

APPLICATION OF AKAD IJARAH ISLAMIC LAW IN THE AL-QUR'AN

¹Ade Jamarudin; ²Ofa Ch Pudin

¹State Islamic University Suska Riau, Indonesia

²Al-Falah Islamic College Bandung, Indonesia

¹Email: ade.jamarudin@uin-suska.ac.id

²Email: ofachpudin@staialfalah.ac.id

Abstrak

Ijarah is a contract on the transfer of goods or services with rewards instead. Ijarah based transactions with the displacement benefit (rights to), not transfer of ownership (property rights), there ijara financing translates as buying and selling services (wages hired), that take advantage of human power, there is also a translate lease, which take advantage of goods. Application ijarah growing financial institutions in the current Shari'ah is happening on the leasing company (financial institution based on Islamic teachings, as well as Islamic banking is one of the products in Islamic finance. Application ijarah emerging financial institutions shari'ah 'ah at the moment that is happening on the leasing company (financial institution based on Islamic teachings, as well as Islamic banking is one of the Islamic financing products). This research is a library research (library research) and field research (field research), and is descriptive, analytic and comparative. Data sources used in this study are sourced from primary and secondary data. Ijarah transactions are based on the transfer of benefits (use rights), not the transfer of ownership (ownership rights), some translate ijarah financing as the sale and purchase of services (wage wages), i.e., taking the benefits of human labor.

Key Word: Application, Aqad Ijarah, Islamic Law, Qur'an

A. INTRODUCTION

Islam as a religion, contains teachings that are universal and comprehensive. Universal means general and comprehensive means that it covers all areas of life. The two teachings contained in Islam make Islam the last religion revealed by Allah and perfect religions beforehand. Islamic teachings not only cover matters relating to aqidah, worship, and morals but Islam also regulates aspects of human life in muamalah. In life muamalah, Islam regulates many things, ranging from the issue of rights or law to the affairs of the institution finance. Financial institutions are held in order to accommodate consumption, savings and investment activities.

Financial institutions such as banking are an inseparable part of a nation's national economic system. Banking conditions in a country are one indicator of the existence of a healthy macro economy. Bank is a financial institution that is a place for companies of private government agencies and individuals to save funds. Through credit activities and various services provided, banks serve financing needs and launch a financing system mechanism for all economic sectors.

By giving several loans to several sectors of the economy, the bank launches the flow of goods and services from consumer producers. Bank is a supplier (supplier) of some of the money in

circulation which is used as a medium of exchange or means of payment, so that the monetary policy mechanism can work. These things indicate that the bank is a financial institution that is very important in economic and trade activities.

Ijarah financing is a financing base that is engaged in services. Ijarah transactions are based on the transfer of benefits (usufructuary rights), not transfer of ownership (ownership rights), there are those who translate ijarah financing as buying and selling services (wage wages), namely the benefits of human labor there are also those who translate leases, namely taking advantage of goods. (Rahmat Syafe'i, 2001; p. 122)

According to the concept put forward by Rachmat Syafi'i. Concept of pilgrimage has been applied in the community for a long time, namely by the name of leasing such as utilizing human power and some who take advantage of goods, such as car rental. The tenant is obliged to use the goods that are leased according to the contract terms or according to the usual usage. The tenant is also obliged to keep the items rented intact, but if the rented car cannot be used because it is finally damaged, the renter must replace it, if the renter cannot repair it, the tenant has the option to cancel the contract or receive damaged benefits. There are also types that are leased, including services to pay school fees / tuition fees, namely services paid by students to university because they have used the services of lecturers to attend lectures, besides there are some labor costs, transportation costs of transportation goods, and so on. In addition to the ijarah concept that exists in the community, there is also the concept of ijarah which is

applied in non-bank institutions, the ijarah concept in non-bank institutions uses the term leasing.

