



DOWN PAYMENT REFUND CLAUSES IN NON-CASH HOME PURCHASES (*TAQSĪT*): A *MURĀBAHĀH*-BASED ASSESSMENT OF *GHARAR* AT PT HADRAH ACEH PRATAMA

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Abstract

This study examines the application of a *murābahah* framework in non-cash home purchases (*taqsīt*) at PT Hadrah Aceh Pratama, with particular attention to price disclosure and the down payment refund clause when a bank rejects a buyer's financing application. Using a normative-empirical design, the analysis integrates doctrinal standards from *fiqh al-mu‘āmalah* and DSN-MUI Fatwa No. 04/DSN-MUI/IV/2000 with field evidence drawn from written contracts, supporting transaction documents, observations, and interviews conducted on 25 October 2024 and 15 September 2025. The contracts set out the base cost, the agreed margin, and the installment schedule, while the down payment is determined by unit type. The central issue concerns the refund mechanism. The contract makes the refund contingent on the resale of the unit and does not stipulate a definite deadline. Although interviews indicate an internal target timeframe, the written clause leaves the time of performance open. This creates uncertainty (*gharar*) and falls short of the requirement of clarity (*bayān*) regarding obligations and timing in a valid *murābahah* arrangement. The study recommends that the contract specify a clear refund deadline independent of resale, provide a straightforward procedure for failed transactions, and state related fees in precise and transparent terms to protect both parties and support justice within the aims of *maqāṣid al-sharī‘ah*.

Keywords: *Murābahah; Taqsīt; Down Payment; Gharar; Bayān, Consumer Protection*

A. Introduction

Murābahah is widely adopted in contemporary Islamic finance and everyday transactions because it aligns commercial needs with the ethical demands of Sharia. The contract rests on honest disclosure and mutual consent, so both parties recognize the cost price and an agreed margin. In practice this transparency is valued for reducing disputes and for building trust between sellers and buyers, including in property transactions that require staged payments and careful risk allocation (Nur Khusna et al., 2021).

Conceptually, *murābahah* is a sale in which the seller states the original cost and adds a margin that is accepted by the buyer. The model is flexible across many commodities, yet it places a strict duty on the seller to disclose the purchase price and the size of the profit. In doing so, it clarifies the total obligation that the buyer must meet and

it reduces room for misunderstanding in later stages of payment. Within Islamic commercial jurisprudence, price formation is legitimate when it results from free will and sincere agreement without coercion, which mirrors the spirit of fair exchange that Islamic law promotes (Anshori, 2009; Melina, 2020).

In the non-cash purchase of housing units offered by PT Hadrah Aceh Pratama in Baitussalam, Aceh Besar, a down payment functions as an early commitment that signals the seriousness of prospective buyers and anchors the later installment schedule. The size of this down payment is adjusted to the type of unit so that the following installments remain proportional to household capacity. Documentary evidence from the developer shows that the down payment is treated as a binding entry point in the relationship between the parties and that it informs the structure of monthly obligations in the contract simulation (Surat Perjanjian Kerjasama Pembelian Rumah PT Hadrah Aceh Pratama, 2025).

Field information indicates practical rules that matter for consumers. For a larger couple type unit the down payment is set at fifteen million rupiah. For a smaller row type unit it is two million rupiah. The distinction is meant to balance price level and initial contribution so that subsequent installments can be organized on a fair basis for both sides. At the same time, the contract states that the down payment will be returned if the buyer's bank application is rejected, yet this return depends on a new buyer first taking the unit. The clause often lacks a clear timeframe for the refund and therefore creates uncertainty for consumers (PP, Head Marketing PT Hadrah Aceh Pratama, 2025).

In Islamic law, clarity regarding object, price, and time is a condition for a valid contract. When a refund of the down payment is contingent on an event that may occur at an unknown time, the clause risks falling into *gharar*. Such uncertainty undermines legal certainty for the buyer and can lead to conflict in private law. Interviews and document review from the site show that this risk of *gharar* is real because the refund time is left open, even though the developer generally tries to implement transparent margins and to screen buyers carefully in cooperation with banks (Hatta, 2013).

This study focuses on the non-cash housing purchase agreement at PT Hadrah Aceh Pratama under a *murābahah* framework. It examines whether the refund clause for the down payment and the related payment mechanisms meet the standards of transparency demanded by Sharia and by positive law. The analysis is motivated by the potential for consumer disadvantage when the timing of a refund is uncertain, and it aims to identify contract language that protects both parties while preserving the validity of the *murābahah*.

