

TWO BUY AND SELL IN ONE BUY AND SELL : HADITH PERSPECTIVE

by Wandy Zulkarnaen

Submission date: 24-Nov-2022 09:03AM (UTC+0700)

Submission ID: 1962342434

File name: sinta_2_-IJAIR-wandy.docx (44.33K)

Word count: 3453

Character count: 18476

TWO BUY AND SELL IN ONE BUY AND SELL : HADITH PERSPECTIVE

Ade Supriatna¹, Wandy Zulkarnaen^{2*}, Suparjiman³

¹UIN Sunan Gunung Djati, Bandung, Indonesia

²Universitas Muhammadiyah, Bandung, Indonesia

³Universitas Muhammadiyah Bandung, Indonesia

¹ adespr69@gmail.com; ^{2*}wandy.zulkarnaen@umbandung.ac.id, ³suparjiman7762@gmail.com

* corresponding author

11

ARTICLE INFO

Article history:

Received

Revised

Accepted

Keywords:

Two Buy and Sell

One Buy and Sell

Hadith Perspective

Hybrid Contract

Sharia Bank

ABSTRACT

This article discusses the Hadith narrated by Hannad bin As Sary bin Mush'ab about Two Buy and Sell in One Buy and Sell in *Ṣunan al-Tirmidzi*. This article was written using the *Takhrīj al-Hadīth* method. The data source is in the form of a narration of the Hadith in *Ṣunan al-Tirmidzi* about Two Buy and Sell in One Buy and Sell. The type of data is in the form of hadith text in *Ṣunan al-Tirmidzi* about Two Buy and Sell in One Buy and Sell complete *sanad* and *matn*. The data collection technique is done by tracing the Hadith narration about Two Buy and Sell in One Buy and Sell in *Ṣunan al-Tirmidzi*. The data analysis technique was carried out by applying the *Sharḥ al-Hadīth* method, both in the *sanad* and *matn* aspects. This article reveals that the hadith narrated by Hannad bin As Sary bin Mush'ab about Two Buy and Sell in One Buy and Sell in *Ṣunan al-Tirmidzi* relates to the concept of Hybrid Contract in Sharia Bank.

I. Introduction

According to Nazh ammāḍ in his book entitled *Qaḍāyā Fiqhiyyah Mu'āṣirah fī al-Māl wa al-iqtisād*, it is stated that currently a combined or multi-contract (hybrid contract) or in terms of fiqh al-'uqud al-murakkabah is two or more contracts. a single transaction (Ḥammād 2001:59; Wahid 2019:23). As in buying and selling transactions, namely the merger of murabahah and wakalah (murabahah bil wakalah). In a study entitled *Transformation of Classical Muamalah Contracts in Islamic Banking Products* discussion about the use of multi-contracts must be careful because it could potentially violate the provisions of sharia law (Aziz 2012). The definition of the contract in the book entitled *Islamic Economics Fiqh*, where the word contract comes from the Arabic Al-Aqdu in the form of jama' called Al-Uquud which means ties or knots of rope (Mardani 2012:71).

Hadith related to the prohibition of two contracts in one sale and purchase, narrated by al-Tirmidhi, chapter on buying and selling, hadith number 1152.

قَالَ هُرَيْرَةُ أَبِي عَنْ سَلَمَةَ أَبِي عَنْ عَمْرِو بْنِ مُحَمَّدٍ عَنْ سُلَيْمَانَ بْنِ عَبْدِ اللَّهِ حَدَّثَنَا هَذَا حَدَّثَنَا ۱۱۵۲ الترمذي سنن

بَيْعَةٍ فِي بَيْعَتَيْنِ عَنْ وَسَلَّم عَلَيْهِ اللَّهُ صَلَّى اللَّهُ رَسُولُ نَهَى

