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Implementation of the Musharakah Mutanaqisah Agreement in Sharia Housing Financing

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Abstract
The Musharakah Mutanaqisah (MMQ) contract is one of the alternative sharia housing financing that is conceptually designed to reflect the principles of partnership, joint ownership, and proportionate risk sharing between Islamic banks and customers. However, the implementation of the MMQ contract in Islamic banking practices in Indonesia still raises various legal and sharia issues. This study aims to analyze the legal position of the Musharakah Mutanaqisah contract in sharia housing financing, examine its suitability with the principles of muamalah fiqh and positive law, and assess its implementation from the perspective of maqāṣid al-syarīʿah. The research method used is normative juridical research with legislative, conceptual, and analytical approaches. Data were obtained through literature studies on Islamic banking regulations, fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI), and relevant scientific literature. The results of the study show that normatively the Musharakah Mutanaqisah contract has strong legal legitimacy both according to Islamic law and positive law. However, in the practice of sharia housing financing, substantive discrepancies are still found, especially related to risk sharing, rent determination (ujrah), and the use of standard agreements that have the potential to weaken the legal position of customers. From the perspective of maqāṣid al-syarīʿah, the implementation of MMQ that is too oriented towards the certainty of bank profits risks obscuring the value of partnership, justice, and benefits. Therefore, it is necessary to strengthen sharia supervision and improve regulations so that the implementation of the Musharakah Mutanaqisah contract better reflects the principles of justice and the purpose of sharia housing financing.

Keywords: *Musharakah Mutanaqisah, Sharia Housing Financing, Sharia Banking*

Abstrak
Akad Musharakah Mutanaqisah (MMQ) merupakan salah satu alternatif pembiayaan perumahan syariah yang secara konseptual dirancang untuk mencerminkan prinsip kemitraan, kepemilikan bersama, dan pembagian risiko secara proporsional antara bank syariah dan nasabah. Namun, implementasi akad MMQ dalam praktik perbankan syariah di Indonesia masih menimbulkan berbagai persoalan hukum dan syariah. Penelitian ini bertujuan untuk menganalisis kedudukan hukum akad Musharakah Mutanaqisah dalam pembiayaan perumahan syariah, mengkaji kesesuaiannya dengan prinsip fiqh muamalah dan hukum positif, serta menilai pelaksanaannya dari perspektif maqāṣid al-syarīʿah. Metode penelitian yang digunakan adalah penelitian yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan analitis. Data diperoleh melalui studi kepustakaan terhadap regulasi perbankan syariah, fatwa Dewan Syariah Nasional Majelis Ulama Indonesia (DSN-MUI), serta literatur ilmiah yang relevan. Hasil penelitian menunjukkan bahwa secara normatif akad Musharakah Mutanaqisah memiliki legitimasi hukum yang kuat baik menurut hukum Islam maupun hukum positif. Namun, dalam praktik pembiayaan perumahan syariah masih

ditemukan ketidaksesuaian substantif, terutama terkait pembagian risiko, penetapan sewa (ujrah), dan penggunaan perjanjian baku yang berpotensi melemahkan posisi hukum nasabah. Dari perspektif maqāṣid al-syarī'ah, implementasi MMQ yang terlalu berorientasi pada kepastian keuntungan bank berisiko mengaburkan nilai kemitraan, keadilan, dan kemaslahatan. Oleh karena itu, diperlukan penguatan pengawasan syariah dan perbaikan regulasi agar pelaksanaan akad Musharakah Mutanaqisah lebih mencerminkan prinsip keadilan dan tujuan pembiayaan perumahan syariah.

Kata Kunci: Musharakah Mutanaqisah, Pembiayaan Perumahan Syariah, Perbankan Syariah

INTRODUCTION

The financial sector in Indonesia plays an important role in supporting national economic growth and stability (Athief and Ambarini 2021; Putri and Sholahuddin 2024). Banking institutions, as components of the financial system, serve as intermediaries by collecting funds from the public and distributing them to productive economic sectors. Along with the evolution of the national financial system, Islamic banking has developed as an alternative financial institution operating in accordance with sharia principles, which prioritize justice, transparency, and the avoidance of interest (riba). Amid recent global financial instability, tighter regulatory reforms, and the rapid growth of the Islamic finance industry, the relationship between international regulatory frameworks and Islamic banking particularly the impact of the Basel Accords has become an important and relevant subject of academic discussion (Elbanna et al. 2025).

