

Exceptio Non Adimpleti Contractus in the Sale and Purchase Agreement of a Kiosk at Baruga Market, Kendari: A Study of Hifz Al-Mal

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ABSTRACT

This study discusses the application of the principle of *exceptio non adimpleti contractus* in kiosk sale and purchase contracts at Baruga Market in Kendari. *Exceptio non adimpleti contractus* is used as a legal defense to delay or refuse the performance of obligations until the other party to the contract fulfills their obligations. Previous studies have extensively discussed this principle normatively in general contracts, but empirical studies are still limited in cases of kiosk sales and their relationship with *maqasid syariah* as a form of property protection in *muamalah* practices in traditional markets. The purpose of this study is to analyze how this principle is applied in kiosk sale and purchase contracts and to examine its compatibility with the principle of *maqasid syariah*, particularly *hifz al-mal* (protection of property). The method used was empirical legal research, where primary data was obtained from interviews and agreement documents, while secondary data was obtained from relevant literature. The results of the study show that the contract stipulated a kiosk price of IDR 80,000,000. The payment obligation has been partially fulfilled, with the buyer paying the first installment of IDR 40,000,000 but failing to pay the second installment of IDR 40,000,000. In the agreement, Article 10 stipulates that if one party violates the agreement, it shall automatically become void. The seller then used the principle of *exceptio non adimpleti contractus* to refuse to hand over the kiosk because his rights had not been fulfilled. From the perspective of *maqasid syariah*, this principle reflects the principle of *hifz al-mal*, which is to protect the assets of both parties by withholding the performance of obligations until the other party's obligations are fulfilled. This finding contributes to the debate on Sharia contract law by providing empirical evidence of the application of this principle in the context of traditional markets. This study recommends that contracting parties pay more attention to exception clauses and develop clear mechanisms for default.

Keywords: *Exceptio Non Adimpleti Contractus*; Sale and Purchase, *Hifz al-Mal*.

ABSTRAK

Penelitian ini membahas penerapan prinsip exceptio non adimpleti contractus dalam kontrak jual beli kios di Pasar Baruga Kendari. Exceptio non adimpleti contractus digunakan sebagai pembelaan hukum untuk menunda atau menolak pemenuhan kewajiban sampai pihak lain dalam kontrak memenuhi kewajibannya. Penelitian sebelumnya telah banyak membahas prinsip ini secara normatif dalam kontrak umum, tetapi kajian empiris masih terbatas dalam kasus jual beli kios dan kaitannya dengan maqasid syariah sebagai bentuk perlindungan harta dalam praktik muamalah di pasar tradisional. Tujuan penelitian ini adalah untuk menganalisis bagaimana prinsip ini diterapkan dalam kontrak jual beli kios dan mengkaji kesesuaiannya dengan prinsip maqasid syariah, khususnya hifz al-mal (perlindungan harta). Metode yang digunakan adalah penelitian hukum empiris, di mana data primer diperoleh dari wawancara dan dokumen perjanjian, sedangkan data sekunder diperoleh dari literatur yang relevan. Hasil penelitian menunjukkan bahwa kontrak menetapkan harga kios sebesar Rp 80.000.000. Kewajiban pembayaran telah dipenuhi sebagian, dengan pembeli membayar angsuran pertama sebesar Rp 40.000.000 tetapi gagal membayar angsuran kedua sebesar Rp 40.000.000. Dalam perjanjian, Pasal 10 mengatur bahwa jika salah satu pihak melanggar perjanjian, maka perjanjian tersebut secara otomatis menjadi batal. Penjual kemudian menggunakan prinsip exceptio non adimpleti contractus untuk menolak menyerahkan kios karena haknya belum dipenuhi. Dari perspektif maqasid syariah, prinsip ini mencerminkan asas hifz al-mal, yaitu melindungi aset kedua belah pihak dengan menahan pemenuhan kewajiban sampai kewajiban pihak lain dipenuhi. Temuan ini berkontribusi pada perdebatan tentang hukum kontrak Syariah dengan memberikan bukti empiris penerapan prinsip ini dalam konteks pasar tradisional. Penelitian ini merekomendasikan agar pihak-pihak yang berkontrak lebih memperhatikan klausul eksepsi dan mengembangkan mekanisme yang jelas untuk wanprestasi.

