

ISLAMIC LAW ANALYSIS ON THE PRACTICE OF ONLINE RETAIL GOLD TRANSACTION

ANALISIS HUKUM ISLAM TERHADAP PRAKTIK TRANSAKSI EMAS ECERAN ONLINE

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Abstract

This research is comprehensively investigating the mechanism of gold trading at the Tokopedia Gold site from an Islamic law perspective. This research further explains the Islamic views on the gold trade in retail through an online site. Two methods were used in completing this research; a qualitative descriptive method on the observation of the trading and library research. Upon supporting the research, three interviews with related customers are approached. Reviewing the terms and conditions of purchasing a product from Tokopedia Gold and literature review methods have also been taken into consideration. The paper found that the practice of purchasing gold through Tokopedia Gold is a full-payment purchase and avoiding the instalment method which might be against Islamic law. The research found that there is an existence of gharar when the purchaser does not possess the gold physically and does not know the existence of the gold. This paper recommends that the specifications of gold must be specified by a seller and spreading the knowledge of gold trading from an Islamic perspective.

Keywords : Gold Trading, Online Shop, Islamic Law, Indonesia

Abstrak

Penelitian ini bertujuan untuk menjelaskan mekanisme jual beli emas eceran secara online melalui Tokopedia Emas dan pandangan hukum Islam terhadapnya. Penelitian ini menggunakan pendekatan kualitatif deskriptif dari praktik jual beli emas eceran dan library research. Penelitian ini mengumpulkan data melalui wawancara tiga orang pembeli, dokumentasi prosedur pembelian, dan studi pustaka. Hasil penelitian menunjukkan bahwa dalam praktiknya jual beli emas eceran melalui fitur Tokopedia Emas merupakan jual beli emas tunai dan bukan angsuran karena terjadi perbedaan

harga pada pembelian kesempatan berikutnya. Praktik jual beli emas eceran ini mengandung unsur gharar karena menjual barang yang belum jelas fisiknya. Penelitian ini menyarankan agar para penjual menginformasikan spesifikasi emas dan keberadaanya. Selain itu, penelitian ini mengajak para pembeli emas secara online untuk berhati-hati terhadap penipuan dan mengedepankan aspek syariah.

Kata kunci: *Jual Beli, Emas Eceran Online, Hukum Islam, Indonesia*

A. INTRODUCTION

Fundamental needs ranging from clothing, food, and housing encourage society to fulfil their needs. This can be seen from how people carry out social transactions between them on a daily basis, such as buying and selling. The definition of buying and selling is a process in which the activity of exchanging money with objects that value is carried out and agreed upon by both parties (Suhendi, 2016).

Traditional transaction activities continue as used to be, however, the rapid development of technology in the current era of globalization, has provided convenience for people in various fields. As a new generation emerged, the old paradigm must adapt to the new era. By using a connecting medium called the internet, people can easily obtain the information they need. With the development of this technology in conducting transactions, the two parties who transact do not need to meet in person, so that transactions can be carried out through cyberspace, both between cities, provinces, islands, as well as countries. By simply displaying merchandise on online sites, these business people can easily find potential buyers.

On August 17, 2009, the official Tokopedia website was launched to the public. Tokopedia is one of the leading marketplace businesses in Indonesia which allows individuals, brands and small shops to open and manage online stores. Since its presence, Tokopedia can be operated for free by everyone. With the vision of "Building an ecosystem where anyone can start and discover anything.

Gold is a valuable item whose value is increasing through time. Therefore, gold is in high demand and one of the precious metals for investment. To date, gold has been actively traded on the international market. The value of gold changes over time, however, gold investment remains attractive. Gold is a valuable item that is not only a safe deposit, gold also plays an important role in the monetary system (Suryani, 2015). On the other hand, there is a systematic relationship between the exchange rate and the

price of gold. Hence, gold is deemed as one of the promising investments and remains attractive for old and young generations over time.

Currently, in the Tokopedia application, there are Tokopedia Gold products, with this Tokopedia Gold, we can buy and sell gold only by installing the Tokopedia feature on iOS and Android phones. With this convenient feature, the public can buy gold in a retail way through Tokopedia in the Tokopedia Gold feature, with a nominal starting from 500 rupiahs, the price when converted into grams of gold is equivalent to 0.0006 grams of gold. In this transaction, the gold is purchased in a retail way through online media which means that the gold is not yet in the physical form of gold and the purchaser does not possess it physically. This phenomenon increases public interest in gold investment, however, in some cases it is misused by fraudsters presenting fake gold investments. This can be seen from the rise of fraud perpetrators by providing the lure of fantastic profits for online retail gold investments. On that basis, it is necessary to conduct further research on the practice of buying and selling retail gold on online buying and selling sites and examines the mechanisms used from an Islamic perspective.

