International Journal of Economics and Development
ISSN(Online): 3110-3189
Vol 1 no 2 (2025): December 2025
https://journal.as-salafiyah.id/index.php/ijed/index
Email: ijededitor@gmail.com

Judicial Interpretation of Murābaḥah Contract Restructuring: A Maqāṣid-Based Review of a Palembang Religious Court Case

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Abstract: The development of Islamic financial institutions in Indonesia has brought new dynamics to the practice of financing contracts, including murābaḥah contracts, which often undergo restructuring due to changing economic conditions. Problems arise when such restructuring leads to legal disputes and is challenged as an act of unlawful conduct. This study analyzes the interpretation of judges at the Palembang Religious Court regarding the restructuring of a murabaḥah contract and assesses its conformity with Muḥammad Ṭahir Ibn 'Ashur's theory of maqaṣid al-shari'ah. This research employs a qualitative method with a normative legal approach through an examination of Decision No. 41/Pdt.G/2021/PA.Palembang, along with sources of Islamic economic law and maqaṣid literature. The findings indicate that the judges interpreted the case legalistically, relying on the principle of pacta sunt servanda and Article 1365 of the Indonesian Civil Code, concluding that the contract restructuring did not constitute an unlawful act. However, from the perspective of Ibn 'Ashur's maqāṣid al-shari'ah, such reasoning does not fully reflect the values of substantive justice (al-'adl al-ijtima'i), protection of property (ḥifẓ al-māl), and social welfare (al-maṣlaḥah). Thus, while the court's decision is formally valid from a juridical standpoint, it has not yet achieved maqāṣid-based justice. Islamic law should be applied by considering its intrinsic spirit of justice to promote social welfare, as envisioned by Ibn 'Āshūr.
Keywords: *Maqaṣid al-Shari'ah, Muḥammad Ṭahir Ibn 'Ashur, Murabaḥah, Contract Restructuring, Unlawful Act*

INTRODUCTION

The court not only examines cases involving disputes or what are known as contentious lawsuits, but also has the authority to examine voluntary cases that are unilateral (ex-parte) and solely for the benefit of the applicant. Field research shows that civil lawsuits in court are dominated by lawsuits for unlawful acts, in addition to lawsuits for breach of contract.(Fuady, 2017). To file a lawsuit for unlawful acts, it must be ensured that the provisions of Article 1365 of KUHPerdata.

The scope of damages in unlawful acts has a different dimension from default. A person can be said to be in default if he violates an agreement that has been agreed upon with another party (Alfianto et al., 2024). Meanwhile, a person can be said to have committed an unlawful act if their

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actions violate the rights of others, or violate their own legal obligations, or violate public morality.(Nuzan et al., 2024). The similarity between a breach of contract lawsuit and an unlawful lawsuit is that both can result in a claim for damages. Parties filing claims in court often confuse breach of contract lawsuits with unlawful lawsuits. It often happens that a party files an unlawful lawsuit, but the arguments presented indicate that the lawsuit is actually a breach of contract case. Errors in the grounds for the lawsuit can become loopholes that the defendant will exploit in their defense. Some experts have commented that fighting the law with default has certain similarities with limitations.

Sharia financing is an important pillar of the Islamic economy that aims to achieve justice and prosperity. One of the popular products in Islamic banking is the murabahah contract, which refers to Pasal 20 paragraph (6) of the KHES. The murabahah contract is considered to be in accordance with Sharia principles because it does not involve riba (interest), which is prohibited in Islamic law (Marzuki et al., 2024).

In practice, the implementation of Murabahah contracts does not always run smoothly. Many disputes arise between banks and customers regarding the content of the agreement or payment mechanisms. Generally, disputes arise from technical and procedural issues, such as unilateral changes by the bank or the customer's failure to meet their payment obligations. Basically, these disputes are caused by several things, including the following: a). Default (breach of promise); b). Unlawful Acts (PMH); c). Losses to One Party(Amran, 2018).

As the absolute authority of the Religious Court, one of the Religious Courts that handles sharia economic cases is the Palembang Religious Court. The Palembang Religious Court accepted the lawsuit based on unlawful acts in a murabahah financing agreement registered with the Palembang Religious Court clerk's office, with case number 41/Pdt.G/2021/PA. Palembang.

