is innovation in system banking in Indonesia. In connection This There are two things that encourage it existence and development Islamic banking, namely emergence wants and needs Islamic society for to transact in an Islamic manner and the advantages and benefits of Islamic banks. This is has responded by the government through Regulation of Islamic banks in Law No. 21 of 2008 concerning Islamic Banking. The law No only concerning the existence and legitimacy of Islamic banks in system banking national, but also includes aspect institutions and systems operational Islamic banking is itself. Sharia banking as A institution finances that are tasked and aimed at advance economy nation naturally submit and comply with the provisions article 33 paragraph (4) of the 1945 Constitution, so in a way legal normative and juridical empirical acknowledged its existence in the Republic of Indonesia.¹⁶

Financing own consequences different laws with sell buy in classic times. Where is the financing? make the bank only act as fund provider but No own business real in produce profit. So Islamic banks must capable connect financing with goods market sector in transactions finance with involving provider goods. So that what some are worried about scholar can avoided. One of the things

¹¹Kasmir. (2016). Basics of Banking (14th ed.). RajaGrafindo Persada. p. 40

¹²Nugraha, U. (2008). Wealth Management (2nd Edition). PT Elex Media Komputindo

¹³Iqbal, Z., & Mirakhor, A. (2015). Introduction Islamic Finance; Theory and Practice (2nd ed.). Prenadamedia Group. p. 36

¹⁴Muhammad. (2015). Islamic Bank Fund Management (2nd ed.). Rajawali Pers. p. 20

¹⁵Ibid

¹⁶Mujahidin, A. (2016). Sharia Banking Law. Rajawali Pers. p. 202

that is feared is the Islamic bank also trapped in money transaction with money only as stated by Muhammad Arifin Badri ¹⁷(2015) avoid sunnatullah that Allah has determined in the business world that is couples who don't can separated between " profit and loss ".

Between bank and customer together do contract on tender (project) according to applicable sharia provisions, accompanied by existence promise from sharia / customer For rent form the goods in limitation time certain, in matter This characteristic goods the in collaboration in a way rent and when That agreed For distribute the benefits with method contract mutual assistance mutanāqishah. This term covers as contract addition to contract musyarakah; contract lease that has been determined time and separated with contract Musyarakah. Ijarah contract here formed on base promise of a nature must from sharia to the bank for rent goods (objects) of the contract.

Islamic banking operators always stop step Shari'a at what level is safe and not at risk. All type product banking offered with various contract just limited to financing and funding, namely as customer fund distributor. In the case of This bank is trying avoid various risk loss and only want to get benefits, and this according to him it is forbidden. Responding problem This Of course must maximized Again aspect blessings sharia bank financing towards growth economy sector real. One of the the solution is compile return construction action the law that must be There is so that in line with sharia principles. For see action law the need We Look function main from financing That Alone.

Conception Islamic justice according to Qadri has more meaning in than what is called with justice distributive and final Aristotle; formal justice of law Roman or Conception the law that was made man others. He penetrates to the deepest and most human heart, because everyone should do in the name of God as place its culmination all matter including motivation and action. Maintenance justice in Islam is based on the Koran as well people's sovereignty or the Muslim community, namely people.¹⁸

The meaning contained in conception Islamic justice is put something in place, burden something in accordance Power carry someone, give something that is true become his rights with balanced levels. Principle main justice described by Madjid Khadduri with grouping to in two categories, namely aspect substantive and procedural, each of which includes One different aspects and justice. Aspects substantive in the form of elements justice in substance sharia (justice) substantive), whereas aspect procedural in the form of elements justice in law procedures implemented (justice procedural).¹⁹

Regulation guarantee right liability on product financing musyarakah in Islamic banking has not yet based on mark justice namely conventional banks that are based on interest have operate activities which according to Pancasila are not fair However the fact is conventional banks still allowed standing in Indonesia and still operate his efforts with comfortable just, thing That is what makes the Indonesian state not yet consistent implementing Pancasila intact. The value of justice in Indonesia is commander from development law in Indonesia, but as if not empowered facing conventional banks so that its existence maintained in Indonesia so that to blur objective this Indonesian nation nation and state.