Consequently, based on the discussion above the study found an unfinished debate on the study of gold transaction. Hence, this paper attempts on exploring the practice of gold transaction in Tokopedia and analyse it from an Islamic perspectives.

B. LITERATURE REVIEW

As for other research related to the topic of this research, among others, research conducted by Dila Larantika with the title "Public Interest in Buying and Selling Gold in Sharia Pawnshops (Research Study on Sharia Pawnshops Cinere Branch)". Data of the research was obtained by documentation, questionnaire method, interviews as well as library data compiled, selected, and classified. Then the qualitative data is converted into quantitative, the technique used is the descriptive statistical analysis method which is presented in the form of descriptions and tables. The results of this study indicate that 76% are interested in the products offered by Islamic pawnshops. While the factors which influence customers regarding buying interest in precious metals are because gold is an investment that is in accordance with sharia, safe and guaranteed quality (Larantika, 2010). As for what distinguishes this study from previous research, previous

studies discussed the factors that influence customer interest in buying and selling gold in sharia pawnshops.

Research conducted by Rafika Insan Saakinah which classified as library research using a normative approach, the result of this study indicates that the mechanism of buying and selling through online media has similarities with the salam contract, namely the payment mechanism is carried out at the beginning and then the goods are received at a later date. As long as it is in accordance with the pillars and conditions of buying and selling in accordance with Islamic law and with a legal agreement system, this business does not conflict with Islamic law. The practice will be prohibited in Islam (haram) when contradicts the Qur'an and Sunnah. While it is not recommended (makruh) if it does not provide benefits and harm to the user, it can be done as long as there are no legal provisions that prohibit it and do not conflict with Religion (Saakinah, 2016). The difference between this study and previous research in previous studies explains how e-commerce buying and selling transactions are in the perspective of Islamic law and does not explain more specifically about what goods are traded.

Yuyun Anggraini's research was conducted using qualitative research and used primary data as a source obtained from parties related to the research, as well as secondary data obtained from websites, reference books and others. The results of this study indicate that sharia pawnshops prioritize social principles compared to fiqh principles. The results of the study also have two opinions regarding the sale and purchase of gold in the gold savings system, including the first is prohibited because the sale and purchase of gold cause usury and the second opinion allow buying and selling gold in the savings system as long as gold is treated as a good (sil'ah) (Anggraini, 2017). The difference between this research and previous research is that previous research discusses buying and selling gold using a savings system.

Kadek Ratih Indriyani Putri's research applies normative legal research based on literature that examines document studies including secondary data or legislation. With a statutory approach and a conceptual approach. Furthermore, legal materials (primary, secondary, tertiary) were collected using the document study method and analyzed using descriptive techniques. The results of the study indicate that PT Global Tamasia Sharia does not have a permit from the OJK because Tamasia does not accommodate and manage customer funds. Tamasia has been registered with the PSE Kemkominfo

and supervised by Bappebti. Hence, if the customer experiences fraud and feels aggrieved by Tamasia, the customer can report it to PPNS ITE and also via email at cybercrimes@mail.kominfo.go.id (Putri, 2019). As for what distinguishes this research from previous research, the previous research discussed consumer protection against buying and selling gold through digital features. In this study, we will discuss how to buy and sell gold through applications based on Islamic law.

In addition, the study by Tira Nur Fitria under the title "Online Shop Business in Islamic Law and State Law". The result of the study found that online shopping gives many advantages and benefits for society. However, if these conveniences and advantages are not guided by strict cultural and legal ethics, it might lead to cheating and tyrannizing each other. This is where Islam aims to protect humanity at all times so that there are legal rules of buying and selling in Islam that is in accordance with the provisions of the Shari'ah so as not to be trapped by greed and injustice that is rampant. On the other hand, online businesses following all the above guidance will foster the development of society and the country (Fitria, 2017). The difference between this study and previous research is that previous studies discussed online businesses in accordance with Islamic principles, benefiting others and not harming others under Islamic law and state law. So that the difference with this research is that previous research discusses globally the online buying and selling business, but the research specifically discusses retail gold online business through Tokopedia.

