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Disharmony of the Judiciary Authority against the Objects Execution of Sharia Economic Responsibility

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Abstract:
Juridically the Court of Religion is a judicial institution that is authorized in examining, deciding and adjudicating and resolving the whole series of legal processes against disputes that occur in the field of sharia economy through the path of litigation (ordinary Court), including in executing the right of dependent objects of sharia economic cases that implementatively this is still a conflict or disharmony of authority between the judiciary rooted in the existence of conflict norms (ambivalence) contained in religious justice laws and sharia banking laws. In addition, the position of the contract or agreement also has consequences for the existence of the Court of Religion in the execution of the right of dependent objects of sharia economic cases, especially in the field of Sharia banking rooted in the unclear choice of the legal forum (choice of forum) contained in the agreement conducted by creditors (sharia banks) and debtors (customers), thus giving birth to bias and interpretation of multi-interpretation of the arising authority of other Courts which caused the Religious Court to lose its existence in resolving sharia economic disputes. Conflict or disharmony of authority that occurs between judicial institutions in the context of the execution of the right of sharia economic case dependent object in its implementation also provides legal implications for the position of debtors and creditors in the form of legal chaos (legal disorder) and legal confusion (confuse) in the community. It reflects the process of resolving cases that are counterproductive with legal certainty that is far from the principle of the simple justice system, fast and light costs and causes a decrease in the authority and credibility of the judiciary in the eyes of the public as an institution that carries out the duties of judicial power.

Keywords*: Disharmony; Judicial Institutions; Execution; Dependent Object Sharia Economy.*

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Introduction

Execution activities in the form of emptying dependent objects in sharia economic matters are a series of inseparable processes from resolving cases over disputes that occur in the Sharia economy. This can happen if there is an injury of promise (default) to the contract (agreement) made by one of the parties who bind themselves to the agreement that has been made. An agreement is an agreement between two or more parties to perform and or do not perform certain legal acts (Article 20 number 1 Compilation of Sharia Economic Law).

Nowadays, along with the increasing need of the community for actions or business activities carried out according to sharia principles. In line with this, this condition increasingly opens the opportunity for disputes in the field of Sharia economy. This is inseparable from the fulfilment of achievements that the parties must implement in the agreement (agreement) made together. Legal consequences arising in the event of a default on the contract (agreement) is a step to resolve sharia economic disputes conducted through existing legal instruments.

Two options can be taken in settlement of sharia economic disputes, namely litigation or non-litigation. The Religious Court is one of the implementing institutions of judicial power that has absolute authority to examine, adjudicate and resolve sharia economic disputes through litigation channels. This is following the provisions of the prevailing Laws and Regulations as stated in article 49 letter (i) of the Law of the Republic of Indonesia Number 3 of 2006 concerning the first amendment to the Law of the Republic of Indonesia Number 7 of 1989 and the second time has been amended by Law of the Republic of Indonesia Number 50 of 2009 concerning Religious Justice and Article 55 Number 1 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking. At the same time, the non-

litigation path includes alternative dispute resolution and arbitration. Alternative Dispute Resolution (ADR) is an institution of dispute resolution or opinion surgery through procedures outside the Court through consultation, negotiation, mediation, conciliation, or expert assessment as affirmed in Article 1 Number 10 of the Law of the Republic of Indonesia Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (Fauzi, 2013).

To divide the absolute authority of each Judicial Body has been presented a Law that regulates specifically the limitations of the authority of each Judicial Agency. The Law is the Law of the Republic of Indonesia Number 49 of 2009 concerning General Justice, Law of the Republic of Indonesia Number 50 of 2009 concerning Religious Justice, Law of the Republic of Indonesia Number 31 of 1997 concerning Military Justice and Law of the Republic of Indonesia Number 51 of 2009 concerning State Administrative Justice.

Various regulations, both formal and material, especially in the field of judicial legalization, step by step continue to be improved. This is intended so that no inequality will lead to the trigger of a dispute of authority between the judiciary to cause conditions in the form of "legal chaos" (legal disorder) and disparity of decisions, and "confusion of the law" (confuse).

