ISLAMIC BANKING & FINANCE

PRINCIPLES, INSTRUMENTS & OPERATIONS

Adnan Trakic &
Hanifah Haydar Ali Tajuddin

CLJ Publication
Islamic banking & finance: principles, instruments & operations / general editors: Adnan Trakic & Hanifah Haydar Ali Tajuddin
Includes index
II. Hanifah Haydar Ali Tajuddin.
332.1088297

Published by
The Malaysian Current Law Journal Sdn Bhd
E1-2, Jalan Selaman 1/2,
Dataran Palma, 68000 Ampang,
Selangor Darul Ehsan, Malaysia
[Co No 51143 M]
Tel: 603-42705400 Fax: 603-42705401

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Edited by Baizura Abd Razak


Printed by
Printmate Sdn Bhd
No. 14 & 16, Jalan Industri P.B.P. 7,
Taman Industri Pusat Bandar Puchong,
47100 Puchong, Selangor Darul Ehsan.
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4.1 Partnership (Sharikah)

Sharikah literally means the mixing of two properties, so that they cannot be distinguished from each other. It also means sharing and participation. It refers to a property that belongs to several owners or co-proprietors in common, in such a way that each one had ownership of every smallest part of it in proportion to the shares allotted to them. In a hadith, it is stated that Allah (s.w.t.) is the third of two partners, as long as they do not betray each other. If they betray each other, Allah (s.w.t.) withdraws His blessings from the partnership.1

4.1.1 Division of Sharikah

Generally, sharikah can be divided into two main types, sharikatul amlok and sharikatul 'ugud.

4.1.2 Co-ownership (Sharikatul al-Amlak)

It is a type of sharikah where two or more persons become joint owners of a property, without entering into a partnership contract. This joint ownership could be established either by operation of law such as through inheritance or through other contracts such as wasiyyah (a will) or a hibah (a gift). The partners have to share the property or its income, based on their respective shares until they decide to divide it, if it is a divisible property such as land or to sell it, if it is indivisible property such as a house or a car.

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1 Abu Dawud. Sunan Abu Dawud, Kitab al-Buyu', hadith no. 3385.