THE AUTHORITY OF THE RELIGIOUS COURTS IN THE SETTLEMENT OF SHARIA BANKING DISPUTES (ANALYSIS OF DECISION OF PA MATARAM NUMBER 0508 / PDT.G / 016 / PA.MTR CONCERNING ACTS AGAINST THE LAW)

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Abstract: The purpose of this study is to know and analyze why the Religious Courts in resolving the dispute Sharia Banking based on cases contained in the Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR about Acts Against the Law. The benefits of this study consist of theoretical benefits and practical benefits. The research method used is normative research. Based on the results of existing research then after the author analyzes the authority of the Religious Courts in the Settlement of Sharia Banking Disputes based on cases contained in the Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR concerning Acts Against the Law is a dispute between Mr. Suharyono (customer) with BRI Sharia. In Law no. (2) In the event that parties have agreed, dispute resolution other than as meant in paragraph (1), dispute settlement done in accordance with the contents of the Agreement. Based on the above, if referring to Law no. 3 of 2006 on Religious Courts, the Religious Courts have absolute and absolute authority in the dispute over Islamic economic case.

Keywords: settlement of disputes, religious courts, sharia banking

I. INTRODUCTION
1.1 Background

The Religious Courts are one of the four courts of law mentioned above where the existence is further stipulated in Law Number 14 Year 1970 on the Principles of Judicial Power and which have been replaced by Law Number 4 Year 2004 on Judicial Power and which last replaced by Law No. 48 of 2009 on Judicial Power, the Act is a law that is organic, so that the need for implementing regulations.¹

¹ Listyo Budi Santoso, Kewenangan Pengadilan Agama Dalam Menyelesaikan Sengketa Ekonomi Syari’ah (Berdasarkan Undang-Undang Nomor 3 Tahun 2006), Program Studi Magister Kenotariatan Universitas Diponegoro Semarang, 2009.
Religious Courts as a judicial environment under the Supreme Court, based on Law Number 50 Year 2009 on the Second Amendment to Law Number 7 Year 1989 on Religious Courts Article 1 point (1) that the Religious Courts are justice for people who are Muslims.

While the authority of the Religious Courts in Law No. 3 of 2006 concerning Amendment to Law No. 7 of 1989 concerning Religious Courts Article 49, that the Religious Courts are on duty and authorized to examine, decide upon, and resolve cases in the first instance between persons Muslims in the field of marriage, inheritance, will, grant, endowment, zakat, infaq, shadaqah; and sharia economy. Sharia Economics is defined by: "Acts or business activities carried out according to Sharia principles." The authority includes:

a. Sharia Bank;
b. Sharia Micro Finance Institution;
c. Sharia Insurance;
d. Reinsurance of Sharia;
e. Sharia Mutual Funds;
f. Sharia Bonds and Sharia Medium Term Notes;
g. Sharia Securities;
h. Sharia Financing;
i. Sharia Pawn Shop;
j. Pension Fund of Sharia Financial Institution; and
k. Sharia Business.

Normatively and empirically juridical, the Sharia Bank is recognized in the state of the Republic of Indonesia. Normative juridical recognition is recorded in Indonesian legislation. In addition, empirical juridical recognition can be seen in sharia banking is growing and developing in general across the provincial and district capitals in Indonesia, even some conventional banks and other financial institutions open a sharia business unit (sharia banks, Takaful, sharia pawnshops, and the like).  

Aspects of dispute settlement in financial transactions on sharia banking are important. This is because in every business relationship there is inevitably a dispute between parties that start with a sense of dissatisfaction of one party or due to the occurrence of default from either party.  

On Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR. the case of the Sharia (Islamic Banking) Disputes between Plaintiffs (BRI Bank Customer Tuan Suharyono) and the Defendant (PT Bank BRI Syariah Branch Mataram). Sitting the case is Plaintiff was visited by the Defendant named Rudy Andiprayoto (employee of PT Bank BRI Syariah Branch Mataram) offered credit with profit sharing system, originally Plaintiff refused because Plaintiff still has credit to Bank BCA Branch Mataram and Bank Danamon Branch Mataram which still

