159213 - Are Mortgages Haram?

the question

Perhaps my question has been asked many times before. It is about mortgages in non-Muslim countries. We live in a western society and we live in rented accommodation so as to avoid riba. Recently, we found out that there are no houses for rent, and 96% of the market is based on mortgages. All houses are offered for sale only. Some of them told me that in this situation it is permissible for me to buy a house by means of a mortgage and, moreover, it is possible to get the mortgage in the name of family insurance, so that the individual does not pay riba or a mortgage; rather it is paid by the insurance.

Is it permissible to get a mortgage in the name of the family insurance, in such a way that you and other trustees or borrowers are not dealing directly with the bank and the lawyer takes care of dealing with the mortgage on your behalf?

I hope that you can advise me as to whether that is permissible or not.

Summary of answer

Mortgages are riba-based transactions and it is not permissible either in Muslim countries or non-Muslim countries to buy houses or stores on mortgages.

Detailed answer

Praise be to Allah.

What is a mortgage?

A mortgage is a haram riba-based transaction that is based on a loan with interest in which the owner of the money takes as collateral the property for the purchase of which the borrower is

taking out the loan, until the debt has been paid off along with the interest (riba). If the debtor is late in making payments, then the owner of the money is entitled to sell the property and take back his money.

How is the mortgage done?

This transaction is offered by riba-based banks or real estate mortgage companies , and this transaction is done when the one who wants to buy a house chooses a house, then he goes to the mortgage company – or to the riba-based bank – to ask them to buy that house and he agrees to pay the money in installments , plus the interest that has been agreed upon.

A representative of the company or bank meets with the owner of the house and the third party, namely the borrower, and the price of the house is paid in full to the owner. In some cases the borrower pays part of the price (down payment). And the contract is signed with the borrower for the money paid to the owner of the house plus the interest. The house is mortgaged to the mortgage company or bank that pays the money to the owner of the house. If the borrower fails to pay any installment on his loan, the mortgage company has the right to sell the house in order to get back the rest of the money that it is owed by the borrower.

This transaction clearly comes under the heading of blatant riba. Allah, may He be exalted, has forbidden riba and has issued a warning to those who consume it of a severe punishment as He, may He be exalted, says (interpretation of the meaning):

“Those who eat Riba (usury) will not stand (on the Day of Resurrection) except like the standing of a person beaten by Shaytan leading him to insanity. That is because they say: "Trading is only like Riba," whereas Allah has permitted trading and forbidden Riba. So whosoever receives an admonition from his Lord and stops eating Riba shall not be punished for the past; his case is for Allah (to judge); but whoever returns (to Riba), such are the dwellers of the Fire - they will abide therein.” [al-Baqarah 2:275]

Are Mortgages Haram?

This riba-based transaction is not permissible either in Muslim countries or non-Muslim countries; it is not permissible in order to acquire houses or stores.

Some contemporary scholars have permitted this riba-based transaction if it is in a non-Muslim country and it is done in order to acquire a house in which to live. This permission is attributed to the Hanafi madhhab, and some evidence is quoted for it. But many scholars have challenged this fatwa , including Shaykh Salah as-Saawi (may Allah preserve him) in his book Waqafat Hadiah ma'a Fatwa Ibahat al-Qurud al-Ribawiyyah li Tamwil Shira al-Masakin fi'l-Mujtama'at al-Gharbiyyah.

And Allah knows best.