97489 - Ruling on children’s transactions

the question

If it is not valid for a child to sell anything except for a small amount, what is regarded as a small amount?.

Detailed answer

Praise be to Allah.

The fuqaha’ differed as to whether it is valid for children to buy or sell. Some of them regarded that as permissible if done with the permission of the child’s guardian, and some did not regard it as permissible regardless of whether or not the guardian gave permission. Some of them regarded as permissible transactions undertaken by a child for a small amount without his guardian’s permission.

It says in al-Majmoo’ (9/185), discussing the scholars’ points of view concerning that: According to some of our scholars sales made by a child who has reached the age of discernment are valid. We have stated that our view is that it is not valid, whether the guardian gives permission or not. This is also the view of Abu Thawr. Al-Thawri, Abu Haneefah, Ahmad and Ishaaq said: It is valid (for a child) to buy and sell with his guardian’s permission. It was narrated from Abu Haneefah that he regarded it as permissible without the guardian’s permission. Ibn al-Mundhir said: Ahmad and Ishaaq regarded it as permissible (for a child) to buy and sell for a small amount, i.e., without permission. End quote.

Ibn Qudaamah said in al-Mughni (4/168): It is valid for a child who has reached the age of discernment to engage in transactions by buying and selling, if his guardian has given permission for that, according to one of the two reports. This is also the view of Abu Haneefah.

The second view is that it is not valid until the child reaches puberty, which is the view of al-

Shaafa’i, because he is not accountable, therefore he is more like the one who has not reached the age of discernment, and because discernment cannot be defined as a certain age, therefore the Lawgiver has set a guideline for that, namely puberty.

We also have the words of Allaah (interpretation of the meaning): “And try orphans (as regards their intelligence) until they reach the age of marriage; if then you find sound judgement in them, release their property to them” [al-Nisa’ 4:6]. What this means is test them to see if they are mature and wise, and testing them is done by delegating them to buy and sell, so that it may be determined whether they will be cheated or not. If he is wise and has discernment, under the care of a guardian, then his transactions with the permission of his guardian are valid, like a slave. This is different from the case of one who has no discernment; no interest can be served by his engaging in transactions, because he has no discernment or knowledge, and there is no need to test him, because his condition is known.

They say that it is not possible to know the age at which a person reaches discernment. We say that may be known by seeing his behaviour and attitude, as it may be known in the case of an adult. Knowing that he is mature and of sound mind is a condition of giving him his own wealth, and of the validity of his transactions, and the same applies here.

With regard to transactions done without the permission of his guardian, his transactions are not valid, but they may be valid, subject to the approval of his guardian. This is the view of Abu Haneefah.

As for a child who has not reached the age of discernment, his transactions are not valid, even if his guardian gives him permission, except in the case of small amounts, as it was narrated from Abu’l-Darda’ that he bought a small bird from a boy and let it go. This was narrated by Ibn Abi Moosa. End quote.

To sum up: the transactions of a child, buying and selling, may be valid in two cases:

1 – If it has to do with something small, in which case it is valid even if he has not reached the age of discernment.

2 – If it is done with the permission of his guardian.

Small thing means a (small) loaf of bread, or a piece of candy and so on.

It says in Mataalib Ooli al-Nuha (3/10):

Except for something small, such as a small loaf of bread, a bunch of herbs or a piece of candy and so on. … Otherwise, if the guardian of the child who has reached the age of discernment or the fool gives them permission, then the transaction is valid – even if it concerns a large amount – because Allaah says “And try orphans (as regards their intelligence)”. But it is haraam for their guardian to give them permission to dispose of their wealth if it serves no purpose, because that is a waste of money. End quote.

What is mentioned about a small amount is stated by way of example, and it is not restricted to these things. The guidelines on that depend on customs; whatever people regard customarily as being a small amount and what children usually buy is the small amount that children are allowed to buy.

And Allaah knows best.