

## Application of the Salam Agreement Toward the Settlement of Disputes over the Sale and Purchase of Candlenuts in Nalui Village, Jaro Subdistrict

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### Abstract

*This research discusses the implementation of the salam contract in the candlenut sale and purchase transaction, with a focus on the problems that arise from the seller's non-compliance with his obligations. The cases in this study include receiving goods that are not as ordered and defective, which results in unwillingness and loss on the part of the buyer. This study aims to understand the implementation of the salam contract in the sale and purchase of candlenuts and to find solutions to problems that arise during the transaction process. The research method used is a qualitative approach with a field research design and data collection techniques through interviews. The results of the study revealed two cases related to the implementation of the salam contract that did not meet the standards. Defective goods and buyer's unwillingness are the main problems in cases of implementation of contracts that do not meet the standards. The findings provide valuable insights to improve the implementation of the salam contract in candlenut trading, emphasizing the need to improve the quality of order preparation and enforcement of transaction standards.*

**Keywords:** Salam Agreement, Khiyar, Disputes,

### Abstrak

Penelitian ini membahas pelaksanaan akad salam dalam transaksi jual beli kemiri, dengan fokus pada permasalahan yang timbul seiring ketidakpatuhan penjual terhadap kewajibannya. Kasus dalam penelitian ini mencakup penerimaan barang tidak sesuai pesanan dan cacat, yang mengakibatkan ketidakrealaan dan kerugian pada pihak pembeli. Penelitian ini bertujuan untuk memahami pelaksanaan akad salam dalam jual beli kemiri dan mencari solusi terhadap permasalahan yang muncul selama proses transaksi. Metode penelitian yang digunakan adalah pendekatan kualitatif dengan desain penelitian lapangan dan teknik pengumpulan data melalui wawancara. Hasil penelitian mengungkap dua kasus terkait dengan pelaksanaan akad salam yang tidak sesuai standar. Barang cacat dan ketidakrealaan pembeli menjadi masalah utama pada kasus pelaksanaan akad yang tidak sesuai standar. Temuan ini memberikan wawasan yang berharga untuk meningkatkan pelaksanaan akad salam dalam jual beli kemiri, dengan menekankan perlunya peningkatan kualitas persiapan pesanan dan penegakan standar transaksi.

**Kata Kunci:** Akad Salam, Khiyar, Sengketa

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## INTRODUCTION

In a linguistic context, the term "as-salam" or "as-salaf" can be interpreted as a sale and purchase transaction in which the delivery of goods is delayed or sold with clear characteristics, with capital payments made in advance in accordance with the agreed price, quality, quantity of goods, as well as the agreed delivery period and location.<sup>1</sup> The fuqaha refer to it as "Al-Mahwi'ij," which means "urgent goods," because in this transaction, the object of sale is not physically present at the time of the transaction, while both parties have stipulated payment in advance.<sup>2</sup>

Sale and purchase of salam contracts is a sale and purchase in the form of an order for an item with agreed criteria but the delivery of the goods at a certain time while the cash payment is upfront, and the price will be set at the beginning at the time of the order.<sup>3</sup> Although the goods being traded do not exist at the time of the transaction, in the sale and purchase of salam the goods being traded must be clear both in quality and quantity by using this contract so that both parties benefit without any element of deception.<sup>4</sup>

The phenomenon that occurs in the community of Nalui village, Jaro sub-district is the sale and purchase of candlenut fruit using a salam contract. Candlenut is a product of forest products in the form of fruit and this is one of the forest resources directly related to the people of Nalui village, Jaro sub-district. This candlenut fruit provides or increases the business and income of the people around the forest.

In general, the problem in this research is related to the object of the transaction that is traded sometimes not in accordance with what was promised at the time of ordering. Not suitable here in terms of quality and delivery time of the ordered object. There are several buyers who feel lost at the time of delivery of the product, there are products that are not in accordance with the order such as damaged products or poor quality (defective) because at the time of delivery the goods are handed over in a sack-shaped packaging so that the goods in their condition cannot be seen.

There are also other problems, namely orders that are not in accordance with what the buyer wants related to delivery time, there has been a delay in completing the

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<sup>1</sup> Muhammad Syarif Hidayat, "Analisis Hadits Ahkam Muamalah dalam Fatwa DSN MUI tentang Murabahah, Salam dan Istishna," *EL-BANAT Jurnal Pemikiran dan Pendidikan Islam* 10 No.2 (2020), <https://doi.org/10.54180/SA.4.0> hlm. 223.

