

The Application of Sanda (Rahn) in the Meranaw Society in the Bangsamoro Autonomous Region in Muslim Mindanao

Dr. Abdulcader M. Ayo

Mindanao State University, Marawi City, Philippines

Abstract - *Rahn is an alternative way of a person to meet his needs when human being faces financial problem. It is a contract between the debtor and the creditor involving property whether movable or immovable property in exchange with a certain sum of money within reasonable period of time. This study will be conducted to identify the application of Sanda (Rahn) in the BARMM. The study made use of Cross-Sectional Survey research design and utilize descriptive survey method for the collection of primary data from the respondents, by means of self-structured validated questionnaire. Survey questionnaire was distributed through purposive quota sampling from the 500 Ulama respondents in the entire Bangsamoro Autonomous Region in Muslim Mindanao. The study result includes the application of Islamic law on Rahn and its concept and its principles. It was also found out that Islam permits the practice of Mortgage as it is established in the Holy Qur'an and The Sunnah of the Prophet Muhammad (S.A.W). Sanda (Rahn) is an alternative way for the Meranaw to solve their financial needs, without taking any interest out of that mortgage and the preservation and protection of the property is observed. However, there are still Meranaws who have no much knowledge on Islamic mortgage as to its validity and acceptance because they only know what is prohibited in any kind of transaction is the prohibition of riba but they pay less attention to some of their financial transactions that can fall into a riba like too much mark-up profit into goods for sell. Moreover, in line with the findings of the study, this paper humbly proposes recommendation to ensure that the Muslim Society in the BARMM does not practice any prohibited acts concerning Riba transaction. Furthermore, this study can be one of references for the proper application of Sanda in connection with the concept and principles of Rahn.*

Keywords: *Rahn, Sanda, Mortgage, Meranaw Society, Bangsamoro Autonomous Region in Muslim Mindanao (BARMM)*

1. INTRODUCTION

In Islam, sanda (rahn) or what is called mortgage in English is allowed as long as it does not involve any Riba (interests). Securing or protecting pledged properties is the reason for the legality of practicing mortgage (Al-Fawzan, 2005). There are many methods of exercising Mortgage. As far as the practiced of Mortgage and Riba (interests) are concerned, it is seen that Riba is practiced in all pawnshop specifically in the non-Muslim area and also in the Bank.

One of the customary contracts known in Meranaw society is Sanda or Sanla. It is a transaction widely practiced by Meranaws out of necessity. In the local tongue, another customary transaction is Lanao is called "Ka'apin" or "Kapagapina". Another one is Kapangasha. (Bara-acal and Astih, 1998). As observed, most but not totally majority, in Meranaw society the contracts with a condition made by them are not in a written form instead they made a contract verbally. Some of this transaction will lead to dispute because there is no evidence presented to resolve the issue.

The problem of a believer (Muslim) is how they know the validity and limitation of mortgage. Furthermore, Meranaw used the doctrine of intentionally, presumption of continuity (Istishab) and necessity (Darurah) when there is no other remedy to solve the financial problem. However, this might not support a person's activity with the religious precept of caution. Sanda should be distributed to those in need, but their suffering cannot be used for financial gain. If the debtor has trouble making payments, he should be given extra time, and if it's possible, it's much better if the loan is completely forgiven as charity.

Siddiq notes that the major reason Islam forbids interest is because it involves oppression and exploitation (as noted by Weeramantry, 2001). It cannot be denied that any act without knowing and following it

properly can be created a doubt and that can be fall into illegal act which Islam totally prohibited to do illegal acts. In order to remove our doubt of the Meranaw Concept on Mortgage, their consequences in terms of Islamic law and those who abstain from anything that might tarnish their faith regardless of actual illegality.

2. LITERATURE REVIEW

The research was anchored on the following theories and concepts:

1.1 Title theory

According to the title theory, a mortgage transfers the mortgagor's ownership of the mortgaged property to the mortgagee, who keeps it until the mortgage is repaid or the property is repossessed. According to title theory, a mortgage has the same effect as a deed giving the mortgagee conditional legal title to the mortgaged property. According to the title theory, the passing of title is conditional due to the mortgagors' continued equality of redemption.

Based on this theory, the Meranaw Concept of Mortgage adequately explains how properties transfer legal ownership of the mortgaged property from a debtor to a creditor in the event that they are unable to fulfill their contractual obligations, however, this can be fall either valid and accepted in Islam or its highly prohibited in Islam. it must be noted that property that property is secure and preserve in the hands of the creditor against its loss, which means the mortgaged property remains to the real owner in case of fulfillment of debt but in case the agreement made by the creditor and the debtor does not fulfill, the legal title of the property may be transferred to the creditor.

