

Review of Sharia Economic Law Concerning Consumer Protection in the Sale and Purchase of Used Vehicle Parts at the Notoharjo Market, Surakarta City

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Abstract

The purpose of this study is to find out the practice of buying and selling used auto parts, to find out consumer protection in the practice of buying and selling used auto parts, to find out the review of Islamic law in the practice of buying and selling used auto parts at Kliwon Market, Surakarta. The method used is a descriptive method with a qualitative research type. The type of data used in this research is primary and secondary data. The data collection techniques used are observation, interviews, documentation. Data analysis using qualitative analysis. The results of the research show that the practice of buying and selling in the Klithikan market is identified as gharar Qalil. This gharar is still understandable and does not reach buying and selling which is prohibited by sharia.

Keyword: Consumer Protection, Islamic Economic Law, Used Good

Abstrak

Tujuan dari penelitian ini adalah untuk mengetahui praktik jual beli onderdil bekas, untuk mengetahui perlindungan konsumen dalam praktik jual beli onderdil bekas, untuk mengetahui tinjauan hukum Islam dalam praktik jual beli onderdil bekas di Pasar Kliwon Surakarta. Metode yang digunakan adalah metode deskriptif dengan jenis penelitian kualitatif. Jenis data yang digunakan dalam penelitian ini adalah data primer dan sekunder. Teknik pengumpulan data yang digunakan adalah observasi, wawancara, dokumentasi. Analisis data menggunakan analisis kualitatif. Hasil penelitian menunjukkan bahwa praktik jual beli di pasar Klithikan teridentifikasi sebagai *gharar Qalil*. *Gharar* ini masih bisa dimaklumi dan tidak sampai pada jual beli yang dilarang oleh syariah.

Kata Kunci: Perlindungan Konsumen, Hukum Ekonomi Syariah, Barang Bekas

Introduction

In fiqh muamalah buying and selling is not prohibited, but Islam is very concerned about the elements in buying and selling transactions. This means that all muamalah activities including buying and selling are permissible as long as there is no argument that forbids them, The core is based on fiqh principles:

والأصل في العقود والمعاملات الصحة حتى يقوم دليل على البطلان والتحريم (ʿIḥām al-Muwaqīʿin, 1/344)

Meaning: "The original law of all forms of muamalah is permissible unless there is an argument that forbids it."¹

The verse explains that according to Islamic law, buying and selling transactions occur because of the willingness of two or more parties to transfer an asset or object by exchanging, namely by buying and selling and receiving a price in return according to the exchange rate with the pillars and conditions determined by Islamic law. According to most scholars, there are four pillars of buying and selling, namely: the seller, the buyer, the *shighat* (consent and *qabul*), and the object or goods being traded. The conditions included in buying and selling are that the person making the transaction must be reasonable, the goods being traded must contain benefits, the goods are delivered during the contract, the price agreed upon must be clear, and there is a willingness between the two parties.

Means of transportation is a basic human need in modern times because humans need to fulfill needs such as work, friendships, school, and so on by using transportation because they need to meet sometimes long distances. One means of public transportation is bicycles, bicycles have many variations of needs, therefore it is not uncommon for humans to need spare parts which are sometimes no longer sold in official stores.

The market according to the study of economics is a place or process of interaction between demand (buyers) and supply (sellers) of certain goods/services, so that finally it can determine the equilibrium price (market price) and the amount traded.

Understanding the market itself is a place where sellers and buyers can easily interact with each other. The market in a broad sense is a certain and fixed place, the center for buying and selling goods for daily needs besides that the market is also a meeting center for producers and consumers which has been widely known since ancient times. when the nature of trade is still in the form of exchange of goods (barter).

Notoharjo Market was built in 2006 by the Surakarta City Government. Notoharjo Market is better known as Pasar Klithikan because the market is a place for street vendors. The used goods sold are electronic goods, clothing, cellphones, vehicle spare parts and other items. The uniqueness of this traditional market is that visitors can find used goods which, with the creativity of the traders, these goods can be reused by the buyer.

The Klithikan Notoharjo market is the largest market that sells used goods in the city of Surakarta, many things are sold without knowing the origin of the goods, used goods being traded are generally different from the characteristics of buying and selling new goods, both in

¹ A Djazuli, *Kaidah-Kaidah Fikih: Hukum Islam Dalam Menyelesaikan Masalah-Masalah Yang Praktis* (Jakarta: Kencana Praneda Media Group, 2006).

terms of product quality, originality, and price. In general, used goods do not have an identity book (catalog) of goods, an insurance card, and even a time for complaining about goods (*kebijan*) that are not provided. That is what makes used goods that initially have a high selling price change to have a low selling price, so consumer satisfaction will be much different from buying new goods because the above has a high potential for fraud.

The form of buying and selling used goods is quite popular among the public, because it is easy to get the things, they want without incurring high costs, but consumers do not have protection or a container if a loss occurs to the consumer. So, when viewed from the general side, consumers will have more disadvantages than advantages when buying used goods.

This study aims to investigate the practice of buying and selling secondhand auto parts at Kliwon Market, Surakarta, as well as consumer protection and Islamic law. The method employed is a descriptive qualitative research method. This research utilizes both primary and secondary sources of information. Observation, interviews, and documentation are employed as data collection methodologies. The rest of the paper are as follows: Literature Review, Methodologies, Finding and Discussion, Conclusion.

