



ISSN 2827-8151 (Online)

**SRAWUNG: Journal of Social Sciences and Humanities**

<https://journal.ifpublisher.com/index.php/jssh>

Vol. 4, Issue 2, (2025)

[doi.org/10.56943/jssh.v4i2.764](https://doi.org/10.56943/jssh.v4i2.764)

## **Debt Characteristics in Financing Based on Profit Sharing Principles in Sharia Banks**

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### **ABSTRACT**

*One of the fundamental principles underlying financing in sharia banks is the principle of profit sharing, specifically in mudharabah and musyarakah contracts. These financing schemes are characterized by the sharing of business profits and losses. However, the term “debt” appears in the clauses of mudharabah and musyarakah financing contracts in sharia banks and in several Religious Court decisions. In fact, financing based on the profit-sharing principle constitutes a partnership between capital and labor, not a debt or credit contract. Therefore, in mudharabah financing, if a loss occurs that is not due to the negligence of the capital manager (mudharib), it is borne by the capital owner (shahibul maal), whereas in musyarakah financing, losses are borne jointly. This study examines the issue of debt in financing based on the profit-sharing principle. The approaches employed include statutory, conceptual, and case law analysis. The term “debt” in this context refers to an outstanding obligation in the form of financing capital and the profit-sharing portion derived from the ongoing business income of the mudharib, which is the rightful share of the shahibul maal. However, the profit-sharing portion from a business that has ceased operations is not considered a debt that the mudharib is obligated to repay to the shahibul maal.*

**Keywords:** Debt, Mudharabah, Musyarakah, Profit Sharing

## INTRODUCTION

Similar to conventional banks, sharia banks are also mandated to act as intermediary institutions referring to Article 4 Paragraph (1) of Law No. 21/2008 on Sharia Banking as amended by Law No. 4/2023 concerning Development and Strengthening of the Financial Sector (Sharia Banking Law). It states that sharia banks and Sharia Business Unit (hereinafter referred to as UUS) must carry out the function of collecting and channeling public funds. Sharia banks channel public funds through financing as stipulated in Article 1 No. 26 of the Sharia Banking Law. In particular, financing is the provision of funds or bills that can be equated with that based on an agreement or agreement between a sharia bank and/or UUS and other parties that require the party being financed and/or given a funding facility to return the funds after a specific period in exchange for *ujrah* (a fee-based compensation concept in Islamic finance, denoting a permissible charge for services provided, in accordance with sharia principles that strictly prohibit interest), without reward, or profit sharing, which includes profit sharing transactions, lease transactions, sale and purchase transactions, lending and borrowing transactions, and service leasing transactions by sharia principles.

Sharia banks operate under different principles than conventional systems (Abbas & Arizah, 2019). Sharia banks perform according to the Islamic principles oriented to profit loss sharing. One of the financing channels of sharia banks is profit-sharing transactions in the form of *mudharabah* and *musyarakah*. In the explanation of Article 19 Paragraph 1 letter c of the Sharia Banking Law, it is explained that *akad mudharabah* in financing is an agreement for cooperation in a business between the first party (*malik, shahibul mal*, or sharia bank) who provides all the capital and the second party (*'amil, mudharib*, or customer) who acts as a fund manager by dividing the business profits according to the agreement stated in the *akad*, while sharia bank fully bears the losses unless the second party commits willful misconduct, negligence or violates the agreement. Meanwhile, *akad musyarakah* is a cooperation contract between two or more parties for a specific business. Each party provides a portion of the funds, stipulating that the agreement will share the profits. At the same time, losses are borne by their respective portions of funds.

*Mudharabah* and *musyarakah* in sharia banking have been comprehended as a mechanism that brought together labor and capital to produce goods and services that benefit society. *Mudharabah* and *musyarakah* can be used in any activity that is run to generate profit (Hirsanuddin, 2008). Considering that *mudharabah* and *musyarakah* contracts are included in *tijarah* contracts which is a profit-oriented contract. Sharia Banking Statistics data in February 2025 depicts that the total *mudharabah* financing is much smaller than *musyarakah* and *murabahah* financing (Keuangan, 2025). *Mudharabah* financing amounted to 13,671 with Non Performing Financing (NPF) position of 259, *musyarakah* financing amounted to

315,957 with an NPF position of 6,637, and *murabahah* financing amounted to 255,987 with an NPF position of 6,221 (Keuangan, 2025).

