

**THE LAW OF LAND SELLING ABOVE THE SALE OF OTHERS ACCORDING
TO SHEEK IBNU HAJAR AL-ASQALANI
(Case Study of Sialang Gatap Village, Kualuh Hilir)**

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ABSTRACT

Researchers conducting this research aim to examine and analyze the law of buying and selling land that is carried out on land that has previously been traded by other people, by focusing on the views according to Sheikh Ibnu Hajar Al-Asqalani. This research was conducted using a case study conducted in Sialang Gatap Village, Kualuh Hilir District, Labuhan Batu Utara Regency, as a concrete form of this phenomenon. The method used in this study is through a living case study approach, which is an approach to a problem related to law whose process is ongoing or has not been completed. This study uses data collection techniques using observation, unstructured interviews, and documentation.

Keywords: Law, Buy and sell, Sheikh Ibn Hajar Al-Asqalani.



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INTRODUCTION

Islam is a comprehensive religion and rahmatan lil'alamin which regulates human life from all aspects, including in matters of rules or laws that apply to individual life and social life. Of the many aspects of life, one of the aspects regulated in Islam is mu'amalah. In mu'amalah, one of the activities that is permitted and regulated by legal provisions by Islamic law is buying and selling (Wuryandani & Fathurrohman, 2016). Not only that, educators are also required to be able to take concrete actions in class in providing information emphatically, politely and effectively (Nawawi, 2012).

Allah SWT has created humans with the nature of mutual need for one another, so that they can help each other and exchange needs in various matters of life, both for the benefit of individuals and for the public. However, sometimes in social relations disputes arise and tendencies in individual interests without regard for others. Therefore, religion provides rules that are orderly and as good as possible in mu'amalah so that social life becomes orderly and harmonious, and avoids conflicts and contradictions (Rasjid, 1994).

Mu'amalah in Islam has been explained in the Qur'an and every mu'amalah activity is permissible or not depending on the pillars and conditions in Islamic sharia, and based on the principles of halal and haram (Shah, 1999). One form of mu'amalah that is permitted is buying and selling, which is defined as an agreement to exchange goods or goods for money,

in which the property rights of the seller are transferred to the buyer on the basis of mutual consent and in accordance with sharia provisions. Islamic law forbids humans to acquire wealth in a vanity way. Buying and selling must be done in a good way by not harming other parties. Allah SWT allows buying and selling that avoids usury, coercion, and transactions that harm other people.

This research focuses on the practice of buying and selling land on land that has previously been sold by other people. This happened in a case in Sialang Gatap Village, Kualuh Hilir District, North Labuhan Batu Regency. This kind of practice creates various negative impacts, such as the occurrence of disputes, hatred and jealousy among the parties involved. Therefore, the author is interested in studying this phenomenon more deeply by referring to the views of Sheikh Ibn Hajar Al-Asqalani.

Syekh Ibnu Hajar Al-Asqalani is one of the great scholars in Islamic history, in this case his views on the problem of buying and selling land over buying and selling of other people will become the theoretical basis of this research. By examining more deeply Islamic law related to this phenomenon, it is hoped that this research can provide a clearer understanding of the practice of buying and selling land over buying and selling of other people and its implications in the context of Islamic law. Thus, this research can contribute to scientific development and strengthen understanding of ethics and morality in interacting with Muslim communities.

RESEARCH METHODS

This study uses data collection techniques using observation, interviews, and documentation. Observation is a collection technique that requires researchers to go into the field to observe things related to space, actors, activities, time, events, goals and feelings. The interviews conducted in this study were unstructured interviews, namely free interviews by means of which the researcher did not use interview guidelines that had been systematically and completely arranged for data collection. The documentation method is carried out by collecting some information, knowledge, facts and data.

RESULTS AND DISCUSSION

1. Biography of Sheikh Ibn Hajar Al-Asqalani

Ibn Hajar Al-Asqalani's full name is Ahmad Ibn 'Ali Ibn Muhammad Ibn 'Ali Ibn Mahmud Ibn Ahmad Ibn Hajar al-Kannani al-Qabilah. He comes from al-'Asqalan. He was born on the 22nd of Sha'ban 773 H to coincide with the 18th of February 1372 AD on the

outskirts of the Nile, around Dar-Nuhas near the al-Jadid Mosque in Egypt. He was the son of Nuruddin 'Ali (d. 77 H/1375 AD), a great scholar who was known as a mufti and also a writer of religious poetry. His mother named Tujjar, was a rich woman who was active in trading activities, also left him first.

Then, Ibn Hajar was raised by a merchant named Zakiuddin Abu Bakar al-Karubi, who died when Ibn Hajar was 14 years old. Ibn Hajar is a hadith scholar, historian, Shaykh al-Islam, a hafiz, Amir al-Mu'minin in the field of hadith. Ibn Hajar has the title Syihanuddin and his graduate name is Abu al-Fadl and is a scholar of the Shafi'i school of jurisprudence. The nickname al-Asqalani was found because of Muslim family traditions that spread everywhere. Ibn Hajar is a scholar who has written more than 150 books.