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2 Ridha Eka Rahayu, Kewenangan Pengadilan Agama, https://ridhamujahidahulumuddin.wordpress.com. accessed on December 7, 2017. at 11.05 WITA.
3 Rachmadi Usman, Aspek Hukum Perbankan Syariah Di Indonesia, SinarGrafika, Cetakan Kedua, Jakarta, 2014, p. 44.
not paid, but because the Defendant often came to the Plaintiff and said he would settle the
Plaintiff's credit at Bank BCA of Mataram Branch and Bank Danamon of Mataram Branch,
provided that Plaintiff takes credit to the Defendant on a profit sharing system and there is no
interest. Having been promised the same thing, the Plaintiff finally accepted the offer. After
some time the Plaintiff was summoned by the Defendant to sign the financing contract of
Murabahah Number 51, and Murabahah financing agreement Number 54. After some time the
Plaintiff suffered an accident because it had been robbed, then the Plaintiff in good faith came to
the Bank BRI Branch Office of Mataram to request restructuring of payment relief on both
Murabaha contracts. However, those approved for restructuring by Defendant only Murabaha
Number 54, with the agreement of Addendum Number 103, dated 29 December 2009 by
changing the Murabahah contract into Musyarakah contract.

In such cases, the Plaintiff won the award because one of the reasons for the judge's
consideration in the case was the existence of a Defendant against the Law (PMH) committed by
the Defendant against the Plaintiff. Whereas in the financing contract Article 19 the parties agree
that the competent dispute resolution body is the National Sharia Arbitration Board
(BASYARNAS) as follows:

a. All disputes and disagreements arising in understanding / interpreting parts of the content or
   in executing this Agreement, the FIRST PARTY and SECOND PARTY shall endeavor to
   settle consensus and consensus;
b. If the settlement of disagreements or disputes through deliberations to consensus does not
   result in a decision agreed upon by the parties agreeing and agreeing to designate and
   authorize and authorize the National Sharia Arbitration Board (Basyarnas);

In Law Number 21 Year 2008 regarding Islamic Banking Article 55, states that:
1) Settlement of Sharia Banking disputes is conducted by the courts within the Religious
   Courts.
2) In the event that the parties have agreed, dispute resolution other than as intended in
   paragraph (1), dispute settlement shall be conducted in accordance with the contents of the
   Agreement.
3) The settlement of disputes as referred to in paragraph (2) shall not be contrary to Sharia
   Principles.

Based on the description, the authors want to examine and analyze relating to the
authority of the Religious Courts in the Settlement of Sharia Banking Disputes (Analysis of
Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR).

II. THEORETICAL FRAMEWORK
2.1 Theoretical basis
2.1.1 Authority Theory

The word authority comes from the word "arbitrary" which is defined as the authority,
right and power that belong to do something. Authority is what is called formal power, power
derived from legislative power (given by law) or from administrative executive power.

Theory of authority is used to analyze the first problem that is about Why the Religious Courts resolve the dispute of Sharia Banking based on cases in which there is Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR about Unlawful Acts.

2.1.2 Dispute resolution theory

The term dispute settlement theory is derived from the English translation of dispute settlement of theory, the Dutch language of theorie van de beslechting van geschillen, while in German it is called theorie der streitbeilegung. Dispute resolution theory is a theory that examines and analyzes the categories or classification of disputes or disputes that arise in society, the causes of disputes and the ways or strategies used to end the dispute.7

The theory of dispute settlement is used to analyze the first problem that is why the Religious Court solve the dispute of Sharia Banking based on the case that there is Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR concerning Action Against Law.

2.1.3 The Theory of Legal Certainty

According to Apeldoorn, his legal certainty has two aspects:8

a. Regarding the matter can be determined (bepaalbaarheid) law in concrete money matters. This means that the parties seeking justice want to know what the law is in a special case, before he started the case.

b. Legal certainty means legal security. This means protection for the parties to the abuse of judges.

This theory of legal certainty is used to analyze the second problem of What is the Law Effects of the Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR about the Acts Against the Law.

2.2 Conceptual Base

2.2.1 The concept of the Religious Courts

The 1945 Constitution of the State of the Republic of Indonesia determines Article 24 paragraph (2), that the Religious Courts are one of the judiciary judicial justice bodies under the Supreme Court along with other judicial bodies within the general courts, State Administrative Courts and Military Courts. Religious courts are one of the judicial bodies of the judicial authorities to organize law enforcement and justice for the justice seekers in certain matters among people who are Muslim in the field of marriage, inheritance, will, grant, wakaf, aqad, infaq, shadaqah, and economy sharia.9

2.2.2 Concepts of Sharia Banking

According to Law Number 21 Year 2008 concerning Sharia Banking, Sharia Banking is anything that concerns sharia bank and sharia business unit, covering institution, business

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7 Ibid, p. 137.
8 Ibid.
activity, and way and process in conducting its business activity. While Sharia Bank is a bank that runs its business activities based on sharia principles and according to its type consist of Sharia Commercial Bank and Sharia Rural Bank."

