



Research Paper

A Review of Sharia Economic Law on the Practice of Buying and Selling Non-Fungible Tokens (NFTs) That Others Proprietary in the Curate Application

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ARTICLE INFO

Keywords:

Curate;
Non-Fungible Tokens;
Sharia Economic Law.

Article history:

Received: 21-01-2025
Revised: 05-06-2025
Accepted: 21-06-2025
Available online: 30-06-2025

ABSTRACT

Curate is one of the popular buying and selling applications for Non Fungible Tokens among the lovers. The shortcomings contained in the curate application are used by application users to sell Non-Fungible Tokens which of course can harm others. The purpose of this study is to find out the practice of selling Non-Fungible Tokens not proprietary in Online Market Curate and a review of sharia economic law on the sale of non-fungible tokens that are not proprietary in Online Market Curate. This type of research is field research. The data sources in this study include primary data from interviews and observations, while secondary data comes from books, fiqh books, journals, and the internet. The data collection method of this research was obtained from interviews, observations, and documentation. The data obtained was processed using an analytical descriptive method using a qualitative approach based on the theory of sharia economic law. Based on the results of the research, it can be concluded that the motive for selling Non-Fungible Tokens is not proprietary based on the absence of strict regulations and the absence of sanctions given. A review of sharia economic law on the sale of non-fungible tokens that are not property rights on the Online Market Curate is a prohibited sale because it does not meet the requirements and the principles of bai', that is, the goods are in the status of ownership other than the seller, as well as prohibited sales because there are other factors that harm related parties, namely selling loot or stolen.

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Introduction

The development of technology continues to advance rapidly from time to time, especially in the current era with the convenience provided by the internet in facilitating human activities. Islam does not reject the development of the times, even supports it positively. For example, internet technology provides convenience in various buying and selling transactions,

including in Indonesia and even in the world, many people trade digital artworks in the form of Non Fungible Tokens (Arif, 2015).

Non-fungible tokens are a form of digital artwork that has a certificate of ownership recorded in the blockchain using a smart contract system. This ensures that there is only one legal ownership for each artwork, avoiding the possibility of double ownership. Although non-fungible artwork tokens can be accessed and immortalized by taking pictures using a mobile phone for free, official ownership is only recorded in the blockchain. These advances led James and Gadi Thomison to establish Curate. The platform, known as a Non Fungible Token trading platform, uses Xcur to print and sell digital artwork (Fajrussalam et al., 2022).

Curate's presence as a successful platform in the sale of Non Fungible Tokens has inspired youth to engage in digital artwork trading there. However, not all responded positively; some individuals have printed and sold photos with no legitimate ownership value on Curate, some have even taken and traded other people's digital artworks (Saroh et al., 2023). In addition, NFT buying and selling transactions on Curate do not only involve adults, but also involve all groups including minors. because the Curate application does not force the seller to pay gas fees or additional fees when they want to list their sales. Gas fees are an additional fee or can be called payment taxes in the form of cryptocurrencies must be incurred by the seller of Non Fungible Tokens, but the curated application also does not force the payment to be charged because the seller has taken advantage of the computing owned by the curator in the form of Xcur.

In this modern era, many buying and selling transactions are carried out virtually through various buying and selling applications available on the internet. Where products, services, and information are traded online using internet technology with a predetermined system. The internet itself is a connecting technology that can connect all online buying and selling transactions through a computer network which makes it very possible for sellers and buyers to interact virtually in the online market where of course there are various necessities in it (Iswandi, 2021).

In general, Islam allows and welcomes anyone to carry out buying and selling transactions, as long as the seller and buyer comply with prohibitions such as fraud and selling goods that do not belong to them. Selling goods that do not belong to them and selling goods that contain ambiguity so that they can harm the community. Fraud is something that must be avoided by sellers and buyers in buying and selling transactions such as fraud in weighing goods and determining prices to buyers, in addition, selling goods that contain ambiguity or gharar is also prohibited in sharia economic law because it can harm buyers (Effendi, 2022).

