



SETTLEMENT OF PROBLEMATIC FINANCING THROUGH RELIGIOUS COURTS (CASE STUDY OF BPRS AL-WASHLIYAH)

Azizan Rizky Ramadhan¹, Rahmad Efendi²

^{1,2}Universitas Islam Negeri Sumatera Utara, Indonesia

*Corresponding Author: azizan0204183156@uinsu.ac.id

Article Info

Article history:

Received :
Revised :
Accepted :
Available online
<http://jurnal.uinsu.ac.id/index.php/analytica>

E-ISSN: 2541-5263

P-ISSN: 1411-4380



This is an open access article under the [CC BY-SA](https://creativecommons.org/licenses/by-sa/4.0/) license

ABSTRACT

Problematic financing poses a serious challenge to the sustainability of Islamic banking, including the Al Washliyah Islamic Rural Bank (BPRS), as it impacts financial stability and public trust. This study aims to analyze the factors causing problem financing, the resolution mechanism through the Religious Court, and the role and authority of the court from the perspective of Islamic law and positive law. Using a juridical-empirical approach, data were obtained through literature studies, interviews with BPRS and judges at the Medan Religious Court, and case documentation. The results indicate that problem financing is triggered by weak feasibility analysis, lack of post-contract supervision, changes in customer economic conditions, and moral hazard. Dispute resolution is carried out through civil lawsuits in the Religious Court based on Law No. 21 of 2008 and the DSN-MUI fatwa, which provides legal certainty while guaranteeing the principles of sharia justice. The integration of Islamic law and positive law through the role of the Religious Court has proven effective in resolving disputes and maintaining the quality of Islamic banking assets.

Keywords: *Problematic Financing, BPRS Al Washliyah, Religious Court, Islamic Law, Positive Law*

1. INTRODUCTION

Islamic banking in Indonesia has grown rapidly in the last two decades, along with the increasing awareness of Muslims regarding the importance of conducting financial transactions in accordance with sharia principles. [Ascarya & Yumanita, 2019]. Sharia Rural Banks (BPRS) exist as microfinance institutions that play a role in channeling financing to small and medium enterprises (SMEs) that require business capital based on sharia contracts such as murabahah, ijarah, and mudharabah. [Ali Hasan, 2014]. However, despite their strategic role in promoting financial inclusion, BPRS also face serious challenges in the form of non-performing financing (NPF) that can threaten the sustainability of their operations. [OJK, 2014].

According to data from the Financial Services Authority (OJK), the national NPF ratio of Islamic rural banks (BPRS) in 2023 was around 8.3%, a relatively high figure compared to general Islamic banking. [OJK, 2023]. The high NPF directly impacts revenue declines, deteriorating financing portfolio quality, and diminishing public trust in Islamic financial institutions. [Kurniawan, 2020]. This phenomenon is not only related to financial aspects but also raises the potential for legal disputes between customers and banks, necessitating an effective and equitable resolution mechanism.

Since the enactment of Law No. 3 of 2006 concerning Religious Courts, the authority of the Religious Courts has been expanded to handle Islamic economic disputes, including BPRS financing disputes. [Manan, 2020]. This expansion of authority provides legal certainty for disputing parties, but its implementation in the field has not always been optimal. Technical obstacles such as delays in court proceedings, customers' lack of understanding of the terms of the contract, and difficulties in executing decisions remain common challenges. [Gunawan, 2020] [Suwondo, 2022].

BPRS Al Washliyah, one of the BPRS operating in North Sumatra, is a concrete example of this challenge. Since its inception, this institution has actively distributed microfinance to the community, but it has not been immune to problematic financing cases. Some disputes can be resolved internally through restructuring or mediation, but others are forced to be brought to the Religious Court due to the failure of non-litigation resolution. [Interview with BPRS Al Washliyah, 2025]. This raises important questions: how effective is the litigation mechanism in the Religious Court in resolving problematic financing, and what is the role and authority of the court from the perspective of Islamic law and positive law?

