

Submission date: 19 Jan 2021

Acceptance date: 23 Dec 2021

Publication date: 01 June 2022

INSTALLMENT SALE: ITS CONTEMPORARY APPLICATION IN ISLAMIC BANKING FINANCE (CASE STUDY BRUNEI DARUSSALAM)

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DOI: <https://doi.org/10.33102/mjssl.vol10no1.268>

ABSTRACT

One of the most important sales operations that have spread among members of society today is the installment sale, and among the reasons for its spread are intense competition between producers and the weak purchasing power of consumers. More people need goods and have no money to buy them with cash, and many markets have suffered from the recession, so companies and institutions have devised new marketing methods to provide the advantages of goods that aim to acquire the largest possible number of consumers for these goods. This study aims to investigate the installment sale process and to review the potential of Islamic banks in developing financing products with the installment sale concept. The research method in this study uses a normative judicial method, aiming to concern one of the applications of installment sales in Islamic bank finance based on the existing law and regulation. This study concluded that the contemporary applications of installment sale concept in Islamic banks of Brunei Darussalam, in form of financing with Tawarruq contracts, Islamic hire purchase Ijarah Thumma al Bai' (AITAB), and Musarakah Mutanaqisah (MMQ). With the concept of installment sale applied by Islamic bank-based Islamic law and regulation, so that we can all avoid doubts and become more confident in dealing with a transaction that is under sharia principles.

Keywords: *Installment sale, Financing, Islamic Banking, Brunei Darussalam*

Introduction

Nowadays the people are in dire need of the materials of their lives because they are among the necessities that must be attained in their lives, such as a house, food, clothes, vehicles, and so on. Not everyone can own these necessities in cash at once, so Islamic Sharia permits transactions by means that help meet people's needs in various transactions such as sale contract, *Rahn* contract, lease contract, installment contract, *Musharakah* contract, forward buying or *Salam* contract, and so on (Al-Qarni, 1987).

One of the most important sales operations that have spread among members of society today is the installment sale, and among the reasons for its spread are intense competition between producers and the weak purchasing power of consumers. More people need goods and have no money to buy them with cash, and many markets have suffered from the recession, so companies and institutions have devised new marketing methods to provide the advantages of goods that aim to acquire the largest possible number of consumers for these goods (Ayes, 1983; Muqorobin and Annas, 2020).

Due to the common misfortune of this type of selling, it has become necessary to know its legal ruling in terms of its permissibility or prohibition, as well as knowledge of its legal controls if it is permissible, and the poor and needy are no longer meet their needs except for this type of transaction, in which suspicion of coercion, or independence may have been realized, or usury fraud is possible (Muhammad et al, 2020).

Therefore, The legal review of the installment sales contract and its role in financing is a very effective measure in this regard (Naser and Panahi, 2014). This research is an attempt to study this issue by focusing on and investigating the application of installment sales in Islamic bank finance and highlighting financing and investment in Islamic banks of Brunei Darussalam. Because like Brunei as an Islamic nation (*Negara Dzikir*), the application of the installment sale concept has a long history in this system and takes a special form in offering to finance to their customers (Yusuf et al, 2019).

Research Methodology

This research is qualitative research with a case study approach where researchers will observe and cases related to the contemporary application of installment sale in Islamic banking finance in Brunei Darussalam. This research will use a legal normative method, namely legal research that limits secondary data sources. Normative, because this study will examine and test secondary data to obtain the opinions of fiqh scholars, laws, arguments in the Al-Quran and Hadith, which are related to the model of installment sale based on Islam law. Operationally, normative juridical research is carried out using library research (Marzuki, 2016).

The analysis will be done using the descriptive-analysis method, which approaches aims to find the contemporary application of installment sale in Islamic banking finance. The data that will be used are primary and secondary data sourced from an Islamic bank. Primary data were obtained directly through interviews with banking analysts on calculation and financing analysis. While secondary data included literature in the form of legal books by recognized authorities, legal theories, articles from periodicals related to research titles, publications of the private foundation of research, and government research publications (Muqorobin and Cahyo, 2019).

Installment Sale In Islamic Jurisprudence

1. Definition of Installment Sale

An installment sale is an updated term for an old transaction, and some scholars may think that a sale is one of the new sales and events that have occurred. The jurists offered it for sale at a deferred price when researching, but the ancient jurists did not single it out with a separate chapter, nor did they name it with this name, even though they used the condition installment and the phrase installment price in some selling matters (Muqorobin and Fachreza, 2018).

