140603 - Buying real estate through the bank

the question

I want to buy some real estate through one of the Islamic banks such as al-Raajihi or al-Bilaad. Is it permissible for me to sign a contract to purchase with the bank without checking whether the property deeds have been transferred to the name of the bank? Or is it essential to see the property deed and make sure that ownership has been transferred to the bank before I sign any papers?
My second question is: the real estate I want to buy is worth more than the amount that the bank has set for buying based on my salary. Is it permissible for me to give the bank the difference so that I can go ahead with the purchase?.

Detailed answer

Praise be to Allah.

Firstly:

Buying a property through the bank is done in one of two ways:

1.

The role of the bank is merely to finance the transaction, so it gives the money to its customer or pays it on his behalf, on the basis that the customer will pay it back in instalments, with something extra. This is a haraam, riba-based loan.

2.

The bank buys the property, then sells it to the customer. This is permissible subject to certain conditions:

(i)That the bank does not stipulate any penalty in the event of late payment of instalments,

because stipulating this penalty is a kind of riba which is haraam, whether the bank takes the penalty for itself or distributes it to the poor. Please see the answer to question no. 89978.

(ii)That the customer does not sign any purchase contract or make a promise to purchase before the bank takes possession of the property.

(iii)That the bank does not stipulate that a down payment be made before it takes possession of the property, because the down payment -- according to those scholars who say that it is permissible, namely the Hanbalis -- is not valid before the contract is drawn up.

It says in Ghaayah al-Muntaha (3/79): It [the down payment] means paying some of the price or rent after drawing up the contract and not before. End quote.

But the majority of Hanafi, Maaliki and Shaafa'i fuqaha' do not regard the down payment as valid and they do not regard it as permissible for the seller to take it, whether it is agreed upon after the contract or before.

Dr. Muhammad al-'Usaymi (may Allah preserve him) was asked:

What is the ruling on the "Manzil Mubaarak" financing program (buying a house in the name of the bank until the loans are paid off) which is offered by al-Bank al-'Arabi and al-Raajihi bank?

He replied:

Many commercial banks offer financing services for buying real estate. In the riba-based banks, the customer asks for financing, and the commercial bank gives the money to the customer, who buys the house and mortgages the title or ownership papers to the bank. There is no doubt that this is riba-based financing and is haraam.

As for the Islamic banks, after the real estate is identified by the customer, the bank buys the property in its own name and the title deeds are transferred to it, then it sells it to the customer for a price to be paid later with a stated, known amount of profit. There is no doubt that this is permissible.

One of the matters that should be noted in this case is that it is not permissible for the bank which offers financing for real estate purchase to demand a down payment from the customer before buying a property. And it is not permissible for it to oblige the customer to buy the property; rather the customer has the choice of buying or not buying.

End quote from the Shaykh’s website.

The point is that it is essential that the bank take possession of the property before selling it to you, and taking possession is done through a purchase contract between the bank and the owner of the property. It is not essential to register the property in the name of the bank, especially if registering involves payment of large fees as is the case in some countries.

Secondly:

It is permissible to buy property from the bank by instalments; it is also permissible to pay part of the price and to pay the rest by instalments, such as if you pay twenty thousand, for example, and pay the rest in instalments in a manner that is compatible with your salary and other commitments. There is nothing wrong with the bank deciding the price of the house on the basis of the number of years you will pay instalments, so that if you pay part of it up front, that will reduce the number of years during which you pay in instalments, thus reducing the price of the property.

And Allah knows best.