

Pricing Mechanism for Collateral Auctions in Problematic Financing at Bank Syariah Indonesia, Palangka Raya

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ABSTRACT

A sharia bank has various products, one of which is financing. However, risks in financial institutions are inevitable and become potential events, both foreseeable and unpredictable. Such as financing customers who end up experiencing defaults and leading to the sale of collateral or collateral through auctions. The purpose of the research is to know the mechanism for pricing collateral auctions and constraints on problematic financing at Sharia Bank of Indonesia, Palangka Raya City. This research uses a descriptive qualitative approach. The results of this study are that the pricing mechanism is carried out with the provisions and procedures applicable at Sharia Bank of Indonesia, Palangka Raya City, with price interpretation carried out by the assessment team after the survey is carried out, looking for appeal data based on the prevailing market value in the collateral objects, looking at collateral conditions, interpreting until finally the price is determined based on the applicable mechanism in accordance with the Circular Letter of the Board of Directors must use the price reference Central Market, Regional Market Price, and Local Market Price. Pricing carries out with appropriate assessments and calculations based on the market approach method and cost approach that have been formulated to be used as a guide in the assessment and pricing of collateral auctions in accordance with the fair price or market price that occurred at that time.

Bank syariah memiliki berbagai produk yang mana salah satunya adalah pembiayaan. Namun risiko dalam lembaga keuangan tidak bisa dihindari dan menjadi kejadian yang potensial baik yang dapat diperkirakan maupun yang tidak dapat diperkirakan. Seperti nasabah pembiayaan yang akhirnya mengalami wanprestasi dan berujung penjualan barang jaminan atau agunan melalui lelang. Maka dari itu perlu diketahui mekanisme penetapan harga lelang barang agunan dan kendala pada pembiayaan bermasalah di Bank Syariah Indonesia Kota Palangka Raya. Penelitian ini menggunakan pendekatan kualitatif deskriptif. Hasil dalam penelitian ini bahwa mekanisme penetapan harga dilakukan dengan ketentuan dan prosedur yang berlaku di Bank Syariah Indonesia kota Palangka Raya dengan penafsiran harga yang dilakukan oleh tim penilai setelah dilakukannya survei, mencari data banding berdasarkan nilai pasaran yang berlaku di wilayah agunan, melihat kondisi agunan, melakukan penafsiran hingga akhirnya harga ditetapkan berdasarkan mekanisme yang berlaku sesuai dengan Surat Edaran Direksi harus menggunakan acuan Harga Pasar Pusat, Harga Pasar Daerah, Harga Pasar Setempat. Pada penetapan harga dilakukan dengan penilaian dan perhitungan yang sesuai berdasarkan metode pendekatan pasar + pendekatan biaya yang sudah dirumuskan untuk dijadikan sebagai pedoman dalam penilaian dan penetapan harga

lelang barang agunan sesuai dengan harga wajar atau harga pasar yang terjadi pada saat itu.

Introduction

Economic activity is one aspect of the scope of Islamic studies. Islam is believed by its followers to be a religion that can be applied at any time and place, especially in the field of *muamalah*. Islam views that economic activities carried out by humans are basically the realization of the duties and functions of humans as the caliph of Allah on earth.

Islamic economics cannot be separated from Islamic financial institutions. One form of Islamic financial institutions including Islamic banking. Sharia banking is a bank that operates and carries out its business activities based on sharia principles in accordance with the definition of sharia bank as stated in Article 1 paragraph (7) of Law Number 21 of 2008 concerning Sharia Banking. Based on the type, Islamic banks consist of Sharia Commercial Banks (BUS) and Sharia People's Financing Banks (BPRS).¹

There were researchs those explain about financing and its problems. For examples, that was Fitri Wahyuni, by titled “Analisis Penetapan Harga Lelang Barang Jaminan Dalam Mengurangi Risiko Pembiayaan Menurut Perspektif Ekonomi Islam” (Analysis of the Insurance Items Auction Pricing in Reducing the Risk of Financing According to Islamic Economics), 2018. She concluded that the implementation on pricing and auctions were acceptable and following the standart operational procedures that has been set by the bank.² Also that was Mohamad Faozan Awaludin, he researched by titled “Penetapan Harga Lelang Terhadap Penghapusan Barang Milik Negara Perspektif Hukum Ekonomi Syariah” (Auctions Pricing For State Properties Elimination: Islamic’s Economic Law Perspective), 2020. The research indicates that the auctions pricing for state properties elimination according to Chapter 43 of PMK number 27 of 2016 about the implementation instructions of auctions, that there is a team of appraisals that decide the values of the auction items, and the laws is compatible and acceptable by the Islamic law.³ According to these previous researchs, the study about the auctions still and were struggling on how to manage and reducing the risks and how the auctions we seen by the laws prespective.

