256897 - Ruling on managing property for someone else that was brought through a mortgage

the question

My question has to do with signing a contract to manage properties, which is very popular here in the United Kingdom; it is called the option to lease and involves taking responsibility for someone else's property (with his agreement) and working as a property manager in his stead. As a manager/broker I take care of the tenants who lease the property, and I get a small percentage of the rental income for my management work. I should point out, however, that most properties here are bought through mortgages. I get my wages from what is left after paying all monthly expenses, which include monthly mortgage payments. I am not paying directly towards the mortgage or earning money directly from it, and I am not involved in the mortgage contract in any way; all my work is managing the property only. Does the fact that my wages cannot be paid until after the owner makes the monthly mortgage payment first, make my wages for management work haraam?

Detailed answer

Firstly:

It is permissible to work in property management and rent out the property in return for a percentage of the rent, or in return for a fixed sum. This is a permissible contract of agency or brokerage.

Al-Bukhaari (may Allah have mercy on him) said in his Saheeh: Chapter on fees for brokerage. Ibn Sireen, 'Ata', Ibraaheem and al-Hasan did not see anything wrong with paying a fee to the broker. Ibn 'Abbaas said: There is nothing wrong with saying [to someone]: Sell this garment for me and anything more than such and such is yours. Ibn Sireen said: If he says: Sell it for such and such, and whatever profit you make is yours, or is shared between you and me, there is nothing wrong with that. The Prophet (blessings and peace of Allah be upon him) said: "The Muslims are bound by their conditions." End quote.

Shaykh Ibn Baaz (may Allah have mercy on him) was asked about the ruling on looking for a shop or apartment for a renter in return for a fee to be given to the one who meets his request.

He replied: There is nothing wrong with that, because this is payment in return for his efforts. You must try hard to find the suitable shop that he wants to rent, so if you help him in that, and look for a suitable place and help him to make a deal with the owner in return for a fee, there is nothing wrong with any of that, in sha Allah, on condition that there is no treachery or deceit; rather it must be done with honesty and sincerity. If you are honest and make a sincere effort to look for what he is seeking, without cheating or being unfair to him or to the owner of the property, then you are doing fine, in sha Allah.

End quote from Fataawa ash-Shaykh Ibn Baaz (19/358).

There is nothing wrong with the fee being a percentage of the rent, because the ambiguity in this case, regarding how much it will be, will eventually become known and will not lead to any dispute.

It says in Fataawa al-Lajnah ad-Daa'imah (13/131): It is permissible for a broker to charge a fee of a certain percentage of the price for which the product will eventually be bought and sold, in return for acting as a broker then receiving this money from the seller or the buyer, according to the terms of the agreement, without being unfair or causing harm. End quote.

For this brokerage, it is stipulated that there should be no help in doing anything haraam, such as trying to help someone rent a property to be used as a riba-based bank, or renting it to someone who will use it as a church or bar, because it is haraam to help anyone in sin and transgression. Allah, may He be exalted, says (interpretation of the meaning):

"And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah ; indeed, Allah is severe in penalty"

[al-Maa'idah 5:2].

And the Prophet (blessings and peace of Allah be upon him) said: "Whoever calls people to guidance will have a reward like that of those who follow him, without that detracting anything

from their reward; and the one who calls people to misguidance will have a burden of sin like that of those who follow him, without that detracting anything from their burden of sin." Narrated by Muslim in his Saheeh (4831).

Secondly:

It is not permissible to buy houses or anything else through a mortgage, because it is blatant, reprehensible riba (usury). This has been explained previously in the answer to question no. 159213.

But if someone buys a house with this riba-based loan, then he becomes its rightful owner according to Islamic teachings, even though he is sinning by getting involved with riba. He must repent from that, but he may make use of the house by living in it, renting it out, and so on.

Based on that, there is nothing wrong with you acting as a broker to rent out what has already been bought through a mortgage, and the fact that the owner gives you your percentage after making the monthly payment towards what he owes of this riba-based loan will not harm you, so long as you are not involved in that loan and did not help with it.

And Allah knows best.