Over the past two decades, the Islamic banking sector in Indonesia has experienced substantial growth, particularly in the expansion of sharia-compliant financing products, including housing finance. As housing represents a basic human necessity, the rising demand for affordable and decent residential properties has prompted Islamic financial institutions to develop financing mechanisms that adhere to Islamic principles (Solehudin 2024). According to data published by the Financial Services Authority (OJK), property-related and consumer financing, particularly Islamic home financing, constitute a significant share of the financing portfolio of Islamic banks. This development highlights the important role of sharia housing financing not only in supporting economic activities but also in advancing social welfare and promoting fair access to home ownership within the community (Ullyana, Daryanto, and Saptono 2016).

To address the growing demand for housing finance, Islamic banks have developed a variety of financing schemes that enable home ownership while remaining consistent with sharia principles. Among these schemes, murabahah financing remains the most widely utilized due to its straightforward implementation and the certainty of returns it offers to financial institutions. However, its reliance on a debt-based structure and the tendency for risks to be borne predominantly by customers have attracted considerable criticism (Dzatihanani and Rosyadi 2019). As a result, Musharakah Mutanaqisah (MMQ) has gained increasing attention as an alternative financing arrangement, as it embodies the principles of partnership, shared ownership, and risk sharing that are central to Islamic finance.

However, the dominance of murabahah has also attracted criticism because it is considered to tend to resemble a debt-based financing pattern, with risks that are mostly charged to customers. In this context, the Musharakah Mutanaqisah (MMQ) contract emerged as an alternative to a housing financing contract that conceptually reflects more of the principle of shirkah or partnership, where the bank and the customer jointly own property assets, and the bank's ownership gradually decreases along with the payment of installments by the customer until finally the assets are fully owned by the customer (Nasrullah & Rosyadi, 2017).

From both normative and conceptual perspectives, the Musharakah Mutanaqisah (MMQ) contract offers several advantages compared to sale-based financing arrangements, as it establishes a more balanced relationship between the bank and the customer as partners. The contract incorporates key Islamic finance principles, including risk sharing, fairness in contractual relations, and a direct connection between financing activities and underlying tangible assets. These characteristics are consistent with the objectives of maqāṣid al-syarī'ah, particularly the protection of wealth (ḥifẓ al-māl) and the promotion of justice in economic transactions (Rohman and Rosyadi 2025). In practice, MMQ involves joint ownership of a property by the bank and the customer, with the customer gradually acquiring the bank's ownership portion through scheduled payments until complete ownership is achieved (Nasrullah and Rosyadi 2017). Owing to these features, MMQ is widely recognized as a more equitable and substantively sharia-compliant housing financing model than conventional debt-oriented financing structures.

Despite its theoretical and conceptual advantages, the practical implementation of Musharakah Mutanaqisah (MMQ) continues to face a range of significant challenges. Empirical evidence and previous studies indicate that the application of MMQ in sharia housing financing remains complex and often falls short of its intended partnership-based framework (Huda and Azzahro 2025). In many cases, MMQ arrangements are documented through standardized contracts containing complex legal and administrative provisions, which can limit customers' understanding of the financing structure. Moreover, issues related to the determination of ujrah (rental payments), the calculation of ownership shares, and the allocation of loss-related risks frequently reveal an imbalance that tends to favor the financing institution. Such practices may weaken the essence of partnership and risk-sharing that constitutes the core principle of the musharakah contract. Consequently, concerns have emerged that MMQ is sometimes implemented merely as a contractual modification, without providing substantial differences from conventional financing models or murabahah-based arrangements (Maqfira et al. 2025).

From the point of view of Islamic law and positive law, the implementation of the Musharakah Mutanaqisah contract also raises various normative issues that need to be studied more deeply. Although the DSN-MUI fatwa and Islamic banking regulations have provided a legal basis for the implementation of MMQ, technical and operational guidelines related to the implementation of this contract are still general and open up a wide scope of interpretation for each Islamic bank (Sari and Ja'far 2021). As a result, there are differences in MMQ implementation practices between banking institutions, especially in terms of contract structure, risk sharing, and dispute resolution mechanisms. This condition has the potential to cause legal uncertainty, both for banks and customers, and poses a risk of violating the principles of justice and consumer protection in sharia housing financing.

