

ABSTRACT

Siti Maghfirotul Ismaya, 11220002, *Tradition of the Ghasab Sale and Purchase of Agricultural Product Based on the Perspective of Islamic Scholars And Madhab of Imam al-Shaafa'i (A Normative Study Overview in Gumuk Village, Licin District, Banyuwangi Regency)*. Thesis, Islamic Bussines Law Departement, Faculty of Sharia. Maulana Malik Ibrahim State Islamic University, Malang, Advisor: Khoirul Anam, Lc, MH.

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The sale and purchase regulation in every area is different since it depends on the society's tradition or custom. One of them is *ghasab* sale and purchase. It is a sale and purchase executed by the supplier and the owner of agricultural product. As it has been agreed, the supplier directly harvest the agricultural yield without asking for the owner's permission. After he/she sells the agricultural yield, the supplier inform the owner to do the transaction. The sale and purchase activity is conducted because it benefits the *aqidain*. The research has two research problems: 1) How is the sale and purchase tradition conducted at Gumuk Village, Licin District, Banyuwangi Regency based on the Islamic scholars' perspective? 2) How is the tradition of the sale and purchase of agricultural product *ghasab* at Gumuk Village, Licin District, Banyuwangi Regency according to madhab of Imam al-Shaafa'i? The research is supposed to give explicit understanding and information on the *ghasab* sale and purchase transaction of agricultural product in Gumuk Village, Licin District, Banyuwangi Regency to the reader and society.

The types of research used in this study is empirical research using descriptive qualitative approach. The data consist of primary, secondary, and tertiary data. The data collection methods are interview, library research, and documentation. The informants are Islamic scholars and *Aqidain* (owner and supplier). This research employs descriptive analysis which aims to describe the *ghasab* sale and purchase tradition of agricultural products based on the perspective of Islamic scholars and madhab of Imam al-Shaafa'i at Gumuk Village, Licin District, Banyuwangi Regency.

Based on the results, the writer concludes that: 1) *ghasab* sale and purchase, according to Islamic religious leaders/scholar, is *ba'i fasid* since it contains the elements of *ghasab*. The supplier harvests the agricultural products without being known by the owner and only inform him/her after selling the product. It also leads to *gharar* because the *ma'qud alaih* does not present in the process of agreement. It is concerned that the supplier does a fraud by paying an inappropriate amount of money for the harvested agricultural product. The *ghasab* sale and purchase transaction is considered *urf fasid* which is prohibited in Islam. 2) *ghasab* sale and purchase transaction, according to the madhab of Imam al-Shaafa'i, already meets the requirement of *aqidain* and *shighat*. However, it does not meet the requirement of *ma'qud alaih*, and it contains negative elements, namely *gharar* and *ghasab*, thus it is categorized as *bathil* transaction. *Ghasab* transaction is *urf fasid* and according to the madhab of Imam al-Shaafa'i the implementation is not recognized in Islam.