*Mudharabah* and *musyarakah* financing channeled by sharia banks have the potential to cause problematic financing due to customers breaking promises, making customers cannot return the financing capital or provide the bank's portion of the agreed profit sharing ratio, causing disputes to be resolved in the Religious Court. As in the Religious Court Decision regarding disputes between sharia banks and their customers in *musyarakah* and *mudharabah* financing, in Religious Court Decision No. 882/Pdt.G/2010/PA.Sit and Religious Court Decision No. 1511/Pdt.G/2018/PA.JS. These two decisions are explained further in the table below:

**Table 1.** Religious Court Judgment

| Religious Court Judgment Number<br>882/Pdt.G/2010/PA.Sit                                                                                                                                                                                                                                                                                                                                                                                              | Religious Court Judgment Number<br>1511/Pdt.G/2018/PA.JS                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Dispute between PT BPR Syariah Situbondo, Sayyid Mohammad Daud, and his wife, Zakiyah Syahab. In his decision, The Judge stated that the customer had breached the promise of <i>musyarakah</i> financing and verdicted the customer to pay his obligations of IDR 71,504,760 consisting of nominal payments of IDR 60,000,000, payment of profit sharing ratio of IDR 2,399,760, and fines will be paid until June 2010, amounting to IDR 9,150,000. | Dispute between the Plaintiff (individual) and Defendant I (Limited Liability Company), Defendant II and III in <i>mudharabah</i> financing amounting to Rp300,000,000 with an agreement on a profit sharing ratio of 50% and Defendants I, II and III have broken their promise. The judge ruled that the Defendants I, II, and III had broken their promise and ordered them to pay compensation to the plaintiff in the amount of IDR 346,912,317 and ordered the Defendants I, II, and III to pay dwangsom of IDR 500,000 per day for late payment. |

Source: Processed Data by Researchers (2025)

Based on the two decisions above, The Judge decided that the obligation to return capital and payment of profit sharing ratio is an obligation that must be paid by the capital manager (*mudharib*) in *mudharabah* and *musyarakah* financing and is even mentioned as a debt for the capital manager (*mudharib*) that must be paid to the sharia bank.

The word debt is also found in the clause of the *mudharabah* financing contract at a sharia bank: "If the customer repays or pays off the debt that has been facilitated by the bank earlier than the agreed time, it does not mean that the

payment eliminates or reduces the share of income/profit that is entitled as stipulated in this contract.” The characteristics of *mudharabah* and *musyarakah* financing contracts are not debts and receivables or lending and borrowing but cooperation contracts that share profits and losses. Based on the above background, this research aims to analyze the characteristics of debt in *mudharabah* and *musyarakah* financing contracts.

## RESEARCH METHODOLOGY

This legal research employs legislation, expert opinions, and an analysis of two religious court rulings to address the problem formulation. Law 4/2023, Law 21/2008, and its implementing rules are among the laws and regulations that were used in this research. Additionally, two religious court rulings Religious Court Decision No. 882/Pdt.G/2010/PA.Sit and Religious Court Decision No. 1511/Pdt.G/2018/PA.JS are used to further develop the analysis. Problems in this research are addressed by using books and journal articles concerning problematic financing in *mudharabah* and *musyarakah* financing contracts in addition to laws and regulations.

## RESULTS AND DISCUSSION

### Financing Based on the Profit-Sharing Principle

Sharia banking operates on several fundamental principles, one of which is profit-sharing-based financing. Among these, *mudharabah* and *musyarakah* are two primary contracts utilized alongside other modes such as buying (*murabahah*), selling, and leasing (*ijarah*). These financing schemes are legally recognized and regulated under Article 19 Paragraph (1) Letter (c) of the Sharia Banking Law. According to Bulek et al (2025), *mudharabah* is an Islamic economic contract rooted in cooperation between the capital owner (*shahibul mal*) and the business manager (*mudharib*). Bulek et al. (2025) described *mudharabah* as a contractual relationship in which the capital provider supplies all investment funds, while the manager undertakes operational responsibilities. Profits are shared according to a pre-agreed ratio, whereas financial losses are borne solely by the capital provider unless the losses arise from mismanagement.

