



## RENTAL AGREEMENT FOR RENTING PAMELO ORANGE TREES IN BAGENG VILLAGE FROM A SHARIA ECONOMIC LEGAL PERSPECTIVE

Indah Mulya Sari, Mahda Reza Kurniawan

Institut Agama Islam Negeri Kudus

[indahmulyasari30@gmail.com](mailto:indahmulyasari30@gmail.com)

### Abstract

The practice of leasing pomelo oranges is mostly practiced by the people of Bageng Village, because many members of the community who own pomelo oranges cannot care for pomelo oranges until they produce fruit. The lease is usually carried out with an agreement for a certain period of time. In practice, the tenant leases pomelo orange trees for the fruit to be picked up and there is uncertainty that has the potential to cause losses to one of the parties. The purpose of this study was to find out the practice of renting pomelo citrus trees that occurred in Bageng Village and then to analyze this practice based on Syariah Economic Law from both Islamic Law, Positive Law, Compilation of Sharia Economic Law, and DSN Fatwa. The research method used is descriptive qualitative method, namely explaining or describing events according to field facts. Based on research, leasing pomelo orange trees in Bageng Village is in accordance with regulations in Indonesia, namely the KHUPerdata, Compilation of Sharia Economic Law, and the DSN MUI Fatwa. However, from an analysis of Islamic law, the implementation of the leasing contract for tree tenants in Bageng Village is invalid because the activity is intended to extract the value of the benefits from the fruit, not just to benefit from the tree.

**Keywords:** Rent, Pameloo Orange Tree, Sharia Economic Law

### INTRODUCTION

Humans as social creatures ( *zoon politicon* ) certainly cannot be separated from social activities in carrying out their daily lives, such as interacting with other people and establishing relationships between one person and another. This is done to meet the needs of their daily lives, so often during interactions there are clashes of *interest* between them. In order to create the desired conditions, there must be norms or rules or regulations that have been agreed upon as guidelines for carrying out joint interactions.<sup>1</sup>

To fulfill needs, there are various transactions that can be carried out, one of which is leasing which is very often carried out among the community, both rural and urban. Leasing in Islam is called *Ijarah* , which

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<sup>1</sup> Aah Tsamrotul Fuadah, *Religious Court Procedural Law Plus Principles of Islamic Procedural Law* , (Depok: PT Raja Grafindo Persada, 2019), 1.



means service, reward, rent or wages. Leasing in the general sense is as wages or compensation for use or an activity.<sup>2</sup>

The practical form of a rental agreement is to rent out an item to gain benefits from the item and the owner of the item gets the proceeds from the rental of the item for an agreed period of time. A rental agreement is a form of consensual agreement. This agreement is legally binding while the rental is still in progress, namely the lessee (*Mu'ajir*) is obliged to hand over the goods (*Ma'jur*) to the lessee (*Mustajir*) and after handing over the benefits of the goods or objects, the lessee is obliged to hand over the money. the rent.<sup>3</sup>

*Ijarah* contract or renting has been regulated in the Fatwa of the National Syariah Council-Majelis Ulama Indonesia No: 112/DSN-MUI/2017. Based on the Fatwa of the National Syariah Council, *Ijarah* is a contract in the transfer of the right to use (benefit) over an item or service within a certain period of time through the payment of rent or wages, without transferring ownership rights on the item itself. Based on muamalah jurisprudence, this rental agreement is allowed in Islam as long as it is in accordance with the Sharia and in the implementation of the agreement it does not harm one of the parties who agree and the achievement of the noble purposes desired by religion. In renting, there must be a form of contract or agreement that is clear and in accordance with the regulations and laws that apply, especially in Indonesia.

However, there is often a difference between the reality on the ground and the rental concept that has been determined in the applicable regulations. Many people carry out contractual transactions to obtain convenience without knowing whether the contents of the agreement are in accordance with the teachings of Islamic law or not. This is what most people in Bageng Village do. They rented pomelo orange trees, but in practice there was no transparency in the agreement or clarity in the contract.