The notion of leasing or leasing is "A financing activity in the form of the provision of goods or capital, either by leasing with financial rights, or leasing without an option right (operating lease) to be used by lease during the term certain times based on regular payments. (Kasmir, 2001; p. 274) Leasing activities carried out between one leasing company and another company can be different. In the Decree of the Minister of Finance Number 1169 / KMK. 01/1991 On November 21, 1991, leasing activities can be carried out in two ways, namely, operating lease and financial lease. In operating lease there is no transfer of asset ownership, either from the beginning or the end of the lease period. While the financial lease ends the lease period, the tenant gives the option to buy or not buy the leased item, so the transfer is still a choice, and is done at the end of the period. (Kasmir, 2001; p. 277)

On the other hand, in ijarah the objects that are leased can be goods or services. History if applied to benefit goods is called rent, whereas if it is applied to obtain benefits of labor or wages-wages. So what is leased in ijarah is the benefit of goods and the benefits of labor. Thus, when viewed from the side of the object, ijarah has a wider scope than leasing. (Adiwarman A. Karim, 2006; p. 141)

When viewed in terms of ijarah payments can be divided into two, namely: ijarah, whose payment depends on the performance of the object being rented (contingent to performance), and ijarah whose payment does not depend on the performance of the ijarah (not contingent

to performance) object. the object rented is called *ijarah*, salary or rent. Whereas *ijarah*, whose payment does not depend on the performance of the object being rented, is called *ju'alah*, or success fee. (Adiwarman A. Karim, 2006; p. 142)

Ijarah financing has been determined by the National Syari'ah Council Fatwa No: 09 / DSN-MUI / 2000. DSN considers the need to establish a fatwa on the *ijarah* contract to be used as a guideline by shari'ah financial institutions.

In this paper, it aims to determine the mechanism of financing contract history, to find out the application of *ijarah* contract to rent money in the form of services, and to find out muamalah fiqh review on the application of *ijarah* contract to rent money. This study starts from the framework that *ijarah* financing must be in accordance with the principles of Islamic transactions namely the principle of justice, principle, brotherhood, the principle of benefit, and the principle of universalism. In addition, *ijarah* transactions must also refer to the limits that have been mentioned in muamalah fiqh theories, while *ijarah* transactions in the form of this service are so that the banks and customers each benefit each other both in terms of objects and labor benefits. with descriptive methods. Secondary data sources are books that support and are related to this discussion.

The data found in this study is that the *ijarah* contract rents money in the form of services, that is, when a customer submits an *ijarah* fee for paying school fees, the bank provides the amount of money needed. Customers are subject to an obligation to submit a guarantee that is owned and is obliged to pay the *ujrah* that has been set for each installment and is

also required to pay administration, infaq funds and stamp duty.

Humans in fulfilling their life needs will not be perfect if it is done by one person, then between people with each other need each other and connect. Islamic teachings oblige his followers to work together in the field of finding property, for example through *syirkah*, *mudharabah*, *murabahah*, *rahn*, *muzara'ah*, *ijarah* and others. What will be the discussion this time is about *Ijarah*.

B. TERM IJARAH

According to the language of *al-ijarah* derived from the word *al-Ajru* which means *al-Iwadh* (change). From that *Ats Tsawab* (reward) is named *Ajru* (wages). According to the term *ijarah*, it is a type of contract to take advantage of replacement. (Sayyid Sabiq, 1987; 7)

Ijarah comes from the word *al-ajru* which means *al-iwadh* which means in the Indonesian language is substitute and wages. (Hendi Suhendi, 2002; p. 114). History in another sense is *bai 'almanfa'ah* whose meaning in Indonesian is selling benefits. (Rahmat Syafe'i, 2001; p. 121).

While in terms of terminology, *ijarah* will be stated according to the scholars and other jurisprudence experts, namely as follows:

1. Islamic jurisprudence, the Hanafi school defines *ijarah* as a transaction of a benefit in return. The Syafi'I School defines transactions for certain intended, muted benefits and can be utilized with certain rewards. Maliki and Hambali define *ijarah* as having ownership of something that is permissible at a given time with a reward. (Muhammad, 2002; p. 111)