This is as contained in the case of sharia economic lawsuit against the cancellation of the execution of dependent rights with *aqad "Murabaha*" in case No. 456/Pdt.G/2018/PA.Gtlo, who in the plaintiff's lawsuit especially on petitum point 2 and point three respectively to "declare the determination of the Chairman of Gorontalo District Court Number 12 / Pdt.Eks / 2016 / PN. Gto, dated November 30, 2016, is not legally based and has no binding legal force and must be declared null and void" and "states that the execution by Gorontalo district court bailiff on January 17, 2017, has no binding legal force and must be cancelled.

It boils down to the determination of the execution of the Chairman of the Gorontalo District Court Number 12/Pdt.Eks/2016/PN.Gto, dated November 30, 2016, gave birth to a new lawsuit filed to the Gorontalo Religious Court dated June 21, 2018, which at the point of his lawsuit, the plaintiff requested that the determination of the execution of the Chairman of the Gorontalo District Court be declared null and void. Although finally based on the decision of the Gorontalo Religious Court No. 456/Pdt.G/ 2018/PA. Gtlo plaintiff's lawsuit was declared unacceptable (*Niet Onvantkelijke Verklaar*), which was then strengthened by the appeal-level decision of the Gorontalo High Court of Religion with a decision No. 17/Pdt.G/2018/PTA. Gtlo and finally with the supreme court cassation decision No. 367/K/Ag/2019, which states to reject the application for cassation.

If interpreting the provisions of Article 55 Paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking in its existence, this can open the birth space of assumptions and interpretations that in settlement of sharia economic disputes, the parties may choose the environment of Religious Justice or General Justice and not even close the possibility of opening space for other judicial environments as long as it is included in the agreement (agreement) made together. With the contradictory differences in the content of norms in Article 55 Paragraph 2, various interpretations were born so that the meaning of legal certainty is no longer achieved.

The explanation of Article 49 of the Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia No. 7 of 1989 concerning Religious Justice confirms that dispute resolution is not only limited in the field of Sharia banking but also other areas of sharia economy. What is meant by "among people who have a diversity of Islam" is to include people or legal entities who themselves voluntarily submit themselves to Islamic Law on matters

that become the authority of the Court of Religion following the provisions of Article 49. So in the field of sharia economy is not known the principle of Islamic personality, it could be that the legal subject is not Islamic, but in using sharia agreements, it becomes the authority of the Religious Judiciary (Saudi, 2018).

The scope of sharia economy is further described in the explanation of Article 49 Letter (i) of the Law of the Republic of Indonesia No. 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia Number 7 of 1989 concerning Religious Justice which reads as follows: "what is meant by sharia economy is an act, or business activity carried out according to sharia principles, among others, including sharia banks. , sharia microfinance institutions, sharia insurance, sharia reinsurance, sharia mutual funds, sharia bonds and sharia medium-term letters, sharia securities, sharia financing, sharia pawnshops, pension funds of Sharia financial institutions and sharia businesses (Explanation of article 49 letter (i) of the Law of the Republic of Indonesia number 3 of 2006 concerning the first amendment to the Law of the Republic of Indonesia number 7 of 1989 concerning Religious Justice).

The position of the absolute authority of the Court of Religion in the field of sharia economy against the entire series of settlements of cases from the examination of the case in the Court, the implementation of the verdict to the execution of dependent and fiduciary objects related to sharia economy from the juridical side it is straightforward that it is the absolute authority of the Court of Religion. This is reaffirmed in the Regulation of the Supreme Court of the Republic of Indonesia No. 14 of 2016 concerning Sharia Economic Settlement Procedures where in Article 13 Paragraph 1 explicitly stated that "The implementation of sharia economic case decisions, dependent rights and fiduciaries based on sharia contracts is carried out by the Court within the Religious Judiciary (Article 13 Paragraph 1 of the Regulation

of the Supreme Court of the Republic of Indonesia Number 14 of 2016 concerning Procedures for Sharia Economic Settlement).