عَنْ هَذَا عَلَى وَالْعَمَلُ صَحِيحٌ حَدِيثُ هُرَيْرَةَ أَبِي حَدِيثُ عَيْسَى أَبُو قَالَ مَسْعُودٍ وَابْنِ عَمْرٍ وَابْنِ عَمْرِو بْنِ اللَّهِ عَبْدٌ عَنْ النَّبَابِ وَفِي أَخَذَ عَلَى يُفَارِقُهُ وَلَا بَعَثَرِينَ وَبَنَسِيْنَهُ بَعَثَرَةً بِتَقْدِيرِ التَّوْبِ هَذَا أَبَيْكَ يَقُولُ أَنْ بَيْعَةٍ فِي بَيْعَتَيْنِ قَالُوا الْعِلْمُ أَهْلُ بَعْضُ فَسَرَّ وَقَدْ الْعِلْمُ أَهْلُ عَنْ وَسَلَّم عَلَيْهِ اللَّهُ صَلَّى النَّبِيِّ نَهَى وَمِنْ الشَّافِعِيِّ قَالَ مِنْهُمَا أَحَدٌ عَلَى الْعُقْدَةِ كَانَتْ إِذَا بَأْسَ فَلَا أَحَدُهُمَا عَلَى فَارِقَهُ فَإِذَا الْبَيْعَتَيْنِ

Hybrid contract in fiqh terms is called al-'aqd al-murakkabah, consisting of two words, namely al-'aqd and al-murakkabah. The word contract comes from the Arabic 'aqada-ya'qidu-'aqdan, which has three synonyms, namely binding (ja'ala uqdatan), strengthening ('aqqada), and establishing (lazima). According to Wahbah Zuhaili, the language contract comes from "al-'aqudu" which means the bond (al-rabth) between the two ends, both real and meaningful. Then it is absorbed into Indonesian, so that the word contract has synonyms with engagement, agreement, and consensus (Rosyadi 2017:1). While the word al-murakkabah, means al-jam'u which is to collect or collect. In terms, a murakkabah contract is defined by the agreement of two parties to carry out a muamalah which includes two or more contracts, for example a sale and purchase contract with ijarah, a sale and purchase contract with a grant and so on, so that all legal consequences of the combined contracts, as well as all rights and the obligations that arise, are considered as an inseparable unit, which has the same position as the legal consequences of a contract (Rosyadi 2017:22).

Scholars differ on the permissibility or prohibition of multi-contracts. There are three types of law in conditional contracts: 1) tabarru' contract with the condition that mu'awadhad contract or vice versa, 2) mu'awadhad contract with mu'awadhad, 3) tabarru' contract with tabarru'. According to the Regulation of the Minister of Finance Number 11/PMK.010/2011 concerning Financial Health of Insurance Business and Reinsurance Business with Sharia Principles, the tabarru' contract

is a grant contract in the form of granting of funds from one Participant to the Tabarru' Fund for the purpose of helping among the Participants, non-commercial and non-commercial purposes.

An example of a conditional contract of mu'awadhah with mu'awadhah is a bai' contract with bai' conditions, such as X selling goods to Y on the condition that Y sells goods to X. Or a bai' wal ijarah contract (a sale and purchase contract with terms of lease). In this case, there are differences of opinion among scholars: 1) The scholars who forbid are the scholars of Shafi'i, Hanafi, Hanbali, Ibn. Hazm. This is related to the prohibition of two buying and selling in one sale and purchase contract (Sunan al-Tirmidhi number 1152). 2) Asking the permissibility of the mu'awadhah contract with the mu'awadhah contract. According to Imam Malik, Ibn Taimiyah, Ibn Qayyim al-Jauziyyah, some of the Hanbali scholars and Maliki scholars. They take the rule of law that the original law in muamalah cases is permissible, and the hadith which states that the Muslims are always consistent with their conditions. In the book (Prof. H. A. Djazuli 2006:129):

16
الأصل في المعاملة الإباحة إلا أن يدل دليل على تحريمها

That the original law in all forms of muamalah is permissible unless there is a proposition that forbids it.

When there are two contradictory arguments, the legal istinbath method with istihsan applies. As an example of the results of ijtihad with Istihsan, namely (DSN-MUI Fatwa Number: 73/DSN-MUI/XI/2008 regarding multi-contract musyarakah, the product is called Musyarakah Mutanaqishah/Mmq).

7
According to the book (Irma Devita P and Suswinamo. 2011:2) that the Musyarakah Mutanaqishah (MMQ) contract is a form of cooperation between two or more parties for the ownership of an item or asset. In this cooperation there is a reduction in the ownership rights of one party while the other party has an increase in ownership rights. This transfer of ownership is through a payment mechanism for other ownership rights and the end is the transfer of rights from one party to another.