<sup>2</sup> Fithriana Syarqawie, *Fikih Muamalah* (Banjarmasin: IAIN Antasari Press, 2015) hlm. 17.

<sup>3</sup> Obaid Saif Al Zaabi, "Salam Contract in Islamic Law: A Survey" 14, No. 2 (2010) hlm. 92.

<sup>4</sup> Nasrun Haroen, *Fiqih Muamalah* (Jakarta: Gaya Media Pratama, 2007) hlm. 147.

processing of candlenuts ordered by the buyer. Because of the inaccuracy of the time according to the order that had been agreed upon at the beginning, there was a delay that made the buyer feel disadvantaged because he had waited a long time.

## **METHODS**

The type of research conducted by the author is descriptive field research. Field research that is intended to study intensively, in detail and in depth about the background of the current situation and position, as well as the environmental interactions of social units that are what they are and really happen.<sup>5</sup> The subjects in this research are sellers and buyers of candlenuts in Nalui village, Jaro sub-district, while the object of this research is the salam contract carried out in the transaction of buying and selling candlenuts. This research uses a case study theory approach. The case study method is one type of research that can answer several issues or objects of a phenomenon, especially in the branch of social science. The purpose of case studies is one of the qualitative research methods based on understanding and human behavior based on differences in values, beliefs and scientific theory.<sup>6</sup> The case study research model is also understood by conducting a program on a unified system. This unity of system can be a program, activity, event, or a group of individuals bound by place, time or certain ties. The sixth case study is a research directed at collecting data, making meaning, gaining understanding of the case.<sup>7</sup>

## **RESULTS AND DISCUSSIONS**

### **Analysis of the Implementation of Akad Salam in the Sale and Purchase of Candlenuts**

This case is related to the buyer who receives the goods ordered from the buyer, after checking it turns out that of the many goods received there are some good goods mixed with goods that are not good or commonly said to be defective.

The buyer received the goods he ordered and then checked, it turned out that the goods did not match what he wanted. he did not know whether this was intentional or unintentional on the part of the seller. The goods were mixed, with candlenuts that were of good quality and those that were not. the goods sent were

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<sup>5</sup> Sudarwan Danim, *Menjadi Peneliti Kualitatif* (Bandung: Pustaka Setia, 2002) hlm. 54-55.

<sup>6</sup> Sri Yona, "Penyusunan Studi Kasus, Jurnal Keperawatan Indonesia" 10 (September 2006): 76.

<sup>7</sup> Dhian Tyas Untari, *Metodologi Penelitian: Penelitian Kontemporer Bidang Ekonomi dan Bisnis* (Banyumas: CV. Pena Persada, 2018).

always packaged in sacks. After he found out, he contacted the seller and complained. He explained about the condition of the candlenuts he received to the seller.

Then there is another buyer, similar to the case with the previous buyer that he also received an order for candlenuts packaged in sacks. After he checked from the many candlenuts ordered, he found that there were several sacks that weighed around 50 kh (fifty kilo grams) after being checked contained candlenuts that were reddish in color or of poor quality. Here he was dissatisfied with the goods he received and immediately complained to the seller regarding the defective goods he received.

From these two cases, it was concluded that both of them received defective goods, therefore the case information received by researchers from the two informants was made into one discussion and analyzed together.

In Islam strongly prohibits buying and selling that contains elements of necessity and there is an element of unwillingness between one of the parties that will harm either the seller or the buyer. In good and correct buying and selling, namely having to explain the condition of the goods to be sold without having to be hidden. Many arguments from the Qur'an and Hadith prohibit us from lying, including major sins. Allah is very angry with people who like to lie with the aim of harming one party just for the sake of making a profit.

Allah said in Q.S al-Ahzab/33:70

يَا أَيُّهَا الَّذِينَ آمَنُوا اتَّقُوا اللَّهَ وَقُولُوا قَوْلًا سَدِيدًا

The Meaning : "O you who believe, fear Allah and speak the truth."