An installment sale is a branch of the time of sale, in which a commodity is sold at a deferred price that is higher than the current price (Khitab, 2001; Muqorobin, 2016), But it differs from it in that the installment may be the deferred price in close or spaced payments, while the condition sale is deferred for a short period or one payment for all price. It can be said that there is an absolute general and specific relationship between installment and delay, in every postponement the delay is the absolute general, and the delay in installments may not be. The installment is more specific and the delay is more general (Afnadi, 1991).

As Sulaiman bin Turki al-Turki mentioned that installment in the terminology is postponing the payment of the debt divided to several known times. It can be said that the sale of installments is: (A contract on a sale, at a deferred price, paid separately on parts of known, at known times)(At-turki, 2003), Mahmoud Abdel-Karim Ahmed Irsheed said: "If the sale is expedited and the price is postponed, then it is the sale of *nasi'ah* or installment, and it is part of the deferred sale, and if the price hastens and the sale is delayed, then it is the sale of *salam*". Installment sale is an updated term for an old transaction, which is "a sale in which the sale is expedited, and the price is completely or partially deferred, in known installments, for a known period, and these installments maybe for a regular period or otherwise (Ahmad Irsid, 2001).

Muhammad Uqla Al-Ibrahim also explains Selling the commodity at a deferred price that is higher than the current price, provided that the payment of that price is divided into specific parts, and it is performed at specific and known times (Ibrahim, 1987), As for Ahmed bin Hassan bin Ahmed al-Husni gives definition, is deferring the price by not paying it immediately, but rather postponing it and paying separate installments at certain times (Al-husni, 1999), As if a car is sold for sixty thousand dollars, and its price is delivered to the seller, distributed in thirty months every month, two hundred dollars. This type of sale is selling something with a deferred payment, delivered in certain divisions at a predetermined time with a total amount that is higher than the cash price (Muqorobin, 2016; Sa'adudin, 2012). The essence of buying goods in installments is buying goods in debt. Debt is not recommended in Islamic law unless someone needs the item, and he feels able to pay it off. So it is not recommended for a Muslim to buy luxury goods in installments.

After noticing the meanings of installment sale among modern jurists, the researcher saw an explanation of the definition of installment sale. It is one of the sales of acquiring the commodity with money by mutual consent to expedite the delivery of the thing sold immediately and delay the payment of all or some of the price in installments and at known times in the future. In most cases, the deferred price is higher than the current price, and the installments are weekly or monthly for household goods, or semi-annually, or three months, or every year. People take benefit from this sale as a means of providing the needs in dealing to obtain the commodity and enjoy its consumption or use, and that it fulfills the needs of people in easy ways, and it is not intended as usury or illegal profit.

2. The legitimacy of Installment Sale

The majority of the fiqh from the four scholars state permissibility of installment sale and they inferred its legitimacy in the Qur'an and the Sunnah and the reasonable. However, there is suspicion among some contemporaries about the increase in deferred rates and premiums. Because it is based on time, and calculated rather than delay. The legal basis of an installment sale is as follows:

a. Al-Qur'an

The installment sale, as described above, includes a sale and purchase contract, which is an action or transaction that has been stated in the sense that there is a clear law in Islam.

Al-Quran Surat al-Baqarah verse 275:

وَأَحَلَّ اللَّهُ الْبَيْعَ وَحَرَّمَ الرِّبَا

Translation: But Allah has permitted trade and has forbidden ribā (usury)".

Al-Quran Surat an-Nisa 'verse 29:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

Translation: O you who have believed, do not consume one another's wealth unjustly but only (in lawful) business by mutual consent. . .

The general meaning of these verses indicates that trading is permissible if there is consent from both parties. If the purchaser agrees to pay a higher price in return for delaying payment, the transaction is valid.

Al-Quran Surah al-Baqarah verse 282:

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَىٰ أَجَلٍ مُّسَمًّى فَاكْتُبُوهُ

Translation: O you believe! When you contract a debt for a fixed period, write it down.

This transaction is one of the permissible kinds of debts that are mentioned in this verse; it is also akin to forward buying (*ba'i Salam*).