Kata Kunci: *Hak Menunda Kontrak; Jual Beli; Hifz al-Mal.*

INTRODUCTION

A sales agreement is one of the most basic and essential forms of contract in economic life. In practice, it is common for one party to fail to fulfill its obligations, commonly referred to as default, giving rise to legal conflicts in contract enforcement. In this context, the principle of *exceptio non adimpleti contractus* is an exception that allows one party to refuse to perform its obligations if the other party has not fulfilled its obligations, thereby affecting the dynamics of contract enforcement and the balance of rights and obligations of the parties.

Studies on the application of *exceptio non adimpleti contractus* have been conducted extensively in Indonesian civil law. For example, research by Brilianto & Marpaung analyzed the application of this exception in sales agreements and concluded that the exception could hinder the continuation of lawsuits due to the formal procedural principles in civil law. (Brilianto et al., 2022) Meanwhile, research by Al-Madrusi & Ridwan highlights the implications of applying exceptions to contractual deeds, such as the potential for cancellation of deeds or reduced evidentiary value. (Al-madrusi et al., 2022). Furthermore, research by Miftahul Fanani, Sigit Nurhadi Nugraha, and Muhamad Hasan Muaziz explores the application of this exception, emphasizing good faith and transparency between the parties so that rights and obligations remain balanced. (Fanani, 2025) Furthermore, research by Gultom, Alexander, & Angelina examined the effectiveness of exceptions based on decision 747/Pdt.G/2019/PN Jkt.Utr, finding that although exceptions can be used, evidence and judicial interpretation are major obstacles. (Gultom, 2024)

Although these studies have broadened our understanding of *exceptio non adimpleti contractus* in Indonesian civil law practice, there is a lack of empirical studies that comprehensively integrate the analysis of the Civil Code with the principles of *maqāsid al-syari'ah*, particularly *hifz al-mal*. Previous research has focused only on normative legal aspects and has not explored the conceptual relationship between this exception mechanism and the sharia objective of protecting the property of both parties fairly.

Exceptio non adimpleti contractus is defined as an exception stating that the party filing it has not fulfilled its obligations, and therefore is not entitled to demand that the other party fulfill its obligations. This exception is filed in response to a creditor's claim regarding the fulfillment of an agreement. It can be concluded that this defense generally only applies to agreements involving mutual obligations. Particularly in sales agreements, there is a provision containing this condition, as stipulated in Article 1478 of the Civil Code.

For further details, please refer to Article 1478 of the Civil Code, which states that “the seller is not obliged to deliver the goods, unless the buyer has paid the agreed price and the seller has not given consent to defer payment.” Meanwhile, the provisions governing the buyer's obligations are regulated in Article 1513 of the Civil Code (KUHPperdata), which states: “The main obligation of the buyer is to pay the purchase price, at the time and place as stipulated in the agreement.” Article 1517 of the Civil Code (KUHPperdata) states: “if the buyer does not pay the purchase

price, the seller may demand cancellation of the purchase, in accordance with the provisions of Articles 1266 and 1267.”

So, there is a provision that requires the buyer to pay the purchase price, and from those articles it appears that the buyer must pay in advance in order to demand delivery of the goods from the seller. Conversely, as mentioned earlier in Article 1478 of the Civil Code (KUHPERDATA), it is stated that: “the seller is not obliged to deliver the goods if the buyer has not paid the price, while the seller does not allow a delay in payment to him”.

As a concrete illustration, in a kiosk sale and purchase agreement at Baruga Market in Kendari City, the seller and buyer agreed on a two-stage payment of IDR 80,000,000, whereby the buyer would provide IDR 40,000,000 as a down payment and the second stage of payment would be paid to the seller no later than six (6) months after the agreement was signed. However, by the deadline specified in the agreement, the buyer had not fulfilled his obligation, namely the second installment payment of Rp. 40,000,000. In this case, the seller filed an *exceptio non adimpleti contractus*, on the grounds that the buyer had defaulted, so the seller felt entitled to cancel the agreement and take back the kiosk.