Although the literature on Musharakah Mutanaqisah (MMQ) has expanded considerably, several important research gaps remain. Existing studies predominantly concentrate on the normative and theoretical aspects of MMQ, including its legal legitimacy and compliance with the principles of fiqh muamalah, while providing limited analysis of its practical implementation in sharia housing financing. Other research has largely focused on issues such as financing performance, customer behavior, and operational effectiveness, with insufficient attention given to the extent to which MMQ practices conform to Islamic legal principles, positive law regulations, and the broader objectives of maqāṣid al-syarīʻah. Moreover, scholarly discussions concerning the legal consequences of MMQ implementation, particularly in relation to consumer protection, contractual justice, and legal certainty, remain relatively scarce.

In light of these gaps, this study seeks to examine the implementation of the Musharakah Mutanaqisah contract in sharia housing financing through the perspectives of both Islamic law and positive law. The research specifically aims to assess the compatibility between existing legal frameworks and banking practices, analyze the legal implications arising from the application of MMQ, and evaluate its alignment with the objectives of maqāṣid al-syarīʻah. It is expected that the findings of this study will provide valuable insights for enhancing the fairness, transparency, and legal certainty of sharia housing financing practices, while also contributing to the broader academic discourse on the application of Islamic financial contracts in contemporary banking systems.

LITERATURE REVIEW

Musharakah is a partnership contract in which two or more capital owners jointly contribute funds to finance a lawful and productive business activit. Each partner participates by providing capital and agrees to share profits and losses according to a predetermined ratio stipulated in the agreement. In this arrangement, both investors and entrepreneurs bear the business risks proportionally in accordance with their respective capital contributions (Sholahuddin 2004).

The primary risks associated with musharakah financing include the possibility of business losses arising from the financed project and the potential dishonesty of business partners (Arifin 2012). Compared with mudharabah financing, the risk in musharakah is generally considered lower because the financing institution may participate in business management and exercise closer supervision. However, a common obstacle in practice is the limited quality and quantity of human resources available to conduct effective monitoring and supervision (Sholahuddin 2004).

Previous studies indicate that the Musharakah Mutanaqisah (MMQ) contract occupies an important and strategic legal position within the sharia housing financing system in Indonesia. From a juridical perspective, the legitimacy of this contract is derived from Law Number 21 of 2008 concerning Sharia Banking, which expressly recognizes partnership-based contracts as one of the financing instruments permitted for Islamic banks (Abubakar and Handayani 2017). The acknowledgment emphasizes that sharia financing is not solely limited to sale and purchase contracts or debt-based contracts, but also includes contracts based on the principle of cooperation (shirkah) and proportionate risk sharing. In addition, the normative legitimacy of MMQ is also strengthened by the fatwa of the National Sharia Council of the Indonesian Ulema Council (DSN-MUI) which regulates the development of musharakah contracts in the form of gradual asset ownership, including in housing financing. With this legal basis, the Musharakah Mutanaqisah contract formally fulfills the principles and requirements of the contract according to Islamic law while fulfilling positive legal provisions, so that it is legal to be used as a housing financing instrument by Islamic banks (Humaira and Haflisyah 2023).

In the context of sharia housing financing, the Musharakah Mutanaqisah contract is positioned as a joint ownership scheme between the sharia bank and the customer over the financed house object. In the early stages of the contract, the bank and the customer both contribute to the financing of assets, so that both become the owners of the house according to their respective capital portions (Abubakar and Handayani 2018). Over time, the bank's portion of ownership will gradually decrease through the installment payment mechanism by the customer, until finally the ownership of assets completely shifts to the customer. This scheme theoretically provides legal certainty regarding the status of asset ownership, because from the beginning it has been clearly determined the proportion of ownership of the parties and the mechanism for their transfer. In addition, MMQ also reflects the principles of partnership, fairness, and risk sharing which are the main characteristics of musharakah contracts, where the benefits and risks on assets should be borne proportionally by the parties according to the portion of ownership (Laksono, Luth, and Hamidah 2020).

From a normative and conceptual point of view, the Musharakah Mutanaqisah contract is seen as a more ideal alternative to the murabahah contract in sharia housing financing. This is because MMQ is based on real ownership of assets and active participation of both parties, not on debt-receivables relationships as often criticized in murabahah financing practices. Thus, MMQ is theoretically able to answer criticism of sharia housing financing which is considered too similar to conventional financing, and is more in line with the principle of risk sharing and the purpose of maqāṣid al-shari'ah, especially in the aspects of property protection (ḥifẓ al-māl) and transaction justice. MMQ's position as a partnership contract also emphasizes the role of Islamic banks not solely as creditors, but as partners who also own and bear the risk of the assets financed (Andriani 2019).