The auction itself consists of several stages that are quite long until finally the collateral objects can be auctioned. Each stage of preparation carried out up to the price setting stage, until the auction implementation must follow the standard procedures owned by Islamic financial institutions. In determining the limit value itself, it is carried out by the seller, both the owner of the items and by the bidder, namely the appraisal team (person)/agency/parties/relevant agencies who have the power or authority that is authorized by law to do so. After the value is determined, it is then handed over to a third

¹Dewan Perwakilan Rakyat Republik Indonesia, “Undang-Undang Tentang Perbankan Syariah,” 21 § (2008), https://www.ojk.go.id/waspada-investasi/id/regulasi/Documents/UU_No_21_Tahun_2008_Perbankan_Syariah.pdf.

² Fitri Wahyuni, “Analisis Penetapan Harga Lelang Barang Jaminan dalam Mengurangi Risiko Pembiayaan Menurut Perspektif Ekonomi Islam (Studi pada Produk Griya iB Hasanah Bank BNI Syariah Kantor Cabang Tanjung Karang)” (Skripsi, Lampung, Institut Agama Islam Negeri Raden Intan, 2020).

³ Mohamad Faozan Awaludin, “Penetapan Harga Lelang Terhadap Penghapusan Barang Milik Negara Perspektif Hukum Ekonomi Syariah (Studi Kasus di Kantor Pelayanan Kekayaan Negara dan Lelang Purwokerto)” (Skripsi, Purwokerto, Institut Agama Islam Negeri Purwokerto, 2020).

party who will carry out the auction no later than the time the auction will start⁴. Determining the sale price of auction items is carried out by Bank Syariah Indonesia in accordance with established procedures and mechanisms. Because considering the importance of the price aspect in every buying and selling transaction, at the stage of setting the auction price, it is also necessary to pay attention to creating an honest and fair price. Based on Article 1 paragraph (1) of the Regulation of the Minister of Finance Number 27/PMK/.06/2016 concerning Instructions for Implementation of Auctions, it is stated that Auctions are sales of items that are open to the public with a written or verbal price offer that is increasing or decreasing to reach the highest price, which is preceded by the announcement of the Auction⁵.

Based on the definition of auction, it can be equated with buying and selling where there is a seller and a buyer. Where the Bank as the selling party and the general public who attend the auction are the buyers who provide the auction items.⁶ The attentions of the auction when Covid-19, with the advance technology by now, it was implemented by online.⁷ The sale and purchase referred to in the Qur'an is explained in Surah An-Nisa verse 29⁸:

يَا أَيُّهَا الَّذِينَ ءَامَنُوا لَا تَأْكُلُوا أَمْوَالِكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا أَنْفُسَكُمْ
إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

“O ye who believe! Squander not your wealth among yourselves in vanity, except it be a trade by mutual consent, and kill not one another. Lo! Allah is ever Merciful unto you.”⁹

In Fiqh or Hadith books, this auction sale and purchase is usually referred to as Bāi' al-muzā yadah (an addition). Auction is in Islam, and the law is permissible (*Mubah*). According to the majority of scholars, buying and selling auctions is indeed permissible, as long as it is really like what happened at the time of the Prophet Muhammad and does not deviate from Islamic principles.¹⁰ According to Sudarsono, a sharia bank is an institution

⁴Muhammad Fauzi Aulia Tsani, “Analisis Pembatalan Pelaksanaan Eksekusi Lelang Obyek Hak Tanggungan (Studi Perbandingan Putusan Objek Sengketa Tanah Nomor 126/PDT.BTH/2017/PN.YYK dan Putusan Perbuatan Melawan Hukum Nomor 274/PDT.G/2013/PN.BDG)” (Tesis, Yogyakarta, Universitas Islam Negeri Sunan Kalijaga, 2018).