Previous research has addressed similar topics. Gunawan (2020) emphasized the significant role of the Religious Court following the enactment of Law No. 3 of 2006, but underscores the technical obstacles that hinder effective dispute resolution. Nugraha (2021) points out that although court decisions are final and binding, enforcement is often ineffective due to insufficient collateral. Sri Wahyuni (2022) highlights the lack of Sharia legal literacy among the public as a major obstacle, while Rahmawati (2023) examines the status of Sharia contracts from the perspective of Islamic jurisprudence (*fiqh muamalah*) and positive law.

Unlike these studies, this research focuses on the case study of BPRS Al Washliyah, with the aim of in-depth analysis of three aspects: (1) factors causing problematic financing, (2) resolution mechanisms through the Religious Court, and (3) the role and authority of the Religious Court from the perspective of Islamic law and positive law. This approach is expected to provide theoretical contributions to the development of Sharia economic law literature, as well as practical contributions to BPRS and judicial institutions in formulating more effective and equitable dispute resolution strategies.

2. RESEARCH METHOD

This study uses a juridical-empirical approach, namely an approach that examines law not only as written norms (law in books), but also how the law is applied in practice (law in action) [Soekanto & Mamudji, 2014]. This approach was chosen because the problem of problematic financing at BPRS Al Washliyah is directly related to the implementation of Law Number 3 of 2006 concerning Religious Courts and Law Number 21 of 2008 concerning Sharia Banking in resolving sharia economic disputes [Manan, 2020]. The types of data used consist of primary data and secondary data. Primary data was obtained through in-depth interviews with a total of 8 informants, consisting of 3 judges of the Medan Religious Court, 3 internal officials of the Al Washliyah BPRS (head of financing, head of legal, and compliance staff), and 2 customers involved in financing disputes [Interview with Medan Religious Court Judge, 2025] [Interview with Al Washliyah BPRS, 2025]. Meanwhile, secondary data was obtained from a literature review covering laws and regulations, DSN-MUI fatwas, the Compilation of Sharia Economic Law, court decisions, and academic literature related to Sharia economic law [Anshori, 2009] [Gunawan, 2020]. Data collection techniques were carried out through semi-structured interviews to obtain in-depth information from key informants, as well as documentation of case files and copies of court decisions [Marzuki, 2017]. Interviews were conducted in person at the Medan Religious Court and the head office of BPRS Al Washliyah, guided by an open-ended questionnaire to provide flexibility in exploring key issues. Documentation was used to trace the case chronology, legal arguments, and the judge's deliberations.

Data validity was ensured through source and method triangulation (Sugiyono, 2019). Source triangulation was conducted by comparing information from the judge, the BPRS, and customers, while method triangulation was conducted by verifying interview data with official documents and relevant legal literature. This aimed to ensure the accuracy, validity, and credibility of the research findings.

Data analysis was conducted qualitatively and juridically, namely classifying data based on research themes, linking them to positive legal provisions and Islamic legal principles, and then drawing systematic conclusions (Mertokusumo, 2013). This analysis integrated a normative perspective (applicable legal rules) with an empirical perspective (the reality of implementation on the ground), resulting in a comprehensive picture of the Religious Court's effectiveness in resolving problematic financing disputes at BPRS Al Washliyah.

3. RESULT AND ANALYSIS

Factors Causing Problematic Financing at BPRS Al Washliyah

In interviews with the financing and legal departments of BPRS Al Washliyah, it was discovered that non-performing financing is one of the main challenges in

maintaining the institution's financial stability. Several key factors contributing to problem financing were identified as originating from both internal (bank management) and external (customer and environmental) factors.

First, from an internal perspective, one of the main causes is a lack of thoroughness in the feasibility analysis process for prospective customers. In some cases, BPRS conducted incomplete financial analyses, particularly regarding collateral and prospective customers' business projections. As a result, there was a mismatch between the customer's financial capacity and the amount of financing provided. This indicates a weakness in the application of prudential banking principles, which should be a key pillar of Islamic banking.

