



The Model of E-Commerce Transaction in The Frame of Islamic Law

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Abstract. Online buying and selling is a new phenomenon in trade transactions carried out by modern societies. because of the new transaction model, the law of this transaction the scholars have not found it in the classical fiqh books. Based on this, the scholars must find the law in Islam through ijihad. The implementation of e-commerce can be explained that consumers choose the goods to be purchased from the seller's website, then consumers transfer a number of prices to the seller's account and finally the seller sends the goods to Based on the rules of fiqh law, e-commerce is allowed as long as there are no elements prohibited by Islamic law that are contrary to the principles of Islamic muamalah The conclusion is that the implementation of online buying and selling can be explained that consumers choose the goods to be purchased from the seller's website, then consumers transfer a number of prices to the seller's account and finally the seller sends the goods to consumers. The review of Islamic law on online buying and selling is allowed as long as there are no elements prohibited in Islamic law that can forbid it and do not conflict with the principles of muamalah.

Keywords: Islamic Law, E-Commerce, Fiqh Muamalah.

1. Introduction

The phenomenon that often occurs in today's world, especially in the economic sector, ist the emergence of buying and selling transactions that we often encounter today, namely using electronic media, commonly referred to as online buying and selling. With the advancement of communication and information technology, it has far brought into the impact of progress, especially in the business world. With online buying and selling, distance is no longer an obstacle for people in the habitual routine in the business world and in something like this, both sellers and buyers no longer pay attention to how ijab and qabul in oral buying and selling transactions, it is only enough with the intermediary of evidence that can convince the continuity of buying and selling. for example, such as transfer notes and other evidence that can prove without the need for physical evidence(Wahyudi et al., 2023).

In Indonesia itself, it is not only online buying and selling in general that is growing rapidly but online buying and selling in sharia is also often developing this is done because of the awareness of the public and users who are increasingly thinking that buying and selling must be clean and honest which follows Islamic sharia. (Arsyad Sanusi, 2006). The existence of sharia buying and selling cannot be separated from sharia banking which is also growing in Indonesia, sharia sisrem which is currently developing in the midst of society and many are also turning to online businesses whose bagroundnnya is inseparable from Islamic religious law(Marni et al., 2023).

Based on the perspective of Islamic law, buying and selling is one of the types of muamalah regulated in the book of fiqh. When viewed from its form, online buying and selling (ecommerce) is also included in the model of buying and selling practices. However it is categorized as modern buying and selling because its implementation is based on

technological developments. However, in general, trade transactions in Islamic law are required to have a physical transaction, by being required to bring the object when the transaction takes place, while online buying and selling does not do that. So that the issue of online buying and selling cannot be simplified as people think because online buying and selling is a model of buying and selling whose characteristics are different from the usual buying and selling transactions. And even its reach is no longer local like offline buying and selling but is also broad and worldwide (Misbahuddin 2012). Therefore, the development of ordinary buying and selling provisions will be irrelevant and also inappropriate in the context of e-commerce. It is necessary to analyze the existing legal provisions in Islamic law that are sufficiently relevant and accommodating to the nature of e-commerce. There are two groups of scholars on the law of e-commerce, namely the views of past scholars and also the views of contemporary scholars. Where the scholars of the past argued and debated whether online buying and selling was obligatory or not for the parties to the transaction (Liza et al., 2023).

According to the Hanafi school of thought, for this sale and purchase transaction, it is not necessary for both parties to be in one place for the school of thought that supports this opinion, but the most important thing in this sale and purchase contract is continuous and it can be done even though the two parties are not in one location or one assembly. Meanwhile, according to the opinion of classical scholars, it is explained that in the contract it is obligatory or recommended to be in one place or one assembly so that the continuity of the contract is guaranteed so that the parties to the contract are known to be true. Because the authenticity of the sale and purchase transaction can only be proven by the meeting of the two parties to the transaction (Satria Efendi, 2004).

Actually, if you look carefully at first glance, e-commerce is similar to salam transactions, but if you examine it deeply, it is clear that the two are different. Therefore, in determining the law of online buying and selling, it is no longer necessary if it must be qiyaskan with the salam buying and selling transaction, but it needs to be followed up with a new legal search that is devoted to the issue of buying and selling with a modern system, namely buying and selling online. The focus is no longer on the contract but the more important issue is the problem of the legal basis in this online buying and selling procedure and also the object of the online buying and selling transaction (Hizbullah et al., 2023).