10
The collection of several material contracts contained in a contract both jointly and reciprocally, so that all rights and obligations arising from it are seen as legal consequences of a contract. Modern financial transactions, including contracts executed, must be based on fiqh. Multi contract is a joint contract (mujtama'ah) or remains standing alone but there is a binding, namely the interrelated conditions between contracts (mutaqabilah). Multiple dependent/conditional contracts (al-'uqud al-mutaqabilah), where the first contract will be perfect if followed by a second contract reciprocally. This type of contract already exists in classical fiqh with the term conditional contract (isytirath 'aqd bi 'aqd). And the combined multi-contract (al-'uqud al-mujtami'ah) is a combination of several contracts into one object or two different contract objects, with legal implications as well as the same or different times. contract is merged against each other then it is not valid such as (al-'uqud al-mutanaqidhah, al-mutadhadah, al-muranafiyah). As for what can be valid, such as different contracts (al-'uqud al-mukhtalifah) and similar contracts (al-'uqud al-mutajanisah).

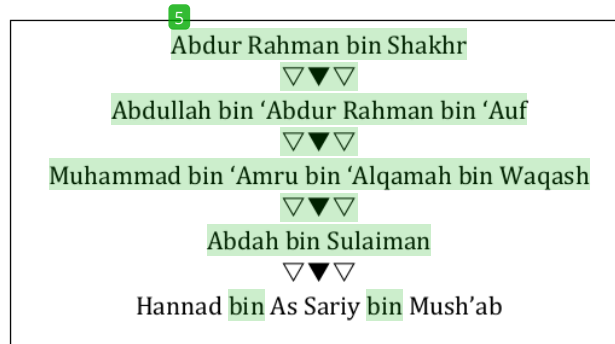
II. Method

This study approach descriptive phenomenological qualitative method. The phenomenological reason is because it is in accordance with the purpose of the study, which is to describe social phenomena related to concepts Two Buying and Selling in One Sale and Purchase in Islamic financial institutions such as Islamic commercial banks and Islamic business units in West Java. Where one of the popular products related to buying and selling is murabahah bil wakalah. The use of hadith in buying and selling transactions as a legal basis and review of hadith syara to further strengthen the use of the hadith foundation. Techniques of data analysis (al-hadith) through takhrij al-hadith as well as matan hadith and assessment of the narrators of hadith. The methodology used in this study uses a qualitative approach (qualitative based research), using the deductive thinking method (deductive method), which analyzes general knowledge phenomena or general facts to find certain conclusions. (Zulkarnaen, et. al. 2020:2614)

III. Results

1. SANAD ANALYSIS

To examine the hadith al uqud al makubakabah (hybrid contract), the extent of its quality and the continuity of its sanad to the Prophet sallallahu 'alaihi wasallam. So it is necessary to interpret the hadith of al-Tirmidhi, his full name is Imam al-Hafizh Abu Isa Muhammad bin Isa bin Saurah bin Musa bin ad-Dahhak as-Sulami at-Tirmidhi, one of the famous hadith experts who narrated many hadiths of the Prophet Muhammad peace be upon him. He once met with Hannad bin Sirri related to the hadith above, so that the hadith was connected to Hannad.



a. Hannad bin As Sariy bin Mush'ab

Among the (older generation) tabi'ut tabi'in, the kuniyahnya of Abu As Sariy, lived while in Kufa, died in 243 H, the following are the comments of the scholars:

THE SCHOLARS	THE COMMENTS
Abu Hatim	Shaduuq
An Nasa'i	Tsiqah

Ibnu Hibban	disebutkan dalam 'ats tsiqaat
Ibnu Hajar al 'Asqalani	Tsiqah
Adz Dzahabi	Hafizh

The conclusion according to the evaluation of the scholars' that Hannad can be trusted with his words. One of his teachers was named 'Abdah bin Sulaiman, therefore the chain of hadith is connected to 'Abdah bin Sulaiman.

b. 'Abdah bin Sulaiman, or 'Abadah bin Sulaiman.

