

## ABSTRACT

Munir, Misbahul. 2010. *Utilization of Buyer's Estate Due to Default Payment of Tobacco Trading in Banjarsari Village, Bangsalsari Jember*. Undergraduate Thesis. Department of Islamic Business Sharia. Faculty of Sharia. State Islamic University of Maulana Malik Ibrahim Malang. Supervisor. Harry H. Musleh, S.H., Hum.

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Keywords: Estate Utilization, Default Payment.

In this study, there are two issues that became the focus of the study, the first one is what kind of utilization made by tobacco trader who is having a common sense in the breach of contract related to default payment in the Banjarsari village, Bangsalsari in Jember. *Second*, how to review the subject with Islamic perspective and civil law against the use of land owned by the buyer as a result of default payment of the tobacco trading in Banjarsari village, Bangsalsari in Jember.

This study is an empirical research using case-based approach (Case Approach), while the object of this study is Banjarsari villagers, Bangsalsari Subdistrict, Jember. The method used in this study is a qualitative research method with the results of data collection through interviews and documentation. Informants in this study is a community or village residents Banjarsari ever make use of the land belonging to another person as a result of default in the payment of purchase.

Based on the research results of what researcher have done before, It can be described: 1) Kind of utilization done by the seller of tobacco on the estate owned by the defaulting purchaser at the Banjarsari Village is the utilization using a cultivation and the results obtained are entitled to a full authority of the perpetrator. In addition, this utilization is intended as a compensation for default / delay in payment of money belonging to the tobacco trader. 2) Law of utilization of the estate belonging to people who is having a common sense in breach of contract in the tobacco trading payment in the Banjarsari village is forbidden in Islamic law, because it can make the perpetrator gains an additional or even double price of utilization when it is done, which is why this kind of utilization is prohibited because It is included in the category of Riba Nasi'ah. Meanwhile, according to KUH Perdata, the estate utilization is allowed because even though it may lead into an additional result / value that is going to be multiplied against the perpetrators, KUH Perdata does not prohibit that kind of situation as stated in article 1765 KUH Perdata.