

379200 - His brother is going to take his land and sell it, then keep the money, then return it to him sometime later with an increase of ten thousand

the question

My brother suggested to me that I should give him the land that I own, so that he can sell it for whatever price he can, and spend the money of getting married, then he will return to me that price, whatever it is, with an increase of ten thousand. Is this riba? Should I accept this suggestion?

Detailed answer

Firstly:

This transaction combines acting as an agent with a riba-based loan, which is haraam.

As for acting as an agent, it means that your brother will act on your behalf in selling the land, which he will sell for whatever price he can get.

As for the loan, it means that when he sells the land, he will inform you of the price, and will take it on the basis that he will pay it back to you later. If he is going to return the same amount without any stipulated extra amount, then this is a goodly loan, and you will have reward for that from Allah.

But if he is going to return that amount with a stipulated extra amount, which in this case is ten thousand - as stated in the question - then this is a riba-based loan, which is haraam. Allah has cursed the one who consumes riba and the one who pays it, as Muslim (1598) narrated that Jaabir said: The Messenger of Allah (blessings and peace of Allah be upon him) cursed the one who consumes riba and the one who pays it, the one who writes it down and the two who witness it, and he said: "They are all the same."

Regarding the reward for a goodly loan, it is half of the reward for charity. So if someone lends one hundred thousand, it is as if he gave fifty thousand in charity, because the Prophet (blessings and peace of Allah be upon him) said: "There is no Muslim who lends something to another Muslim twice, but it will be like giving charity once." Narrated by Ibn Maajah (2430) and by Ibn Hibbaan in his *Saheeh* and al-Bayhaqi, in both marfoo' and mawqoof reports. It was classed as hasan by al-Albaani in *Irwa' al-Ghaleel* (5/225).

Secondly:

If you do not want to give a loan and you want to make a profit, then the way out is to sell the land to your brother, to be paid at a later date, or by instalments that add up to a price that is greater than the market price if it were to be paid for in cash. Then if he buys it, he can sell it to someone other than you for immediate payment, which is most likely to be less than the price for which he buys it. This transaction is called *tawarruq*, and it is permissible according to the majority of fuqaha'.

It says in *al-Mawsoo'ah al-Fiqhiyyah al-Kuwaitiyyah* (14/147): In Islamic terminology, *tawarruq* means buying an item on credit, then selling it for cash - to someone other than the original seller, for less than one paid for it, in order to obtain cash thereby.

The ruling on *tawarruq*: the majority of scholars are of the view that it is permissible, both those who call it *tawarruq*, namely the Hanbalis, and those who do not call it by this name, who are the scholars other than the Hanbalis, because of the general meaning of the verse in which Allah, may He be exalted, says: *{But Allah has permitted trade}* [*al-Baqarah* 2:275]. And because the Prophet (blessings and peace of Allah be upon him) said to his worker who was working on the land in Khaybar: "Sell the jam' dates for cash (dirhams), then buy *janeeb* dates with the cash."

And because it does not seem that there is any intent to engage in *riba* in any of its forms.

Tawarruq was regarded as disapproved by 'Umar ibn 'Abd al-'Azeez and Muhammad ibn al-Hasan ash-Shaybaani. Ibn al-Humaam said: It is contrary to what is preferable. Ibn

Taymiyah and Ibn al-Qayyim regarded it as prohibited, because the seller is selling out of deparation. The view of the Hanbalis is that it is permissible. End quote.

And Allah knows best.