

**CASE STUDY: REVIEW OF ISLAMIC LAW ON THE PRACTICE OF BUYING AND SELLING LAND IN CONFLICT AT THE MUNGKID DISTRICT COURT IN LAWSUIT OF ACTS AGAINST THE LAW**

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**Abstract:** *It has become commonplace in society there is muamalah buying and selling. The same is true in rural communities. The reflection of the attitude of the people who are still innocent sometimes becomes a problem in the complex problems of life. Among the muamalah that often become legal problems are cases of buying and selling land because the practice of buying and selling is carried out by the community only based on mutual trust without being supported by the correct administrative process. This study intends to describe the practice of buying and selling land that started from a buying and selling of mutual trust which later became a dispute over a lawsuit filed against the law in the Mungkid District Court in the perspective of Islamic law. The research method is qualitative paradigm research with a case study approach. The location of this research is in Demangan Hamlet, Kebonrejo Village, Salaman District, Magelang Regency. Sources of data were obtained using participatory observation, interviews, and documentation. After being analyzed, the researcher concluded that there had been four transactions in one land object which was broken up, of which three transactions were legal according to Islamic law, while the fourth transaction was invalid because it included buying and selling gharar.*

**Keywords:** *Islamic law, buying and selling, conflict*

## **1. Introduction**

The habits of people in rural areas in making buying and selling transactions are still very simple. Likewise, in the sale and purchase of land, both buyers and sellers only trust each other. On average, parties who do not understand the rules for buying and selling land usually only need to visit the village office so that the transaction is witnessed by local village officials. Village government services are generally limited to making agreement letters on sealed paper in the era before the 2000s. In the era of the 2000s and above, the village government issued a letter of sale and purchase of land which was signed on a seal by the parties knowing the Village Head and adding witnesses, this situation is still running today. Such sale and purchase letters are legally considered private letters.

It is even more ironic that land sale and purchase transactions often occur only in instalments based on the needs of the landowner. This happens because the landowner is pressed for economic needs while the land buyer is only helping the land owner's difficulties. Among the many land issues, an interesting case occurred in Demangan Hamlet, Kebonrejo Village, Salaman District, Magelang Regency where the dispute over the sale and purchase of land was brought to the Mungkid District Court, Magelang Regency in a lawsuit against the law and ended in an Appeal decision at the Semarang District High Court, Central Java.

The landowner, hereinafter referred to as the Plaintiff, has filed his case at the Mungkid District Court on January 15, 2021, because the land is controlled by the Defendants, hereinafter referred to as Defendant I and Defendant II. The parties live next door in the same area, namely in Demangan Hamlet, Kebonrejo Village, Salaman District, Magelang Regency. At first, they lived in harmony and helped each other as if living as neighbors in a rural area. Plaintiff's house and Defendant I's house are not far apart or close together. However, everything fell apart when there was a dispute due to the case of buying and selling land belonging to the plaintiff without being based on good administrative buying and selling rules.

This problem dragged on for 3 times the term of the Village Head, namely from 1994 to 2021, which in the end was filed a lawsuit against the law at the Mungkid District Court, Magelang Regency on January 15, 2021, with case number: 4/Pdt.G/ 2021/Pn.Mkd. , after examining the case at trial, the Panel of Judges who examined and tried this case decided that the lawsuit filed by the Plaintiff was formally flawed because it combined or accumulated two legal cases whose legal events were not related to each other or the legal events were independent so that they were rejected or *Niet Ontvankelijk Verklaard* (NO). Based on this decision, the ownership status of the disputed 100m<sup>2</sup> land is unclear, meaning that due to the rejection of the lawsuit because it is considered a formal defect, the legal ownership dispute over the land is unclear or still floating from a positive legal perspective.

As Muslims who are obedient to the teachings of their religion, of course, every aspect of life in society cannot deny the existence of sharia law. Likewise, buying and selling problems that occur in the community have become entrenched behavior. The community's habit of carrying out simple land transactions with mutual trust eventually leaves various problems as described above. In Islamic law, buying and selling cases have been clearly regulated from various legal sources. Unfortunately, most Islamic communities in rural areas still ignore this problem.

