160559 - Can You Sell What You Do Not Possess?

the question

I live in a foreign country, where our financial situation is very bad, and my husband is not working. I have decided to help my husband, so I have started to offer my services over the Internet to any sister who wants to buy products from the country in which I am living. She can request a specific item, which I look for and send the purchaser a picture of the item. If she agrees, I work out the price, along with shipping costs, and ask for the money so that I can buy the item, then I send it to the purchaser. Things were going very well and I was happy with my work, until one day a businesswoman asked me for something – and sent me links to websites where I could find it – and I worked out the price of the goods and she transferred the money to me, which was US$670. When I had ordered the goods and was waiting for them to be delivered to me, they were not delivered. The problem here is that I bought the goods, but they were not delivered to me. When we contacted the website from which we bought the goods, no one responded. When we investigated the matter, we found out that it was a fake company and we had fallen prey to a scam; they had set up websites in order to steal money. When I told the sister what had happened, she did not believe me, and she called me a liar and a thief. I swore to her: As soon as circumstances permit, I will collect the money from my husband’s account and send it to you. But now it has been a year or more, and I have not been able to collect the money until now. Do I have to return the money to her, knowing that the money was taken by a fake company, but the sister is demanding the money from me? What is the Islamic ruling? May Allah bless you, O Shaykh.

Summary of answer

1- It is not permissible for anyone to sell a specific item that is not in his possession, and is not even in the possession of someone else.
2- With regard to the money that was paid to you by this woman, you have to return it to her, because it is her rightful property.

Detailed answer

Praise be to Allah.

Is it permissible to sell what you do not possess?

Undoubtedly the transaction for which you are asking about the ruling is not Islamically acceptable. It is contrary to Islamic teaching because you are selling something that you do not own , and you are selling something that is not in your possession and it is not within your power to guarantee it and hand it over to the purchaser. Therefore it is an ambiguous transaction and one that is effectively gambling.

Dealing in such transactions may lead to disputes and conflict, because you may be faced with a sudden rise in price, so that the item may cost more than the price for which you sold it. Similarly, the item may become unavailable. There is also another risk that has arisen in your transaction, which is that the trader does not exist in the first place! Therefore it is not permissible for anyone to sell a specific item that is not in his possession, and is not even in the possession of someone else – except in the case of salam transactions for which an exception is made.

Hakim Ibn Hizam (may Allah be pleased with him) said: O Messenger of Allah, people come to me wanting to buy something that I do not possess; should I buy it for them from the marketplace? He said: “Do not sell that which you do not possess.” (Narrated by At-Tirmidhi, 1232, Abu Dawud, 3503, An-Nasa’i, 4613 and Ibn Majah, 2187; classed as authentic by Al-Albani in Sahih At-Tirmidhi)

`Abdullah ibn `Amr (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “It is not permissible to arrange a loan combined with a sale, or to stipulate two conditions in one transaction, or to make a profit on something that is not under your control, or to sell something that you do not possess.” (Narrated by At-Tirmidhi, 1234, who said: It is authentic. Also narrated by Abu Dawud, 3504 and An-Nasa’i, 4611)

Ibn Al-Qayyim (may Allah have mercy on him) said:

“The wording of the two Hadiths indicates that the Prophet (blessings and peace of Allah be upon him) forbade selling that which is not in one’s possession, and this is what is understood from the words of the Prophet (blessings and peace of Allah be upon him), because such a transactions is ambiguous and involves deceit. If he sells him a specific item that is not in his possession, then he goes to buy it or hand it over to him, that may or may not happen, in which case there is ambiguity akin to gambling, therefore it is forbidden.” (Zad Al-Ma`ad fi Hadiy Khayr Al-`Ibad, 5/808)

He (may Allah have mercy on him) also said, discussing the types of sales of items that are not present:

“That which is not present and it is not known whether it will be obtained or not, and there is no confidence that the seller will be able to obtain it; rather the one who wants to buy from him is at risk. These are the transactions that the Lawgiver forbids, not because the item is not there, but because there is ambiguity. For that reason the prohibition was issued in the Hadith of Hakim ibn Hizam and `Abdullah ibn `Amr (may Allah be pleased with them both), because if the seller sells something that is not in his possession and that he is not able to deliver it, so he has to go and obtain it, and then deliver it to the purchaser, then this is more akin to gambling and taking risks that neither of them needs to take to be involved in such a deal, and their interests will not be served by that.” (Zad Al-Ma`ad fi Hadiy Khayr Al-`Ibad, 5/810)

Even if your purchase from those websites was Islamically valid and sound, it would not be permissible for you to sell the goods when they were still in that place , without you taking possession of them, i.e., before you actually get your hands on them and move them from the place where they were sold to your warehouse or your own place, if they are things that can be moved. This is another reason that makes your transaction unacceptable according to Shari`ah.