These verses above indicate that it is permissible to deferred sales, because the verses are based on its release and not restricted, so this indicates It is permissible to sell or buy by installments, because it is a type of sale in which the price is delayed, and there is nothing to prevent that, because The origin of transactions is permissibility.

b. Al-Hadith

There are some hadith that form the basis of the law of the validity of installment sale, which means buying a product and delaying payment, although not directly indicating the type of contract of installment sale which is:

The hadith relating to the validity of installment:

عن عائشة رضي الله عنها: أن النبي صلى الله عليه وسلم اشترى من يهودي طعامًا إلى أجل معلوم، وارتحن منه درعا من حديد

Translation: The Prophet (Muhammad) bought some food a jew to be paid for later, and put an iron shield in pledge for it" (Al-Bukhari, 1987; Muslim, n.d.).

This hadith shows that it is permissible to make purchases with delayed payments, and purchases by installments are nothing but buying with delayed payments; all that means that the price is divided into quantities, each of which must be paid at a certain time.

The hadith indicates that it is permissible to pay later in instalment:

عن عائشة - رضي الله عنها - قالت: دخلت علي بريرة، فقالت: أن أهلي كاتبوني على تسع أواق في تسع سنين، في كل سنة أوقية فأعينيني.

Translation: Barira come to me and said: "I drew up a contract of manumission with my master stating that I would pay nine Uqiya (of gold), one Uqiya each year", (A Uqiya is a weight of silver etc),(Al-Bukhari, 1987).

Hadith relating to the validity of which it is permissible to increase the price in return for a delay in payment:

حديث عبد الله بن عمرو بن العاص - رضي الله عنهما - قال: «أمرني رسول الله صلى الله عليه وسلم أن أجهز جيشًا، فنفدت الإبل. فقال رسول الله صلى الله عليه وسلم: ابتع علينا إبلا بقلائص من إبل الصدقة، قال: وكنت

أبتاع البعير بقلوصين وثلاث قلائص من إبل الصدقة إلى محلها، فلما جاءت إبل الصدقة أداها رسول الله صلى الله عليه وسلم».

Translation: Narrated Abd-Allah ibn 'Amr ibn'al-Aas (may Allah be pleased with him) The messenger of Allah (SAW) commanded him to prepare an army, but the camels were running out. So he commanded him to take the chariot of charity, so he used to take the camel with the two camels to the camel of charity (Abū Dāud, n.d.).

3. Requirement and Term of Installment Sale

The installment sale is one of the types of buy and sell contracts that is legal, then the terms and contracts of the installment sale must meet the requirements for buying and selling in general, it is added to set of special requirements are (Misri) (Ibrahim):

- a) The installments sale should not be an excuse for usury, and one of the most important ways in which interest is achieved is *Ba'i Innah*.
- b) That the seller is the owner of the commodity, so it is not permissible for the seller to sell a commodity that is not his property.
- c) The commodity is on the seller's side, It is not sufficient for the seller to own the commodity he wishes to sell, but rather to take possession of the commodity to be sold by installments.
- d) The traded goods must be able to be handed over at the time of the contract (cannot be postponed), because if it is done firmly there is a risk of buying and selling debt with debt, it is forbidden.
- e) The installment period must be clear, It is necessary to indicate the period of installments, the time of repayment of each installment, and the full installment period.
- f) This type of sell namely *Ba'i Munjiz*, so the sale contract is not valid on the payment of all installments, rather, payment must be made in installments within the agreed time.
- g) The deferred price may be increased from the current price, and it is also permissible to mention the price cash, and the period of installment.
- h) If the debtor buyer is late in paying the installments beyond the specified date, he may not be obligated to increase the debt, on previous conditions or without conditions, because that is forbidden as usury.
- i) It is prohibited for the debtor to delay the payment of the installments for who can pay it on time and it is not permissible to stipulate compensation in the event of late installment.
- j) It is permissible to agree between the seller and the buyer on the settlement of the remaining installments when the debtor refuses to pay any of the installments due on him unless he goes insolvent.

In conclusion, there are three requirements for sale and buy by installments that must be met, namely requirements related to price, terms of installments time, and requirements for contract purposes (Mubarok, 2017).

ISLAMIC BANKING IN BRUNEI DARUSSALAM

The experience of Islamic banks in Brunei Darussalam represents one of the practical steps in trying to find the legal bases for Islamic economic, that the system and all operation away from the usury institutions that used to control financial activity.