When viewed from the basic law in Islam, the arguments that explain well whether online buying and selling activities are halal or not cannot be found, because this issue is a new problem because at the time of the prophet and the companions and mujtahids have not been found so obviously this problem requires ijtihad which must be found with various methods that need to be done as well as using the ushul fiqh approach as well as the benefits and specific and general objectives of Islamic sharia. The next problem is related to the procedure of online buying and selling whether in this procedure there is fraud or uncertainty or even coercion even in Islamic law if the elements described above occur, of course it is invalid or void. That is why whatever buying and selling system is used as long as there are no such elements, the buying and selling is legal. The next issue is the object of the transaction or the type that is traded whether the type can be traded or not or which is prohibited to be traded in Islamic sharia because halal or not the object of what is traded greatly affects this online buying and selling. Based on the background explanation, several problem formulations are formulated that need to be carried out in-depth research.

2. Methods

The type of research used in this research is normative law, which is a type of research that intends to find out whether or not the rules of law are suitable or in accordance with legal

norms or whether there is a match between a legal delay and legal principles (Peter Mahmud Marzuki, 2016). The analysis used is qualitative analysis, namely explaining the data obtained in the form of words or statements, as for the studies used in this study, namely related to legal principles, legal systematics and legal synchronization and even legal comparisons. Furthermore, the data sources used are primary data sources, meaning that the data or material from the research is binding on the problems to be researched. The technical analysis used in conducting this research is qualitative analysis, which is a research method that utilizes procedures to draw straightforward conclusions from a book or document. After that, the grouping is arranged systematically and then analyzed.

3. Results and Discussion

basically there are several ways that can be used by sellers and buyers in conducting online buying and selling transactions. That is where a buyer can use a long enough time to be able to choose the item he wants to choose or buy on the website page provided by the seller. After selecting the goods, the total price of the goods is summed up, then the buyer enters the payment method provided by the website of the seller. Then the information is submitted and a system gateway is carried out, finally the online seller can carry out the verification process to continue the sale and purchase transaction. The next step is for the online seller to authorize the acquirer through the credit card network, after checking the validity of the information, the issuer then sends the authorization results to the online seller to be carried out to the buyer through the seller's link. If successful, the online seller confirms the transaction and will send the goods purchased by the consumer to the buyer's address as agreed by both parties. In the implementation of online buying and selling transactions between sellers and buyers no longer need to meet face-to-face in a place, only through the internet world. However, as has been explained that the subject of online buying and selling is no different from conventional buying and selling, where the business actor, namely the seller, will offer the goods he sells, and the buyer will pay for the goods he has chosen. Between the seller and the buyer, the transaction is only based on a sense of trust, meaning that the subjects who play a role in it do not know each other, so it is also possible that it will often and will end in fraud.

3.1. Implementation of transactions in online buying and selling

Online buying and selling transactions are categorized into several types of e-commerce:

3.1.1. Business to business (B2B)

This means a transaction that occurs between several companies. The point is where both the buyer and the seller are both companies not individuals. Capital transactions like this are carried out not without cause where they already know each other and this buying and selling transaction is carried out online with the aim of establishing more cooperation between the two companies.

3.1.2. Business to consumer (B2C)

This model transaction is a transaction between companies and consumers or individuals where this type of transaction is generally distributed and consumers themselves take the initiative to make a transaction. Under any circumstances, producers are required to be ready to receive responses from consumers. Usually the system used in this transaction model is a web system because this system is commonly used by most people today.

3.1.3. Consumer to consumer (C2C)

This transaction is a type of buying and selling transaction that occurs between individuals and other individuals who sell goods to each other or between individuals who sell goods and other individuals also buy these goods. It can be said that transactions like the third one are what happens a lot or dominate the activities of this online buying and selling because it can be done by anyone and anytime and anywhere.

3.1.4. Consumer to business (C2B)

Means a type of transaction that allows between individuals who sell goods to a company, usually actors or objects in small and medium-sized endorsements where the goods they produce are needed by large companies. In an online buying and selling agreement, there are two actors, namely online sellers and consumers who are often referred to as buyers. However, in buying and selling transactions using the internet, of course, it will involve the internet service provider and the bank as a service provider or as a means in the payment process.