Most of the people of Bageng Village, Gembong District, Pati Regency, make their living as farmers and gardeners, because it is located in the highlands with fertile soil so there are many areas of land that are very suitable for agriculture and plantations. One of the plantation plants that is characteristic of Bageng Village is the pomelo orange tree. So it is not surprising that pomelo orange trees are very easy to find in Bageng Village, both in plantations and in the yards of village people's houses.<sup>4</sup>

The practice of renting out pomelo trees is often carried out by the people of Bageng Village, because some groups of people who have planted

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<sup>2</sup> Ahmad Wardi Muhlich, *Fiqh Muamalah* ,, 3.

<sup>3</sup> M. Ali Hasan, *Various Types of Transactions in Islam* , (Jakarta: PT. Grafindo Persada, 2003), 145.

<sup>4</sup> Observation of regional conditions in Bageng Village on October 2 2022.



pomelo trees cannot care for the pomelo trees until they can produce fruit. In caring for it, it turns out that the pomelo tree requires a special method which is not easy and is quite expensive to produce good fruit. If you don't spray and fertilize, the pomelo tree will not bear fruit. This is one of the reasons why many Bageng Village residents rent out pomelo orange trees to pomelo orange farmers who have experience in caring for them.<sup>5</sup>

The lease is usually carried out with an agreement for a certain period or an agreed period of time. Pomelo orange trees are rented to pomelo farmers to care for so they can produce good fruit and can be sold on the market. The fruit is then sold by the farmer, while the tree renter or tree owner receives a tree rental payment which is made in cash at the beginning of the agreement according to the number of pomelo trees available or rented.<sup>6</sup>

If observed, in practice the rental agreement for pomelo trees in Bageng Village will cause problems, namely uncertainty which has the potential to cause losses to one of the parties. It is unclear whether the fruit produced by the tenant means that the tenant could potentially incur losses if the fruit obtained is small. Likewise, the owner of the pomelo tree will feel disadvantaged if the fruit he rents out produces so much fruit that it is not worth the rental price. Therefore, it is necessary to have an open and clear contract or agreement that is in accordance with Sharia Economic Law in the practice of renting pomelo trees in Bageng Village.

Leasing is permitted in Islam and its implementation must be in accordance with the pillars and conditions. Based on the description above, the author feels interested in discussing in depth the contract or agreement on the practice of renting pomelo trees that occurs among these communities which has become a habit with a review of Sharia Economic Law.

## LITERATURE REVIEW

### Akad (Agreement)

In Islam, an agreement is called a contract. The contract itself comes from Arabic, *ar-rabthu* which means relationship, *al-'aqd* which means engagement, agreement, agreement and consensus. These words can be interpreted as connecting or binding or connecting several ends of something. Meanwhile, Islamic Law experts ( *Jumhur 'Ulama* ) define contracts as related or bound by *consent* and *qabul* which are justified by *the syara'* and have legal consequences for the object.<sup>7</sup>

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<sup>5</sup> Turmudzi, Interview by the author, November 1, 2022, interview 1 .

<sup>6</sup> Turmudzi, Interview by the author, November 1, 2022, interview 1, transcript.

<sup>7</sup> Afanda Leliana Sari, *AW Islamic Law Review of Tree Leasing Practices. Qawanin Journal* , 4. No. 1 (2021): 98.



The meaning of *ijab* and *qabul* is the relationship between *ijab* , namely the statement of the recipient of the bond and *qabul* , namely the statement of accepting the bond in accordance with the wishes of the *Shari'a* which affects the object of the agreement. In accordance with the wishes of the *Shari'a*, it is intended that all agreements or engagements made by the parties concerned are considered invalid if they are not in line with the provisions of the *Shari'a* .<sup>8</sup>

From the explanation above, the meaning of a contract can be concluded, a contract is an agreement between someone who hands over ( *ijab* ) and another person who accepts ( *qabul* ) for the implementation of an act. Based on the Compilation of Sharia Economic Law, an agreement is explained as an agreement between two or more parties to carry out and/or not carry out certain legal acts.<sup>9</sup>

The Al-Qur'an explains the law of carrying out contracts in the QS. Al-Maidah verse 1:

يَا أَيُّهَا الَّذِينَ آمَنُوا أَوْفُوا بِالْعُقُودِ ۚ أُحِلَّتْ لَكُمْ بَهِيمَةُ الْأَنْعَامِ إِلَّا مَا يُتْلَىٰ  
عَلَيْكُمْ عَن رِّبِّ الْمُحَلِيِّ الصَّيْدِ وَأَنْتُمْ حُرْمٌ ۗ إِنَّ اللَّهَ يَحْكُمُ مَا يُرِيدُ

Meaning: "O you who believe, fulfill those vows. Permissible for you are livestock, except those that will be recited to you. (That is) by not allowing hunting while you are performing Hajj. Indeed, God establishes laws according to what He wants."<sup>10</sup>

Based on the sound of the verse above, it can be concluded that implementing the contents of the agreement or legal contract is mandatory.

### **Rent Rent or Ijarah**

Leasing in Arabic is called *Ijarah* from the original word *al ajru* which means replacement, wages, rent or reward. Meanwhile, according to the term *Ijarah* , it is a contract that transfers the right to use the benefits of goods or services for a certain period of time accompanied by payment of wages ( *ujrah* ), without any transfer of ownership of the goods themselves.

<sup>8</sup>Abdul Rahman Ghazaly, *Fiqh Muamalat* , (Jakarta: Kencana, 2010), 51 .

<sup>9</sup> Compilation of Sharia Economic Law, Book II on Contracts, Chapter I Article 20 Point (1).

<sup>10</sup> Ministry of Religion of the Republic of Indonesia, *Qur'an and its Translations* , Surah Al-Maidah Verse 1, (Sukoharjo: Madina Qur'an, 2016) 106.



<sup>11</sup>According to the terminology, *Ijarah* is a contract that binds both parties by owning the objects of goods and services from which benefits are taken, in nature or may be provided with the condition of providing certain compensation in accordance with the agreement.<sup>12</sup>

The definition of leasing based on the Fatwa of the National Sharia Council of the Indonesian Ulema Council, an *ijarah contract* is a rental contract between *the mu'jir* (leasing provider) and *the musta'jir* (lessee) or *the musta'jir* and the *ajir* (those providing the service) to exchange the benefits of goods or services.<sup>13</sup>

In the book Collection of Laws of the Criminal Code and the Civil Code in chapter seven, part one, article 1548, it is stated that the meaning of leasing is an agreement, where one party binds themselves to another party by providing benefits from an item, for a certain time and with payment. a price, which the latter party is willing to pay. Continuing with article 1549, this applies to all goods, both movable and immovable (all can be rented out).<sup>14</sup>

The legal basis for allowing rental contracts is QS. Al-Qashas verse 26:

قَالَتْ إِحْدَاهُمَا يَا أَبَتِ اسْتَجِرْهُ ۖ إِنَّ خَيْرَ مَنِ اسْتَجَرْتَ الْقَوِيُّ الْأَمِينُ

Meaning: "And one of the two (women) said, "Oh my father! Make him an employee (for us), indeed the best person you hire as an employee (for us) is someone who is strong and trustworthy."<sup>15</sup>

In a hadith it was narrated from Aisyah Ra:

وَاسْتَأْجَرَ النَّبِيُّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَأَبْرَ رَجُلًا مِنْ بَنِي الدَّيْلِ ثُمَّ مِنْ بَنِي عَبْدِ بْنِ عَدِيِّ حَادِيٍّ خَرَيْتُ الْحَرِيَّتِ الْمَاهِرِ بِالْهُدَايَةِ

<sup>11</sup> Abdul Rahman Ghazaly, *Fiqh Muamalat*, (Jakarta: Kencana, 2010), 58-59.

<sup>12</sup> Abdul Rahman Ghazaly, *Fiqh Muamalat*, (Jakarta: Kencana, 2010), 277

<sup>13</sup> DSN MUI Fatwa, *Fatwa No. 112/DSN-MUI/2017 concerning the Ijarah Agreement*, (Jakarta: 2017), 1.

<sup>14</sup> *Collection of Legal Books*, ( Jakarta: Intellectual Discourse), 2014, II, 331.