Islamic banks were established in Brunei Darussalam, based on decree or *Titah* of His Majesty the Sultan and Yang Di-Pertuan, in which he demonstrated his desire to implement Islamic Sharia law and impose it in the Sultanate. And also training people on banking services according to the texts of the Holy Quran and the Sunnah (Haji Baki, 2000), Due Brunei Darussalam is one of the countries of the Islamic world, and therefore it had to adapt its economic activity to the teachings of the Islamic religion. Islamic banking was introduced into Brunei Darussalam in 1991 with the establishment of the statutory body known as Perbadanan Tabung Amanah Islam Brunei (commonly referred to as TAIB), the

country's first Islamic trust fund was set up to help Brunei's local Muslims make their pilgrimage to Mecca (Haji Daud, 2004).

Furthermore, Brunei's National Bank went out of business and the Island Development Bank (IDB) became Brunei's only local bank. The IDB later changed its name to Bank International Brunei and mostly received support from the Government of Brunei. In 1993, Bank International Brunei changed its name to Islam Bank of Brunei (IBB) to manage public financial affairs following the noble ideals of Islam (Ebrahim, 2001), Which provides Muslims with Islamic banking facilities especially in trade and commercial finance.

The next big thing in Brunei Darussalam, the Islamic Bank of Brunei Darussalam (BIBD) was established in 2005 following the merger of two banks in Brunei: The Islamic Bank of Brunei and the Islamic Development Bank of Brunei, its largest bank and flagship Islamic financial institution. Based in Bandar Seri Begawan, the bank manages 16 branches in four districts of Brunei and operates the largest ATM network in the country (Zul Kepli, 2014).

IMPLEMENTATION OF INSTALLMENT FORMS ON FINANCING IN ISLAMIC BANK OF BRUNEI DARUSSALAM

The sale of installments has spread in the contemporary era and resorting to it has become not only for necessary of goods or commodity, but rather includes luxuries and entertainment (such as tourism for example). In most cases, this sale is not the main objective, but rather is intended to resell the commodity after buying it and then dispose of its price after its possession. Thus, this research should investigate the performance of installment forms on financing in the Islamic bank of Brunei Darussalam.

Installment Forms on Financing In Islamic Bank of Brunei Darussalam.

1. *Tawarruq* Financing

Tawarruq financing is one of the Islamic finance products commonly used in the Islamic banks of Brunei Darussalam. This type of financial purposed is to provide cash immediately, due to some customers' need for cash without a commodity, it may force them to deal in *Tawarruq* financing with Islamic banks. Thus, the Islamic Bank of Brunei Darussalam provided *Tawarruq* as buying commodity with deferred payment or installment and then selling it to another seller to obtain cash, and this is usually only when necessary or needed.

The practice of *Tawaruq* in Brunei Darussalam, as follows:

Tawarruq is based on the original customer applying for cash liquidity from the bank. At the first of every week, the bank purchases the asset from the supplier by cash payment at the priced sale with a quantity of a specific commodity stored in a warehouse documented in the commodity market which known as *Bursa Suq al-Sila'* as a platform to assist Islamic financial transaction, with certificates issued by the entity authorized.

However, the certificate fulfills the condition of the asset, whereby the company issues a certificate that includes a declaration from the selling company that ownership of the purchased metal is with the bank from the day of purchase, and the certificate commodity must indicate the item number of it and determine its location.

