QIJIS: *Qudus International Journal of Islamic Studies*
Volume 2, Issue 2, August 2014

IMPLEMENTATION OF ISLAMIC ECONOMIC PRINCIPLES ABOUT MORTGAGES

Ahmad Supriyadi
STAIN Kudus, Central Java, Indonesia
supriyadi515@yahoo.com

Abstract

The Islamic mortgages have a very important role in demand of the financial liquidity for the majority of Indonesian Muslim population. In operational practice, the Islamic mortgages apply the sharia principles. In order the implementation of Islamic sharia does not deviate from the principles of sharia, it needs to get in-depth study for the practice of getting a clear basis that this study is very useful for the community and for practitioners of sharia mortgages. Based on the research and tracking of economic principles concerning liens, it is obtained the result that the economic principles of sharia on the mortgage that is using the principle of ar-Rahn (mortgage), is used in the pledge of the goods moving, while the principle of Ijarah (lease) is used in case goods which is placed in a warehouse owned by PERUM Pledge wages where a rent must pay rent, and qard hasan principles is used in providing loans to customers who return it without interest.

Keyword: *Principle, Sharia Economic, Mortgages*

A. Introduction

The Islamic economics today is not an alternative economy, but has become a necessity for Muslims in Indonesia. It is based on data showing a rise of Islamic economics many financial institutions in International country, as Egypt, Jordan, Pakistan, Saudi Arabia, Malaysia, Indonesia so in other country as London, America, Australia, etc.

The Muslims should make Islamic economics as his own and do not enter other people's homes as get transaction in conventional economics refers to the capitalist economy. Islamic Economics has the excellences value in the appeal of the capitalist economy, why are ignored by Muslims. This work is not fair, while the capitalist economy has a lot of weakness and more advanced aspects of the advantages. While Islamic economics emphasizes justice, welfare and honesty. System of Islamic economic has merits that should be the way for Muslims to give well-being and becoming a necessity.

The economic sharia is Islamic economics in use as a way for Muslims to complete their economic needs. It is Refers to the meaning of the word sharia which means wide way. As a fair economy and provide for the public welfare, it is feasible to make our way through the economy as Islam set principles.

Islam has organized to the Muslims with sharia. That's where the position of Islam as a way of life completely and perfectly. Perfection is on- principles base and rules in harmony with human life. By rule base and rules in all sides of human life both in worship and also in relationship between human then all Muslims are obliged to obey or practice in the praxis of life. So it is very natural that Muslims are good interaction with Muslims and non-Muslims are always based on sharia rules. And when we observe that every person should need to interact with each other to cover the needs and helping each of them especially in economic terms.

The interaction between one Muslims to other based on sharia deserve serious study because people need science to guide them so that no one mistake. Because it is necessary to study

the rules of Islam in the whole side of our daily lives, of which originated from social interaction with human beings, especially in economic terms.

As evidence of the need for the Islamic economic system is the development of Islamic financial institutions in Indonesia rapidly. These developments ranging from Islamic banking, BPR sharia, sharia cooperation (BMT) and also sharia mortgages. Nowadays almost in big cities there are Islamic financial institutions such as West Java, Central Java and East Java, Aceh, Sumatra and several other cities. This suggests a social demand for Islamic financial institutions.

When viewed closely, an institute sharia mortgages are much in demand by the public in providing financing compared with the Islamic Bank, Cooperative Rural Banks and Sharia. Because Sharia mortgages are not a burden for customers with requirements that are too heavy as in Islamic banks, as long as he had the assurance of moving objects then come to sharia mortgages and goods estimated by hypotec employees later be known he would obtain financing for the value of the goods at the disposal. On operational ease sharia mortgages, a competitive value that is owned by mortgages so that people who need more liquid funds to sharia interest mortgages. mortgages public company is the only enterprise in Indonesia who officially have permission to carry out the activities of financial institutions in the form of financing in the form of the distribution of funds to the public on the basis of the law of mortgages as defined in the Code of Civil Code Article 1150 main duty is to provide a loan to the public on the basis of the law of mortgages so that people are not harmed by the activities of the informal financial institutions that tend to utilize urgent funding needs of the community (Sudarsono, 2004: 156). This law further regulated by Government Regulation No. 103 of 2000 on Public Company mortgages. Understanding of the practice of Sharia mortgages only, not simply provide a comprehensive understanding of Sharia mortgages because of existing practices in the field sometimes only part of the theory and application of the basic principles of

Islamic mortgages in the literature, therefore in order to provide a comprehensive knowledge necessary to studying the theory and basic principles of sharia mortgages. On the basis of the background of the problem, in this paper will explain the principles of Islamic economics of sharia mortgages, with a view that this paper is able to add to the treasures of knowledge, especially in the field of Islamic economics in practice, can be used in the practice of Islamic economics in empirical world.

B. Definition of Sharia Mortgages

The Sharia mortgages containing the two sides of the Institute of Islamic Sharia mortgages and mortgages from the economic (commercial). In this description will explain Sharia mortgages from an economic. The sharia mortgages translated from the word ar-Rahnin the books of fiqh (Islamic legal thought) as in Bidayah al-mujtahid. Ar-Rahn means that the terminology is the guarantee of debt or mortgages (Ali and Muhdhor, 1998: 996), as well as in the Hans Wehr Dictionary (1980: 363) that ar-Rahnis a deposit as security. On the basis of two understanding the terminology it can be concluded that the ar-Rahnis deposit as security or guarantee the debt. Ar-Rahn in language means "fixed", "in progress", and "hold" (Zuhaili, 2002: 4202).