According to Imam Ash-Shafi'i, buying and selling is allowed on the condition that the goods have been witnessed first. Buying and selling is allowed as long as the goods being traded are in accordance with the characteristics that have been determined, or the type and nature of the goods to be purchased are known (Yunus et al., 2018). Meanwhile, according to Imam Hanafi, "buying and selling can be haram and forbidden if the goods that are traded do not have benefits to the community, but instead cause harm to the community".

Meanwhile, in sharia economic law, it is explained that the most important thing in buying and selling transactions is the existence of an agreement between the two parties without an element of coercion, because this is not allowed. in Islam in selling and buying an item (Ariswanto, 2021). Buying and selling activities can be carried out, of course, must be accompanied by conditions and harmony which must be fulfilled in accordance with Islamic law. Both sellers and buyers must meet the requirements and get along, which include puberty and understand the terms and principles of buying and selling in sharia economic law. Because of course, online buying and selling will be able to harm one of the parties making the transaction if both do not understand the applicable system. From the explanation above, the

author identifies the problem that must be solved, because he has never previously found a solution for the sale of Non Fungible Tokens on the Curate online marketplace. For this reason, the author was moved to analyze further through scientific work on how the Sale of Non-Fungible Tokens That Are Not Proprietary in the Curate Application from the Perspective of Sharia Economic Law.

Method

In this study, the author uses a qualitative research method, which is descriptive research that tends to use analysis. In qualitative research, the theoretical foundation acts as an instrument, where this aims to make the research process more comprehensive and in accordance with the facts and data obtained from the field. The type used in this study is a qualitative method, using field research. Field research is research that is carried out systematically using data in the field. This research uses a qualitative approach that focuses on field research, particularly in the social media community, where the focus is on Curate application users. The study involved participants involved in online buying and selling as well as influential individuals in the social media community, with an emphasis on virtual Non-Fungible Token transactions. This data search method plays a role in finding theories related to the process of occurrence and working of law in society (Arfa & Marpaung, 2018).

Primary Data is data that is sourced from the field through an interview and observation process (Sukmadinata, 2019). Primary data includes information obtained directly from the first source, both individuals and society in general. An example is the results of interviews with individuals or filling out questionnaires conducted by researchers. In this study, the primary data type focuses on the results of interviews with sellers and buyers of Non Fungible Tokens, as well as those who are active on Curate's online trading platform. Secondary data comes from information that was originally collected and well-organized by an individual, a primary data collector, or some other individual, such as in the form of a particular conversation, writing, or image. Secondary data types are information obtained from other sources, often in the form of documentation and reports that already exist within online communities. In general, secondary data is used as a support or reinforcement for primary data types. In this study, the types of secondary data include data, books, journals and other sources that are considered relevant to the problem (Suryabrata, 1987).

The data collection method involves observation, interviews, and documentation. Observations are carried out to directly monitor the place, victims, and fraud processes. The interview, which can be conducted face-to-face or through social media, aims to obtain clear and valid information from the interviewees. The researchers used the interview method to collect primary data related to their study. Interviews are not only a tool or study, but also an approach chosen by researchers to delve into the practice of buying and selling and to collect information and opinions related to the topic of research on the sale and purchase of Non Fungible Tokens at Curate. Once the data is collected, the next stage is data checking (editing) to correct errors and ensure relevance, as well as systematizing the data for a structured setup. The data was then analyzed using qualitative methods with an inductive approach to develop hypotheses and theories based on the data obtained.