C. RESEARCH METHODOLOGY

The main objective of this study is to investigate the mechanism of buying and selling retail gold through Tokopedia Gold in Tokopedia and how Islamic law views the practice. This type of research is qualitative research as well as field research. The data and information are collected from the respondents, field notes, remarks, documentation and others, as well as parties related to the implementation of the practice of buying and selling retail gold on online buying and selling sites (Sugiyono, 2018). This research can also be categorized in the library research category since it employs a bulk of literature and assesses them in accordance with the topic (Zed, 2014).

The research approach of this study employs a descriptive qualitative approach, thus this research examines the problems that exist in society, the procedures that apply

in society, and is qualitative because the data collection is done by collecting data obtained from informants related to the buying and selling mechanism (Slameto, 2015). retail gold on the Tokopedia application. So this research will provide an overview and understanding related to the implementation of the practice of buying and selling retail gold on online buying and selling sites.

The author uses primary and secondary data sources, where primary data is data obtained by understanding the operational details of the web concerned with this research and conducting interviews with users by chatting via email, WhatsApp, and so on. Secondary data sources are from reference books, journals, and websites. Data Collection Methods that the author uses to collect data in this study are Interviews, Documentation, and Literature Studies.

D. RESULTS AND DISCUSSION

The Practice of Buying and Selling Retail Gold at Tokopedia

Gold is an object that has a high aesthetic value and is an object that touches human needs. Since gold is considered a promising investment. With the diverse needs of the community, Tokopedia provides facilities for users who want to allocate their money in the form of gold through the Tokopedia Gold feature. To be able to do a transaction through Tokopedia Gold, previously the user has to install the Tokopedia application on the user's cellphone, then the user has to pay attention to the terms and conditions contained in Tokopedia Gold. Based on the results of interviews with Farid, buying and selling gold is done by retail, with a minimum nominal value of 500 rupiahs.

Based on the results of an interview with Muhamad Lutfi Amirulloh if a user wants to make a transaction on the Tokopedia Gold feature, the mechanism is as follows:

- a. Login to Tokopedia, select the Tokopedia Gold menu.
- b. In the Tokopedia Gold menu, users can see the gold price graph which is updated regularly by Pegadaian every day including:
 - 1) Purchase Gold Chart.
 - 2) Gold Selling Chart.
- c. How to Buy Gold:
Open the Tokopedia app
 - 1) Select a financial category then click Gold.

- 2) Tokopedia Gold appears, then click Buy Gold.
- 3) Then there are two columns provided, namely the value in rupiah and gold in grams. Users can determine how many rupiahs/gram of gold they want to buy (at least with a nominal value of 500 rupiahs or 0.0007 grams).
- 4) Click pay, then users can pay with several methods including OVO Cash, Instant Debit, Virtual Account Transfer, Sharia Virtual Account Transfer, Bank Transfer (Manual Verification), Instant Payment, and Cash at Retail Outlets.
- 5) Then after making a payment, a Successful Purchase Transaction will appear which means that the gold has been successfully purchased by the user.

d. How to Sell Gold:

- 1) Open the Tokopedia app
- 2) Select a financial category then click Gold.
- 3) Tokopedia Gold appears, then click Sell Gold.
- 4) Then there are two columns provided, namely the value in rupiah and gold in grams. Users can determine how many rupiah/gram of gold they want to sell (at least with a nominal value of 500 rupiahs or 0.0007 gram).
- 5) A sales summary appears and the user is asked to send a verification code.
- 6) Two verification methods are provided (via WhatsApp and via SMS), select a verification method then fill in.
- 7) After being verified, the Sales Transaction is Successful and the sales proceeds are entered into the user's Tokopedia Balance.

e. Based on the interview on How to Withdraw Gold Sales Proceeds to User's Bank Account:

- 1) Then the sales proceeds can be withdrawn to the User's Bank Account by clicking Account in the Tokopedia application.
- 2) Click Balance.
- 3) Balance Details appear (to be withdrawn to the user's Bank Account with a minimum of 10,000). Click Withdraw Balance then fill in the Withdrawal Amount.
- 4) Select Destination Account by Clicking Add Account (by filling in Bank Name, Account Number, Account Owner Name).
- 5) Click Save.
- 6) After selecting the destination account Click Withdraw Balance.

- 7) Then the user is asked to confirm by filling in the password for the Tokopedia account.
- 8) Withdrawal is processed and the result of the withdrawal will be entered into the user's Bank Account.