However, the results of the analysis show that although the Musharakah Mutanaqisah contract has a strong legal position and is normatively ideal, its application in the practice of sharia housing financing still does not fully reflect the substance of the partnership that is the spirit of this contract (Muttaqien 2012). In banking practice, MMQ is often positioned only as an alternative product without significant substantial differences compared to conventional financing or murabahah contracts. The financing and contract structures used tend to emphasize more certainty of profits for banks through the tenancy mechanism (ujrah), while the principles of risk sharing and co-ownership have not been fully realized. This condition shows that there is a gap between the normative concept of the Musharakah Mutanaqisah contract and its practical implementation in sharia housing financing, thus raising questions about the effectiveness of this contract in realizing the goals of justice and partnership as required by Islamic law and Islamic banking principles.

METHODOLOGY

This research adopted a qualitative design within the framework of normative legal research. The study examined the legal framework regulating the implementation of the Musharakah Mutanaqisah (MMQ) contract in Islamic housing financing from the perspectives of both Islamic law and Indonesian positive law. To facilitate the analysis, three approaches were employed: a statutory approach, a conceptual approach, and an analytical approach. The statutory approach focused on reviewing relevant legal sources, including Law No. 21 of 2008 on Sharia Banking, regulations issued by the Financial Services Authority (OJK), and DSN-MUI fatwas concerning MMQ. The conceptual approach was applied to explore the theoretical foundations of MMQ, particularly those derived from fiqh muamalah, Islamic contract law, and the objectives of maqāṣid al-syarīʻah.

DISCUSSION

Conformity of the Implementation of the Musharakah Mutanaqisah Agreement with Islamic Law Principles

Based on the results of the analysis of the principles of fiqh muamalah, the validity of the Musharakah Mutanaqisah (MMQ) contract in sharia housing financing is highly dependent on the fulfillment of the pillars and conditions of the musharakah contract in a complete and substantive manner. The Pillars include the existence of parties who have a contract (al-'āqidān) who have legal skills, the object of the contract (al-ma'qūd 'alaih) that is clear, halal, and usable, and the existence of a real capital contribution (ra's al-māl) from each party (Muttaqien 2012). In addition, an important principle in the musharakah contract is the existence of an agreement on the distribution of profits (ratio) and the distribution of risk of loss that is fair and proportional in accordance with the portion of capital contribution (Arif 2022). In the context of Musharakah Mutanaqisah, Islamic banks and customers must significantly contribute to the ownership of house assets from the beginning of the contract, so that both are positioned as partners who bear the legal consequences of the ownership. This principle is the main differentiator between MMQ and debt-based financing contracts, where risk is predominantly charged to one party, namely the customer (Hidayatullah 2020).

However, the results of the discussion show that in the practice of sharia housing financing, the implementation of the principle of risk sharing in the Musharakah Mutanaqisah contract has not been fully implemented consistently in accordance with the provisions of fiqh muamalah (Makraja et al. 2025). In many banking practices, asset ownership risks, such as the risk of building damage, the risk of depreciation, and the risk of force majeure, tend to be more predominantly charged to customers. Meanwhile, Islamic banks often position themselves as relatively protected from risks while still making profits through fixed rental schemes *(ujrah)* (Rustam 2024). This observation is supported by earlier studies showing that, despite the partnership-based nature of MMQ, a considerable portion of operational and ownership-related risks is commonly shifted to customers through contractual arrangements. Nasrullah and Rosyadi (2017), for instance, reported that customers frequently bear maintenance expenses, insurance costs, and losses resulting from asset deterioration even though the financed property remains jointly owned by both parties. These findings suggest that the allocation of risks in practice does not always reflect the proportional ownership structure envisioned under the musharakah framework.

This kind of implementation pattern has the potential to shift the basic character of MMQ from a partnership contract based on risk sharing to a financing contract that resembles interest-based credit (risk transfer), even though it is formally packaged in sharia contract terminology and structure. If this condition is left unchecked, the substance of the musharakah contract can be reduced and potentially contradicts the principle of justice which is the spirit of Islamic law (Ismail et al. 2024).