The understanding of *ar-Rahn* hold property in question is owned by the borrower as collateral for loans received جعل الشئ وثيقة بدين the goods as collateral must be a selling point or that have economic value, so that those who hold the goods obtain assurance that the borrower will repay the loan and if it cannot repay the mortgages receiver may sell the collateral as payment for customer receivables (Sabiq, 1987: 169).

Therefore mortgages sharia should be observed that there are elements within each activity. According to the authors that the mortgages were there because of the existence of a relationship between one or more persons with one or more within the scope of making the goods as collateral for the financing provided by *murtahin*. It said one person who met only when the *rahin* and

murtahin. But if the goods are in *marhun* that belonged to his brother, the party which met not only two but three people. The relationship between them is not just a relationship but it is a legal relationship, because the relationship will be undertaken by the parties will lead to legal consequences. While the legal relationship in question was made an agreement that the parties agreed to deliver the goods to *rahin* detained by *murtahin* and pay the cost of maintenance and rental storage and insurance while *murtahin* agreed to lend money.

The above statement by the authors that sharia mortgages is the legal relationship between one or more persons with one or more with an agreement to bind himself that on the one hand (*rahin*) are willing to hand over the goods to be detained by *murtahin* and pay the cost of maintenance and storage space rental and insurance while *murtahin* agreed to lend a certain amount of the money appraiser. Definition about mortgages need to also pay attention described by experts in Islamic law, among others:

Rahn according to Basyir (1983: 50) hold a good deal as dependents debt. Therefore deeds done is make something valuable objects in the view of sharia as dependents debt. Rahn according Rasjid (1976: 295) is to make an item as collateral in debt receivables to provide trust and confidence that the debt will he pay, and when he could not pay, the goods can be sold by the creditor. According to the understanding Fadly "Rahn" means imprisonment. For example, the words they (the Arabs), "rahanasy syai-a" means that if something is continuous and permanent. Allah says: "Every self-responsible for his actions." (Q.S. al-Muddatsir: 38). As according to the terms of Personality ', says Rahn is to treat the property as collateral for loans borrowed, in order to be considered as payment when the debt was not able to repay their debts. (Fath al Bari V: 140 and Manarus Sabil I: 351).

On the basis of the above notions of understanding needs to be taken as a benchmark in terms of Islamic mortgages include elements such as:

a. There is a requirement that subjects: people who credit (*rahin*)

and those who received mortgages (*murtahin*) both exist under certain conditions:

1) An adult by law
2) Ingenious
3) Being able or qualified to do law

b. There is a requirement of objects, namely: goods which can in hipotikkan (marhun) with certain conditions, among others:
   1) Objects that contain the economic value
   2) Can be traded and does not violate the law
   3) Goods belonging *rahin*
   4) Moving objects

c. The existence of an agreement (sighot), namely: an agreement after negotiations between rahin and murtahin are then implemented in the agreement.

C. Practice in the institution of Sharia mortgages Mortgages

In order to get a more concrete picture of the author has done a research result that the practice of sharia mortgages are generally described as follows:

1) Customers come to mortgages institution borrowing money to bail money will be returned. To corroborate that he is able to return, he made valuable goods ascollateral.
2) After Sharia mortgages see items that will be in jaminkan, then he approves the loan in accordance with the magnitude of the price of the goods from the appraiser.
3) Customer and Sharia mortgages make a deal approved by the parties that the contents of the statement will of the parties, the agreement administrative costs, tariff savings services, repayment and so on.
4) Sharia mortgages receive administrative fees that are paid at the beginning of the transaction, while the cost of services in the store when the installments paid in installments.
5) Customers repay the money by installments or lump-sum. It is based on the contract.

Sharia mortgages mortgages is a loan scheme that is easy

and practical to meet the needs of the public funds for the mortgage system in accordance with sharia by depositing collateral in the form of gold jewelry, diamonds, electronics and motor vehicles (Source: liflet Sharia mortgages).

Based on product leaflets sharia mortgages has several advantages, among others:

1) Increase the efficiency of goods moving because hipotikkan goods in the form of engines, enough in his hipotikkan reg. So that the motor can still be in use by rahin and can generate profits.
2) The procedure and terms for borrowing money is very easy and fast
3) Goods are valid appraiser and carefully so that can estimate the optimal value
4) The loan term flexible is not the limit, free to choose the payment
5) Goods safe and guaranteed mortgages insured
6) Source of funds and contract in accordance with sharia

D. Simulation of Islamic Mortgage Product

Based on Sharia mortgages mortgages practices can in diskripsikan in the simulation is based on the principles of sharia mortgages calculation *ujroh* (fee based *marhun*): Costs are calculated in paying wages include the use of a rental, maintenance and insurance marhun marhun. Then the calculation will be undertaken are:

$$\text{Ijarah} = \frac{\text{Estimated goods}}{10.000,-} \times \text{Rates (Rp.)} \times \frac{\text{Duration}}{\text{day}}$$

For example: the customer has a 1 piece weighing 25 grams Precious Metals grading 99.99% assuming the treasures of gold per gram of 99.99% = Rp. 300.000, - then it calculated are as follows:

- Estimated goods =25 gr. x Rp. 300.000,- = Rp. 7.500.000,-

- Money Loans =90% x Rp. 7.500.000,- = Rp. 6.750.000,-
- Ijaroh /10 day = $\frac{7.500.000,-}{Rp.10.000,-}$ x 80 x $\frac{10}{10}$ = Rp. 60.000,-
- Administration fee = Rp. 25.000,-

If the customer uses marhun bih for 26 days, ijaroh determined by calculating per 10 days x 3 then great ijaroh is Rp. 180.000, - (Rp. 60.000, - x 3) ijaroh in pay when customers pay off or extend the new contract.

