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THE URGENCY OF GOOD FAITH FROM THE PERSPECTIVE OF SADDUD DZARI'AH THEORY (A STUDY OF DECISION NO. 426/Pdt.G/2021/PA.JS)

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Abstract

This study examines the application of the principle of good faith in a Sharia insurance dispute, as presented in Case No. 426/Pdt.G/2021/PA.JS and evaluates its legal relevance from the perspective of Saddud Dzari'ah. Using a qualitative normative-empirical method through the examination of judicial decisions, policy terms, and Sharia insurance regulations, the research finds that the Plaintiff provided inaccurate information concerning medical history, other insurance ownership, and domicile. These inaccuracies constituted a breach of the principle of utmost good faith (*uberrimae fidei*), giving the Defendant legal grounds to rescind the policy and deny the claim in accordance with applicable laws and contract provisions. Normatively, such a violation at the pre-contractual stage should have led to the rejection of the lawsuit in its entirety. However, the judges applied the Saddud Dzari'ah principle to realize substantive justice by ordering the return of premiums to prevent harm and maintain fairness and proportionality of rights and obligations. The study highlights the need for stricter verification and auditing standards for participant data in Sharia insurance. It also shows that Saddud Dzari'ah provides a normative and argumentative basis for harmonizing legal certainty and fairness in dispute resolution. Additionally, the research reveals weaknesses in the fact-finding process, emphasizing the importance of a more proactive and rigorous judicial approach to ensure thoroughly examined material facts and a fair judgment.

Keywords: Sharia insurance dispute, principle of good faith, saddud dzari'ah, judicial determination.

A. INTRODUCTION

Every society recognizes that social interaction constitutes an integral and inseparable aspect of human life. Each interaction, whether occurring between individuals or between individuals and business entities, inherently involves corresponding rights and obligations. To uphold justice and legal certainty, a regulatory mechanism is required to govern such rights and obligations. One of the most significant legal instruments regulating these

relationships is the contract. Within the legal and commercial spheres, contracts serve as the foundation for defining the relationships between parties, ensuring fairness in transactions, providing legal certainty, and preventing potential disputes.

Any contract that has been formed and mutually agreed upon must be performed in good faith, grounded in honesty, and free from deception or manipulation for personal gain. Pursuant to Article 1320 of the Indonesian Civil Code, a contract is deemed

valid and legally enforceable if it fulfills four legal requirements: mutual consent of the parties (*consensus ad idem*), legal capacity of the parties, a specific and certain object (*objectum certum*), and a lawful cause (*causa licita*).

Within the Islamic insurance sector, the principle of good faith and the legal requirements for a valid contract play a pivotal role in governing the relationship between insurance operators and policyholders. Policyholders are obligated to provide accurate and complete information regarding the insured risks, while insurance operators are required to manage participants' funds with honesty, transparency, and integrity, and to fulfill claims fairly and in accordance with applicable regulations.

However, the rapid development of Islamic insurance has been accompanied by an increase in dispute cases. Recurring Sharia insurance disputes in Indonesia generally arise from breaches of contract, violations of the principle of good faith, misrepresentation or fraudulent behavior, refusal to indemnify claims, and unilateral policy termination. Such disputes may be resolved through litigation or non-litigation mechanisms. In litigation, the adjudication of Sharia economic disputes, including Sharia insurance disputes, falls under the jurisdiction and authority of the Religious Courts, as stipulated in the elucidation of Article 49 (1) of Law No. 3 of 2006 amending Law No. 7 of 1989 concerning Religious Courts. Beyond litigation, dispute resolution may also be pursued through non-judicial mechanisms, commonly referred to as Alternative Dispute Resolution (ADR). In Indonesia, this mechanism is known as *Alternatif Penyelesaian Sengketa*

(hereinafter referred to as APS).¹

As a precautionary measure and to prevent potential harm in resolving Sharia insurance disputes through litigation, judges of the Religious Courts, when examining, adjudicating, and deciding cases, may consider the principle of *saddud dzari'ah*. In Islamic legal doctrine, *saddud dzari'ah* serves as a preventive mechanism intended to avert harm by closing pathways that may lead to violations, injustice, or detrimental consequences.