Literature Review

Fiqh muamalah is the knowledge of practical Shari'a laws, which are taken from detailed postulates relating to all human actions in which all laws of origin are permissible². One of them explains the procedure for transferring one person's property rights to another, for example through buying and selling or *al-ba'i*³.

Fiqh muamalah is a set of laws that regulate the relationship of interaction between one human being and another human being in the field of economic activity⁴. One of the interactions in human life is buying and selling⁵.

According to the Big Indonesian Dictionary (KBBI) buying and selling is an activity of exchanging something for something else. Meanwhile, according to *syara'*, buying and selling is possessing a property (to another person) by exchanging something by finding a *syara'* jinn.⁶

² Abdul Rahman Ghazali, Ghufroon Ihsan, and Sapiudin Shidiq, *Fiqh Muamalat* (Jakarta: Kencana Prenada Media Group, 2010).

³ Ruf'ah Abdulah, *Fikih Muamalah* (Bogor: Ghalia Indonesia, 2011).

⁴ Abdul Aziz Muhammad Azzam, *Fiqh Muamalat (Sistem Transaksi Dalam Islam)* (Jakarta: Bumi Aksara, 2010).

⁵ Ahmad Wardi Muslich, *Fiqh Muamalat* (Jakarta: Amzah, 2015).

⁶ (Haroen 2000)

Buying and selling is a means to fulfill the necessities of life and as a means to seek halal sustenance⁷. Buying and selling can also be interpreted as an agreement to exchange goods that have value voluntarily between the two parties which is justified by *syara*⁸.

Goods are every object, both tangible and intangible, both movable and immovable, both consumable and non-consumable, and can be traded, used, used, or utilized by consumers or business actors (Law of 2014 Concerning Trade)⁹. According to KBBI, used goods are goods that have been used. Another meaning of used goods is old goods that have been used. Thus used goods are goods that have been used by someone or a group of people who are traded and have benefits as they should.

The pillars of buying and selling in Islam are things that must exist in buying and selling transactions. If there is one pillar that is not fulfilled then according to Islamic law the buying and selling transaction is invalid¹⁰. According to the term rukun, it is defined as something that is formed (comes into existence) something other than its existence, given that something exists with the pillars (its elements) itself, not because of the establishment¹¹. If this is not the case then the subject (perpetrator) means to be an element for the work and the body becomes a pillar for the attribute, and that which is characterized (*al-mausuf*) becomes an element for the attribute (the attribute). The pillars of buying and selling are as follows¹²: Having common sense, willing and willing (no coercion from any party), not redundant, and *Baligh*.

Terms of sale and purchase are things that are not mandatory in the buying and selling process. If there is one condition that does not exist in the buying and selling process then according to Islamic law the sale and purchase is still valid and may be carried out¹³. The definition of a condition according to terminology is something without which it requires (results in) the absence of the law itself. The terms of sale and purchase are goods that are sacred, useful, goods/services that can be submitted, *Lafaz* consent and *qabul*. In the practice of buying and selling there are some good ethics to do, including being honest, taking profits, tolerance, avoiding oaths

The forms of buying and selling according to Islamic law are valid buying and selling (a sale and purchase is said to be a valid sale and purchase if the sale and purchase is prescribed by law, fulfills the prescribed pillars and conditions; does not belong to anyone else, does not

⁷ (Muslich 2015)

⁸ Zahrul Arifin, "Jual Beli Barang Bekas Melalui Bank Sampah Perspektif Hukum Ekonomi Syariah," *Jurnal Syariah Dan Hukum* 3, no. 1 (2021): 1–11.

⁹ (Undang-Undang Tahun 2014 Tentang Perdagangan)

¹⁰ Nasrun Haroen, *Fiqh Muamalah* (Jakarta: PT Raja Grafindo Persada, 2007).

¹¹ Ali Hasan, *Berbagai Macam Transaksi Dalam Islam* (Jakarta: PT Raja Grafindo Persada, 2003).

¹² Gemala Dew, *Hukum Perikatan Islam Di Indonesia* (Jakarta: Kencana, 2005).

¹³ Ghufroon A. Masad, *Fiqh Mu'amalah Kontekstual* (Jakarta: PT Raja Grafindo Persada, 2002).

depend on *kebijaran* rights anymore); sale and purchase is canceled (sale and purchase is said to be a sale and purchase that is canceled if one or more of the pillars are not met); *fasid* sale and purchase (*fasid* sale and purchase is a sale and purchase that conforms to the provisions of the original *syara'*, but does not comply with the provisions of the *syara'* in its nature. This sale and purchase contains doubts, for example in buying a car but it is not clear who owns it).

According to the language, *gharar* is *al-kehidā* (deception), *al-jahālah* (obscurity), and *al-kebāthir* (gamble) which is an action in which there are elements of betting and gambling.¹⁴ From this explanation, *gharar* buying and selling is buying and selling that contains ambiguity, betting, and fraud. Gambling is a clear example of *gharar* because gambling does not have clear calculations, the amount and size of gambling cannot be ascertained and it is impossible to hand it over. The legal basis for the prohibition of buying and selling of this kind comes from the hadith of the Prophet. who explained that "The Prophet Muhammad SAW prohibit the sale and purchase of *gharar*¹⁵. Another meaning of *gharar* is risk or danger. *Gharar* is something that is not clear, and things that are not clear, the law is unlawful for the practice of buying and selling. It is not clear in this concept that it is not clear what the goods are, the price, the level, the period of payment or anything else.