2.2.3 Dispute resolution

Completion is a process, action, how to complete. Resolving is defined as making it easy, making it end, clearing or deciding, organizing, reconciling (disputes or arguments), or arranging things to be good.\(^\text{10}\)

According to Dean G. Pruitt and Jeffry Z. Rubin argued the definition of dispute is,\(^\text{11}\) "Perceptions of perceived divergent of interest or a belief that the aspirations of the disputants are not achieved simultaneously".

2.2.4 Act against the law

Unlawful acts are acts that violate the subjective rights of others or are contrary to the legal obligations of the author himself as provided for in law. In Article 1365 the Civil Code contains the following provisions:

"Any proceedings against the law which thereby cause harm to others, require a person who, by his guilt, causes the loss to compensate him for his loss."

III. METHOD

The type of research used in this study is the type of research Normative. which is a study conducted by examining court decisions or legal norms in legislation and other sources of reference related to the Authority of the Religious Courts in the Settlement of Sharia Banking Disputes (Analysis of Decision of PA Mataram Number 0508 / PDT.G / 016 / PA. MTR) on Unlawful Acts.

To examine the problems in this study used techniques or approaches, as follows Statutory Approach, Conceptual Approach, Case Approach.\(^\text{12}\)

IV. RESULT AND DISCUSSION

4.1 The jurisdiction of religious courts in resolving the dispute of sharia banking based on positive law in Indonesia

4.1.1 Religious courts

a. History of Religious Courts

In the early independence of the Republic of Indonesia the Religious Courts were still guided by the laws of the Dutch Colonial Government based on Article II of the Transitional Rules of the 1945 Constitution which reads:\(^\text{13}\)

\(^\text{10}\) Departemen Pendidikan dan Kebudayaan, Kamus Besar Bahasa Indonesia, Balai Pustaka, Jakarta, 1989, p. 801.
\(^\text{12}\) Peter Mahmud Marzuki, Penelitian Hukum, Kencana Prenada Media Group, Jakarta, 2011, p. 93.
\(^\text{13}\) Abdullah Tri Wahyudi, Op Cit, p. 13
"All State bodies and regulations that are still directly applicable as long as the new one has not been implemented according to this Constitution."

In 1948 the Government of Indonesia issued a regulation on Religious Courts namely Law Number 1948 on the Composition and Authority of Judicial Bodies and Attorney. Based on this law Judicial power in Indonesia is carried out by three courts of justice, namely:

1) General Court;
2) Government Administrative Court;
3) The army trial.

Law Number 48 Year 1948 has never been enacted as a law because this law is valid after the determination of the Minister of Justice while the Minister of Justice has never made the enactment of the law.\(^{14}\)

The setting of the Religious Courts back to the original arrangements as set forth in Article II of the Transitional Rules, namely Staatsblad Year 1882 Number 152 jo. Staatsblad Year 1970 Number 116 and 610 which applies to Religious Courts in Java and Madura.

In 1951 the Government of the Republic of Indonesia issued Emergency Law No. 1 of 1951 on Provisional Measures to Conduct Unity of Structure, Power and Events to the Civil Court. Based on this Regulation, Religious Courts are regulated separately by Government Regulation. To implement the contents of Emergency Law Number 1 Year 1951 stipulated Government Regulation Number 22 Year 1957 concerning Establishment of Sharia Court / Court for Aceh Region but this regulation is revoked because it cannot provide settlement for other regions and replaced by Government Regulation Number 45 Year 157 on the Establishment of Religious Courts / Sharia Courts in areas outside Java and Madura.\(^{15}\)

In 1970 it has been enacted and enacted Law Number 14 Year 1970 on the Basic Provisions of Judicial Power. Pursuant to Article 10 paragraph (1) of the Religious Courts is one of the judicial environment that exercises judicial powers in Indonesia in addition to other courts. The Religious Courts have equal and equal position with other courts.\(^{16}\)


In 1989 it was only realized what would be the intention of Law Number 14 Year 1970 regarding the regulation which regulate the Religious Court with the enactment of Law Number 7 Year 1989 on Religious Courts. So that this Law restores the position of Religious Court to its original position as an executor of the judicial power which is independent and parallel with other judiciary. The Religious Courts are no longer dependent on the General Courts.

In Article 49 of Law Number 7 Year 1989 states there are six competencies of religious courts, namely marriage, inheritance, grants, wills, \textit{wagaf}, and \textit{zaqad}. Such powers include the arbitrary authority such as divorce. The powers set forth in this Section 49 are then further elaborated into 22 kinds.\(^{17}\) Article 49 paragraph (1) reads:

\(^{14}\)Ibid. p. 14
\(^{15}\)Ibid. p. 15.
\(^{16}\)Ibid. p. 16.
\(^{17}\)Bagir Manan in Sufiarina and Yusrial, \textit{Loc.Cit}, p. 63
"The Religious Courts shall have the duty and authority to examine and settle matters in the first instance between Muslims in the field of marriage, inheritance, wills and grants made under Islamic law, wakaf and shadaqah."