Results and Discussion

Buying and Selling (Al-Bai') and Ownership (Al-Milkiyah) in Sharia Economic Law

Buying and selling is the activity of exchanging goods or something for one item that is equivalent to the item. Etymologically, buying and selling is defined as exchanging

something for another or giving something in exchange for something else. Buying and selling is also defined as exchanging property for property or in exchange or taking something that it replaces (Harun, 2007). The word buy and sell consists of two words, namely *jaul* and *buy*. The word sell in Arabic is known as *al-bay'*, which is the form of *mashdar* from *ba'a-yabi'u-bay'an* which means to sell. The word buy in Arabic is known as *al-syira'*, which is *mashdar* from the word *syara* which means buying. In general, the word *al-bay'* includes both, thus the word *al-bay'* means to sell and buy at the same time.

According to al-Hatthab al-Ru'aini (d. 954 AH), the language of the Quraysh Arabs uses the word *ba'a* when they remove the goods they sell from their possessions. While *isyara* is used when they put goods into their possession. This kind of meaning is still used today. Meanwhile, according to the meaning of *sharia*, buying and selling is an agreement to exchange objects (goods) that have value, on the basis of willingness (agreement) between the two parties in accordance with the agreement or provisions justified by the *sharia'*. What is meant by the provisions of *sharia'* is that the sale and purchase is carried out in accordance with the requirements, pillars and other things related to buying and selling (Idri, 2010).

In general, harmony is an activity or work that must be fulfilled so that the work can be legalized. Among the *fuqoha* there are differences of opinion regarding the harmony of buying and selling. According to Hanafiyah scholars, the pillars of buying and selling are *ijab* and *qabul* which show the attitude of exchanging or giving to each other. According to the scholars of *jumhur*, the pillars of buying and selling include four types, namely *akidain* (seller and buyer), there are goods purchased, *Sighat* (the word of *ijab* and *qabul*), and there is an exchange rate for goods (Harun, 2007).

Buying and selling can be said to be legal according to *sharia'* when the harmony and conditions have been met. The conditions related to the goods traded are;

1. The goods exist, or are not in place, but the seller declares its ability to hold the goods. For example, in a store, because it is impossible to display all the merchandise, some of it is placed by the merchant in the warehouse or still in the factory, but convincingly the goods may be presented according to the agreement of the buyer and the seller. Goods in the warehouse and in the process of this factory are penalized as existing goods.
2. It can be used and beneficial for humans. Therefore, carcasses, *khamar* and blood, are not valid as objects of buying and selling, because in the view of *sharia'* such objects are not useful for Muslims.
3. Belongs to someone. Goods that are not owned by a person should not be sold, such as buying and selling fish in the sea or gold in the land, because the fish and gold are not owned by the seller.
4. It can be submitted during the contract or at a mutually agreed time when the transaction takes place.

Including the most important element in buying and selling is the exchange rate of the goods sold (for today's time it is money). Related to this exchange rate issue, the scholars of *fiqh* distinguish *ats-tsaman* from *as-si'r*. According to them, *ats-tsaman* is the market price that applies in the midst of the actual community, while *as-si'r* is the capital of goods that traders should receive before being sold to consumers (consumption). Thus, the price of the goods is two, namely the price between traders and the price between traders and consumers (selling price in the market).

Therefore, the price that traders can play with is *ats-tsaman*. The scholars of *fiqh* put forward the conditions of *ats-tsaman* as follows: first, the price agreed upon by both parties must be clear in amount. Second, it can be submitted at the time of the contract, even legally,

such as payment by check and credit card. If the price of the goods is paid later (owed), then the payment time must be clear. Third, if the sale and purchase is carried out by exchanging goods (al-muqa'yadhah), then the goods that are used as exchange rates are not goods that are prohibited by sharia', such as pigs and khamar; Because these two types of objects are not in accordance with the sharia'.

Prohibited buying and selling is divided into two; First, buying and selling that is prohibited and legally invalid (void), that is, buying and selling that does not meet the conditions and harmony. Second, buying and selling which is legal but prohibited, namely buying and selling that has met the requirements and harmony but there are several factors that hinder the ability of the buying and selling process. Some of the trades are prohibited because they do not meet the requirements and get along, for example, buying and selling substances that are haram, unclean, or cannot be traded. Items that are unclean or haram to be eaten are also haram for sale such as pigs, idols, carcasses, and khamr. Next, buying and selling that is not clear, something is speculative or vaguely haram to be traded because it harms one of the parties.