Problem Statement

In the implementation of the absolute authority of the Religious Court in the field of sharia economy that has been clear from the juridical side since the examination of the case in the Court, the implementation of the verdict, until the execution becomes blurred (obscure) due to conflicting articles in the Legislation as contained in Article 55 Paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking and Article 49 of the Law of the Republic of Indonesia Number 3 the Year 2006 as amended by Law of the Republic of Indonesia No. 50 of 2009 concerning Religious Justice that causes multi-interpretation of the use of contracts (agreements) in determining the authority of the Court for the execution of sharia economic dependent objects which is the authority of the Court of Religion.

Method

This research is normative legal research. Namely, legal research conducted by researching library materials or secondary data only (Mamudji, 2013). This research aims to provide an overview or formulate problems following the circumstances/facts in the scope of competence absolute religious courts against executing the right of dependent objects sharia economic cases. The approach used in this study is the statute approach and the case approach. The legal materials in this study were analyzed prescriptively using qualitative approaches to primary legal materials and secondary legal materials.

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Discussion

1. Competency About Religious Court Against Execution of The Right of Dependent Objects sharia economic case

Article 49 of the Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia No. 7 of 1989 concerning Religious Justice and last amended by Law of the Republic of Indonesia Number 50 of 2009 explicitly states that "The Religious Court is in charge and authorized to examine, decide and resolve cases at the first level between people who are Muslims in the field of marriage, inheritance, wills, grants, *waqf, zakat infaq*, *alms* and sharia economy (Article 49 of the Law of the Republic of Indonesia number 3 of 2006 concerning the first amendment to the Law of the Republic of Indonesia number 7 of 1989 concerning Religious Justice).

Referring to the provisions of article 49 of the Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia No. 7 of 1989 concerning Religious Justice and last amended by Law of the Republic of Indonesia Number 50 of 2009 it is seen that the authority to adjudicate on cases in the field of Sharia economy is the authority of the Court of Religion. Thus it can be interpreted that the whole series of litigation settlements in the field of Sharia economy from the registration of the case until the reading of the verdict and execution is the absolute authority (absolute) of the Court of Religion.

Conflict of norms (ambivalence) contained in the Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia Number 7 of 1989 concerning Religious Justice and was last amended by Law of the Republic of Indonesia Number 7 of 1989 concerning Religious Justice 50 the Year 2009 and Law of the Republic of Indonesia Number 21 of 2008

concerning Sharia Banking respectively located in article 49 of the Law on Religious Justice and Article 55 Paragraph 2 of the Law on Shariah Banking.

Problems in the execution of the right of dependent objects of sharia economic cases stem from submitting an execution application by the applicant of execution. Where in this case, there has been inconsistency to the absolute authority (absolute) of the District Court, especially in granting the application for execution of the right of sharia economic dependent object submitted by the execution applicant, although this is not the authority of the District Court as contained in the case examined and tried by the Gorontalo Religious Court No. 456/Pdt.G/2018/PA. Gtlo, Jo Gorontalo High Court of Religion Decision Number 17/Pdt.G/2018/PTA. Gtlo Jo supreme court cassation decision No. 367/K/Ag/2019 where the Gorontalo District Court grants the application for execution submitted by the execution applicant based on the determination of the execution of Gorontalo district court Number 12/Pdt.Eks/2016/PN.Gto.