B. Methods

This study employs a normative empirical design with a conceptual approach that links doctrinal analysis of *murābahah* rules with evidence from field practice at a housing developer. The aim is to test the consistency between contract clauses and the standards of Sharia and positive law while grounding the discussion in actual transaction procedures. Fieldwork was carried out to obtain purchase agreements, invoices, and

related documents from the non-cash housing scheme implemented by PT Hadrah Aceh Pratama.

The research site is PT Hadrah Aceh Pratama in Baitussalam, Aceh Besar. Primary stakeholders from the developer were interviewed, including the head of marketing and the administration manager. Interviews took place on October 25, 2024 and September 15, 2025 at the company's offices in Banda Aceh and during follow up visits. Data sources consist of two groups. Primary data include non-cash housing sale contracts and interview records with the developer and selected consumers. Secondary data come from library research that covers academic books, journal articles, and the DSN MUI fatwa on *murābahah* as the principal normative reference.

Data collection uses interviews, on site observation, and documentation. Interviews with the developer and several consumers were designed to clarify how the contract is executed in non-cash purchases. Observation was used to follow the transaction flow and to examine how specific clauses operate in practice. Data analysis proceeds in three stages. First is data reduction through selection and coding of interview notes, observation memos, and contract excerpts. Second is data display that groups findings by themes such as price disclosure, down payment management, and refund timing. Third is conclusion drawing by comparing empirical patterns with the doctrinal standards of *fiqh al-mu'amalah* and the DSN MUI fatwa. The qualitative procedure follows established guidance and is supported by triangulation across contracts, interviews, and observations.

C. Results and Discussion

1. Concept of the *Murābahah* Contract

The term *murābahah* is one of the most widely used sale contracts in the Islamic finance system. *Murābahah* is the verbal noun of *rabaha yurābiḥu murābahatan* which conveys the idea of reciprocal gain. In linguistic terms *murābahah* is a mutual form derived from the Arabic *ar-ribh* that refers to an excess or profit obtained from a transaction. The term describes a sale or commercial exchange between two parties in which one party receives a profit that the other party has agreed in advance (Manan, 1995).

This concept reflects cooperative exchange that benefits both seller and buyer. The meaning of *ar-ribh* is relevant because the transaction highlights profit determination that is known and mutually approved. In the Qur'an a word that denotes profit appears in Al Baqarah verse 16 as quoted below.

أُولَئِكَ الَّذِينَ اشْتَرُوا الصَّلَةَ بِالْهُدَىٰ فَمَا رَبَحُتْ تِجَارَتُهُمْ وَمَا كَانُوا مُهْتَدِينَ ﴿١٦﴾

“Those are the ones who have purchased error in exchange for guidance, so their transaction has brought no profit, nor were they guided.”

This verse portrays loss that arises from choosing a false path and likens it to a trader who suffers from a mistaken exchange. It affirms that a transaction is valid and brings blessing when it rests on honesty openness and clarity. From a terminological perspective *murābahah* is an agreement between seller and buyer that is carried out voluntarily to meet each other's needs (Farid, 2013). This contract is often chosen as a

sharia financing scheme that matches modern economic needs such as home purchase vehicles and productive assets (Ascarya, 2008).

According to the Fatwa of the Indonesian Sharia Council Majelis Ulama Indonesia DSN MUI No. 04 DSN MUI IV 2000 *murābahah* is a sale in which the selling price consists of the cost price plus a profit margin agreed together and the agreement is reached voluntarily that is *tarādīn* with no coercion from any party (DSN MUI, 2025). In *murābahah* the buyer has the freedom to obtain full information on cost margin and selling price which creates price certainty and fairness in the transaction. The spirit of *tarādīn* requires consent based on the free willingness of both parties and aligns with the values of Islamic *mu'amalah* that avoid harmful practices or uncertainty that is *gharar*. In practice *murābahah* is not limited to simple spot sales and has become a principal financing scheme in the property and housing sector.

In payment transactions that use the *murābahah* mechanism the agreement is the key element that determines the validity of the exchange. In Islamic law an agreement is the consent between two or more parties that generates legal consequences and binds the parties to the performance of rights and obligations. *Murābahah* stands as a form of sale in Islamic economics with a strong sharia foundation from the Qur'an the Sunnah *ijmā'* *qiyās* and DSN MUI fatwas which affirm the lawfulness of sale and the prohibition of *ribā*. These foundations support the development of various sharia financing schemes including *murābahah* financing applied in Islamic banking and in house sale transactions by developers (Iqbal & Chaliddin, 2022).