There are several legal bases regarding the prohibition of buying and selling *gharar*, while the legal basis for the prohibition of *gharar* is the Al-Quran Surah Al-Baqarah verse 188 which is as follows:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ وَتُدْخِلُوا بِهَا إِلَى الْحُكْمِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

Meaning: "And do not part of you eat the property of another part of you in a false way and (do not) bring (the matter) of the treasure to the judge, so that you can eat part of the property of the other person with (the way of) sin , even though you know"

Based on Hadith in HR. Abu Daud and Muslim, the Messenger of Allah said which means: "The Messenger of Allah has forbidden (people) from buying and selling activities by throwing small stones and buying and selling *gharar* goods".

The object of the contract is the thing that makes the contract made and applies as a result of contract law in Islamic contract law. Ranging from goods, services, or other things that do not conflict with Islamic law. The elements of *gharar* in an object are objects that are not clear; ambiguity in the type of contract object; the character and nature of the object is not clear.

¹⁴ bin B. A.-K Abdul Azim, *Al-Wjiz Ensiklopedi Fiqih Dalam Al-Quran As-Sunnah As-Shahih* (Jakarta: Pustaka As-Sunnah, 2006).

¹⁵ A.-Z Imam, *Ringkasan Hadis Shahih Al-Bukhari* (Bandung: JABAL, 2013).

According to Islamic economics, consumer protection is the way in which the Islamic economy meets the needs of consumers (Muslim religious communities) in buying goods. However, because Indonesia is a country that has many religions, the notion of consumer protection in the Islamic economy can be interpreted as a movement carried out by all organized buying and selling parties to protect the interests (of all religious people) which is practiced in various government and non-government institutions that has the main objective of guaranteeing consumer rights.

The consumer rights regulated in Indonesia are as follows ¹⁶: The right to comfort, security and safety in consuming goods and/or services; The right to choose goods and/or services and to obtain said goods and/or services in accordance with the exchange rate and the conditions and guarantees promised; The right to clear, correct information, and be honest about the conditions and guarantees of goods and/or services; The right to be heard of opinions and complaints about the goods and/or services used; The right to receive proper advocacy, protection, and efforts to resolve consumer protection disputes; The right to receive guidance and education consumers; The right to be treated or served properly and honestly and not discriminatively; provisions of other laws and regulations. In the Constitution No. 08 of 1999 there are clear rights owned by consumers, the rights stated explain that consumers have the right to know the real condition of the goods/services purchased, so the seller is obliged to be honest in selling. This is the same as Islamic sharia law which applies that there is no *gharar* element in it.

Method

This study uses a basic analytical descriptive method with a qualitative research type. The data used are primary data obtained based on direct interviews with informants, as well as secondary data in the form of population data, geographic location, topography, climatic conditions and other data at Notoharjo Market, Notoharjo Village, Pasar Kliwon District, Surakarta City. Data collection techniques with observation techniques, interviews, documentation. Data analysis by data reduction, data presentation, drawing conclusions and verification. The respondents of interviews are as follows:

Table 1. Respondents

No	Name	Role
1	Mr FRS	Buyer
2	Mr BMA	Buyer
3	Mr BBG	Buyer

¹⁶ (Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen)

4	Mr DRI	Seller
5	Mr SMD	Head of Notoharjo Market

Results And Analysis

The practice of buying and selling used vehicle parts at the Kliwon market, Surakarta

At the Notoharjo Klitikan market there are buying and selling events, such as buying and selling activities in general, namely. negotiate with each other until the seller and buyer find an agreed price. The products offered by sellers, especially *Oprokan* sellers (*Oprokan* means Street Vendor), such as batteries, tires, chains, lights, wheels, sepi and other vehicle needs. If you look at the quality of the goods, *Oprokan* dealers also sell original or imitation goods that are still usable. There are things that need to be considered in buying and selling transactions at the Notoharjo Klitikan market, namely. buyers must be careful in choosing goods, especially for used spare parts. The process of buying and selling used goods at the Klitikan Notoharjo market is that the buyer goes directly to the seller of used spare parts or other used goods as desired. Then the buyer checks the desired item. In this process, the seller invites the buyer to view and research the desired product. When the buyer feels that he has received the desired item, negotiations occur between the seller and the buyer so that the parties reach an agreement on a price and then a sale and purchase agreement occurs. Some sellers sell their products but do not know whether the goods offered can still be used or not¹⁷.

For example, Mr. BBG, who bought one, was one of the buyers for motorcycle spare parts at the Klitikan Notoharjo Market. Mr. BBG bought a Suzuki RC double lining at the Klitikan Market, but the dealer did not provide the facility to try the mirrors to see if the mirrors matched the motorbike or not. However, the merchant gives three days to return the item purchased if it does not match what you are looking for¹⁸.

In buying and selling used spare parts, some sellers offer agreements to consumers in the form of a 3-day warranty as collateral for goods¹⁹. If the goods purchased by the consumer are damaged or not suitable before three days, the consumer can return or exchange the goods, but if the goods are damaged and after three days, the seller waives responsibility for the goods purchased. Many consumers buy used goods at the Notoharjo Klitikan market because the prices are cheap, but the cheaper the goods, the weaker the goods are. In addition, some sellers

¹⁷ (BBG, interview, 10 Desember, 2021)

¹⁸ (BBG, interview, 10 Desember, 2021)

¹⁹ (DRI, interview, 9 Desember, 2021)

do not provide a guarantee if the purchased item cannot be returned. FRS, a motorcycle lamp buyer at the Notoharjo market, Klithikan, is uneasy. FRS bought a motorcycle lamp, at the time of purchase it was normal and working, but after three days of use it was broken and unusable²⁰.

