

The Shari'ah Ruling on Buyback

Ref: IEC.0570

Date:08-01-2024

Question:

What do the honorable scholars say regarding the situation in which, after selling something, a person needs to buy the same item back? What are the permissible and impermissible forms of such a transaction?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
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After selling an item, there are two basic scenarios of buying the same item back from the buyer:

1. Buying it back **before** the full payment of the first transaction is received.
2. Buying it back **after** the full payment of the first transaction is received.

Each of these has three sub-scenarios. Although there is a possibility of expanding these sub scenarios into more, but there are six primary cases. They are as follows:

Buying before receiving full payment of the first sale:

(1) Buying at a lower price than the original sale price before receiving full payment is impermissible, even if the market rate has dropped. However, if the genus of the payment (شئ) changes or if there's a defect

in the sold item leading to the price drop, then buying at a lower price is permissible.

(2) Buying at the same price as the first sale before receiving full payment is permissible. However, if the item was first sold for cash and then bought back for the same price on credit, it becomes impermissible. Similarly, if the item was first sold on short-term credit and then bought back on a longer-term credit for the same price, it is also impermissible.

(3) Buying at a higher price than the original sale before receiving full payment is permissible.

Buying after receiving full payment of the first sale:

(4) Buying at a lower price than the original sale is permissible.

(5) Buying at the same price is permissible.

(6) Buying at a higher price is permissible.

Proofs (جزئيات) regarding the mentioned rulings:

It is stated in al-Hidayah:

"ومن اشترى جارية بالف درهم حالة او نسيئة فقبضها ثم باعها من البائع بخمس مائة قبل ان ينقد الثمن لا يجوز البيع الثانى"

Translation: If someone buys a slave girl for one thousand dirhams, whether for cash or on credit, and takes possession of her, then sells her back to the seller for five hundred dirhams before paying the price, the second sale is not permissible.

(al-Hidayah Akhirain, p. 59, Lahore edition)

The book Bahar-e-Shariat states:

"جس چیز کو بیع کر دیا ہے اور ابھی ثمن وصول نہیں ہوا ہے اس کو مشتری سے کم دام میں خریدنا، جائز نہیں اگرچہ اس وقت اس کا نرخ کم ہو گیا ہو۔"

Translation: Once an item has been sold and the price has not yet been received, buying it back from the buyer at a lower price is impermissible, even if its market rate has decreased.

(Bahar-e-Shariat, vol. 2, p. 708, Maktaba-tul-Madina)

It is in Alamgiri :

"ولو اشتری بجنس آخر أو بعد ما تعيب يجوز"

Translation: If the item is bought back for a different type of genus, or after a defect has developed in the item, then the transaction is permissible.

(Alamgiri, vol. 3, p. 132, Quetta edition)

Bahar-e-Shariat mentions:

"اگر ثمن دوسری جنس کا ہو یا بیع میں نقصان ہوا ہو تو مطلقاً بیع جائز ہے۔"

Translation: If the payment is in a different genus, or the item has suffered a damage, then the transaction is absolutely permissible.

(Bahar-e-Shariat, vol. 2, p. 708, Maktaba-tul-Madina)

The book Fath-ul-Qadeer mentions:

"بمثل الثمن أو أكثر جاز"

Translation: Selling at the same price as the first or at a higher price is permissible.

(Fath-ul-Qadeer, vol. 6, p. 397, Beirut edition)

Bahar-e-Shariat mentions:

"مشتري سے اسی دام میں یا زائد میں خریدی یا ثمن پر قبضہ کرنے کے بعد خریدی یہ سب صورتیں جائز ہیں۔"

Translation: Buying from the buyer at the same or higher price, or after receiving the possession of payment, all these cases are permissible.