<sup>15</sup> Ministry of Religion of the Republic of Indonesia, *Qur'an and its Translations*, Surah Al-Qashah Verse 26, (Sukoharjo: Madina Qur'an, 2016), 388.



Meaning: "The Prophet Shallallahu 'alaihi wa sallam along with Abu Bakr hired (hired) a skilled guide from Bani ad-Dail then from Bani 'Abdu bin 'Adi." (HR. Bukhari)

above is the basis that *Ijarah* is an activity that is permitted in Islam, the Prophet Muhammad himself practiced it. In *Ijarah* there is an element of mutual help with a willing heart for fellow human beings. Then, based on *consensus*, the *Ulama* agreed that the lease agreement or *ijarah* was permissible. The fiqh rules that support the *ijarah contract* are:

Meaning: "Basically, all forms of muamalah are permissible unless there is a proof that forbids it."<sup>16</sup>

Thus, the rental contract or *Ijarah* is not new in Islam, in fact this contract has existed since ancient times and the Prophet Muhammad practiced it. The verses and hadith above are the basis for allowing lease or *Ijarah contract activities* in Indonesia which are then developed and regulated in full in the regulations and legislation in force in Indonesia.

According to *Jumhur 'Ulama*, there are 4 pillars of *Ijarah*, pillars and conditions of *Ijarah*:

1. The two contract actors include *mu'jir* (the person who rents) and *musta'jir* (the person who rents). The conditions are:
  - a. Reasonable, in the DSN Fatwa, the perpetrator of *Ijarah* is required to be legally competent in accordance with sharia and applicable laws and regulations.
  - b. Mutual consent or willingness, both parties must be mutually pleased or willing to enter into a rental contract.<sup>17</sup>
  - c. Must have authority (territory), this requirement applies to *mu'jir* (person who rents out).<sup>18</sup>
  - d. The condition for *the musta'jir* (person who rents) is to have the ability to pay the rent or carry out the legal actions required by him.<sup>19</sup>
2. *Shighat* is *consent* and *qabul*. Based on Fatwa DSN N0. 112 of 2017 is that the contract must be stated clearly and firmly and can be understood by the parties to the agreement.

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<sup>16</sup> DSN MUI Fatwa, *Fatwa No. 112/DSN-MUI/2017 concerning the Ijarah Agreement*, (Jakarta: 2017), 2.

<sup>17</sup> Idris, *Economic Hadith: Economics in the Perspective of Prophetic Hadith*, (Jakarta: Prenadamedia Group, 2016), 237.

<sup>18</sup> DSN MUI Fatwa, *Fatwa No. 112/DSN-MUI/2017 concerning the Ijarah Agreement*, (Jakarta: 2017), 5.

<sup>19</sup> DSN MUI Fatwa, *Fatwa No. 112/DSN-MUI/2017 concerning the Ijarah Agreement*, (Jakarta: 2017), 5.



3. *Ujrah* (rent/wages). If the rental price must be paid in money, the rental price must be clearly determined and the amount stated.<sup>20</sup> Can be adapted to customs and different types of objects.
4. Benefits: The benefit of the promised object is something that must be permitted in the Islamic religion.<sup>21</sup> The object of *Ijarah* that produces goods, such as renting a tree to take possession of it, must be property that is *isti'maly*, namely property that can be used repeatedly without causing damage to the substance and reducing the nature of the substance, such as land, houses and cars. Meanwhile, objects that are *istihlahi* are assets that are reduced or damaged due to use, for example food which cannot be used as a rental object.<sup>22</sup>

### Sharia Economic Law

Philosophically, the ideal of Economic Law in Indonesia is to prepare legal concepts related to economics for the needs of society. The economic life that the nation desires is prosperity for the people and social justice, as stated in the contents of Pancasila. The ideals of Economic Law are in line with the ideals of Islamic Law *maqosid ash-syariah*, namely building and creating benefits for the world and the hereafter for mankind, in the implementation of the economic sector it must be in accordance with the Al-Qur'an and As-Sunnah. Where we know that Sharia Economics has been alive for a long time in Indonesia.<sup>23</sup>

From these basics, regulations are then formed that are adapted to the conditions or realities in Indonesia. In Indonesia, the guidelines and regulations for muamalah and transactions between people are summarized in Sharia Economic Law.