2. Weaknesses of Product Guarantee Regulations Financing Musyarakah in Islamic Banking is Not Yet Based on Justice Values Currently

a. Weaknesses of Aspects Legal Substance

Weakness aspect substance law that is based on Articles 7 and 8 of the Law Number 12 of 2011 Concerning formation regulation legislation, fatwa no including one of type regulation legislation that is

¹⁷Badri, MA (2015). Usury & Islamic Banking; Definition, Fatwa, Law and Solution (1st). Al- Furqon Al-Islami Foundation.p.47

¹⁸AA. Qadri, A Portrait of Theory and Practice Justice in the History of Muslim Government, PLP2M, Yogyakarta, 1987, p. 1

¹⁹Madjid Khadduri, Theology Justice (Islamic Perspective), Risalah Gusti, Surabaya, 1999, pp. 119- 201

regulated in Constitution. Therefore, that's a fatwa no Can applicable in a way as well as immediately. New fatwa can be implemented by the institution Islamic banking if Already positive become law positive. In 2008 for fix the problems, Bank Indonesia based on PBI No. 10/32/PBI/2008 formed committee Islamic banking.

b. Weaknesses of Aspects Legal Structure

Weakness aspect structure law that is right liability No can release from agreement credit, that's it the reason so right liability it is said *accessoir* (follow) the agreement basically. Appropriate provision regulation legislation, collateral defined in Article 1 paragraph (26) of Law No. 21 of 2008 concerning Islamic Banking. namely with object No move or movable given by the owner to the Sharia Bank and/ or UUS as guarantee addition on settlement obligation Customer Recipient Facilities. Provision collateral in Islamic banking brings a number of ideas and benefits that need to be considered.

c. Weaknesses of Aspects Legal Culture

Weakness aspect culture law that is sometimes Customer No understand his rights are regulated in regulation legislation, so that often lost his rights as consumers and loss chance for demand what is it bank obligations. According to Munir Fuady, that in system law Indonesian banking, parties Customer as consumer left alone Alone wandering without a protection predictable and reasonable law. In fact, Customer is important party in the relation with the bank, but problem related partisanship law to Customer become persistent problem not edged.

3. Reconstruction of Regulations on Guarantee of Mortgage Rights on Products Financing Musyarakah in Islamic Banking Based on Justice Values

a. Related Foreign Country Comparisons Regulation Guarantee of Liability on Products Financing Musyarakah in Islamic Banking

1) Dutch

The judge will decide that the bankruptcy process has ended and the debtor bankrupt stated bankrupt so that on remainder debt debtor will forgive and debtor No. Again own obligation for pay remainder his debt.

One of product law Dutch heritage that still exists used by Indonesia is Criminal Code, besides That law Indonesia's bankruptcy is also law Dutch heritage but has experience a number of change. Development the law in Indonesia does not as advanced as development law in the Netherlands, many product law in the Netherlands which is experiencing development in accordance with need law its people. Special law bankruptcy, previously the Netherlands used the Code de Commerce which was later rule law the replaced with Wetboek van Koophandel Nederland. After That experience changeover return with birth Failure to comply in 1893.

Faillissementswet 1893 is arrangement bankruptcy the first owned by Indonesia that was adopted from Netherlands. After the Faillissementswet 1893 was considered to have no capable accommodate need Indonesian society will law bankruptcy, then Indonesia will do several changes until moment This is what applies in Indonesia, namely the PKPU Law. The development of law bankruptcy in Indonesia in reality no leave principles legacy Faillissementswet 1893. The principle of parity creditorium, principle *pari passu pro rata parte*, structured *prorata* principle (structured creditors principle), debt collection principle, and territorial as well as universal principles still reflected in the PKPU Law. Another thing development law bankruptcy in the Netherlands, where the principle of debt collection has abandoned and started to normalize debt forgiveness principle. Difference principle in the PKPU Law and the Dutch

Bankruptcy Act has consequence different laws, especially in settlement remainder debt debtor bankrupt. UUK PKPU which normalizes debt collection principles have consequence law that remainder debt debtor bankrupt will follow continue and not There is term clear time until debt debtor paid paid off to its creditors.

Different from Ducth Bankruptcy Act which normalizes debt forgiveness principle if in term period of 3 (three) years and a maximum of 5 (five) years the debtor Already truly No capable pay remainder his debt, then the bankruptcy process can considered Already end based on Judge's decision. Termination of bankruptcy proceedings this will to free debtor bankrupt on remainder his debt, so that after stated bankrupt by the judge then debtor the will Can start return his life (fresh starting).