Muhammad Syafii Antonio similarly explained that *mudharabah* is a cooperative agreement where one party provides 100% of the capital and the other party manages the business. If the business yields profit, it is distributed according to a predetermined ratio; if a loss occurs, it is borne by the capital provider alone. In contrast, *musyarakah* is defined as a joint venture or partnership between two or more parties, each contributing capital and potentially participating in management. The term originates from *syirkah*, meaning "mixing" or "partnership." According to classical Islamic jurists (*fuqaha*), *musyarakah* refers to a contractual agreement where partners share ownership, capital, profit, and risk. Andria et al. (2019)

emphasized that in *musyarakah*, profit distribution is agreed upon by the parties, while losses are borne in proportion to each party's capital contribution. This differs fundamentally from *mudharabah*, in which the capital originates solely from one party.

Jaffar et al. (2017) highlighted the increasing relevance of *mudharabah* in modern Islamic finance, as many financial institutions globally have adopted this model for investment purposes. The trustee-based profit-sharing mechanism enables the capital owner to entrust full management responsibilities to the entrepreneur, with the understanding that profits will be shared in agreed proportions. Karim (2007) elaborated further on the mechanics of profit and loss distribution in *musyarakah*. He noted that profits can be distributed either proportionally based on capital contribution or as per an agreement among the parties. However, losses must always be borne in proportion to each party's capital input. This differentiation is based on varying abilities to absorb profits and losses. While profit can be absorbed by any party, loss absorption is strictly capital-dependent.

Despite their similarities in being profit-sharing contracts, *mudharabah* and *musyarakah* present key structural and operational differences. These differences are summarized in the table below and are crucial in assessing the suitability of each financing model for different business scenarios.

### **Managerial Traits and Legal Liability: Implications for Sharia Financing**

While the structural aspects of *mudharabah* and *musyarakah* appear straightforward, the effectiveness of these contracts is also influenced by managerial traits and governance. Berry-Stölzle et al., (2018) found that overconfident managers in the U.S. property-liability insurance sector often underestimated losses and overestimated potential returns. This behavior led to lower loss reserves and inflated reported earnings. Such findings suggest that managerial psychology can significantly affect financial reporting and outcomes a consideration equally relevant in Islamic financial management.

In Islamic finance, the legal liabilities of professionals and institutions play a critical role in upholding trust and compliance. Simon et al. (2025) examined how negligence claims in financial services including auditing, tax consultancy, and corporate finance can expose accountants to significant legal risks. This underscores the importance of professional responsibility in all financial arrangements, including those governed by Islamic contracts. Moreover, the Economic Crime and Corporate Transparency Act 2023 introduced sweeping changes to corporate criminal liability in the UK. As noted by Horder (2025), the Act holds companies criminally accountable for the actions of senior managers and includes a new corporate offense for failing to prevent fraud. These developments emphasize the growing accountability of managers and institutions, even in profit-sharing-based systems like *mudharabah* and *musyarakah*.

Based on the findings above, it can be concluded that while both *mudharabah* and *musyarakah* are built on the foundational principle of profit sharing, they diverge in terms of capital contribution, management responsibility, and risk distribution. These distinctions not only influence the practical application of each contract but also have implications for legal liability and financial governance. As Islamic financial systems become more integrated into the global economy, the incorporation of sound managerial practices and compliance frameworks becomes increasingly essential.