A principal scriptural basis that permits sale and forbids *ribā* appears in Al Baqarah verse 275 as quoted below.

الَّذِينَ يَا كُلُونَ الرِّبُوَا لَا يَقُومُونَ إِلَّا كَمَا يَقُومُ الَّذِي يَتَحَمَّلُهُ الشَّيْطَنُ مِنَ الْمُنْسِ ذَلِكَ بِأَنَّهُمْ قَالُوا إِنَّمَا الْبَيْعُ مِثْلُ الرِّبُوَا وَاحْلَلَ اللَّهُ الْبَيْعَ وَحْرَمَ الرِّبُوَا فَمَنْ جَاءَهُ مَوْعِظَةٌ مِنْ رَبِّهِ فَاتَّهَى فَلَمَّا سَلَّفَ وَأَمْرَأَ إِلَى اللَّهِ وَمَنْ عَادَ فَأُولَئِكَ اصْحَبُ التَّارِكِمْ فِيهَا خَلِدُونَ ﴿٢٧٥﴾

“Those who consume interest cannot stand except as one stands who is being beaten by Satan into insanity. That is because they say trade is just like interest. But Allah has permitted trade and has forbidden interest. So whoever has received an admonition from his Lord and desists may have what is past and his affair rests with Allah. But whoever returns those are the companions of the Fire they will abide eternally therein.”

This verse confirms that sale is lawful while *ribā* is forbidden because of its harmful and unjust character. Those who consume *ribā* are likened to people who lose sound judgment due to greed and deviation. Allah rejects the claim that *ribā* is the same as sale since sale involves fair and beneficial exchange while *ribā* benefits one party in a wrongful manner. Those who desist after receiving admonition are excused while those who return to it will face punishment. The verse provides the core basis for the prohibition of *ribā* and the legitimacy of valid sales including the *murābahah* contract.

Another basis that underscores voluntariness and justice in *murābahah* appears in An Nisā' verse 29 as quoted below.

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

“O you who have believed do not consume one another’s wealth unjustly but only in lawful business by mutual consent. And do not kill yourselves or one another. Indeed Allah is to you ever Merciful.”

This verse clarifies that transactions in Islam including *murābahah* sales must proceed with willingness and honesty without deception coercion or exploitation. The *murābahah* contract requires transparency regarding cost price and profit margin and agreement between the parties so that neither party is harmed. Based on these verses *murābahah* is recognized and upheld in Islam when it follows principles of justice transparency and freedom from *ribā* or *gharar* (Ikbal & Chaliddin, 2022).

Classical jurists present differing emphases when interpreting the concept of *murābahah*. Hanafi scholars center the sale on transferring ownership of an asset based on the first price with an added profit (Manzur, 1997). Maliki scholars define *murābahah* as a sale at the purchase price with an agreed profit known to both parties and they emphasize explicit disclosure while prohibiting concealment which requires transparency between seller and buyer (Ruysd, 2007). Shafi'i and Hanbali scholars together with the majority permit a higher price for deferred payment than for cash payment provided the transaction stands on its own with clear terms and avoids two sales in one sale. According to these scholars if a seller initially states a lower cash price and a higher deferred price and the buyer agrees without deciding which price to choose the contract becomes problematic (Taha & Jaaz, 2021).

Ibn Qudāmah in *al Mughnī* explains that sale at a deferred price is not prohibited and is not disliked by consensus of scholars. If buyer and seller agree on the sale of a good at a higher deferred price than the cash price the sale is valid even if the seller mentioned two prices during bargaining because what matters is that the final deal is set on a deferred basis. The *murābahah* contract stresses justice openness and mutual willingness so it serves as an important instrument in sharia financing practice including in the housing sector. In this study *murābahah* is used to examine and analyze how non cash home purchase agreements that is *taqṣīt* are implemented by PT Hadrah Aceh Pratama which demands transparency clarity and freedom from elements of *gharar* that could harm either party.