From the perspective of *hifz al-mal* (protection of property), the application of this principle is very important. In the principle of preventing loss, postponing an obligation until the other party's obligation is fulfilled can be seen as an effort to protect the assets of both parties from further risk of loss. Thus, the *exceptio non adimpleti contractus* exception is not only relevant in national civil law, but also has a basis in Sharia ethics, namely maintaining security and justice in the ownership and exchange of assets.

Thus, this study conceptualizes the relationship between national civil law and *maqāṣid al-syari‘ah*, and fills an empirical gap in the literature by demonstrating how the principle of *exceptio non adimpleti contractus* is applied in real cases and analyzed through the lens of *maqāṣid al-syari‘ah*.

METHODS

This study uses empirical legal research, an approach that combines legal norm analysis with field research to obtain empirical data in the field. (Disemadi et al., 2022) This study is limited to the application of the principle of *exceptio non adimpleti contractus* in kiosk sale and purchase contracts at Baruga Market in Kendari City and is not intended to represent all forms of sale and purchase contracts outside the context of the location or object of this study, as market practices and dynamics in other regions may differ.

In addition, this study uses a descriptive qualitative approach with informants selected purposively based on their direct involvement or relevant experience with the phenomena of default and exception. There were six informants in this study, consisting of several categories: (1) parties to the agreement, namely kiosk sellers and buyers who signed the sale and purchase contract; (2) legal practitioners (lawyers) who had handled similar contract disputes. To collect data, the researcher will conduct semi-structured in-depth interviews with informants and

analyze contract documents and supporting evidence. This primary data will then be analyzed thematically to identify patterns in the application of exceptions and relevant legal values. Meanwhile, secondary data will be sourced from legal regulations (such as the Civil Code), legal literature, and maqasid sharia theory. To ensure data validity, triangulation verification techniques will be used.

RESULTS AND DISCUSSION

actice of Kiosk Sale and Purchase Contracts at Baruga Market, Kendari

The parties to the kiosk sale and purchase agreement at Baruga Market in Kendari City consist of the seller, Alidah, and the buyer, Sarifah. The price of the kiosk was agreed at IDR 80,000,000 with payment in two installments. The two-stage payment agreement was made because Mrs. Sarifa, as the prospective buyer, did not have enough money to pay the full price of the kiosk at once. Therefore, the prospective buyer wanted to ask the seller for leniency so that she could pay in two installments, namely the first installment of Rp. 40,000,000 and the second installment of Rp. 40,000,000.