The birth of Law No. 3 of 2006 has brought great changes to the competence of religious courts. In Law Number 3 Year 0066 the competence of religious courts is expanded by including, among others, sharia economy as one of its competence areas. Law Number 3 Year 2006 explicitly states that Islamic economics has become the absolute competence of Religious court.

Religious courts not only resolve disputes in the areas of marriage, inheritance, wills, grants, endowments, and shadaqah, but also have the authority to handle the appointment of children, zaqad disputes, infaq, and other property and civic disputes among fellow Muslims, as well as sharia economics.

b. The purpose of Religious Judicature law

The objective of Law Number 7 Year 1989 on Religious Courts which has been amended by Law Number 3 Year 2006 and Law Number 50 Year 2009 are as follows: 18

1) Reinforce the position and authority of religious courts as the executor of judicial power.
3) Realizing the uniformity of court powers within the religious courts of Indonesia
4) Aligning the religious court with other courts.

c. The authority of the Religious Courts

The authority or competence of the judiciary in relation to the procedural law concerns two things, namely "Relative Competence" and "Absolute Competence".

The domain of the relative competence of the judicial environment is governed by the underlying laws. For religious court based on Law Number 7 Year 1989 concerning Religious Courts which has been amended by Law Number 3 Year 2006 and Law Number 50 Year 2009 Article 4 paragraph (1) reads:

"Religious Courts are domiciled in the district / city capitals and their jurisdictions cover the districts / municipalities."

In the Elucidation of Article 4 paragraph (1) reads:

"Basically, the place of the Religious Court is in the capital, but there is no possibility of exceptions."

The provisions of Article 4 paragraph (1) relate to the relative competence. Relative competence is defined as the power of the courts by region or jurisdiction in the same court environment of the type and level. Each religious court has a particular legal area as an exception, perhaps more or less."

Regarding absolute competence, the setting of absolute authority is found in Article 2 and Article 9 until Article 53 of the Religious Judicature Law.

Section 2:

"Religious Judiciary is one of the judicial authorities for the people of Islamic justice seekers on certain matters as referred to in this law."

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Article 9 of the Religious Judicature Law determines the absolute authority of religious courts in more detail which states:
"The Religious Courts are on duty and authorized to examine, decide, and resolve first-level cases among Muslims in the areas of: a) marriage; b) inheritance; c) testament; d) grants; e) waqf; f) zaqad; g) infaq; h) shadaqah; and i) sharia economy."

d. General Principles of Religious Courts

From all articles in Law Number 7 Year 1989 concerning Religious Courts that have been amended by Law Number 3 Year 2006 and Law Number 50 Year 2009 can be found the principles applicable to the court within the Religious Courts as follows:¹⁹

1) The principle of Islamic personality
2) The principle of examination in two levels
3) The principle of authority to try a particular case
4) The principle of authority to adjudicate does not include property rights disputes.
5) The principle of judges is waiting (Nemo Yudex Sine Actore)
6) The principle of the obligation to examine cases brought to court.
7) Judicial principle is simple, fast, and low cost
8) The principle of judgment according to law and equality of rights
9) The principle of providing assistance.
10) The trial principle is open to the public
11) The Judicial Ruling Principle Should Include Considerations
12) Principle of Compulsory Justice
13) The Principle of Late Must With Cost

The other principles applicable in the general court environment that apply also in the Religious Courts are as follows:

1) Principle of Judge's Freedom
2) Judge Principle is Passive
3) The Principle of Lit No Must Be Represented
4) The Principle Must Listen Both Parties
5) The Lawyer Principle Can Oral And Written
6) The Principle of Ne Bis In Idem
7) Principle of the Assembly of the Assembly

In addition to the above principles there are also principles of Procedural Law of Religious Court in the Settlement of Islamic Case is as follows:²⁰

1) The Godhead
2) The Principle of Islamic Personality and Self-Submission
3) The principle of Freedom
4) A Waiting Principle
5) Judge Principle is Passive
6) Open General Assembly

¹⁹Abdullah Tri Wahyudi, Op.Cit, p. 27.
²⁰Ahmad Mujahidin, Prosedur Penyelesaian Sengketa Ekonomi Syariah di Indonesia, Ghalia Indonesia, Jakarta, 2010, p. 30
7) Equality Principle (Listening to Both Parties)
8) Decidendi Ratio Principle (Verdict Must Be Accompanied)
9) Case Cost Principle
10) The Flexibility Principle
11) Legality Principle
12) The principle of peace.
13) Active Principles Provide Help
14) The Inter Partes and / or Erga Omnes Principles

4.1.2 Sharia Banking

a. History of Sharia Banking

The position of Muslims as Indonesia's largest population greatly affects the development of sharia banking. Basically the teachings of Islam that forbid usury 'or interest is a fundamental rule that must be followed by his people.