Next, conditional buying and selling, buying and selling whose ijab kabul is associated with certain conditions that have nothing to do with buying and selling or there are adverse elements prohibited by religion. Next, buying and selling that causes harm, everything that can cause harm, disobedience, and even polytheism is prohibited to be traded, such as buying and selling pornographic reading books and buying and selling statues. Next, buy and sell muhaqalah, which is selling plants that are still in the rice fields or fields. This is prohibited by religion because this buying and selling is still vague (unclear) and contains deception. Next is the initial buying and selling, which is buying and selling by touching. This is prohibited by religion because it contains deception and is likely to cause harm to one of the parties. Then buy and sell muzabanah, sell wet fruit with dried fruit. Finally, there is munabadzah, which is buying and selling by throwing around. This is forbidden by religion because it contains deception and there is no ijab of Kabul. The sale and purchase is prohibited because there are other factors that harm related parties, such as buying and selling from people who are still in bargaining, buying and selling by blocking goods outside the city/market, buying goods by buying to be stockpiled, then buying and selling when the price rises due to the scarcity of the goods, buying and selling looted or stolen goods.

Ownership is the socially supported power to take control of something that is owned exclusively and use it for personal purposes. From Wikipedia's description, ownership can be interpreted as power over something that is socially recognized as well as exclusive for personal use. The word "ownership" in Indonesian is taken from the word "belonging". It is an absorption of the word "al-milk" in Arabic. Etymologically, the word "al-milk" is taken from the root of the word ملك-يملك-ملك which means to have. In Arabic words الملكية means to maintain and control something freely.

In Islam, ownership is known as al-milkiyah. Al-milkiyah etymologically means possession. Al-milkiyah means something that is owned and can be used by a person, and another meaning of al-milk is the possession of something (al-mal or property) and the authority of a person to act freely towards it. There are several definitions of ownership, including those put forward by fiqh scholars, such as Muhammad Musthafa al-Syalabi's definition of a privilege over an object that prevents other parties from acting on it and allows the owner to do acts directly on it as long as there is no obstruction of sharia'. Meanwhile, the definition expressed by scholars Wahbah al-Zuhaili and Ahmad al-Zarqa about ownership is that both emphasize the right to use authority to the owner unless there is a certain legal obstacle. Based on the above information, it can be interpreted that ownership is a person's

control of a property or service that allows him to take full advantage in all the ways allowed by the sharia', so that other people are not allowed to take benefits without the permission of the owner.

NFT Mechanism in the Curate Application

Non Fungible Token or often known as NFT is one of the investment assets that is included in the cryptocurrency (CNBC Indonesia, 2022). In other words, Non-fungible tokens (NFTs) are an increasingly popular type of digital asset. From art, food to rare chirping. This one object is predicted to be the cause of the influence of a new phenomenon among young investors. NFTs or Non Fungible Tokens are representations of digital assets in the real world. Among young people, NFTs are very popular as digital technology develops (Valevi, 2023). Many people now earn income from artwork in the form of images as digital assets. NFTs or Non Fungible Tokens are assets that evolve from cryptocurrencies, but they have different purposes, forms, and ways of working than other crypto assets (OCBC Indonesia, 2023).

With the great profits obtained from the sale of NFT assets, it makes it an attractive investment vehicle to live. Non-Fungible Tokens or NFTs are basically works of art with digital formats such as JPEG, PNG, GIF and others. Unlike crypto assets, NFTs have digital signatures that cannot be exchanged for other assets, meaning that one NFT does not have the same price as another NFT even though the work is similar. NFTs have absolute ownership properties. Where whoever owns the asset, has full rights (CNBC Indonesia, 2022).