Al-Quran as the source of all sources of Islamic law can not be a way of life that must be applied in all aspects of life. Similarly, other sources of law such as hadith (words of the Prophet), sunnah (actions of the Prophet), and Ijtihad of the scholars. Most rural people still prioritize their feelings as neighbors with the instinct of mutual help and mutual trust, thus ignoring formal and administrative matters.

Islamic law has regulated the issue of buying and selling muamalah by providing signs about the pillars, conditions, and also the kinds of buying and selling that are allowed and what are prohibited. Thus, all Muslims are required to carry out muamalah, buying and selling must be following the provisions that have become sharia for its adherents to get blessings and *ridho* from the creator.

Based on the description above, the researcher intends to describe the practice of buying and selling land which is a dispute at the Mungkid District Court in a lawsuit against the law in Demangan Hamlet, Kebonrejo Village, Salaman District, Magelang Regency, and analyze the practice of buying and selling in the perspective of Islamic law.

## **2. Research Methodology**

This research is field research that uses a qualitative paradigm with a case study approach, how to obtain data by participatory observation, interviews, and documentation. Observations were made in Demangan Hamlet, Kebonrejo Village, Salaman District, Magelang Regency, interviews were carried out directly with related parties. Meanwhile, documentation was carried out by studying various documents obtained from the official documents of the An-

Nawawi Legal Aid Institute, Purworejo. The data obtained were then analyzed normatively based on Islamic law.

### **3. Research Results and Discussion**

After the researchers conducted participatory observations, interviews and conducted documentation, the research results can be described as follows:

Plaintiff is the rightful owner of a plot of land whose yard is recorded in book C Desa No. 172, parcel no. 194, class D1 with an area of 0030 ha (300m<sup>2</sup>) under the name of Pawiro Dimejo Murdi, which is located in Demangan Hamlet, Kebonrejo Village, Salaman District, Magelang Regency, with the northern boundaries bordered by Yahya's land, the south is bordered by the road, the east is bordered by Dair's land, in the west it is bordered by Bari's land. The plaintiff is the sole heir of the marriage of Pawiro Dimejo Murdi (deceased) with Amini (deceased) explained by the Certificate of Heirs witnessed and justified by the Head of Kebonrejo Village with Number: 0452/1308/K.07/ X/2020 which was confirmed by the Camat of Salaman with the number: 25/77/X/2020. According to the Plaintiff, this plot of land has been managed by the Defendants since 1994 because the Plaintiff has debts to the Defendants<sup>1</sup>. Plaintiff and Defendant, I from 1994 to 2015 a total of Rp. 1,750,000.00 (one million seven hundred and fifty thousand rupiah), and with Defendant II from 1994 to 2015 a total of Rp. 2,000,000.00 (two million rupiah). From 1994 until now Defendant I has cultivated a land area of approximately 100 m<sup>2</sup>, which is used for a plant nursery business until now. plant nursery until now. While the rest of the land controlled by the Defendants covering an area of approximately 100 m<sup>2</sup>, was also recognized and controlled by the Defendants.

However, the statement submitted by the Plaintiffs was denied by the Defendants, this is documented in the answers to the claims of Defendant I and Defendant II. According to Defendant, around 1998 Plaintiff came to Defendant I's house to offer the land for Rp. 1.750.000,- (One million Seven hundred fifty thousand rupiahs) for a land area of 100 m<sup>2</sup>. The land in question is located in block 16, plot no. 107 issued on the SPPT on behalf of Pawiro Dimejo Murdi which was later accepted by Defendant I and paid in installments based on an agreement between Plaintiff and Defendant I and at the time of settlement, it was carried out and witnessed by Mr. Samlawi as head of Kebonrejo village and Mr. Makmun as Secretary of Kebonrejo village at the Kebonrejo Village office, Salaman District, Magelang Regency in the same year, thus there is no debt agreement.

