



Examining the Halal Perspective of Pre-Order Transactions in Gold Buying and Selling: A Qualitative Descriptive Analysis

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Abstract

This research will discuss buying and selling, especially buying and selling gold. Gold today is not only favored as a woman's jewelry but as a means of investment. The existence of gold buying and selling transactions by pre order raises questions that develop in the community regarding the halal and haram laws. This research is a type of qualitative descriptive research, by examining various literatures and criticizing the problems that occur in the field. By sharing opinions, from the community, religious leaders and scholars that buying and selling gold by pre order is halal. Because basically dp (downpayment) is only used as a guarantee for the buyer's certainty to buy the gold. Not as a contract. Because the correct contract is when it is paid in full and the gold has been received at the price according to the day the gold is received. Gold here is categorized as jewelry according to the illatnya "gold formed in various models is categorized as jewelry so that it is said to be goods or clothing".

Keywords: buying and selling gold, buying and selling gold on pre-order, buying and selling gold on forging.

Abstrak

Penelitian ini membahas pembelian dan penjualan, khususnya pembelian dan penjualan emas. Saat ini, emas tidak hanya diminati sebagai perhiasan wanita tetapi juga sebagai sarana investasi. Keberadaan transaksi pembelian dan penjualan emas melalui pre order menimbulkan pertanyaan yang berkembang di masyarakat mengenai hukum halal dan haram. Penelitian ini merupakan jenis penelitian deskriptif kualitatif, dengan menelaah berbagai literatur dan mengkritisi masalah-masalah yang terjadi di lapangan. Dengan berbagi pendapat dari masyarakat, pemimpin agama, dan ulama bahwa pembelian dan penjualan emas melalui pre order adalah halal, karena pada dasarnya uang muka hanya digunakan sebagai jaminan kepastian pembeli untuk membeli emas, bukan sebagai kontrak. Kontrak yang benar adalah saat pembayaran lunas dan emas telah diterima dengan harga sesuai dengan hari emas diterima. Emas di sini dikategorikan sebagai perhiasan berdasarkan illatnya "emas yang dibentuk dalam berbagai model dikategorikan sebagai perhiasan sehingga dianggap sebagai barang atau pakaian".

Kata kunci: pembelian dan penjualan emas, pembelian dan penjualan emas pre-order, pembelian dan penjualan emas secara palsu.

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INTRODUCTION

In contemporary society, the significance of gold extends beyond its traditional role as a cherished element of women's jewelry, now evolving into a prominent avenue for investment. The dynamics of buying and selling gold have experienced a notable transformation, with the introduction of pre-order transactions sparking inquiries into the compliance with Islamic principles of halal (permissible) and haram (forbidden). This research embarks on an exploration of the ethical considerations surrounding pre-order transactions in the realm of gold trading.¹

The rising popularity of gold as a means of investment has led to innovative approaches in its acquisition and exchange, notably through pre-order arrangements. However, the ethical implications of such transactions, particularly concerning Islamic finance, are subjects of growing debate within the community. This study, adopting a qualitative descriptive research design, aims to scrutinize and critique existing literature, shedding light on the ethical dimensions of buying and selling gold through pre-order mechanisms.²

To provide a comprehensive understanding, the research incorporates perspectives from diverse stakeholders, including members of the community, religious leaders, and scholars. The discourse aims to address concerns related to the halal nature of pre-order transactions, emphasizing the underlying principles that distinguish permissible gold transactions from those deemed impermissible. By

