

408922 - Ruling on homeowners agreeing to pay a fixed monthly sum for water, gas and so on, despite the variation in their usage

the question

What is the ruling on living in a residential housing complex, where the owners of the apartments or houses pay a fixed monthly sum under the heading of services, in return for water, gas for cooking, security and garbage disposal. Please note that the people vary in how much they use of water and gas. Doesn't this come under the heading of an ambiguous transaction? Is it permissible to own a house or apartment in that complex and live in it?

Detailed answer

If the homeowners have agreed that each of them will pay a fixed monthly sum to pay for services (water, gas and security) that they collect and pay for the costs of those services, overlooking the variation between them with regard to consumption, and any surplus will be theirs collectively, or will be spent on something that benefits them, there is nothing wrong with that, and it will be as if each of them is donating what is surplus to his own usage. Donating or giving something unknown is permissible, according to the correct view, and it is the view of the Malikis.

Ibn Rushd (may Allah have mercy on him) said: There is no difference of opinion in our madhhab regarding the permissibility of donating or giving something that is unknown or something that does not currently exist but is expected to come into existence. In general, [it is permissible to donate or give] that which is not permissible to sell or buy, according to Islamic teachings, because of ambiguity. End quote from *Bidayat al-Majtahid* (4/114).

Shaykh Ibn 'Uthaymin (may Allah have mercy on him) said: It is permissible to give or donate something unknown according to the correct view, because it is a gift or donation. End quote from *ash-Sharh al-Mumti'* (9/193).

See also: *al-Mawsu'ah al-Fiqhiyyah* (31/160).

The closest thing to that is what is known as pooling resources.

Al-Bukhari (2486) and Muslim (2500) narrated that Abu Musa said: The Prophet (blessings and peace of Allah be upon him) said: "If the Ash'aris run short of provisions during a campaign, or they run short of food for their families in Madinah, they gather whatever they have in a single cloth and share it out equally amongst themselves. They belong to me and I belong to them."

An-Nawawi (may Allah have mercy on him) said in *Sharh Muslim*: This study highlights the virtue of the Ash'aris, the virtue of selflessness and equality, the virtue of combining provisions when travelling, and the virtue of putting provisions together in the event of scarcity when not travelling and then sharing them out. What is meant here is not the well-known sharing out with the conditions that are mentioned in the books of jurisprudence, which is prohibited in the case of types of wealth that are subject to riba, and concerning which there are stipulations of helping and other conditions. Rather what is meant here is that each of them permits the others (to take what they need), and each of them helps others with what is available. End quote.

Ibn Qudamah said in *al-Mughni* (9/216): There is nothing wrong with pooling resources, for the righteous pooled resources. When al-Hasan travelled, he would pool his resources with others, and he would give more after having given his contribution.

What is meant by pooling resources is that each of the travelling companions gives some of his money to a man who will spend on them from that, and they will all eat together. Al-Hasan al-Basri used to give the same amount of money as the others to the one whom they had appointed, then he would go back secretly and give as much again. End quote.

It says in *Sharh al-Muntaha* (3/39): Pooling resources is permissible. This refers to when each of the travelling companions contributes some money and provisions, even if they do not give equal amounts; they give it to the one who will spend on them from that, and they will all eat together. And if some of them eat more than their companions, or some of them

give charity from that food, there is nothing wrong with that, and people still do this. Imam Ahmad stated that it is permissible. End quote.

And Allah knows best.