In this context, it should also be explained that that becomes the basis or basis of the Gorontalo District Court in accepting and granting the application for execution as Determined No. 12/Pdt.Eks/2016/PN. Gto is based on The Minutes of Auction No. 315/2016 dated June 27, 2016, issued by the Office of State Wealth Services and Auctions Gorontalo (Minutes of Auction No. 315/2016) based on Mortgage Sertificate No. 1495/2014 dated October 30, 2014, issued by Gorontalo city land office (SHT No. 1495/2014) Jo Deed of Granting Dependent Rights No. 314/2014 dated October 13, 2014, made before the Office of Land Deed Maker Gunawan Budiarto, SH "APHT No. 314.2014) (Verdict Number: 0293/Pdt.G/2017/PA. Gtlo on Sharia Economic Lawsuit). One of the things that need to be observed in this context is the exit of the determination of the execution of the Chairman of the Gorontalo District Court as determined No. 12/Pdt.Eks/2016/PN. Gto dated November 30, 2016, to execute

emptying of the right of sharia economic dependent object with Murabaha agreement based on the minutes of the auction although, in reality, the process of examination of the subject matter is still at the stage of appeal law in the Gorontalo High Court of Religion and in essence the auction process is an accessor of *aqad murabahah* carried out with sharia principles.

The main examination of the sharia economic lawsuit stemming from the birth of a new lawsuit about the cancellation of the execution of sharia economic dependent rights in vulnerable cases until it is at the stage of cassation law in the Supreme Court. This can be seen from the journey of resolving the case from the first level to the level of cassation, each with the verdict of case No. 0293 / Pdt.G / 2017 / PA. Gtlo jo Verdict No. 5/Pdt.G/ 2018/ PTA. Gtlo at the appeal level jo Verdict No. 794/K/Ag/2018 at the cassation level although in the decision of the supreme Court's cassation decision states rejected the application for cassation from the cassation applicant who was previously a plaintiff or debtor (customer).

The birth of a new lawsuit about sharia economic lawsuit in the cancellation of the execution of dependent rights as contained in the case No. 456 / Pdt.G / 2018 / PA. Gtlo, Jo Gorontalo High Court of Religion Decision Number 17/Pdt.G/2018/PTA.Gtlo Jo supreme court cassation decision No. 367/K/Ag/2019 is a legal consequence born from the closed space to conduct legal efforts against execution against the Determination of the Chairman of Gorontalo District Court No. 12/Pdt.Eks/2016/PN. Gto dated November 30, 2016 because the execution process of sharia economic dependent objects has been carried out even though at that time the examination of the subject matter (sharia economic dispute) is still at the stage of appeal law that ultimately continues until the cassation law efforts in the Supreme Court.

Substantial problems in the execution of sharia economic dependent objects occur due to the existence of interpretation space that is multi-interpretation in Article 55 Paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking. The interpretation room occurs due to contextual interpretation of the sound of Article 55 Paragraph 2, which states that "If the parties have promised the resolution of the dispute other than as referred to in Paragraph (1) the settlement of the dispute is carried out following the contents of the agreement". A sentence stating "dispute resolution is carried out following the content of the agreement in Article 55 Paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking contextually this provides a vast interpretation space for the open authority of the District Court and other Courts in carrying out executions on the object of sharia economic dependents as long as it is outlined in the contents of the agreement.

The provisions of Article 55 Paragraph 2 of The Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking in its existence are very contradictory to the provisions of Article 49 of The Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia Number 7 of 1989 concerning Religious Justice and most recently amended by Law of the Republic of Indonesia Number 50 of 2009 which expressly states that one of the authorities of the Religious Court is check, decide and adjudicate the case at the first level in the field of Sharia economy, namely from the registration of the case until the sentencing until the execution.

The provisions of Article 55 Paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking which serves as the legal standing of the District Court in granting the application for execution of sharia economic dependent objects in its existence have been submitted for judicial review

in the Constitutional Court in 2 012 and based on the decision of the Constitutional Court No. 93/PUU-X/2012 concerning The Testing of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking against the Constitution of the Republic of Indonesia year 1945 is declared to have no binding legal force. Thus the application for execution of the right of sharia economic dependent object should ideally be declared rejected by the District Court.