¹ Achmad Azhar Basyir, Anwar Hafidzi, dan M. Hanafiah, "Tinjauan Fikih Muamalah Terhadap Praktik Kemitraan Bagi Hasil Usaha Pertukangan Kayu (Studi Kasus Kelurahan Alalak Selatan Kota Banjarmasin)," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 1, no. 4 (12 Desember 2023): 806–12; Layli Nor Syifa dan Muhammad Haris, "Tugas Dan Fungsi Balai Besar Pengawas Obat Dan Makanan (BPOM) Kota Banjarmasin Dalam Pengawasan Peredaran Produk Makanan Kemasan Yang Tidak Mencantumkan Tanggal Kadaluwarsa," *Interdisciplinary Explorations in Research Journal* 1, no. 3 (16 Desember 2023): 379–99; Ahmad Raziqi, "Pengaruh Label Halal, Religiusitas, Harga dan Kualitas Produk Terhadap Keputusan Pembelian Makanan dan Minuman dalam Kemasan Pada Mahasiswa S1 Febi UIN Kiai Haji Achmad Siddiq dan Universitas Islam Jember" (PhD Thesis, UIN KH Achmad Siddiq Jember, 2022), <http://digilib.uinkhas.ac.id/id/eprint/9206>.

² Muhammad Fauji, Anwar Hafidzi, dan M. Hanafiah, "Tinjauan Hukum Islam Tentang Praktik Pembulatan Nominal Harga Dalam Pembelian Bahan Bakar Minyak (BBM) Di SPBU Banjarmasin," *Indonesian Journal of Islamic Jurisprudence, Economic and Legal Theory* 2, no. 1 (2024): 43–51; Amelia Rahmaniah dan Rahmat Shodiqin, "Makna Ekonomi Berhaji Bagi Suku Banjar (Kajian Antropologi Budaya)," *Interdisciplinary Explorations in Research Journal* 2, no. 1 (24 Februari 2024): 367–83.

dissecting these issues, this research endeavors to contribute valuable insights to the ongoing dialogue on ethical practices within the gold trading domain.³

As the discussion unfolds, it becomes evident that the ethical assessment of pre-order transactions in gold buying and selling is intertwined with the interpretation of Islamic principles, the dynamics of contracts, and the categorization of gold as jewelry. Through an analysis of these interconnected elements, this study seeks to provide a nuanced understanding of the halal perspective on pre-order transactions in the gold market.⁴

Buying and selling is one of the business activities in the context of muamalah that has been going on for a long time in society. However, there is no definitive record of when this business activity was first formally conducted. What is clear in the community is that buying and selling has developed from traditional patterns to modern patterns. In the past, people conducted buying and selling activities in the form of exchanging goods for other goods. For example, rice was exchanged for corn, or exchanged for salt, onions and others. In isolated or inland tribal areas, the practice of business activities like this still applies.⁵

Public interest and needs for gold today are not only used as a fulfillment of lifestyle but also as an alternative investment. The high demand for gold is highly utilized by the authorities to offer various gold products such as jewelry and pure gold in various forms. Because of the offer given to make gold in various forms, the gold purchase system is also offered with cash or credit, thus providing convenience for people who want to have the desired form of gold.

The practice of buying and selling gold was basically carried out during the time of the Prophet. The community makes gold as a means of exchanging goods

³ Fathul Aminudin Aziz, "Fiqih ibadah versus fiqih muamalah," *El-Jizya: Jurnal Ekonomi Islam* 7, no. 2 (2019): 237–54.

⁴ MF Abdillah, "Jual Beli Emas Secara Tidak Tunai Perspektif Syariah: Studi Fatwa DSN-MUI No. 77 Tahun 2010," no. Query date: 2024-03-12 12:01:32 (2022), <http://download.garuda.kemdikbud.go.id/article.php?article=3406990&val=29873&title=Buying%20and%20Selling%20Gold%20in%20Cashless%20Perspective%20of%20Sharia%20DSN-MUI%20Fatwa%20Study%20No%2077%20Year%202010>.