Second, limitations in the post-contract monitoring system also contributed to problem financing. Some disbursed financing was not accompanied by regular monitoring of the customer's business activities, resulting in potential default risks going undetected early (Muhammad, 2018). Lack of monitoring causes banks to delay in taking anticipatory measures such as financing restructuring or contract renegotiation.

Third, external factors include macroeconomic issues and changes in customer business conditions. For example, declining purchasing power, inflation, and the impact of the COVID-19 pandemic have caused some customers to experience reduced business turnover, making them unable to pay installments on schedule (Antonio, 2011). In this case, force majeure is often cited as the reason for late or failed payments.

Fourth, customer moral hazard is also a serious factor. Several cases have been identified where customers have the ability to pay but are reluctant to fulfill their obligations due to weak commitment or exploiting legal loopholes. In the context of Islamic law, this falls under the category of *ta'thil al-huquq*, meaning unlawfully delaying or refusing to pay another person's dues (Zuhaili, 1989). This phenomenon underscores the importance of spiritual development and an understanding of the ethics of sharia transactions for each customer.

Furthermore, the public's lack of understanding of sharia contracts also triggers mismatched expectations. For example, customers may assume that a *murabahah* contract is the same as a conventional loan. Therefore, when business is not running smoothly, they may demand unilateral debt cancellation, even though the sale and purchase contract remains binding even after the goods have been delivered. This is where Sharia education is crucial in every contractual process.

Interviews with judges at the Medan Religious Court revealed that several Sharia financing cases that reached court arose from the lack of consensus between the bank and the customer in resolving the issue through deliberation. The judges concluded that most cases could be resolved early through mediation or arbitration if both parties demonstrated good faith and a sufficient understanding of the law.

From the various factors above, it can be concluded that problematic financing at BPRS Al Washliyah was not caused by a single factor, but rather by the accumulation of weaknesses in the managerial system, external conditions, and customer behavior. Therefore, the resolution strategy adopted cannot be partial but must be holistic: strengthening financing analysis, the supervisory system, the Sharia legal approach, and comprehensive customer education.

Settlement of Problematic Financing Carried Out by BPRS Al Washliyah through the Religious Court

In practice, the Al Washliyah Sharia Rural Financing Bank (BPRS) has two primary approaches to handling problematic financing: non-litigation resolution (such as mediation and restructuring) and litigation resolution through the Religious Court. When amicable or restructuring efforts are unsuccessful, BPRS Al Washliyah pursues legal action through lawsuits in the Religious Court, particularly in cases involving Sharia-based contracts such as Murabahah.

The Religious Court's authority to resolve Sharia financing disputes is clearly regulated in Law No. 3 of 2006, which amends Law No. 7 of 1989 concerning Religious Courts, and is reinforced by Law No. 21 of 2008 concerning Sharia Banking, specifically Article 55 paragraph (1), which states that disputes arising from the implementation of contracts based on Sharia principles are resolved by courts within the religious court system. This demonstrates strong legal legitimacy for BPRS Al Washliyah to bring cases to the Religious Court if a customer defaults. In practice, BPRS Al Washliyah files lawsuits with the Religious Court to obtain an executorial decision against customers who are in arrears and uncooperative. These lawsuits typically include a request to declare the customer in default and to have the collateral executed through auction. This is where the existence of a financing contract containing a collateral clause (rahn or mortgage) becomes crucial, as it serves as the legal basis for executing the execution of the customer's assets.

Based on interviews with the legal department of BPRS Al Washliyah, the majority of lawsuits filed with the Medan Religious Court relate to problematic murabahah contracts that have passed the restructuring period but have not been resolved by the customers. Some of the main reasons for the failure of non-litigation settlements include deliberate delays in fulfilling obligations, drastic changes in the customer's economic circumstances, and the customer's weak commitment to the principles of sharia contracts (Hasan, 2014).