### RESEARCH METHODS

The type of research used in this research is field research *with* descriptive methods. In this case, the most important element in research is the reality of life in society.<sup>24</sup> The research approach that researchers use is a qualitative approach, because this research focuses more on observing symptoms that exist in human life. Based on the results to be obtained from this research, the approach to the problem uses a *normative juridical approach* with analysis intended to see the substance of existing theories or rules and

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<sup>20</sup> Idris, *Economic Hadith: Economics in the Perspective of Prophetic Hadith*, (Jakarta: Prenadamedia Group, 2016), 238.

<sup>21</sup> Idris, *Economic Hadith: Economics in the Perspective of Prophetic Hadith*, (Jakarta: Prenadamedia Group, 2016), 238.

<sup>22</sup> Afanda Leliana Sari, A. W, *Islamic Law Review of Tree Rental Practices*, *Qawanin Journal*, 4. No. 1 (2021): 104-105.

<sup>23</sup> Fitrianur Syarif, *Development of Sharia Economic Law in Indonesia*, *Plenary Jure: Journal of Legal Studies*, Vol. 9, no. 2 (2019): 2-3.

<sup>24</sup> Hamid Darmadi, *Educational and Social Research Methods*, (Bandung: Alfabeta, 2014), 1.



regulations with the reality that exists in society. The triangulation method is used by comparing data and reviewing information from observations and interviews. <sup>25</sup>Data obtained from observations, interviews and documentation will then be grouped and analyzed based on theories and facts in the field, then explained in research results and discussions. After analyzing it using theory and legal regulations, conclusions are then drawn from the data that has been obtained.

## RESEARCH RESULTS AND DISCUSSION

### How to Execute a Rental Agreement for Renting Pamelo Orange Trees in Bageng Village

Before a contract for renting a pomelo orange tree occurs, usually the party in need will come or offer it first. Sometimes tree owners actually offer pomelo to farmers or vice versa. When there is an agreement by both parties, namely the tree renter and the tree owner regarding agreement to enter into a rental agreement, the next step for both parties will be to determine the period for renting the tree. After reaching a mutual agreement regarding the rental period and rental price, the renting party, namely the owner of the pomelo tree, will hand over the pomelo tree to the tenant for a certain period of time in accordance with the agreement and the tree lessee will pay rent based on a mutually determined price. In this way, the tree becomes the tenant's right for the specified period of time and the rent becomes the property of the person renting out the tree.<sup>26</sup>

The contract for renting pomelo trees carried out by the people of Bageng Village means that tree owners rent out their pomelo trees to pomelo farmers for a certain period of time for the tenants to collect the fruit. So the fruit produced by the tree during the specified period is the property of the tree lessee.

Usually the people in Bageng Village make rental agreements verbally, that is, they express *their consent* verbally only. The process is that both parties will meet directly and *the consent* is expressed verbally by both parties, namely the owner of the pomelo tree (*mu'jir*) and the tree renter (*musta'jir*).<sup>27</sup>

Before bargaining and a contract for renting a pomelo tree, usually the tree renter will carry out a survey of the pomelo tree, such as how big or small the tree is, how many flowers it has (when it has flowered), the condition of the soil and around the area of the tree, and whether it has ever been bear fruit or not. This is done by the renter to estimate the risks that

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<sup>25</sup> [Danu Eko Agustinova](#), *Understanding qualitative research methods: theory & practice*, (Yogyakarta: CALPULIS, 2015), 64.

<sup>26</sup> Nurul Huda, Interview by the author, January 23, 2023, Interview 4.

<sup>27</sup> Observation of the tree rental agreement in Bageng Village on January 23 2023.





will occur and the rental price of the tree. After that, both parties carry out a rental agreement for the pomelo orange tree.

Because in the contract for renting pomelo trees made by the people of Bageng Village, the risk or possibility of bad things happening related to the tree is completely the responsibility of the renter, as long as it is within the agreed rental period. For example, when one of the trees being rented cannot produce fruit even though special care has been taken. Then, from the results of the survey, the tenant can determine the rental price that must be paid to the tree owner. From the price that has been set. The price that has been set is multiplied by the number of years for the rental period for the pomelo tree. So the price of one tree and another may be different due to determining factors, such as the size and environment of the tree area.