Conformity of Retail Gold Trading Practices through the Tokopedia Gold feature on the Tokopedia application with Islamic law

The presence of the internet has provided an opportunity to develop business following the modern trend on electronic-based technology. Buying and selling activities using the system are considered as an alternative way to get something people want lightly and easily. With the development of the times, gold buying and selling transactions can now be done using online media.

Nowadays, buying goods through the internet is something that is usually done by various levels of society, both from the lower middle class and the upper-middle class to all over the world. Buying and selling activities using this system are considered as an alternative and might be the key to the economic development of the nation in the future.

The buying and selling of gold in the current era can be done in a non-cash way either by full payment or instalments. In buying and selling gold through instalment, there are differences of opinion, some of which say it is permissible and there are opinions that say it is not allowed. Opinions that say that buying and selling gold in a non-cash way is permissible, stating the arguments including (MUI, 2014):

1. Currently, gold and silver are goods that can be traded like goods in general, and are no longer used as (means of payment).
2. The activity of buying and selling gold cannot be stopped since it becomes one of the human needs, if the buying and selling of gold using the instalment method is not allowed then the people will experience difficulties and the benefit of humans will be damaged.
3. Gold and silver that have changed their form then the benefits also change, no longer as price (*tsaman*) but turns into good that has benefits. Therefore, there will be no usury (in buying and selling or exchange) between what has turned into jewellery at a price (including means of payment and also the means of exchange for money), there is no

element of usury or additions to the sale and purchase contract with other objects at a price (money) although not of the same type.

4. If the sale and purchase of gold by way of instalments are stopped, then there will be no more debit and credit transactions and the public will find difficulties (MUI, 2014).

This argument comes from Ibn Taymiyah, Ibn Qayyim, and contemporary scholars who agree, where they have the same opinion that gold and silver today are goods, which are traded like ordinary goods, and no longer as (price), it is said that because of the current condition where gold is no longer as a (money) medium of exchange but as an object or goods.

On the contrary, the opinion which says that buying and selling gold is not allowed and must be cash expresses the argument with the generality of the traditions regarding the act of usury, which asserts: The Prophet's Hadith, narrated by Muslim from Abu Sa'id al-Khudri, the Prophet SAW said:

لَا تَبِيعُوا الذَّهَبَ بِالذَّهَبِ إِلَّا مِثْلًا بِمِثْلٍ وَلَا تُشَفُّوا بَعْضَهَا عَلَى بَعْضٍ، وَلَا تَبِيعُوا الْوَرِقَ بِالْوَرِقِ إِلَّا مِثْلًا بِمِثْلٍ وَلَا تُشَفُّوا بَعْضَهَا عَلَى بَعْضٍ، وَلَا تَبِيعُوا مِنْهَا غَائِبًا بِنَاجِزٍ

Meaning: "Do not sell gold for gold unless it is the same (value) and do not add some of it to another; do not sell silver for silver unless it is the same (value) and do not add some to another, and do not sell the gold and silver which are not cash with cash."

In this case, the scholars are of the opinion that gold and silver are (means of payment, money, price), which should not be allowed to be exchanged by means of instalments because they can lead to usury. This argument comes from the majority of jurists, from the Maliki, Hanafi, Hanbali, and Shafi'i schools (MUI, 2014).

In practice, buying and selling retail gold in the Tokopedia Gold feature on the Tokopedia application is done in a retail way, with a minimum nominal value of 500 rupiahs. Based on the mechanism, buying and selling gold is a sale and purchase of gold in cash, not instalments, because at the time of purchase the price has been determined and a price difference applies when buying on the next opportunity.

Based on the results of interviews with informants about the mechanism of Retail Gold Buying and Selling at Tokopedia, data in the field submitted by several informants include:

An informant named Farid revealed:

"I once bought and sold gold but after my gold reached one gram I thought the gold could be withdrawn in the physical form of gold, it turned out that it could not be withdrawn and the gold could only be withdrawn through a bank account".