2. Implementation of the Non Cash Home Purchase Agreement (*Taqṣīt*) at PT Hadrah Aceh Pratama

A home purchase agreement is a legal consent between seller and buyer for the transfer of rights to a house in exchange for payment. Under civil law the agreement is binding that is *pacta sunt servanda* so the rights and duties in it must be performed. The purpose is legal certainty for the seller who is entitled to payment and for the buyer who is entitled to receive the house as agreed (Fauzansyah et al., 2019). The agreement is set in a written contract signed by both parties and serves as evidence if a dispute arises. Clauses typically cover price method of payment period of repayment and rules on cancellation and refund of the down payment (DP).

Home purchases follow two paths. They may be paid in cash or in a non cash plan. Cash payment is simpler because the buyer pays the full price at once. Most consumers choose non cash plans because house prices often exceed immediate capacity which makes installment credit a common alternative (Alaysia & Muttaqin, 2023). The agreement also protects consumers. Without clear terms buyers face risks when prices change construction is delayed or the down payment is not returned. The contract functions as risk control. For the developer it shows the buyer's seriousness. For the buyer

it provides a legal basis to claim if the developer fails to perform. In a non cash plan the buyer pays the price in installments within a set period. The buyer first pays a down payment as a sign of commitment then pays the balance through periodic installments according to the agreement (Mamuaya et al., 2025).

The advantage is flexibility. The scheme opens access for civil servants that is ASN, government employees with work agreements that is PPPK, and private workers to own a house without paying a large sum at once. The scheme also carries risks such as late payment or unilateral cancellation by buyers. A bank often participates as a third party. The bank provides financing through home ownership credit that is KPR. The developer must ensure the buyer's file meets the bank's standards which include credit history and proof of steady income. If the bank rejects the application the sale is canceled and the down payment is returned yet the return still depends on the unit being sold again (Christiantoro & Saleh, 2023).

Interviews show that PT Hadrah Aceh Pratama prioritizes file screening to assess eligibility which includes employment status and credit history. Civil servants are directed to the *TAPER* program while non civil servants may use the *FLPP* scheme. This indicates differentiated service by customer background (RS, Manager of Administration, Interview, 2025). The developer allows the buyer to finish the down payment within three months after contract execution. A portion is paid at the start and the remainder within the set period. Failure to meet the deadline allows the developer to hold the house keys. The developer also checks credit history through an identity card to detect arrears or default risk. This is risk management for the developer and may feel like strict control for consumers (PP, Head of Marketing, Interview, 2025).

Interviews report that down payment refunds are processed after a replacement buyer takes the unit. The process may take up to three months depending on sales speed. This becomes a frequent point of tension because buyers expect a clear timeline. From the perspective of Islamic law the clause raises the possibility of *gharar* when time is left undefined. The contract documentation includes additional clauses. Buyers pay a contract fee of ten million rupiah in installments. Buyers pay a monthly cleaning charge. Buyers are barred from expanding the building before the down payment is fully paid. These clauses show the developer's effort to organize the transaction (Company Documentation, PT Hadrah Aceh, 2025). Late payment triggers immediate contact by the developer to seek a mutual solution. A dispute may still arise if the buyer cannot continue payments. The developer holds a strong position because the contract regulates many items.

The central problem is delayed refunds when a bank rejects the credit application. Buyers request immediate return while the developer waits for resale of the unit. The absence of a fixed time creates legal uncertainty. Even with this risk many consumers proceed due to urgent housing needs perceived affordability and detailed explanations before contracting which reveals a gap between consumer needs and legal certainty.

Findings indicate that the clause on down payment refunds is the most critical point that can produce *gharar*. The contract requires resale of the unit before a refund and does not set a clear deadline. This contradicts the *murābahah* principle of *bayān* that is clarity over price object and conditions. In *fiqh al mu 'āmalah* an undefined time for a basic obligation is *gharar fāhish* and weakens the contract because it risks one sided loss. In civil law the absence of a clear deadline may lead to disputes and may be read as nonperformance when consumers feel harmed. The buyer's uncertainty about when the right is fulfilled shows that justice and certainty have not been met.

3. Review of the *Murābahah* Contract in the Non Cash Home Purchase Agreement by PT Hadrah Aceh Pratama

The *murābahah* contract is popular in contemporary *mu'amalah*. It requires disclosure of the cost price and the agreed profit margin. In housing it offers a flexible non cash payment plan without *ribā* which differs from conventional credit (Prabowo, 2009). The DSN MUI fatwa states that *murābahah* is a sale at cost plus a known profit. Clarity of information is fundamental. In the present case the mechanism for price setting and the disclosure of margin to consumers reflects this rule (Winario & Fuaddi, 2020). Practice at PT Hadrah Aceh Pratama does not fully match the ideal model. If a buyer cancels the purchase the contract states that the down payment is returned after the unit is sold to a new buyer and the written clause lacks a fixed deadline. Interviews add an internal target of three months. The condition indicates *gharar* because the time of performance is unclear and may disadvantage the buyer.