Saddud dzari'ah refers to the prohibition or restriction of actions that may lead to *mafsadat* (harm or damage). It functions as a legal reasoning tool intended to prevent foreseeable harm before it occurs.² The objective of this principle is to preserve public benefit (*maslahah*) and prevent loss by anticipating acts or conditions that may result in the violation of Sharia norms. The normative foundation of *saddud dzari'ah* is supported by several scriptural evidences, including: the prohibition of approaching adultery (Qur'an 17:32), the prohibition against using expressions likely to cause misunderstanding (Qur'an 2:104), and the maxim stating that "preventing harm takes precedence over attaining benefit," which reflects Sharia's strong preventative orientation.³

This principle receives significant emphasis within the Maliki school of jurisprudence, where it is widely applied as a basis for legal reasoning. Maliki jurists assert that means leading predominantly or foreseeably to harm must be restricted, even if the original act is lawful in essence. In contemporary legal settings, *saddud dzari'ah* remains relevant as it aligns with principles of risk mitigation and harm

¹ Rachmadi Usmani in Annisa Sativa, "Insurance Dispute Resolution Through Non-Litigation and a Sharia Law Perspective," *Journal of Islamic Studies: Rayah Al Islam* Vol. 6, No. 2, October 2022, p. 281

² Kawakib, Yusuf and Hafdz Syuhud, "Sadd Al-Dzari'ah as Islamic Legal Evidence (Comparative Study of Ibn Al-Qayyim Al-Jauziyah and Ibn Hazm)", *Al-Bayan: Journal of Qur'an and Hadith*

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³ Andi Nurul Islamiah, "Aplikasi Sadd Adz-Dzari'ah dalam Perkembangan Ekonomi Islam," *Justisia Ekonomika: Magister Hukum Ekonomi Syariah* 6, no. 1 (2022): 390–400, <https://journal.um-surabaya.ac.id/index.php/JE/article/view/12091>

prevention. Modern regulatory frameworks similarly adopt preventive legal strategies, such as compliance monitoring, financial supervisory mechanisms, and consumer protection regulations.

Accordingly, *Saddud Dzari'ah* may serve as a normative framework for judges of the Religious Courts in adjudicating Sharia insurance disputes, particularly where ambiguity, misrepresentation, or potential fraud arises within contractual arrangements. In such circumstances, judges may annul or modify certain contractual terms to prevent further harm or imbalance between the parties. Furthermore, *Saddud Dzari'ah* may be applied to assess whether an act or clause within a Sharia insurance agreement possesses the potential to create injustice, inequality, or undue burden upon either party.

In the context of Sharia insurance disputes, this study examines the judicial reasoning applied in a case adjudicated by the South Jakarta Religious Court, registered under Case Number 426/Pdt.G/2021/PA.JS. In this case, the court declared that the IPLAN Sharia Life Insurance Policy No. 00197698 between the Plaintiff and the Defendant was valid. However, within the framework of Islamic contract law, the validity of an agreement requires that its objective and substance comply with Sharia principles. Where such objectives are not fulfilled, or where the agreement is concluded without adherence to the principle of good faith, the contract may be deemed invalid.⁴ Consistently, in an academic lecture, Prof. Dr. Drs. H. Amran Suadi, S.H., M.Hum., M.M. emphasized that "if a contract that has been mutually agreed upon is later found to contain deviations, including evidence of fraud or misrepresentation, the contract may be

annulled."

Although existing studies on Sharia insurance disputes have widely discussed breach of contract, policy rescission, and the principle of good faith, most research remains predominantly normative and does not sufficiently explore how judges operationalize Sharia-based legal principles, particularly *saddud dzari'ah*, within the judicial reasoning and legal discovery (*rechtsvinding*) process in specific cases. Moreover, a gap persists concerning the relationship between violations of the principle of good faith at the pre-contractual stage and the judicial rationale employed in adjudicating Sharia insurance disputes before the Religious Courts.

