

ABSTRAK

“Praktik Perkara Sengketa Ekonomi Syariah Pada Putusan Nomor 0459/Pdt.G/2016/PA. Sby Ditinjau Dari Asas Keadilan”

Lembaga Peradilan Agama memiliki kompetensi yang berwenang menangani sengketa Ekonomi Syariah semenjak diberlakukannya UU Pengadilan Agama No. 3 tahun 2006. Pengadilan Agama Surabaya telah menangani beberapa perkara sengketa ekonomi syariah. Pada tanggal 4 April 2017 Pengadilan Agama Surabaya telah mengeluarkan putusan dengan nomor perkara 0459/Pdt.G/2016/PA.Sby. skripsi ini bertujuan untuk mengetahui praktik penyelesaian Perkara Sengketa Ekonomi Syariah dan mengetahui Analisis Praktik Putusan Sengketa Ekonomi Syariah Ditinjau dari Asas Keadilan.

Penelitian ini merupakan penelitian *kualitatif*, adapun jenis penelitian yang digunakan adalah *field research* yang bersifat *diskriptif analitis*. Sumber data primer yang digunakan ialah hasil wawancara dengan panitera, wakil panitera, petugas informasi, dan para hakim, sumber data sekunder teori putusan dan asas keadilan.

Hasil penelitian ini adalah: 1) Praktik penyelesaian perkara sengketa ekonomi syariah di Pengadilan Agama Surabaya ada beberapa tahapan yang pertama diawali dengan mendamaikan atau proses mediasi, pembacaan gugatan, jawaban tergugat, replik penggugat, duplik tergugat, pembuktian, kesimpulan, dan yang terakhir putusan hakim. 2) Analisis putusan sengketa ekonomi syariah Nomor 0459/Pdt.G/2016/PA.Sby ditinjau dari asas keadilan, dalam putusan nomor 0459/Pdt.G/2016/PA.Sby hakim tidak memihak siapapun karena hasil putusan telah sesuai dengan ketentuan hukum dan adanya pinjaman penggugat kepada tergugat tersebut merupakan akad yang dilakukan kedua belah pihak dengan berdasar pada kerelaan sesuai prinsip sukarela (ikhtiyari) yang terdapat pada Pasal 21 (a) KHES (Kompilasi Hukum Ekonomi Syariah) yaitu akad yang dilakukan atas kehendak para pihak dan terhindar dari unsur keterpaksaan.

Kata Kunci: Putusan, Sengketa, Ekonomi Syariah, Asas Keadilan.

ABSTRACT

“The Practice of Islamic Economic Disputes in Decision Number 0459/Pdt.G/2016/PA.Sby Judging From Principle Of Justice”

Religious Courts have competence competent in handling the dispute of Sharia Economics since the enactment of Religious Court Law no. 3th 2006. The Religious Courts of Surabaya has handled several issues of sharia economic dispute. On April 4, 2017 the Religious Court of Surabaya issued a decision with the case Number 0459/Pdt.G/2016/PA.Sby. this thesis purpose to know the pratice of settlement of Islamic Economic Disputes and know the Analysis of Sharia Dispute Resolution Management Judgment Judging from the Principle of Justice.

This research is a qualitative research, while the type of research used is field research that is descriptive analytical. The primary data sources used were interviews with clerks, deputy clerks, informant officers, and judges, secondary data sources of decision theory and fairness principles.

The result of this research are: 1) Practice of settlement of sharia economic dispute case in Religious Court of Surabaya there are several stages which first begins by reconciling or mediation process, lawsuit, answer of defendant, plaintiff's reply defendants duplicate, proof, conclusion, and lastly judge decision. 2) Analysis of Sharia economic dispute decision Number 0459/Pdt.G/2016/PA.Sby reviewed from the principle of justice, in the verdict Number 0459/Pdt.G/2016/PA.Sby the judge did not take any side because the decision result has been in accordance with the provisions of law and the plaintiff's loan to the defendant is a contact made by both parties based on willingness in accordance with the voluntary principles (ikhtiyari) contained in Articiel 21 (a) of KHES (Compilation of Islamic Economic Law), which is a contract made on the will of the parties and is spared from Element of compulsion.

Keywords: Decision, Dispute Sharia Economics, Justice Principle.