Buyers who come to the Notoharjo Criticism Market usually have the opportunity to choose the goods they want so that they are completely satisfied with their purchase. When buyers choose what to buy, sellers don't want to comment on what they are selling.

Klithikan Notoharjo in the practice of buying and selling transactions in the market, the buyer faces a chance. However, the Notoharjo Criticism Market is still a busy market because it offers a complete range of goods according to your needs²¹. Considering what happened to the Klithikan Notoharjo market, as an alternative place to buy cheap used goods compared to other stores whose prices are much higher. But on the other hand there are also buyers who feel aggrieved by the seller. That is, if there is a defect in the item purchased, the item cannot be returned, aka the seller has released his responsibility. This can be detrimental to the consumer as a buyer. On the other hand, consumers are also faced with the absence of protection from institutions or market managers so that consumers who are harmed only feel unlucky with the goods they buy.

Aspects of Consumer Protection and Consumer Right in the Sale and Purchase of Used Vehicle Parts

Most visitors who are visiting the Notoharjo Criticism Market for the first time and shopping there only know that the market sells goods at low prices. However, some people are not aware of the risks to the quality of goods purchased in the market. Like some of the items purchased are also disappointing. Therefore, the existence of consumer protection laws allows us to provide consumer protection based on Article 2 of Law Number 8 of 1999 concerning Consumer Protection. The details of each aspect will elaborate in details as follows:

Benefit Principle. The advantages that buyers get when shopping at the Notoharjo Criticism Market can reduce expenses for daily needs. So that the remaining money can be used for other needs. The buyer, Mr. BBG, said “it's easy to get the goods, the price is quite cheap. There is still a sense of use, it is still in good condition and can still be used. If you buy it in a store, it will be more expensive. Then the rest of the money can be used for other purposes.”²².

Principle of Justice. Buyers who shop at the Klilitan Market have a choice of goods offered by sellers. However, not all sellers use the guarantee system when making contracts. One of the

²⁰ (FRS, interview, 11 Desember, 2021)

²¹ (DRI, interview, 9 Desember, 2021)

²² (BBG, interview, 10 Desember, 2021)

traders, Mr. DRI (Used Motorcycle Spare Parts Trader) said: not all traders in the Klilitan Market can provide guarantees or warranties.²³

The Principle of Balance. Market traders in Klithikan Notoharjo provide consumers with all their used goods, from good to mediocre ones. Allows consumers to choose the goods they want and allows sellers to benefit from these sales. As Mr. BBG said, "There are many choices of goods, from cheap to expensive, and in terms of quality, there are also many choices. So you feel comfortable shopping here" ²⁴

Principles of Consumer Security and Safety. Klithikan Notoharjo provides security and protection to consumers who shop there in the form of a parking lot guarded by a parking attendant. However, the safety of all consumers cannot be guaranteed with respect to the products in the Klithikan Market. As FRS said, "I once bought a motorbike lamp. When the lamp was tested on the market it was on, but when I got home the light went out."²⁵

Principle of Legal Interest. The Notoharjo Klilitan Market does not provide any protection, particularly legal protection, to consumers who shop at the Notoharjo Klilitan Market. Pasar Klithikan Notoharjo only appealed in the form of a market order in the form of an appeal to traders to always maintain the cleanliness of the market and trade in the location provided by the Market Management Office.

In addition, the consumers also have the right. The consumer rights regulated in Indonesia are as follows ²⁶:

The right to comfort, security and safety in consuming goods and/or services. Even though the motorcycle parts being traded at the Klithikan Market are used goods whose origins are unknown, the seller gives a statement that the goods being sold are safe goods for the buyer. Because if the goods are in trouble (stolen goods) the one who bears the penalty is the merchant who transacted with the previous seller ²⁷;

The right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate and the conditions and guarantees promised. Seeing the practice of buying and selling used motorcycle parts that took place in Klithikan is a chancy thing. Sometimes you can get goods that are still good at a cheap price, but also sometimes you can get goods that are worth a good price but the goods are no longer functioning. From the statement from the interview with FRS, it can be concluded that the buying and selling practices in the Klitican Market are not in

²³ (DRI, interview, 9 Desember, 2021)

²⁴ (BBG, interview, 10 Desember, 2021)

²⁵ (FRS, interview, 11 Desember, 2021)

²⁶ (Undang-Undang Nomor 8 Tahun 1999 Tentang Perlindungan Konsumen)

²⁷ (DRI, interview, 9 Desember, 2021)

accordance with the exchange rates and promised guarantees. Therefore, buyers must be more careful when buying used motorcycle parts at the Klitikan Market ²⁸;

The right to correct, clear and honest information regarding the conditions and warranties of goods and/or services; Several traders at the Klilitan Market provide correct, clear, and honest information about the conditions and guarantees of goods. However, some other traders are still found to have committed fraudulent actions, for example by providing fraudulent information regarding the condition of the goods being sold. BMA, as a buyer, stated that he had received dishonest information regarding the purchase of the used motorcycle parts he had purchased ²⁹.