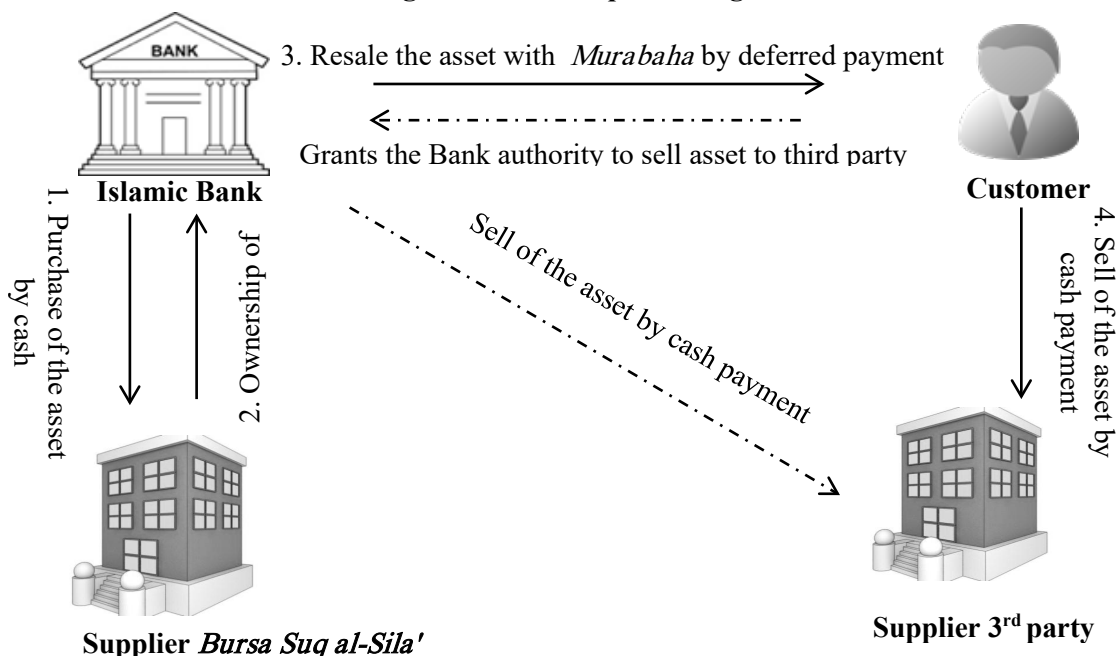
Then the bank can sell the good after taking possession of the commodity to the customer, with *Murabaha* financing by deferred payment and the price plus the profit margin agreed by both parties, that the bank offers to buy it by in installments payment.

At the same time, the customer sells the goods to a third party, where the customer sells the commodity himself to another party the bank without paying. So the third party buys the asset with a cash payment (Ta'dzimullah and Nurul, personal communication. 2015, November 28).

Finally, the Islamic bank of Brunei Darussalam started using it as a friendly product for its customers to facilitate access to cash for a higher cash value on a deferred payment basis by adopting a series of buying and selling.

In the concept of *tawarruq*, there are four parties involved which are the customer, the bank and the broker. There are two types of transactions involved in *tawarruq*: *Murabaha* and *Wakala* contracts. Figure 1 shows how *Tawarruq* financing works.

Figure 1: *Tawarruq* financing



Source: Book of Islamic Bank of Brunei Darussalam (BIBD) <http://www.bibd.com.bn/index>.

2. Islamic hire purchase *Ijarah Thumma al Bai'* (AITAB) Financing

The lease-to-sale contract is an Islamic banking product in Islamic banks of Brunei Darussalam, which has been applied since the last twelve years of the establishment of Islamic banks in Brunei. It was known (AITAB) which is an abbreviation of hire purchase *Ijarah Thumma al Bai'*. Islamic hire purchase is a unique contract that involves a mixture of leasing and sale at different stages of the transaction, and thus invokes several jurisprudential, legal, and practical issues.

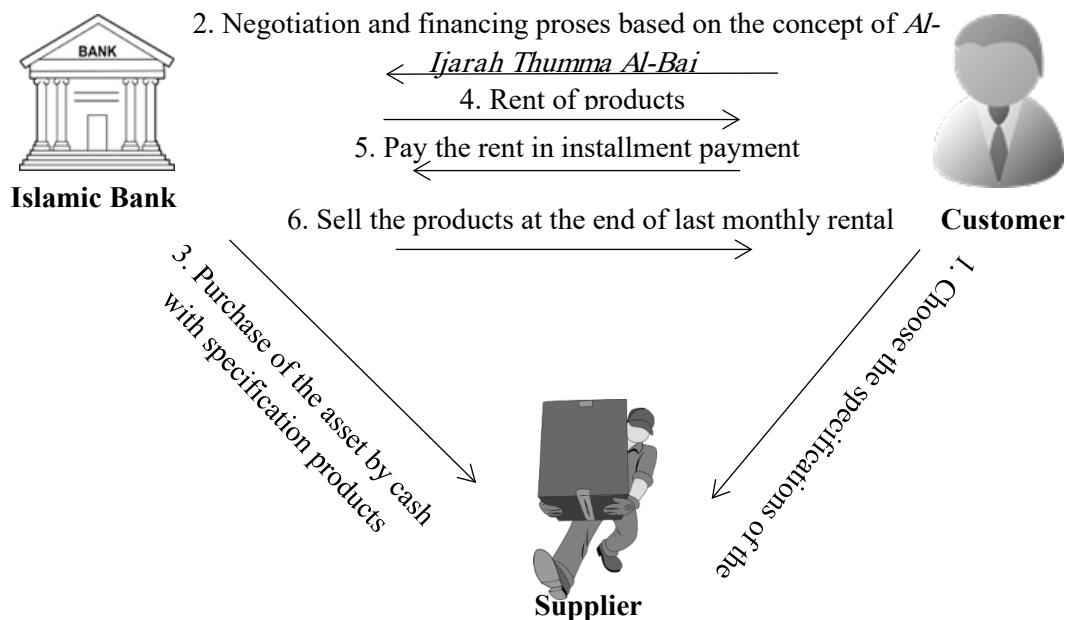
This financing is based on the concept of *Al-Ijarah Thumma Al-Bai'* (hire following with purchase), It combines a lease contract and sale contract in one trading document, but the contract of leasing and sale work separately: first, the contract of leasing will operate, where the tenant will pay a monthly rent to the lessor during a specified period.