The Religious Court currently has the authority to resolve disputes in the Sharia economy, and one of the branches of the sharia economy is a dispute in Sharia banking. The birth of Law strengthens authority in resolving sharia banking disputes No. 21 of 2008 concerning Sharia Banking, Article 55 states that (Saudi, 2018):

1. Settlement of Sharia Banking disputes is conducted by the Court within the Religious Judiciary.
2. If the parties have promised the resolution of the dispute other than as referred to in paragraph (1), the settlement of the dispute shall be conducted following the contents of the agreement.
3. Dispute resolution, as referred to in paragraph (2), shall not be contrary to sharia principles.

A dualism of litigation institutions authorized in settlement of sharia banking disputes between the Religious Judiciary and the General Judiciary as arising from the explanation of Article 55 paragraph 2 letter (d) was finally declared invalid by the Constitutional Court because it was considered unconstitutional with the birth of the Decision of the Constitutional Court No. 93/PUU-X/2012 dated August 29, 2013, ruled that (Saudi, 2018):

1. Explanation of Article 55 paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking contrary to the Constitution of the Republic of Indonesia of 1945;

2. Explanation of Article 55 paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking has no fixed legal force.

Based on the Decision of the Constitutional Court, then starting from August 29, 2013, the execution of dependent rights based on sharia is the authority of the Religious Court. In addition, Chairman of the Private Supreme Court Chamber Sulthoni Muhdali said that the right of dependents is an agreement assessor against the main agreement. Suppose the principal agreement is based on sharia, then, of course. In that case, the Religious Court is authorized to carry out the execution of dependent rights in the form of guarantees from the debtor. The keyword is if the transaction agreement made by the lender and the borrower is based on sharia agreement, then the object of dependent rights on the financing becomes the authority of the Religious Court to carry out its execution (Saudi, 2018).

Relate with the execution of the right of sharia economic dependent object especially in the field of Sharia banking made based on sharia agreement or principle in its existence is the absolute authority of the Court of Religion. This is similar to the explanation given by Mr. Drs. Saifuddin.,MH as a judge at the Gorontalo Religious Court in a research interview session, where he said that with the release of the Decision of the Constitutional Court No. 93/PUU-X/2012 on The Testing of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking against the Constitution of the Republic of Indonesia in 1945, it further strengthens the authority of the Religious Court in carrying out executions on the right of sharia economic dependent object specific to the field of Sharia banking (Exclusive Interview With Mr. Drs. Saifuddin.,MH, As Chairman of Gorontalo Religious Court, Monday, April 19, 2021 at 10.00-10.45 Wita).

The position of absolute competence of the Court of Religion in resolving disputes that occur in the field of sharia economy from the juridical aspect is

reaffirmed by the Regulation of the Supreme Court of the Republic of Indonesia No. 14 of 2016 concerning Procedures for Settlement of Sharia Economic Matters. The material of Supreme Court Regulation on the settlement of sharia economic disputes with the examination of cases with simple events and procedures for examination of cases with ordinary events. Thus it is clear that the resolution of disputes in the Sharia economy is the absolute competence of the Court of Religion, including the process of execution of the right of the object of responsibility of sharia economic matters. This can be seen in the provisions of the Regulation of the Supreme Court of the Republic of Indonesia Number 14 of 2016 concerning The Procedure for Settlement of Sharia Economic Cases Chapter IX concerning the implementation of Article 13 paragraph 1 rulings that state that "the implementation of sharia economic case decisions, dependent rights and fiducials based on sharia agreements is carried out by the Court within the Religious Justice.

Theoretically, the absolute competence of the Religious Court against the execution of the right of the object of sharia economic case can also be seen from the affirmation of the argument that the Religious Court is authorized to adjudicate sharia economic disputes, including sharia banking, the Religious Court has the authority also in executing collateral goods used in Sharia Banks because the guarantee agreement is "*assecoir*" (attached) to the underlying agreement. Based on these thoughts, the Religious Court also has to complete an application for execution of both executions against rulings that have a fixed legal force, as well as the execution of collateral goods in sharia banking, which is submitted following the applicable provisions (Mustjari, 2016).