The case that is the focus of this study, namely the lawsuit with case number 41/Pdt.G/2021/PA. Palembang, shows a serious discrepancy between the idealism of sharia contracts and the reality of their implementation. The dispute began with the restructuring of a murabahah financing contract requested by the customer due to business instability caused by the Covid-19 pandemic. This restructuring was then followed by an amendment agreement. The

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customer (plaintiff) then felt greatly aggrieved by this matter and considered the bank's (defendant) actions to be unlawful..

The Sharia Economic Dispute lawsuit in this case originated from murabahah financing with the initial financing for the purchase of a Toyota Vellfireve 30 A/T 10 car, Chassis Number JTNGF3DH2J8017976, Engine Number 2ARJ118298 (hereinafter referred to as the Vehicle) at the Toyota Auto2000 Veteran Palembang dealer using the defendant's financing services.

Due to the instability of the plaintiff's business activities caused by the COVID-19 pandemic and other receivables, the plaintiff is temporarily unable to fulfill its obligations as agreed with the defendant and the plaintiff through the restructuring of the murabahah financing agreement. Subsequently, an amendment agreement was made by both parties. This matter caused the plaintiff to feel greatly aggrieved by the defendant and considered it an unlawful act.

From the perspective of Maqashid Syariah, this situation raises an analysis of the gap. Restructuring should be a sharia instrument to ease the burden and prevent losses (dar' al-mafasid) for customers who are in difficulty, in line with the principle of mutual assistance in Islam. However, when customers file PMH lawsuits, this indicates a gap between the substantive objectives of Sharia, namely to create justice and benefit, and the actual results of restructuring, which are perceived as a source of loss and injustice (mafsadah) by the plaintiffs.

Therefore, it is crucial to analyze how judges interpret and apply this restructuring of murabahah contracts within the framework of PMH lawsuits. Have the judges' considerations successfully bridged the gap between formal law (PMH in the context of civil law) and the substantive objectives of sharia (Maqashid Syariah), or has this interpretation actually widened the gap in achieving justice and protection of property (hifz al-mal) for customers. Analysis of the appropriateness of the basis for the judge's considerations is central to this study.

METHOD

This study uses a qualitative-descriptive approach with a focus on normative analysis of the legal considerations of judges in Palembang Religious Court Decision Number 41/Pdt.G/2021/PA.Palembang. The purpose of this study is to understand how judges interpret and apply the law in murābaḥah contract restructuring disputes filed as unlawful acts, and to assess the

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extent to which these considerations are in line with the principles and objectives of Islamic law based on the maqaṣid al-syari‘ah theory developed by Muḥammad Ṭahir Ibn ‘Ashur (1879–1973).

A qualitative approach was chosen because this study does not intend to measure or test hypotheses quantitatively, but rather to understand the meaning behind legal actions and judges' considerations in the context of applying Islamic economic law. This approach allows researchers to explore how maqaṣid al-syari‘ah values such as al-‘adl (justice), al-maṣlaḥah (benefit), and ḥifẓ al-mal (protection of property) are reflected or not reflected in the verdict.

The type of research used is normative legal research (doctrinal legal research), because the main object of study is court decisions and applicable legal norms, not empirical behavior of society. Within this framework, the research was conducted by examining legal documents in the form of an official copy of the Palembang Religious Court Decision Number 41/Pdt.G/2021/PA. Palembang, relevant laws and regulations, such as the Compilation of Sharia Economic Law (KHES) and the DSN-MUI fatwa on murabaḥah contracts and financing restructuring, and fiqh literature and Islamic legal theory, especially the work of Ibn 'Ashur, maqaṣid syari'ah al-Islamiyyah as a theoretical basis.

Ibn 'Ashur emphasized that Islamic law should not be applied rigidly and textually, but must be understood within the framework of its objectives, namely to bring about justice, mercy, and social welfare. Therefore, in this study, Ibn 'Ashur's maqaṣid theory is used to reinterpret the judge's decision in order to determine whether the application of law in the murabaḥah contract restructuring case was in line with the spirit of sharia (ruḥ al-syari‘ah) or was still purely legalistic..