Addressing this gap, the present study aims to analyze the legal significance and urgency of the principle of good faith in Sharia insurance contracts, assess its judicial application in Case No. 426/Pdt.G/2021/PA.JS, and examine how the principle of *saddud dzari'ah* functions as a doctrinal basis for judicial reasoning in preventing harm and realizing substantive justice in the adjudication of Sharia insurance disputes.

B. RESEARCH METHOD

Research Approach

The research approach employed in this study is a qualitative approach. Qualitative research refers to a method in which the data are presented in the form of words, statements, or descriptions rather than numerical expressions.⁵ This approach is commonly used in the social sciences and humanities, particularly in studies concerning human behavior and the meanings embedded within such behavior elements that are generally difficult to quantify.⁶

⁴ Tri and Lukman, "Comparison of the Validity Requirements of "Halal Causes" in Conventional Agreements and Sharia Agreements", *Journal of Legal Thought and Islamic Law: Yudisia*, Vol.8, No.2, (December 2017), p.293

⁵ Rifa'i Abubakar, *Introduction to Research Methodology*, (Yogyakarta: SUKA-Press UIN Sunan Kalijaga, 2021), p. 7

⁶ Abd Hadi, Asrori dan Rusman, *Qualitative Research: Phenomenology, Case Study, Grounded Theory, Ethnography, Biography* (Central Java: Pena Persada, 2021)

Qualitative research emphasizes the process rather than the outcome. Accordingly, this study focuses on analyzing the judicial reasoning embodied in the judicial decision in the Sharia insurance dispute case No. 426/Pdt.G/2021/PA.JS. The decision is examined descriptively using textual data and, where relevant, supporting visual materials, rather than numerical data.

Type of Research

This study adopts a normative-empirical (applied) legal research method. Normative-empirical legal research is a methodological approach that examines the implementation and application of positive legal norms, such as statutory provisions and written legal instruments, in concrete legal events occurring within society. This type of research seeks to determine whether the outcome of a legal implementation in *concreto* aligns with the relevant statutory framework.⁷

This study falls within the normative-empirical research category because it focuses on analyzing legal documents, including Decision No. 426/Pdt.G/2021/PA.JS, hearing transcripts, and supporting procedural documents from the trial. These materials are examined to assess whether the judicial ruling aligns with applicable statutory provisions and legal norms governing Sharia insurance disputes.

Research Data Sources

Primary Data

Primary data refers to information obtained directly from authoritative and original legal sources. In this study, the primary legal materials consist of the South Jakarta Religious Court Decision No. 426/Pdt.G/2021/PA.JS, statutory provisions including Articles 1320 and 1338 of the Indonesian Civil Code, Law No. 3 of 2006 concerning the Amendment to Law No. 7 of 1989 on Religious Courts, Supreme Court Regulation No. 2 of 2008 concerning the

Compilation of Sharia Economic Law, and the DSN-MUI Fatwa No. 21/DSN-MUI/X/2001 concerning Sharia Insurance Guidelines. In addition, relevant jurisprudence, including Supreme Court Decision No. 556 K/Sip/1971 dated January 8, 1972, and Supreme Court Decision No. 140 K/Sip/1971 dated August 12, 1972, is also used as part of the primary data corpus.

Secondary Data

Secondary data consists of materials that support, interpret, or explain primary legal sources. These include textbooks, peer-reviewed journals, research reports, academic articles, theses, dissertations, and other scholarly works related to the principle of good faith, Sharia insurance disputes, and the legal theory of *saddud dzari'ah*.

Data Collection Method

Data collection refers to the techniques used to gather relevant information, while data collection instruments are tools designed to support systematic and structured data retrieval.⁸ This study employs a library research method through document examination to obtain the required legal materials. Data and legal information were collected from libraries, official websites, and academic journal repositories to identify relevant legal norms, doctrines, and regulatory frameworks.

