

What Is The Ruling On A Partner Selling An Item At A Higher Price And Keeping The Extra Profit For Himself?

Ref: IEC.0302

Date: 24-07-2024

What do the scholars say about the following issue: Two of us have formed a partnership. We have contributed equal amounts of money, but I alone handle the work. We share the profits equally. My question is: We have fixed the selling price for all items — each item has a predetermined rate. Is it permissible for me to sell an item at a price higher than the fixed rate and keep the extra profit for myself without giving anything to my partner from that extra profit, given that all the effort — from purchasing to profit distribution — is mine?

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ
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In the asked situation, it is not permissible for you to keep the additional profit earned by selling an item above the fixed rate. Rather, any extra profit must also be divided equally between both partners as per the agreed profit-sharing ratio.

The detailed ruling is that in a partnership contract, each partner acts as a Wakil (i.e. agent) of other and as an Ameen. When any partner sells an item from the partnership assets, he is not selling solely on his own behalf — he is also selling on behalf of his partner. Therefore, if a profit is made, both partners are entitled to their respective shares based on the agreed ratio. Hence, any sale made by you is deemed to be from both partners,

and all the resulting profit must be shared as per the agreed profit-sharing ratio.

It is not permissible to secretly withhold any portion of the profit without informing the partner, even if you both had previously fixed a price and you managed to sell at more than that price because this fixing of price does not terminate the share of partner from the additional profit. This prior price-fixing is merely an estimate of profit; the actual profit is only realized after the sale.

A permissible alternative to the above impermissible arrangement:

If a working partner desires a larger share of the profit in a partnership, then this is permissible provided a higher profit ratio is mutually agreed upon in advance. In that case, taking a greater share of the profit will become permissible for the working partner.

Regarding the prohibition of unjustly consuming others' wealth, the Holy Quran says:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ

Translation: O believers! Do not consume one another's wealth unjustly.

(Surah An-Nisa, verse 29; Para 5, translation of Kanz-ul-Iman)

Regarding deceivers, the Holy Prophet ﷺ said:

“ليس منّا من غش”

Translation: He who deceives is not from among us.

(Sunan Abi Dawood, Vol. 3, p. 272, Beirut Edition)

Regarding taking others' wealth without a valid Shari reason, Allama Shami رحمه الله عليه states:

“لا يجوز لأحد من المسلمين أخذ مال أحد بغير سبب شرعي”

Translation: It is not permissible for any Muslim to take another's wealth unless there is a valid Shar'i reason.

(Radd-ul-Muhtar with Durr-ul-Mukhtar, Vol. 4, p. 61, Beirut Edition)

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Vol. 4, p. 61, Beirut Edition)

Each partner is a wakil (agent) and Ameen of the other:

It is stated in Majallat-ul-Ahkamil-Adliyya:

”كل قسم من شركة العقد يتضمن الوكالة فكل واحد من الشريكين في تصرفه يعني في الاخذ والبيع وتقبل العمل من الناس بالاجرة وكيل عن الآخر“

Translation: Every form of a partnership contract includes agency. Hence, in all transactions such as taking, selling, or accepting paid work from others, each partner is considered an agent of the other.

The commentary on the above text from the book Sharah Majalla by Al-Atasi says:

”يعنى ان كل صور عقود الشركة تتضمن الوكالة وذلك ليكون ما يستفاد بالتصرف مشترك بينهما فيتحقق حكم عقد الشركة المطلوب منه وهو الاشتراك في الربح“

Translation: This means that every form of a partnership contract includes agency so that whatever is earned through transactions of any of the partners is shared by both partners. Thus, the primary objective of the partnership contract, i.e., sharing in profit, is fulfilled.

(Sharh al-Majalla By Al-Atasi,
Vol. 4, p. 257, Karachi Edition)

It is stated in Durr al-Mukhtar:

”الشريك (امين في المال)“

Translation: The partner is an ameen in the partnership assets.

(Durr-ul-Mukhtar with Radd-ul-Muhtar,
Vol. 6, p. 489, Quetta Edition)

In Bahar-e-Shariat, it is written:

”شريك کے پاس جو کچھ مال ہے اس میں وہ امین ہے۔“

Translation: Whatever assets the partner has, he is an ameen in them.

(Bahar-e-Shariat, Vol. 2, p. 503,
Maktaba-tul-Madina, Karachi)

A working partner may keep a larger share of the profit with mutual consent:

It is mentioned in Fatawa Alamgiri:

”لو كان المال منهما في شركة العنان والعمل على أحدهما---ان شرط الربح للعامل اكثر من راس ماله جاز على الشرط“

Translation: If both contribute capital in a ‘Shirkat-e-Ainan’ and only one partner works,..... then if it is agreed that the working partner will receive more profit than his capital share, this is permissible based on the agreement.

(Fatawa Alamgiri, Vol. 2, p. 336,
Dar al-Kutub al-Ilmiyyah)

In Bahar-e-Shariat, it is written:

اگر دونوں نے اس طرح شرکت کی کہ مال دونوں کا ہو گا مگر کام فقط ایک ہی کریگا اور نفع دونوں لیں گے اور نفع کی تقسیم مال کے حساب سے ہوگی یا برابر لیں گے یا کام کرنے والے کو زیادہ ملے گا تو جائز ہے۔

Translation: If both partners contribute capital but only one works, and they agree to share the profits either according to capital or equally, or the working partner receives more, then it is permissible.

(Bahar-e-Shariat, Vol. 2, p. 499,
Maktaba-tul-Madina, Karachi)

واللہ اعلم عزوجل ورسولہ اعلم صلی اللہ تعالیٰ علیہ وآلہ وسلم

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17 Muharram al-Haram 1445 AH / 24 July 2024

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