98118 - Buying a flat by instalments when there is a clause in the contract that stipulates a penalty in the event of late payment

the question

I went to buy a flat from someone in installments. But when I read the contract I found a condition that says I have to pay a fine of 2000 pounds if I delay paying the payment on time. As far I know this condition equals Riba (interest). So what is the ruling on this contract between me and him? Will I be sinful if I deal with him? Knowing that I will not delay the payment -if Allah wills- and so I will not need to deal with him by Riba.

Detailed answer

Praise be to Allah.

If the contract includes the stipulation that a penalty be paid in the event of late payment, then it is a haram contract and it is not permissible to enter into it, even if one is certain that he is able to pay, because it is approval of riba and committing oneself to it, which is haram. And because a person may face a problem which prevents him from paying, such as sickness, travel and the like.

The Islamic Fiqh Council has issued a statement that it is haram for the seller or bank to demand payment of a penalty in the event of late payment of an instalment.

This was stated in the statement of the Fiqh Council no. 133 (7/14) during its fourteenth session in Duha:

If the buyer is late in making a payment it is not permissible to oblige him to pay anything in addition to his debt with or without a prior condition, because that is haram riba.

End quote from Fiqh al-Mu’aamalaat al-Hadeethah by Dr. ‘Abd al-Wahhaab Abu Sulaymaan (p. 571).

This person should be advised and told of the prohibition on what he has done by stipulating riba, and he should be told to take sufficient precautions with the buyers, such as asking for a guarantor, taking cheques, and keeping the apartment in his name as a pledge, so that the buyer cannot sell it until he has paid off all the instalments he owes, and so on.

We ask Allah to guide us and you.

And Allah knows best.