

ABSTRACT

Muhammad Lutfi Rahman, 09220047, *The Fiqh Muamalah Contemplation over The Sale-Buy Transaction of Second Cellular Phone With The Hidden Defective (A Case Study at Rombengan Malam Market of Malang)*. Thesis, Department of Syari'ah Business Law, Faculty of Syari'ah, The State Islamic University (UIN) Maulana Malik Ibrahim Malang, Supervisor: Dr. Umi Sumbullah, M.Ag.

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The demander of *second cellular phone* is increasing in the number, it increases the sale-buy transaction of *second cellular phone*. Many sellers, however, involve within the sale-buy process of *second cellular phone* without considering the risk of fraud. One fraud is hiding the defect of the product. Therefore, many consumers are subjected to loss after transaction. Fiqh Muamalah has arranged the sale-buy based on *syara'*. By this reason, the researches observes the location of Rombengan Malam (Roma) market in Malang as the location of research because this market is the sale-buy center of *second cellular phone* in Malang City.

The objectives of research are; first, to understand how is the sale-buy transaction of *second cellular phone* at Roma market; second, to acknowledge whether there is the sale-buy practice of *second cellular phone* with hidden defective at Roma market; and third, to figure out the Fiqh Muamalah contemplation over the sale-buy practice of *second cellular phone* with hidden defective at Roma market.

Research involves data exploration, data analysis and conclusion from the result of analysis. Therefore, qualitative approach is used and related literatures are used as the reference of discussion. Data are collected through observation, interview and documentation of the subjects, especially the related parties in the sale-buy transaction at Roma market. Data type are primary and secondary. The collected data are analyzed using qualitative descriptive method.

Result of research indicates that; first, sale-buy transaction of *second cellular phone* at Roma market has complied with the sale-buy norm and requirement. Therefore, the transaction process is legally verified because it is aligned with the sale-buy regulation within fiqh muamalah. However, in practice and in system, it is not entirely consistent with fiqh muamalah because many sellers do not understand the defect of *second cellular phone*, and this put consumers in the loss position. Second, within fiqh muamalah, two indications of hidden effect are explained. If the defect is intentionally made by the seller, the sale-buy is *gharar*, and thus, forbidden by Islam. The second indication is that if the defect is not recognized by both sides of transaction, there must be *khiyar* (right to choose). *Khiyar* that can be given by the seller at Roma market to the consumer is *khiyar aib*, which means that consumer has a right to proceed, cancel or exchange the product has been bought in order to obtain mutual agreement.