RESULT AND DISCUSSION

Judge's Considerations in Case Number 41/Pdt.G/2021/PA. Palembang

In Decision Number 41/Pdt.G/2021/PA.Palembang, the panel of judges at the Palembang Religious Court examined a sharia economic dispute between CV Rafa Gemilang Perkasa as the plaintiff and PT Toyota Astra Financial Service as the defendant. The dispute originated from a murabaḥah financing agreement for the purchase of motor vehicles, which subsequently encountered payment problems due to the impact of the Covid-19 pandemic..

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The plaintiff argues that the difficulty in paying installments constitutes a force majeure as defined in Presidential Decree No. 12 of 2020 on the Declaration of the Non-Natural Disaster of the Spread of Covid-19 as a national disaster. He also argues that the financing party (the defendant) has committed an unlawful act (onrechtmatige daad) by continuing to demand payment, increasing the principal amount of the installments, and collecting administrative fees without a clear legal basis. The panel of judges first assessed formal aspects such as the validity of legal representation and the presence of the parties. Both parties were deemed to have legal standing to appear in court. After a failed mediation stage, the panel then examined documentary evidence and witnesses from both sides.

From the evidence presented, the judge found that the plaintiff and defendant had indeed signed a Sharia Financing Agreement Based on the Murabaḥah Principle Number 1815740917 dated September 29, 2018, and that one Toyota Vellfire car was used as fiduciary collateral. The facts of the trial also showed that due to the pandemic, the plaintiff was only able to pay installments until April 2020, then applied for financing restructuring. The defendant responded by granting a three-month payment deferral as stipulated in the Amendment to the Agreement, with the condition that the plaintiff pay a fee of IDR 3,050,000.

In assessing the argument of unlawful acts, the panel of judges referred to Article 1365 of the Civil Code (KUHPerdata), which stipulates that “any act that violates the law and causes harm to others obligates the perpetrator to compensate for the harm.” However, the judge emphasized that not every financing institution policy that is not approved by the customer can be categorized as an unlawful act (S & Tami, 2024).

Based on the legal facts, the judge ruled that the fee of Rp3,050,000.00 was a valid administrative fee agreed upon by both parties to amend the agreement, and therefore could not be classified as a violation of the law. Similarly, the omission of financing restructuring in the amendment does not constitute an unlawful act, as there is no legal obligation for the defendant to agree to restructuring, especially since the plaintiff himself has agreed to and signed the amendment without evidence of pressure or coercion.

The panel of judges ruled that the relationship between the two parties was a voluntary contractual civil relationship, in which each party was bound by the principle of pacta sunt

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servanda (agreements are binding on the parties). Thus, as long as the clauses of the agreement were freely agreed upon and did not conflict with the law, the contents of the agreement were valid and binding.

The judge also rejected the plaintiff's argument that the Covid-19 pandemic could automatically be used as a reason for exemption from the obligation to pay installments. The pandemic is indeed recognized as a national disaster, but in the context of contract law, proof of force majeure must be specific and directly affect the promised performance. In this case, the plaintiff still controls the object of financing (the car), so the obligation to pay remains attached.

Based on these considerations, the panel of judges concluded that the plaintiff had failed to prove that the defendant had committed an unlawful act. All of the arguments in the lawsuit, whether regarding additional principal installments, threats to repossess the vehicle, or objections to administrative costs, were not legally proven. In its ruling, the panel of judges then rejected the plaintiff's lawsuit in its entirety and ordered the plaintiff to pay court costs of Rp.620,000.

Interpretation of the Palembang Religious Court Judge Regarding the Restructuring of Murabahah Contracts in PMH Lawsuits

In case No. 41/Pdt.G/2021/PA.Palembang, the judge of the Palembang Religious Court was faced with a legal issue arising from the restructuring of a murabaḥah contract between a customer (CV Rafa Gemilang Perkasa) and a sharia financing institution (PT Toyota Astra Financial Service). The plaintiff argued that the defendant's actions of increasing the principal installment, charging additional administrative fees, and failing to provide fair restructuring during the Covid-19 pandemic constituted unlawful acts (PMH).