Then the payment method used by the people of Bageng Village is the cash system. After an agreement has been reached and the rent is paid in cash or directly to the owner of the pomelo tree, all responsibility for caring for the tree has been transferred to the lessee until the term of the agreement. After the rental period is completed based on the agreement of both parties, namely the tenant and the tree owner, the rental agreement between the owner of the pomelo tree and the tenant also ends.

Thus, the rental contract will automatically end when the rental period has finished or expired. Usually tenants who make a large enough profit will extend the rental period of the pomelo tree. Sometimes renters of pomelo trees will increase the rental price from the previous contract agreement because they see the potential for greater profits.<sup>28</sup>

By entering into a rental contract for a pomelo tree, the tree owners will get additional income to meet their daily needs because of the large number of pomelo trees planted and growing around the Bageng Village area. By renting out their trees they don't need to care for the trees. Another factor that makes people rent out their pomelo trees is that people generally don't understand how to care for pomelo trees properly so that they can produce delicious and good fruit. Because improper care makes the fruit unpalatable to consume so it cannot be sold due to pests and the pomelo fruit has fallen off even though it is not ready to be harvested.<sup>29</sup>

For renters who are experts in their field of work, renting a pomelo tree is an easy, effective and more profitable alternative than buying a wholesale or slash system. Another reason for renters is that they don't need to plant a pomelo tree because it takes quite a long time for the tree to produce fruit and be ready to be picked or harvested. Apart from that, most tenants do not have enough land to plant enough pomelo trees. By renting

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<sup>28</sup> Observation of the tree rental agreement in Bageng Village on January 25 2023.

<sup>29</sup> Warsi, Interview by author, January 23, 2023, Interview 5, transcript.



a pomelo tree, renters only need to carry out special care such as spraying, fertilizing, treating and giving vitamins to the tree they have rented.

### **Analysis of How to Implement a Rental Contract for Pamelorange Trees in Bageng Village**

The lease contract is a type of *valid contract* which must be fulfilled in terms of its origin and nature, the origin being the pillars of the lease while the nature is the terms and conditions of the contract. So this contract will have direct and clear legal consequences without waiting for other people's approval. And it is included in a normal contract, namely that it cannot be canceled by either party without the consent of the other party.

To analyze the implementation of the lease contract for pomelo orange trees using several things, namely: the terms and conditions of the lease, analysis of the lease contract system, risks in the lease, and the end of the lease. The following is an analysis in terms of Islamic Law and Sharia Economic Law that applies in Indonesia, namely KHUPerdata, Compilation of Sharia Economic Law and DSN MUI Fatwa.

#### a. Analysis Based on Contracting Parties

In the Compilation of Sharia Economic Law, Article 257 states: "To complete an *Ijarah contract process*, the parties entering into the contract must have the skills to carry out legal actions." <sup>30</sup>Likewise, as regulated in the MUI DSN Fatwa, the person carrying out the rental agreement must be legally competent in accordance with sharia and applicable laws and regulations.

Based on research conducted in Bageng Village, both parties entering into an agreement in the practice of renting pomelo trees have fulfilled the requirements in accordance with Sharia Economic Law. Where both parties are legally competent and able to take responsibility for their actions. As long as there is a lease for a pomelo tree in Bageng Village, both the tenant and the tree owner are *competent* and sensible and legally competent.

#### b. Analysis Based on Contract

Judging from the pillars of leasing carried out in Bageng Village, it has fulfilled the pillars of leasing, namely that there are two people with good intentions, the party renting the tree, namely the owner of the pomelo tree and the party renting the tree, namely the farmer of the pomelo tree who is an expert in his field. *The sign of the contract* that has been fulfilled is that there is a *consent agreement* between the owner of the pomelo tree and the tree tenant which is carried out directly and agreed upon verbally.

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<sup>30</sup> Center for the Study of Islamic Law and Civil Society, Compilation of Sharia Economic Law, (Jakarta: Kencana, 2017), 71.