The first establishment of a sharia bank in Indonesia is the signing of the Deed of Establishment of Bank Muamalat on November 1, 1991 which was officially operated on May 1, 1992.

Legalization of the banking system by using the profit sharing principle begins with the issuance of Law Number 7 of 1992 concerning Banking with the imposition of Article 13 letter c which explains that one of the Bank Perkreditan Rakyat (BPR) businesses provides financing for customers based on the profit sharing principle.

The basic use of sharia principles in banking operations as a whole is only legalized at the time of the issuance of Law Number 10 of 1998 concerning Amendment to Act Number 7 of 1992 concerning Banking. With the enactment of Law Number 10 Year 1998, officially recognized the existence of dual banking system (dual banking system), that is conventional banking system and sharia banking system.

The existence of sharia banking is strengthened by the issuance of Law Number 21 Year 2008 regarding Sharia Banking (UUPS). With this law, constitutionally the legal system of banking in Indonesia has opened the widest opportunity to establish and develop banks that use the name and implement system of business activities based on the contracts or agreements contained in the provisions of sharia.

b. Definition, Principles, Objectives, Functions and Characteristics of Sharia Banking

Based on Law Number 21 Year 2008 Article 1 number (7) is a bank conducting business activities based on sharia principles, and according to its type consisting of Sharia Commercial Bank and Sharia Rural Bank. While Sharia Banking according to Law Number 21 Year 2008 Article 1 number (1) is anything concerning Sharia Bank and Sharia Business Unit, covering institution, business activity, and manner and process in conducting its business activity.

In carrying out its activities the Islamic bank embraces the following principles:

1) Principles of Justice
2) The principle of equality

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3) The principle of tranquility

The purpose of Sharia Banking is stipulated in Law Number 21 Year 2008 regarding Sharia Banking Article 3 which states as follows:  
"Syariah banking aims to support the implementation of national development in order to improve justice, togetherness and equity of people's welfare".

The function of sharia banking is regulated in Law Number 21 Year 2008 concerning Sharia Banking Article 4 paragraph (1) stating that:
"Islamic banks and UUS must perform the function of collecting and channeling public funds." Characteristics of Islamic banks, among others, are:

a) violation of usury in various forms;
b) not knowing the concept of time of money;
c) the concept of money as a non-commodity exchange medium;
d) shall not be allowed to engage in speculative activities;
e) it is not permissible to use two prices for one good;

c. Products of Sharia Banking

Sharia Banking Products can be presented as follows:

1) Fund Raising Products
Similar to conventional banking products, Islamic banking products in the field of fundraising are referred to as savings, in the form of demand deposits, deposits, certificates of deposit, savings and or other similar forms.

2) Fund Distribution Products
As an intermediary institution, sharia banks disburse these funds in the form of financing (financing). The financing shall consist of the following:

a) Financing based on the Sale and Purchase Agreement, consisting of Murabahah Financing, Salam Financing, and Istishna Financing.
b) Financing based on a Lease-Rent Agreement, Ijarah and Ijarah Muntahiyah bit Tamlik.
c) Financing under the Production Sharing Agreement, which is Mudarabah Financing and Musyarakah Financing.
d) Financing based on the Loan-Borrowing Agreement, which is Qardh Financing.

3) Products Services

e) Letter of Credit (L / C) of Sharia Import
f) Bank Guarantee Sharia
g) Transfer and collection
h) Pawn of Sharia (Rahn).
i) Sharia Charge Card
j) Exchange of Foreign Exchange (Sharf)
k) Multi-service financing

25 Neneng Nurhasanah dan Panji Adam, Loc. Cit. p. 47
4.2 The Authority of Religious Courts in Settling the Disputes of Sharia Banking Based on Cases Available in the Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR About Unlawful Acts