Another important issue concerns the determination of ujrah (rental payments), which serves as a key indicator in evaluating the consistency of MMQ implementation with Islamic legal principles. In practice, the amount of ujrah is often established by the bank with limited customer involvement and is generally fixed for a specified period. Previous research has further revealed that the calculation of ujrah is frequently linked to conventional financial benchmarks, including prevailing interest-rate trends or institutional profit targets, rather than being derived exclusively from the actual rental value of the underlying asset. As a result, some scholars argue that this approach diminishes the substantive distinction between MMQ and conventional mortgage financing, making it one of the most debated aspects of MMQ implementation (Kasanah and Mustaqim 2020). In fact, in a partnership-based contract, every profit obtained should have a clear relationship with the condition and performance of the asset that is the object of the contract, so as not to cause an element of injustice or exploitation against one of the parties.

Thus, even though formally the Musharakah Mutanaqisah contract in sharia housing financing has fulfilled the principles and requirements of the contract according to Islamic law, substantively its implementation still requires significant improvement. Strengthening the substance of the contract is needed so that the MMQ is not only normatively valid, but also truly reflects the value of justice, partnership, and proportionate risk sharing as required by fiqh muamalah. Without these improvements, the practice of MMQ has the potential to lose its authentic character as a musharakah contract and risks deviating from the purpose of Islamic law, which is to realize benefits, justice, and balance in economic transactions.

Analysis of the Implementation of the Musharakah Mutanaqisah Agreement in a Positive Legal Perspective

From a positive legal perspective, the results of the study show that the implementation of the Musharakah Mutanaqisah (MMQ) contract in sharia housing financing has a legal basis and is within a clear regulatory framework. Law Number 21 of 2008 concerning Sharia Banking provides legitimacy for the use of partnership-based contracts as financing instruments that are allowed in the business activities of Islamic banks (Makraja et al. 2025). In addition, various implementing regulations issued by the Financial Services Authority (OJK) also open up a wide enough space for Islamic banks to develop housing financing products based on sharia principles, including the Musharakah Mutanaqisah contract. This regulatory framework shows that formally, MMQ has been recognized as part of the national legal system and can be implemented by Islamic banks as a legitimate housing financing alternative (Asyiqin and Alfurqon 2024).

However, further analysis of the implementation of the Musharakah Mutanaqisah contract in Islamic banking practice shows that there are problems related to the contract structure used. In general, MMQ contracts are outlined in the form of standard contracts that are drawn up unilaterally by Islamic banks. This type of contract limits the negotiation space for customers and puts banks in a more dominant position in determining the content of the agreement. This condition causes the customer's bargaining position to be very limited, especially in housing financing that is long-term and involves large economic value. From a positive legal point of view, the use of standard agreements is indeed allowed as long as it does not conflict with laws and regulations, but must still pay attention to the principles of justice and balance of the parties. Empirical studies on Islamic housing financing indicate that customers generally have little opportunity to negotiate substantive contractual provisions because the agreements are prepared in a standard form by the bank. Clauses concerning penalties, maintenance obligations, default provisions, and dispute settlement mechanisms are frequently predetermined, thereby reducing customer bargaining power. For instance, a number of MMQ financing agreements place responsibility for property maintenance expenses and takaful contributions on customers throughout the financing period, even though ownership of the asset continues to be jointly held by both the bank and the customer.

The imbalance in the position of the parties in the Musharakah Mutanaqisah contract has direct implications for the potential for weakening legal protection for sharia housing financing customers (Agustin and Hastriana 2024). In practice, a number of contractual clauses, such as the transfer of asset ownership risk, the imposition of late payment fines, and dispute resolution mechanisms, tend to be more favorable to banks. These clauses are often formulated unilaterally and do not provide adequate protection for the customer in the event of a default or legal dispute. From the perspective of treaty law, this condition has the potential to conflict with the principle of equality of bargaining power, the principle of justice, and the principle of good faith which are fundamental principles in contract law in Indonesia. If these principles are not met, then the legal purpose of the agreement is to create a fair and balanced legal relationship between the parties. For example, several MMQ contract models require customers to bear maintenance costs, insurance contributions, and administrative fees throughout the financing period despite the fact that ownership of the asset remains jointly shared with the bank. Such provisions illustrate how contractual obligations may become disproportionately concentrated on customers.