1.2 Islamic Concept on Mortgage (Ar-Rahn)

The AAOIFI (2020) states that "mortgage (ar-rahn) implies to make a financial commitment. Asset is so closely related to a debt that, in the event of default, the asset or its value is used to pay off the loan (AAOIFI Shari Standards, 2010, p.697). "Ar-Rahn is a security for a debt against an article that can cover or its value in case of non-fulfillment" (Al-jaza'iry, 2001, p.258). Rahn is an agreement where the collateral is used as a replacement for valuable asset. The collateral is lost if the mortgagor is unable to pay the debt (Khan and Nisar, 2004). "The mortgaged product is referred to as a mortgage, the mortgagee is the creditor, the mortgaged is the debtor" (Matrji, 1998). Muslim scholars have various definitions of Ar-Rahn under Islamic law such as Shafi'i defined *al-rahn* as "taking a non-fungible property as insurance against a fungible debt, whereby the debt may be extracted from the held property if it is not repaid". According to Hanbali it is "property to ensure the payment of a debt in case of default". Meanwhile, Maliki defined it as "act of taking valuable property from its owner as a mean of ensuring payment of loan that has matured or about to matured". Hanafi Jurist submitted al-Rahn terms as "holding something right because the taking of debt". According to Koe and Zalindah (2015), QardhulHassn (charitable loan), Wadiah Yad Amanah (trustworthiness), Al-Ujrah (safekeeping), and Wadiah Yad Dhamanah (safekeeping with guarantee) are the Shariah principles from which Rahn is derived. Rahn can be thought as as an active Islamic pawnbroking system with aqad (contract) as its foundation and mutual understanding between the lender and the borrower free of interest, however this cannot include particular costs (Koe and Zalindah, 2015). In this manner, Rahn is presented to the interested party: (1) the mortgagee borrows money from the mortgagor without interest (Qard Hassan), (2) the mortgagor uses his property as collateral and the mortgagee issues fees for security, (3) the mortgagee keeps the property until the time when the mortgagor is able to pay the debt, and (4) after the mortgagor pays the debt, the mortgagee returns the former's property.

Qardhul Hassan pertains to the concept of "any financial loan with no charge of Without adding any extra fees or premiums to the main amount, Murtahin gave Rahin a loan (Amin, 2011). Based on Al-Rahn, the murthain is permitted to secure the collateral by using the wadiah contract and, also, taking into consideration the mutual confidence between the two parties that any evidence leading to the mishandling and misuse of said properties will fall under the jurisdiction of Rahin. However, it is noteworthy that the concept of wadiah yad damanah, or savings with a promise of protection, has become the main tenet and assurance that the property will be kept securely by the Murtahin in modern Islamic pawnbroking practice (Shater, Hatta and Kamis, 2017).

1.3 Legal Basis of Mortgage (Ar-Rahn)

Several authors have stated that the Holy Qur'an and the Prophet Muhammad's (peace be upon him) Hadiths support the validity of the mortgage practice (AlFawzan, 2005, Al-Jazairy, 2001, Matrji, 1998). Allah said in the Holy Qur'an:

“And if you are on a Journey and cannot find a scribe, then let there be a pledge taken (Mortgaging), then if one of you entrust the other, let the one who is entrusted discharge his trust, and let him have Taqwa of Allah, his Lord, And conceal not the evidence, for he who hides it, surely, his heart is sinful. And Allah is All knower of what you do.” (Al-Baqarah, 283)

According to Ibn Kather (1999), borrowing money and pledging an item as a collateral by anyone who is in journey is allowed in Islam, in case in the absence of scribing the transaction and no witnesses of both parties is present (Ibn Kather, 1999). And the Prophet Muhammad (Peace be upon him) said: *“the one who pawned an item has not been completely closed off from it; any increase in its value goes to him and loss of liability must be borne by him.”* (Ash-Shafi’i, Ad-Daraqutni and Ibn Majah, and it is Hassan due to its numerous routes of transmission). Moreover, another authentic Hadith as a legal basis of the Mortgage: *“Aisha narrated that the Prophet had bought some food from a Jew and He (S.A.W) pledge to him his steal armors “* (Narrated by Bukhari, Muslim and Ibn Majah)

