171294 - He sold land to someone for a deferred payment, and that person sold it for a higher price; can the transaction be cancelled because of the loss?

the question

We sold a land to one person. The amount decided was Rs. 400000. We agreed that we will give the land to him. The complete payment duration was fixed over several months. The land is still on our name and it will not be registered on his name until he makes the full payment. However, the man sold a part of the land to someone else at a higher rate. He has done partial payment of Rs. 100000 to us till now.
1) Is it permissible on the part of that man to sell the land to someone else at higher rate even though the land is still on our name and full payment has not been made?
2) Seeing some loss we want to cancel this transaction and sell it to someone else. We will return him the Rs 100000 that he payed us. Is it permissible for us to do that even though we agreed initially that we will give the land to him?.

Detailed answer

Praise be to Allah.

If the sale has been completed and the purchaser has taken possession of the land, it is permissible for him to sell it for the same price or for more or less, because it has now become his property that he may dispose of however he wishes, by giving it away, selling it, renting it out or otherwise. The fact that it has not been registered in his name does not matter, because registration is only for the purpose of documentation. It also does not matter that he had not paid off the balance, because by means of the transaction it became his lawful property and he is to be asked to pay off what he owes, unless you had stipulated that he should not sell it until he had paid off the outstanding balance, or if the reason for not registering it was so that he would not be able to sell it until he had paid it off. This is a permissible condition and means that the land is

being held in pledge until the price is paid in full, and he has to adhere to the condition and it is not valid for him to sell it to a third party before that.

But if you did not stipulate that he should not sell it, there are no grounds for not allowing him to do so, because he may dispose of his property.

You do not have the right to try to cancel the transaction out of jealousy of the profit that he made by selling it, unless you were deceived concerning the price for which you sold it, in which case you have the right to cancel the transaction or go ahead with it.

According to some fuqaha', this is called khiyaar al-ghabn (option of cancelling the deal in the event of gross and unfair underselling)

There are several forms of khiyaar al-ghabn, such as: bay' al-mustarsil, which refers to one who does not know the value of things or is not good at bargaining, so he may buy or sell something for far more or less than it is worth according to people of experience. In that case he has the choice. But if he knew the value of things and he is good at bargaining, then this is not applicable.

If the option of khiyaar al-ghabn is not applicable in your case, you cannot cancel the transaction, because the sale is a binding contract unless he lets you off and agrees to cancel it.

If you stipulated that he should not sell it until he had paid off the price, then he is obliged to adhere to that and is not allowed to sell it until he has paid it off. But you do not have the right to cancel the transaction with him except with his consent, because of what is stated above about the transaction being a binding contract.

And Allah knows best.