



Document details

1 of 1

[Export](#) [Download](#) [More...](#)

International Journal of Islamic and Middle Eastern Finance and Management
Volume 12, Issue 4, 9 September 2019, Pages 569-585

Dana Gas Sukuk default: a juristic analysis of court judgement (Article)

Busari, S.A., AbdulAziz, A., Zakariyah, L., Amanullah, M.

[View additional authors](#) [Save all to author list](#)

^aDepartment of Fiqh and Usul Fiqh, International Islamic University Malaysia, Kuala Lumpur, Malaysia

^bDepartment of Fiqh and Usul al-Fiqh, International Islamic University Malaysia, Kuala Lumpur, Malaysia

[View additional affiliations](#)

Abstract

Purpose: This study aims to analyse the facts of the case in the judgement made by the High Court of Justice, England, UK, in the case of Dana Gas Public Joint Stock Company (PJSC) v. Dana Gas Sukuk Limited (Ltd.) and Ors. **Design/methodology/approach:** This study uses descriptive and juristic analysis to explain the factual terms in the case of Dana Gas sukuk default. It also uses juristic opinions to analyse the underpinning argument in the Dana Gas court case between the decision of Sharjah Court, UAE, and the English Court, UK. **Findings:** The study concluded that despite the position of Dana Gas PJSC that specific element of the muḍārabah sukuk is non-Shari'ah-compliant, the English court decision which established the enforceability of the purchase undertaking seems to be fair based on the Islamic maxims such as "Difficult situation cannot violate the right of other" and "The conditional matters among Muslims are binding." **Research limitations/implications:** The impact of this study is that Dana Gas sukuk default has thought stakeholders of Sukuk investment lessons on the importance of documentation and consideration of tighter clauses to ensure its bindingness in the law court. Hence, this study is expected to be a contribution towards the call for standardization of the role of Shari'ah scholars across the globe. **Originality/value:** This study illustrates the fact in the case of Dana Gas sukuk default and analyses the court's decision from a fiqh perspective. © 2019, Emerald Publishing Limited.

SciVal Topic Prominence

Topic: Islamic banking | Islamic banks | Home financing

Prominence percentile: 96.136

Author keywords

Farabah-Fukuk

Muḍārabah šukūk

Purchase undertaking

Purchase undertaking and Shari'ah Compliance

Sukuk default

Cited by 0 documents

Inform me when this document is cited in Scopus:

[Set citation alert >](#)

[Set citation feed >](#)

Related documents

Find more related documents in Scopus based on:

[Authors >](#) [Keywords >](#)

ISSN: 17538394

Source Type: Journal

Original language: English

DOI: 10.1108/IMEFM-01-2019-0033

Document Type: Article

Publisher: Emerald Group Publishing Ltd.