This problem after the researcher clarified in interviews with Mr. Samlawi and Mr. Makmun who served in the Village Government at that time was justified. As Mr. Samlawi's statement when met the researcher said that it was true that at that time all parties gathered at the Kebonrejo Village Office and had mediated with all village officials present and at that time the Plaintiff did not object to the change of the SPPT of the land to be transferred to Defendant I. Likewise, Mr. Makmun confirmed the issue by saying that what Mr. Manten Samlawi said was true, unfortunately, Defendant I did not legalize the sale and purchase at a notary to make a certificate so it ended up being a dispute in the Court.

Meanwhile, Defendant II also objected to Plaintiff. According to Defendant II on September 17, 1992, Mrs. Walijah, the first wife of Plaintiff's biological father (Pawiro Dimejo Murdi) had sold Defendant II a land area of 75 m<sup>2</sup> from the land recorded in book C Desa No. . 172, parcel no. 194, D1 class costs Rp. 1.000.000, - and the money has been received in cash by Mrs. Walijah. This has been written in the sale and purchase agreement in handwriting on seal

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paper and signed by the seller, namely Mrs. Walijah and the Kebonrejo Village apparatus as witnesses. It was later discovered that the land had undergone a change in recording, namely that which was located in block 16, plot no. 108.

Whereas on June 15, 1995, Plaintiff sold the land located on the land recorded in book C Desa No. 172, parcel no. 194, class D1 with an area of 100 m<sup>2</sup> to Defendant II in 2 (two) installments. The first payment of Rp. 500,000 on July 15, 1999, and then paid another Rp. 200,000 on November 28, 1999, as a settlement, which was later found to have changed the recording of the land, which is located in block 16, plot no. 107 issued on the SPPT on behalf of Pawiro Dimejo Murdi which was eventually sold to Defendant I. The sale and purchase agreement was written in handwriting on seal paper and signed by the seller, namely the Plaintiff himself and the Kebonrejo Village Apparatus and the Head of the local RT as witnesses.

On October 7, 1995, the Plaintiff sold another land which was located on the land recorded in book C Desa No. 172, parcel no. 194, Class D1 with an area of 75 m<sup>2</sup> to Defendant II for Rp. 1,000,000, and the Plaintiff has received cash and a sale and purchase agreement written in hand on seal paper and signed by the seller, namely Plaintiff himself and the Kebonrejo Village Apparatus and the head of the local RT as witnesses.

The objection of Defendant II was confirmed by Ahmad Saiful Hadi as the Secretary of Kebonrejo Village. He explained that this dispute had been mediated many times at the Village Office, even since the previous 3 Village Heads. However, because neither party wants to budge, it has not been completed until now. Saiful further explained that the land in question is a total of 300 m<sup>2</sup>, the land has now undergone a change in the recording in the SISMIOP program from the BPN Office. The land which was originally 300 m<sup>2</sup> was divided into 3 locations so that 3 new SPPTs were issued, namely the first, on behalf of Pawiro Dimejo Murdi with an area of 100 m<sup>2</sup> (SPPT in the hands of the Plaintiff), block 16 plots no. 107, second on behalf of Defendant II, NOP SPPT 33.08.010.007.016-0108.0 with an area of 106 m<sup>2</sup>, block of 16 plots no. 108, and third on behalf of Defendant II, NOP SPPT 33.08.010.007.016-0109.0 with an area of 106 m<sup>2</sup>, block of 16 plots no. 109.

The two locations that have changed on behalf of Defendant II were approved by the village government because there was already a written agreement and it had been mediated by the village apparatus. But the other location of the land on block 16 plot no. 107 is still in the name of Pawiro Dimejo Murdi (on behalf of the original owner and has not been changed) with an area of 100 m<sup>2</sup>, the village government has not dared to change it due to overlapping ownership claims, namely between the Plaintiff, Defendant I and Defendant II. Plaintiff offered the land to other parties, including Mr. Asrori and Mr. Marsono, having their addresses at Kebon Kliwon Hamlet, Kebonrejo Village.

