332901 - If he signed a purchase contract unwillingly, does he have the right to break some of the conditions without the seller’s knowledge?

the question

I was compelled to buy something, and some conditions were stipulated in the contract that I do not accept, and I broke these conditions without the seller’s knowledge. Is what I did haram? I hope that you can answer, with evidence.

Detailed answer

Praise be to Allah.

Firstly:

Mutual consent between the two parties is one of the conditions of a sale contract being binding.

One of the conditions of a sales contract is mutual consent between the two parties to the contract. Allah, may He be Exalted, says (interpretation of the meaning):

{O you who believe, do not devour one another’s property by unjust means, unless it is trade conducted with your mutual consent. And do not kill yourselves [or one another], for verily Allah is Most Merciful to you} [An-Nisa’ 4:29].

Ibn Majah (2185) narrated that Abu Sa`id al-Khudri (may Allah be pleased with him) said: The Messenger of Allah (blessings and peace of Allah be upon him) said: “Transactions may only be done by mutual consent.” Al-Albani classed it as authentic.

Shaykh al-Islam Ibn Taymiyah (may Allah have mercy on him) said: The basic principle regarding

transactions and contracts is that they should be done by mutual consent, as mentioned in the verse: {unless it is trade conducted with your mutual consent} [An-Nisa' 4:29.

End quote from *Al-Fatawa al-Kubra*, 4/5.

Based on that, if someone is forced to sell or buy something, and that compulsion had no justification, but he was not able to refuse to get involved in this transaction, because the one who forced him has power over him, then the sale or purchase is not valid.

In some cases, compelling may be justifiable, such as if the judge forces the one who gave an item as collateral to sell it in order to pay off what he owes. In that case, the sale is valid.

It says in *Dalil at-Talib li Nayl al-Matalib* (p. 125), in a discussion on the conditions of a sale being valid:

There are seven conditions, the first of which is consent; the sale of one who was compelled to sell is not valid unless that compelling was justifiable. End quote.

It says in *Kashshaf al-Qina`* (3/150): If the two parties to the transaction, or one of them, is compelled, the transaction is not valid, because of what is noted above, unless that compelling was justifiable, such as if the judge compelled him to sell his property in order to pay off a debt, or to buy that by means of which he can pay off his debt. In that case the contract is valid, because he was compelled to do that for a valid reason, therefore the transaction is valid. End quote.

Shaykh Ibn `Uthaymin (may Allah have mercy on him) said: "The transaction is not valid if one of the two parties is compelled for no valid reason" – that means: the sale of one who is compelled for no justifiable reason is not valid. The one who is compelled is the one who is forced to sell. Therefore the sale on the part of one who is compelled is not valid unless there is a justifiable reason to force him to sell.

So if an oppressive ruler forces a man to sell this item to So-and-so, and he sold it, that transaction is not valid, because it was done without mutual consent.

An example of that is if you know that this seller sold the item to you because he felt too shy to say no. In that case it is not permissible for you to buy it from him, so long as you know that were it not that he felt too shy to say no, he would not have sold it to you. Hence the scholars (may Allah have mercy on them) said: It is prohibited to accept a gift if you know that the man who gave it to you felt too shy to say no, because even if the seller does not state clearly that he is reluctant to sell it, circumstantial evidence may indicate that he does not consent willingly to the sale.

When he said that the sales transaction is not valid on the part of one who is reluctant to sell when there is no justifiable reason for him to be compelled, we learn from this that if he was compelled to sell for a justifiable reason, there is nothing wrong with that, because this is the right thing to do. In other words, if we force someone to sell for a justifiable reason, that is the right thing to do and it is not wrongdoing or transgression.

An example of that is when a man gives his house to someone as collateral because of a debt that he owes him, and the time for the debt to be paid has come, so the creditor asks him to pay, but the debtor refuses. In this case, the debtor should be forced to sell his house, so that the creditor can take what he is owed in full.

Another example is when a piece of land is co-owned by two people, and it is a small piece of land that cannot be divided. If one of the partners asks the other to sell his share but the other partner refuses, in this case the one who refuses should be forced to sell his share of the land, because this is the right thing to do, so as to ward off harm from his partner.

So the guideline here is: if the compelling is done for a justifiable reason, then the sales transaction is valid, even if the seller did not consent willingly to that, because we are not committing any sin in this case, or any injustice or anything else; therefore it becomes permissible.(*Ash-Sharh al-Mumti`*, 8/108).

Secondly:

Ways of compelling that are regarded as justifiable reasons to regard the contract as valid:

Compelling someone to sell may be done by means of threats of execution, beating or imprisonment on the part of one who is able to carry that out.

Ibn Qudamah (may Allah have mercy on him) said: A person is regarded as having been compelled to sell if three conditions are met:

1. The compelling is done by one who has authority, or by one who overpowered the seller, such as a thief and the like.
2. The one who is forced feels when he is threatened that the threat is real, if he does not respond to the demand.

- The threat should be a threat of great harm, such as killing, severe beating, physical restraint or lengthy detention. As for insults and swearing, that does not come under the heading of compelling according to scholarly consensus. The same applies to taking a small amount of wealth.

As for minimal harm that will not greatly affect the one who is harmed, that does not come under the heading of compulsion, even though for people of dignity it may be regarded as an insult that undermines his dignity and makes his story infamous, so it is equivalent to a severe beating for someone else.(*Al-Mughni*, 7/384).

So if you were forced to buy something, the sale is not valid and you have to return the item and take your money back. But you should not break the conditions, because the contract in its entirety is not valid, and you have not become the owner of the item.

But if the matter did not reach the level of compelling, then your purchase is valid and you must fulfil the conditions of your purchase if they are valid conditions.

It would have been better if you had mentioned your issue in detail, explaining the nature of the

compelling and the conditions that were stipulated for you, so that we could know whether this was compelling in a real sense or not.

It is not appropriate to take a general ruling then give yourself a fatwa regarding a particular incident. Rather what you should do is explain to the one whom you are consulting about the specific details of your issue, so that he can give you a direct answer that applies specifically to your case, and not just general rulings.

And Allah knows best.