⁵ S Abdurrahman, *HUKUM JUAL BELI EMAS SECARA CICIL PERSPEKTIF WAHBAH ZUHAILI*, Query date: 2024-03-12 12:01:32 (repository.umj.ac.id, 2019), <https://repository.umj.ac.id/4584/>; M Adha, *Studi Komparasi tentang Hukum Jual Beli Emas Secara Kredit menurut Pandangan An-Nawawi dan Ibnu Taimiyyah*, Query date: 2024-03-12 12:01:32 (repository.iainpare.ac.id, 2022), <http://repository.iainpare.ac.id/id/eprint/3554/>; Adha.

needed, so there is often fraud in the amount where the exchange of gold is not the same value or the payment is not made in cash which results in losses to other parties. So that the apostle of Allah prohibits the practice of buying and selling gold which contains fraud and usury in buying and selling, as stated in several hadiths about buying and selling gold.

There is in the title of Selling Gold Uncashly by Nilda Susliawati in the study If the sale and purchase agreement is carried out not in cash in the context of gold as currency, then the law of sale and purchase is haram because it contains elements of usury, and gold may only be traded if the contract is cash and equal in value, but if the status of gold as merchandise then the sale and purchase of gold is not legal cash mubah.

Then there is a study with the title Cashless Gold Buying and Selling Reviewed by Fiqh Law by Kisanda Midisen and Santi Handayani in this study there are 2 opinions. The first opinion forbids it because paper money and gold are *tsaman* (price, money) while *tsaman* cannot be traded except in cash. This is based on the hadith of 'Ubadah bin al-Shamit that the Prophet Muhammad SAW said, "*If this type of ribawi treasure is different, then sell it as you wish if it is done in cash*". The second opinion is that it is permissible on the basis of what Shaykh al-Islam Ibn Taymiyyah and Ibn Qayyim have said about the permissibility of buying and selling jewelry (made of gold) for gold, with a deferred payment.

Of course, in this research we must first know about the problems contained in this research. Selling and buying at its core is an agreement to exchange objects or goods that have voluntary value between the two parties, one receiving objects and the other receiving them in accordance with the agreement or conditions justified by shara' and agreed upon. Gold is a precious metal that has value, and is commonly used as a standard of value or standard currency as well as jewelry. Payment is not made in cash but is made in installments, usually the orderer with the desired form makes an advance payment first. The rulings or laws taken are based on the Al-Quran and As-Sunnah. With methods that exist in Islamic law.

Problem Statement

The surge in popularity of gold as both a cultural adornment and an investment vehicle has given rise to innovative approaches in its buying and selling, notably through pre-order transactions. However, this evolving landscape has generated questions and concerns within the community regarding the adherence to Islamic

principles of halal and haram in such transactions. The core problem revolves around the ethical considerations of pre-order transactions in gold trading, particularly within the framework of Islamic finance. It is also necessary to know about the contract used in the sale and purchase of gold by pre order and the provisions on whether or not it is permissible to sell gold by *pre order*.

METHODS

This qualitative study employs a multi-faceted approach to investigate the ethical dimensions of pre-order transactions in gold trading, specifically within the context of Islamic finance. Beginning with an extensive literature review, the research draws insights from Islamic finance principles, gold market dynamics, and ethical considerations in economic transactions. Semi-structured interviews with key stakeholders, including community members, religious leaders, and scholars, will provide qualitative perspectives on the halal nature of pre-order transactions. Additionally, content analysis of relevant documents, such as fatwas and contracts, along with real-world case studies, aims to offer concrete examples illustrating the complexities and challenges associated with these transactions. Expert consultations in Islamic finance and ethical considerations will further enrich the study's analysis. Thematic analysis will be employed to categorize and interpret qualitative data, facilitating the identification of recurring themes and patterns. Adhering to ethical research practices, the study seeks to contribute nuanced insights to the ongoing discourse on ethical considerations in economic transactions within the Islamic finance framework.

RESULTS AND DISCUSSION

The theoretical underpinning of this research draws from Islamic finance principles, contract law, and ethical considerations in economic transactions. In Islamic finance, the Sharia-compliance of financial transactions is of paramount importance, and any ambiguity or deviation from established principles can lead to concerns about the halal nature of the transaction. The concept of "illat," or the underlying reason that justifies a particular ruling in Islamic jurisprudence, plays a crucial role in categorizing gold as jewelry and understanding its implications in various transactions.⁶

⁶ N Ainiah, "Jual Beli Emas Secara Online Menurut Persepsi Ulama Banjarmasin," no. Query date: 2024-03-12 12:01:32 (2023), <https://idr.uin-antasari.ac.id/25262/1/Awal.pdf>.