3.2. Payment in online buying and selling

The most important thing in e-commerce transactions is how payments are made via the internet. As is known that in the past via payment this buying and selling transaction more often used face to face but now it has been replaced by online trading. In general, online buying and selling is the same as buying and selling usually, namely finding the location of the seller, choosing a product, asking the price, making an offer, delivery or validity of payment. (Sayyid Sabiq 2004) In the mechanism of online buying and selling, the implementation of this payment must include some of the stages of buying and selling payments in general, but as a difference in e-commerce transactions an intermediary or third party is needed to function as a security identify or validation commonly referred to as a provider.

3.3. Delivery of goods

When the price has been agreed upon in an online buying and selling transaction, payment is made, while the purchased goods will be sent to the buyer's address using various methods including:

3.3.1. Using a direct delivery model, for example Grab and so on

3.3.2. using an indirect delivery model, for example JNE express, and so on

3.4. Online buying and selling locations

In the implementation of online buying and selling, there are several locations that can be used by business actors to carry out this buying and selling transaction including market place websites web blogs social media and so on.

3.5. Components of online buying and selling

3.5.1. Virtual

Virtual is a medium that can be used by buyers to submit their credit cards to cashiers or counters. In online buying and selling, this credit card submission cannot be done physically anymore but through a type of service product that is often called a smart card.

3.5.2. Virtual Point 'of Sale

Virtual point of cell which is a place of sale based on the internet, of course, the seller must have a really good application software that can support online transactions.

3.5.3. Virtual acquirer

Where the actual transaction the seller takes ownership of the credit card to the buyer to the bank that cooperates with visa or MasterCard so that it can be obtained whether this credit card is valid or not or problematic or not.

3.5.4. Visa Credit Card

For online business people, this is a credit card. Visa Credit Card, For online business people should have Visa with the aim of supporting success in online transactions on the internet. where actors can work with various banks around the world and also the development of the online buying and selling The problem of online buying and selling in Islamic law is a new problem in which there is no discussion in the previous fiqh books. As well as the lack of references that can explain this problem, the scholars are forced to perform ijtihad on the law.

As done by the scholars in Muhammadiyah and Nahdlatul ulama, which is the largest mass organization in Indonesia, which is very important in playing a role as a guide for the people, especially in matters of sharia law where people really need legal provisions on contemporary economic issues faced by them. NU and Muhammadiyah basically have the same view on whether or not the implementation of online buying and selling transactions is permissible. NU through Bahtsul Masail where it discusses more detailed issues on the mechanism of buying and selling such as e-commerce, both in terms of the components of buying and selling in the form of subject goods or the contract of buying and selling itself and its mechanism. Unlike the case with Muhammadiyah through the Tarjih Assembly in determining an issue at the 26th National Conference to be precise in Padang only explains normative ethics globally but does not provide a specific explanation of transaction patterns such as e-commerce. Wahbah Zuhaili argues that the main principle in muamalah transactions and also the requirements related to online buying and selling are permissible as long as they are not prohibited by Sharia or contrary to the arguments or texts. (Sulaiman Rasjid, 2004) Therefore, the law of online transactions or e-commerce is permissible based on masalah issues, the reason is the increasing human needs along with technological advances that should be utilized to improve lifestyles through online buying and selling businesses.

According to Zuhaili, what is more important in this sale and purchase is that it must be valid according to the terms and conditions as stipulated by the fiqh scholars, otherwise the sale and purchase that is damaged or void will prevent ownership because this prohibition can prevent ownership arising from the sale and purchase which is certainly not in accordance with the demands of Sharia. Apart from this, when viewed from the mechanism of implementation, this online buying and selling transaction is included in the form of permissible transactions. Sheikh Muhammad Bakhit Al Muthi'i is of the opinion that it is permissible to buy and sell online for the following reasons: 1) following the opinion of many scholars in the past which explains the validity of transactions carried out via correspondence and if the statement of the first party is valid after the letter reaches the hands of the second party, so also considering the validity of transactions by shouting. 2) It is prescribed in Shaafa'i fiqh, such as the unity of the transaction, according to which there is a time when there are two people doing the transaction, and the transaction is real and uninterrupted, so it is not necessary that the two people doing the transaction are in the same place. The Islamic Fiqh Council in its meeting in Jeddah determined the permissibility of transactions with modern means of communication, while the conditions that must be met are as follows: 1. There must be clarity between the parties to the transaction with the aim that there is no misunderstanding or falsification from each party or perhaps from a third party. 2. It can usually be ascertained that the tool used is indeed being used by the person intended so that the words and statements are true from the person who wants it. 3. The party who says ijab does not cancel the transaction until the qobul of the second party. 4. The online transaction does not cause a delay in the delivery of one or both of the two currencies exchanged because in currency transactions it is a requirement that the money exchanged be equally delivered before the transaction ends. From some of the explanations presented above, it can be