1.4 Pillars and Conditions of Mortgage (Ar-Rahn)

The pillars and conditions as well as the legal terms of Rahn contract are mentioned in the book of Islamic Fiqh by Mohammad Anwar are: Ijab and Qabul (Shigat), this may be established by the both parties stating the intention of the pledge agreement either through scribing the agreement or through verbal form; (2) The transaction of Aqid (contract), the conditions that the Rahin (provider of collateral) and Murtahin (receiver of collateral) are of legal age, literate and aware of his intentions; (3) The Collateral Asset, the conditions that the Rahin pawned assets is valuable and it is not connected with other assets; and (4) The debt (MarhunBih) the conditions of debt is used as basis of mortgage as a type of debt that can be useful to the party, prevalent during transaction, specific and known by the Rahin and Murtahin, this is in accordance with the view of the Hanafi and Shafi’i Madhab (Sunni Muslim School of Law) (Maulidizen, 2018).

1.5 Objective of Mortgage (Ar-Rahn)

Al-Rahn’s target group is usually represented by financially challenged individuals who seek to establish business without capital but who are, unfortunately, not qualified to be funded by financial institutions. Al-Rahn aims to offer micro-credits facilities efficiently and reliably. Rahn is also another promising option which is permissible in Islam for people with lower income to transact mortgages (Othman and Atikullah, 2019). Through Al-Rahn; people earning lower than most and starting traders are given a chance to obtain capital or funds without resorting to other costly methods of borrowing money or loan just to gain capital, finance educational needs, and develop agricultural industries. This contract helps reduce the number of people who succumb to the unlawful ways of opportunists or loan sharks (Kambara, 2017).

Furthermore, according to Bin MohdNoar and Lin bt Ahmad (2015), people regard Al-Rahn as a convenient way to incur loans for shorter periods of time (Bin MohdNoar and Lin bt Ahmad, 2015) Proof of Al-Rahn’s objective which is to help people with lower income by giving means to acquire micro financing services can be seen in Fathil’s study in 2017, this shows an Islamic banking institution in Malaysia established since 1993 which has greatly helped people needing financial support. Another study by Amuda and Deraman (2015) inferred that individuals who lend money through Rahn have the ability to alleviate underprivileged talented people of their financial problems, increasing their income by giving them capital to establish businesses or whatever purpose the transaction may serve (Amuda and Deraman, 2015). Islamic Pawn broking services offer efficiency and transparency when it comes to micro credit facilities unlike mainstream pawn broking services (Bhatt, 2008).

1.6 Ruling of Ar-Rahn

In by book of Ayub M., (2007) as cited by the book of Radiamoda (2016) emphasized the following situations which are the important rulings of Ar-Rahn: (1) the debtor should be the owner of the collateral: (2) Any item can be considered as collateral in mortgage unless the item is prohibited to be sold under Islamic law; the mortgagee has the right ask the mortgagor to pay his debt; (3) Once the contract ends, the mortgagee may ask the mortgagor to pay the debt; (4) The mortgagee is responsible for any damage done to the property, may it be out of carelessness or failure to take care of the property; (5) Any profit taken from the collateral belongs to the mortgagor, hence, the maintenance for its livelihood is his responsibility as it is mentioned in an authenticated hadith by Al- Bukhari; (6) Benefitting from the pawned animal such as making use of it as the mortgagee’s ride or drinking its ilk is allowed if such activities do not go beyond the total expenses spent by the mortgagee from the pawned animal; (7) In such a case wherein the mortgagee repairs a pawned building without notifying the real owner(8) In the unfortunate event where the mortgagor dies or faces bankruptcy, the

mortgagee has the most claim to the pound item than the other people whom the mortgagor owes. Once the mortgagee has no right to ask payment for the cost of the repair/s done; contract between the mortgagee and mortgagor expires, the mortgagee has the right to sell the mortgaged item and get what the mortgagor owes him.

Thus, the excess amount shall be returned to the owner; (9) In the event where a disagreement between the mortgagee and mortgagor about how much the debt is comes to pass, the statement of the mortgagee shall only be acknowledged by taking an oath; and (10) Disagreements between the mortgagee and mortgagor shall be resolved through the Prophet Muhammad's (peace be on him) words, "The proof is to be provided by the plaintiff, otherwise the defendant has to take an oath" (Al-Bukhari) in case the parties cannot be settled.