**Table 2.** Comparison between *Mudharabah* and *Musyarakah*

| Description        | Mudharabah                                                                                                                                                                                                                                                                                                                                                                      | Musyarakah                                                                             |
|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| Principle          | Profit Sharing                                                                                                                                                                                                                                                                                                                                                                  | Profit Sharing                                                                         |
| Capital type       | Money form                                                                                                                                                                                                                                                                                                                                                                      | May be in the form of money or property that can be valued in money                    |
| Capital investment | Only the owner of the capital ( <i>shahibul maal</i> ) contributes his capital to the capital manager ( <i>mudharib</i> ). Capital is 100% from the capital owner, while the capital manager provides expertise and labor                                                                                                                                                       | Each <i>syarik</i> contributes capital                                                 |
| Advantages         | Divided in accordance with the agreed profit sharing ratio                                                                                                                                                                                                                                                                                                                      | Divided in accordance with the agreed profit sharing ratio                             |
| Disadvantages      | If there is a loss, it will be entirely borne by the capital owner ( <i>shahibul maal</i> ) if it is not caused by the intent of the capital manager ( <i>mudharib</i> ). The capital manager also suffers losses in the form of time, energy, and thought. However, if the loss is caused by the capital manager ( <i>mudharib</i> ), then the capital manager bears the loss. | If there is a loss, it will be borne together according to the amount of each capital. |

Source: Usanti (2015)

Based on the fundamental differences outlined above, both *Mudharabah* and *Musyarakah* contracts clearly operate under a profit-and-loss sharing scheme, distinguishing them from debt-based financing models such as *qardh*. However, in practical implementation, particularly in dispute resolution and financing recovery within Islamic financial institutions, questions arise regarding whether obligations arising from unfulfilled profit-sharing or unpaid capital can be classified as debt. To explore this further, the following section examines the legal interpretation of debt in Indonesian law and its application to profit-sharing contracts.

### Debt Criteria for Financing Based on Profit Sharing

In Article 1 point 6 of Law No. 37/2004 concerning Bankruptcy and Suspension of Debt Payment Obligations (commonly referred to as the Bankruptcy and PKPU Law), debt was defined as an obligation that was expressed or could be expressed in a monetary amount whether in Indonesian or foreign currency either directly, in the future, or conditionally. This obligation arose from agreements or statutory provisions, and it had to be fulfilled by the debtor. If the debtor failed to fulfill this obligation, the creditor had the right to claim repayment from the debtor's assets.

This provision illustrated that the Bankruptcy and PKPU Law, as the prevailing legal framework on bankruptcy in Indonesia, adopted a broad understanding of debt (Robert et al., 2016). In line with this, Sjahdeini (2009) classified debt into two categories broad and narrow based on judicial interpretations prior to the enactment of the Bankruptcy and PKPU Law. In the narrow sense, debt referred specifically to obligations that arose from credit agreements. In contrast, the broad definition encompassed all types of obligations owed by debtors to creditors, regardless of the source.

Understanding these distinctions was important for the development of policies and regulations that addressed various categories of debt. For example, regulatory measures targeting credit agreements differed significantly from those designed to manage other types of financial obligations such as tax arrears or medical debts (Dudchenko, 2015; Li et al., 2020).

Furthermore, Article 1 point 7 of Law No. 42/1999 on Fiduciary Guarantee defined debt similarly as an obligation that was expressed in monetary terms, either in Indonesian or foreign currency, and could be direct or contingent. In *Black's Law Dictionary* (Henry Campbell Black, 1999), debt was described as "liability on a claim; a specific sum of money due by agreement." Likewise, the *Banking Dictionary* defined debt as a sum of money or any item of monetary value received from another party based on an agreement, with the obligation to return or repay it. The Great Dictionary of the Indonesian Language (KBBI) defined debt as money borrowed from another person that had to be repaid. In addition, Jerry Hoff argued that in civil law, a debt referred to a legal obligation. Such obligations arose either from contractual agreements or from legal provisions. This broad perspective underscored that debt, as a legal construct, transcended simple financial transactions and included all enforceable obligations recognized under civil law.

