417506 - Building a school with a real estate investor by means of a share system, in which the profit is a percentage of the value of the shares

the question

What is the ruling on participating in building a school with a real estate investor by means of a share system, in which the profits are a percentage of the value of the shares and will increase with time to reach the maximum amount in the fourth year?

Detailed answer

Praise be to Allah.

It is permissible for a group of people to participate with a real estate investor to build a private school by means of a share system, but the profit must be a known percentage of the total profit, such as 50% of the profit, for example, going to the real estate investor and 50% going to the shareholders, to be distributed among them according to the number of shares each of them holds. It is not permissible for the profit on the shares to be a percentage of the value of the shares, because that is like stipulating a certain amount of money [as profit], which is not permissible in any partnership.

Ibn Qudamah (may Allah have mercy on him) said: If the share of one of the partners is defined as a known amount of money, or he will receive in addition to his share of the profit a specific amount of money, such as stipulating that he will have his percentage of the profit plus ten dirhams, the partnership is rendered invalid.

Ibn al-Mundhir said: All of the scholars from whom we acquired knowledge are unanimously agreed that a profit-sharing partnership is rendered invalid if one or both of the partners stipulate that he will receive a known amount of money. Those from whom we learned that include Malik, al-Awza‘i, ash-Shafa‘i, Abu Thawr and ashab ar-ra’y."(A*l-Mughni* 5/23).

In al-Ma‘ayir al-Shar‘iyyah (p. 198) it says: It is not permissible for the conditions or bylaws of a partnership governing the distribution of profits to include any clause that leads to the possibility of putting a stop to the sharing of the profits. If there is any such clause, then the contract is invalid. It is not permissible for one of the partners to stipulate that he will receive a specific amount of the profits or a percentage of the capital. End quote.

And Allah knows best.