202559 - It is not valid to sell something for an unknown price or for a price to be paid within an unknown period of time

the question

There is a man who had a piece of land, and he needed money so he wanted to sell it. One of his relatives came and gave him the money he wanted on the basis that it was part of the price of the land, but they did not agree on the price or on a time for paying the remainder of the price. That happened a year and a half ago, and the price of land is increasing.

Should the price of the land be worked out on the basis of current prices or should it be worked out on the basis of the price at the time when some of the price was paid in the past?

Detailed answer

Praise be to Allah.

Firstly:

A sale for an unknown price is not valid, because it involves ambiguity. One of the conditions of a sale being valid is that the price should be known.

Ibn Hazm (may Allah have mercy on him) said in al-Muhalla (7/512):

It is not valid to sell something without a known price, such as one who sells something according to the market price (without specifying what it is), or for whatever So and so bought it for, or for the current value. All such transactions are invalid, because they are transactions that involve ambiguity and consuming people’s wealth unlawfully. End quote.

Ad-Dasooqi (may Allah have mercy on him) said in his Haashiyah (3/15):

It is essential that the price and the item for which it is to be paid should be known to both the

seller and the purchaser, otherwise the transaction is invalid. End quote.

Ibn ‘Aabideen (may Allah have mercy on him) said in his Haashiyah (4/529):

One condition of it being valid is that the amount and price of what is being sold should be known. End quote.

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

If the price is unknown, that leads to the transaction being rendered invalid, because one of the conditions of the transaction being valid is knowing the price.

End quote from ash-Sharh al-Mumti‘ (8/233)

Secondly:

Similarly, the transaction is not valid if the payment period is unknown.

An-Nawawi (may Allah have mercy on him) said:

They were unanimously agreed that it is not permissible to sell an item for a (known) price to be paid within an unknown period.

End quote from al-Majmoo‘ (9/339)

An-Nafraawi al-Maaliki (may Allah have mercy on him) said in al-Fawaakih ad-Dawaani (2/80):

An example of ambiguity in the payment period is if a person purchases an item for a known price to be paid when things get better, or until Zayd comes. Transactions involving ambiguity are not permissible, and neither are sales of unknown items or sales in which the payment period is unknown, such as if one says, “I will sell you this animal, and the price is to be paid from its offspring, or when things get better.

End quote.

Based on that:

The sale of this land in the manner described in the question is an invalid transaction, because the price is unknown and the payment period for the remainder of the price is also unknown.

Both parties have to undo the transaction: the seller must return the money to the purchaser and the purchaser must return the land to the seller. Then they should do the transaction all over again, on the basis of today's price, or whatever they agree upon.

Shaykh Muhammad ibn Ibraaheem (may Allah have mercy on him) was asked about a woman who sold her date palms, approximately two months before her death, for one thousand riyals immediately and fifty saa's every year for the rest of her life, and the fruit of another, unspecified, date palm every year, also for the rest of her life.

He replied: This transaction is obviously invalid, because the price is unknown, and it is also unknown how long the woman will live. Once it is clear that the transaction is invalid, then the exchange that you mention is not valid either. In fact the scholars have stated that anything that is taken on the basis of an invalid transaction or contract comes under the same ruling as items that are usurped or taken by force, so he should return it with its increase (in value or number).

Based on that, these date palms are regarded as not having passed out of the possession of that woman, so in fact she died when the date palms were still in her possession and they form part of her estate. Therefore they are subject to the rulings on inheritance and her legitimate shar'i heirs are entitled to them. What she took from the purchaser of dates and money is regarded as a debt that she owes and it should be paid back from her estate.

End quote from Fataawa wa Rasaa'il ash-Shaykh Muhammad ibn Ibraaheem (7/49-50)

See also: al-Bayaan wa't-Tahseel by Ibn Rushd al-Jadd (8/58)

And Allah knows best.