⁵Menteri Keuangan Republik Indonesia, “Peraturan Menteri Keuangan Republik Indonesia Tentang Perubahan Atas Keputusan Menteri Keuangan Nomor 51/KMK.04/2001 Tentang Pemotongan Pajak Penghasilan Atas Bunga Deposito Dan Tabungan Serta Diskonto Sertifikat Bank Indonesia,” 26/PMK.010/2016 § (2016), <https://jdih.kemenkeu.go.id/fullText/2016/27~PMK.06~2016Per.pdf>.

⁶ Paul Klemperer, “The Product-Mix Auction: A New Auction Design For Differentiated Goods,” *Journal of the European Economic Association* 8, no. 2–3 (April 5, 2010): 526–36, <https://doi.org/10.1111/j.1542-4774.2010.tb00523.x>.

⁷ Stephen S. Gilstrap, “Refreshing the Page on Online Collateral Auctions,” *The Yale Law Journal* 120, no. 3 (2010): 679–89.

⁸ Departemen Agama Republik Indonesia, *Mushaf Asy-Syafi'i: Al-Qur'an Terjemah* (Jakarta: Maktabah Al-Fatih, 2021).

⁹ Language Research Group University of Leeds, “Verse (4:29) - English Translation,” Open Source Project, Qur'an, 2017, <https://corpus.quran.com/translation.jsp?chapter=4&verse=29>.

¹⁰ Dewi Oktayani, “Pelelangan Barang Gadai Dalam Perspektif Islam,” *IQTISHADUNA: Jurnal Ilmiah Ekonomi Kita* 8, no. 2 (December 19, 2019): 260–69, <https://doi.org/10.46367/iqtishaduna.v8i2.179>.

whose main business is to provide credit and other services in payment traffic and money circulation using an operational system based on sharia principles. So that means, the operation of the Islamic bank is based on the Qur'an and Hadith with the operational system of Islamic banks using a profit-sharing system¹¹. Financing at Islamic banks requires caution in its distribution, there are several stages so that the disbursement can be carried out. So that the Islamic bank must manages it carefully in order to avoid losses in the distribution of this financing. One form of prudence in financial governance in bank operations is the guarantee as a guide for the bank to ensure that the debtor performs the achievements agreed in the contract.

Theoretical basis

Insurance Items

Collateral is a thing that used as a confirmation or reinforcement of trust in accounts payable. If the debt cannot be paid the collateral would be taken; only the sale should be done with justice (at the price prevailing at that time). In general, collateral could be defined as making an object that has a value (according to syara') that is used as a debt reinforcement and can be used as a payment for all debts by selling or owning the object.¹²

According to the provisions of Article 2 paragraph (1) of the Decree of the Board of Directors of Bank Indonesia No.23/69/KEP/DIR dated February 28, 1991 concerning Credit Guarantees, that what is meant by guarantee is a bank's belief in the debtor's ability to repay the credit in accordance with the agreement. . Meanwhile, according to the provisions of Article 1 point 23, collateral is an additional guarantee submitted by a debtor customer to a bank in the context of providing credit or financing facilities based on Sharia Principles.

There are two types of guarantees, namely:

1. Individual Guarantee

An individual or personal guarantee is a guarantee that a party acts to ensure the fulfillment of the obligations of the debtor. In individual guarantees it is always intended that for the fulfillment of obligations in debt, which are guaranteed to be fulfilled in full or up to a certain part (amount), the property of the guarantor (guarantor) can be confiscated and auctioned according to the provisions regarding the implementation (execution) of court decisions. .

2. Material Guarantee

Material guarantee is an action in the form of a guarantee made by the creditor against the debtor. Material guarantees could holds between the creditor and the debtor, but also between the creditor and a third party who guarantees the fulfillment of the obligations of the debtor.¹³

¹¹ Any Nugroho, *Hukum Perbankan Syariah* (Yogyakarta: Aswaja Pressindo, 2011).

¹² Amarul Huda, *Fiqh Muamalah* (Yogyakarta: Teras, 2011).