2. Consequences of The Agreement on the Existence of Absolute Competence of Religious Courts in the Execution of Objects Dependent on Sharia Economic Matters

The consequence of the position of the contract on the existence of absolute competence of the Court of Religion in the execution of the object of responsibility for sharia economic matters, especially in the field of Sharia banking, namely lies in the substance of the contract or agreement agreed based on the contract or agreement, especially for the parties in appointing and selecting a judicial body in executing the object of sharia economic case dependents at the time of performing an agreement or agreement.

Looking at the correlation or link that becomes a common thread between the position of the contract or contract with the absolute competence of the Court of Religion that tentatively gives implications and consequences to the existence of absolute competence of the Court of Religion, especially in the execution of the object of dependent sharia economic case is born from the provisions of Article 55 paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking which is one of the regulations used as a legal basis in performing contracts or agreements. Where in its existence, the article opens a multi-interpretation space to the emergence of the authority of other Courts in resolving disputes in the field of sharia economics, especially about sharia banking, even though it is clearly in the provisions of Article 49 of the Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia Number 7 of 1989 concerning Religious Justice and lastly amended by Law of the Republic of Indonesia No. 50 of 2009 dispute resolution in the field of sharia economy is the authority of the Court of Religion.

Referring to the fact, in maintaining the existence of competence *aqad* or contract in the Regulation of the Supreme Court of the Republic of Indonesia No. 2 of 2008 concerning the Compilation of Sharia Economic Law Article 20 Paragraph 1 is defined as "agreement between two or more parties to do and or do not do certain legal acts (Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2008 concerning the Compilation of Sharia Economic Law Article 20 Paragraph 1). Agreements (ties, decisions or strengthening) agreements or transactions can be interpreted as commitments framed by sharia values. In *fiqh* terms, in general, an agreement means something that becomes one's determination to carry out, whether it arises from one party such as waqf, divorce and oath or that arises from two parties such as buying and selling, renting, waqalah and pawn. Specifically, the contract means the relationship between ijab (statement of offer/transfer of ownership) and qabul (statement of acceptance of ownership) within the scope of the prescribed and influential on something (Ascarya, 2011).

As reviewed earlier, the agreement is one aspect that cannot be separated from the scope of the sharia economy. In its role, the contract occupies a central position in the economic traffic between people (*muamalah*), which is the key to the birth of rights and obligations (achievements) born due to contractual relationships. In the field of Sharia banking, which is one type of sharia economic activity, the issue of commitment that brings consequences to the existence of absolute competence of the Court of Religion in the execution of the object of responsibility of sharia economic case arises from the provisions of Article 55 paragraph 2 of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking which opens the space for the choice of legal forum (choice of forum) that gives rise to multi-interpretation of the existence of ab competency solute The Court in resolving sharia economic disputes especially in carrying out executions.

Juridically the contract (agreement) is a Law for those who make it as the provisions of Article 1338 of the Civil Code. However, an agreement must not be contrary to the Law, moreover the Law that has established the absolute power for a judicial body that binds the parties to the agreement. Therefore, clarity in the preparation of agreements is a must. The parties should mention one of the selected legal forums in the event of a dispute. The Act has been set normatively by providing examples of legal forums chosen by the parties who agree.

Aqad murabahah is one type of agreement in the field of Sharia economy. In article 20, Paragraph 6 of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2008 concerning the Compilation of Sharia Economic Law explains that "murabahah is mutually beneficial financing conducted by Shahab al-mal with parties in need through a trade transaction with the explanation that the procurement price of goods and the selling price there is more value which is a profit or profit for Shahab al-mal and its return is done in cash or instalments (In article 20 Paragraph 6 of the Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2008 concerning the Compilation of Sharia Economic Law).