Among the (middle generation) tabi'ut tabi'in, his kunyah was Abu Muhammad, lived while living in Kufah, died in 187 H (Encyclopedia Kitab 9 Imam Hadis n.d.). Scholars' comments:

THE SCHOLARS	THE COMMENTS
¹⁵ Al 'Ajli	Tsiqah
Ad Daruquthni	Tsiqah
Adz Dzahabi	Tsiqah
Ibnu Hajar	tsiqah tsabat

The conclusion according to the assessment of the scholars' that 'Abadah bin Sulaiman is a person who can be trusted and the hadith can be accounted for. One of his teachers was named Muhammad ibn 'Amru, therefore the hadith chain is connected to Muhammad ibn 'Amru.

c. Muhammad bin 'Amru bin 'Alqamah bin Waqash

Among the (middle generation) tabi'in, his kunyah was Abu 'Abdullah, lived during his life in Medina, died in 145 AH, the following are the comments of the scholars :

THE SCHOLARS	THE COMMENTS
Abu Hatim	shalihul hadis
¹⁷ Ibnu Nasa'i	laisa bihi ba's
Abu Ahmad bin Adi	²³ shalihul hadits
Ibnu Hibban	disebutkan dalam 'ats tsiqaat
Yahya bin Ma'in	Tsiqah
Ibnu Mubarak	laisa bihi ba's
Ibnu Hajar al 'Asqalani	Shaduuq

The conclusion according to the assessment of the scholars' that Muhammad bin 'Amru is a person who can be trusted and the hadith can be accounted for. One of his teachers was named Abu Salmah, therefore the hadith chain is connected to Abu Salmah.

d. Abdullah bin 'Abdur Rahman bin 'Auf

Among the (middle) **tabi'in**, his **kunyah** was **Abu Salamah**, lived while living in Medina, died in 94 AH, the following are the scholars' comments:

THE SCHOLARS	THE COMMENTS
² Abu Zur'ah	tsiqah imam
Ibnu Hibban	Tsiqah

The conclusion according to the assessment of the scholars is that Abu Salamah is a trustworthy person and the hadith can be accounted for. One of his teachers was named Abdur Rahman bin Shakhr. So it can be concluded that the chain is continued with Abdur Rahman bin Shakhr.

e. Abdur Rahman bin Shakhr

Among the Companions, his kunyah was Abu Hurairah radhiyallahu 'anhu, lived while living in Madinah, died in 57 AH, the following are the Companions' comments:

THE SCHOLARS	THE COMMENTS
Ibnu Hajar al 'Asqalani	Shahabat

The conclusion is that Abu Hurairah radhiyallahu 'anhu is a person who can be trusted and the hadith can be held accountable. He was a friend of ⁹the Messenger of Allah, may God bless him and grant him peace. So the conclusion of the research is that the sanad continues until the Messenger of Allah, may God bless him and grant him peace (Encyclopedia of Book 9 of Imam Hadis n.d.). Sanad narrated by more than two hadith narrators means that the hadith is authentic and famous and worthy of being a hadith reference.

2. ANALYSIS OF THE MATAN

The analysis of the matan of the hadith above is to examine the existence of oddities and things that can damage the validity of the hadith (syādz and 'illat) on the matan by looking at the quality of the sanad, examining the composition of the matan, examining the content of its meaning, and finally the conclusion whether the matan has status. authentic or not. In tracing the matan in this study and based on the mukharrij whose sanad is connected to the level of a friend, namely Abu Hurairah radhiyallahu 'anhu. By looking at the quality of the sanad based on the discussion, it can be seen that the hadith is hasan sahih, there is no problem because it meets the requirements of the authenticity of the hadith, namely the fulfillment of the connection of the sanad and in the chain of the sanad there are narrators with the criteria of 'ādil and dhābith.