Fred B. G. Tumbuan argued that if a person's actions or failure to act resulted in the obligation to pay compensation, deliver something, or refrain from doing something, then at that moment, the person incurred a debt and was required to fulfill a prestation. Therefore, according to this view, debt was equated with the notion of achievement or performance (Robert et al., 2016). The concept of debt and credit bore similarities to the lending and borrowing agreement as stipulated in

Article 1754 of the Indonesian Civil Code (*Burgerlijk Wetboek/BW*), which stated: “*Borrowing and lending are agreements in which the first party delivered a quantity of consumable goods to the second party, with the condition that the second party would return the same amount of similar goods in the same condition to the first party.*”

In Arabic terminology, *ad-dain* (debt) referred to a transaction between two parties in which one party fulfilled its obligation immediately (in cash), while the other fulfilled theirs at a later time. *Ad-dain* occurred when one party provided money to another with the expectation of repayment at a specified time measured in days, months, or years, rather than by events such as harvest time or the arrival of pilgrims. The term *ad-dain* had a broader meaning, encompassing *al-qardh* (loan), *as-salam* (advance payment for future delivery of goods), and *as-salaf* (advance money for later goods) (Andriyana, 2020).

In Islamic commercial law (*muamalah*), borrowing and lending agreements were referred to as *qardh* contracts. According to Article 19 paragraph (1)(e) of the Sharia Banking Law, a *qardh* contract was defined as an agreement by which a financial institution lent funds to a customer with the stipulation that the customer must repay the funds at an agreed time. The *qardh* contract was classified not as a profit-oriented *tijarah* (commercial) contract, but as a *tabarru* (benevolent) contract, which was not intended for profit. According to the *Kompilasi Hukum Ekonomi Syariah* or Compilation of Sharia Economic Law, *qardh* referred to the provision of funds and/or receivables by an Islamic financial institution to a borrower, with the requirement that repayment be made either in a lump sum or in installments within a specific period. Meanwhile, *al-qardh* (loan) was defined as property given by a lender to a borrower, to be repaid in the same form and quantity when the borrower was able. Linguistically, the word *qardh* derived from *al-qoth'u* (meaning “cut off”), as the loan symbolically “cut” a portion of the lender’s wealth, transferring it temporarily to the borrower (Andriyana, 2020). According to Fatwa No. 19/DSN-MUI/IV/2001 issued by the National Sharia Council (DSN) of the Indonesian Ulama Council (MUI), *al-qardh* was defined as a loan agreement in which funds were given to a customer, who was obligated to return the funds to the Islamic Financial Institution (LKS) at a mutually agreed time.

Based on the above descriptions, it was evident that *mudharabah* and *musyarakah* contracts were cooperative agreements involving profit and loss sharing, and were fundamentally different from debt contracts or lending arrangements. Therefore, *mudharabah* and *musyarakah* should not be classified as lending and borrowing agreements like the *qardh* contract. However, Religious Court Decision Number 882/Pdt.G/2010/PA.Sit and Religious Court Decision Number 1511/Pdt.G/2018/PA.JS stated that the obligation to repay the capital that had been provided in the form of financing, along with the outstanding profit-sharing ratio, constituted a debt that had to be paid by the capital manager (*mudharib*).

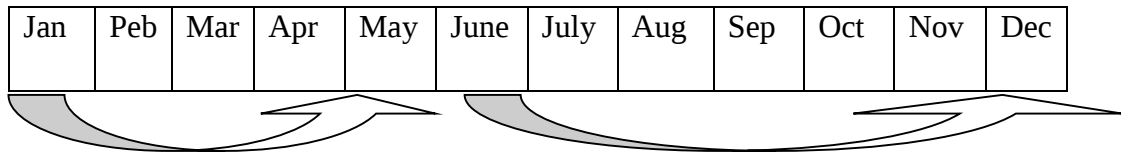
In the case of Religious Court Decision Number 882/Pdt.G/2010/PA.Sit, the dispute arose between the plaintiff namely a sharia bank as the capital owner (*shahibul maal*) and the defendant, a customer acting as the capital manager (*mudharib*), due to the customer's breach of promise. Meanwhile, in Religious Court Decision Number 1511/Pdt.G/2018/PA.JS, the dispute involved the plaintiff, an individual capital owner (*shahibul maal*), and Defendant I, a Limited Liability Company represented by Defendants II and III as capital managers (*mudharib*).