4.2.1 Identity of the Parties

The Religious Courts of Mataram, have examined and prosecuted at the first level of the Sharia Economic dispute case and have passed the following verdict, in the case between:

a. SUHARYONO, Male, age 50, religion Islam, Occupation of Self-employed, residence in Komodo Street No. 4, BTN Gunungsari, Gunungsari Sub-District, West Lombok Regency; In this case he is represented by his Attorney; ILHAM, SH., Advocate & Attorney at "Law Office ILHAM, SH" office, having his / her address at Jalan Batu Bolong-Pagutan, Aura Mutiara Housing, Aura III-Kav. 7, West Pagutan Village - Mataram City, based on Special Power of Attorney dated 01 October 2016, registered in the Registrar's Office of Religious Court dated 05 October with Number W22.A1 / 0203 / HK.05 / X / 2016, as Plaintiff; Against

b. PT. Bank BRI Syariah, cq. PT. Bank BRI Syariah Branch Office of Mataram, having its address at Jalan Pejanggik Number 103 Cakranegara, Mataram City, West Nusa Tenggara, in this case represented by Reni Suciati, Amirin and Lalu Ahmad Rozikin; They are Employees of Bank BRI Syariah Branch Office of Mataram, as authorized by PT Bank BRI Syariah based on letter SUBSTITUTION RESPONSE No. R.134 / KC-MTM / PINCA / 11/2016, dated November 8, 2016, registered in the Registrar Religious Court of Mataram dated 29 November 2016 with Number W22.A1 / 0248 / XI / 2016, as Defendant;

4.2.2 Case Position

Based on the cases contained in the Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR About the Law Against Act between Plaintiffs namely Mr. Suharyono as bank customer and Defendant namely PT. tbk Bank Rakyat Indonesia Syariah (BRI Syariah), where the site is sitting as follows:

Whereas the Plaintiff with his letter dated October 5, 2016 has filed a lawsuit filed as a case at the Registrar's Office of the Religious Court of Mataram, dated 05 October 2016 under Number 0508 / Pdt.G / 2016 / PA.Mtr., Later furnished with his statements before the court, essentially postulates the following matters;

1) Whereas at first the Plaintiff was approached by a person named Rudy Andiprayoto who is none other than the Defendant's employee, offering credit with a profit sharing system; Originally the Plaintiff refused because the Plaintiff still has credit to BCA Bank Branch of Mataram and Bank Danamon of Mataram Branch which is still not paid off;

2) Whereas due to the frequency of the Defendant's employees the a quo went to the Plaintiff and said that the Plaintiff's credit to BCA Bank of Mataram Branch and Bank Danamon of Mataram Branch shall be settled by the Defendant, provided that the Plaintiff takes credit to the Defendant on a profit-sharing system and there is no interest;
3) Whereas after the Plaintiff considers the credit to the Defendant is a profit-sharing system, the Plaintiff agrees to take credit to the Defendant provided that a minimum period of 10 years is given; And that condition is accepted by the Defendant's employees;

4) Plaintiff was summoned by the Defendant to arrive at the Defendant's office. Upon receipt of the Plaintiff at the Defendant's office, the Plaintiff was invited by the Defendant's employees to come to Bank BCA of Mataram Branch and Bank Danamon of Mataram Branch to repay the unsolved Plaintiff's loan;

5) Whereas after the Defendant has settled the Plaintiff's two credits, 4 (four) land certificates belonging to the Plaintiff which originally served as collateral to Bank BCA of Mataram Branch and Bank Danamon of Mataram Branch are taken and controlled by the Defendant;

6) Whereas for a long time, the Plaintiff was requested by the Defendant's employees to come to the Defendant's office to sign the Murabahah financing contract; Prior to signing the Murabahah financing agreement, the Defendant's employee submitted the Letter of Financing to the Plaintiff, it turned out that the provision of ten-year credit term (120 months) was only for financing of Rp. 400,000,000, - (four hundred million rupiah), while the financing of Rp. 350,000,000, - (three hundred fifty million rupiah) is only given 3 (36 months), so the Plaintiff refused directly;

7) That since the Plaintiff feels that there is no other option, because if the Plaintiff does not agree / sign the Murabahah financing contract, the Plaintiff must return the Defendant's cash used to settle the Plaintiff's loan at Bank BCA and Bank Danamon, the Plaintiff sign 2 (two) financing contracts, namely:
   a) Akad Pembiayaan Murabahah Number 51, dated August 12, 2009, drawn up before Notary Indah Purwani, SH. Rp. 400.000.000, - (four hundred million rupiah) for a period of 120 months,
   b) Murabahah Financing Agreement Number 54 dated August 12, 2009, drawn up before Notary Indah Purwani, SH. Rp. 350.000.000, - (three hundred and fifty million rupiah), period of 36 months,

