بسم اللہ الرحمن الرحیم

The importance of fixing the price in a transaction

Darulifta Ahlesunnat (Dawateislami)

Question

What do the scholars of Islam say concerning this matter: Zaid sold a mobile phone to Bakr in this manner — "if there is profit in my business it is for 60 Omani riyals, and if there is no profit it is for 100 riyals." Bakr has paid 60 riyals; so far there has been no profit. What is the ruling on this sale?

Answer

Among the basic principles for the validity of buying and selling is that the price be known — that is, at the time of the contract the price must be stipulated. If a transaction takes place but uncertainty remains in the price, then Islamic Law declares this contract defective (fāsid). In the case mentioned above, the buying and selling carried out is not permissible, because uncertainty is found in the price, on account of which this contract is defective — that is, contrary to Islamic Law — and annulling it is necessary (wājib).

In Fatāwā Shāmī, among the conditions for the validity of a sale, it states:

وَمَعْلُومِيَّةُ الثَّمَنِ بِمَا يَرْفَعُ الْمُنَازَعَةَ

"And that the price be known in a way that precludes dispute." (Fatawa Shami, vol. 7, p. 14)

In Bahār-e-Sharīʿat, the erudite Hanafi jurist, Mufti Amjad ʿAlī al-Aʿẓamī رَحْمَةُ اللّٰهِ عَلَيْه mentions that one of the conditions for the validity of a sale is: "Both the merchandise and the price must be known in such a way that no dispute can arise. If they are unknown in a way that could lead to a dispute, then the sale is not valid — for example, selling one goat out of this flock, or selling this item at the going price, or selling it at the price that so-and-so person states." (Bahar-e-Shariat, vol. 2, p. 617, Maktaba-tul-Madinah)

وَاللّٰهُ اَعْلَمُ عَزَّوَجَلَّ وَرَسُوْلُه اَعْلَم صَلَّى اللّٰهُ تَعَالٰى عَلَيْهِ وَاٰلِهٖ وَسَلَّم

(Allah Almighty knows best and His Messenger صَلَّى اللّٰهُ عَلَيْهِ وَاٰلِهٖ وَسَلَّم knows best.)

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