¹³ Hermansyah, *Hukum Perbankan Nasional Indonesia*, 3rd ed. (Jakarta: Prenada Media Group, 2020).

Definition of Auction

An auction is a public sale (with an over-the-top bid) and is presided over by an auctioneer. While auctioning is selling goods or something else by way of auction. In short, an auction is a public sale of goods in front of an auctioneer¹⁴.

Based on Decree of Minister of Finance of the Republic of Indonesia No. 337/KMK 01/2000 Chapter I Article (I) said that an auction is the sale of an item made in public, including through electronic media by using an oral offer at an increasing or decreasing price or by a written price offer. To gather enthusiasts or potential buyers which was preceded by an effort.¹⁵

Auction Legal Basis

Buying and selling auctions in Islamic law is permissible. In the book Subulus Salam, it states that Ibn Abdi Dzar said, "Indeed, it is not forbidden to sell items to people with an increase in price, with an agreement between all parties". According to the history of Ibn Qudamah Ibn Abdi Dar, there was an agreement by the scholars about the permissibility of buying and selling by auction and it's become a custom that prevailed in the Muslim market at that time. The main legal technical regulation regarding auction implementation is Minister of Finance Regulation Number 27/PMK.06/2016 concerning Amendment to Minister of Finance Regulation Number: 40/PMK.07/2006 concerning Auction Implementation Guidelines.

The legal basis on which the auction is as follows:

1. Al-Qur'an
2. As-Sunnah
3. Ijma
4. Constitution
5. Fatwa of the National Sharia Council (DSN)

Guaranteed Items Auction Procedure

Jumbur Fuqaha is of the opinion that the person who pledges the collateral must not sell or donate the collateral. Meanwhile, to sell on the condition allows the recipient of the collateral that at maturity the pawnbroker cannot pay off its obligations.¹⁶ This auction proceeded because the debtor is no longer able to pay all his debts along with other dependent costs. Prior to the sale of collateral objects, notification has been given to the debtor. This notification is made no later than 5 days before the date of sale by means of

¹⁴ Rahmadi Usman, *Hukum Lelang* (Jakarta: Sinar Grafika, 2015).

¹⁵ Menteri Keuangan Republik Indonesia, "Keputusan Menteri Keuangan Republik Indonesia tentang Petunjuk Pelaksanaan Lelang," 304/KMK.01/2002 § (2002), <https://jdih.kemenkeu.go.id/fulltext/2002/304~KMK.01~2002kep.HTM>.

¹⁶ Adrian Sutedi, *Hukum Gadai Syariah* (Bandung: Alfabeta, 2011).

a notification letter to each address, contacted by telephone, through the bulletin board at the branch office and others.

To avoid sharia deviations and violations of rights, norms, and ethics in auction practices, Islamic Sharia has provided general guidelines and criteria as the main guidelines, namely:

1. Competent parties on a mutually voluntary basis carries transactions.
2. The object of the auction must be lawful and useful.
3. Full ownership or control of the items sold.
4. Clarity and transparency of auctioned items without manipulation.
5. Ability to deliver items from the seller.
6. Clarity and certainty of the agreed price without the potential to cause disputes.
7. Do not use methods that lead to collusion and bribery to win bids.¹⁷

Auction Pricing

Price as the value expressed in the form of money or the amount of money exchanged for an item or service. The price mechanism is a process that runs basics of the force of attraction between producers and consumers from both the output (items) and input (factors of production) markets. The price is the amount of money that states the exchange value of an item.¹⁸ Islam interprets the price as a fair price, namely the price submitted to the market balance. The price is left to the law of the market to play its role fairly, according to the existing supply and demand. Mistakes in pricing can have a variety of consequences and far-reaching impacts. Pricing action that violates ethics can cause business actors to dislike buyers, causing disliking each other.¹⁹ The auction price is the highest bid price submitted by the auction participant which has been validated as the winner of the auction by the auction official.²⁰

Troubled Financing

Credit or conventional financing or based on sharia principles provided by financial institutions such as banks contain risks, so that in their operations banks must pay attention to sound credit principles to avoid bad or problematic financing. Adiwarmanto A. Karim stated that risk in the banking context is a potential event, both anticipated and unanticipated, which has a negative impact on income and capital. Such risks cannot be avoided but can be managed and controlled.²¹

Bad or non-performing loans are the most common risks encountered in financing operations. This risk is in the form of a situation where the credit cannot be returned on

¹⁷ Sutedi.