E. Principle *Ar-Rahn* (Mortgage)

1. Definition of ar-Rahn

Ar-Rahn is holding one of the debtor's property as collateral for loans received. The detained goods have economic value. Thus, those who hold to obtain a guarantee to be able to take back all or part of its receivables. In simple terms can be explained that Rahn is a kind of collateral or mortgages. So in Sharia mortgages, understanding Rahn is a contract delivery of goods / property (marhun) of customers (rahin) to Sharia mortgages (murtahin) as a guarantee of some or all of the debt.

Based on the practice there is an Islamic foundation formed the basis for the practice include:

a. The cornerstone of sharia Allah Almighty says:

يَا أَيُّهَا الَّذِيْنَ آمَنُوْا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُسَمًّى فَاكْتُبُوْهُ ...

"To, believe! If you do not owe in cash until a certain time, make written ..." (QS. Al-Baqarah [2]: 282).

وَإِنْ كُنْتُمْ عَلَى سَفَرٍ وَلَمْ تَجِدُوا كَاتِبًا فَرِهَانٌ مَقْبُوضَةٌ فَإِنْ أَمِنَ بَعْضُكُمْ بَعْضًا فَلْيُؤَدِّ الَّذِي اؤْتُمِنَ أَمَانَتَهُ وَلْيَتَّقِ اللَّهَ رَبَّهُ وَلا تَكْتُمُوا الشَّهَادَةَ وَمَنْ يَكْتُمْهَا فَإِنَّهُ آثِمٌ قَلْبُهُ وَاللَّهُ بِمَا تَعْمَلُونَ عَلِيمٌ (٢٨٣)

283.if you on the way (and not in cash bermu'amalah) are you not getting a writer, then let no dependents goods held [180] (by the indebted). but if some of you trust others, believed, so let it fulfill its mandate (debts) and let him fear Allah his Lord; and ye (the witness) to hide the testimony. and

he who hid it, verily he is a sinner his heart; and Allah knows what you do.

The verse mentions safar or traveling which makes the conditions for mortgages, but not an absolute requirement for mortgage transactions are traveling. But the verse to indicate that we should take bail as a handle on the issue of debt. As for the people who live there are several views of scholars such Ata 'ibn Khalil Abu al-Rasytah, Taysir fi Usul at-Tafsir (Al-Baqara), p. 437-438, Dar al-Ummah, Beirut, cet. ii (mudaqqiqah). 2006.] he said permissible for people who live, Imam Al-Qurtubi said: "No one prohibits *Ar-Rahn*on the state of Safar, except Mujahid, Al Dhahak and Dawud (Ad Dzohiri) [Abhats Hai'at Kibar Ulama 6 / 107].

The verse could also indicate more difficult conditions in the transaction and Allah wants a convenience that every human being can bermuamalah in accordance with Islamic law and can be self-sufficient.

b. Hadeeth of the Prophet In

The hadith 'A'isha also mentioned in bolehkannya do mortgages, because it has been done by the Prophet.

أَنَّ النَّبِيَّ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ اشْتَرَى طَعَامًا مِنْ يَهُودِيٍّ إِلَى أَجَلٍ وَرَهَنَهُ دِرْعًا مِنْ حَدِيدٍ

Indeed the Prophet purchase of a Jewish food in the ways of debt and hypothecate his armor. (Reported by al-Bukhaari and Muslim No. 2513 no. 1603).

Based on another hadith the prophet:

Prophet SAW said: not missing a hypothec of its owner, its advantages and disadvantages as well for him (the owner). (HR. Daruquthni and al-judge of abi Hurairah.).

2. Terms Rahn

There are several requirements that must be fulfilled in carrying out the transaction Rahn, among others:

a. Requisite subjects

subject requirement is a condition that is associated

with the subject of the transaction Rahn which allowed the transaction terms Rahn. They are allowed are those that are capable to do law. This means that they are able to perform an act of law and meeting the requirements of legal capacity, among others: those who have legal age, no memory loss, and has met the age.

b. Terms of objects

While the object condition is a condition that is associated with the object of the agreement is to borrow funds in with a guarantee. As for the condition object is the object that is eligible to be made in such assurance motorcycle. This scholars Hanafiyah found perfect and tied to contract Rahn, necessary conditions mastery of goods by creditors (Ibn Rusy, hal.205).

When you look at the opinion of scholars that in the case of objects or goods as collateral have a condition that: Goods must be fully owned and is in control of the rahin essentially a word فَرَهَنٌ مَقْبُوْظَةٌ . For scholars malik it is requisite perfection mortgages, but for Abu Hanifah, Shafi'i and ahlu dzahir that it is a legitimate requirement Rahn.