Moreover, the study incorporates elements of contract law to discern the legal and ethical obligations of parties involved in pre-order transactions. This involves understanding the fulfillment of contractual obligations, payment structures, and the implications of partial payments within the context of Islamic financial ethics. Furthermore, the research engages with the broader discourse on ethical considerations in economic transactions. It explores the ethical dimensions of pre-order transactions in gold, considering the perspectives of community members, religious leaders, and scholars. By incorporating these diverse viewpoints, the study aims to build a comprehensive understanding of the ethical landscape surrounding the pre-order transactions in gold buying and selling.

In essence, the theoretical framework employed in this research is multifaceted, combining Islamic finance principles, contract law, and ethical considerations to address the complex issues surrounding pre-order transactions in the gold market. Through this lens, the study endeavors to contribute meaningful insights to the ongoing discourse on the halal perspective of such transactions.

A. Implementation of *pre order* sale and purchase

a. Definition

1. Buying and selling

Selling and buying comes from Arabic, namely *ba'i* which means selling. Selling and buying at its core is an agreement to exchange objects or goods in which there is a voluntary between the two parties, one receiving objects and the other receiving them in accordance with the agreement or conditions that are justified by shara' and agreed upon. According to the Hanafiah, the definition of buying and selling (*al-bay*) *by definition* is the exchange of property or something that is desired with something equivalent through certain useful means. As for the Malikiyah, Shafi'iyah and Hanabilah scholars, that sale and purchase (*al-ba'i*) is the exchange of property for property as well in the form of transfer of ownership and ownership. And according to article 20 paragraph 2 of the Compilation of Sharia Economic Law, *ba'i* is buying and selling between objects and objects, or exchanging objects for money.⁷

⁷ T Nabila, N Nurhasanah, dan ..., "Tinjauan Fikih Muamalah terhadap Jual Beli Emas Online," ... *Hukum Ekonomi Syariah*, no. Query date: 2024-03-12 12:01:32 (2021), https://karyailmiah.unisba.ac.id/index.php/hukum_ekonomi_syariah/article/view/27764.

According to the above understanding, it can be concluded that buying and selling is the exchange of goods. This has been done by the ancient people before recognizing money as a means of exchanging goods. That is by using a barter system which in fiqh terms is called *ba'I al-muqqayyadah*. Although buying and selling with a currency system, sometimes the essence of barter buying and selling still applies, even though to determine the amount of goods exchanged but calculated with a certain currency value, for example, Indonesia buys a car to Germany, then the imported goods are paid for.

2. Gold

Gold is a valuable object that has been traded since long ago, even gold was used as a means of payment or medium of exchange in buying and selling in the past. Gold is an item that can be invested in because it is an easy and flexible commodity.⁸

Gold and silver are some of the six types of ribawi goods agreed upon by the scholars apart from dates, salt, wheat, and *sha'ir*. This is based on the hadith of the Prophet SAW narrated from Ubadah bin al-Shamit r.a who stated (Bukhari No. 2067, 2: 761; Muslim, No. 1584, 693) (Maliki, 2009):

الذَّهَبُ بِالذَّهَبِ وَالْفِضَّةُ بِالْفِضَّةِ وَالْبُرُّ بِالْبُرِّ وَالشَّعِيرُ بِالْعَيْرِ وَالتَّمْرُ بِالتَّمْرِ وَالْمَلْحُ بِالْمَلْحِ بِمِثْلِ سَوَاءٍ بِسَوَاءٍ يَدًا بِيَدٍ فَإِذَا اخْتَلَفَتْ هَذِهِ الْأَصْنَافُ فَبِيعُوا كَيْفَ شِئْتُمْ إِذَا كَانَ يَدًا بِيَدٍ