2. According to Malikiyah, ijarah is "the name of the contract for benefits that are human in nature and for some that can be transferred". (Hendi Suhendi, 2002; 114)
3. According to Asyari, the notion of ijarah is the contract of transfer of usufructuary rights to goods or services (rent), through payment of wage rent (fee) without being followed by the transfer of ownership rights of goods that are the object of the ijarah contract. (Asyari, 2003; p. 50)
4. According to Sayyid Sabiq, that ijarah in the sense of the term is a type of contract to take advantage by means of replacement. (Sayyid Sabiq, 1987; p. 7)
5. According to Adiwarmarman A. Karim, that ijarah is the transfer of benefits (usufructuary rights), not ownership rights (ownership rights). (Adiwarmarman A. Karim, 2006; p. 137) So the principle of ijarahsama is with the principle of buying and selling, but the difference lies in the object of the transaction. When buying and selling objects in transaction objects, the ijarah transaction object is goods or services.

Ijarah is the contract of transfer of rights to an item or service by providing compensation instead. Or in Indonesian, rent is selling benefits (*Bai'ul Manafi* ') and wages (*Bai'ul Quwah*) which means selling power or the power of benefits. (Hendi Suhendi, 2002; p.114)

There is also the basis of the Ijarah law in the Qur'an Surat al-Baqarah: 233.

"And if you want your child to be taken away by someone else, then there is no sin for you if you give a proper payment. fear Allah, and know that Allah sees what you do."

The word of the Prophet which was claimed by Abu Ya'la, Ibnu Majah, ath-Thabrani, and at-Tirmizi

اعطوا الاجير اجره قبل ان نجف عرقه (رواه ابو يعلى وابن ماجه والبرنى والترمذى)

"Give a reward / service to the person you work before drying their sweat". (Abu Ya'la, Ibnu Majah, Ath-Thabrani, and Ibn Majah). (Hendi Suhendi, 2002; p. 116)

Ijarah if applied to get the benefits of goods called rent, while if applied to get benefits people are called wages. Ijarah can be divided into two, ijarah which payment depends on the performance of the hired (called *ju'alah*, success fee), and ijarah the payment does not depend on the performance that is hired (called ijarah, salary and rent).

Based on the level of certainty of the results obtained, contracts / contracts can be divided into two major groups, namely: Natural Certainty Contracts and Natural Uncertainty Contracts. Natural Certainty Contracts are contracts or contracts in business that provide certainty of payment, both in terms of amount and timing. The cash flow can be predicted with relative certainty, because it has been agreed by both parties to transact at the beginning of the contract. These contracts literally offer a fixed and definite return. So it's fixed and predetermined. The exchange object (both goods and services) must also be determined at the beginning with certainty, both in quantity (quality), quality (quality), price (price), and time of delivery (time of delivery). Which are included in this category are contracts buying and selling, wages-wages, rent, etc. ((Adiwarmarman A. Karim, 2006; p. 51)

Not all property can be brought to *ijarah*, unless it meets the requirements and harmony, if in the event that it is not in accordance with the terms and conditions, then the *ijarah* contract will be canceled. (Ghufron A. Mas'adi, 2002; p. 183)

Whereas harmony and *ijarah* requirements are as follows:

1. Mu'jir and musta'jir, namely people who carry out leases or wages.
2. *Shighat ijab Qabul* between mu'jir and musta'jir, is subject to rent and wages.
3. Ujrah, it is required to know the amount by both parties in rents or wages.
4. Goods that are leased or something that is done in wages-wages, are required for goods leased with the following conditions:
 - a. Rental items can be used for their use.
 - b. Rented goods can be handed over to tenants.
 - c. The benefits of goods leased are subject to change (may) according to syara 'not prohibited.
 - d. The leased goods are eternal (substances) until the time specified according to the agreement in the contract. (Hendi Suhendi, 2002; p. 117)

According to the Hanafiah cleric, it was in harmony with *ijarah*, only one, namely *ijab* (the expression of renting out), and *qabul* (agreement on leasing). However, Fatwa Consensus said that there are three pillars of *ijarah*, namely:

1. People who are mindful, 2. Rent or reward, 3. Benefit and shigat (consent and *qabul*).

The Hanafiah Ulama states that people who have rent / benefits, benefits, including the terms of the history, not the pillars of *ijarah*. (Nasrun Haroen, 2007; p.231)