From this information, it can be interpreted that NFTs have patent data like fingerprints that need to be verified for authenticity. NFTs are sold and bought online in various applications or websites, one of which is the curate application. In buying and selling NFTs, cryptocurrencies are used as a means of transaction. This means that when someone wants to buy an NFT, they must first have a crypto asset.

Non Fungible Tokens revolutionize the concept of ownership in the digital age, offering a unique mechanism for selling and acquiring digital assets. The NFT sales process begins with the creation of the digital item itself, which can be in the form of digital art images or Gifs. NFT artists issue these assets on blockchain platforms such as Ethereum or Binance Smart Chain, by attaching unique identifications that validate their authenticity and ownership (Tan, 2024).

After being issued, NFTs are generally sold through online marketplaces specifically for digital collectibility, one of which is the Curate application. The platform serves as an intermediary, facilitating transactions between creators and buyers. Each NFT is listed with a detailed description, including data such as creator information, the unique characteristics of the token, and other related licenses or rights including the price of its NFT artwork. NFT prices vary widely, which is greatly influenced by factors such as the creator's reputation, the scarcity of digital items, and current market trends. Overall, the NFT sale mechanism combines technological innovation with a new paradigm of digital ownership and commerce, and offers creators an unprecedented opportunity to monetize their digital creations and collectors the opportunity to own unique and authenticated digital assets (Patel et al., 2024).

A Review of Sharia Economic Law on the Sale of Non-Fungible Tokens Not Proprietary in the Online Market Curate Based on the Bai' Theory

There are several definitions of buying and selling according to experts. Wahbah al-Zuhaili defines buying and selling in terms of the exchange between goods or property that is done in a certain way. Ibn Qudamah defines buying and selling by exchanging goods for goods with the aim of giving ownership and receiving ownership. Sayyid Sabiq, buying and selling

according to language is an absolute exchange. Meanwhile, according to syara' is the exchange of property for property by mutual respect, or the transfer of ownership with an exchanger in the form that is allowed. From the above understanding, it can be understood that buying and selling is a process of exchanging goods with the intention of transferring ownership from the seller to the buyer on the basis of mutual pleasure (Iskandar, 2024).

Islam knows the term muamalat which means to exchange goods, services or something that benefits in a specified manner. In muamalat, including buying and selling, debts and receivables, wage giving, trade unions, joint ventures and others. Meanwhile, etymologically, buying and selling is the process of exchanging goods for goods. This includes exchanging for services or using money as a medium of exchange. With this understanding, Muslims agree that buying and selling is permissible because there is wisdom in it. Humans depend on the goods that belong to others and of course that person will not give them without reciprocity. So by allowing buying and selling can help meet everyone's needs (Jasmin & Sari, 2024).

Normative buying and selling also has harmony and conditions that must be met so that the buying and selling is carried out in accordance with the sharia corridor. These principles and conditions include first, the existence of buyers and sellers. Buyers and sellers are sensible and mumayyiz people. It can be understood from this that transactions made by madmen and children who are not mumayyiz (able to distinguish between right and wrong) are not valid. Then, both parties are the owners or representatives of the owner of the goods. Therefore, the goods sold should be the authority of the seller, whether the status is his own or a representative of the owner of the goods, as well as the buyer may buy the goods on behalf of another person with his permission. Then the willingness of sellers and buyers. Thus, the forced buying and selling of people is not valid because of the need for willingness between sellers and buyers in buying and selling.

Second, the existence of *ijab qabul*. The place of transactions is also in one place. This goes back to the customs (*'urf*) of each or the usual customs in the area. Moreover, there is nothing separating the *ijab qabul* which indicates rejection. The last is *ijab qabul* pronounced with pronunciation, although currently *ijab qabul* does not have to be pronounced but can be with understandable gestures as the prevailing custom. Third, the existence of objects (in the form of goods/services). Some of the provisions that are in harmony with the conditions are goods/services, namely, goods/services are not prohibited according to sharia. In the context of goods, they must be clean from impurity, can be handed over, and their type and nature are known by buyers and sellers.