Based on the condition of objects that serve as collateral in Rahn is (Zainuddin Ali, 2008: 22):

1) Collateral must have value and can be utilized in accordance with the provisions of Islamic law. Items that can not be utilized according to Islamic law should not be take for granted, such as ownership of pigs. Although pigs can be utilized, but according to the law are not allowed.
2) Collateral must be objects that are not depleted in use and is not broken for a long time.
3) The collateral must be sold and the value of selling by funds borrowed.
4) Collateral must be clear and specific.
5) It must belong to a legitimate collateral rahin

6) Collateral was not bound by the terms of others.
7) Collateral can be submitted to the other party.
8) Collateral not forbid such goods in sculpture.

c. Pillars Rahn (Ibn Rusy, p.204).
1) People who mortgages (raahin)
2) Recipients mortgages (murtahin)
3) Dihipotikkan treasures (marhun)
4) Debt (marhun bih)
5) Consent *qabul* (sighat)

d. The provisions Rahn

Under the terms of the National Sharia Council (DSN) Rahn must comply with the following provisions:

1) Murtahin (consignee) have the right to hold marhun (goods until all debts rahin (who delivered the goods) paid)
2) Marhun and benefits remain with the rahin. In principle, marhun should not be used by murtahin unless permission rahin, without reducing the value marhun and use it just substitute the cost of maintenance and care.
3) Maintenance and storage marhun basically an obligation rahin, but can be done also by murtahin, while the maintenance costs remain the obligation rahin storage.
4) Large maintenance costs and storage marhun should not be determined based on the amount of the loan
5) Sales marhun:
6) when due, murtahin must warn rahin to immediately pay rent warehouse or storage area and also perform maintenance and maintenance agreements for goods mortgages. For more details debts
7) if rahin still can not repay their debts, then marhun sold / executed by auction in accordance Sharia.
8) Marhun used the proceeds to pay off debt, maintenance and storage costs are not paid as well as cost of sales.

9) Excess proceeds belong rahin and deficiencies became kewjiban rahin

F. The Principle of Ijarah (Lease)

1. Definition of ijara

Ijarah principle in practice in Sharia mortgages within the meaning of the agreement or the wage cost of storage and maintenance of goods mortgages. Ijarah is meant here is wages or in Arabic Ujroh. Ijarah is applied as necessary rahin have no understanding.

Al-Ijarah can be equated with leasing (Hans Wehr, 1974: 5), which means it is an agreement with the transfer of benefits on property rights, through lease payment of wages, without being followed by the transfer of ownership (ownership) on the goods themselves (Ahmad Asyarbasyi, 1987 in M. Shafi Antonio, 2001: 117).

2. Basis law of sharia

1) Al-Qur'an:

Qur'an has set some Ijarah agreement (lease), among thers: Qur'an Sura. al-Zukhruf [43]: 32:

أَهُمْ يَقْسِمُونَ رَحْمَةَ رَبِّكَ نَحْنُ قَسَمْنَا بَيْنَهُمْ مَعِيشَتَهُمْ فِي الْحَيَاةِ الدُّنْيَا وَرَفَعْنَا بَعْضَهُمْ فَوْقَ بَعْضٍ دَرَجَاتٍ لِيَتَّخِذَ بَعْضُهُمْ بَعْضًا سُخْرِيًّا وَرَحْمَةُ رَبِّكَ خَيْرٌ مِمَّا يَجْمَعُونَ (٣٢)

"Are those who dispenses mercy of your Lord? We have apportioned among them their livelihood in the life of the world, and we have raised some of them over others some degree, so that some

they can use others. And the mercy of thy Lord is better than what they collect. "

.....وَإِنْ أَرَدْتُمْ أَنْ تَسْتَرْضِعُوا أَوْلادَكُمْ فَلا جُنَاحَ عَلَيْكُمْ إِذَا سَلَّمْتُمْ مَا آتَيْتُمْ بِالْمَعْرُوفِ وَاتَّقُوا اللَّهَ وَاعْلَمُوا أَنَّ اللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ (٢٣٣)

and if you want your son disusukan by others, no sin on you if you give payment according to the worth. Ye fear Allah, and know that God is seeing what you do (al-Baqarah: 233).

God's Word QS. al-Qasas [28]: 26:

قَالَتْ إِحْدَاهُمَا يَا أَبَتِ اسْتَأْجِرْهُ إِنَّ خَيْرَ مَنِ اسْتَأْجَرْتَ الْقَوِيُّ الأمِينُ (٢٦)

"One of the two women said, 'O my father! Take it as a person who works (at us), karenasesungguhnya nicest guy you take untukbekerja (on us) is strong again be trusted.'"

While the hadith of the prophet be some explaining Ijara, among others:

Hadith Ibn Majah from Ibn 'Umar that the Prophet said:

أَعْطُوا ٱلأَجِيْرَ أَجْرَهُ قَبْلَ أَنْ يَجِفَّ عَرَقُهُ.

"Give the workers wages before his sweat dried."

Hadith 'Abd ar-Razzaq from Abu Hurairah and Abu Sa'idal-Khudri, the Prophet
S.A.w. said:

مَنِ السْتَأْجَرَ أَجِيْرًا فَلْيُعْلِمْهُ أَجْرَهُ

"Anyone who employs workers, let wages."

Hadith narrated by Abu Daud Sa`d ibn Abi Waqqas from, he said:

كُنَّا نُكْرِي ٱلأَرْضَ بِمَا عَلَى السَّوَا قِيْ مِنَ الزَّرْعِ وَمَاسَعِدَ بِالْمَاءِ مِنْهَا، فَنَهَانَا رَسُوْلُ اللهِ صَلَّى اللهُ عَلَيْهِ وَآلِهِ وَسَلَّمَ عَنْ ذَلِكَ وَأَمَرَنَا أَنْ نُكْرِ يَهَابِذَهَبٍ أَوْ فِضَّةٍ.