While the *ijarah* requirements are as follows:

1. For both people of understanding (*al muta 'aqidain*), *baligh* and understanding.
2. Both parties agree on their willingness to carry out the contract of agreement.
3. The benefits of being an object of *ijarah* must be known perfectly, so that no disputes arise in the future.
4. *Ijarah* objects must be halal goods
5. The *ijarah* object may be submitted and used directly and not defective. Therefore, the Islamic jurists agreed that it was not permissible to rent an ally who could not be offered and used directly by the tenants.
6. What is leased is not an obligation for tenants.
7. The *ijarah* object must be an item that can be rented out.
8. Rent in *ijarah* must be clear, (Haroen Nasrun, 2007: p. 231).

In the problem of Islamic economics in the books of *fiqh muamalah* it has also been adopted that to have a legitimate item according to syara 'is one of them with the existence of a contract obtained from a sale and purchase transaction, exchange, lease rent and others. two meanings, namely there is a meaningful rent and there are also meaningful wages to pay. But in this study the meaning of *ijarah* to be used is to contain the meaning of labor benefits (services).

Furthermore, so that each form of muamalah can truly be beneficial and bring benefit to the masusia and does not contain adversity and tyranny, all muamalah activities must contain the following muamalah principles:

1. The principle of *tabadul manafi*, is a form of muamalah activity that must provide mutual benefits and benefits to the parties involved.

2. The principle of equity, is the principle in muamalah that requires that assets not only be controlled by a handful of people so that the assets must be distributed equally among the people both rich and poor.

3. Inter-Chinese principles, that is, each form of muamalah between individuals or parties must be based on their willingness.

4. The principle of *adamul gharar*, is that every form of muamalah must not exist in the form of gharar, namely deception or something that causes one party to feel harmed by the other party resulting in the loss of the willingness of one party to make a transaction or engagement.

5. The blue principle *wa taqwa*, is that each muamalah focuses on liking, as long as the form of muamalah and the exchange of benefits are in order to carry out the help of helping others.

6. The principle of *musyarakah*, is that every form of muamalah is a *musyarakah* in the sense that cooperation between parties is mutually beneficial not only for the parties involved but also for the community. (Juhaya S Praja, 1995; p. 113-115)

Based on the word of God in the letter of Nisa verse 29:

"O ye who believe, do not eat each other's wealth in a way that is vanity, except by the way of commerce that applies with the liking of you. And do not kill yourself; Lo! Allah is the Most Merciful to you.

The above verse shows us that all human endeavors in this world are required to find property in a lawful way, also being appointed among the halal roads is that which is obtained by means of trade, and legitimate trading must be carried out on voluntary principles, no coercion, forgery and no guile. In accordance with the rules of jurisprudence:

الْأَصْلُ فِي الْمَعَامَلَاتِ إِلَّا بَاطِلٌ إِلَّا أَنْ
يُذَلَّ دَلِيلٌ عَلَى تَحْرِيمِهَا

"Basically, all forms of muamalah can be done unless there is a argument that forbids them". (A. Zajuli, 2006; p.130)

The implementation of muamalah contracts continues to develop in various forms and patterns according to the needs and expertise possessed by humans, especially leasing contracts that are usually used to obtain the benefits of goods while wages are usually used to obtain labor. Whereas *ju'alah* is the *ijarah* contract, the payment of which is based on the performance of the object being hired or wages. At *Ijarah* there is no transfer of ownership of *ijarah* objects. The *ijarah* object remains the property of the renter

Basic Law of Ijarah

Almost all jurisprudents agree that *ijarah* is suggested in Islam. The groups who did not agree, such as Abu Bakar Al-Asham, Ismail Ibn Aliah, Hasan Al-Bashri, Al-Qasyani, Nahwari, and Ibnu Kaisan reasoned that *ijarah* was a sale and purchase that could not be held (none).

Something that does not exist cannot be categorized as buying and selling. (Rachmat Syafe'i, 2001; 123).