Data Analysis Method

Data analysis is a process of transforming collected data into meaningful information so that its characteristics can be identified and used to formulate answers to research problems.⁹ The data analysis in this research was conducted by first cataloging both primary and secondary data, followed by classifying the data based on key research themes, including Sharia insurance disputes, the principle of good faith, the doctrine of *saddud dzari'ah*, and judicial reasoning. The analysis then proceeded with legal interpretation through statutory

⁷ Muhammin, *Legal Research Methods*, (NTB: Mataram University Press, 2020), p. 115

⁸ Ridwan, *Statistics for Government/Private Institutions and Agencies*, (Bandung: Alfabeta, 2004). Page 137

⁸ Sumandi Suryabrata, *Research Methodology*, (Jakarta: PT. Raja Grafindo Persada, 2010), p. 38

interpretation, analysis of fatwas, and comparative examination between legal norms and judicial findings contained in the decision under review. The final stage involved synthesizing the results to formulate conclusions.

C. RESULTS AND DISCUSSION

Overview of the Sharia Insurance Dispute in Case No. 426/Pdt.G/2021/PA.JS

Chronology of the Case

The discussion of Sharia insurance dispute Number 426/Pdt.G/2021/PA.JS concerns a legal disagreement between Anik (the Plaintiff) and PT Asuransi Jiwa Generali Indonesia (the Defendant). Based on the Plaintiff's statement of claim, the chronology of events is as follows:

On 28 May 2018, the Plaintiff expressed an interest in participating in a Sharia-compliant life insurance product offered by the Defendant, known as IPLAN Syariah. The Plaintiff applied for Life Insurance Application Form (SPAJ) No. 1014813. The Defendant approved the application on 31 May 2018 and issued IPLAN Syariah Life Insurance Policy No. 00197698. This policy was valid from 31 May 2018 until 31 May 2072, with a basic periodic contribution of Rp 3,800,000 and an additional top-up contribution of Rp 950,000, amounting to a total monthly premium of Rp 4,750,000. The policy provided benefits including a death benefit, investment returns, and additional bonuses.

The policy also contained special provisions relating to CI Add-Plan Syariah Supplemental Insurance, which stipulated that participants are entitled to 100% coverage if diagnosed with one of the critical illnesses listed in the policy terms, provided they are at least four years old and not older than seventy.

At the end of September 2018, the Plaintiff detected a lump in her breast. To ascertain the condition, she sought medical examination at Murni Teguh Hospital, Medan, on 31 September 2018. The

examination indicated that a biopsy was required to determine whether the lump was benign or malignant. Subsequently, from 11 to 17 October 2018, the Plaintiff underwent inpatient medical treatment for eight days due to persistent discharge and worsening symptoms. Following further examination, she was diagnosed with breast cancer.

Upon learning that her medical condition fell within the category of critical illnesses covered under the policy, the Plaintiff contacted the Defendant's insurance agent, Suharni Rimba, to initiate a claim. The Defendant proceeded with a follow-up verification process, including an on-site visit by its assessment team in January 2019, during which post-operative photographs of the Plaintiff's condition were taken.

However, on 29 August 2019, the Plaintiff received a written notification from the Defendant, numbered 0002136/GI/CLM-INDV/VIII/2019, informing her that the claim had been rejected. The Defendant stated that discrepancies were identified between the medical findings and the information provided by the Plaintiff in SPAJ No. 1014813. In addition, the Defendant declared the cancellation of the Plaintiff's insurance policy because she had failed to disclose information regarding existing insurance coverage.

The Plaintiff contended that all information provided in SPAJ No. 1014813 was accurate and truthful. She further argued that there is no regulation prohibiting an individual from holding multiple insurance policies. Accordingly, the Plaintiff claimed that the rejection of her claim and the subsequent cancellation of her policy were unlawful and lacked legal justification. For these reasons, the Plaintiff initiated legal proceedings before the South Jakarta Religious Court.