8) Whereas from both Murabahah Akad the total financing given by the Defendant to the Plaintiff is Rp. 750.000.000, - (seven hundred fifty million rupiah) to be 1,220,379,000 (one billion two hundred twenty million three hundred million seventy nine thousand rupiah),

9) Whereas initially the Plaintiff's business is running well, so the Plaintiff can pay the installments smoothly and time-lapse; However, in November 2009 the Plaintiff received a disaster, the Plaintiff's attempt was broken into the group and all the Plaintiffs' merchandise was exhausted without any remaining goods in the Plaintiff's business premises;

10) Whereas in respect of the disaster, the Plaintiff has reported to the Police and in good faith, the Plaintiff also came to the Defendant to inform the accident as well as to request the relief of the payment or to request restructuring of the two Murabahah financing contracts;

11) Whereas initially, the Defendant promised to approve the restructuring request from the Plaintiff, but in the end only 1 (one) financing contract approved for restructuring, namely Akad Murabahah number 54, with the agreement of Addendum Number 133, dated December 29, 2009, by changing Akad Murabahah
become Musyarakah Agreement with the deadline of the Defendant's capital return of Rp. 326,947,676, - (Three hundred twenty six million nine hundred forty seven thousand six hundred seventy six rupiahs) for 5 years, which ends in August 2014;

12) Whereas with the Musyarakah Agreement the Plaintiff shall return the Defendant's capital / repay the installment en 5 (five) stages, namely:
   a) First Year (I) of Rp. 30,000,000 for the principal installment;
   b) Second Year (II) of Rp. 30,000,000 for the principal installment;
   c) Third Year (III) of Rp. 60,000,000 for the principal installment;
   d) Fourth Year (IV) of Rp. 100,000,000, - for principal installment.
   e) Fifth Year (V) of Rp. 106,947,676, - for principal installments

13) Whereas the Plaintiff, while still feeling heavy and non-related to the restructuring, the Plaintiff remains in good standing to be able to repay the Defendant, but in fact the Plaintiff is not able to repay; On December 6, 2012, the Plaintiff requested the Defendant to sell the plaintiff's land to settle the Plaintiff's claim to the Defendant, as well as the Plaintiff's assigned land certificate of the Plaintiff (SHM) Number 2548 on behalf of SUHARYONO; Area + 450 M2 or 4.5 (four and a half) are, located at Lokok Rangan, Desa Kayangan, Kecamatan Kayangan, Kab. North Lombok, West Nusa Tenggara Province; Hereinafter referred to as OBJECT SENGKETA V;

14) Whereas after the Plaintiff handed over the Object of Dispute V (original SHM Number 2548) to the Defendant, the Plaintiff never received any news from the Defendant in relation to the sale of the V Dispute Object;

15) Whereas after the Defendant received the original SHM No. 2548 never again came to give any information to the Plaintiff, so that the Plaintiff thought that the land as referred to in SHM Number 2548 (Object Dispute V) has been sold and the proceeds of the sale have been used to pay off Murabahah financing and Musharaka. Therefore the Plaintiff began to focus on starting the business again and Alhamdulillah now the Plaintiff's business has started running;

16) On April 4, 2014, the Plaintiff was shocked and shocked by a letter from Defendant B.509-KC-MTM / ADP / 04/2014 regarding the Auction of Execution Auction of 4 (four) disputed objects guaranteed on the Murabahah financing contract Plaintiffs;

Based on the Plaintiff's claim above, the Defendant objected to the lawsuit and submitted an exception:

4.2.3 Absolute Exception:

1) Whereas Article 55 of Law Number 21 Year 2008 concerning Sharia Banking which in essence states that the dispute relating to Sharia Banking is submitted to Religious Court unless specified otherwise in the contract. As for the dispute with the sharia banking has been tested by the Constitutional Court Case Number 93 / PUU-X / 2012 which examines the Elucidation of Article 55 Paragraph (2) of Law Number 21 of 2008 concerning Sharia Banking;

2) Whereas the Defendant is a Sharia Banking institution conducting banking business based on sharia principles based on Law Number 21 of 2008 concerning Sharia Banking so that Defendant is subject to the provisions of Article 55 of Law Number 21 of 2008 concerning Sharia Banking as a more specific provision regulating on sharia banking;
3) Whereas the Defendant has made a binding with the Plaintiff based on:
   a) Murabahah Financing Agreement Number 51, dated August 12, 2009 made before Notary Indah Purwani, S.H.;
   b) Murabahah Financing Agreement Number 54 dated August 12, 2009 made before Notary Indah Purwani, SH and subsequently converted into Musyarakah based on Deed of Addendum Number 133 dated December 29, 2009 Notary Indah Purwani, SH.