"We never rent land with (paid) crops; then, the Prophet forbade us to do so and ordered that we rent it with gold or silver. "

Tirmidhi Hadith of the Prophet history of 'Amr bin' Auf:

اَلصُّلْحُ حَائِزٌ بَين الْمُسْلِمِيْنَ إِلاَّ صُلْحًا حَرَّمَ حَلاَلاً أَوْأَحَلَّ حَرَامًا وَالْمُسْلِمُوْنَ عَلَى شُرُوْطِهِمْ إِلاَّ شَرْطًا حَرَّمَ حَلاَلاً أَوْأَحَلَّ حَرَامًا.

"Peace can be made between the Muslims except the peace that forbids kosher or justify the unlawful; and the Muslims are bound by their terms except that forbid the lawful requirements or justify the unlawful. "

Qudsi Hadith narrated by Muslim from Abu Hurayrah:
قَالَ اللهُ عَزَّ وَجَلَّ: ثَلاَثَةٌ أَنَا خَصْمُهُمْ يَوْمَ الْقِيَامَةِ: رَجُلٌ أَعْطَى بِيْ (أي حَلَفَ بِاسْمِيْ) ثُمَّ غَدَرَ، وَرَجُلٌ بَاعَ حُرًّا فَأَكَلَ ثَمَنَهُ، وَرَجُلٌ اسْتَأْجَرَ أَجِيْرًا فَاسْتَوْفَى مِنْهُ وَلَمْ يُعْطِهِ أَجْرَهُ (رواه مسلم)

Allah says: "There are three groups that became my enemy them on the Day of Judgment. First, people who swear by my name and then he betrayed. Second, the person who sells a free man (not a serf), and then he takes (take) advantage. Third, the person who employs a person, then the worker to meet its obligations, whereas it does not pay his wages "(HR. Muslim).

Ijara basis that can be used as legal basis other than the Qur'an and hadith are ra'yu or opinions of the scholars and also some fiqhiyah principles include:
اَلأَصْلُ فِى الْمُعَامَلاَتِ اْلإِبَاحَةُ إِلاَّ أَنْ يَدُ لَّ دَلَيْلُ عَلَى تَحْرِيْمِهَا.

"Basically, all forms should muamalah dilakukankecuali no proof that forbid it."

Some scholars argue about Ijarah as follows:

a. Imam al-Syairazi, al-Muhadzdzab, juz I, Kitab al-Ijara, p. 394:
يَجُوْزُ عَقْدُ اْلإِجَارَةِ عَلَى الْمَنَافِعِ الْمُبَاحَةِ ... وَلأَنَّ الْحَاجَةَ إِلَى الْمَنَافِعِ كَالْحَاجَةِ إِلَى اْلأَعْيَانِ، فَلَمَّا جَازَ عَقْدُ الْبَيْعِ عَلَى اْلأَعْيَانِ وَجَبَ أَنْ يَجُوْزَ عَقْدُ اْلإِجَارَةِ عَلَى الْمَنَافِعِ.
"Can do Ijarah contract (lease) above benefits are allowed ... for the purposes of the same benefits to the needs of the object. Therefore, sale and purchase agreement on the object is allowed, then it should be anyway Ijarah agreement on the benefits. "

b. Ibn Qudamah, al-Mughni, juz VIII, p. 7:
فَهِيَ (الإِجَارَةُ) بَيْعُ الْمَنَافِعِ، وَالْمَنَافِعُ بِمَنْزِلَةِ اْلأَعْيَانِ.
"Ijarah is selling the benefits; and benefits are equal to the object. "

c. Ibn Qudamah, al-Mughni, juz VIII, p. 54:

وَيَجُوْزُ لِلْمُسْتَأْجِرِ أَنْ يُؤَجِّرَ الْعَيْنَ الْمُسْتَأْ جَرَةَ إِذَا قَبَضَهَا.

""People who rented the things he may sublease the leased object if he had received the object."

d. Imam al-Nawawi, al-Majmoo 'Sharh al-Muhadzdzab, juz XV, p. 308; al-Syarbini, Mughni al-Muhtaj, juz II, p. 332; al-Dimyathi, I'anah al-Thalibin, juz III, p. 108:

... ...وَأَنَّ الْحَاجَةَ إِلَيْهَا [الإجارة] دَاعِيَةٌ؛ فَلَيْسَ لَكُلِّ وَاحِدٍ مَرْكُوْبٌ وَمَسْكَنٌ وَخَادِمٌ فَجُوِّزَتْ لِذِلِكَ كَمَاجُوِّزَتْ بَيْعُ ٱلأَعْيَانِ.

