72505 - Ruling on buying apricot orchards before they become ripe

the question

What is the Islamic ruling on buying apricot orchards before they become ripe, where the dealer hastens to buy them from the peasants when they are still immature?.

Detailed answer

Praise be to Allah.

Firstly:

It is not permissible to sell fruits before their condition is known, according to scholarly consensus, because it is proven from the Prophet (peace and blessings of Allaah be upon him) that that is forbidden.

It was narrated from Ibn ‘Umar (may Allaah be pleased with him) that the Prophet (peace and blessings of Allaah be upon him) forbade selling fruits before their condition is known, and he forbade both the seller and the buyer. Narrated by al-Bukhaari (2194) and Muslim (1534).

So it is more appropriate that it is not permissible to sell fruits before they appear. The scholars are also unanimously agreed that this is forbidden.

The reason why it is forbidden to sell fruits before their condition is known is the fear that the crop may be destroyed and stricken with blight before its condition is known. Fruits are often destroyed before their condition is known, and it is proven in the hadeeth of Anas (may Allaah be pleased with him) that the Prophet (peace and blessings of Allaah be upon him) said: “Do you think that if Allaah withholds the crop, why would you regard your brother’s wealth as permissible?” Narrated by al-Bukhaari (1488) and Muslim (1555).

What is meant by their condition becoming known is when the fruit first appears and becomes fit to eat. It does not mean when it is fully ripe. Hence it says in the hadeeth, “until their condition is

known” and it does not say, “until they become fully fit to eat.”

Muslim (1536) narrated from Jaabir ibn ‘Abd-Allaah (may Allaah be pleased with him) that the Messenger of Allaah (peace and blessings of Allaah be upon him) forbade selling produce until it is fit to eat, and according to another report, until it is ripe.

Al-Nawawi (may Allaah have mercy on him) said in al-Majmoo’ (11/150):

Its condition becoming known has to do with a change in the produce, so it varies from one type to another. Despite the differences between them, it comes down to one thing which they all have in common, which is when it is fit to be eaten. End quote.

Shaykh Ibn ‘Uthaymeen said in al-Sharh al-Mumti’ (4/33):

The guideline is when it can be eaten and becomes palatable, because when it reaches that point it can be benefited from, but before that it cannot be benefited from except with difficulty, When it reaches that point of ripeness, it is less likely to be affected by blight. End quote.

With regard to apricots, which are mentioned in the question, the scholars have stated that they become fit to eat when they begin to turn yellow and sweet.

See al-Majmoo’ (11/151).

Secondly:

But some exceptions may be made to the ruling that it is haraam to sell crops until their condition is known, in which case it may be permissible to sell the crops even though they are not yet fit to eat.

1 – When the fruits are sold along with the trees. This is permissible, whether the condition of the fruits is known or not, and there is no difference of opinion among the fuqaha’ concerning this, because the sale of the fruit in this case is connected to the trees, and the basic principle according to the scholars is that rules may be relaxed when an item is sold along with another item, but not when it is sold on its own.

2 – The fruits may be sold before their condition is known so long as the purchaser cuts them down straight away, and does not wait until they ripen. This sale is valid according to scholarly consensus, and the scholars gave the reason that the prohibition on selling before the condition of the fruits is known is due to the fear that the fruits may be destroyed by blight before they are picked, but there is no risk of that if they are cut down straight away.

The condition of cutting them down straight away applies in some cases where the fruits may be used before they ripen, such as if they may be used as animal feed and other ways of benefiting from them.

Thirdly:

If there is just one orchard, it is not essential that the condition of the fruits on every tree be known, rather each kind of fruit should be considered on its own, and it is sufficient for the condition of the fruits of one tree of each type to be known.

For example, if the orchard contains different types of dates such as barhi and sukkari for example, then the condition of the barhi dates is not sufficient for the sukkari dates to be sold, rather the condition of each type must be known, even if it is only one tree.

Shaykh Ibn ‘Uthaymeen (may Allaah have mercy on him) said in al-Sharh al-Mumti’ (4/31):

If the condition of one tree is known, that suffices for all the other trees of that type in the orchard. End quote.

See: al-Mawsoo’ah al-Fiqhiyyah (9/190-194)

And Allaah knows best.