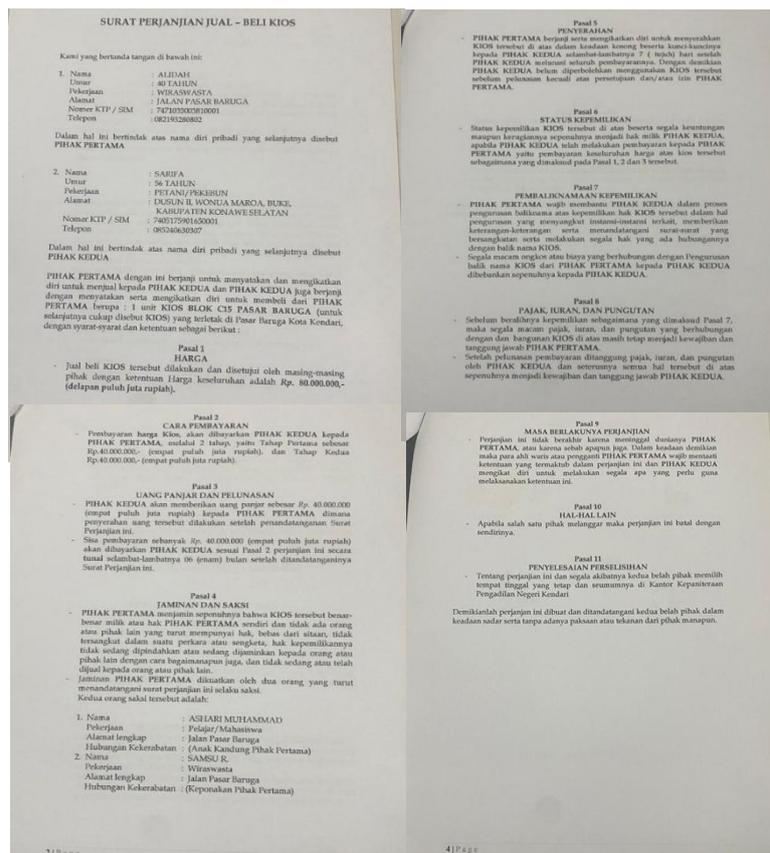


Figure 1. Kiosk Sale and Purchase Agreement Document

Based on the contents of the agreement and the results of the interview (see figure 1), the clauses that constitute the rights and obligations of the seller can be identified as follows :

1. Seller's Rights

- a. Receive payment for the kiosk in the form of a down payment (deposit) of IDR 40,000,000 (forty million rupiah) upon signing the agreement;
- b. Receive the final payment for the kiosk in the form of a final payment of Rp.40,000,000 (forty million rupiah) no later than 6 months after the signing of the agreement;
- c. Request clarification regarding the remaining payment for the kiosk.

2. Seller's Obligations

- a. To hand over the kiosk in good condition and empty after payment of the kiosk price has been settled.
- b. To guarantee that the kiosk being sold is truly his property and is not involved in any disputes with other parties.

Regarding the rights and obligations of the buyer, the author identifies the following:

1. Buyer's Rights: (a) To receive the kiosk in good condition and empty after payment of the kiosk price has been settled; (b) To obtain a guarantee that the kiosk being sold is the property of the seller being sold to the buyer and is not involved in any disputes with other parties.
2. Buyer's Obligations: (a) Pay a down payment of IDR 40,000,000 (forty million rupiah) at the time of signing the agreement; (b) Pay the final payment for the kiosk in the amount of Rp. 40,000,000 (forty million rupiah) no later than 6 months after the signing of the agreement;

When classified in the context of the elements of the agreement (Raynee et al., 2024), Therefore, the kiosk sale and purchase agreement contains the following elements:

1. Essential elements are parts that must be included in an agreement. If these parts are not included, the agreement desired by the parties will not be created or realized. For example, in a sales agreement, the essential elements are the goods that are the subject of the agreement, as well as the price and the goods themselves. Essential elements are elements that must be present and are fundamental to an agreement, so that without these fundamental elements, the agreement is invalid and not binding on the parties who made it. For example, the essential elements in a sales agreement are the existence of goods and a price. The essential elements in the kiosk sales agreement can be identified as: (a) The object of sale and purchase is goods, namely the Baruga Market Kiosk; (b) The agreed sale and purchase price is IDR 80,000,000.
2. Naturalia is a part that is defined by law as a regulatory part. Based on the naturalia element, the parties to the agreement are not bound by the provisions of the articles in Book III of the Civil Code, but the parties may set aside these rules and regulate their interests in accordance with the agreement between the parties. If the parties have regulated it separately,

then in accordance with the provisions of Article 1338 paragraph (1) of the Civil Code, the agreement is binding on the parties as stipulated by law, such as the issue of risk regulation in accordance with the provisions of Article 1460 of the Civil Code or the issue of delivery of goods in accordance with the provisions of Article 1477 of the Civil Code.