Further informants Muhamad Lutfi Amirulloh:

"I have made a retail gold sale and purchase transaction in the Tokopedia Gold feature and when my gold has reached one gram, there is no directive to withdraw gold in the physical form of gold"

From the explanation above, it can be concluded that in this mechanism, the goods used as the object of the contract (gold) are not clearly located, this creates an element of uncertainty (gharar). In Islamic law, uncertainty is prohibited (Nur, 2015). Therefore actions containing legal uncertainty should not be carried out, as described in the Hadith below:

نَهَى رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ عَنْ بَيْعِ الْخِصَاةِ وَعَنْ بَيْعِ الْغَرَرِ

Meaning: *"The Messenger of Allah, sallallahu 'alaihi wa sallam, forbade buying and selling containing gharar".*

This hadith strengthens the prohibition on doing actions that contain elements of uncertainty. This is because buying and selling on uncertainty can harm one of the transacting parties (Pratiwi & Chintya, 2017). According to Muchtar (2017) the mechanism for buying and selling retail gold on the Tokopedia Gold, there is an uncertainty element in the object of the contract where the existence of the object in the form of gold is not known, it is said that because based on the mechanism after the gold is sold, the gold cannot be withdrawn in the form of physical gold but the proceeds from the sale will enter on the user's balance and can only be withdrawn through the user's bank account in the form of cash. So the uncertainty lies in the object of the contract, the item in the form of gold does not have certainty whether the item is actually owned by the seller or not. So this creates uncertainty and can be detrimental to the transacting party.

Based on the results of the interviews, the informants said that they had never seen or received any physical form of gold, with this being also related to the above explanation according to sharia that selling something that is not owned or has not been handed over (legally owned) is not allowed. Therefore, that ba'i al ma'dum (selling

goods that do not yet exist) is included in *ba'i al-gharar* (selling and buying with uncertainty).

The rise of buying and selling gold in retail through online media has attracted public interest in carrying out these transactions. With this, there were several cases that felt disadvantaged by the existence of these transactions, including those that occurred at PT Aurum Karya Indonesia reported from news sources starting from users who received emails on behalf of The company, that the company has been terminated by the OJK (Financial Services Authority) because the e-gold company has not yet obtained a permit from the Commodity Futures Trading Supervisory Agency (Bappebti), which means that the investment is illegal or fraudulent (Tirto, 2020).

Apart from it, Balgis (2017) suggested some combination of contracts in gold transactions particularly gold pawn. The combination of contracts in gold transactions can be consist of *rahn* and *ijarah* or using *musharakah mutanaqisah* contract. Moreover, the information and service quality have significant impact on customer behaviour (Kuswati & Saleha, 2018). With huge number of users, online businesses has attracted more customers than physical. Accordingly, it is needed for society to learn more on the transactions especially its conformity with shariah values (el asfahany et al, 2022). Other than that, payment scheme of online transactions must comply the shariah value to be a valid contract in the view of Islam (Febriandika et al, 2022).

Based on the above explanation and the facts from several cases, to minimize fraud and similar activities, customers are asked to be careful in knowing the mechanisms and provisions before entering into buying and selling gold transactions through online media and choosing a trusted institution before investing.

E. CONCLUSION

Based on the discussion above, it can be inferred that the practice of buying and selling retail gold through the Tokopedia Gold feature on Tokopedia is a cash gold sale and purchase. Therefore, practically the seller and the buyer do not meet face to face. If the user wants to buy gold, the user can click Buy Gold then the user can buy gold with a nominal starting from 500 rupiahs and the gold will be directly stored in the user's account. If the user wants to sell gold, the user can sell gold from 500 rupiahs, then the user just clicks Sell Gold on Tokopedia Gold and the sales proceeds will be entered in the user's Tokopedia balance. When a user wants to withdraw gold, withdrawals can be

made with a minimum of 10,000 rupiahs, so in this practice gold cannot be withdrawn in the form of physical gold but in the form of money that will be received by the user on the account number of each Tokopedia Gold user.

Retail gold buying and selling online through the Tokopedia Gold feature on Tokopedia is a cash sale and is called cash because the price will be different on the next purchase which requires this transaction must be in physical goods. However, the facts on the ground state that the user has never received the object of the contract (goods in the form of gold) so that the object of the contract does not exist. Because the goods do not exist, the transaction might fall under the rule of *ba'i al ma'dum*. With the uncertainty of the existence of the object of the contract, fraud can occur, so users are asked to be careful before jumping into buying and selling gold through an online site.

Tokopedia is expected to clarify the existence of goods in the form of gold in retail gold buying and selling transactions through Tokopedia Gold in the Tokopedia application. Tokopedia users are expected to seek information before deciding to make a transaction in the online gold trade, other customers are expected to learn about the mechanism in the transaction to avoid fraud.

In addition, this paper recommends the financial services authority on developing robust guidance and standard on gold trading. The standard might be issued with partnership and guidance from the Indonesian Ulama Council (MUI) to cater for the needs of Muslim society as the major society of Indonesia.

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