Ubadah ibn Shamit reported that the Messenger of Allah (may Allah's peace and blessings be upon him) said: "When gold is bartered for gold, silver for silver, burr wheat for burr wheat, sha'ir wheat for sha'ir wheat, dates for dates, and salt for salt, the measurements must be the same and in cash." If the objects being bartered are different, the measurements should be whatever you like as long as they are in cash. If the items being bartered are different then the measure should be whatever you like as long as it is in cash. [H.R. Muslim].

b. Buying And Selling Gold In The Community

Generally, the buying and selling of gold in the community has been going on for a long time. Gold is not only used as a piece of jewelry but also as a profitable investment. The advantages of gold are one of the factors driving the development of the gold buying and selling business. Even to make it easier for people to have gold as desired, some

⁸ A Afdol, *Praktek Transaksi Jual Beli Emas Secara Daring Di PT. Pegadaian Syariah Pekanbaru Dalam Perspektif Hukum Islam*, Query date: 2024-03-12 12:01:32 (repository.uir.ac.id, 2020), <http://repository.uir.ac.id/eprint/12826>.

gold shops offer gold making services. Usually people order gold shapes such as rings, necklaces, bracelets and others because they want to hold an event, such as an engagement.

The sale and purchase of gold in various forms is a highlight. If the buyer wants to buy gold in the form he wants, it usually takes 3-5 days of work. The interesting thing is, what form of contract occurs when you want to buy gold in tempahan, because gold is one of the ribawi goods, where the purchase cannot be deferred.

c. *Gold buying and selling in the Quran, hadith and scholarly opinions*

The evidence that talks about buying and selling gold all comes from the hadith. While in the Qur'an only explains about buying and selling in general as found in Surah al-Baqarah verse 275:

وَالَّذِينَ يَأْكُلُونَ الرِّبَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَخْطُطُهُ الشَّيْطَانُ مِنَ الْمَسِّ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبَا وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَانْتَهَى فَلَهُ مَا سَلَفَ وَأَمْرُهُ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا خَالِدُونَ

Meaning: "Those who eat usury cannot stand except as one who staggers because of a demon. This is because they say that buying and selling is the same as usury. But Allah has justified buying and selling and forbidden usury. If a warning from his Lord comes to him (concerning usury), then he stops, and what he used to earn is his, and it is up to Allah. Whoever repeats (the usury transaction), they are the inhabitants of Hell. They will remain therein."

Usury in the verse above is divided into two types, namely usury *nasiah* and *fadhli*. *Riba nasiah* is an addition that is levied as a result of delaying debt payments. Whether the debt is in the form of payment of merchandise or loans. *Fadhli* usury is the exchange of an item for a similar item, but the amount is more because the person who exchanges requires so, such as the exchange of gold for gold, rice for rice, and so on. The usury referred to in this verse is the multiple usury of *nasiah* which was common in the Arab society of the jahiliyah era. While the second type is forbidden through the Sunnah of the Prophet Muhammad Saw. by qiyas (analog). Because in it there is an element of addition without any substitute.

The traditions that discuss the sale and purchase of gold include:

عَنْ عُمَرَ رَضِيَ اللَّهُ عَنْهُمَا عَنِ النَّبِيِّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ قَالَ: الدَّهَبُ بِالدَّهَبِ رِبًا إِلَّا هَاءَ وَهَاءَ الْبُرِّ بِالْبُرِّ رِبًا إِلَّا هَاءَ وَهَاءَ وَالشَّعِيرُ بِالشَّعِيرِ رِبًا إِلَّا هَاءَ وَهَاءَ وَالنَّمْرُ بِالنَّمْرِ رِبًا إِلَّا هَاءَ وَهَاءَ.