Murabahah is one of the *muamalah* contracts in the form of buying and selling. Etymologically, *murabahah* comes from the word *ar ribhu* (Arabic), which means additional or increase obtained from the results of trade transactions. While according to the terminology of experts in Sharia economic law, *murabahah* is defined as a trade at the initial price plus several mutually agreed benefits (Masykur, 2017). Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking defines *murabahah*, in the explanation of Article 19 paragraph (1) states that *murabahah* agreement is a financing agreement of an item by applying its purchase price to buyers and buyers paying it at a price that is more as an agreed profit. Thus, the characteristic of buying and selling with *murabahah* agreement is that the seller

must know about the capital or purchase price of the goods and state the amount of profit added to the cost (Saudi, 2018).

Essentially an agreement or agreement in the field of Sharia economy is one aspect that has vital interests and gives legal consequences to a transaction conducted in the field of Sharia economy. This is inseparable from the substance of the agreement or agreement made jointly basically poses legal implications that must be obeyed by the parties that make it, especially for creditors as fund providers and debtors as users of funds. Thus, in the making of an agreement or agreement, it is necessary to pay close attention to matters related to the substance or content of the agreement, especially regarding the steps and efforts to resolve legal problems in case of disputes in the field of disputes Sharia economy.

Concerning the issue of sharia economic agreements or agreements, especially in the field of Sharia banking, in its implementation, this still opens up space for the emergence of new legal problems in the community, especially for creditors and debtors, especially after the execution of the object of responsibility for sharia economic matters as contained in the case No. 456/Pdt.G/2018/PA. Gtlo jo Gorontalo Religious High Court Decision Number 17/Pdt.G/2018/PTA. Gtlo Jo Supreme Court Cassation Decision No. 367/K/Ag/2019 concerning Sharia Economic Lawsuit in the Annulment of Execution of Dependent Rights born from the execution of sharia economic case dependent objects by Gorontalo district court based on the determination of excesses No. 12/Pdt.Eks/2016/PN. Gto.

The occurrence of conflicts of authority between judicial institutions such as the Religious Court and the District Court in settlement of sharia economic disputes khsusnya in the execution of the right of dependent objects of sharia economic cases in its essence is inseparable from the existence of an agreement containing the will of the parties who bind themselves in an agreement or agreement. Agreements or

agreements made and agreed together are laws for its makers. This is following the rule of Law contained in the Civil Code Article 1338 paragraph (1), which states that "all contracts (agreements) made legally apply as law to those who make them".

Textually Article 55 paragraph (2) of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking contains the meaning of multi-interpretation and bias that gives rise to the consequences of the existence of absolute competence of the Court of Religion to be blurred (obscure) in resolving sharia economic disputes, especially against the execution of the object of dependent sharia economic case. However, the authority of the Court of Religion has expressly been regulated in Article 49 of the Sharia Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia Number 7 of 1989 concerning Religious Justice and was last amended by Law of the Republic of Indonesia Number 50 of 2009. Thus in creating legal regularity in the community and maintaining the existence of the authority of the Religious Court in resolving the whole series of legal processes of sharia economic disputes, especially in the field of Sharia banking and following up on the Decision of the Constitutional Court No. 93/PUU-X/2012, it is crucial to immediately revise the provisions of Article 55 paragraph (2) of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking which is also one of the references that are used as legal basis in performing contracts or agreements.

The decision of the Constitutional Court No. 93/PUU-X/2012 became a critical moment for the strengthening of the authority of the Religious Judiciary about the resolution of sharia economic disputes. Although the authority on sharia economy has been crossed since the enactment of Law of the Republic of Indonesia No. 3 of 2006, which is the first amendment to the Law of the Republic of Indonesia No. 7 of 1978 on Religious Justice and then strengthened by the Law of the Republic of Indonesia

No. 21 of 2008 on Sharia Banking, but its implementation in the field of the community impressed gamang bring sharia economic cases to the Court of Religion. This is partly because of the still striking thinking of Sneouck Hourgronce through receptie theory that always tries to castrate Islamic Law in Indonesia, including sharia banking law (Rosyadi, 2017).

