145214 - Can he take the possessions of the renter whom he evicted from the house in return for the rent that was not paid?

the question

My brother-in-law (sister’s husband) owns several apartments. Two young men rented an apartment from him, but in most months they did not pay the rent. Recently, one of them was arrested. My brother-in-law went to the other young man to ask him for the rent, but he said that he was not responsible and did not pay anything. To cut a long story short, he evicted him from the apartment, where he found a television and a receiver, which he took home. He wants to sell the television and keep the money as compensation for the (unpaid) rent. What is the ruling on that?

Detailed answer

Praise be to Allah.

This issue is known to the fuqaha’ as the issue of seizing property (mas’alat az-zafar). What this means is that if you are owed something by a wrongdoer and you cannot get your due from him, but you are able to seize something that belongs to him, is it permissible for you to take something equivalent to what is owed to you, or not?

This is a matter concerning which there is a difference of opinion among the scholars. Some of them regard that as permissible, some regard it as forbidden (haraam), and some regard it as permissible subject to certain conditions.

See: Sharh Mukhtasar Khaleel by al-Kharashi (7/235); al-Fataawa al-Kubra (5/407); Tarh at-Tathreeb (8/226-227); Fath al-Baari (5/109); al-Mawsoo‘ah al-Fiqhiyyah (29/162).

Shaykh Ibn Jibreen (may Allah have mercy on him) said:

The matter differs from one case to another. It is permissible to take something if it is established

that the other person is being stubborn and denying that he owes anything, and is delaying payment with no excuse, but that is not permissible if there is some cause for doubt. And Allah knows best.

End quote from the Shaykh's website.

http://ibn-jebreen.com/ftawa.php?view=vmasal&subid=9518&parent=786

In the answer to question no. 27068, we stated that the view that is most likely to be correct is the view that it is permissible for the one who has been wronged to take his due and no more than that, if he is able to seize something of the property of the one who wronged him.

If the rent that is owed to the landlord is a fixed amount concerning which there is no dispute or disagreement on the part of the tenant, then there is nothing wrong with him taking something of equivalent value to the rent from his property.

But if there was a dispute between them concerning the amount of rent, then the one to decide concerning the matter is the qaadi (shar'i judge).

Secondly:

If we say that this is permissible, the landlord does not have the right to use this television or this receiver for haraam purposes, such as using them in sinful ways by watching things that Allah has prohibited of movies and shows and the like in which immoral matters are common, and which introduce corruption into Muslim households, or selling these items to someone who he thinks most likely will use them in unlawful ways.

It says in Fataawa al-Lajnah ad-Daa'imah (13/109):

With regard to anything that is used in haraam ways, or it is thought most likely that that will be the case, it is haraam to manufacture them, import them, sell them and distribute them among the Muslims. End quote.

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said:

If televisions are sold to people who will use them in permissible ways – such as selling them to those who will use them to show movies that are of benefit to people – then there is nothing wrong with that. But if they are sold to ordinary people, then the seller is sinning thereby, because most people use televisions for unlawful purposes. Undoubtedly some of what is watched on television is permissible, and some of it is beneficial, but some of it is haraam and harmful, and most people do not differentiate between the former and the latter.

End quote from al-Liqa' ash-Shahri (1/49).

And Allah knows best.