concluded that contemporary scholars agree to legalize buying and selling with this online transaction system with predetermined conditions that must be met in making buying and selling transactions. If the conditions have been determined to be unfulfilled then of course it will be able to affect or change the law of halal or not buying and selling online.

4. Conclusions

E-commerce buying and selling is a mutually binding agreement through the internet media between the seller as the party selling the goods and the buyer as the party who pays the price of the goods that have been sold by the seller. Online buying and selling is often done and even done through the internet system where there is no need for direct contact between the seller and the buyer because buying and selling has been done through a network that is connected using the communication tools that have been provided such as cellphones. Contemporary scholars also legalize buying and selling with this online system as long as the conditions and principles are met. The terms and conditions of buying and selling do not conflict with Islamic law.

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References

- Arsyad Sanusi, "The view of Islamic law on buying and selling via the internet" Article in Journal of Law and Politics, 2006.
- Azhar Muttaqin, E-Commerce Transactions in Islamic Law Review, Ulumuddin Journal Volume 1 Year 2011.
- Cik Hasan Bisri, Pillars of Research on Islamic Law and Social Institutions, Bandung: IAIN SGD, 2001.
- Department of National Education, Big Indonesian Dictionary Language Center, Jakarta: PT Gramedia Pustaka, 2008.
- Hizbullah, S., Hanani, S., & Nofiardi, N. (2023). Delik Zina Controversy in the Kuhp. *GIC Proceeding*, 1, 356–362. <https://doi.org/10.30983/gic.v1i1.126>
- Liza, A., Hanani, S., & Nofiardi, N. (2023). Reflection of Islamic Law on Living Al-Hijr When Baganyi in The Community Nagari Canduang Koto Laweh. *GIC Proceeding*, 1, 338–347. <https://doi.org/10.30983/gic.v1i1.134>
- Marni, T. S., Hanani, S., & Nofiardi, N. (2023). Modernisation of Islamic Family Law in Indonesia (Analysis of Counter Legal Draft- Compilation of Islamic Law in Inheritance Law). *GIC Proceeding*, 1, 317–325. <https://doi.org/10.30983/gic.v1i1.131>
- Wahyudi, D., Hanani, S., & Nofiardi, N. (2023). Sociological Analysis of Islamic Law Regarding Law Number 22 of 2009 Related to the Sale and Purchase of Vehicles Without Complete Documents. *GIC Proceeding*, 1(22), 308–316. <https://doi.org/10.30983/gic.v1i1.113>
- Misbahuddin, E-Commerce and Islamic Law, Makasar: Alauddin Press, 2012.
- Satria Effendi in "Problematics of Contemporary Islamic Family Law", Jakarta: Kencana, 2004.
- Peter Mahmud Marzuki. Legal Research, Jakarta: Kencana, 2016.
- Rachmat Syafe'i, Science of Ushul Fiqh, Bandung: Library, 1999.
- Rahmat Syafe'i, Fiqh Muamalah, Bandung: Pustaka Setia, 2001.

- Sayyid sabiq, Fiqh al-Sunnah, volume 3, Egypt: Dar al-Fath, 2004.
Soerjono Soekanto, Introduction to Legal Research, Jakarta: UI Press, 2005.
Sulaiman Rasjid, Fiqh Islam, Bandung: Sinar Baru Algesindo, 1998.
Shamsudin al-Sarkhasi, Kitab al-Mabsut, Beirut: Dar Al-Kutub al-Ilmiyyah, 1987.
Wahbah, Zuhaili, Fiqh al-Islam wa Adillatuh, volume 4, Beirut: Dar al-Fikr, 1985.