Based on the above explanation of Article 55 paragraph (2) of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking relating to the contract, it is very clearly seen that the agreement or agreement in this context becomes one of the aspects that give consequences or influence to the existence of absolute competence of the Religious Court in the execution of the object of responsibility for sharia economic matters. Therefore, in maintaining and affirming the authority of the Religious Court in resolving sharia economic disputes in the field of sharia banking, especially in carrying out executions, this can be done by closing the space that causes conflicts of authority, confusion of laws in the community and counterproductive legal certainty through the revision of Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking Article 55 paragraph (2) governing the completion of sharia banking. Sharia economic dispute based on the content of the agreement or agreement.

Contracts in the field of the Sharia economy become one of the determining factors of the efforts to be taken in solving legal problems that occur in the Sharia economy. This is inseparable from the position of the contract or contract made and agreed together to apply as Law to its makers. Thus the principles that become the main guideline of the birth of a contract or contract become a determining factor against the position of an institution and efforts that will be used in completing the stages of legal process in Sharia economy, especially Sharia banking. In this case, the principles in the contract or contract are made and agreed together, which is an

essential element that can determine the position and authority of the institution both in litigation and non-litigation in resolving sharia economic disputes, including the execution process. Thus against the settlement of sharia economic disputes, including the execution of the rights of dependent objects carried out by contract or contract based on sharia principles, in litigation (ordinary Court) is the absolute competence of the Court of Religion.

This is similar to the explanation of Mr Drs. Saifuddin., MH as a judge in the Gorontalo Religious Court who said that the contract or contract in the field of Sharia economy is an accessor that can not be separated from the contracts or contracts made and agreed together. Thus, if the contract or contract in the field of Sharia economy is essentially carried out with sharia principles, then the ordinary Court of settlement of sharia economic disputes is the absolute competence of the Religious Court (Exclusive Interview With Mr. Drs. Saifuddin.,MH, As Chairman of Gorontalo Religious Court, Monday, April 19, 2021, at 10.00-10.45 Wita).

Application for material test against Article 55 of the Law of the Republic of Indonesia Number 21 of 2008, the Constitutional Court has handed down the decision No. 93/PUU-X/2012. The essence of the ruling was decided that the explanation of Article 55 paragraph (2) of the Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking has no binding legal force. Based on the decision of the Court, we must expressly state that sharia economic disputes become the absolute authority of the Court within the Religious Judiciary. In other words, bringing the resolution of sharia economic disputes to another judicial environment violates the absolute competence that has been outlined by the norms of the Court's decision No. 93/PUU-X/2012. Non-Muslim people who become customers in Sharia banking when they have chosen sharia principles are considered to be subject to Islamic Law or sharia principles.

Conclusion

Juridically the execution of the rights of sharia economic dependent objects, especially in the field of Sharia banking is an absolute competence of the Religious Court as affirmed in the provisions of Article 49 of The Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia Number 7 of 1989 and last amended by Law of the Republic of Indonesia Number 50 of 2009 concerning Religious Justice and Supreme Court Regulation of the Republic of Indonesia I Indonesia No. 14 of 2016 concerning Procedures for Settlement of Sharia Economic Cases that implementatively in this case there is still a conflict of authority between the District Court and the Religious Court stemming from the occurrence of conflict norms (ambivalence) contained in the Law of the Republic of Indonesia Number 3 of 2006 concerning the First Amendment to the Law of the Republic of Indonesia Number 7 of 1989 concerning Religious Justice and was last amended by Law of the Republic of Indonesia Number 50 of 2009 and Law of the Republic of Indonesia Number 21 of 2008 concerning Sharia Banking.

Agreement in its position can have consequences for the existence of absolute competence of the Court of Religion in the execution of the right of dependent objects of sharia economic cases, especially in the field of sharia banking rooted in the unclear choice of legal forums (choice of forums) contained in the agreements (agreements) conducted by creditors (sharia banks) and debtors (customers) by not including a straightforward appointment of the chosen judicial institution in the resolving sharia economic disputes, especially in carrying out executions, resulting in bias and multi-interpretation of the authority of other Courts that cause obscure authority of the Religious Court in resolving sharia economic disputes.

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