"... The needs of people make their Ijarah contract (lease), because not everyone has a vehicle, residence and waitresses (workers). Therefore, Ijara allowed as permitted also sell things. "

e. Imam al-Nawawi, al-Majmoo 'Sharh al-Muhadzdzah, juz XV, p. 383:

أَمَّاإِذَا أَرَادَ الْمُسْتَأْجِرُ أَنْ يُؤَ جِّرَهَا (الْعَيْنَ الْمُسْتَأْجَرَةَ) آخَرَ قَبْلَ الْقَبْضِ، فَفِيْ جَوَازِ ٱلإِجَارَةِ ثَلاَثَةُ أَوْجُهٍ:

(أَحَدُهَا) أَنَّهَا غَيْرُ جَائِزَةٍ، كَمَا فِي الْمَبِيْعِ، لاَيَجُوْزُ بَيْعُ الْمَبِيْعِ قَبْلَ الْقَبْضِ، وَالإِجَارَةُ كَمَا تَقَدَّمَ كَالْبَيْعِ،

(وَالثَّانِيْ) أَنَّ ٱلإِجَارَةَ جَارَةَ جَائِزَةٌ، لأَنَّ الْمَعْقُوْدَ عَلَيْهِ هُوَ الْمَنْفَعَةُ، وَالْمَنْفِعَةُ لاَ تَصِيْرُ مَقْبُوْضَةً بِقَبْضِ الْمُؤَ جِّرِ لِلْعَيْنِ، فَلَمْ يُؤَ ثِّرْ فِي الْمَنْفَعَةِ قَبْضُ الْعَيْنِ.

(وَالثَّالِثُ) يَجُوْزُ إِجَارَتُهَا مِنَ الْمُؤَجِّرِ، لأَنَّهَا فِيْ قَبْضَتِهِ، وَلاَ تَجُوْزُ فِيْ غَيْرِ الْمُؤَجِّرِ، لأَنَّهَا لَيْسَتْ فِيْ قَبْضَتِهِ.

"*If the leasor intends to sublease the leased object to another party before it is accepted, then the permissibility of rental (second) that there are three opinions. First, it should not be, as well as items are purchased; means, may not sell items purchased before acceptance; whereas Ijarah (lease) equal to the buying and selling (bai ') as the previous description. Second, leasing (both by the tenant) should legal (legitimate), because the object of Ijarah is a benefit; while the benefits are not seen to have received only by the lessor has awarded the leasing object. Therefore, the delivery object poses no legal effect on benefits. "Third, the law may sublease the leased object to the lessor (the*

first), because it is at hand; but should not rent it to other than the lessor (others), because it is not in his hands. "

f. Ibn Qudamah, Al-Mughni, juz VIII, p. 56:
وَيَجُوْزُ لِلْمُسْتَأْجِرِ إِجَارَةُ الْعَيْنِ بِمِثْلِ الْأَجْرِ وَزِيَادَةٍ. نَصَّ عَلَيْهِ أَحْمَدُ. وَرُوِيَ ذٰلِكَ عَنْ عَطَاءٍ، وَالْحَسَنِ وَالزُّهْرِيِ. وَبِهِ قَالَ الشَّافَعَيُّ، وَأَبُوْثَوْرٍ وَابْنُ الْمُنْذِرِ.
"The leasor may not rent objects rented for a fee (rent) the same or higher. It has been confirmed by Imam Ahmad. The same opinion was expressed also 'Ata', al-Hasan, and al-Zuhri; likewise expressed by Iman Shafii, Thawr and Ibn al-Munzir. "

f. Ibn Qudamah, al-Mughni, juz VIII, p. 113:
وَالْعَيْنُ الْمُسْتَأْجَرَةُ أَمَانَةٌ فِيْ يَدِ الْمُسْتَأْجِرِ، إِنْ تَلِفَتْ بِغَيْرِ تَفْرِيْطٍ لَمْ يَضْمَنْهَا.
"The thing is chartered trust in the hands of tenants; if damaged not due to negligence, leasor is not asked to be responsible (replace). "

g. Al-Sayyid Sabiq in Fiqh al-Sunnah (Beirut: Dar al Fikr, 1983), the Section 3, Cet. To-4, p. 208,
وَيَجُوْزُ لِلْمُسْتَأْجِرِ أَنْ يُؤَ جِّرَ الْعَيْنَ الْمُسْتَأْجَرَةَ ... وَيَجُوْزُ لَهُ أَنْ يُؤَ جِّرَ الْعَيْنَ الْمُسْتَأْجَرَةَ إِذَا قَبَضَهَا بِمِثْلِ مَا أَجَرَهَا بِهِ أَوْ أَزْيَدَ أَوْ أَقَلَّ.
The leasor (musta'jir) may not rent rental goods .... He (leasor) may also sublease the same price at the time of his hire, more much or less.

h. Wahbah al-Zuhaili, al-Fiqh al-Islami wa Adillatuhu, Cet.4 Juz 5; p. 3842:
ِذَا اَسْتَأْجَرَ شَخْصٌ دَارًا أَوْ حَانُوْتًا أَوْنَحْوَهُمَا مِنَ الْمَنَازِلِ فَلَهُ الْاِنْتِفَاعُ بِهَا حَيْثُ سَاءَ مِنَ السُّكْنَى بِنَفْسِهِ أَوْ إِسْكَانِ غَيْرِهِ بِالْإِجَارَةِ أَمْ بِالْإِعَارَةِ، وَلَهُ أَنْ يَضَعَ فِيْهِ مَتَاعَ غَيْرِهِ.
"If someone is renting a house, shop or other place, he may use it in accordance with his will, either alone or occupied by others put it through a lease agreement or by way of loan; he (leasor) may also put (insert) the object of other people in the place. "

Ijarah contract in practice sharia mortgages applied

in goods that require a place for storage. Customers pay rent storage and treatment of an item in mortgages. In Syariah Ijarah rate mortgages have been set to be paid by the end rahin mortgages. These rates vary at each institution depends on management institute Sharia mortgages.