Thus, although formally the Musharakah Mutanaqisah contract in sharia housing financing is legal according to positive law and has strong regulatory legitimacy, its implementation still requires strengthening in the aspects of contractual justice and consumer protection. Efforts are needed to evaluate the structure and substance of the MMQ contract so that it not only meets the formal requirements of positive law, but also reflects the value of justice and balance which is the main goal of treaty law. Strengthening supervision by regulators, improving contract clauses, and increasing information transparency to customers are important steps so that the implementation of the Musharakah Mutanaqisah contract is truly able to provide legal certainty and fair protection for all parties involved in sharia housing financing.

Discussion of the Implementation of Musharakah Mutanaqisah in the Perspective of Maqāṣid al-Syarī'ah

In the perspective of maqāṣid al-syarī'ah, the Musharakah Mutanaqisah (MMQ) contract is basically designed as a housing financing instrument that is not only oriented towards achieving economic benefits, but also on the realization of benefits (maṣlaḥah), justice (al-'adl), and the balance of legal relations between Islamic banks and customers (Masse 2025). The main purpose of the implementation of MMQ is to protect property (ḥifẓ al-māl), prevent exploitative practices, and ensure a proportionate distribution of risks and benefits according to the portion of ownership of each party (Setiadi 2020). In the context of housing financing, the purpose of this maqāṣid has a very strong relevance, considering that housing is a basic need of society that is directly related to the sustainability of life and family welfare. Therefore, the implementation of MMQ should reflect the true value of the partnership and ensure that no party is structurally harmed in the financing relationship.

However, the results of the discussion show that the practice of Musharakah Mutanaqisah contracts in sharia housing financing still tends to be oriented towards the certainty of bank profits, so that it has the potential to obscure the purpose of maqāṣid al-syarī'ah which should be the main foundation of sharia financing. In many cases, MMQ is practiced in a pattern that resembles debt-based financing, where bank profits are guaranteed through a fixed lease mechanism (ujrah), while the risk of asset ownership is largely transferred to the customer. Empirical findings reported by Nasrullah and Rosyadi (2017) and Agustin and Hastriana (2024) indicate that customers frequently assume responsibility for property-related expenses and operational risks, while banks continue to receive predetermined returns through the ujrah mechanism. These findings suggest that the distribution of rights and responsibilities in certain MMQ practices does not fully reflect the partnership principles and equitable arrangements envisioned by maqāṣid al-syarī'ah. This kind of implementation pattern reduces the substance of partnership and risk sharing that is the spirit of musharakah contracts, and has the potential to make MMQ a form of formalistic contract that loses its substantive justice value (Asyiqin and Alfurqon 2024).

Furthermore, from the perspective of maqāṣid al-syarī'ah, the lack of transparency in the determination of leases, the lack of room for customer participation in the determination of contract clauses, and the dominance of agreement provisions that benefit the bank indicate that there are practices that are not fully in line with the principles of benefit and justice. When the client does not have a balanced bargaining position and does not obtain adequate information about the financing structure, the objectives of asset protection (ḥifẓ al-māl) and the prevention of injustice become difficult to achieve. In this context, the application of MMQ that is too administrative and profit-oriented has the potential to cause mafsadah in the form of inequality in legal relations, weakening public trust in Islamic banking, and blurring substantive differences between the Islamic and conventional financial systems (Hadiat, Mukhlas, and Rusyana 2024).

Therefore, the discussion from the perspective of maqāṣid al-syarī'ah emphasizes the need to reorient the implementation of the Musharakah Mutanaqisah contract in sharia housing financing. The reorientation must be directed at strengthening partnership values, increasing transparency, and fairer risk sharing between banks and customers. Islamic banks are not only required to comply with normative and regulatory provisions, but also to internalize sharia objectives in every aspect of contract implementation. Thus, MMQ is not only formally legal, but also able to function as a just, sustainable, and truly oriented sharia housing financing instrument in accordance with the main goal of maqāṣid al-syarī'ah.