In court, Religious Court judges use fatwas from the Indonesian Ulema Council (DSN MUI) and the doctrine of Islamic jurisprudence (fiqh muamalah) as sources of material law, in accordance with Article 26 of the Sharia Banking Law. This allows for a justice-based resolution approach, rather than merely a formal legal one. For example, in some cases, judges offer amicable options during the trial to

encourage voluntary settlements based on the spirit of *islah* (peace), as recommended in Surah Al-Hujurat, verse 10 (Departemen Agama, 2019).

It is important to note that the settlement mechanism in the Religious Courts has a deterrent effect on other troubled customers. The open trial process and the possibility of collateral enforcement make customers reconsider delaying payment obligations. For BPRS Al Washliyah, this is a means to maintain asset quality and reduce the Non-Performing Financing (NPF) ratio to maintain a healthy level in accordance with OJK and Bank Indonesia regulations (OJK, 2014).

However, resolving disputes through the Religious Courts is not without its challenges. The judicial process requires a long time, costs money, and requires professional legal personnel. Furthermore, the Islamic Rural Bank (BPRS), as a Sharia-compliant social financial institution, also faces limited resources. Therefore, litigation remains a last resort after persuasive and restructuring efforts have failed.

Therefore, the resolution of problematic financing through the Religious Courts by BPRS Al Washliyah is carried out selectively, based on the principles of justice, legal certainty, and efficiency. This mechanism demonstrates that Islamic financial institutions have a legitimate and effective formal legal route to guarantee their rights without compromising Islamic ethical values.

The Role and Authority of Religious Courts in Resolving Problematic Financing Disputes Based on the Principles of Islamic Law and Positive Law in Indonesia

Religious Courts have a highly strategic role and strong legal legitimacy in resolving problematic Islamic financing disputes in Indonesia, including cases involving BPRS (Sharia People's Financing Banks). This authority is not only based on positive Indonesian law but also has normative legitimacy from an Islamic legal perspective.

From a positive legal perspective, the authority of the Religious Courts is affirmed in Article 49, letter i, of Law No. 3 of 2006, which amends Law No. 7 of 1989 concerning Religious Courts. This mandates that Religious Courts have the authority to examine and rule on cases in the Islamic economic sector. Furthermore, Article 55, paragraph (1) of Law No. 21 of 2008 concerning Sharia Banking states that disputes between Islamic banks and customers are resolved by the Religious Courts. This means that, within the formal legal framework, the Religious Courts are the official and exclusive forum for resolving problematic Islamic financing.

In terms of its role, the Religious Court is not only a venue for dispute resolution but also serves as a guardian of the principles of Sharia justice. In examining cases, the panel of judges is required to refer to the fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) as a source of material law, as stipulated in Article 26 of Law No. 21 of 2008, which states that the DSN-MUI fatwa is the primary reference in resolving Sharia economic cases.

In practice, the Religious Court performs two primary roles. First, as a mediator (hakam), seeking a compromise between the bank and the customer. Second, as a law enforcer (qadhi), issuing firm decisions regarding defaults or breaches of contracts. The mechanism used is a trial with a formal and substantive evidentiary system, which allows judges to explore Islamic legal values (al-'adl, maslahah, sadd al-dzari'ah) in making their decisions (Anshori, 2009).

Furthermore, in financing contracts that include collateral (rahn), the Religious Court also has the authority to issue an execution decision against the collateral if the customer is proven to be in default. This execution is carried out in accordance with the provisions of Civil Procedure Law, while maintaining the spirit of Sharia justice and protecting the rights of parties acting in good faith (Mertokusumo, 2013).

From an Islamic legal perspective, a judge's authority in resolving disputes regarding transactions, including financing, is based on the principle of al-hukm bi al-'adl (ruling with justice). Imam Al-Mawardi, in his book *Al-Ahkam al-Sulthaniyyah*, states that a qadi (judge) is tasked with resolving disputes between individuals by guaranteeing rights and upholding justice. In this context, Religious Court judges act as sharia judges, acting not only legally but also morally and spiritually.