The right to have their opinions and complaints heard about the goods and/or services used; In carrying out a sale and purchase transaction at the Solo Klitikan Market, the seller has given the buyer a grace period of three days to return the item if the item is damaged ³⁰. So that is in accordance with the rights at this point.

The right to obtain proper advocacy, protection and efforts to resolve consumer protection disputes. Based on what happened in the practice of buying and selling used motorcycle parts at the Klitikan Market, if a dispute or problem occurs with the goods being traded, it is resolved by an agreement that has been agreed between the two parties, namely the seller and the buyer. The seller gives a grace period of three days and the buyer agrees. If the item is damaged, the seller will replace it with a similar part that was purchased. But if there are no similar items then the money is returned ³¹;

The right to obtain consumer guidance and education. Sellers in the Klilitan Market are still dominant in determining the price or quality of their products. So that the position between the seller and the buyer is sometimes unequal. Meanwhile, buyers who still fully understand their rights are more easily trapped. So it is necessary to improve education for buyers in order to create equality between sellers and buyers;

The right to be treated or served correctly and honestly and not discriminatory; Several traders at the Klilitan Market provide correct, clear, and honest information about the conditions and guarantees of goods. However, some other traders are still found to have committed fraudulent actions, for example by providing fraudulent information regarding the condition of the goods being sold. BMA, as a buyer, stated that he had received dishonest information regarding the purchase of the used motorcycle parts he had purchased ³².

²⁸ (FRS , interview, 11 Desember, 2021)

²⁹ (BMA, interview, 12 Desember 2021)

³⁰ (DRI, interview, 9 Desember, 2021)

³¹ (BBG, interview, 10 Desember, 2021)

³² (BMA, interview, 12 Desember 2021)

The right to receive compensation, compensation and/or reimbursement, if the goods and/or services received are not in accordance with the agreement or not as they should be. As agreed during the sale and purchase transaction at the Klilitan Market, the seller gives a period of three days to return the used motorcycle parts if the item is not as it should be ³³;

The rights regulated in the provisions of other laws and regulations. As has been done in the buying and selling of used motorcycle parts at the Klitican Market, the provisions for consumer rights are not regulated. Because buying and selling only happens like in general in other markets. Buying and selling occurs with an agreement on price and goods between the seller and the buyer.

Discussion

Analysis of Sale and Purchase of Used Vehicle Parts at Notiharjo Market (Klithikan) Kliwon Market, Surakarta City

Buying and selling is one way to make ends meet and find halal food. Buying and selling can also be interpreted as an agreement to voluntarily exchange valuables according to Sharia law ³⁴. According to the Big Indonesian Dictionary (KBBI), buying and selling is an act of exchanging something for something else. Meanwhile, according to *syara'*, buying and selling is property (to other people) by exchanging something with the permission of *syara'* ³⁵.

Buying and selling transactions at the Notoharjo Klitican Market are like buying and selling activities in general, namely negotiating with each other until the seller and buyer find an agreed price. About the products offered by the counter sellers such as batteries, tires, chains, lights, wheels, mirrors and other vehicle equipment. Considering the quality of the goods, the counter-sellers also sell goods that are original or imitation but are still usable. In buying and selling transactions at the Notoharjo Klilitan Market, what needs to be remembered is that the buyer must be careful in choosing goods, especially used spare parts. The process of buying and selling used goods at the Notoharjo Klitican Market consists of the buyer directly visiting the seller of used spare parts or other used goods according to his wishes. Next, the buyer checks the desired item. The seller invites the buyer to see and verify the desired product. When the buyer feels that he has received the goods he wants, negotiations take place between the seller and the buyer, where a price agreement is reached between the two parties and a sale and purchase contract occurs. Some sellers sell their products but do not know whether the goods they sell are still suitable for use or not ³⁶.

³³ (DRI, interview, 9 Desember, 2021)

³⁴ Arifin, "Jual Beli Barang Bekas Melalui Bank Sampah Perspektif Hukum Ekonomi Syariah."

³⁵ Azhar Alam and Kintan Indah Sriwahyuni, "Tinjauan Hukum Islam Terhadap Praktik Jual Beli Hari Kerja Oleh Buruh Pabrik," *MEDIA SYARI'AH: Wahana Kajian Hukum Islam Dan Pranata Sosial* 22, no. 2 (2020).

³⁶ (DRI, interview, 9 Desember, 2021)

When buying and selling used spare parts, some sellers offer contracts to consumers in the form of a three-day warranty as collateral for goods. If the item purchased by the consumer is damaged before three days, the consumer can return or exchange the item, but if the item is damaged and after three days, the seller has released responsibility for the item purchased.³⁷ Many consumers buy used goods at the Klithikan Notoharjo market because the prices are cheap, but the cheaper the goods, the weaker the goods are. In addition, some sellers do not provide a guarantee if the purchased item cannot be returned.

Looking at the used spare parts being sold at the Klilitan Market, it is difficult to see whether the goods being sold are stolen or not. Through the author's interview with one of the sellers at Klitican Market, the seller stated that the used parts being sold were goods purchased from the previous stall seller. Mr. DRI as the seller stated that the used auto parts being sold were goods obtained from Pasar Pagi which were bought through workshops, then bought by a junkman and then resold. For a set of machines obtained from the disassembly workshop results of motors that have died. Mr. DRI also stated that many outsiders (not sellers at the Klilitan Market) offered used auto parts but the sellers did not dare to take them if the origins of the goods were unclear for fear of getting into trouble.³⁸ Therefore, it can be ascertained that the used spare parts sold in the Klitican market are not stolen goods.