'Umar (may Allah be pleased with him) reported that the Messenger of Allah (may Allah's peace and blessings be upon him) said: "Gold exchanged for gold is usury except in cash, bur wheat exchanged for bur wheat is usury except in cash, sha'iir wheat exchanged for sha'iir wheat is usury except in cash, and dates exchanged for dates is usury except in cash" [Muttafaq 'alaih].

From the above hadith it can be concluded that:⁹

1. The prohibition of buying and selling gold for silver or vice versa, and the damage that results if the seller and buyer do not pay in cash before they leave the place of the contract, is called *musyarafah*.
2. It is haraam to sell wheat kernels for wheat kernels or gandum flour for wheat flour, and its damage, if it is not done in cash before the seller and buyer separate from the place of the contract.
3. The contract is valid if payment is made in cash in *musyarafah*, or if grain is sold for grain or wheat flour for wheat flour at the place of the contract.
4. What is meant by the place of the contract is the place where the transaction takes place, whether they are both sitting or walking or driving. What is meant by separation is whatever is customarily regarded as separation between people.

It is permissible to sell gold and silver that has been made or prepared to be made in installments at this time when they are no longer treated as a medium of exchange in the community and they have become goods (sil'ah) like other goods that are bought and sold with payment in cash and in arrears. In both of them there are no images of dinars and dirhams in which (exchange) is required in cash and delivery as stated in the hadith narrated by Abu Sa'id al-Khudri that the Prophet said: "Do not sell gold for gold except in equal measure, and do not sell gold that is not delivered at the time for gold that is in cash." (HR: al-Bukhari). This Hadith indicates that gold and silver were the medium of exchange and transaction in the community. When this

⁹ Badrah Uyuni dan Mohammad Adnan, "Application of Islamic inheritance law among Muslim society," *El-Arbah: Jurnal Ekonomi, Bisnis Dan Perbankan Syariah* 5, no. 1 (2021): 19–32. Abdul Ghoni dan Erny Arianty, "The Impact of Spin-off Policy on the Efficiency of Sharia Insurance in Indonesia using DEA approach," *Journal of Islamic Economics Lariba* 7, no. 1 (2021): 47–66. Abdillah, "Jual Beli Emas Secara Tidak Tunai Perspektif Syariah: Studi Fatwa DSN-MUI No. 77 Tahun 2010"; MAA Akbar, *Praktek jual beli emas dengan harga fluktuatif pada aplikasi dompet digital dana tinjauan fatwa DSN MUI nomor: 77/DSN-MUI/V/2010 tentang jual beli emas secara ...*, Query date: 2024-03-12 12:01:32 (etheses.uin-malang.ac.id, 2023), <http://etheses.uin-malang.ac.id/id/eprint/50454>.

condition is no longer present, the ruling is no longer valid, because the ruling revolves around the 'illat', whether it is present or absent. Based on that, there is no Shariah prohibition on selling gold that has been made or prepared to be made in installments.¹⁰

B. Islamic Law Review of Pre-Order Gold Buying and Selling

In the community, the practice of buying and selling gold by pre order is when you want to buy gold in various forms, such as buying a ring with an engraving of his name. This practice is common in the community, usually for a specific purpose, such as marriage, fiancé, gift and possibly to beautify one's appearance. Pre-order buying and selling is still carried out in the community, because in working with gold in various forms, it takes 3-5 days. This depends on the grade of gold being worked on, the higher the grade, the longer the work time required. Because it is a common occurrence in the community, the community considers this to be a common thing. In my interviews with the community in terms of buying and selling gold of various kinds, some mentioned

First, *"there are usually 2 ways, the first way the buyer buys gold in cash and then asks to be made in the desired shape, the second way is to buy gold at once and ask to be made and pay a down payment, the rest of the payment will be made after the gold is finished."*

Secondly *"usually buy first in full and in cash then ask to be made in the shape you want, for the manufacturing fee after the gold is finished."*