1.7 Prohibition of Riba

The growth or any increase in things from stipulated wealth is called Riba (AlJazaire, 2016). The concept of Riba is considered a sensitive matter in Muslim society. There are Islamic signs and revelations regarding the prohibition of Riba. Allah (S.W.A.) threatens those who deal in Riba despite His prohibitions and warnings through this revelation: Allah Exalted be He, says: *"those who consume interest cannot stand (on the day of resurrection) except as one stands who is being beaten by Satan into insanity.."* In the above verse, Allah (S.W.A.) addresses those persons dealing in Riba, those who accept interest from it that one "Cannot stand" from his grave "except as one stand who is being beaten by Satan into insanity" meaning the one who lends money and puts up interest stands like a person with a condition in which he suffers seizures or convulsions. This is a metaphor which means that such person acknowledged the concept of putting up interest in his past life despite the prohibitions and it took much space of his abdomen (Al-Fawzan, 2005).

3. RESEARCH METHODOLOGY

This study was conducted to identify the application of Sanda (Rahn) in the BARMM. The study made use of Cross-Sectional Survey research design and utilize descriptive survey method for the collection of primary data from the respondents, by means of self-structured validated questionnaire. Survey questionnaire was distributed through purposive quota sampling from the 500 Ulama respondents. The researcher patiently waited for other respondents to answer the said questionnaire.

This study was carried out in a few chosen locations in Muslim Mindanao's Bangsamoro Autonomous Region and Mindanao. An administrative entity in the Philippines included in the Mindanao Island group is the Bangsamoro Autonomous Region in Muslim Mindanao, or BARMM. It includes Basilan, Lanao del Sur, Maguindanao, Sulu, and Tawi-Tawi provinces. The city of Cotabato serves as the regional hub. 4,404,288 people were living there as of the 2020 Census. This amounted to 4.04% of the Philippines' overall population, or 16.78% of the Mindanao Island group as a whole. These numbers are used to calculate the population density, which comes out to 120 people per square kilometer or 311 people per square mile.

In Muslim Mindanao, the Bangsamoro Autonomous Region consists of 5 provinces, 116 municipalities, and 2 cities. There are 2,490 barangays in the area as a whole. (<https://www.philatlas.com/mindanao/barmm.html>).

Utilizing statistical methods like frequency and percent for the demographic profile of the participants in terms of their age, educational achievement, civil status, occupation, and monthly income, the responses of the respondents to the questionnaires were tabulated, analyzed, and handled. To treat data pertaining to the respondents' responses as appropriate, Appropriate Mean and Weighted Mean were also employed.

4. RESULTS AND DISCUSSIONS

On the profile of the respondents, it was depicted that greater majority of them (75 or 75.0%) were males, while 25 or 25.0% were females. Majority, 51% of the respondents belong to the age bracket of below 35 years old. This is followed by the age above 40 years' old which has a percentage of 27% and completing the 100 respondents with a total of 100% belongs to the age bracket 35-40 or 22%. For the civil status, seventy-one (or 71.0%) were married, and twenty-nine (or 29.0%) were single. The data suggest that since majority of the respondents were married, a higher number of them has more experience and responsibility over the financial capability. Lastly, for the income of the respondents, there are 53 or 53% percent of respondents who have an income of P11,000 up to P20,000 a month. 34 or 34% percent are receiving an income of below P11,000 per month. 10 or 10% percent also are receiving a monthly income from P21,000 up to P30,000, while 3 or 3% are receiving a monthly income of P31,000 up to P40,000.

On the application of Islamic law on Rahn and its concepts and principles, it was further discussed based on the following top three indicators: tenth indicator which ranked first, ¹⁰Meranaws who engaged themselves in mortgage make contract agreement only if it includes a lot of money, with $\bar{x} = 3.14$, interpreted as *agree*; third indicator which ranked second, ³Mortgage becomes a popular choice especially among Meranaws when they face financial problem, $\bar{x} = 3.13$, read as *agree*; and the eight indicator which ranked third, ⁸Meranaws used mortgage from their own ideas without knowing the rulings of mortgage in Islamic Law, $\bar{x} = 3.08$, interpreted as *agree*.

The data implied that most of the responses of the respondents agreed that when it comes to Meranaw concept of mortgage, Meranaw uses mortgage as an alternative way to solve financial and important needs with interest free. It also means that there is indeed an application of Rahn among the respondents.