The panel of judges assessed this case through a contractual civil approach, basing its main argument on Article 1365 of the Civil Code (KUHPerdata), which states that:

"*Every act that violates the law and causes harm to others obligates the person who caused the harm due to their fault to compensate for the harm.*" (Suhaili, 2024)

Through this article, the judge interpreted that the new PMH qualification can only be fulfilled if there are four cumulative elements, namely the existence of an unlawful act, the existence of damage caused, the existence of fault or negligence on the part of the perpetrator, and the existence of a causal relationship between the act and the damage (Marzuki et al., 2024).

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Regarding the judge's interpretation of the legal action taken by the defendant as indicated by the plaintiff in decision No. 41/Pdt.G/2021/PA.Palembang, the judge emphasized that not every business policy of a financing institution that is not approved by the customer can be categorized as an unlawful act. This is because the relationship between the parties is voluntary and contractual, bound by the principle of pacta sunt servanda, whereby agreements are binding on the parties as law.

The judge found that the administrative fee of Rp3.050.000 charged by the defendant was not a violation of the law, but rather a consequence of the contract amendment agreement signed by both parties. Therefore, this action was deemed not to constitute a violation of the law as referred to in Pasal 1365 KUHPerdata.

Regarding the judge's interpretation of the elements of loss and fault, the judge ruled that there was no fault on the part of the defendant. In the context of sharia financing, filing for restructuring is the debtor's right, but approval remains the policy and right of the creditor. (Ngantung, 2025). Therefore, the defendant's decision to only grant a three-month deferral without extending the deadline cannot be considered a legal error, even though it may be deemed morally unsatisfactory.

Meanwhile, regarding the losses suffered by the plaintiff, the panel of judges ruled that these losses were an economic consequence of the pandemic, not a direct result of the defendant's actions. Thus, the element of causality between the defendant's actions and the plaintiff's losses was not legally proven. The plaintiff argued that his inability to pay installments was due to force majeure caused by the Covid-19 pandemic, referring to Presidential Decree No. 12 of 2020 and POJK No. 11/POJK.03/2020 concerning National Economic Stimulus.

However, the judge interpreted that the status of a pandemic as a national disaster does not automatically release debtors from their contractual obligations, unless it is proven that the circumstances directly and unavoidably prevented the performance of the contract.(Jusuf, 2025). Since the plaintiff still controlled the vehicle that was the subject of the financing, the judge ruled that there were no circumstances that constituted absolute force majeure. Therefore, the argument based on force majeure was also rejected.

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Then, in assessing the defendant's amendment to the agreement, the judge also highlighted that the plaintiff had signed the amendment as a form of agreement to the relaxation granted. There was no evidence that the plaintiff signed the document under duress (ikrah) or threat (tahdid) from the defendant. Therefore, the judge ruled that the principle of freedom of contract remained valid, and its legal consequences were binding on both parties. Thus, even though the plaintiff felt that the amendment was detrimental, legally the plaintiff had given free consent (ridha), which negated the element of illegality in the agreement.

Based on the above analysis, the author concludes that the judge's consideration in decision number 41/Pdt.G/2021/PA.Palembang states that the element of violation of law is not fulfilled, because the additional costs and contract amendments were made on the basis of agreement. Furthermore, the elements of fault and causation were not proven, as the plaintiff's losses were not a direct result of the defendant's actions, and the element of loss caused by unlawful acts was also not legally proven. Therefore, the panel of judges decided to reject all of the plaintiff's claims and declared that there was no evidence of unlawful acts in the process or results of the murābaḥah contract restructuring.

The judge's interpretation in this case shows a textual and formal approach to the concept of PMH, where the legality of the agreement is the main benchmark for assessment. The judge did not use a substantive justice approach, but rather prioritized the validity of the contract according to positive law and the principle of prudence of financial institutions. From a sharia economic law perspective, this interpretation illustrates that religious courts still interpret sharia economic disputes within the framework of general civil law (Civil Code), rather than entirely based on the principles of fiqh muammalah. In fact, in Sharia principles, the measure of illegality is not only limited to violations of written norms, but also includes violations of the principles of justice, honesty, and public interest (maṣlaḥa) (Tobing et al., 2025). In other words, although this ruling is legally valid, the substance of Sharia justice is not fully reflected, because the judge's assessment stopped at the legality of the contract, rather than the moral and social values of the restructuring, which should protect the weaker party (the customer).