Usually institute Sharia mortgages apply transparency the costs should be issued by the customer. Costs incurred by the customer and this scheme will not be taken from the amount of the loan that was obtained customers, but is calculated based on the value of the goods. For example, customers to mortgages motorcycle resale value of Rp. 10000 000, - then he would have to pay per 10 days 25 thousand dollars. It is based on Ijarah agreement between the customer and the Sharia mortgages. Is this agreement can be negotiable, sharia should be done negotiations, because the basic validity of the agreement in Islam is a blessing, that there should be negotiations on the costs to be incurred by the customer, and this shows the true covenant practices in Islam. When these costs are not negotiable, the customer may not be borrowed.

In Sharia mortgages usual rates imposed on the customer can see in the picture below (Tables of Sharia mortgages):

Ijarah Rates and Mortgage Administration Fee Sharia (Rahn)

Category	UP Min	UPMax	Rounding off UP	Rounding Ijarah	Fare ijarah	Period	Fare	Fare Administration	Ket.
						calculation Ijarah	Administration Hypotec	Missing letter	
	Rp.	Rp.	Rp.	Rp.	Rp.	Rp.	Rp.	Rp.	
A	20,000	150,000	1,000	100	80	per 10 hari	1,000	1,000	
B	151,000	500,000	1,000	100	80	per 10 hari	5,000	2,000	
C	501,000	1,000,000	1,000	100	80	per 10 hari	8,000	3,000	
D	1,005,000	5,000,000	5,000	100	80	per 10 hari	16,000	4,000	
E	5,010,000	10,000,000	10,000	100	80	per 10 hari	25,000	4,000	
F	10,050,000	20,000,000	50,000	100	80	per 10 hari	40,000	4,000	
G	20,100,000	50,000,000	100,000	100	80	per 10 hari	50,000	4,000	

G. Principle Qard Al-Hasan

1. Definition Qardh

Qardh or Qiradh based historically it has been around since the time of ignorance or before Islam, then set by Islam

that qardh it is permissible (Rasjid: 287) Qardh according to Ahmad ash-syarbasyi (1987: 163) means giving wealth to others who may be billed or refunded or can also lend without expecting anything in return. According to Rashid Sulaiman Qardh is providing a staple of someone else to sale are advantages to both by agreement of the parties. The definition implies that the nature qardh help each other and do not ask for any compensation.

Al-qardh is giving wealth to others who may be billed or refunded or otherwise lend without expecting anything in return. In the literature of classical jurisprudence, qard categorized in 'aqd tathawui or contract mutual help and not a commercial transaction. Medium qardh loan is providing the funds or the equivalent bill or an agreement between the borrower and the lender that requires the borrower to pay off debts after a certain period of time. The lender may receive remuneration but not allowed for in the agreement required.

2. Basic Qardh

a) Al-Qur'an

إِنَّ الْمُصَّدِّقِينَ وَالْمُصَّدِّقَاتِ وَأَقْرَضُوا اللَّهَ قَرْضًا حَسَنًا يُضَاعَفُ لَهُمْ وَلَهُمْ أَجْرٌ كَرِيمٌ (١٨)

Indeed, those who justify (Allah and His Messenger) both men and women, and lend to Allah a good loan, will undoubtedly be multiplied (payment) to them; and for them the reward that much (al-Hadid: 18).

إِنْ تُقْرِضُوا اللَّهَ قَرْضًا حَسَنًا يُضَاعِفْهُ لَكُمْ وَيَغْفِرْ لَكُمْ وَاللَّهُ شَكُورٌ حَلِيمٌ (١٧)

If you lend to Allah a good loan, Allah will double the return to you and forgive you. and Allah, Most Forbearing avenger Services (at-Taghobun: 17).

يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا تَدَايَنْتُمْ بِدَيْنٍ إِلَى أَجَلٍ مُسَمًّى فَاكْتُبُوهُ .....(٢٨٢)

"O ye who believe! If you do not owe in cash until a certain time, make written ..." (QS. Al-Baqarah [2]: 282).

b) Al-Hadith

Ibn Mas'ud narrated that the Prophet SAW. Said, "not a Muslim (they) who lend Muslims (other) unless the other two are (worth) charity" (HR. No.2421 Ibn Majah, Kitab al-Ahkam; Ibn Hibban and Bayhaqi) Anas bin Malik said that the Messenger of Allah said, "I saw in the night at the door of heaven isra' written: charity rewarded tenfold and qardh eighteen times. I asked," O Gabriel, why qardh greater than the dole? He replied, "because beggars something and he had, while not borrow except for purposes". (HR. Ibn Majah no. 2422, al-Ahkam book, and Bayhaqi).

c) Ijma Scholars

The scholars have agreed that al-qardh be done. This is based on the consensus of the scholars of human nature can not live without the help and the help of his brother. No one can live all-sufficiency in all, therefore, borrowing has become a norm in society in everyday life. Based on the theory of jurisprudence there is one principle that governs qardh namely:

كلّ قرضٍ جر منَفعًة فهو رِبا

"Any debts that bring benefits (for the indebted, muqridh) is usury."