(Bahar-e-Shariat, vol. 2, p. 708, Maktaba-tul-Madina)

The book Al-Muhit-ul-Burhani while explaining the scenario where first sale is on cash and the second is on credit, mentions:

ولا يجوز أن يبيع سلعة بثمن حال، ثم يشتريها بذلك الثمن إلى أجل لأن هذا في معنى شراء ما باع بأقل مما باع لأن الأجل يمكن نقصاناً في المالية لأن المؤجل أنقص من الحال

Translation: It is not permissible to sell an item for cash and then buy it back for the same amount on credit. Because this is considered buying something for less than what it was sold for, as deferred payment is less in terms of profit than immediate payment.

(Al-Muhit-ul-Burhani, vol. 6, p. 388, Beirut)

It is in Fatawa Alamgiri :

"لا يجوز أن يبيع سلعة بثمن حال ثم يشتريها بذلك الثمن إلى أجل ولو باعه بالف درهم نسيئة إلى سنة ثم اشتراه بالف درهم إلى سنتين لا يجوز وإن زاد على الثمن درهماً أو أكثر جاز وتجعل الزيادة في الثمن الثاني بمقابلة النقصان المتمكن بزيادة الأجل فينعدم النقصان"

Translation: It is not permissible to sell an item for cash and then buy it back for the same price on credit. If an item is sold on credit for one year and then bought

back for the same price on credit for two years, it is impermissible. However, if the second transaction includes an increase of even one dirham or more, then it is permissible, as the (price) increase in the second sale will be against the loss incurred due to the deferment and in this way, the scenario of buying in less price will eliminate.

(Fatawa Alamgiri, vol. 3, p. 133, Peshawar edition)

Bahar-e-Shariat mentions:

"اگر اتنے ہی میں خریدی مگر پہلے ادائے ثمن کی کوئی میعاد مقرر نہ تھی اور اب میعاد مقرر ہوئی یا پہلے ایک ماہ کی تھی اب دو ماہ کی میعاد مقرر کی یہ بھی ناجائز ہے۔"

Translation: If the item is bought back for the same price but now a payment term has been specified while no term was set earlier or the term has been extended to two months while it is one month in the first transaction then this is also impermissible.

(Bahar-e-Shariat, vol. 2, p. 708, Maktaba-tul-Madina)

Fatawa Alamgiri mentions:

"لو قبض الثمن ثم اشتراه باقل جاز"

Translation: If the seller takes the price in his possession and then buys the item back for a lower price, the transaction is permissible.

(Alamgiri, vol. 3, p. 132, Quetta)

In Radd-ul-Muhtar under the phrase "قبل نقد كل الثمن الاول", it has been stated:

"قيد به لان بعده لافساد"

Translation: The condition of "before the full price is paid" is added because there is no corruption (فساد) in buying after the full payment.

(Radd-ul-Muhtar, vol. 7, p. 268, Quetta)

It must be noted that the impermissible cases related to buying back before the full payment is received as mention earlier, remain in effect until the full amount is paid. Even if only one rupee remains unpaid, the impermissibility still holds.

As Allama Shami رحمه الله عليه writes:

"ولا يجوز قبل النقد وإن بقي درهم"

Translation: Before receiving payment, the second sale remains impermissible, even if only one dirham remains unpaid.

(Radd-ul-Muhtar, vol. 7, p. 268, Quetta)

والله اعلم عز وجل ورسوله اعلم صلى الله تعالى عليه وآله وسلم

Written by

Syed Masood Ali Attari Madani

A Specialist in Islamic Jurisprudence

Date: 25th Jumad-ul-Ukhrah 1445 / 08 January 2024

The answer is Correct

Endorsed By

Abu Muhammad Mufti Ali Asghar Attari Madani

Translated By Maulana Abdul Wajid Madani

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نوٹ: مرکز الاقتصاد الاسلامي (Islamic Economics Centre) کی جانب سے وائرل ہونے والے کسی بھی فتوے کی تصدیق دارالافتاء اہل سنت اور مرکز الاقتصاد الاسلامي (Islamic Economics Centre) کی ویب سائٹ اور مرکز الاقتصاد الاسلامي کے فیس بک پیج IslamicEconomicsCentre سے کی جاسکتی ہے۔

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Email: appointment@iecdawateislami.com

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