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Analysis of Maqaṣid al-Syari'ah on the Decision of the Palembang Religious Court Judge Number 41/Pdt.G/2021/PA.Palembang

The maqaṣid al-syari'ah approach in Islamic economic law analysis aims to assess whether a legal decision or policy is in line with the main objectives of sharia (maqāṣid), namely protecting religion (ḥifẓ ad-din), life (ḥifẓ an-nafs), intellect (ḥifẓ al-'aql), progeny (ḥifẓ an-nasl), and wealth (ḥifẓ al-mal). In the context of Islamic economic disputes, the most relevant maqaṣid are ḥifẓ al-mal (protection of property) and ḥifẓ al-'adl (enforcement of justice in mu'āmalah).(Suhaili, 2024)

In assessing the legal considerations of the Palembang Religious Court judge in this murabaḥah contract restructuring case, the relevant maqaṣid al-syari'ah theory used is the idea of Muḥammad Ṭahir Ibn 'Ashur (1879–1973). This Tunisian Islamic legal reformer emphasized that maqaṣid should not be understood merely as the preservation of the five basic needs (ḍaruriyyat al-khamsah), but must reflect the moral and social objectives of sharia, which aim to realize maslahah (jalb al-maṣlaḥah) and prevent harm (dar' al-mafsadah) in a contextual manner. (Ashur, 2001).

For Ibn 'Ashur, maqaṣid al-syari'ah is not only a normative device, but also the spirit and moral direction of Islamic law. He emphasizes that every application of the law must contain the values of 'adl (justice), raḥmah (compassion), ḥurriyyah (freedom), and musawah (balance). With this paradigm, maqaṣid not only maintains the structure of the law, but also enlivens the social objectives of sharia, namely to create al-niẓam al-mu'amalat al-insāniyyah, a humane socio-economic order (Al-Qaradawi, 1997).

However, in Palembang Religious Court Decision Number 41/Pdt.G/2021/PA. Palembang, this principle of al-'adl does not appear to have been fully implemented. The panel of judges ruled that the financing institution (the defendant) did not violate the law because every change in the agreement, including additional administrative costs, was made on the basis of voluntary agreement. Thus, the judges ruled that there were no elements of unlawful acts (PMH) in the restructuring of the murabaḥah contract..

This approach by the judge upholds procedural justice (formal justice), which is ensuring that contracts are carried out in accordance with positive law and the principle of free will. However, from the perspective of Ibn 'Ashur's maqaṣid, this kind of justice is still morally dry.

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The judge ignores the dimension of substantive justice (al-‘adl al-maqaṣid), which is justice that considers the socio-economic context of customers affected by the pandemic who are not in an equal position with financial institutions.(Ashur, 2001)

Ibn ‘Ashur in Maqaṣid al-Syari‘ah al-Islamiyyah explains that the goal of justice is “tansiq al-‘alaqat baina an-nas bi qiyam al-musawah wa al-insaf” to regulate social relations in order to create equality and fairness.(Ashur, 2001). In the context of this case, the judge's application of the principle of pacta sunt servanda does indeed reflect legal certainty, but it does not yet reflect social propriety. (Siregar & Mansar, 2023).

Justice in murabahah contracts should not only guarantee the right of financing institutions to collect payments, but also consider the rights of customers to receive ta‘awun (mutual assistance) and taysir (facilitation) during times of crisis. When judges only assess the validity of contracts without considering the imbalance of bargaining power and the force majeure conditions of the pandemic, their decisions tend to be legalistic rather than maqasid.(2023)

Ibn 'Ashur emphasized that the application of Islamic law that does not take into account aspects of social justice is a form of taṭbiq al-ḥukm bila ruḥih, or the application of law without its spirit. In this case, the justice upheld by judges stops at the level of legal compliance, not ethical justice.(Muskibah & Hidayah, 2020) In fact, maqaṣid requires that every law reflect ‘adl raim, or compassionate justice. In other words, in Ibn 'Ashur's view, justice is not enough to be interpreted as legal certainty, but must be present as a moral balance that protects the weak. The decision of the Palembang Religious Court in this case shows a shift from maqasid justice to legalistic justice, but the spirit of humanity in sharia has not been revived.