Analysis of Consumer Protection for the Sale and Purchase of Used Vehicle Parts at Notiharjo Market (Klithikan) Kliwon Market, Surakarta City

In Article 1 of Law Number 8 of 1999, "Consumer protection is all efforts that guarantee legal certainty to protect consumers". Consumer protection is an important part of a healthy business³⁹. In a healthy company, legal protection is balanced between consumers and producers. The lack of balanced protection creates a vulnerable position for consumers. At the same time, there are financial differences, which are detrimental to various parties involved in economic activities. In the weakest position is society, which is none other than consumers. To achieve a balance between producers and consumers, the government monitors consumer rights in UUPK.

(1) The right to comfort, security and safety in consuming goods and/or services. (2) The right to choose goods and/or services and obtain said goods and/or services in accordance with the exchange rate and the conditions and guarantees promised (3) The right to correct, clear and honest information regarding the conditions and guarantees of goods and/or service;

³⁷ (DRI, interview, 9 Desember, 2021)

³⁸ (DRI, interview, 9 Desember, 2021)

³⁹ M. Zaki Attirmidzi and Rizka, "Perlindungan Hukum Terhadap Konsumen Dalam Sistem Transaksi Online Perspektif Undang-Undang Informasi Dan Transaksi Elektronik," *Jurnal Supremasi* 2, no. 12 (2022).

(4) The right to have their opinions and complaints heard about the goods and/or services used; (5) The right to obtain proper advocacy, protection and efforts to resolve consumer protection disputes; (6) The right to receive guidance and consumer education; (7) The right to be treated or served properly and honestly and not discriminatory; (8) The right to obtain compensation, compensation and/or reimbursement, if the goods and/or services received are not in accordance with the agreement or not as they should be; (9) The rights regulated in the provisions of other laws and regulations.

In fact, there are still no consumers who have reported their cases to the Consumer Protection Agency, because the social background of the community and the government have not socialized consumer protection so they are not aware of any information. The consumer center and the consumer do not want to be disturbed, meaning that the consumer does not want to cause conflict with other parties which can be costly and laborious.

Most visitors who are visiting Notoharjo Klithikan Market for the first time and shopping there only know that the market sells goods at low prices. However, some people are not aware of the risks to the quality of goods purchased in the market. Like some of the items purchased are also disappointing. Therefore, the existence of consumer protection laws allows us to provide consumer protection based on Article 2 of Law Number 8 of 1999 concerning Consumer Protection, namely: Principle of Benefit; Principle of Justice; Balance Principle; Principles of Consumer Security and Safety; Principle of Legal Interest.

Analysis of Islamic Law on the Sale and Purchase of Used Vehicle Parts at Notiharjo Market (Klithikan) Kliwon Market, Surakarta City

The spare parts traded at the Klitican Market are used goods that cannot be spent, and can be traded, used, used, or utilized by consumers or business actors. In buying and selling, there are Islamic buying and selling pillars, namely things that must exist in a buying and selling transaction. If one of the pillars is not fulfilled, then the sale and purchase is canceled according to Islamic law. According to the term pillar, it is defined as something that is formed (appears) from something other than its existence, because something exists with pillars (its elements), not because of its verticality. If this is not the case, the subject (perpetrator) becomes an element of the work, and the body becomes the attribute pillar, and that which has character (al-maushuf) becomes the attribute element (the attribute). Some of the pillars of buying and selling, namely, first there is a seller and a buyer (common sense, baligh does not have to be a Muslim), second there is consent and *qabul*, third is goods or services (sacred, has benefits, owned by the seller, can be handed over, whereabouts can be known). Looking at some of the pillars of buying and selling according to Islam, the buying and selling of used auto parts that is carried out at

Pasar Klitican is in accordance with the pillars of buying and selling in Islam. There are sellers and buyers when purchasing used auto parts at the Klitican market. Sellers and buyers have also fulfilled the requirements as reasonable people, and baligh. Used spare parts that are traded are sacred, useful, can be handed over and the goods being sold can be ascertained to belong to the seller. When purchasing used auto parts at the Klitican Market, there are consents and *qabul*.

Apart from what has been mentioned above, there are terms of sale and purchase. In contrast to pillars, buying and selling conditions are things that are not mandatory in the buying and selling process. If in the buying and selling process there are conditions that do not exist, then according to Islamic law the buying and selling is still valid and permissible. The definition of a situation according to terminology is something without which it presupposes (causes) the absence of the law itself. As for the terms of sale and purchase, namely, (1) items that are sacred, used spare parts that are traded in the Klitican market are sacred goods because they are not considered unclean goods, (2) useful, used parts that are traded in the Klitican market are goods that still have the value of the benefits if the goods being traded cannot be used, the seller gives a grace period of three days to return the goods, (3) used auto parts that are traded in the clitic market also meet the requirements for goods that can be delivered. (4) there are words of consent and *qabul* when making a sale and purchase transaction of used auto parts at the Klitican Market.