In addition, the Prophet's hadith explains that the lack of goods or the subject of the contract is a sign that the party is pleased and happy. Therefore, motivation and excitement are valid conditions for all contracts. So in Islamic law, it gives the option to the party who finds defects in the goods he bought, as reported by Imam Ahmad, Ibn Majah, ad-Daruqutni, al-Hakim and at-Thabrani from Uqbah bin Amir (ra):

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: الْمُسْلِمُ أَحُو الْمُسْلِمِ وَلَا يَحِلُّ لِمُسْلِمٍ بَاعَ مِنْ أَخِيهِ بَيْعًا فِيهِ عَيْبٌ إِلَّا بَيَّنَّهُ لَهُ  
(رواه أحمد وابن ماجه وغيره)

The Meaning : "That the Prophet said: "It is not permissible for one Muslim to sell his goods to another Muslim when there is a defect in the goods, but he must explain it." (HR: Ahmad, Ibn Majah, Ad-Daraquthni, Al Hakim and Ath-Thabrani)".

In Islamic Law, the buyer has the right to choose between continuing or canceling the sale and purchase, because there may be defects in an item so that there are parties who are unwilling and disadvantaged. As for the implementation of the salam contract in the sale and purchase of candlenuts in Jaro District, Tabalong Regency, as we know from the results of the research, the goods sold have defects based on the first and second cases, which should be checked before the goods are delivered so that when the goods arrive the buyer does not feel disappointed with the goods he receives.

From these two cases, the buyer should have the right to khiyar, the type of khiyar is khiyar aib, which means the right to continue or cancel the contract because there is a defect in the goods being dealt with, while the defect is known when the contract takes place and there is no prior agreement at the time of the contract so that the buyer is entitled to the right to khiyar aib, because what is at issue in both cases is the problem of defective goods.

The reason for khiyar aib is that there is a defect in the item being traded (ma'qud alaih) or the price (tsaman), because it is not of the intended value, or the contracting parties did not examine the defect at the time of the contract. The stipulation of khiyar stipulates that there must be a substitute, whether it is clearly stated or not, unless the contracting parties are willing to do so. On the other hand, if there is no apparent defect, a substitute is not required.<sup>8</sup>

*Khiyar aib is prescribed in Islam, which is based on quite a lot of hadiths, one of which is the hadith from the sahabar 'Uqbah bin 'Amir ra. He said:*

سَمِعْتُ رَسُولَ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ يَقُولُ الْمُسْلِمُ أَخُو الْمُسْلِمِ لَا يَحِلُّ لِمُسْلِمٍ بَاعَ مِنْ أَخِيهِ بَيْعًا فِيهِ عَيْبٌ إِلَّا بَيَّنَّهُ لَهُ

The Meaning : "I heard Rasûlullâh (peace be upon him) say: 'A Muslim is the brother of another Muslim; it is not permissible for a Muslim to sell a defective item to his brother unless he explains it to him.'".

The seller should be willing to replace the new goods and be responsible for the defect. In accordance with the valid conditions of salam sale and purchase, even with the condition that there is khiyar if the goods ordered are not suitable or defective, the transaction is invalid. In this case, the buyer suffers a loss which causes

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<sup>8</sup> Rachmat Syafe'i, *Fiqh Muamalah* (Bandung: CV Pustaka Setia, 2001) hlm. 116.

the sale and purchase to be invalid because it does not fulfill the conditions of sale and purchase, namely the willingness of both parties based on the principle of mutual consent.

Allah said in Q.S. an-Nisa/4/29.

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

The Meaning : *“O you who have believed, do not eat your neighbor’s wealth by false means, except in the form of consensual trade between you. Do not kill yourselves. Verily, Allah is Most Merciful to you..”*

Based on this verse, it is clear that Allah SWT prohibits buying and selling in a way that is false, which is detrimental to one party, except on the principle of mutual consent or mutual willingness between the two. True buying and selling according to Islam is buying and selling that is not only for profit, but also to help each other meet the needs of life and what we do becomes a blessing and becomes a field of reward because of our good intentions and vice versa.

Based on the description above, the researcher concludes that in the first and second cases experienced by the first buyer and the second buyer related to the defective goods received by the buyers were unintentional mistakes by the buyers. And in this case they take the agreement back to return the damaged goods and the seller will send the goods back as compensation.

### **Analysis of Dispute Resolution of Salam Agreement in the Sale and Purchase of Candlenuts**

From the description of the case above, there is a dispute that occurs in the form of a dispute in the defect of goods sent by the seller to the buyer in the sale and purchase of candlenuts in Jaro District, Tabalong Regency.

In disputes that occur between the parties, it is necessary to resolve them in the correct way and in accordance with applicable legal provisions. To resolve a problem that occurs in an agreement including a salam contract agreement in accordance with the provisions of sharia economics, several methods can be used, namely peace (shulh), by conducting arbitration (tahkim), and finally through a court process (qadha).