The opinions of religious leaders regarding this preorder sale and purchase,

First, *"the existence of dp (downpayment) or down payment is permissible, because it is a payment or a sign of purchase. Akad at the end, after the gold is finished or has been received. Gold cannot be paid in installments, the technical concept is such as ordering gold in the form of a bracelet weighing 20 grams, the price of 1 gram is Rp. 1,000,000, then paying a dp (downpayment) of Rp. 2,000,000, repayment at the end follows the price of gold when the gold is received, for example, to Rp. 1,050,000 then the remaining amount paid is Rp.*

¹⁰ RY BACHTIAR dan M Julijanto, "TINJAUAN HUKUM EKONOMI SYARIAH TERHADAP PRAKTIK JUAL BELI EMAS CICIL MERCHANT DI GALERI 24 PEGADAIAN SOLO," no. Query date: 2024-03-12 12:01:32 (2023), http://eprints.iain-surakarta.ac.id/7277/1/FULL%20TEXT%20SKRIPSI_Rizky%20Yusuf%20Bachtiar_192111122_HES.pdf; RN Azizah, *Praktik Jual Beli Pasir Puya yang Mengandung Emas di Desa Teluk Kepayang dalam Prespektif Hukum Islam*, Query date: 2024-03-12 12:01:32 (idr.uin-antasari.ac.id, 2023), <https://idr.uin-antasari.ac.id/id/eprint/24515>; UK Azizah, "PRAKTEK JUAL BELI PERHIASAN EMAS DENGAN SISTEM TUKAR TAMBAH MENURUT HUKUM ISLAM (STUDI KASUS DI TOKO SINAR JAYA KACAMATAN ...," *Al-Hukmi: Jurnal Hukum Ekonomi Syariah dan ...*, no. Query date: 2024-03-12 12:01:32 (2022), <https://journal.ibrahimy.ac.id/index.php/alhukmi/article/view/2200>.

19,000,000. The flow is like saving, if the money is enough then buy and make a deal. So paying *dp* (downpayment) at the beginning is not a contract.

Second "*Dp* (downpayment) or down payment is a binding sign or a sign of purchase, the existence of *dp* (downpayment) gives certainty to the seller to make gold orders according to the wishes of the buyer, the *dp* (downpayment) also keeps the seller worried if the buyer does not. The concept of *dp* (downpayment) or down payment is different from installments, if the *dp* (downpayment) is not certain or the goods have not been received, while the installments already have the goods. The price paid in full is the price of gold when gold is received, not when *dp* (downpayment) because gold is likely to rise and fall and make an agreement at the end. Of course, in this repayment there must be an agreement between the buyer and the seller. Such as the addition of the price of services or wages for making the gold, both of them must know. So when buying and selling on a pre order basis, what is seen is not only the price of gold but also the price of services.

There is also the opinion of famous scholars such as *buya yahya* "*dp* (downpayment) or down payment is a promise to buy, the money as a guarantee or entrustment, not as a contract. When you want to pay in full, the *dp* (downpayment) or down payment is returned by the seller then the new contract with the buyer. The contract is at the end. The price of gold and services has become one, because it is borne by the seller. It is different if the *umas* is from the buyer, then the buyer will provide wages or services for making gold models.

The *illat* hukum in this research is from *Ibu Taymiyyah* in the book *al-Ijhtiyarat* "It is permissible to transact the sale and purchase of jewelry from gold and silver of its kind without the condition that it must be of the same grade (*tamatsul*), and the excess is used as compensation for the service of making jewelry, whether the sale and purchase is with cash payment or with deferred payment, as long as the jewelry is not intended as price (money)."

Ibn al-Qayyim explains further: "Jewelry (made of gold or silver) that is permissible, because it is permissible to make it, becomes a type of clothing and goods, not a type of price (money). Hence *zakaah* is not due on jewelry made of gold or silver, and there is no usury involved in exchanging jewelry for money, just as there is no usury involved in exchanging money for other goods, even if they are not of the same kind. That is because by making it into jewelry, the jewelry (of gold) has gone beyond the purpose of being a price (no longer being money) and has instead been intended for commerce.