2) The provisions Qardh

Under sharia council national fatwa (DSN) that in qardh following provisions apply:

a. Al-Qardh are loans given to customers (muqtaridh) that need.
b. Customer al-Qardh obliged to return the principal amount received at the time agreed.
c. Administrative costs charged to customers.
d. Institution may require a guarantee to the customer when necessary.
e. Customer al-Qardh can provide additional (donation) volunteered to institution for not contracted in the contract.
f. If the customer is unable to return part or all of its

obligations at the time agreed upon and LKS has ensured its inability, LKS can:

f.1. memperpanjang payback period, or

menghapus (write off) some or all of its obligations

3) Conditions of sanctions
   a. In case the customer does not indicate a desire to restore some or all of its obligations, LKS can impose sanctions to customers
   b. Sanctions are in the drop may be fine and not limited to the sale of the collateral
   c. If the collateral is insufficient, customers still have to meet its obligations in full.

Antonio Shafi'i opinion that the nature of al-qardh not provide financial benefits. Therefore, Qardh funding can be taken according to the following categories:

1) al-Qardh needed to help customers quickly and finance short-term. Bailout fund above can be taken from capital Sharia mortgages
2) al-Qardh needed to help very small businesses and social purposes, can be sourced from zakat, donation, and alms. Besides the funding source community, practitioners perSyariah hipotikan Shariah, as well as scholars, see other sources of funds that can be allocated to qard al-hasan, ie revenues are questionable, such as nostro services in Sharia korespondent conventional mortgages, interest on guarantee of L / C in Sharia foreign mortgages, and so on. One consideration the utilization of these funds is the rule akhaffu dhararain (take harm smaller). This is because if the funds are Muslims allowed institutions to non-Muslims may be used for something that is detrimental to Islam, such as fund-Arab Muslims-Sharia Sharia mortgages mortgages Jewish Switzerland. Therefore, the parking fund better taken and used for natural disaster relief or help dhu'afa.

6). Characteristics qardhul hasan:
   a. loan without the borrower to use the funds in exchange for

a certain period and return the same amount at the end of the period

b. if you have a loss, not negligence then reducing the amount of the loan.
c. Reporting that sources and uses of funds qardhul hasan

7). Benefits Qardh

a. Qardh very beneficial to the community, among others (M. Shafi Antonio, 2001: 134):
b. Allows companies that are in trouble urgent liquidity funds can obtain funds from the customer.
c. Al-hasan Qardh also one distinguishing feature between Islamic financial institutions with conventional financial institutions or the difference between the Islamic capital market with conventional capital markets where it contains social mission in addition to commercial mission
d. Social mission can increase familiarity between one company with another company.

8). Source of Funds

a. Dana al-Qardh can be sourced from:
b. Part institution capital;
c. institution profits set aside; and
d. Other institutions or individuals who entrust distribution to institution

H. Conclusion

Based a deskription can be concluded that the implementation of the principles of Islamic economics of mortgages that uses the principle of *ar-Rahn*(mortgage), which is used in mortgages moving goods, while the principle of Ijarah (lease) is used in the case of goods placed in the warehouse of PERUM Mortgages then he must pay wages rental, and hasan qard principle used in lending to customers whose repayment without interest.

REFERENCES

Abdul Ghofur Anshori, 2006, Gadai Syariah di Indonesia Konsep, Implementasi dan institusionalisasi, Gadjah Mada University Press, Yogyakarta.

Abu Bakr Jabr Al Jazairi, 2005, *Ensiklopedia Muslim, Minhajul Muslim*, Penerbit Buku Islam Kaffah, Edisi Revisi.

Adiwarman A. Karim,2006, *Bank Islam Analisis Fiqih dan Keuangan*, PT. Raja Grafindo, Jakarta.

Ari Agung Nugraha, 2004, *Gambaran Umum Kegiatan Usaha Pegadaian Syariah*, http://ulgs.tripod.com.

Choiruman Pasaribu Dan Sukarwardi K Lubis, 2004, *Hukum Perjanjian Dalam Islam*, Sinar Grafika, Jakarta.

Ghazali, al-Mustasyfa, dikutip oleh Umar Chapra,2000, *Islam dan tantangan Ekonomi, Penerjemah Ichwan Abidin*, Penerbit Gema insani Press bekerja sama dengan tazkia Institut, Jakarta.

Johannes Ibrahim,2004, *Hukum Bisnis Dalam Persepsi Manusia Modern*, Rafika Aditama, Bandung.

Moch Rifa'i,2008, *Perbankan Syari'ah*, Wicaksono, Semarang.

Nindyo Pramono, 2001, *Hutang Menurut Pandangan Majelis Hakim Niaga*, Makalah UGM, tidak dipublikasikan.

Siti Fatimah, 2008,Tinjauan *Hukum Islam Terhadap Praktek Hiwalah di BMT BIF Gedung Kuning Yogjakarta*, Thesis UIN Sunan Kalijaga Yogjakarta.

Sudarsono, Heri. 2008, *Bank dan Lembaga Keuangan Syariah*, Penerbit Ekonosia,Yogyakarta.

Wiroso, 2008, *Konsep Perbankan Syariah, Penyaluran Dana Bank Syariah*, makalah disampaikan dalam Pelatiahan Perbankan Syariah STAIN Kudus.

Wiroso, 2008,*Konsep Perbankan Syariah, Komparasi Bank Syariah dan Bank Konvensional*, makalah disampaikan dalam Pelatiahan Perbankan Syariah STAIN Kudus.

Wiroso, 2008, Konsep Perbankan Syariah, Penghimpunan Dana, makalah disampaikan dalam Pelatiahan Perbankan Syariah STAIN Kudus.

Wiroso,2008, *Konsep Perbankan Syariah, Jasa Keuangan,* makalah disampaikan dalam Pelatiahan Perbankan Syariah STAIN Kudus.