3. CONTEMPORARY INTERPRETATION

Today's economic transactions have developed more complex and different conditions from the past at the time of the Prophet sallallahu 'alaihi wasallam, then passed on to the companions, tabi'in and so on to this day. On the other hand, muamalah is a necessity and must continue to fulfill the needs of many people and in practice its application in today's society cannot

be separated from the guidelines regulated in sharia. Various transactions or contracts that are carried out, especially in Islamic banking, must of course be in the context of not violating legal provisions. In terms of muamalah, according to the rules of fiqh, it is permissible or permissible as long as it does not contain things that are madhorot such as ghoror, maisir and usury. In contemporary sharia economics, of course, a more flexible multi-contract formulation is needed, but it does not contradict the hadith of the Prophet shalallahu 'alaihi wasallam, because if you only rely on the concept of a single contract, it turns out that it cannot fully meet the needs of transactions in an era that continues to advance. Therefore, the role of Islamic banks in facilitating the community in meeting their needs, especially those related to banking services, for their products is certainly not only business-oriented but also in supporting the existence of benefits in transactions at the institution. At the practical level, the Islamic bank involves the sharia supervisory board which serves as an advisor in terms of taking references to the Indonesian Ulema Council (MUI) fatwa related to the products offered, for example murabahah (Remy Sjahdeini 2018: 195) and other products as products that are part of a combination several buying and selling transactions that are incorporated in one sale and purchase contract which is popularly known as a combined contract or multi contract (hybrid contract).

IV. Discussion

Ijarah financing reflects the contract of transfer of ownership of the benefits of goods or services accompanied by a reward (ujrah). Ijarah in terms of its object can be divided into two, among others: Ijarah whose object is the benefit of goods/objects called rent (al-ijarah) and Ijarah whose object is services (human labor or expertise) called wages or labor (al-kira'). ³ If the object of the transaction is a benefit or service in a objects, for example, is renting a house to live in. If the object of the transaction is the benefit or service or expertise of a person, then the example is the wages of construction workers and others.

Buying and selling al-murabahah is the opposite of buying and selling al-wadhi'ah, in which the seller and buyer make buying and selling transactions regarding certain objects whose price is higher than the acquisition price. Wahbah al-Zuhaili asserts that the buying and selling of murabahah is: acquisition is accompanied by additional as profit. Murabahah buying and selling is a very popular contract among Islamic banking business actors. Because it is associated with such complex business practices, the murabahah contract is basically a contract topic that is widely discussed in various circles. Among its characteristics are the many DSN-MUI fatwas related to buying and selling murabahah.

V. Conclusion

Based on the basis of the hadith that has been taught based on sanad and matan as well as the opinions of the scholars about the narrators. According to Sunan al-Tirmidhi number 1152 that

the hadith is from Abu Hurairah ra. it is a hasan sahih hadith. So it can be concluded that the hadith deserves to be used as an argument to base the activities of contracts related to Two Buys in One Buy at the present time. By knowing the limitations or prohibitions in terms of sales contracts, it can be a reference in making a formulation or concept of contracts nowadays. And the prohibition of the Prophet sallallahu 'alaihi wasallam that is stated in the hadith means prohibiting the occurrence of two sales and purchases in one sale or in other words it prohibits two transactions in one transaction that is applied without paying attention to the maqasid syariah. Maqasid syariah which is meant is the creation of benefits from the existence of transactions carried out especially within the scope of syariah banks in issuing products that are classified as two sales and purchases in one sale or so called multi akad (hybrid contract) of sharia banking today.