In buying and selling, there are several ethics that should be carried out, namely honesty, profit taking, tolerance, avoiding oaths. When buying and selling at the Klilitan Market, some sellers are honest in trading, but also not a few traders are dishonest about the condition of the used parts being sold. As was the case with FRS when he bought a used lamp for a motorbike. FRS found a trader who was not being honest, because when he bought a motorbike lamp the trader said that the lamp was in good condition and working, but when he tried it at home the lamp could not be used⁴⁰. The risk of buying used goods can be expressed as a hit and miss. Because buyers sometimes don't know enough whether the used parts can still be used properly or not. The second ethics of buying and selling is profit taking. Ethical traders do not take excessive profits. Common etiquette is that traders do not take profits up to twice the initial price. However, this is certainly difficult to detect because the goods traded on the Klitican market are used auto parts. Mr. DRI as the seller said that not all traders apply this ethics. Because sometimes traders also take high profits to cover less busy sales⁴¹. The third trade ethic is tolerance. The tolerance in question is that the seller does not take excess profits and the

⁴⁰ (FRS, interview, 11 Desember, 2021)

⁴¹ (DRI, interview, 9 Desember, 2021)

buyer does not bid at an unreasonable price. The practice of buying and selling used auto parts at the Klilitan Market uses a buying and selling system by way of bargaining until an agreement is reached between the seller and the buyer⁴². Thus, the ethics of tolerance has been achieved in buying and selling transactions at the Klitican Market. The last sale and purchase ethic is to avoid oaths. In buying and selling transactions it is recommended not to swear an oath by mentioning the name of Allah. However, in practice, what happened at Klitican Market is that sellers still use oaths in the name of Allah in buying and selling. For example, the seller who was met by FRS's buyer, the seller stated for God's sake that the item was still good, but when he arrived at the used lamp part that was purchased, he could not use it after three days.⁴³

The forms of buying and selling according to Islamic law are as follows: (1) Buying and selling is valid, namely buying and selling is considered legal buying and selling if the buying and selling is required and meets the specified conditions, does not belong to anyone else, does not depend on voting rights (*Khiyar*). (2) Sale and purchase is canceled, namely a sale is said to be canceled if one or more conditions are not met. (2) Interesting buying and selling, namely *Fasid* buying and selling, is buying and selling in⁴⁴ accordance with the original Shari'a terms, but not in accordance with the Shari'a. Buying and selling is buying and selling when, for example, there is doubt about buying a car but it is not clear who owns it.

Seeing some of the forms of buying and selling according to Islamic law above, the buying and selling of used auto parts that took place at the Klitican Market is a form of authentic buying and selling. Because the buying and selling of used auto parts that occurs at the Klitican Market has fulfilled the pillars and conditions determined by the *syara'*.

In buying and selling there are types of *Khiyar*, *Khiyar* has four forms: (1) *Khiyar* Majlis is *khiyar* which takes place when the seller and buyer are still at the place where the transaction takes place. *Khiyar*'s rights end when the parties separate and the transaction cannot be revoked. (2) *Khiyar* Terms are the right of the seller, buyer or both to continue or cancel the transaction during the mutually agreed extension period. *Khiyar* Terms are valid for three days and transactions cannot be canceled after that period has passed. In this case, there is no billable *khiyar* right and the grace period must be considered carefully. (3) *Khiyar* aibi is *khiyar* for the buyer who has the right to cancel or continue the transaction if the product purchased is defective. The existence of defects can reduce the value or usefulness of the product. For example defects in important matters, defects that are hard to miss, or defects that are in the hands of the seller. (4) *Khiyar* ru'yah is the buyer's right to cancel or continue the sale and

⁴² (BBG, interview, 10 Desember, 2021)

⁴³ (FRS, interview, 11 Desember, 2021)

⁴⁴ Patilima, *Metode Penelitian Kualitatif* (Bandung: CV Alfabeta, 2005).

purchase transaction because the principal of the transaction is not visible at the time of the contract.

*Khiyar in the buying and selling of used auto parts at the Klitican Market is Khiyar, a condition in which the seller gives a grace period of three days for the buyer to return the item if it is damaged or unusable*⁴⁵.

Looking at current buying and selling practices, *gharar* is an important taboo term in Muamalat's business practices. As commented by Imam Nawawi in his interpretation of a hadith narrated by Imam Muslim regarding the prohibition of buying and selling *gharar*. The prohibition of buying and selling *gharar* is a very urgent point of sale and purchase. Most of the sales problems are prohibited from buying because they contain *gharar*. Transactions that existed in the early days of Islam are being repeated today. Basically, the forms and patterns in buying and selling practices that are individual-oriented and collectively beneficial to various fraudulent practices and harm other parties. Buying and selling *gharar* has the aim of harming other people by deceiving. Another meaning of *gharar* is risk or danger. *Gharar* is something that is not clear and things that are not clear, the law is unlawful for the practice of buying and selling. What is not clear in this concept is the unclear goods, prices, levels, terms of payment and others. The legal basis for the prohibition of *gharar* is as follows: Qs. Al-Baqarah verse 188:

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبُطْلِ وَتُدْخِلُوا بِهَا إِلَى الْحُكْمِ لِتَأْكُلُوا فَرِيقًا مِّنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

Meaning: "And do not part of you eat the property of another part of you in a false way and (do not) bring (the matter) of the treasure to the judge, so that you can eat part of the property of the other person by (the way of) sin , even though you know"

In Al-Furuq (Al-Qarafi 2015), *Gharar* can be divided into three groups, namely first: *gharar katsir* (excessive *gharar*); i.e. superior obscurity with a fairly high degree of obscurity. For example, the sale of fish that is still in the pond, because the quality and quantity cannot be seen and identified clearly, there is a high probability of making an error in the assessment. This type of transaction is clearly prohibited and illegal. As an example; selling baby animals that are still in their wombs without immediately selling their mothers, selling goods of an unclear nature with an indication of the purchase price but not mentioning the exact time, and so on.