Natural elements in kiosk sales can be identified as follows:

- a. The seller fully guarantees that the kiosk is truly his property, free from seizure, not involved in any case or dispute, the ownership rights are not being transferred or pledged to any other person or party in any way, and is not being or has been sold to any other person or party.
 - b. This agreement shall not terminate due to the death of either the first or second party, or for any other reason. In such circumstances, the heirs or successors of the deceased party shall be bound by the provisions contained in this agreement and the parties undertake to do whatever is necessary to implement these provisions.
 - c. The ownership status of the kiosk referred to above, along with all its profits and losses, shall become the sole property of the buyer once the buyer has made full payment of the price for the kiosk.
 - d. The seller shall assist the buyer in the process of transferring the ownership rights of the kiosk.
3. Incidental terms are those that are not specifically regulated by law but are added by the parties to the agreement. Incidental terms in kiosk sales can be identified as follows:
- a. Payment shall be made in two installments, the first installment being Rp.40,000,000 and the second installment being Rp.40,000,000.
 - b. Delivery of goods shall be made after payment has been settled.
 - c. Dispute resolution shall be conducted through deliberation and shall be subject to the jurisdiction of the Kendari District Court.
 - d. If either party violates the provisions of this agreement, this agreement shall automatically become void.
 - e. The kiosk shall be handed over to the buyer in an empty condition along with the keys no later than 7 days after the buyer has paid in full.
 - f. The buyer is not permitted to use the kiosk prior to full payment without the seller's consent and/or permission.

The implementation of the kiosk sale and purchase agreement contract has been partially fulfilled on the grounds that, in fact, the seller has fulfilled part of their rights (which are also the buyer's obligations), namely the first installment payment of IDR 40,000,000, which has been paid by the buyer. However, due to the buyer's failure to pay the second installment (final payment) of Rp. 40,000,000, the seller's rights have not been fulfilled, constituting a violation of the seller's rights and resulting in losses for the seller. Therefore, the provisions of Article 10 of the kiosk sale and purchase agreement apply, namely that if either party violates the agreement, it shall automatically become void.

Application of the Principle of Exceptio Non Adimpleti Contractus in Kiosk Sale and Purchase Contracts at Baruga Market, Kendari City

In a sales agreement, the seller and buyer have obligations that must be fulfilled before obtaining their respective rights. Based on Article 1478 of the Civil Code, it is stated that “The seller is not obliged to deliver the goods if the buyer has not paid the price, while the seller has not allowed a delay in payment.” (Hasan et al., 2023; Herendra et al., 2024) This means that the seller is obligated to deliver the goods that are the subject of the sale until the buyer pays the agreed price. Meanwhile, from the buyer's perspective, Article 1513 of the Civil Code states that “the buyer's main obligation is to pay the purchase price at the time and place specified in the agreement.”.

Therefore, in order to obtain the goods being sold, the buyer must first fulfill their obligation, which is to pay the amount of money specified in the agreement. Considering that in a reciprocal agreement, the performance of each party is closely related to one another. If one party demands the fulfillment of obligations from the other party, then they themselves must have fulfilled their obligations. In this case, if the buyer has not paid the purchase price, they cannot demand that the seller deliver the goods. If the buyer insists on demanding that the seller deliver the goods even though they themselves have not paid the purchase price, then the seller has grounds to invoke *exceptio non adimpleti contractus*.

The seller did not fulfill the agreement because the buyer had not fulfilled the required obligations. According to Alidah (the kiosk seller), the reason for unilaterally canceling the contract was because the buyer did not make the payment by the deadline specified in the agreement. The seller repeatedly contacted the buyer, both by telephone and in person, but never received a response. Meanwhile, Alidah needed the funds to help finance her business and pay her business loan installments, so she really needed the payment to be made on time as it had been calculated based on her business plan..

Therefore, Alidah considered the contract to be automatically void, but as a gesture of goodwill, she returned the deposit of Rp. 40,000,000 (forty million rupiah) in full to the buyer. According to Sarifa (Kiosk Buyer), the reason for not paying the balance was due to financial constraints. At the time of the pandemic, business was slow until the due date, and the seller repeatedly requested payment but was unable to collect it. Ultimately, as the buyer, she accepted the cancellation of the agreement, acknowledging that she had failed to fulfill her obligations by the due date. Additionally, the seller's willingness to refund all the down payment previously paid ensured that the buyer was not disadvantaged..

