

CHAPTER I

INTRODUCTION

A. Background of Research

The development of technology and information in the world has increasingly triggered the people to run their work quickly and efficiently including their businesses enterprises. New businesses have emerged as the result of contested relationship between technology and information system.

In Indonesia there have been spectacular growth of new business venture such as the franchise system, business finder, application developer, restaurant and food sectors which are conducted on the basis of partnership agreements. The share system that uses business cooperation agreements is one of the strategies that can be chosen by business actors. The revenue sharing system itself is a business in which there is agreement to share the outcome of profit that can be between the two parties or more. Because the business is the activity of making one's living or making money by producing or buying and selling products of goods and services to other people, the collaboration then should be based on the agreement that binds the parties who conduct business with the share system. Thus, the cooperation agreement is a formal business document outlining the basic terms of agreement between two or more persons in carrying out a joint venture with one mutually beneficial purpose; the legal basis of the

agreement is Article 1313 Civil Code which is a covenant of a deed of one person or more binding himself to one person or more’.

In Indonesia, one of the business sectors that applies business cooperation agreement is food restaurant of Ayam Geprek Sa’i in Yogyakarta. Ayam Geprek Sa’i is managed through Sharia-based partnership that is engaged in a fast food restaurant serving *Ayam Geprek*, *Ayam Goreng Tepung*, *Ayam Penyet*, and *Steak dan Nasi Goreng*, with the concept of serving healthy food, quality, *halal* with a distinctive flavour. It offers some forms of partnership management to other parties such as franchise free, revenue share of 30% management, and 70% of partnership profit.¹

The agreement on Ayam Geprek Sa’i is a sharia-based agreement, it is in the agreement itself which explains the use of *Akad Syirkah Mudharabah*, where in its implementation uses the principle of revenue sharing which is the profit sharing of the proceeds from a business between the owner of the fund (*shahibul maal*) and the fund manager (*mudharib*), in *Akad Syirkah Mudharabah* Ayam Geprek Sa’i here is referred to as the owner of the capital and the owner of the brand. The basis of sharia law in the use of *Akad Syirkah Mudharabah* is one of them contained in the Qur'an surah Al-Baqarah verse 282.

Basically *Akad Syirkah Mudharabah* Ayam Geprek Sa’i is a standard/standard agreement in which there is a standard clause, which is

¹ Ayamgeprek-sai.com, Ayam Geprek Sa’i adalah manajemen kemitraan berbasis syariah, 2017, <http://ayamgeprek-sai.com/tentang_kami.html> [accessed on 30 November 2019 14:00 WIB].

the owner of the brand full authority over the determination of the contents of the *Akad Syirkah Mudharabah* itself, which includes the rights and obligations of the parties. Then, business people who are interested in becoming the owner of Ayam Geprek Sa'i capital only have the right to agree to all the contents of the agreement or are deemed to have never done at all if they do not agree to the contents of the agreement, which means that the owner of the capital is not given the opportunity to change part or all of the contents of the *Akad Syirkah Mudharabah Ayam Geprek Sa'i*.

The use of agreements of this type of standard agreement, there is usually the content of the agreement that more protects the interests unilaterally, especially in terms of the division of the rights and obligations of each relevant party. This makes the other party more likely to be harmed because it is weak in having a guarantee of protection during the business process. In addition, in the implementation of the *Akad Syirkah Mudharabah Ayam Geprek Sa'i* between the capital owner and the owner of Ayam Geprek Sa'i brand there are still weaknesses that cause problems, including vagueness about the arrangement of rights and obligations for the capital owner itself, as well as the content structure of the *Akad Syirkah Mudharabah Ayam Geprek Sa'i* which is not in accordance with the standard standards in the anatomy of the agreement resulting in weak legal protection.

Within the cooperation agreement, there is a legal relationship that raises the consequences of the law that makes the linkage between the two, where each bound party has the rights and obligations to be followed during the agreement, which is also valid as a law for its creators in accordance with Article 1338 Paragraph (1) of Civil Code. However, the execution of the agreement does not always run in accordance with the expectation since a problem arises among the parties due to the loss that can occur on the party of the one resulting from the negligence of an other party. The negligence on either the parties who are delayed or do not perform obligations that have been paid by both parties harms an other party.

Thus, there is a need to review the *Akad Syirkah Mudharabah* on the brand Ayam Geprek Sa'i with the attention of *das solen das sein* which means seeing from the agreement made then compare it to the facts happening in the field and compare it to the relevant regulations that apply today. The aim is to find the right and obligation arrangement of the related parties, especially for the capital owner in the agreement so that it is expected to provide legal protection to the capital owner itself and can prevent the existence of arbitrariness by one party that could harm another party; then this can also be an evaluation material for business actors.

Based on the above description, the author is interested in researching and examining more about how the arrangements related to the rights and obligations of the capital owner and legal protection for the

capital owner in the implementation of the *Akad Syirkah Mudharabah Ayam Geprek Sa'i* in Yogyakarta. The author composes her interest with the title “**LEGAL PROTECTION FOR CAPITAL OWNER IN THE IMPLEMENTATION OF AKAD SYIRKAH MUDHARABAH AYAM GEPREK SA’I IN YOGYAKARTA**”.

B. Statement of Problem

Based on the background, it can be stated that the statement problems are;

1. How is the arrangement of the rights and obligations for the capital owner in the implementation of *Akad Syirkah Mudharabah Ayam Geprek Sa'i* in Yogyakarta?
2. How is the legal protection for the capital owner in the implementation of *Akad Syirkah Mudharabah Ayam Geprek Sa'i* in Yogyakarta?

C. Objective of Research

The objectives that this research aims to accomplish are;

1. To know the arrangement of the rights and obligations for the capital owner in the implementation of *Akad Syirkah Mudharabah Ayam Geprek Sa'i* in Yogyakarta
2. To know the legal protection for the capital owner in the implementation of *Akad Syirkah Mudharabah Ayam Geprek Sa'i* in Yogyakarta

D. Benefits of Research

From the results of this research is expected to provide benefits to be achieved, namely;

1. Theoretical Benefits

The results of this research are expected to be a reference and can add insight to the researchers and students of legal sciences, especially on agreements, especially in business cooperation agreements.

2. Practical Benefits

The results of this research are expected to be an input material in conducting business strategy, so it can be used as a consideration in planning business ventures, especially the business that uses the share system.