At the expiry of the lease or lease term, the lessee has the option to enter into a second contract to purchase goods from the owner at an agreed price. (Seif and Abdullah, 2007).

While the process of Islamic hire purchase *Ijarah Thumma al Bai'* (AITAB), whereby BIBD At-Tamwil Berhad will purchase a commodity (new vehicle) selected by the customer to hire the said vehicle to the customer with an agreed tenure and monthly rental. At the end of the tenure and before the payment of the last monthly payment, the customer (on a separate contract) is given the option to purchase the vehicle from BIBD At-Tamwil Berhad at the purchase price of the last monthly rental or the remaining outstanding amount. Upon receipt of the payment, the customer becomes the legal owner of the vehicle (Ta'dzimullah and Nurul, personal communication. 2015, November 28). Currently, AITAB offered the financing of certain items such as motor vehicles, or car vehicles due to their popularity in the present customers' demand.

The general objectives of AITAB are to own the commodity by installment payment, in which the bank leases movable or immovable property to its customer, who will pay an agreed amount in installments over an agreed period into a savings account maintained with the same financial institution. At the end of the last monthly lease, the lessee has a full option of either buying the property at the end of the lease period or returning it to the bank. Figure 2 illustrates Islamic Finance for Lease Purchase (AITAB).

Figure 2: Hire purchase *Ijarah Thumma al Bai'* (AITAB) Financing



Source: Book of Islamic Bank of Brunei Darussalam (BIBD) [http://:www.bibd.com.bn/index](http://www.bibd.com.bn/index).

Figure 2 shows that an Islamic bank buys products from the supplier or merchant to the customer's order. The Islamic bank leases the products to the customer at an agreed price for a specified time. The customer (the lessee) agrees to pay the rent in installments. He will also be responsible for its maintenance. At the end of the period, the bank and the customer will sign the sale and purchase agreement.

3. *Musharakah Mutanaqisah* (MMQ) Financing

Islamic banks of Brunei Darussalam offer a contract *Musharakah Mutanaqisah* (MMQ) Financing for home financing. It has for the first time in 2011 introduced this composite transaction to assist in homeownership financing. This type of financing is based on a diminishing partnership contract, which consists of two separate contracts are *Musharakah Mutanaqisah* and *Ijarah* (Ta'dzimullah and Nurul, personal communication. 2015, November 28).

The modus operation of (MMQ) Financing in BIBD for home financing are:

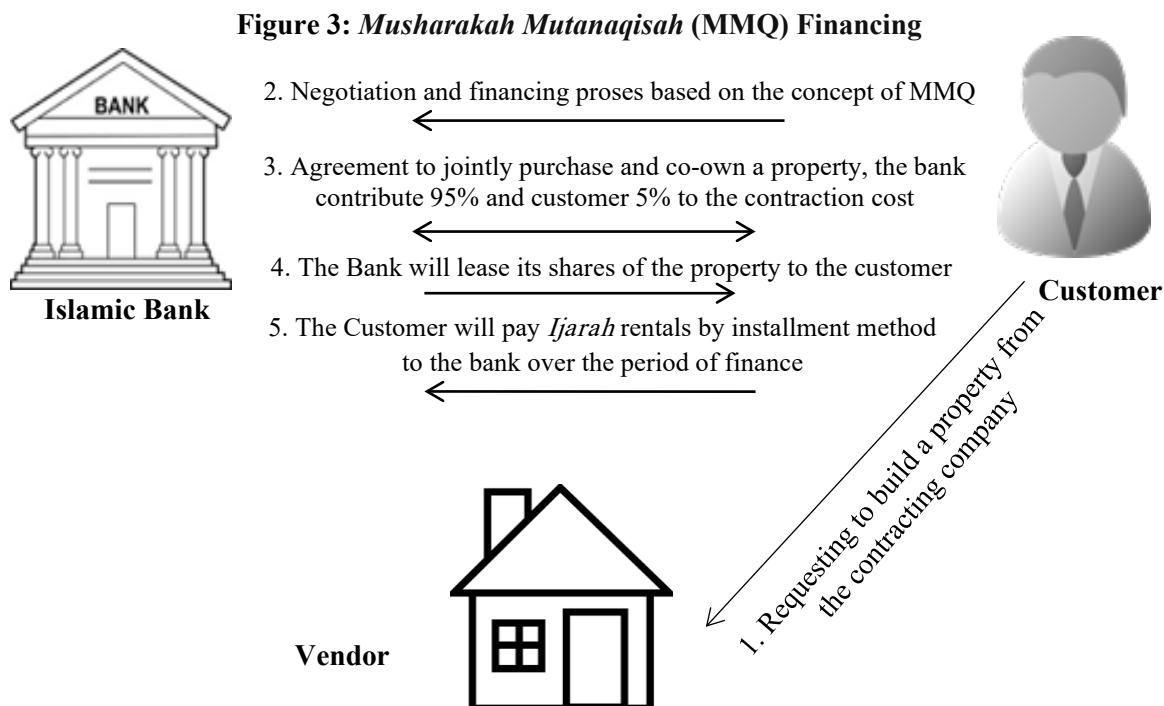
1. *Musharakah Mutanaqisah*:

The bank and the customer agree to jointly purchase and jointly own the property, which is called a partnership agreement (*Musharakah*). Islamic Bank of Brunei Darussalam will contribute 95% of the construction cost and the customer will contribute the remaining 5%, or the bank will contribute 100% of the construction price and the customers' contribution will be in kind i.e. the land. The customer undertakes to purchase the shares owned by the bank gradually until all the shares of the bank are purchased by the customer during the financing period.

2. *Ijarah Mausufah Fi Al-Zhimmah*

The bank will lease its share of the property to the customer under Islamic Sharia principles of *Ijarah*. In other words, the customer will pay the *Ijarah* rents by installments to the bank over the financing period. Depends on the lessor's undertaking to deliver the asset based on the agreed-upon detailed property specifications, value, and time of availability.

On the other hand, the client will pay advance rent to BIBD during the construction phase. The amount collected is kept as a deposit/guarantee. If the completion of the property fails, the rent provided will be refunded to the client. Upon completion of the construction, the customer will continue to pay the lease rent when using the usufruct right of the property until the end of the lease term or financing term. Figure 3 shows *Musharakah Mutanaqisah* (MMQ) financing.



Source: Book of Islamic Bank of Brunei Darussalam (BIBD) <http://www.bibd.com.bn/index>

Conclusion

This study concluded that the contemporary applications of installment form on financing in Islamic bank of Brunei Darussalam, it is in the figure of financing of installment contracts in the sale of *Tawarruq*, Islamic hire purchase *Ijarah Thumma al Bai'* (AITAB), and *Musarakah Mutanaqisah* (MMQ). The problems faced by Islamic banking in Brunei Darussalam in the practice of *tawarruq* financing, as the Islamic bank is the seller of the commodity. And the commodity was not in his possession except by merely papers and documents showing the characteristics of the commodity, then when the customer sold it to the bank or another party and the price was less than the deferred price, as if this was a ploy to obtain cash or liquidity. The field study highlighted that the financing problems in the installment formula that Islamic banks face in Indonesia and Brunei Darussalam in general are: Client delay in paying installments, procrastination in paying installments, the bankruptcy of the customer by installments or insolvent customer.

And ways to solve the problems of financing of installments contract concerning the comfort of the insolvent debtor, or extending the period of debt to the agreed times, or rescheduling the payment of installment payment to clarify the best ways to pay the installments due on the clients and so that his situation becomes easy and he can pay off the debt, and the debtor a procrastinator who can pay installments will have a fine, imprisonment and quarantine for the commodity.

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