2) France

Based on law France, letter power always can be cancelled by the donor, even though stated No can cancelled, with provision that the donor must pay change make a loss to recipient power. Stipulation pour autrui, as used in France in funding bridge equity, is a commitments made by investors (above request for funds), in direct in The Articles of Association of the fund, according to which every investor agrees for pay, on request giver loans, commitments that have not been fulfilled withdrawn to in account collection of funds, which is usually opened with their names Alone.

Depository institution France, until the amount owed by each investor to the fund in accordance with agreement his subscription. Based on financing bridge common equity, account billing the guaranteed for interest giver loan. Because, at the time the funds founded, identity giver loan usually Still Not yet it is known that the provisions of pour autrui No can refers to the name of the giver loan the. However, giver loan can depend on provision provisions for autrui even though their names No in a way special mentioned in The Articles of Association of the fund, because the provisions of the law is right party the third one that can profitable giver future loans. Soon after the terms of the agreement are accepted by the grantor loan, terms the No can be cancelled by the fund. Receipt usually done through simple letter signed by the giver loan on date signing agreement facilities. Stipulation for autrui is not in rem guarantee as existence and non-existence give right preference whatever to giver loan, which means that If other creditors of the fund want to confiscate commitment that has not been fulfilled withdrawn from investors or if the funds are has give guarantee on commitment that has not been fulfilled withdrawn said (even If matter This done with violate provision guarantee negative from agreement facility or violate debt limit entered in agreement facility said), confiscation the will valid at the time done and guaranteed will valid at the time notified to investors or enforced. Lenders in the French market has to obtain comfort from No existence guarantee because (i) nature special of the funds, which are dedicated for investment, which means that, in principle, a fund does not may have financial debt others and therefore, that does not may own rival debt creditors other in connection with the debt, and (ii) the clause guarantee negative entered in agreement facilities. From what has been We see, giver loans have been considering investor quality and potential business side effects that can produced as results from entry financing bridge equity with the funds. The lender can avoid risk This with take guarantee in rem in connection with with investor commitments that have not been withdrawn. However, as noted, as problem French market practices, if giver loan get benefit from the provisions of the autrui, we have not see guarantee given to giver loan the on investor commitments that have not been withdrawn, even though we can see giver loan certain consider the possibility.

Guarantee receivables can be enforced with announcement to investors, asking they for pay recipient guarantee. Guarantees can also be enforced with attribution contractual on claims that have been guaranteed, without need go to court. Guarantee said, in a manner theory, can also enforced through attribution judicial but, because there are two methods enforcement above, method judicial said, in in practice, no Once used. There is no cost related courts with enforcement law through announcement or

attribution contractual. Depending on applicable law for Articles of Association and location of investors, formalities Possible required for the promise can enforced, as detailed, among other things, in Regulation (EC) n°593/2008 of Parliament Europe and the Council of 17 June 2008 on applicable law for obligation contractual (Rome I) and in jurisprudence France.

3) Germany

Germany is a country that adheres to Civil Law tradition. Germany adheres to civil law tradition as as a result of Germany being colonized by France when Napoleon Bonaparte came to power. Translation to in Language English, German use the term “insolvency” for bankruptcy. Germany, only There is one Just Constitution applicable bankruptcy Good for individuals and for companies. litigation process for submit application bankruptcy or insolvency (insolvency proceedings) can submitted by individuals (natural persons) or legal entities, including legal entities certain areas regulated by public law, such as the German Federation or the German states. German insolvency law is regulated by a very comprehensive Insolvency Code which began took effect on January 1, 1999 which has been experience several amendments from time to time.

The Act for the Further Facilitation of the Restructuring of Companies (ESUG) was born effective March 1, 2012, is response from the amount Complaining creditors Constitution German insolvency no give sufficient authority to Creditors in to hold a hearing submission application bankrupt. The ESUG aiming for give more Lots right to Creditors in Bankruptcy.