Furthermore, Article 1234 of the Civil Code stipulates, among other things, that breach of contract (*wanprestasi*) in the Civil Code is regulated in Article 1234, which states that; “every contract is to give something, to do something, or to refrain from doing something”. In the context of breach of contract in the sale and purchase of the kiosk, it is the negligence and/or intentional act of the buyer, who is unable to fulfill their obligations, in this case to fulfill the promise made to complete payment for the kiosk no later than 6 months after the first payment, that such action constitutes a breach of contract.

Based on the element of default, the author can identify that the buyer did not make the final payment as stipulated in Article 2 of the agreement by the specified deadline. Due to the buyer's default, the seller, based on Article 10, which states that "If one party violates this agreement, it shall be automatically void," decided to unilaterally cancel the contract. The reason for this is that the buyer demanded delivery of the goods by the seller as agreed, even though the buyer had not fulfilled their obligation to pay in accordance with the terms of the agreement between the two parties. Therefore, the seller rejected the claim on the basis of *exceptio non adimpleti contractus*. This principle was used by the seller because the buyer had not fulfilled their obligations, which meant that the seller could not deliver the goods that were the subject of the sale and purchase.

Therefore, in order to obtain the goods being sold, the buyer must first fulfill their obligation, which is to pay the amount of money specified in the agreement. Considering that in a reciprocal agreement, the performance of each party is closely related to one another. If one party demands the fulfillment of obligations from the other party, then they themselves must have fulfilled their obligations. In this case, if the buyer has not paid the purchase price, they cannot demand that the seller deliver the goods. If the buyer insists on demanding that the seller deliver the goods even though they themselves have not paid the purchase price, then the seller has grounds to invoke *exceptio non adimpleti contractus*. The seller did not perform the obligation precisely because the buyer had not fulfilled the required obligation. In principle, the buyer has clearly committed a breach of contract by failing to comply with the provisions of Article 2 of the kiosk sale and purchase agreement, thereby failing to fulfill the obligations referred to in that article. This automatically triggers Article 10, which stipulates that if one party violates this agreement, the agreement shall automatically become void. Although the seller has actually suffered losses due to the buyer's breach of contract, these losses are not prolonged and are immediately resolved through the cancellation of the agreement in accordance with the principle of *Exceptio Non Adimpleti Contractus*.

Hifz Al-Mal's Study of the Principle of *Exceptio Non Adimpleti Contractus* in Kiosk Sale and Purchase Contracts at Baruga Market, Kendari City

Basically, all forms of muamalah are permissible, unless otherwise specified by the text. (Maulana, 2018) Muamalah is carried out on a voluntary basis without any element of coercion. Muamalah is carried out based on considerations of bringing benefits and avoiding harm in society. Muamalah is carried out by maintaining justice, avoiding elements of oppression and taking advantage of others in difficult situations.

The explanation of the above principles means that Islamic law gives everyone the freedom to make contracts with any terms and conditions they want, as long as they don't go against religious rules and values. Buying and selling kiosks with a two-payment system is allowed as long as there are no extra fees. The goods that are the object of the sale and purchase must be something useful; prohibited sales and purchases are not allowed in Islam.

Violations of free will, such as coercion or fraud, result in the invalidity of a contract. Both parties, the seller and the buyer, must be willing to carry out the sale and purchase transaction. In this case, both parties, the seller and the buyer, benefit equally. The buyer obtains a kiosk as a place to trade, and the seller obtains money from the sale to meet their economic needs.

Buying and selling are closely related to the validity of an agreement. In an agreement, the parties who make a promise have the same obligation to fulfill the agreed-upon performance. Therefore, the parties (both the seller and the buyer) have an obligation to fulfill these obligations, and if one of the parties fails to fulfill their obligations as agreed and this is not due to force majeure, then this situation is known as default (breach of contract).

In practice, sellers do not receive fair treatment, whereby sellers suffer losses because buyers do not complete payments as agreed by the agreed due date. To obtain justice, sellers cancel the agreement and return the deposit received to the buyer, so that the kiosk can be resold to other interested parties.

Although contract law provides protection against default, this principle has the potential to be abused if one party or its interpretation, for example the seller, interprets default extensively without considering *maqāṣid al-syarī'ah*, so that the rights of the other party are deprived and property is threatened with loss or damage without strong *shar'ī* reasons. This potential for abuse must be anticipated because all exceptions must remain in line with the objectives of Islamic law to achieve *maslahah* (benefit) and avoid *mafsadah* (harm).

