87638 - He bought land to be paid for in instalments. Does he have the right to sell it before paying off the price?

the question

I have bought a piece of land to build a home on it. And I paid one third of its price as a first payment. Then I wanted to sell this land versus a bigger amount of money than that amount I paid as first payment. What is the ruling on this? .

Detailed answer

Praise be to Allah.

It is permissible to buy land and goods – except gold, silver and currency – and delay paying all or some of the price, such as if it is agreed to pay an amount such as one-third or one-quarter, and delay paying the rest until a specified time.

If the contract is concluded, then the purchaser becomes the owner of the property, and may dispose of it like any other owner. He has the right to sell it or give it away, whilst continuing to pay the instalments that he owes, so long as he does not sell it to the first vendor for a lower price that that which he paid for it, because this is an ‘aynah transaction which is haraam.

It says in al-Mawsoo’ah al-Fiqhiyyah (9/36): The effects that result from sale are: (i) transfer of ownership, whereby the purchaser takes possession of the item sold and the seller takes possession of the price; ownership of the sold item passes to the purchaser as soon as the valid contract of sale is concluded and does not depend on him physically taking possession of it and handing over money, although physically taking possession and handing over the money counts with regard to liability. End quote.

It also says (9/40): Handing over the sold item is the most important action to which the seller commits himself in the sale contract, and this is established once the price is handed over. But if the price is delayed, then handing it over is not dependent on handing over the price. End quote.

In some contracts the seller stipulates that the purchaser will not sell the item – land or anything else – until he has paid off the whole price. This is a permissible condition, which is keeping the land in pledge for its price or until its price is paid off. In that case it is not permissible for the buyer to sell it without the permissible of the first seller.

See question no. 69877.

Based on that, if you did not agree with the seller to keep the land in pledge for him until you had paid off its price, then it is permissible for you to sell it for whatever price you wish, whether it is more than you paid for it or less, because you have become the owner of the land and you have the right to dispose of it as you wish.

And Allaah knows best.