¹⁸ Nur Chamid, *Jejak Langkah Sejarah Pemikiran Ekonomi Islam* (Yogyakarta: Pustaka Pelajar, 2010).

¹⁹ Arzalsyah Syarif, "Pandangan Hukum Ekonomi Syariah Terhadap Harga Lelang Barang Jaminan," *Al-Ammal: Journal of Islamic Economic Law* 1, no. 1 (May 20, 2019): 90–113, <https://doi.org/10.24256/alw.v1i1.629>.

²⁰ Kementerian Keuangan Republik Indonesia, "Peraturan Kementerian Keuangan (PMK) tentang Pedoman Pelaksanaan Lelang dengan Penawaran Secara Tertulis Tanpa Kehadiran Peserta Lelang Melalui Internet," 90/PMK.06/2016 § (2016).

²¹ Rachmadi Usman, *Aspek Hukum Perbankan Syariah Di Indonesia* (Jakarta: Sinar Grafika, 2012).

time according to the initial agreement. There are many causes for bad credit or financing, for example, the intentional involvement of the parties involved in the financing or credit process, errors in credit granting procedures, the inability of the debtor to pay his debts due to economic problems, or due to other reasons. Credit or financing can be said to be bad if the quality of the credit is classified as substandard, doubtful or bad collectible level.

In the beginning, bad financing will always be preceded by a default, which is a situation where the debtor is unwilling and unable to fulfill the financing promises he has made as stated in the initial agreement that has been agreed.²²

Research methods

This type of research is field research with qualitative methods, namely research using existing materials in the field. Such as the results of interviews, between researchers and informants as well as observations in accordance with the conditions in the field, carried out directly down to the field according to a predetermined place, namely Bank Syariah Indonesia Palangka Raya. Data analysis using the Miles and Huberman interactive method.²³

Results and Discussion

Based on the results of research conducted with data collection techniques, namely by interviewing the Bank Syariah Indonesia Palangka Raya Branch Office.

Mechanism of Determination of Auction Prices for Non-performing Financing Collateral Objects at Bank Syariah Indonesia Palangka Raya Branch Office

The auction sale is an attempt to return the loan money and borrowing services, which the debtor can no longer afford to repay until the promised limit. This business is carried out by selling collateral objects through auctions at prices that are considered reasonable and acceptable to the public at large. In the auction there is a limit value which is the lowest price statement. Meanwhile, the auction price is the highest bid price submitted by the auction participant which has been validated as the winner of the auction by the Auction Officer

Mechanism is a phenomenon that can be explained by using principles that can be used to explain the working system. Therefore, the mechanism is defined as a process or workflow in a business. In carrying out an activity, especially in the financial sector, there should be a mechanism that becomes a reference in its implementation, one of which is a mechanism in determining the auction price for collateral objects that will be applied to the institution that carries out the auction.

The mechanism for determining the auction price of collateral for non-performing financing at Bank Syariah Indonesia in Palangka Raya explains in several stages, including:

²² Winda Sari Panjaitan, Muhammad Arif, and Muhammad Lathief Ilhamy, "Analisis Syariah Compliance Penetapan Harga Lelang Barang Jaminan Dalam Mengurangi Risiko Pada Pembiayaan IB Griya Di Bank Sumut Syariah Cabang Medan," *El-Awwal* 5, no. 1 (April 1, 2022): 167, <https://doi.org/10.29103/el-awwal.v5i1.6527>.

²³ Sugiyono, *Pendekatan Kuantitatif, Kualitatif Dan R&D*, 3rd ed. (Yogyakarta: Alfabeta, 2018).

Collateral that will be used for auction will be submitted to the appraisal team unit for evaluation and price interpretation. This assessment is carried out by the appraisal team by conducting a survey of the collateral to be assessed, conducting comparative data, looking for price interpretations, calculating the value of the collateral based on a method that is in accordance with the collateral to be assessed, then setting the price until the value of the collateral that has been approved by the Supervisor will be submitted.²⁴ It returns to the Recovery unit to be able to directly apply to the auction agency for auction.