Islamic sales require clarity regarding price object and time. When one element is vague the contract becomes defective. The refund clause falls short of the *bayān* standard. To prevent conflict the contract should set a maximum time for refunds to secure legal certainty and to match the principles of the *murābahah* contract. The following hadith forbids uncertainty in sales.

نَهَى رَسُولُ اللَّهِ عَنْ بَيْعِ الْحَصَّةِ وَعَنْ بَيْعِ الْغَرَرِ

“The Messenger of Allah forbade pebble throwing sales and sales that involve *gharar*.” (Muslim, 1513).

Any transaction that carries uncertainty in price object or time falls within *gharar* and is prohibited. In this case the refund of the down payment without a clear deadline places buyers in uncertainty and undermines confidence in the exchange (Noh et al., 2022). Bank participation adds complexity. The developer relies on bank verification of a buyer’s financial capacity. If the bank rejects the application the sale is canceled and the down payment should be returned. Tying the return to the presence of a replacement buyer keeps the time uncertain and strains *tarādīn*.

Technically the developer already discloses cost and margin which fits the transparency requirement. The contract still needs clear mechanics for failure of the deal and for the refund path. Additional items such as contract fees life insurance and cleaning charges remain lawful when agreed with full information and clear wording so that no impression of exploitation arises. From *fiqh al mu'amalah* an installment price may exceed a cash price when the agreement avoids *ribā* and is free of *gharar*. An undefined refund deadline creates *gharar* because the timing of the buyer’s right is unknown. The goal of *murābahah* is a safe exchange that builds trust. When clauses are biased the goal is not achieved. Even so consumer interest remains high due to housing needs (Basri et al., 2022). Viewed through *maqāsid al sharī'ah* the aims are protection of wealth and justice. An unclear refund harms buyers and conflicts with these aims. Many consumers continue due to urgent need which shows an imbalance in bargaining position. A corrective step is a clause that sets a firm refund deadline even if the unit has not been sold again. This balances rights and duties (Alwi et al., 2022).

PT Hadrah Aceh Pratama has applied many *murābahah* principles especially transparency in price and margin. Technical improvements are still required so that the contract meets sharia standards and increases consumer security. This also protects the developer’s reputation and reduces disputes in mortgage based housing. When the contract follows *murābahah* principles the developer gains legal protection and moral

legitimacy. The view of the majority of jurists affirms full transparency in cost margin and follow up terms such as cancellation and refunds. Leaving a key obligation to an uncertain event such as resale introduces speculation that is prohibited. With improved drafting PT Hadrah Aceh Pratama can become an example of sound *murābahah* practice that aligns with Islamic principles and social needs.

D. Conclusion

This study finds that PT Hadrah Aceh Pratama applies a *murābahah* oriented scheme in non-cash home purchases through written contracts that disclose the base cost, the agreed margin, and the installment schedule. These elements reflect transparency and support *tarāqdin*. The main weakness lies in the down payment refund clause. The contract links the refund to the resale of the unit and does not provide a definite deadline. Interviews indicate an internal target timeframe, yet the written clause leaves the time of performance open. This creates uncertainty that amounts to *gharar* and falls short of the requirement of clarity, or *bayān*, regarding obligations and timing in a valid *murābahah* arrangement.

From the perspective of *fiqh al-mu‘āmalah* and private law, the absence of a clear deadline for a basic obligation can expose consumers to one sided loss and increases the risk of dispute. The contract should therefore state a clear time limit for the refund that operates independently from the resale of the unit. It should also provide a simple and transparent procedure for failed transactions, including notice, verification, and the steps for executing the refund. Additional charges such as contract related fees, insurance, and cleaning charges remain acceptable when they are fully disclosed and agreed by both parties in clear wording. With these adjustments, the practice can better serve the aims of *maqāṣid al-shari‘ah* by protecting wealth and promoting justice, while preserving the practical benefits of *taqṣīt* based transactions and strengthening trust in property dealings.

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