308135 - He said: By Allah, you will not do it, intending to prevent him from doing that, and it did not occur to him that it was an oath

the question

My friend transferred a sum of money to my bank account; I returned it to him, and I sent him a message on WhatsApp saying: By Allah, you should not transfer anything, so as to stop him from making any transfers. But he transferred money again. My question is: is simply intending to stop him from doing something regarded as a niyyah (intention) or as a binding oath? Or is it stipulated that the person should bear in mind when writing it that it is an oath?

Detailed answer

Praise be to Allah.

Firstly:

If one person says to another: By Allah, you will should do it, or By Allah you should surely do it, intending to swear an oath by saying these words, then it is a binding oath.

It says in al-Insaaf (11/34): If he says: By Allah, you will surely do such and such, then according to the correct scholarly view, it is an oath. It says in al-Mughni and ash-Sharh: It is an oath, unless he intended otherwise. The phrase “I ask you by Allah to do…” should be judged according to the person’s intention. End quote.

The second sentence, “I ask you by Allah to do…” may be understood as an oath, or it may be understood as interceding by Allah, which is not allowed, but no expiation is required for that if his companion does not respond to him.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said: With regard to the words “I ask you by Allah to do such and such,” this is a request, not an oath. In the hadith it says, “Whoever

asks of you by Allah, then give to him." No expiation is required for that, if he does not respond to his request.

End quote from Majmoo' al-Fatawa (1/206).

For more information, please see the answer to question no. 153727 on the ruling on responding to someone who asks by Allah.

With regard to the first sentence: "By Allah you should not do…", this is akin to what you said, so it is an oath, and expiation must be offered for it if it is broken.

In al-Mughni, Ibn Qudaamah favoured the view that it is an oath, unless the person intended something other than an oath, such as seeking intercession by Allah or asking by Allah [i.e., saying "for the sake of Allah"].

Secondly:

If someone deliberately utters an oath referring to some future matter, then he has sworn a binding oath, even if he did not have in mind that it was an oath. If he uttered the oath without thinking and without intending to say it, then he has engaged in idle speech.

It says in al-Insaaf (11/15): Oaths are binding. This refers to an oath that may be fulfilled or may be broken; that is oaths regarding matters in the future that are possible. End quote.

In al-Insaaf (11/20) it says: If he uttered the oath without thinking and without intending to do so, such as saying, "No by Allah", or "Yes by Allah", in his conversation, then he does not have to offer expiation for it. End quote.

Thirdly:

Your friend should have fulfilled your oath; as he did not do so, then you must offer expiation for breaking an oath (kafaarat yameen).

Ibn Qudaamah (may Allah have mercy on him) said in al-Mughni (9/535): If he said "By Allah, So-

and-so should definitely do such and such", or "he should not do such and such", or he swore an oath with immediate effect and said: "By Allah, you must surely do such and such," then he broke that oath and did not do it, the one who swore the oath must offer expiation.

This was the view of Ibn 'Umar, the people of Madinah, 'Ataa', Qataadah, al-Awzaa'i, the people of Iraq, and ash-Shaafa'i, because the one who swore the oath is the one who is responsible for its being broken, so expiation is owed by him, as if he was the one who was responsible for the oath being broken, and because the cause of expiation is either the oath, the breaking of the oath, or both of them, therefore whatever the case, the one who made the oath is responsible for it. End quote.

The scholars of the Permanent Committee for Iftaa' were asked:

… I adjured someone and said, By Allah, you will not slaughter the sacrifice, but he did not listen to me, and he slaughtered it and I ate from it. Is there any sin on me, and is there any expiation to be offered? If there is any expiation to be offered, please advise me concerning it.

They replied: If the situation is as you described, there is no sin on you for eating from it, but you must offer expiation for breaking an oath, which is to feed ten poor persons, giving them the kind of food that you eat yourself, or to clothe them, or to free a believing slave. If you cannot do any of these things, then you must fast for three days.

And Allah is the source of strength. May Allah send blessings and peace upon our Prophet Muhammad and his family and companions.

Permanent Committee for Academic Research and Iftaa'

Shaykh 'Abdullah ibn Ghadyaan, Shaykh'Abdar-Razzaaq 'Afeefi, Shaykh 'Abd al-'Azeez ibn 'Abdillah ibn Baaz.

End quote from Fatawa al-Lajnah ad-Daa'imah (23/85).

And Allah knows best.