References

- Andalusi, Muhammad bin Ahmad Ibn Rusyd al Qurtubi, Imam al-Qodhi abi alWalid, Bidayah al-Mujtahid wa Nihayah al Muqtassid Jilid II, Beirut : Dar al-Kitab al-Ilmiyah, 1996.
- Aziz, Jamal Abdul. 2012. "Transformasi Akad Muamalah Klasik dalam Produk Perbankan Syariah." *Al-Tahrir: Jurnal Pemikiran Islam* 12(1):21. doi: 10.21154/al-tahrir.v12i1.45.
- Ensiklopedi Kitab 9 Imam Hadis. n.d. "Kitab Tirmidzi." Retrieved (http://www.infotbi.com/hadis9/kitab_open.php?imam=tirmidzi&nohdt=1152&page=47).
- Fatwa Dewan Syariah Nasional, No: 73/DSN-MUI/XI/2008 Tentang Musyarakah Mutanaqishah(Mmq).
- Fiqh al Mu'amalat. 2009. Kingdom of Saudi Arabia: University of Medina.
- Hamād, Nazīh. 2001. *Qaḍāyā Fiqhiyyah Mu'āṣirah Fī al-Māl Wa al-Iqtisād*. Jiddah: Dār al-Bashir.
- Hasan, Ahmad. t.th. Nazhariyyat al-Ujur fi al-Fiqh al-Islami:Dirasah Tahliliyyah Muhtakirah li Fiqh al-Mu'amalat al-Maliyyah. tt: Dar Iqra'.
- Irma Devita P. dan Suswinarno. 2011. Akad Syariah. Bandung:Mizan Pustaka.
- Mardani. 2012. *Fiqh Ekonomi Islam Syariah*. Jakarta: Kencana.
- Prof. H. A. Djazuli. 2006. *Kaidah-Kaidah Fikih*. Jakarta.
- Remy Sjahdeini, Sutan. 2018. *Perbankan Syariah: Produk-produk dan Aspek-Aspek Hukumnya*. Kencana.
- Rosyadi, Imron. 2017. *Jaminan Kebendaan Berdasarkan Akad Syariah*. Kencana.
- Wahid, Nur. 2019. *Multi Akad dalam Lembaga Keuangan Syariah*. Yogyakarta: Deepublish.
- Zulkarnaen, W., Sasangka, I., Sukirman, D., Yuniati, & Rahadian, F. (2020). Harmonization of sharia rules in effort copyright protection in Indonesia. *Journal of Advanced Research in Dynamical and Control Systems*, 12(2), 2612–2616. <https://doi.org/10.5373/JARDCS/V12I2/S20201311>
- <https://www.ojk.go.id> : Kesehatan Keuangan Usaha Asuransi dan Usaha Reasuransi dengan Prinsip Syariah, accessed date 16 Agustus 2022.

TWO BUY AND SELL IN ONE BUY AND SELL : HADITH PERSPECTIVE

ORIGINALITY REPORT

10%

SIMILARITY INDEX

8%

INTERNET SOURCES

5%

PUBLICATIONS

5%

STUDENT PAPERS

PRIMARY SOURCES

1	jurnalnasional.ump.ac.id	1 %
Internet Source		
2	baitil-atiq.blogspot.com	1 %
Internet Source		
3	Submitted to Universiti Teknologi MARA	1 %
Student Paper		
4	jurnal.radenfatah.ac.id	1 %
Internet Source		
5	dimensiilmu.blogspot.com	1 %
Internet Source		
6	Firqah Annajiyah Mansyuroh. "SHARIA LAW OF TAX AMNESTY IN PERSPECTIVE OF THE SOUTH KALIMANTAN MUSLIM ECONOMISTS", Syariah Jurnal Hukum dan Pemikiran, 2018	1 %
Publication		
7	Submitted to Asia Pacific University College of Technology and Innovation (UCTI)	1 %
Student Paper		

8	media.neliti.com Internet Source	1 %
9	"The Wiley Blackwell Concise Companion to the Hadith", Wiley, 2020 Publication	<1 %
10	Submitted to UIN Syarif Hidayatullah Jakarta Student Paper	<1 %
11	jgrph.org Internet Source	<1 %
12	podiumminimalis.com Internet Source	<1 %
13	Submitted to Higher Education Commission Pakistan Student Paper	<1 %
14	Submitted to Queen Mary and Westfield College Student Paper	<1 %
15	journal.uinsgd.ac.id Internet Source	<1 %
16	digilib.uinsgd.ac.id Internet Source	<1 %
17	Ihsan Nurmansyah. "Resepsi dan Transmisi Pengetahuan dalam Film Papi dan Kacung Episode 8-11: Sebuah Kajian Living Hadis", AL QUDS : Jurnal Studi Alquran dan Hadis, 2019 Publication	<1 %

18	acikerisim.dicle.edu.tr Internet Source	<1 %
19	ejournal.unisba.ac.id Internet Source	<1 %
20	fromlearntoearn.wordpress.com Internet Source	<1 %
21	jurnal.uinbanten.ac.id Internet Source	<1 %
22	hafiizhramadan.wordpress.com Internet Source	<1 %
23	Darrotul Jannah. "KRITIK DAN SYARAH HADITS", Al-Tarbawi Al-Haditsah : Jurnal Pendidikan Islam, 2017 Publication	<1 %

Exclude quotes On

Exclude matches Off

Exclude bibliography On