Second: *gharar Qalil* (marked); i.e. the type of ambiguity where the level of ambiguity is minimal so that it is likely to be tolerated and accepted by both parties involved in the transaction, such as buying and selling batteries when the level of usage cannot be determined with certainty how long they will last, selling a house even though the buyer cannot see the foundation in person, renting a house for a month though sometimes 28, 29, 30 and 31 days of

⁴⁵ (DRI, interview, 9 Desember, 2021)

the month etc. This type of event involving *Gharar Qalil* (Small *Gharar*) or what is called Light *Gharar* (Abandoned *Gharar*) is accepted by the scholars.

Third: *Gharar Mutawassit* (center); That is, the nature of the ambiguity between the two types of *gharar* above, can sometimes be classified as *Qalil* or *katsir* depending on each case. As an example; Selling goods hidden in the ground, selling a certain amount of money, the buyer pays for the goods before handing over the goods, buying and selling goods without showing the goods, etc.

The practice of buying and selling used spare parts at the Klilitan Market is included in the *gharar Qalil* category. Where the ambiguity that occurs, the level of ambiguity is minimal so that it is likely to be tolerated and accepted by both parties involved in the transaction. For example, as happened with the purchase of used lamps by FRS. The seller cannot give certainty to the buyer about how long the lamp will last. It turned out that the purchased lamp could not last long because within three days the used motorbike lamp purchased at the Klilitan Market could no longer be used.⁴⁶ So the *gharar* that is happening is *gharar Qalil* which is still understandable and does not reach buying and selling which is prohibited by sharia.

Conclusion

The practice of buying and selling used auto parts that occurs in the Kliwon market in Surakarta is like buying and selling activities in general, that is, negotiating with each other until the seller and buyer find an agreed price. The products offered by sellers, especially *Oprokan* sellers, such as batteries, tires, chains, lights, wheels, sepia and other vehicle needs. Through the results of interviews between researchers and sellers, it can be ascertained that the goods are not stolen goods. This is because the used spare parts obtained from the Morning Market are bought through workshops, then bought by a junkman and then resold. For a set of machines obtained from the disassembly of a motorcycle repair shop that has died.

The aspect of consumer protection in the buying and selling of used auto parts at the Kliwon Market in Surakarta is almost in accordance with Article 1 of Law Number 8 of 1999. To achieve a balance between producers and consumers, the buying and selling of used parts at the Klitikan Market fulfills 8 out of 9 rights to consumers. The only rights that are not fulfilled are the rights regulated in the provisions of other laws and regulations. As has been done in the buying and selling of used motorcycle parts at the Klitikan Market, the provisions for consumer rights are not regulated. Because buying and selling only happens like in general in other markets. Buying and selling occurs with an agreement on price and goods between the seller and the buyer.

⁴⁶ (FRS, interview, 11 Desember, 2021)

The practice of buying and selling used car parts at Pasar Kliwon Surakarta is a form of buying and selling that is permissible (shohih). The terms and conditions for buying and selling used auto parts at the Klitican Market comply with Islamic law. However, there is an ethic that is not carried out by traders, namely taking high profits to cover less busy sales. In addition, conditions apply to the sale of used auto parts at the Klitican Market.^{47,48} The seller gives a grace period of three days to return the item. In the practice of buying and selling at the Klitican market there is *gharar Qalil*. This *gharar* is still understandable and does not reach buying and selling which is prohibited by sharia.

Suggestion

In order to create a healthy, safe and comfortable market for both buyers and sellers, they should: Buyers: (1) are careful in choosing goods and prices, (2) respect fellow buyers, (3) have good intentions in buying and selling, and (4) make payments as agreed.⁴⁹ The seller: (1) must be honest in trading his goods, (2) carry out the agreed mandate, and (3) not monopolize. The government: (1) enforce existing regulations, and (2) add and expand consumer protection agencies in all markets where there are no such institutions.⁵⁰ Communities: (1) always comply with existing regulations, both government and religious regulations⁵¹; (2) participate in socializing about protection for consumers so that it makes it easier for the government to improve consumer protection.

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⁴⁷ Suwendrea, *Metodologi Penelitian Kualitatif Dalam Ilmu Sosial, Pendidikan, Kebudayaan Dan Keagamaan* (Bandung: Nila Cakra, 2018).

⁴⁸ Syarifuddin Amir, *Garis-Garis Besar Fiqh* (Jakarta: Kencana, 2003).

⁴⁹ Moh Nazir, *Metode Penelitian* (Jakarta: Ghalia Indonesia, 2003).

⁵⁰ Shihabuddin Al-Qarafi, *Al-Furuq*, Jilid 3 (Beirut: Dar al-Ma'rifah, 2015).

⁵¹ Lexy Moeloeng, *Metodologi Penelitian Kualitatif* (Bandung: PT Remaja Rosdakarya, 2006).

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