According to Max Falcjenberg. Partner at Roland bErger Strategy Consultants.” The reform of the German insolvency law will help bring about a paradigm shift in the German company; Furthermore, he said. "ESUG. Germany's New insolvency law, offers a better framework for turning companies around more efficiently and saving them from bankruptcy.

b.Reconstruction of Regulatory Values Guarantee of Liability on Products Financing Musyarakah in Islamic Banking is Not Yet Based on Justice Values

Reconstruction desired value achieved in study This is that reconstruction regulation guarantee right liability on product financing musyarakah in sharia- based banking mark justice that was once Not yet based on mark justice now based on mark justice.

c.Reconstruction of Regulatory Norms Guarantee of Liability on Products Financing Musyarakah in Islamic Banking Based on Justice Values

Many factors influence weakness mentality apparatus enforcer law among them weakness understanding of religion, economics, recruitment process Which No transparent, and so on. So that can be emphasized that factor enforcer law play role important in to function law. If the regulation Already good, but quality enforcer law low so will There is problem. Likewise, if the rules bad whereas quality enforcer law well, maybe emergence problem Still open.

Justice as something balanced No must always in understanding The same heavy, but also deep understanding harmonization between parts or parties so that to form a harmonious unity.

Based on the description above, then presented reconstruction table as following;

Table 5.1. Reconstruction of Regulations on Guarantee of Mortgage Rights on Products Financing Musyarakah in Islamic Banking Based on Justice Values

No.	Construction	The weakness	Reconstruction
1.	<p>Constitution Number 21 of 2008 Concerning Islamic Banking</p> <p>(1) Settlement dispute Islamic banking is carried out by the courts in environment Religious Courts.</p> <p>(2) In the case of the parties has foretell settlement dispute besides as referred to in paragraph (1), the settlement dispute done in accordance with Contents Contract.</p> <p>In the explanation of Article 55 paragraph 2: What is meant by "dispute resolution is carried out in accordance with the contents of the Agreement" is the following efforts:</p> <ul style="list-style-type: none"> a. deliberation; b. banking mediation; c. through the National Sharia Arbitration Board (Basyarnas) or other arbitration institutions; and/or d. through the courts within the General Court environment. 	<p>The explanation of Article 55 paragraph 2 is contradictory with verse 1</p>	<p>Reconstruction explanation Article 55 paragraph 2 with replace justice general become religious courts, so that reads;</p> <p>Verse (2) What is meant is with "settlement dispute done in accordance with Contents Akad " is effort as following;</p> <ul style="list-style-type: none"> a. deliberation; b. mediation banking; c. through the National Sharia Arbitration Board (Basyarnas) or institution other arbitration; and/ or d. through court in environment Religious Courts.
2	<p>PERMA Number 2 of 2008 Article 534:</p> <p>If the contract peace made with confession about benefit a property, then law contract peace That is The same with law lease agreement.</p>	<p>Article 534 has not clear explanation about treasure</p>	<p>Reconstruction of PERMA Number 2 of 2008 Article 534 added the disputed word after the word treasure, so that reads;</p> <p>If the contract peace made with confession about benefit a disputed property, then law contract peace That is The same with law lease agreement.</p>

Closing

Conclusion

Regulation guarantee right liability on product financing musyarakah in Islamic banking has not yet based on mark justice namely the Bank and the customer bear loss in a way proportional according to each capital. If this happens loss Because fraud, negligence, or to violate agreement, then loss the covered together in accordance proportion respective capital ownership. Weaknesses regulation guarantee right liability on product financing musyarakah in Islamic Banking at the moment This is consists of from weakness aspect substance law, weakness aspect structure law and weaknesses aspect culture law.

Weaknesses aspect substance law that is Based on Articles 7 and 8 of the Law Number 12 of 2011 Concerning formation regulation legislation, fatwa no including one of type regulation legislation that is regulated in Constitution those. Weaknesses aspect structure law that is right liability No can be released from agreement credit, that's it the reason so right liability it is said accessoir (follow) the agreement basically. Weaknesses aspect culture law that is sometimes Customer No understand his / her rights are regulated in regulation legislation, so that often lost his rights as consumers and loss chance for demand what is it bank liabilities. Reconstruction regulation guarantee right liability on product financing musyarakah in sharia- based banking mark justice namely; Reconstruction desired value achieved in study This is that reconstruction regulation guarantee right liability on product financing musyarakah in sharia- based banking mark justice that was once Not yet based on mark justice now based on mark justice. Reconstruction of regulatory norms guarantee right liability on product financing musyarakah in sharia- based banking mark justice in law Number 21 of 2008 Concerning Islamic Banking in explanation Article 55 paragraph 2 and PERMA Number 2 of 2008 Article 534.

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