Ibn `Umar (may Allah be pleased with him) said: I bought some olive oil in the marketplace and when it came into my possession I was met by a man who offered me a good profit for it, and I wanted to make a deal with him, but a man behind me took hold of my arm. I turned around and saw that it was Zayd ibn Thabit (may Allah be pleased with him). He said: Do not sell it where you

bought it until you take it to your place, for the Messenger of Allah (blessings and peace of Allah be upon him) forbade selling goods where they were bought, before the merchants moved them to their places. (Narrated by Abu Dawud, 3499; classed as sound by Al-Albani in Sahih Abu Dawud)

Shaykh `Abd Al-`Aziz ibn Baz (may Allah have mercy on him) said, after quoting the three Hadiths mentioned above:

“From these and similar Hadiths it is clear to the seeker of truth that it is not permissible for the Muslim to sell an item that is not in his possession, then to go and buy it. Rather what he must do is delay the sale until he has bought it and it has been transferred into his possession. It also becomes clear that what many people do, of selling an item when it is still in the seller’s location, before it is transferred to the purchaser’s possession or to the marketplace is something that is not permitted, because it is contrary to the Sunnah of the Messenger (blessings and peace of Allah be upon him), and because it is a kind of tampering with transactions and not following the guidelines laid down by Islamic teaching. And that leads to mischief, evil and negative consequences of an extent that is known only to Allah, may He be Glorified and Exalted. We ask Allah to guide us and all the Muslims and enable us to adhere to His laws, and to avoid that which is contrary to them.” (Majmu` Fatawa Ash-Shaykh Ibn Baz, 19/52-53)

How to correct the transaction of selling what you do not possess

The way to correct your way of doing business so that it will be in accordance with Islamic teaching is as follows:

- You should offer the goods to potential buyers in a way that dispels ambiguity and prevents any dispute arising, and you should clearly state the price for which you will sell it when you take possession of it, and the purchaser should promise to buy it for the same price, without there being any commitment on your part to sell or on their part to buy; rather both sides should have the option of either going ahead with the transaction or not. Then when you take possession of the item in the manner prescribed, then you come to an agreement with the purchaser to the transaction, then the transaction becomes binding on both parties, and

comes under the well-known rulings on sales and transactions. This is called a “promise to buy”.

- You may sell the item to the purchaser in return for commission or a percentage of the purchase price. So you may offer goods for sale to people and stipulate a fee, such as ten dollars – for example – for each purchase, or two percent – for example – on the total purchase cost, and this fee or percentage will be in return for your efforts and is to be included in the money that is given to you to buy the goods.

You could also act as a broker or agent for purchasers, and also as a broker or agent for sellers.

With regard to the money that was paid to you by this woman, you have to return it to her, because it is her rightful property. You can again demand that the owners of that website return your money through the police and the like, and that woman can again ask you to return her money. Regardless of whether you are able to claim your rights from that fake company or not, that does not mean that this woman is not entitled to something from you. In fact you remain liable to give her her dues in any case. Perhaps she will appreciate your situation and show some patience and wait for things to become easier for you or she may waive her claim, which will be better for her with her Lord. Allah, may He be Exalted, says (interpretation of the meaning):

“And if the debtor is in a hard time (has no money), then grant him time till it is easy for him to repay, but if you remit it by way of charity, that is better for you if you did but know.” [Al-Baqarah 2:280]

We ask Allah, may He be Exalted, to decree reward for you for helping your husband with the costs of living, and we ask Him, may He be Exalted, to bestow upon you a good and wholesome provision.

For more details, please see the following answers: 334744 and 278724 .

And Allah knows best.