In the field of 'ulum al-Qur'an, he wrote *Asbab al-Nuzul*, *al-Itqan fi Jami' al-Hadis*, *Fadha'il al-Qur'an*, and *Ma Waqa'a fi al-Qur'an min Gair al -Lugah al-'Arab*, *Al-Ihkamu li bayani ma fil Qur'an min al-Ibham*, and so on. In the field of 'ulum al-Hadis, he wrote *Nukhbah al-Fikr fi Mustalah Ahl al-Asar*, and *Nuhzat al Nazar fi Nukhbatil Fikr*. In the field of fiqh, he wrote *Bulugul Maram min Ahadis al-Ahkam*, in sharh al-hadith he wrote *Fath al-Bari bi Syarhi Sahihil Bukhari*, *al-Nukah 'ala Tauqih al-Zarkasyi 'ala al-Bukhari*. Whereas in the field of rijal, he wrote *Tahzib al-Tahzib*, *Taqrib al-Tahzib*, *Lisan al-Mizan*, *Al-Ishabah fi Tamyiz al-Shahabah*, and so on. There are many other works by Ibn Hajar in other fields (Laiya, 2018).

2. The Practice of Buying and Selling Land on Other People's Sale and Purchase that Occurred in Sialang Gatap Village

The buying and selling of land in Sialang Gatap Village uses a consensual buying and selling system. In the process of buying and selling transactions, prices, land conditions, and accessibility are important factors in the implementation of buying and selling land. Expensive or cheap land prices are determined by an agreement between the seller and the buyer in accordance with the prevailing market price at that time.

Before the sale and purchase agreement process takes place, the buyer usually conducts a survey to see first hand the condition of the land he is going to buy. However, during the process, the land seller in Sialang Gatap Village also offered it to other people. Based on the results of an interview conducted by one of the interviewees in Sialang Gatap Village, most of the land sellers there offer not only land that will be sold to one person. This is so that the land seller gets the highest price from one of the buyers.

As explained by the source, the seller chose the highest price even though one of the buyers had made an agreement with the seller of the land. This happens due to several

supporting factors, namely, the second buyer offers a higher selling price than the previous buyer so that the seller does not hesitate to cancel the previous sale and purchase agreement, individual interests, and also their position in society.

The impact of the first case, causing market chaos, due to sellers seeking profit for themselves or groups by allowing freedom to bid on other people's offers, finally those who have these supporting factors arbitrarily bid land on other people's sales. Second, the loss of willingness even though willingness is included in the pillars of buying and selling. Third, there is unfair competition, especially when bidding on land, the land is still being offered by the first buyer, the land seller offers it to get a high land price even though it is being offered by the first buyer. Fourth, the emergence of hatred in buying and selling hatred occurs in bargaining activities, such as buying and selling before the end of the *khiyar* period.

3. The Law of Buying and Selling Land on Sale and Purchase of Others According to Syekh Ibnu Hajar Al-Asqalani What Happened in Sialang Gatap Village

Among the forms of selling something in other people's transactions, for example, there are two people who buy and sell and agree on a certain price. Then another seller comes and offers his goods to the buyer at a lower price. Or offer the buyer other goods of better quality at the same price or even cheaper. There is no difference of opinion among the scholars that it is a sin if the practice is like that. This is because it can cause other people's displeasure and tyrannize them (Sobari, 2007).

In other forms, for example, as narrated by Ibn Umar from the Word of the Prophet, "It is not legal to sell something in other people's transactions." Narrated by al-Bukhari and Muslim. In Muslim narrations it is stated, "Let no one make sales transactions in other people's transactions. And let someone propose to a woman who is still being proposed to by another person, except when obtaining permission from the perpetrator of the transaction or the first suitor. Meanwhile in an-Nasai's history it is stated, "Let no one selling in other people's transactions, so he buys it or leaves the transaction (Al-Asqalany, et).

The buying and selling system that occurs in Sialang Gatap village is one of the buying and selling practices that does not follow *muamalah* law in Islam. Because it was clearly explained earlier that in buying and selling, it is not justified to sell goods which in this case is the sale and purchase of land which is still in the contract to the first buyer. However, in reality what happened in the field during the research process, community groups still apply buying and selling over other people's buying and selling.

It is for this reason that the majority of scholars vote for the opinion that such forms of buying and selling are forbidden, and even consider them to be immoral. In the buying

and selling system implemented in Sialang Gatap village, it is a practice that violates the law which has been agreed upon by the scholars because it sells above other people's offers. An example of a case that occurs is: someone tells the seller to cancel the trade and he will buy from him at a much higher price than the price offered. previously

CONCLUSION

Based on the results of the research that has been done, it can be concluded that in the practice of buying and selling, it is proper for Muslims to adhere to muamalah law which has been taught in Islam. This, if reviewed, actually has benefits and avoids the bad that is likely to occur if it is not in accordance with Islamic law. The practice of buying and selling according to Islamic law also intends to strengthen the ties of friendship between human beings, helping each other. But if in practice it is still not guided by Islamic law, then what happens is only divisions among humanity itself.

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