339276 - He agreed to make a design, and he has partners; he took the payment but did not do the work, and his partners refused share liability with him

the question

I am a young man working in computer-aided design. A few years ago, someone came to me, wanting to design a particular thing, but this design was not available to me. One of my partners told me that he could acquire a template of this design, so that we could design what the customer wanted, and based on that I took five hundred dollars from the customer, which was the fee for the design. After a while, my partner had not obtained the template for the design, and the money was used by us three partners. There were many problems sometime after that, and the partnership was dissolved. The customer came asking me to return the five hundred dollars, and when I spoke to my two former partners, they did not care about returning the money, and they claimed that they had nothing to do with it on the grounds that I was the one who was responsible for doing the designs. I told them that I had agreed to do the designs after they told me that they would bring me a template for a similar design, but they did not pay any attention to my argument. What is the ruling in my case; do I have to pay the entire amount of money or one third of the money? Please note that the customer does not know my two other partners.

Detailed answer

Praise be to Allah.

It is valid to form partnerships to do business activities, and the jurists call this *sharikat al-abdan* [i.e., a partnership in which each partner does some work, as opposed to a partnership in which one or more partners invests capital but does not do any work]. In such a partnership, each partner may act on behalf of the other partners in demanding and receiving payment.

This kind of partnership is of two types:

One of these two types is when two or more people form a partnership in which each does the work he is qualified or is willing to do, so it is a valid partnership, even though the partners have different skills, such as a partnership between a blacksmith, a carpenter and a tailor, because the partnership is for the purpose of sharing permissible earnings, so it is valid, just as if all the partners had the same skills and did the same work.

Whatever work one of two partners takes on, the other partner also becomes liable, and both may be asked to do the work and that becomes binding on both of them, because the basis of this partnership is liability, so it is as if this partnership implies that each of them is liable for the work of the other.

The one who does not have the right skills to do that particular work must get someone else to do the work, so that the partners and the client will each get their due.

Each of the partners has the right to demand payment done by him or his partner.

The client may pay the fee to either of them, and he will have done what is required of him if he gives the payment to one of them, because each of them may act on behalf of the other.

If the payment is made then lost after one of them has received it, without any negligence on his part, then both of them must share the loss, because each of them acts on behalf of the other in demanding and receiving payment. End quote.

Based on that, all of you must do the design – even if you were the only one who agreed to take on this work, then if the fee received was lost without any negligence on the part of any of you, you are all liable for it and you must return it to the one who asked for the design.

If the one who asked for the design knew nothing about the partnership between you, he will ask you to pay it back, and you must give him the money, then ask your partners to pay their share to you.

There is no reason for them to refuse to pay you on the grounds that you are the one who was responsible for doing the design, so long as you were still partners, because partnership means

that any of the partners may take on work, and all the partners must play their parts in doing the job and sharing the profit. How could it be otherwise, when the money received was spent on all of you?

And Allah knows best.