In Decision Number 882/Pdt.G/2010/PA.Sit, the panel of judges concluded that the defendants had failed to fulfill their contractual obligation to repay the *musyarakah* financing debt to the plaintiff. This included the financing principal of IDR 60,000,000, a profit-sharing ratio of IDR 2,399,760, and a penalty of IDR 9,105,000 (as of June 2010). Accordingly, the court ordered the defendants to pay a total of IDR 71,504,760. Based on this ruling, the outstanding financing capital and the profit-sharing portion in *musyarakah* financing were considered debts owed by the customer to the sharia bank.

In general practice at sharia banks, *mudharabah* and *musyarakah* financing applied a revenue-sharing model based on the income or sales of the customer's business. For example, Bank Muamalat Indonesia implemented this type of revenue-based profit-sharing. When using gross or net profit as the basis for revenue-sharing, sharia banks and their customers often encountered difficulties in verifying or validating which components qualified as general administrative or operational costs. To address this, the use of revenue-sharing based on sales or income was considered more practical for both parties.

This practice was in accordance with DSN-MUI Fatwa Number 15/DSN-MUI/IX/2000 concerning the Principles of Business Profit Distribution in Islamic Financial Institutions. The fatwa emphasized that, in terms of benefit (*al-ashlah*), the distribution of business profits should adopt the principle of net revenue sharing. The type of profit-sharing object whether gross profit, net profit, or revenue had to be mutually agreed upon by the sharia bank and the customer, and clearly stipulated in the *mudharabah* or *musyarakah* financing contract. The customer or capital manager (*mudharib*) was required to pay the outstanding share of the profit to the sharia bank, as it was considered a debt representing the bank's right to its portion of the business revenue or sales, as long as the business was still operational. However, if the customer's business had ceased operating, then the unpaid profit-sharing amount was no longer considered an obligation to be repaid to the bank.

This dynamic is illustrated in the following schematic representation of a *musyarakah* or *mudharabah* financing term:



**Figure 1.** First Scheme of *Musyarakah/Mudharabah* Financing Term (1 January–31 December 2024)

Suppose the business operated normally until May 2024, generating revenue or sales between January and May 2024. In June 2024, the business ceased all operations, resulting in no income or sales. From January to March 2024, the customer fulfilled their obligation by paying the sharia bank's share of the profit-sharing ratio. However, in April and May 2024, although the business was still operational, the customer failed to pay the profit-sharing ratio owed to the sharia bank.

Therefore, the profit-sharing portions for April and May 2024, which represented the bank's right to a share of the business revenue, were not paid and became a financial obligation. These unpaid amounts were categorized as debts owed by the customer to the Sharia bank. In contrast, once the business ceased operating in June 2024 and there was no income or sales, the customer was no longer obligated to pay any further profit-sharing ratios to the bank. As such, from June 2024 onwards, the customer's failure to pay could not be construed as debt because there was no revenue to share. Nonetheless, even if profit-sharing was no longer required, the principal amount of the *musyarakah* or *mudharabah* financing originally provided to the customer remained an obligation that must be returned to the sharia bank. If the customer failed to return the principal as agreed, it constituted a breach of contract, thereby rendering the amount a debt.

This obligation is critical because the capital used in *musyarakah* or *mudharabah* financing is sourced from depositors who have entrusted their funds to sharia banks. This is reinforced by Article 36 of the Sharia Banking Law, which states that in providing financing and conducting other business activities, sharia banks and their Sharia Business Units (UUS) must adopt practices that do not harm the interests of either the institutions or their customers who have entrusted their funds. Accordingly, the criteria for categorizing a customer's financial obligations as debt in profit-sharing-based financing include (1) the financing principal, and (2) the bank's share of profit-sharing ratios that were not paid while the business was still operational.