In Plaintiff's version, all of the events that occurred above were not buying and selling events but accounts payable events because the Plaintiffs were based on evidence from book C Desa No. 172, parcel no. 194, class D1 with an area of 0030 ha (300m<sup>2</sup>) under the name of Pawiro Dimejo Murdi which has not changed even though it has been changed in the village map as a result of the sismiop measurement to land block 16 plots no. 107, no. 108 and no. 109 where the Plaintiff is the sole heir of Pawiro Dimejo Murdi. From this assumption, Plaintiff considers the control over the management of the land to be against the law (Onrechmatige Daad) and therefore Plaintiff holds the Defendants accountable to return the land and compensate for the loss.

According to the Plaintiff in the lawsuit document, the Plaintiff has been harmed as a result of the actions of the Defendants with the estimated amount of loss, namely the market price of the disputed object of Rp. 500,000 X 300 M<sup>2</sup> = 150,000,000.00,- (one hundred and fifty

million rupiah), the rental price for the object of dispute is Rp. 1,000,000 X 21 years = 21,000,000,000.00,-, material loss Rp. 171,000,000.00,-, immaterial loss of Rp. 50,000,000.00,-, total material and immaterial losses of Rp. 221,000,000.00,-. The total loss of Plaintiff is Rp. 221,000,000.00,- (two hundred and twenty-one million rupiahs) as a result of the actions of Defendant I and Defendant II, it is only natural that Defendant I and Defendant II will be jointly and severally liable with all the legal consequences.

In the case of the claim for loss and return of the land mentioned above, the Defendants did not respond to the lawsuit and considered the legal events that occurred between the Plaintiffs and the Defendants had fulfilled the elements in article 1447 of the Civil Code concerning buying and selling.

The case above which has been submitted to the Court has been decided by the Mungkid District Court which was issued on August 12, 2021, with Decision Number 4/Pdt.G/2021/PN Mkd. , which stated that the lawsuit could not be accepted with consideration of the formal disability suit due to the accumulation of lawsuits between the lawsuits against Defendant I and Defendant II where the legal events are different or unrelated, namely the debt that occurs is a debt that each stands alone so that it cannot be accumulated. And an appeal was filed at the District High Court which has received a decision with Decision Number 400/Pdt/2021/PT SMG, issued on November 5, 2021, which affirms the decision of the Mungkid District Court Number 4/Pdt. G/2021/PN Mkd.

**The practice of buying and selling land that becomes a dispute in the district court may be in a lawsuit against the law.**

Based on the data above, it can be seen that the essence of the problem that occurred between Plaintiff, Defendant I, and Defendant II has not been resolved because the refusal of the panel of judges was based on the non-fulfillment of the procedural law so that it is considered a formal defect. The formal defect referred to is the accumulation of lawsuits where the legal events are not related to the debt referred to by the plaintiff, namely the debt between Plaintiff and Defendant I and the debt between the Plaintiff and Defendant II, each of which stands alone so that it cannot be accumulated which is jointly and severally responsible.

In this discussion, the researcher will not analyze based on general civil theory, but this discussion focuses on analysis based on Islamic law. The analysis of the problem above shows that the object of the problem is a land area of 300 m<sup>2</sup> which originally belonged to Pawiro Dimejo Murdi. After Pawiro Dimejo Murdi died under the control of his first wife, Walijah. On 17 September 1992, the land was sold 75 m<sup>2</sup> by Walijah to Defendant II. After Walijah died, the land was in the possession of Plaintiff as the only child of Pawiro Dimejo Murdi and his second wife, Amini.

On June 15, 1995, Plaintiff sold the land with an area of 100 m<sup>2</sup> to Defendant II. On October 7, 1995, Plaintiff sold another land with an area of 75 m<sup>2</sup> to Defendant II. If they are added up, the land has been sold to Defendant with an area of 250 m<sup>2</sup> so that the remaining land is 50 m<sup>2</sup>. In 1998, Defendant I offered the land 100 m<sup>2</sup> in installments. Even though the remaining land is only 50 m<sup>2</sup>. From here there are overlapping land sales which later became a dispute. Ironically, Plaintiff claims that all of the above events are debt and credit events, so Plaintiff filed a lawsuit against the law because the Defendants are considered to have controlled the land without rights.

In more detail, we identify the legal events as follows:

1. On 17 September 1992 there was a sale and purchase transaction between Walijah and Defendant II covering an area of 75 m<sup>2</sup>.