In answering the views of scholars who did not agree on the ijarah, Ibn Rushd argued that benefits, although not shaped, could be used as payment instruments according to custom.

The number of scholars argues that ijarah is based on the Qur'an, the Sunnah and the Ijma.

1. Al-Qur'an Surat al-Qashas Verse 26 to 27, namely as follows:

"One of the two women said:" My father, take him as the one who works (for us), because the best person you take to work (to us) is someone who is strong and trustworthy. " He said (Shu'aib): "Indeed, I intend to marry you to one of my two sons, on the basis that you work with me eight years and if you make ten years sufficient then it is (a good) from you, then I do not want to burden you, and you God willing, I will find me including good people ".

2. Al-Qur'an Surat ath-Thalaq Ayat 6, namely as follows:

"Place them (wives) where you dwell according to your abilities and do not trouble them to narrow them. and if they (the wives who have been questioned) are pregnant, then give them their living until they give birth, then if they suck (your children) for you Then give them their reward, and deliberate among you (everything) well; and if you encounter difficulties, then another woman may suck (the child) for her ". (RI Ministry of Religion 1992; 946)

3. Al-Qur'an Surat az-Zukhruf Ayat 32 is as follows:

"Do they divide the mercy of your Lord? We have determined between

them their livelihoods in the life of the world, and We have elevated some of them to some others, so that some of them can use some of the others. and the mercy of your Lord is better than what they gather. "

4. Al-Hadith from Abu Sa'id al-Khudri r.a. explain:

عن أبي خريرة رضي الله عنه قال: نهى رسول الله صلى الله عليه وسلم عن استئجار، يتبين له أجره، و عن النجش وللمس وإلقاء الحجر. رَوَاهُ أَحْمَدُ.

"The Messenger of Allāh melarang: forbid us to use the labor of a worker, so that the amount of wages was agreed upon, as forbidding the bidding higher than what the person offered, and the sale made by holding and throwing stones". H.R Ahmad

"Give workers wages before their sweat dries". (H.R Ibn Majah from Ibn Umar)

According to Sayyid Sabiq "regarding the Ijma 'Ulama about the intention of Ijarah, that no ulama denied the agreement on the existence of ijarah even though there were some among them who disagreed, but that was not considered. (Sayyid Sabiq, 1987; p.11)

Based on the above information regarding the legal basis of ijarah, according to jumhur fuqaha it has agreed to allow it. Thus, in general ijarah is already the ijma 'of the scholars regarding the legal status of the right to be carried out by humans while gaining benefit.

Here, rent or wages pay because humans need something or service that can sustain their lives, which cannot be done by themselves but requires help from others. Likewise, there are many jobs that cannot be resolved on their own because of limited personnel and skills, for example

hiring people who are able to do a job by giving rewards to that person.

Pillars and Ijarah Terms

In the Muamalah fiqh book written by Rachmat Syafe'i, there are four pillars of Ijarah according to jumhur, namely:

1. *'Aqid* (contracted person) 2. Shigat contract 3. *Ujrah* (wages) 4. Benefits

From the discussion above it can be seen that the pillars of ijarah according to the two ulama have similarities, but there are things that are separated, namely in terms of benefits.

The explanations of each pillar of ijarah are:

a. *Aqid* (person who is a contract), that is, a party who is a contract consisting of the lessor and the lessee. The person who is considered to be able to contract the ijarah is a person who is baligh and has a sound mind. Scholars agree that ijarah is not valid if it is carried out by incompetent people. Competent people are those who have the qualifications to use money. For ijarah perfection, it is also required that each party be fully willing for the contract, besides that each party must have the authority to make the contract.

b. *Shigat akad* (greeting). Shigat an ijarah contract is a statement of intent from both parties who contract, both verbally and in writing, the statement is in the form of an offer from the owner of the asset and the recipient stated by the lessee.

c. *Ujrah* (wages). *Al-Ajr wal umulah* or *ujrah* can be defined as the promised benefits and paid by the service applicant as the price for the benefits enjoyed. *Ujrah* value must also be stated clearly, if the rent benefit has been enjoyed, while the rent value has been determined, the amount of

the rent from the benefit whose value must be paid.

d. Benefits. The benefits are, something that may be an object of ijarah such as the benefits of using assets or benefits that can be assessed and possibly implemented in the contract. In addition to knowing the object of contract or goods by explaining, limiting time, or explaining the type of work if ijarah for someone's work or service.