Furthermore, the litigation process in Religious Courts provides space for the application of the values of *islah* (peace), which are strongly recommended in the Quran. In Surah Al-Hujurat, verse 10, Allah SWT states: "Indeed, the believers are brothers; so reconcile between your two brothers who are in dispute and fear Allah, that you may receive mercy." This verse provides the ethical basis for Religious Court judges to prioritize deliberation and peaceful resolution before rendering their decisions.

However, in some cases, resolving disputes through the Religious Courts still faces challenges, such as lengthy judicial processes, inadequate financing documentation, and poor customer understanding of the legal consequences of Sharia contracts. Therefore, collaboration between Religious Courts, Islamic financial institutions, and public education is crucial for an effective dispute resolution system.

Therefore, it can be concluded that Religious Courts have constitutional authority and sharia legitimacy in resolving problematic financing disputes. They not only serve as state legal institutions but also as guardians of Islamic legal morality in Sharia economic practices.

4. CONCLUSION

Based on the research results and discussion, it can be concluded that problematic financing at BPRS Al Washliyah is a consequence of a complex interaction between internal and external factors, as well as customer behavior.

Internal factors include weaknesses in financing feasibility analysis, inaccurate collateral valuation, and a weak post-contract monitoring system. External factors include fluctuating macroeconomic conditions, declining purchasing power, and extraordinary events such as the pandemic, which impact customer repayment capacity. Furthermore, moral hazard and poor customer understanding of Sharia contract principles contribute to the worsening of non-performing financing (NPF) rates.

Disputes in problematic financing are resolved through two channels: non-litigation and litigation. Litigation through the Religious Courts is used as a last resort when mediation and restructuring are ineffective. Religious Courts have strong legal legitimacy based on Law Number 3 of 2006 and Law Number 21 of 2008, as well as based on fatwas from the National Sharia Council (DSN-MUI) and principles of Sharia justice. The integration of positive law and Islamic law in this process has proven effective in providing legal certainty, protecting the rights of the parties, and maintaining the quality of BPRS assets.

Conceptually, the Religious Court plays a role not only as a dispute arbitrator but also as a guardian of Islamic economic morality. However, the effectiveness of settlements is still hampered by the lengthy litigation process, obstacles to executing decisions, and low levels of Sharia legal literacy among the public. Therefore, synergy between BPRS, Religious Courts, the Financial Services Authority, and the public is needed to develop more efficient dispute resolution mechanisms, strengthen legal and transactional education for customers, and enhance the capacity of judges in the field of Sharia economics.

Therefore, this study not only confirms the strategic role of Religious Courts in resolving problem financing but also provides practical recommendations: (1) tightening financing feasibility analysis, (2) improving post-contract monitoring, (3) optimizing mediation as a pre-litigation stage, and (4) expanding Sharia legal literacy programs for micro-entrepreneurs. These steps are expected to reduce the NPF ratio and strengthen the sustainability of BPRS operations in accordance with the principles of justice and welfare in Islamic law.

References

- Abdul Ghofur Anshori. *Peradilan Agama di Indonesia*. Yogyakarta: UII Press, 2009.
- Abdul Manan. *Penerapan Hukum Acara Perdata di Lingkungan Peradilan Agama*. Jakarta: Kencana, 2020.
- Ali Hasan. *Fiqh Muamalah*. Jakarta: RajaGrafindo Persada, 2014.
- Al-Mawardi. *Al-Ahkam al-Sulthaniyyah*. Beirut: Dar al-Kutub al-'Ilmiyyah, 2000.
- Ascarya, dan Diana Yumanita. "Analisis Pembiayaan Bermasalah pada Bank Syariah." *Jurnal Ekonomi Islam* 7, no. 2 (2019): 101–120.
- Departemen Agama RI. *Al-Qur'an dan Terjemahannya*. Jakarta: Lajnah Pentashihan Mushaf Al-Qur'an, 2019.
- Djumhana, Muhammad. *Hukum Perbankan Indonesia*. Bandung: Citra Aditya