The use of methods in calculating the value of collateral is divided into two, its the market approach pricing method despite the cost approach pricing and the market approach pricing method with cost approach pricing. To calculate the value of land collateral, it is enough to use the market approach method and for the calculation of land add with building collateral it will use the market approach method and the cost approach. To find out the market value prevailing at that time, Bank Syariah Indonesia collaborated with the MAPPI (Masyarakat Profesi Penilai Indonesia) an institution which is the official institution of professional associations in Indonesia that accommodates professionals working in the appraisal profession to be able to get per meter building prices in every location throughout Indonesia that directly connected through the web server of Bank Syariah Indonesia. It also based on the value of the estimated selling price of items, which is used to obtain an accurate value of the calculation results with the Central Market Price (HPP) mechanism that has been set by the Head Office as a general benchmark for Branch Offices obtained from the collaboration with the third party. Based on the results of general market price developments and future price developments. Therefore the reference for price assessment must also continue to refer to the Central Market Price, Regional Market Price, and Local Market Price applicable in the Circular Letter of the Board of Directors.

The following is an explanation of how to evaluate building collateral. For example, building A is a simple 1-story house that was built in 2020 and an assessment is carried out in 2022. Then there is a difference of 2 years between the construction of the house and the appraisal of the house, the way to calculate it is by the age of the difference in construction divided by the economic age of the simple house and then times by the price that has been determined by the appraisal agency in collaboration with Bank Syariah Indonesia in accordance with the assessment of the Palangka Raya area. The formula used is $2 : 30 \times \text{Rp. } 2,680,000$ (the price of a new building per meter) and the result is Rp. 178,667 as the depreciation value of the building for two years. Then the price of the new building per meter – the depreciation value is $\text{Rp. } 2,680,000 - \text{Rp. } 178,667 = \text{Rp. } 2,501$. This value is the value of the collateral per meter, which will be multiplied by the type of collateral building. Then added to the results of land price determination. This pricing is only valid for one year. An assessment team, both internal and external to the bank, must carry out the assessment of the value of this collateral. For the interpretation and assessment of collateralized transactions under 5 billion, the assessment can still be carried out by the bank's internal appraisal team, but for transactions above 5 billion, the assessment must be carried out by a third party or an independent appraisal team based on the Decree 213/PMK.06/2020 Regarding the Instructions for the Implementation of the Sixth Part of the Auction Articles 47, 48, and 49. An assessment team, both internal and external to

²⁴ Mohamad Dodi Prihartanto, "Settlement of Auction Disputes over Land and Building Collateral Objects," *Journal of Law and Legal Reform* 2, no. 2 (April 30, 2021): 197–210, <https://doi.org/10.15294/jllr.v2i2.46613>.

the bank, must carry out the assessment of the value of this collateral. For the interpretation and assessment of collateralized transactions under 5 billion, the assessment can still be carried out by the bank's internal appraisal team, but for transactions above 5 billion, the assessment must be carried out by a third party or an independent appraisal team based on PMK RI Number 213/PMK.06/2020 Regarding the Instructions for the Implementation of the Sixth Part of the Auction Articles 47, 48, and 49. An assessment team, both internal and external to the bank, must carry out the assessment of the value of this collateral. For the interpretation and assessment of collateralized transactions under 5 billion, the assessment can still be carried out by the bank's internal appraisal team, but for transactions above 5 billion, the assessment must be carried out by a third party or an independent appraisal team based on Decree 213/PMK.06/2020 Regarding the Instructions for the Implementation of the Sixth Part of the Auction Articles 47, 48, and 49.

Conclusion

The mechanism for determining the auction price for collateral objects and its constraints on non-performing financing at Bank Syariah Indonesia Kota Palangka Raya 1, namely: the determination of the auction price is carried out in several stages in accordance with the auction price fixing procedure set by Bank Syariah Indonesia starting from the collateral survey, looking for appeal data, assessing the condition of the building and the surrounding environment, performing interpretations and calculations, and setting prices. The calculation and pricing refers to the Central Market Price (HPP) which has been determined by the Head Office to be used as a benchmark by the Branch Offices by performing calculations using the market approach adds cost approach as well as an assessment of the condition and comparative data of the buildings being assessed.

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