Dispute settlement between sellers and buyers in the sale and purchase of candlenuts with a salam contract in Jaro District, Tabalong Regency is carried out through a settlement pattern/pathway of peace (shulh). Errors committed by the seller in the implementation of the salam contract in the sale and purchase of candlenuts because it does not fulfill the obligations promised by the seller to the buyer, then the seller is required to be responsible or provide compensation to the buyer.

From the description of the data above, it can be seen that in resolving disputes that occur, the parties prefer to resolve disputes using peaceful means (shulh) by imposing sanctions in the form of compensation for replacing defective goods or reducing the price of the agreed sales price at the beginning, in order to maintain good name and good relations between the parties. In addition to maintaining the good name and relationship between the parties, the pattern of settlement through this peaceful route is expected to be the fairest way to get mutual benefit.

Peace (shulh) is the first step that must be taken to resolve disputes or problems by the disputing parties. Sulhu in fiqh is defined as a form of agreement without involving a third party that has the aim of ending hostility between opposing parties, or to end a case. The actions taken by both parties in resolving this issue are in accordance with the laws of Allah SWT. Allah says in Q.S. al-Hujura/49: 9.

وَأِنْ طَافَتَا مِنْ الْمُؤْمِنِينَ أَفْتَتَلُوا فَأَصْلِحُوا بَيْنَهُمَا فَإِنْ بَغَتْ إِحْدَاهُمَا عَلَى الْأُخْرَى فَقَاتِلُوا الَّتِي تَبْغِي حَتَّى تَفِيءَ إِلَى أَمْرِ اللَّهِ فَإِنَّ فَاءَتْ فَأَصْلِحُوا بَيْنَهُمَا بِالْعَدْلِ وَأَقْسِطُوا إِنَّ اللَّهَ يُحِبُّ الْمُقْسِطِينَ

The Meaning : *“If two groups of believers clash, reconcile them. If one of them wrongs the other, fight the wrongdoer until he returns to the commandments of Allah. When that group has returned (to Allah’s commandments), reconcile between them justly. Be just! Verily, Allah loves those who are just.”*

Based on the discussion above, the implementation of the sale and purchase of candlenuts with a salam contract that occurred in Jaro District, Tabalong Regency found that at the time of delivery there were defective goods so that there was a khiyar aib right for the buyer to return the defective goods and then the seller would send the goods for compensation.

Then the second is related to the time of delivery of goods that are not according to the agreed schedule, the buyer feels disadvantaged, but here the seller before the due date has contacted the buyer to tell the reason why he is late in preparing the

order and the seller also asks to be given an extension of time to prepare the buyer's order.

The implementation of the salam contract in this sale and purchase does not fulfill the provisions of the salam contract according to Islamic law, namely related to the pillars and conditions. The pillar that is not fulfilled is the object that is traded using a salam contract. One of the conditions of the salam object is that the object of the transaction must be delivered to the buyer at a predetermined time. Meanwhile, in the sale and purchase of candlenuts using a salam contract in Jaro District, Tabalong Regency, it turns out that it is not in accordance with the agreement or not on time for the delivery of the goods.

As for the dispute resolution carried out by the seller, the parties agree to prioritize to get a decision that can benefit both parties and the buyer agrees to accept a price reduction from the initial price, or also by replacing goods for goods that have been received but are not in accordance with the wishes of the buyer as a form of seller responsibility for his losses. And related to the late delivery time, the seller asks the buyer for an extension of time to be given additional time to prepare the message, so the buyer agrees.

From the results of the explanation above, the path of peace (shulh) is considered as an appropriate way to maintain good relations and respect the decisions of the parties, especially in fulfilling the seller's responsibility to the buyer / order. And providing compensation or replacement of goods to buyers who receive defective goods is a form of settlement referred to as *khiyar aib*, namely the right to cancel or continue the transaction.

## CONCLUSION

Dispute resolution in the sale and purchase of candlenuts with a salam contract in Jaro District, Tabalong Regency is carried out using the settlement pattern of shulh (peace) and the granting of *khiyar aib* rights. At the time of delivery of the goods, the buyer receives defective goods until the seller gives the buyer the right to *khiyar aib* to continue or cancel the transaction. There the seller and buyer agree that the defective goods will be replaced, so the buyer returns the defective goods and the buyer sends new goods instead.



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