(Hereinafter referred to as "Financing Agreement")

4) Whereas pursuant to the Financing Agreement in Article 19 the Parties agree that the competent dispute resolution body is the National Sharia Arbitration Board (BASYARNAS) as follows:

Article 19 Financing Agreement

a) All disputes and disagreements arising in understanding / interpreting parts of the content or in executing this Agreement, the FIRST PARTY and SECOND PARTY shall endeavor to settle consensus and consensus;
   b) Where the attempt to settle disagreements or disputes through deliberations to consensus does not result in a decision agreed upon by the parties agreeing and agreeing to designate and authorize and authorize the National Sharia Arbitration Board (Basyarnas);

5) Whereas the choice of law for the settlement of agreed disputes has been regulated in the provisions of applicable legislation whereby if the parties have determined the choice of law for dispute resolution to arbitration, the Court is not authorized to adjudicate the aquo case as follows:

Law Number 48 of 2009 on Judicial Power Article 59;

a) Arbitration is a means of settling a civil dispute outside the court based on an arbitration agreement made in writing by the parties to the dispute;
   b) The award of the arbitration shall be final and has a permanent legal force and binding on the parties;
   c) In the event that the parties do not implement the arbitral award voluntarily, the decision shall be made by order of the chief of the district court at the request of one of the parties to the dispute.

Elucidation of Article 59 Paragraph (1); Law No. 48 of 2009 on Judicial Power explains: "Arbitration" in this provision shall include arbitration of sharia.

Therefore, based on the foregoing reasons, the Defendant believes that the Religious Court of Mataram is not authorized to adjudicate the aquo case and therefore the Defendant requests an opportunity to prove the Defendant's statement so that the Judge of the aquo case can make corrections or cancel the verdict;

4.2.4 Judge Considerations

a. About the Lawa

   Considering, that the purpose and objective of the Plaintiff's lawsuit is as described above;
Considering that prior to examining the subject of the dispute, in the first session the Assembly has advised both the Plaintiff and the Defendant to resolve their dispute in a peaceful and familial manner, but to no avail;

Considering whereas, in order to maximize peace efforts to the parties, in accordance with the provisions of PERMA Number 1 Year 2016 concerning Mediation, the Assembly has also ordered the Plaintiff and the Defendant to resolve their dispute through mediation, since Mediation is a peaceful, effective and effective means of dispute resolution open wider access to the parties to obtain a satisfactory and fair solution; However, based on the Mediator's report dated 01 December 2016, it was stated that the parties failed to reach agreement and peace;

Considering whereas in the hearing has been read the Plaintiff’s lawsuit letters which the arguments are kept true and the Plaintiff remains firm in its lawsuit;

Considering that, in the Plaintiff’s lawsuit, the Defendant has delivered the answer which the Defendants objected to the Plaintiff's claim;

Considering whereas in the Defendant's reply, in addition to answering the principal issue of the case, the Defendant also submitted an exception or rebuttal;

Considering, that since the Defendant filed an exception, based on the provisions of Articles 160 and 161 RBg. before the Assembly considers and decide upon the principal issue of the case, it is necessary first to consider the Defendant's exception;

Considering that the Defendant's exception essentially consists of two reasons, namely;

1) Absolute Exception (Exceptie Van Onbevoegheid), on the grounds that the Religious Court of Mataram is not authorized to examine and adjudicate this lawsuit, since between the Plaintiff and Defendant there has been an arbitration clause that if there is a dispute between the Plaintiff and the Defendant then the parties agree to settle the dispute through BASYARNAS, and;

2) The Exception that the Plaintiff's lawsuit is obscure (Exceptions Obscuurlibels) on the grounds that the Plaintiff's lawsuit is confusing between a breach of claim and a lawsuit against the law;

V. CONCLUSION

Based on the above discussion, it can be concluded that in the authority of the Religious Courts in the Settlement of Sharia Banking Disputes based on cases contained in the Decision of PA Mataram Number 0508 / PDT.G / 016 / PA.MTR concerning Acts Against the Law is a dispute between Mr. Suharyono (customer) with BRI Syariah. In Law no. (2) In the event that parties have agreed, dispute resolution other than as meant in paragraph (1), dispute settlement done in accordance with the contents of the Agreement. Based on the above, if referring to Law no. 3 of 2006 on Religious Peradlan, the Religious Courts have absolute and absolute authority in dispute over syariah economic case coupled with the Decision of the Constitutional Court of Case Number 93 / PUU-X / 2012 which examines the Elucidation of Article 55 Paragraph (2) of Law Number 21 2008 concerning Sharia Banking.
REFERENCES