Bara-acal and Astih (1998), stated that Sanda or Sanla is a contract in which the agreement describes a person giving another individual a certain property (mal), the latter then gives the former a sum of money for whatever purpose the former has for it and is, thus, returned upon the agreed time. The ownership of the property shall be given to the latter if the former has failed to return the money. The terms "Sanda" and "Sanla" have the same meaning and, thus, can be interchanged. Associating this customary contract to mortgage (Rihan) is wrong because its concept which is coincidentally Islamic in nature does not allow interest (Riba).

On the validity of mortgage in Islamic point of view as perceived by the Ulama respondents, the following top three indicators show respondents responses with respective ranks, summations and means such as: second indicator which ranked first, ²In Islamic point of view, Mortgage is an interest-free loan, with $\bar{x} = 3.99$, interpreted as *agree*; fourth indicator which ranked second, ⁴In Islamic point of view, the creditor is illegal to make use of the mortgage, $\bar{x} = 3.60$, read as *agree*; and the eight indicator which ranked third, ⁸In Islamic point of view, Mortgage must be scribed into a writing form because others do not have enough knowledge on Islamic mortgage as to its validity and acceptance if not prescribed written $\bar{x} = 3.40$, interpreted as *agree*.

The data implied that most of the responses of the respondents agreed that when it comes to validity of mortgage in Islamic point of view, Islamic mortgage prohibits the element of riba from that transaction and gives benefit to the debtor that debtor can still get the item in case the debtor is able to pay the debt on which that item is only a collateral for the mortgage in case the debtor is not able to pay the debt.

In the study of Koe and Zalindah (2015); they stated that the Shariah principles which Rahn is derived from are the following: QardhulHassn (benevolent loan), Wadiah Yad -Amanah or trustworthiness, Al-Ujrah or safekeeping and Wadiah Yad Dhamanah or safekeeping with guarantee. The simply put, Rahn can be considered as an operating Islamic pawn broking system with aqad (contract) as its basis and a mutual confidence between the lender and borrower free of interest, however, this must not entail specific fees (Koe and Zalindah, 2015).

5. CONCLUSIONS AND RECOMMENDATIONS

Based on the finding of this study, the researcher arrived at the following conclusions:

The application of Islamic law on mortgage are not totally followed by the Meranaws when they used mortgage as a tool to solve financial needs and important personal necessities. However, there are still people who have no much knowledge on Islamic mortgage as to its validity and acceptance of mortgage because they only know what is prohibited in any kind of transaction is the prohibition of riba but they cannot notice that some of their act can be fall into a riba.

Also, as shown on their responses on the validity of mortgage among the Meranaw society, a great emphasis that in order to make it valid, as shown on their responses on the validity of mortgage in Islamic point of view, The Mortgagor and the Mortgagee and the mortgage property give importance in Islamic Law, it protects the both parties for maintaining justice between them and the protection of the property against damage and loss. The Islamic viewpoint on Sanda (Mortgage) helps the poor to alleviate their financial problem and removes the unjust elements of Riba against oppression to the poor.

Furthermore, mortgage is a permissible contract in Islamic law. It is known from the Qur'an, the Sunnah of the Prophet Muhammad (S.A.W) . This mortgage will help in battling the prohibition of Riba and secure the property against loss. As shown on their responses on the acceptance of mortgage in the Meranaw Society, any kind of valuable property can be acceptable to be mortgaged as a collateral until the period of

payment of debt is expired. Mortgage can be done anywhere wherever maybe they are. Finally, the Shari'ah principles and pillars and conditions of sanda (mortgage) in Islamic Perspectives is the strongest factor in order to make Sanda (mortgage) valid in the meranaw society.

With the abovementioned conclusions, it is recommended to have more knowledge in Islamic mortgage, the local government of Lanao del sur should necessarily provide an enhanced program involving Meranaws to provide seminars, symposiums and other activities so they can understand the real concept of mortgage in line with Islamic law so they apply it without committing prohibited acts and they should be aware of the negative outcomes regarding improper implementation of mortgage in Meranaw society. In addition, the Ulama should participate in joining mortgage because they have the authority to decide whether its transaction is valid and accepted in Islam or not. The Ulama have enough knowledge on how to practice properly the mortgage to the meranaw. Lastly, to ensure that the Muslim Society in the BARMM does not practice any prohibited acts concerning Riba transaction, it is very important to know the rules and policies regarding practicing mortgage, the local government should print a manual which indicated the rules and policies regarding mortgage which is made by the Ulama. Thus, this study can be one of references for the proper application of Sanda in connection with the concept and principles of Rahn.

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