Normatively, there are also several forms of buying and selling that are prohibited from an Islamic perspective. Some of the illegal and prohibited buying and selling include, first, buying and selling goods that are impossible to hand over, such as goods that fly in the air. Second, buying and selling debt with debt, that is, selling goods that are not owned or not in their power. And third, buying and selling that contains elements of *gharar* (ambiguity in goods, transactions and *ijab qabul*) (Ernawati et al., 2024).

Selling Non-Fungible Tokens that are not property rights are buying and selling activities that are prohibited by sharia law. As explained, the prohibited buying and selling is divided into two; First, buying and selling that is prohibited and legally invalid (void), that is, buying and selling that does not meet the conditions and harmony. Second, buying and selling which is legal but prohibited, namely buying and selling that has met the requirements and harmony but there are several factors that hinder the ability of the buying and selling process. From the information on prohibited buying and selling, the sale of Non-Fungible Tokens is not property rights and is a legally prohibited buying and selling activity. Because the first one does not meet the requirements and gets along in accordance with point b which reads "buying and

selling that is not clear, something is speculative or vaguely haram to be traded because it harms one of the parties". Second, because there are other factors that harm other parties, this is in accordance with point d, namely in the form of loot or stolen goods.

A Review of Sharia Economic Law on the Sale of Non-Fungible Tokens Not Proprietary in the Online Market Curate Based on Ownership Theory

After reviewing the results of the research, the author can find out the results of sharia law on the sale of Non-Fungible Tokens that are not proprietary in the online curated market. On a legal basis, the non-property sale activity is not in accordance with the word of Allah in Surah An-Nisa verse 29 which means:

"O you who have believed, do not eat each other's property in an unlawful way, except in the way of business that is done greedily among you. And thou shalt not kill thyself; Indeed, Allah is Most Merciful to you"

The sale of NFTs that are not proprietary is a null and void method based on the review of sharia economic law on the sale of Non-Fungible Tokens that are not proprietary in the online market curate nor in accordance with the conditions of the goods sold, as the conditions related to the goods being traded such as the goods exist, or are not in place, but the seller declares its ability to hold the goods (Ardiansyah et al., 2025). For example, in a store, since it is impossible to display all the merchandise, some of it is placed by the merchant in the warehouse or still in the factory, but convincingly the goods may be presented according to the agreement of the buyer with the seller. Goods in the warehouse and in the process of this factory are penalized as existing goods.

Based on the results of the author's research, the sale of non-fungible tokens from the perspective of ownership theory, namely the existence or state of the goods is appropriate because the item really exists. Selling Non-Fungible Tokens that are not property rights are buying and selling activities that are prohibited by sharia law. As explained, the prohibited buying and selling is divided into two; First, buying and selling that is prohibited and legally invalid (void), that is, buying and selling that does not meet the conditions and harmony. Second, buying and selling which is legal but prohibited is buying and selling that has met the requirements and harmony but there are several factors that hinder the ability of the buying and selling process.

Conclusion

Based on the results of the analysis of the sale of non-fungible tokens that are not proprietary in the curate application from the perspective of sharia economic law, it can be concluded that the motive for the sale of non-fungible tokens that are not proprietary in the online market curate is based on several reasons. First, Users are not required to make works in the form of drawings first. Second, any image in the form of an NFT work can be sold. Third, there are no sanctions for copyright infringement and fourth, the sales system in the curate application is not yet strict. A review of Sharia Economic Law on the sale of non-fungible tokens not proprietary in the online market curate. The motive for selling Non-Fungible Tokens is not proprietary based on the absence of strict regulations and no sanctions given. A review of sharia economic law on the sale of non-fungible tokens that are not property rights on the Online Market Curate is a prohibited sale because it does not meet the requirements and the principles of bai', that is, the goods are in the status of ownership other than the seller, as well as prohibited sales because there are other factors that harm related parties, namely selling loot or stolen.

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