Based on the Compilation of Sharia Economic Law, Article 252 paragraphs (1) and (2), it is explained: "The highlight of the *Ijarah contract* must use clear sentences and the *Ijarah contract* can be carried out verbally, in writing and/or by signing." Basically, *consent* and *qabul* done verbally is sufficient, but if this is not possible it can be done with signs, for example one of the perpetrators is mute or deaf. And it can be done in writing where the contract is written containing the contents and provisions of the contract and can be used by an authorized third party.

So the contract for renting pomelo orange trees carried out by the people of Bageng Village has fulfilled the requirements because the shighot is in accordance with the terms of the agreement between the tenant and the tree owner who are mutually willing and agree regarding the contract agreement and between the tenant and the tree owner there is no element of coercion in implementing the contract. renting pomelo trees.

c. Analysis Based on Payment

It is stated in the MUI DSN Fatwa that wages may be paid in cash, in stages/installments, and in Tangguh based on an agreement in accordance with sharia and/or applicable laws and regulations. Then it is explained in more detail regarding the payment system for renting trees in the Compilation of Sharia Economic Law, Article 264, that <sup>31</sup>the *Ijarah* down payment that has been paid cannot be returned unless otherwise specified in the contract.<sup>32</sup>

From the provisions above, if we analyze the method of payment for renting pomelo orange trees carried out in Bageng Village, Gembong District, Pati Regency, it does not conflict with the Sharia Economic Law that applies in Indonesia, both from the Compilation of Sharia Economic Law and the DSN MUI Fatwa, because it is in the contract There is an agreement between the renter and the renter that payment is made in cash and using the means of payment generally available in society, namely money, and there is no refund of rental fees if there is a loss.

d. Object Based Analysis

When executing a contract for renting a pomelo orange tree, the object of the contract must be stated clearly, the rental period for the

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<sup>31</sup> DSN MUI Fatwa, *Fatwa No. 112/DSN-MUI/2017 concerning the Ijarah Agreement*, (Jakarta: 2017), 6.

<sup>32</sup> Center for the Study of Islamic Law and Civil Society, *Compilation of Sharia Economic Law*, (Jakarta: Kencana, 2017), 71.



object must be clearly determined, and the useful value of the object must be stated.

Regarding leasing in positive law, namely the Civil Code, the chapter regarding leasing of trees is not explained in detail. However, it is stated in the seventh chapter regarding leasing, part one of article 1549 that, All types of goods, both immovable and movable, can be rented out. In article 506 of the Civil Code regarding immovable objects, it is explained in the third point that, trees and field plants have their roots embedded in the ground; tree fruit that has not been picked, as well as mining goods such as: coal, coal waste, and so on, as long as these objects have not been separated and dug up in the ground.<sup>33</sup>

In Positive Law, both from the Civil Code, the Compilation of Sharia Economic Law, and the DSN Fatwa only explain the permissibility of a rental agreement, the terms and conditions, and the form of a rental agreement is the taking of the useful value of an item, such as renting a house to take advantage of it, namely living in it. not to take his house or the contents of his house. Indonesian regulations regulate leasing in general and the ability to rent out trees but have not discussed in detail the contract for leasing trees in terms of the rental object, namely the benefits of the tree. Meanwhile, from the Islamic side, this is an argument among *Jumhur umala'*.

According to Fiqh in Islamic Law, leasing (*ijarah*) is the sale and purchase of benefits. For example, if someone doesn't own a house but wants to have the benefit of a house, he can rent a house to get the benefit of the house for a certain period of time. So the benefit here is use, not taking objects. So, a tree rental agreement is a sale and purchase of the benefits of a tree, not the benefits of its fruit. Therefore, in fiqh, if you rent a tree for its benefits in the form of fruit, it becomes invalid, because it does not fulfill one of the conditions of the rental contract, namely the benefits of the rental item, namely the tree.<sup>34</sup>

A contract for renting a tree that takes advantage of its fruit is for example renting a garden or land containing trees or plants and then taking the fruit from these trees and plants. So in this case it is not permitted in Islam because there are benefits from the object or fruit.