History of Dispute Resolution Efforts

The resolution process of this Sharia insurance dispute commenced with the first court hearing held at the South Jakarta Religious Court on 10 February 2021. The

case had been officially registered at the Court Registrar's Office in January 2021 under Case Registration Number 426/Pdt.G/2021/PA.JS.

The Plaintiff was represented by legal counsel pursuant to a Special Power of Attorney dated 6 November 2020, granted to Anny Andriani, S.H., M.H., and her associates, who serve as advocates and legal advisors at O.C. Kaligis & Associates Law Firm, located at Jalan Majapahit No. 18–20, Majapahit Permai Complex, Block B 122–123, Jakarta 10160. Subsequently, PT Asuransi Jiwa Generali Indonesia, as the Defendant, appointed legal representation through a Special Power of Attorney dated 5 February 2021, authorizing Dr. Ricardo Simandjuntak, S.H., LL.M., MCIArb., and his associates as advocates and legal consultants from Ricardo Simandjuntak & Partners Law Firm, located at Wirausaha Building, 2nd Floor, Jalan H.R. Rasuna Said, Kav. C-5, Kuningan, South Jakarta.

At the preliminary hearing, the Panel of Judges ordered both parties to participate in mediation. Mediation is a dispute resolution mechanism conducted through negotiation between the parties with the assistance of a neutral third-party mediator to reach a mutually acceptable agreement. This directive is in accordance with Article 17 of Supreme Court Regulation No. 1 of 2016 concerning Mediation Procedures in Court. For this case, the Panel appointed Zainal Ridho, S.Ag., M.H., as mediator at the South Jakarta Religious Court, by official appointment on 10 March 2021. The mediation process continued until 7 April 2021, but no settlement was reached. Accordingly, the proceedings advanced to the trial phase.

The next stage consisted of the reading of the Plaintiff's statement of claim. In this submission, the Plaintiff reiterated their original demands, requesting that the Defendant be declared in breach of contract and ordered to pay compensation. Following this stage, the Panel of Judges, together with both parties, established a procedural timetable (court calendar) outlining the

agreed schedule of hearings.

Subsequently, the trial proceeded to the exchange of pleadings, which was conducted electronically on 21 April 2021, 5 May 2021, and 19 May 2021. Through this electronic litigation mechanism, the parties were not required to be physically present in the courtroom; instead, they submitted their responses, rebuttals, and rejoinders via the e-Court application administered by the judiciary.

Following completion of the exchange of pleadings, the proceedings advanced to the evidentiary stage. In accordance with the evidentiary principle *actori incumbit probatio*, which stipulates that the party alleging a claim bears the burden of proof, the Plaintiff was first granted the opportunity to submit evidence. The Plaintiff submitted documentary evidence marked P-1 through P-6 and did not present any witnesses, declaring such evidence sufficient to substantiate the claim.

Subsequently, the Panel of Judges granted the Defendant the opportunity to substantiate its rebuttals. The Defendant submitted documentary evidence marked T-1 through T-9 and presented one expert witness, namely A.M. Hasan Ali, a medical practitioner and lecturer in Insurance Law at Syarif Hidayatullah State Islamic University (UIN) Jakarta.

The proceedings then continued to the conclusion stage, conducted electronically on 18 August 2021. At this stage, both parties reaffirmed and maintained their respective legal positions, with the Plaintiff upholding the contents of the claim and the Defendant maintaining its response.

Before rendering final judgment, the Panel of Judges issued an interlocutory ruling on 15 September 2021 regarding the Plaintiff's petition for conservatory attachment (*sita jaminan*). The Panel rejected the petition on the basis that the Plaintiff failed to identify clearly and specifically the assets sought to be subjected to attachment, and further failed to demonstrate any indication of concealment, dissipation, or transfer of assets by the

Defendant.