Benefits must also be recognized in such a way as to eliminate the ignorance (ignorance) that will result in a dispute that can cancel the contract.

The legal requirements of ijarah according to M. Ali Hasan include:

a. The requirement for both people who are converted is to be baligh and understanding (Syafi'i and Hanbali schools).

b. The two parties who signed the agreement stated that the contract was to carry out the ijarah agreement. If one of the two is forced to make a contract, then the contract is invalid.

As the foundation of the Word of God Al-Qur'an letter Annisa verse 29

"O ye who believe, do not eat each other's wealth in a way that is vanity, except by the way of commerce that applies with the likes of you.

c. The benefits of being an object of ijarah must be known clearly, so that no disputes occur in the future. If the benefits are not clear, then the contract is invalid.

d. The ijarah object can be submitted and used directly or has no defects.

e. The object of ijarah is something that is permitted by syara. (M. Ali Hasan, 2003; 231-233)

Application Aqad Ijarah in the Syari'ah Financial Institution

In the Shari'ah economy, it is known that there is a lease transaction of an asset, namely the term *ijarah*. History is an 'ayn exchange transaction in the form of services or benefits with *dayn*. History can be defined as a contract of transfer of use or benefit rights to goods, services through rent without followed by the transfer of ownership of the item itself.

The currently developing *ijarah* application in shari'ah financial institutions is in leasing companies (financial institutions based on Islamic teachings, also in Islamic banking which is one of the Sharia financing products)

object of the *ijarah* object, *ijarah tariff*, *ijarah period*, and maintenance costs, the *ijarah* financing agreement is signed. Customers are required to submit their collateral.

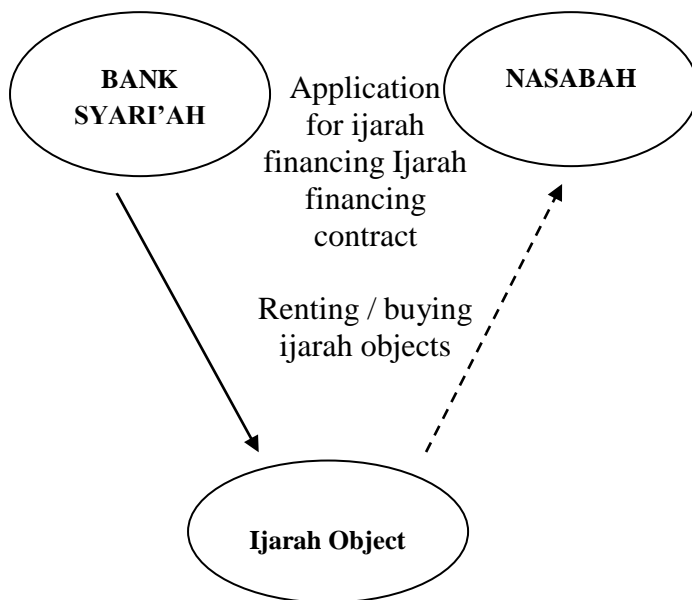
4. The Bank submits the *ijarah* object to the customer according to the agreed agreement. After the *ijarah* period ends, the customer returns the *ijarah* object to the bank.
5. If the bank buys the *ijarah* object (*al-bai' wal ijarah*), after the *ijarah* period ends the *ijarah* object is kept by the bank as an asset that can be leased back.

If the bank rents the *ijarah* object (*al-ijarah wal ijarah*, or *ijarah parallel*), after the *ijarah* period ends the *ijarah* object is returned by the bank to the supplier or seller (owner).