Related to this, there is an opinion expressed by one of the '*Ulama* in the As-Syafi'i madzhab which was quoted by Imam Tajuddin Al Subki in Tausyih quoting, that Subki's father, Imam Taqiyuddin Al

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<sup>33</sup> Anonymous, *Collection of Law Books*, p. 331.

<sup>34</sup> Samsul Arifin Abu, "Differentiate between renting a garden and a tree to harvest the fruit", IASS Media, Uploaded June 2022, Youtube Video, <https://www.youtube.com/watch?v=Y47yqXmHzSk>



Subki, at the end of his life supported the opinion that it was legal to rent trees to obtain the fruit. Ulama explained that it is legal to rent a ditch or well for the water, because it is needed.<sup>35</sup>

The opinion above explains that renting out trees to harvest the fruit is permissible, but this opinion is not followed as long as the quotation or understanding comes from whom, so this opinion is purely an *ijtihad* from Imam Tajuddin Al Subki's father, namely Imam Taqiyyudin Al Subki. So this opinion could be a solution for people who continue to carry out tree rental agreements as a basis for their abilities.

Then there is another opinion which could be a solution or basis for the tree rental agreement, namely it is explained in the book *Bughyatul Murtasyidin* that, indeed, the original opinion is that you are not allowed to rent trees to take their fruit, this book provides the most appropriate solution regarding this matter, namely the opinion which says that, a person who owns land then rents it to the tenant in the form of land that has been planted with trees for a reasonable rent or in general, then the tree owner vows to the tenant that during the lease the fruit from the trees on the land becomes his right. tenant.<sup>36</sup>

From that opinion, the tenant can benefit from both the rental land and the fruit from the trees on the rental land. This is explained in the book *Bughyatul Murtasyisin* is the easiest way that can be done for the community if they enter into a lease agreement to rent a tree, because basically in Islam it is not allowed. So for the people who enter into a lease agreement to rent a tree, they can make a vow, that is, the owner of the tree or the party that rents out vows to the tenant that the fruit produced from the rented tree becomes the property of the tenant.

The third opinion from Ibn Qayyim al-Jauziyyah, a Hambali *fiqh* expert stated that, what is a principle in Islamic law is that a material that evolves gradually has the same law as benefits, such as fruit on trees, milk and hair on goats. For this reason, providing benefits with material goods is a form of *waqf*. According to Ibn al Qayyim, donating benefits is permissible, just like donating benefits to a house to live in for a certain period of time and donating livestock to benefit from their milk. Thus, according to Ibn al Qayyim there is nothing that makes it prohibited to rent out material that is present

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<sup>35</sup> Syaikh Zainudin bin Abdul Aziz Al Malibariy, *Translation of Fathul Mu'in Guide to Fiqh Science*, (Bandung: Husaini, 2003), 263.

<sup>36</sup> Samsul Arifin Abu, "Differentiate between renting gardens and trees to collect the fruit", IASS Media, Uploaded June 2022, Youtube Video, <https://www.youtube.com/watch?v=Y47yqXmHzSk>



through evolution, even though the form of the item is still intact, such as goat hair, goat milk, and the benefits of a house, because according to him the goat and the house remain intact.<sup>37</sup>

## CONCLUSION

The implementation of the lease agreement for pomelo orange trees in Bageng Village is in accordance with the regulations regulated in Indonesia based on KHUPerdata, the Compilation of Sharia Economic Law, and the MUI DSN Fatwa. However, in a more detailed analysis based on Islamic law, the implementation of the tree rental contract in Bageng Village is invalid because the activity is intended to extract the beneficial value of the fruit, not just benefit from the tree. There are three opinions that can be used as a solution for the community to enter into a tree rental agreement so that the rental agreement is valid in Islamic terms. First, according to Imam Tajuddin Al Subki's opinion, which is based on his father's opinion, second, relying on the book *Bughyatul Murtasyidin* to carry out nadzar, and third, according to Imam Ibn Qayyim, which describes a material that evolves gradually, the law is the same as the benefits.

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<sup>37</sup> [Nasrun H. Haroen](#), *Fiqh Muamalah* , (Jakarta: Gaya Media Pratama, 2000), 229-230.



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