Thereafter, the Panel conducted judicial deliberations and issued its final judgment electronically on 29 September 2021, partially granting the Plaintiff's claim with the following orders:

Decision

In Provisional Matters:

- Declaring the Plaintiff's request for provisional measures inadmissible.

In the Principal Case:

- Partially granting the Plaintiff's claim;
- Declaring that Sharia Life Insurance Policy No. 00197698, issued by the Defendant and effective from May 2018 to August 2019, is valid and legally binding;
- Ordering the Defendant to pay or refund the premiums paid by the Plaintiff from May 2018 to August 2019, amounting to IDR 67,850,000.00 (sixty-seven million eight hundred fifty thousand rupiah);
- Rejecting the remainder of the Plaintiff's claims;
- Ordering the allocation of procedural costs, whereby the Plaintiff and the Defendant shall each bear IDR 297,500.00 (two hundred ninety-seven thousand five hundred rupiah).

Application of the Principle of Good Faith and Its Urgency in the Sharia Insurance Dispute at the South Jakarta Religious Court, Case No. 426/Pdt.G/2021/PA.JS

The dispute originated from the Plaintiff's insurance claim under IPLAN Syariah Policy No. 00197698, which the Defendant rejected on the grounds of inaccurate information submitted by the Plaintiff in the Sharia Life Insurance Application Form (SPAJS) No. 1014813. The Defendant subsequently denied the claim and terminated the policy based on a

violation of the principle of utmost good faith (uberimae fidei).

In its response, the Defendant asserted that the Plaintiff had provided inaccurate and misleading information regarding income, residential address, and the existence of other insurance policies. The Plaintiff declared ownership of an agricultural business with an annual income of IDR 600,000,000.00, yet trial evidence demonstrated that the accuracy of this claim was doubtful. Likewise, the residential address listed in the SPAJS did not correspond to proven ownership records, and several previously issued insurance policies were omitted from disclosure. The Defendant supported its arguments with the following documentary evidence:

- a. Exhibit T-1: Demonstrates that the Plaintiff answered "no" in the insurance history column despite possessing several active insurance policies
- b. Exhibits T-3 and T-4: Confirm that the address listed by the Plaintiff, Jamin Ginting No. 58 Street, Brastagi District, Karo Regency, did not belong to the Plaintiff but was registered under Keng Sum Musim.
- c. Exhibit T-2: Article 18 paragraphs (1) and (3) of the insurance policy stipulate that the insurer may reject claims or cancel the policy in the event of data inconsistency. Accordingly, the Plaintiff's failure to provide accurate information regarding his residential address and ownership of other insurance policies constituted a legal basis for the Defendant's cancellation and rejection.

The Sharia insurance framework mandates that contractual relationships be established upon transparency, honesty, and openness. This requirement is expressly stated in Article 29 of the Compilation of Sharia Economic Law (KHES) and DSN-

MUI Fatwa No. 21/DSN-MUI/X/2001, which emphasizes that contracts must be free from gharar (uncertainty or deception), maysir (speculative elements), and zhulm (unjust conduct). The false information provided by the Plaintiff constituted gharar, thereby impairing the legal validity of the contract.

The Plaintiff's misconduct represents a pre-contractual violation of subjective good faith, occurring prior to the formation of the contract. In Sharia insurance, where the contract contains a tabarru' element, honesty is fundamental to maintaining fairness and shared risk. Any manipulation of information disrupts the ethical foundation of cooperation and mutual protection inherent in the takaful system.

The principle of good faith requires full and truthful disclosure of all material information during contract formation, especially in insurance agreements. This obligation aligns not only with positive legal doctrine but also with Islamic ethical principles of sidiq (truthfulness) and amanah (trustworthiness). Thus, the Plaintiff's actions constitute a dual violation: Legally, they breach the principle of utmost good faith under insurance law; and Normatively within Islamic law, they contravene the values of sidiq and amanah, which are essential prerequisites for the validity of a Sharia-compliant contract and for preventing injustice. Accordingly, the failure to uphold honesty during the pre-contractual phase renders the insurance contract defective both juridically and ethically, reinforcing the critical urgency of the principle of good faith within Sharia insurance dispute resolution.