Within the framework of ḥifẓ al-mal, such a policy contradicts the spirit of sharia, which prohibits the exploitation of the weak (istighlal al-ḍa‘if). Ibn ‘Ashur emphasized that safeguarding wealth from a sharia perspective also means preventing the circulation of wealth in the hands of certain groups and avoiding economic practices that give rise to mafsadah (social harm). Therefore, the panel of judges should assess the benefit aspect of the restructuring policy, not just the validity of the contract.

From the perspective of the principle of public interest (al-maṣlaḥah), Ibn ‘Ashur sees that the ultimate goal of every Islamic law is taḥqīq al-maṣlaḥah wa daf‘al-mafsadah, which is to bring

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about benefits and prevent harm. Public interest in economics does not only mean financial gain, but also social balance between the economic rights and obligations of society.(Muhibban & Munir, 2023). In the context of this case, the public interest should be achieved if the restructuring of the murabahah contract is carried out in a more humane and proportional manner, so that customers have room to restore their economic capacity without sacrificing the rights of the financing institution.

In the judge's consideration, this aspect of maṣlaḥah was not explicitly apparent. The judge only considered the validity of the contract and administrative approval, without touching on the ethical and social dimensions of the financing institution's actions. In fact, if we follow the spirit of maṣlaḥah Ibn 'Ashur, Islamic financial institutions actually have a social responsibility to help the economic recovery of the community, not just to maintain profit margins.

Ibn 'Ashur states that justice and benefit are two sides of one goal, namely al-'adl al-mu'addi ila al-maṣlaḥah, which means justice that leads to benefit.(Ashur, 2001) This means that new laws can be considered Islamic if they provide tangible benefits to social life, not just certainty for individual contracts. In this case, public interest should be realized through restructuring mechanisms that provide relief for customers in difficulty, as this will maintain the economic circulation of the community and prevent social inequality due to the accumulation of debt.

From Ibn 'Ashur's perspective, the decision of the Palembang Religious Court does not fully reflect the maqaṣid of property protection and the principle of public interest. The legal protection upheld only stops at the formal level of protecting the financing institution's assets from contractual losses but does not extend to the economic protection of customers as part of the social justice system. Ideally, judges can interpret ḥifẓ al-mal as an obligation to maintain the balance of assets between both parties, while al-maṣlaḥah becomes the ethical basis for assessing restructuring policies that are more equitable.

In Ibn 'Ashur's view, economic justice cannot be achieved without social welfare that favors the weak. Therefore, in the context of this case, judges should position themselves not only as enforcers of the law, but also as guardians of the values of maqaṣid sharia, which ensure that the law truly becomes a means of protection, not merely a tool for enforcing obligations. With such

an approach, the principles of ḥifẓ al-mal and al-maṣlaḥah can live as the spirit in an Islamic economic system that is just and oriented towards the welfare of the people.

CONCLUSION

Based on the results of research and analysis of the Palembang Religious Court Decision Number 41/Pdt.G/2021/PA.Palembang, it can be concluded that the panel of judges interpreted the murabahah contract restructuring dispute within the framework of conventional civil law, not within the framework of maqaṣid al-syari‘ah. The judges' legal considerations emphasized the legality of the contract and the principle of pacta sunt servanda (agreements are binding as law for the parties). Thus, as long as the contract changes and additional costs were made on the basis of agreement, these actions were considered valid and did not constitute unlawful acts as stipulated in Article 1365 of the Civil Code.

From the perspective of Ibn 'Ashur's maqaṣid al-syari'ah, the judge's consideration does not fully reflect the spirit of substantive justice and social protection, which are the main objectives of sharia. The judge prioritizes procedural justice (formal justice) over substantive justice (substantive justice), which takes into account the socio-economic conditions of the customer. In the context of the Covid-19 pandemic, contract restructuring should be a Sharia instrument oriented towards ta‘awun (mutual assistance) and taysir (facilitation), not merely maintaining legal certainty for financing institutions. The judge's decision in this case is legally valid, but does not fulfill justice in terms of maqaṣid. The judge succeeded in enforcing the law, but failed to bring to life the values of justice, benefit, and social compassion that are at the core of Sharia teachings. In Ibn 'Ashur's perspective, law that is applied without considering social and moral dimensions is a form of taṭbiq al-ḥukm bila ruḥih, or the application of law without its spirit.

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