Types of goods / services that can be rented out to the owner:

1. Capital goods: fixed assets, such as buildings, buildings, offices, shop houses, and others.
2. Production goods: machinery, heavy equipment, etc.
3. Transportation vehicle goods: land, sea and air.
4. Services to pay fees:
 - a. Tuition / tuition, Labor
 - b. Hotel
 - c. Transport and transportation, and so on. (Adiwarman A. Karim, 2006; p. 147)

Figure 1.1 Scema Ijarah



Information:

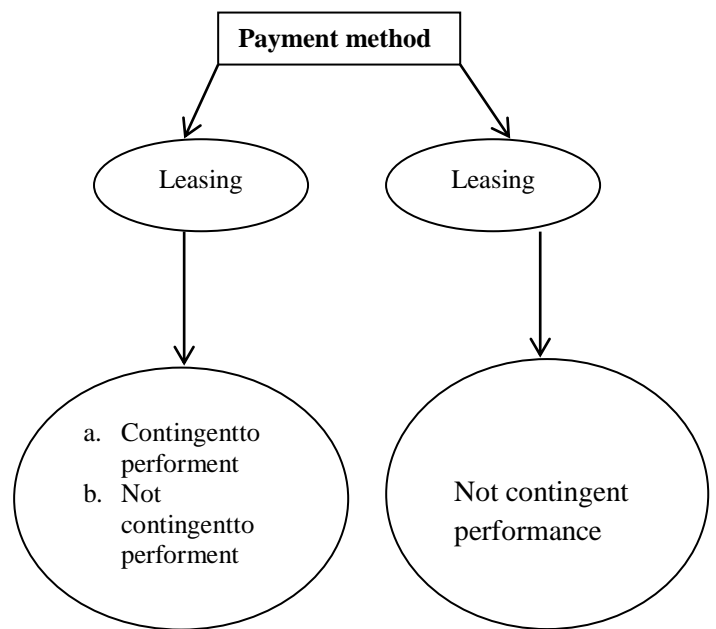
1. The customer submits *ijarah* financing to a syari'ah bank
2. The Syari'ah Bank buys / rents the goods desired by the customer as an *ijarah* object, from the supplier / seller / owner.
3. After an agreement is reached between the customer and the bank regarding the

In the context of Islamic banking, *ijarah* means a lease contract and also a hire contract, a lease contract under a bank or financial institution that rents equipment, a building or goods such as machinery, airplanes, etc., to one of its customers is based on the charge that has

been determined in advance (fixd charge). Thus, the ijarah agreement or leasing is a leasing activity known in the traditional financial system. According to the number of Islamic scholars, it is argued that ijarah is selling benefits and that what is allowed to be rented is the benefit not the object. Therefore, they forbade renting trees to take their fruit, sheep to take their milk, wells to take their water, etc., because they were not the benefits but the things.

There are also those who translate, ijarah as buying and selling, which is to take advantage of labor, some are translating leases, namely taking advantage of goods. So ijarah can also be divided into two parts, ijarah for services and ijarah for objects.(Rahmat Syafe'i, 2001; p. 122)

The ijarah transaction is based on the transfer of benefits (usufructuary rights), not the transfer of ownership (ownership rights). So the principle of ijarah is with the principle of buying and selling, but the difference lies in the object of the transaction. When buying and selling objects in transaction objects, the ijarah transaction object is goods or services. On the other hand, in terms of ijarah payments can be divided into two, ijarah which pays for the performance of the object that is hired (contigent to performance) and ijarah which the payment does not depend on the rented performance (not contigent to performance). rented is called ijarah, salary or rent. While ijarah, the payment of which is not dependent on the performance of the rented object is called ju'alah or success fee. (Adiwarman A. Karim, 2006; p. 142)



C. CONCLUSION

Ijarah financing is a financing foundation that is engaged in services. Ijarah Transaction is based on the transfer of benefits (usufructuary rights), not transfer of ownership (ownership rights), there are those who translate ijarah financing as a sale and purchase service, which is to take advantage of human labor

Ijarah transactions are based on the transfer of benefits (usufructuary rights), not transfer of ownership (ownership rights), there are those who translate ijarah financing as buying and selling services (wage wages), namely taking advantage of human labor, some translating leases, namely taking benefits of goods.

Figure 1. 2. Ijarah and Leasing: Payment Methods

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