- Bakti, 2021.
- Fajar Nugraha. Efektivitas Putusan Pengadilan Agama dalam Penyelesaian Pembiayaan Murabahah Bermasalah pada BPRS XYZ. Skripsi. Fakultas Syariah dan Hukum, UIN Syarif Hidayatullah Jakarta, 2021.
- Fatwa DSN MUI No. 04/DSN-MUI/IV/2000 tentang Murabahah.
- Gunawan, Heri. "Efektivitas Penyelesaian Pembiayaan Bermasalah oleh Bank Syariah Melalui Pengadilan Agama." *Jurnal Hukum dan Ekonomi Syariah* 8, no. 1 (2020): 33–46.
- Hasan, Ali. *Fiqh Muamalah*. Jakarta: RajaGrafindo Persada, 2014.
- Kurniawan, Asep. "Upaya Penyelesaian Kredit Bermasalah pada Perbankan Syariah." *Jurnal Ekonomi dan Hukum* 12, no. 3 (2020): 147–158.
- Mahmud Marzuki, Peter. *Penelitian Hukum*. Jakarta: Kencana, 2017.
- Manan, Abdul. *Penerapan Hukum Acara Perdata di Lingkungan Peradilan Agama*. Jakarta: Kencana, 2020.
- Mertokusumo, Sudikno. *Hukum Acara Perdata Indonesia*. Yogyakarta: Liberty, 2013.
- Muhammad. *Manajemen Risiko Bank Syariah*. Jakarta: Kencana, 2018.
- Nugraha, Fajar. Efektivitas Putusan Pengadilan Agama dalam Penyelesaian Pembiayaan Murabahah Bermasalah pada BPRS XYZ. Skripsi. Fakultas Syariah dan Hukum, UIN Syarif Hidayatullah Jakarta, 2021.
- Otoritas Jasa Keuangan. *Peraturan OJK No. 16/POJK.03/2014 tentang Penilaian Kualitas Aset Produktif BPRS*.
- Rahmawati, Yuliana. "Kedudukan Akad Syariah dalam Penyelesaian Sengketa Pembiayaan di Pengadilan Agama." *Jurnal Hukum Ekonomi Syariah* 4, no. 2 (2023): 112–127.
- Soekanto, Soerjono, dan Sri Mamudji. *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Jakarta: Rajawali Press, 2014.
- Sri Wahyuni. *Analisis Yuridis terhadap Sengketa Pembiayaan Syariah di Pengadilan Agama*. Tesis. Universitas Islam Indonesia, 2022.
- Suwondo, Bambang. "Tantangan Penyelesaian Sengketa Syariah di Pengadilan Agama." *Jurnal Hukum Islam* 5, no. 1 (2022): 89–103.
- Undang-Undang Republik Indonesia Nomor 3 Tahun 2006 tentang Perubahan atas UU Nomor 7 Tahun 1989 tentang Peradilan Agama.
- Undang-Undang Republik Indonesia Nomor 21 Tahun 2008 tentang Perbankan Syariah.
- Wahbah al-Zuhaili. *Al-Fiqh al-Islami wa Adillatuh*, Jilid V. Damaskus: Dar al-Fikr, 1989.
- Wahbah az-Zuhaili. *Fiqh Islam wa Adillatuhu*, Jilid IV. Beirut: Dar al-Fikr, 1997.
- Wawancara dengan Bagian Hukum dan Kepatuhan BPRS Al Washliyah, Medan, 22 Juli 2025.
- Wawancara dengan Bagian Pembiayaan BPRS Al Washliyah, Juni 2025.
- Wawancara dengan Hakim Pengadilan Agama Medan, Juli 2025.

Wawancara dengan Kepala Bagian Pembiayaan BPRS Al Washliyah, Medan, 17 Juli 2025.

Zainuddin Ali. Hukum Perbankan Syariah. Jakarta: Sinar Grafika, 2020.