The regulation in Religious Court Decision No. 882/Pdt.G/2010/PA.Sit aligned with these principles. The defendant failed to demonstrate in court that their

business had incurred losses. Since the existence of revenue was not disputed, the court ruled that the defendant was obligated to pay the unpaid profit-sharing portion to the plaintiff (the sharia bank). Furthermore, it was proven during trial that the defendant had breached the *musyarakah* agreement, and thus was required to fulfill all obligations, which included repayment of the financing principal of IDR 60,000,000, profit-sharing of IDR 2,399,760, and fines amounting to IDR 9,105,000 as of June 2010. Because the defendant delayed payment of the profit-sharing portion, the sharia bank was legally permitted to impose a fine, as stipulated under DSN-MUI Fatwa No. 17/DSN-MUI/IX/2000 concerning Sanctions for Capable Customers Who Delay Payment. The fine amount is determined by mutual agreement at the time of contract signing. Similarly, in Religious Court Decision No. 1511/Pdt.G/2018/PA.JS, the dispute involved the plaintiff and Defendants I, II, and III. The defendants had received *mudharabah* financing of IDR 300,000,000 with a profit-sharing ratio of 50%, which was to be paid to the plaintiff within 83 days. However, the defendants failed to fulfill this obligation within the specified timeframe. The court partially granted the plaintiff's claims, confirming the validity of the *mudharabah* contract and finding the defendants in breach of contract.

The court ordered the defendants to compensate the plaintiff in the amount of IDR 346,912,317, which included both the financing principal and the unpaid profit-sharing portion. The ruling was based on the failure of the defendants to repay their obligations in a timely manner, despite the fact that the business namely, a hospital uniform procurement project in Makassar had received funding through *mudharabah* financing but did not operate successfully and failed to deliver returns as promised. As a result, the court concluded that the defendants had breached their contractual commitments.

Based on the analysis of Religious Court Decision No. 882/Pdt.G/2010/PA.Sit and Religious Court Decision No. 1511/Pdt.G/2018/PA.JS, if the business operated by the customer or capital manager (*mudharib*) was still active and the *mudharib* breached the agreement by failing to pay the financing principal or the profit-sharing ratio which constituted the rightful claim of the sharia bank or capital owner (*shahibul maal*) then such an obligation was categorized as a debt that had to be repaid by the *mudharib*. In accordance with the characteristics of a *mudharabah* contract, any business loss not caused by fault or negligence of the *mudharib* was to be fully borne by the *shahibul maal*. However, if the loss resulted from the intentional misconduct or negligence of the *mudharib*, then the *mudharib* was fully liable for the loss. As previously explained, a *mudharabah* contract was considered to be in default when the *mudharib* violated the restrictions stipulated by the *shahibul maal*. For instance, if the *mudharib* used the financing for purposes outside the agreed contract, they would be held responsible for any resulting losses. Conversely, if the *mudharib* failed to distribute profits due to the absence of income while still actively managing the business without negligence, such a condition did not constitute a default (Usanti & Roro, 2021).

In light of Religious Court Decision No. 1511/Pdt.G/2018/PA.JS, Defendants I, II, and III acting as *mudharib* should not have been declared in default if their failure to fulfill obligations was not due to intentional misconduct. In such a case, the financing capital and unpaid profit-sharing ratio amounting to IDR 346,912,317 should not have been classified as debt, and the loss should have been borne by the *shahibul maal* as the capital owner, unless there was conclusive evidence that the loss was caused by the *mudharib*'s intent or negligence. Nevertheless, if the business conducted by Defendants I, II, and III remained operational, despite being described in the decision as underperforming and not compensated by the project owner as per the contract, it could still be interpreted that the business had not ceased entirely. Therefore, the obligation to repay the financing capital and the sharia bank's rightful share of profit would still apply to the defendants.

## CONCLUSION

In financing based on the principle of profit sharing, namely *mudharabah* and *musyarakah*, when the business of the capital manager (*mudharib*) is still running and the capital manager (*mudharib*) breaks the promise not to provide the profit sharing ratio that serves as the right of the capital owner (*shahibul maal*), it could be categorized as debt. The outstanding profit-sharing ratio must be paid by the capital manager (*mudharib*) to the capital owner (*shahibul maal*) since it is the right of the capital owner (*shahibul maal*) from the share of revenue/sales. When the capital manager's business (*mudharib*) stops, it is not an obligation of the capital manager (*mudharib*) to pay the capital owner (*shahibul maal*). However, the capital given to the capital manager (*mudharib*) in the form of financing must be paid in return, considering that the funds channeled are funds from depositors who have entrusted the sharia banks.

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