Furthermore, Article 1320 of the Indonesian Civil Code "*KUH Perdata*" provides that an agreement shall be deemed valid and legally enforceable if it fulfills four essential elements: (1) mutual consent of the parties, (2) legal capacity to agree, (3) a specific and identifiable object, and (4) a

lawful cause. When these requirements are satisfied, the agreement becomes binding and has full legal effect. Conversely, failure to fulfill any of these elements may render the agreement void or voidable. In the present case, the breach of the principle of good faith constitutes a defect in the lawful cause of the agreement, thereby affecting the validity and enforceability of the insurance contract.

Based on the evidence presented during the trial proceedings and the relevant provisions contained in the insurance policy, it is evident that the Plaintiff's submission of false and misleading information in the SPAJS form and supporting documents constituted a violation of the terms and conditions governing the Sharia life insurance contract. Accordingly, the Defendant's actions in rejecting the insurance claim and subsequently cancelling the Plaintiff's policy were consistent with the applicable contractual clauses and aligned with Sharia insurance principles, which uphold honesty, fairness, and transparency.

Although insurance law generally aims to afford legal protection to policyholders, such protection is not absolute. Rather, it is conditional upon the fulfillment of the principle of good faith and the truthful disclosure of material facts by the insured. Where the insured is here, the Plaintiff fails to comply with this obligation, the insurer retains a legitimate legal basis to deny the claim and annul the policy, provided such measures are supported by valid evidence and carried out in accordance with proper legal procedures.

Therefore, it may be concluded that the principle of good faith plays a central and indispensable role in the formation and enforcement of contractual relationships, particularly in insurance disputes. As mandated under Article 1338 paragraph (3) of the Indonesian Civil Code, good faith is not merely an ethical expectation but

constitutes a legal doctrine that directly influences contractual validity. Thus, the implementation of the principle of good faith serves not only moral and ethical purposes but also ensures legal certainty and reinforces the legitimacy of contractual obligations.

Ideal Examination and Judgment in the Sharia Insurance Dispute, Case Number 426/Pdt.G/2021/PA.JS, from the Perspective of *Saddud Dzari'ah*

Within the framework of Islamic legal theory, *saddud dzari'ah* serves a pivotal function in ensuring equilibrium between the rights and obligations of contracting parties. This principle seeks to prevent acts that, although appearing legally permissible, may ultimately result in harm or injustice. In Case Number 426/Pdt.G/2021/PA.JS, a discrepancy emerged between the Panel of Judges' ruling declaring the Sharia insurance policy valid and the doctrine of *utmost good faith*, given that the Plaintiff materially breached the duty of disclosure pertaining to medical history and other essential information. Consequently, one of the substantive requirements for contract validity, namely a lawful and legitimate cause, was not fulfilled due to the absence of good faith. Under the principle of *uberrimae fidei*, a violation at the pre-contractual stage renders the contract void by operation of law, as the consensus is considered defective due to misrepresentation. Normatively, therefore, the policy should have been deemed invalid because the "lawful cause" element of contractual validity was not satisfied.

Nevertheless, to avoid manifest injustice and prevent greater harm, the Panel of Judges exercised judicial discretion by ordering the Defendant to return the premiums paid by the Plaintiff from May 2018 to August 2019. This constitutes a substantive corrective measure, even though such relief was not expressly requested in

the Plaintiff's primary demands. Judicial deviation from the *ultra petita* rule is permissible when necessary to uphold justice. This judicial approach is supported by established precedents, including Supreme Court Decision Number 556 K/Sip/1971 dated January 8, 1972, wherein it is stated: "*Granting relief beyond the claims submitted is permissible insofar as it is consistent with the substantive legal context.*"