2. On June 15, 1995, a sale and purchase transaction occurred from Plaintiff to Defendant II covering an area of 100 m<sup>2</sup>.
3. On October 7, 1995, there was a sale and purchase transaction from Plaintiff to Defendant II covering an area of 75 m<sup>2</sup>.
4. Around 1998 there was a sale and purchase transaction from Plaintiff to Defendant I covering an area of 100 m<sup>2</sup>. This transaction overlaps (overlapping) an area of 50 m<sup>2</sup>.

The Plaintiff who argues that an above legal event is a legal event of accounts payable is illogical because the evidence of the transaction exists even though the letter is under the hand and the witnesses from the Defendants corroborate the arguments of the Defendants' answers.

The practice of buying and selling land in dispute in the district court may be in a lawsuit against the law according to Islamic law.

The consensus of the scholars in terms of buying and selling four pillars must be fulfilled: first, Ijab qobul or contract, the definition of a contract in a language is something that binds the two ends of the goods. In terms of fiqh, the pledge is consent and qobul by using the Shari'a procedures. Second, there are buying and selling subjects who make contracts, namely people who carry out transactions. Third, some goods are traded (objects). While the fourth is the exchange rate as a substitute for goods, usually money and gold.

When viewed from the terms and pillars of sale and purchase, legal events 1 to 3 in the identification of the legal events above have fulfilled the elements, namely the contract is even written, the subject exists and fulfills the requirements, the object exists (not prohibited goods) and the exchange value for substitute goods is also in the form of money. So that the three land transactions above are valid according to Islamic law.

The fourth transaction carried out by Plaintiff with Defendant I contained an element of fraud, whether intentional or not Plaintiff because the goods offered by Plaintiff exceeded the rest of the land owned by Plaintiff. The remaining land that has not been sold is only 50 m<sup>2</sup>, but it is sold in installments to Defendant I with an area of 100 m<sup>2</sup>.

According to the Shari'a view, buying and selling transactions must be carried out transparently to avoid suspicion and fraud. This has been hinted at in the Qur'an Surah An-Nisa` verse 29 which states, "...do not eat each other's property with vanity, except in trade that occurs based on consensual consent between you".

The "batil" diction contained in the paragraph above implies that it is not permissible to commit fraud in transactions. The placement of the word "vanity" is contrasted with the sentence "trade that applies based on consensual" as an emphasis that vanity acts are contrary to the principle of willingness that does not harm either the seller or the buyer in a transaction that indicates fraud or fraud.

The condition of the contents of the verse above is in line with the hadith of the Prophet narrated by Ibn Hibban which explains that "whoever cheats, he is not one of us, those who commit treason and deception will have their place in hell" (HR. Ibn Hibban 2:326).

Based on the description above, it becomes very clear that the transaction carried out by Plaintiff with Defendant I is not permissible according to Islam because Plaintiff sold the land which part of it had been sold to Defendant II, namely from the remaining 50 m<sup>2</sup> then the Plaintiff sold an area of 100 m<sup>2</sup> to Defendant II for Rp. 1.750.000,- (One million seven hundred fifty thousand rupiahs) even though the 50 m<sup>2</sup> was included in the land transacted by the Plaintiff to Defendant II on October 7, 1995, with an area of 75 m<sup>2</sup>. So that Plaintiff can be categorized as selling by lying or cheating. This sale and purchase include buying and selling gharar because it contains elements of fraud and becomes illegal in the perspective of Islamic law.

#### **4. Conclusion**

The buying and selling practice that occurred in Demangan Hamlet, Kebonrejo Village, Salaman District, Magelang Regency was originally legal according to Islamic law, namely the first sale and purchase between Walijah and Defendant II, the second between the Plaintiff and Defendant II, and the third between the Plaintiff and Defendant II as well. While the fourth sale and purchase were made between Plaintiff and Defendant I there was an overlapping transaction where Plaintiff sold land to Defendant I, half of which was land that had been sold by Plaintiff to Defendant II. This sale and purchase include buying and selling gharar because it contains elements of fraud and becomes illegal in the perspective of Islamic law.

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