

276356 - A sale is not valid except on the part of one who owns the item or is given permission by the owner or by the Lawgiver

the question

I wanted to buy a piece of land to preserve my wealth, because I do not want to put it in the bank, due to the issue of riba. I asked a real estate agent about a piece of land, and he told me that its price was 210,000, and we agreed on the sale. I saw the piece of land and paid the price, but at the time of signing the papers, I found out that he had bought that piece of land on behalf of someone else for 175,000. The line where the purchaser's name should have been mentioned was empty, so I wrote my name instead. It was stated in the contract that the price was 175,000 but I paid 210,000. Is there anything dubious or any riba in this transaction? Because the one who sold it to me is not the original owner of the land or of the original cash with which he bought it, and the owner of the cash does not know, because he appointed him as his proxy to buy it for him, and he is his nephew. He is going to buy another piece of land for him. Are there any reservations concerning this, or is there anything unlawful involved in it? By buying this land to preserve my wealth, do I have to give zakah on it after one full Hijri year has passed, and what is the rate of zakah?

Detailed answer

Firstly:

With regard to the one who sold it to you, we say: Whoever is appointed to buy land, for example, on behalf of someone else, so he buys it then sells it without the permission of its owner and makes a profit, the profit belongs to the one who appointed him, and it is not permissible for him to take it for himself, whether he buys another piece of land for him or not, because he only bought the first piece of land for him, and is going to sell it on his behalf.

At-Tirmidhi (1528), Abu Dawud (3384) and Ibn Majah (2402) narrated that 'Urwah al-Bariqi said: The Messenger of Allah (blessings and peace of Allah be upon him) gave me a dinar to buy a sheep for him, so I bought two sheep for him, then I sold one of them for a dinar, and I brought

the sheep and the dinar to the Prophet (blessings and peace of Allah be upon him) and told him what had happened. He said to me: "May Allah bless you in your business dealings." After that, he would go out to Kunasat al-Kufah and make a great deal of profit, and he was one of the wealthiest people of Kufah. Classed as authentic by al-Albani in *Sahih at-Tirmidhi*.

Secondly:

With regard to the validity of your purchase of this land, this seller sold the property of someone else without his permission.

Some of the scholars regard such a transaction as being definitely invalid, because the sale was done by someone who did not own the item and did not have permission to sell it.

Some of the scholars are of the view that such a transaction is valid, provided that the owner allows it.

This view is the one that is more likely to be correct, and the evidence for that from the Sunnah is the hadith of 'Urwah quoted above, as the Prophet (blessings and peace of Allah be upon him) approved of what he had done.

Shaykh Muhammad ibn 'Uthaymin (may Allah have mercy on him) said of such transactions:

What we may understand from the author's words is that this behaviour on the part of the proxy is invalid.

But the correct view is that it is valid and binding, if the owner of the item allows it. End quote. And he quoted as evidence for that the hadith of 'Urwah that we quoted above.

(End quote from *Ash-Sharh al-Mumti'*, 8/132)

Based on that: You must inform the owner of the land (the nephew of the real estate agent) of what was done.

Then if he agrees to the sale, the sale is valid and there is no sin on you in that regard.

But if he refuses, then the sale is invalid, and you must return the land to its owner and take back the price that you paid.

Thirdly:

If you bought the land with the intention of protecting your wealth, and not for the purpose of trading and waiting for prices to rise, then you do not have to pay zakah.

Shaykh Ibn 'Uthaymin (may Allah have mercy on him) was asked about someone who put his money into land, not intending to trade it, build on it or cultivate it; rather he said: it is to protect my wealth, and if I need it, I will sell the land. Is zakah due on it?

He replied: No zakah is due on it, to the extent that some of the jurists say: If he bought property with his wealth to avoid giving zakah, it is no longer obligatory for him. But this is a loophole [meaning that he must give zakah on it].

(End quote from *Thamarat at-Tadwin*)

See also the answer to question no. [146371](#).

And Allah knows best.