Furthermore, in the alternative prayer within the lawsuit, the Plaintiff submitted a subsidiary request *ex aequo et bono*, seeking the fairest decision should the Panel hold a different legal interpretation. Accordingly, the Plaintiff implicitly requested that the Panel exercise equitable judicial discretion. This aligns with jurisprudence, particularly Supreme Court Decision Number 140 K/Sip/1971 dated August 12, 1972, which states: "*A judicial decision based on a subsidiary request to adjudicate according to the court's discretion may be justified, provided that it remains within the scope of the primary claim.*" Hence, the decision of the Panel ordering the restitution of premiums paid for sixteen months (May 2018 to August 2019) remains legally justified, as it is materially connected to the essence of the dispute and the Plaintiff's principal demand.

The ruling issued by the Panel of Judges is also consistent with and reflective of the principle of *saddud dzari'ah*. As a preventive doctrine within Islamic legal methodology, *saddud dzari'ah* aims to block legal pathways that may lead to injustice, harm, or outcomes contrary to Sharia principles. The ruling demonstrates the Panel's effort to harmonize legal justice with the objectives of public welfare (*maslahah*). Failure to restore the Plaintiff's paid premiums would give rise to potential injustice and disproportionate loss, contradicting the preventive and equitable essence of *saddud dzari'ah*.

D. CONCLUSION

Based on the analysis of the Sharia insurance dispute in Case Number 426/Pdt.G/2021/PA.JS, the following conclusions are drawn:

1. The principle of good faith constitutes a fundamental element in Sharia insurance contracts, obligating both parties, the insurer as the fund manager and the insured as the policyholder, to uphold honesty, transparency, and fairness. In this case, the Plaintiff was proven during the evidentiary process to have provided false information regarding medical history, ownership of other insurance policies, and domicile address. These misrepresentations constitute a clear breach of the principle of *uberrimae fidei*, thereby rendering the insurance policy legally void. Accordingly, the Defendant's decision to deny the insurance claim and terminate the policy was consistent with the policy terms and prevailing laws and regulations. Thus, the application of the principle of good faith in Sharia insurance is not merely normative in nature but also determines contractual validity in accordance with the principles of fairness and justice under Islamic economic law.
2. From the perspective of *Saddud Dzari'ah*, the Plaintiff's claim should have been rejected in its entirety rather than partially granted, as Sharia Insurance Policy No. 00197698 was proven to have been formed in violation of the principle of good faith and therefore lacked legal validity. However, in the interest of preventing injustice and ensuring equitable relief, the Panel of Judges exercised judicial discretion by deviating from the

ultra petita principle and ordering the Defendant to refund the premiums paid by the Plaintiff for a period of sixteen months. This judicial measure may be deemed appropriate because it aligns not only with the doctrinal application of *saddud dzari'ah*, but also reflects the broader objectives of Islamic law (*maqashid syariah*), particularly justice (*al-'adl*) and public welfare (*al-maslahah*).

Furthermore, although the trial process was conducted in accordance with civil procedural law, the judicial examination lacked depth and thoroughness. For instance, the Chair of the Panel did not take a position on the Plaintiff's request for collateral seizure (*conservatoire beslag*), and the Panel did not actively explore the legal facts during the evidentiary phase.

Therefore, the practical implications for adjudicators include the need to undertake a more comprehensive examination through a proactive and inquisitorial judicial approach to fact-finding. Consistency in drafting legal reasoning must also be strengthened to prevent ambiguity and ensure legal certainty in judicial outcomes. Additionally, Islamic financial institutions in this context, Sharia insurance providers must implement a comprehensive underwriting process without undue haste. Field verification, health risk assessment, and cross-checking of supporting documentation should be enhanced to prevent disputes resulting from misinformation, while ensuring the sustainability of the risk-sharing mechanism in Sharia insurance.

These measures must be further supported by clear regulatory frameworks, including standardized underwriting procedures, mechanisms

for verifying health data, and guidelines for resolving Sharia insurance disputes. Strengthening such regulatory infrastructure will prevent

discrepancies between normative Islamic principles and their implementation in practice.

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