There are three levels in *maqashid syariah*, namely *dharuriyyah*, *hajjiyyah*, and *tahsiniyyah*. (Nasution et al., 2024) *Dharuriyyah* holds the highest degree, because it is carried out by protecting religion, life, reason, lineage, and property. *Hajjiyyah* is the second level in this regard, meaning that it provides convenience, prevents humans from difficulties and hardships, and does not cause damage in this world or the hereafter. Furthermore, *tahsiniyyah* covers customs and noble character, including tertiary needs.

When examined in the relevant *maqashid sharia* theory, the kiosk sale and purchase agreement at Baruga Market in Kendari City can be classified into the *dharuriyat* level, namely the preservation of property (*hifz al-mal*), which is the main objective of Islamic law. In sales and purchases, this means that transactions must be fair and not detrimental to either party, so that their property is preserved. Preservation of property (*hifz al-mal*) is a key principle that must be considered because the principle of justice requires that the application of *exceptio non adimpleti contractus* be carried out fairly and equitably. The seller must have a valid reason for withholding the fulfillment of the buyer's obligations. The fulfillment of obligations must be in line with the losses or non-compliance experienced by the seller. *Exceptio non adimpleti contractus* gives the seller the right to withhold fulfillment of obligations until the buyer fulfills their obligations. This is in line with the principle of preservation of wealth (*hifz al-mal*). (Bukido & Hasan, 2016; Fadilah, 2025), which emphasizes the importance of protecting property and wealth by ensuring that obligations are fulfilled fairly and without harming either party.

CONCLUSION

The implementation of the kiosk sale and purchase agreement contract at Baruga Market in Kendari City has been partially fulfilled, namely the first installment payment of IDR 40,000,000 has been paid by the buyer, while the second installment payment (full payment) of IDR 40,000,000 has not been paid by the buyer. This has resulted in the seller's rights not being fully fulfilled, violating the terms of the previously agreed contract, and causing losses to the seller. As a gesture of goodwill, the seller has agreed to refund the entire amount paid by the buyer.

The application of the principle of *exceptio non adimpleti contractus* is contained in the provisions of Article 10 of the kiosk sale and purchase agreement, namely that if one party violates the agreement, it shall automatically become void. This principle serves as a defense for the seller whose rights have not been fulfilled by the buyer in the form of payment in full by the due date agreed upon in the previous agreement. Therefore, the seller also does not fulfill their obligation, which is to hand over the kiosk unit to the buyer, and subsequently cancels the sale and purchase agreement. The purpose of canceling the agreement is so that the aggrieved seller does not continue to suffer losses. This principle can also restore the situation to its original state before the agreement was made.

The perspective of *hifz al-mal* on the application of the principle of *exceptio non adimpleti contractus* in sales agreements is that there is an exception whereby the non-fulfillment of obligations by one party causes the other party to also not fulfill their obligations, in order to achieve the principles of justice and balance. One of the main objectives of *maqashid syariah* is to create justice in agreements. In the context of *exceptio non adimpleti contractus*, if one party fails to fulfill its obligations in an agreement, the other party has the right to file an exception or refuse to continue the agreement in an effort to maintain balance and justice. If one party continuously fails to fulfill its obligations, this can be considered a violation of the principles of justice in Islam.

Preservation of property (*hifz al-mal*) is a key principle that must be considered because the principle of justice requires that the application of *exceptio non adimpleti contractus* be carried out fairly and equitably. The seller must have a valid reason for withholding fulfillment of the buyer's obligations. Fulfillment of obligations must be commensurate with the losses or non-compliance experienced by the seller. *Exceptio non adimpleti contractus* gives the seller the right to withhold fulfillment of obligations until the buyer fulfills their obligations. This is in line with the principle of preservation of property (*hifz al-mal*), which emphasizes the importance of protecting property and wealth by ensuring that the fulfillment of obligations is carried out fairly and does not harm either party.

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