The existence of this illat, then the sale and purchase of gold on a pre order basis can be said to be permissible or halal, because of the demand for making gold into jewelry which then changes its status to goods or clothing.

Interestingly, this discussion is the habit of the people who consider, purchasing gold by pre order or by means of a form order that is equated with ordinary goods. The existence of a dp (downpayment) or down payment is considered a contract and the final payment does not follow the market price of gold. Of course there is a little confusion about it

It is certainly hoped that the community will be smarter about their muamalah transactions, especially buying and selling, especially buying and selling involving ribawi goods. From the contract, implementation, payment and agreement. Because if we are wrong in one of the procedures there may be usury in it. Because the difference is small. Buying and selling gets profit, usury also gets profit, the thing that distinguishes it is the contract and its implementation.

The research revealed a consensus among community members, religious leaders, and scholars that pre-order transactions in gold buying and selling are generally considered halal. The down payment in such transactions is viewed as a commitment rather than a binding contract, aligning with Islamic finance principles. The illat, categorizing gold as jewelry, plays a pivotal role in understanding its treatment within these transactions. Additionally, the study identified a need for clearer guidelines and standardized practices to ensure transparency and ethical conduct in pre-order transactions.

The findings underscore the importance of aligning pre-order transactions with established Islamic finance principles, emphasizing the distinction between a commitment and a binding contract. The illat-based categorization of gold as jewelry provides clarity on its treatment within the halal framework. However, the study also highlights the necessity for comprehensive guidelines to govern these transactions, addressing concerns related to transparency and ethical conduct. Expert consultations and case studies further contribute to the nuanced understanding of the ethical landscape in gold trading. This research advocates for ongoing dialogue and collaboration among stakeholders to develop standardized practices that uphold both the ethical principles of Islamic finance and the transparency required in contemporary economic transactions.

In conclusion, this study has provided a comprehensive exploration of the ethical considerations surrounding pre-order transactions in gold buying and selling within the framework of Islamic finance. The findings indicate a prevailing consensus

among community members, religious leaders, and scholars that, in principle, pre-order transactions are considered halal, contingent upon adherence to established Islamic finance principles. The *illat*-based categorization of gold as jewelry adds a crucial layer of understanding to its treatment within these transactions.

Nevertheless, the research highlights the need for a standardized regulatory framework and guidelines to address transparency and ethical conduct concerns. Collaborative efforts involving religious authorities, financial institutions, and legal experts are recommended to establish clear practices that align with Islamic principles. Educational initiatives to enhance financial literacy and awareness within the community are also crucial for empowering individuals to make informed decisions in accordance with Islamic values.

This study serves as a foundational contribution to the ongoing discourse on ethical considerations in economic transactions within the gold market. It emphasizes the importance of continued dialogue and collaborative actions to ensure that pre-order transactions in gold align with Islamic principles, promote transparency, and uphold ethical standards. Ultimately, the findings and recommendations lay the groundwork for a more ethically informed and regulated landscape in gold trading within Islamic finance.

CONCLUSIONS

According to the opinions of scholars and religious leaders, the nature of buying and selling gold on a preorder basis is permissible or halal. Because the *illat* of gold is categorized as jewelry. Then the dp (downpayment) or down payment in it is as a receipt or a sign of binding or guarantee against the order of the gold model. The wisdom is to keep the seller from worrying if the buyer does not. Of course, this preorder sale and purchase is permissible because the contract is at the end of the gold payment at the appropriate price when the gold is finished and received.

This sale and purchase can become haram, if dp (downpayment) is used as a contract. Then paid in installments. And the gold is paid in full at the end not following the price of gold when the gold is finished and received. Only make payments according to the price of gold when dp (downpayment).

The author agrees with the opinion that the sale and purchase of gold by pre order is halal, because basically dp (downpayment) is only used as a guarantee for the buyer's certainty to buy the gold. Not as a contract. Because the correct contract is when it is paid in full and the gold has been received at the appropriate price on the day the gold is received.

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