Legal Implications and Research Gap Discussion

Table 1. Empirical Findings on the Implementation Challenges of Musharakah Mutanaqisah (MMQ)

Previous Study	Empirical Findings	Legal Implications
Nasrullah & Rosyadi (2017)	Customers bear maintenance and insurance costs	Weak implementation of risk-sharing
Kasanah & Mustaqim (2020)	Ujrah linked to conventional benchmarks	Reduced distinction from conventional financing
Agustin & Hastriana (2024)	Standardized contracts dominate financing agreements	Limited customer bargaining power

The findings presented in Table 1 demonstrate that the challenges associated with MMQ implementation are not merely theoretical concerns but have been repeatedly identified in empirical studies. These recurring issues suggest that a gap continues to exist between the normative objectives of MMQ and its practical implementation in Islamic housing financing.

The results of this study expressly show that there is a real gap between the normative concept of the Musharakah Mutanaqisah (MMQ) contract as formulated in fiqh muamalah, DSN-MUI fatwa, and Islamic banking regulations, and its implementation in the practice of sharia housing financing. Normatively, MMQ is designed as a partnership agreement that emphasizes joint ownership, proportionate risk sharing, and fairness of the legal relationship between banks and customers (Hadiah et al., 2024). However, the findings of the study show that in practice, MMQ is often implemented administratively and formally, so that the substance of partnership and risk sharing which is the main character of this contract has not been fully realized. This condition confirms the existence of a gap between norms and practices that are not only technical, but also touch on substantial aspects of the purpose of sharia financing itself (Asyiqin and Alfurqon 2024).

These findings also confirm the research gap that has been identified in the research background, namely the lack of studies that comprehensively relate the normative dimension of Islamic law, positive legal frameworks, banking practices, and the purpose of maqāṣid al-syarī'ah in the implementation of the Musharakah Mutanaqisah contract. Most previous research tends to discuss MMQ partially, either only from the aspect of contract validity, financial performance aspect, or customer preference aspect, without conducting an integrative analysis of the legal implications and substantive justice in the practice of sharia housing financing. Therefore, this research makes an academic contribution by placing MMQ not solely as a financing product, but as a legal instrument that must be critically assessed from the aspects of justice, partnership, legal certainty, and protection of customer rights (Rahmah and Hastriana 2025).

The legal implications of the findings of this study show the need to strengthen supervision and more detailed regulation on the implementation of the Musharakah Mutanaqisah contract in sharia housing financing. It is not enough for sharia supervision to focus only on fulfilling the formal aspects of the contract, but must also be directed at testing the substance of the implementation of MMQ, especially in the aspects of risk sharing, rent determination (ujrah), and the contract structure used (Huda and Azzahro 2025). In addition, regulators and relevant authorities need to encourage the preparation of more comprehensive technical guidelines so that MMQ practices do not deviate from the principles of partnership and justice which are the spirit of musharakah contracts. Strengthening this regulation is important to ensure that Islamic banks are not only normatively compliant, but also morally and socially responsible in implementing Islamic housing financing (Komaria 2025).

Furthermore, from the perspective of consumer protection, the findings of this study indicate the importance of increasing contract transparency and balancing the position of the parties in the Musharakah Mutanaqisah contract. Housing financing customers need to obtain clear and comprehensive information about their rights and obligations, risk-sharing mechanisms, and the legal implications of each contract clause. Thus, MMQ can function as a financing instrument that is not only normatively legitimate, but also fair and protects the interests of customers. Overall, this study emphasizes that strengthening the implementation of the Musharakah Mutanaqisah contract is an important prerequisite for realizing the main goal of sharia housing financing that is fair, sustainable, and oriented towards the benefit of the community in accordance with the values of maqāṣid al-shari'ah.

CONCLUSION

The findings of this study indicate that the Musharakah Mutanaqisah (MMQ) contract has a clear legal foundation within both Islamic law and the Indonesian legal framework, making it a legitimate instrument for sharia housing financing. Nevertheless, the implementation of MMQ in practice does not always reflect the partnership-based principles upon which the contract is founded. Several issues were identified, including the concentration of certain ownership-related risks on customers, the application of fixed ujrah arrangements, and the widespread use of standardized contracts that provide limited room for customer negotiation. These practices may reduce the realization of the principles of justice, partnership, and proportional risk sharing that form the core values of fiqh muamalah and maqāṣid al-syarīʿah. In addition, from a positive law perspective, such conditions may affect the balance of contractual relations and the level of legal protection available to customers. Accordingly, greater attention should be given to strengthening supervisory mechanisms, refining technical regulations, and promoting transparency in MMQ agreements so that their implementation more closely reflects both the objectives of Islamic law and the principles of legal certainty and fairness in sharia housing financing.

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