

# Purchase and Sale

**Issue No. 1-** It is obligatory on every Muslim businessman to learn the rules of transactions to the extent that is usually needed by him.

**Issue No. 2-** Trade, work and struggle for life through business, farming, industry, etc., for those who do not possess the expenses of their families, is obligatory. Otherwise, it is an emphasized recommendation.

## Haraam and Void Transactions

**Issue No. 3-** Transactions in the following cases are void:

**1-** Sale and purchase of the essential Najasat (Najisul Ayn), that is, the things which are najis by nature. However, sale and purchase of blood which is used to save the life of the injured and the sick in our time, is permissible. Similarly, sale and purchase of hunting and guarding dogs are permitted.

**2-** Sale and purchase of usurped and stolen properties.

**3-** Sale and purchase of things which are usually utilized for haraam acts, like gambling tools.

**4-** Sale and purchase of things which are not considered among people as merchandise.

**5-** Any transaction which involves interest.

**6-** A transaction which involves fraud or adulteration, like selling milk mixed with water, or ghee mixed with fat or another thing.

**7-** Transaction of all sorts of intoxicating beverages is haraam and void.

**8-** A transaction which involves bribe is haraam and void.

**9-** A transaction which involves shortchange is haram and void.

**Issue No. 4-** There is no objection to selling and buying food stuff and medicines, etc. which are imported from non-Muslim countries, if their being najis is not definitely known. For example, if we consider it probable that milk and cheese and oil are produced by machines.

**Issue No. 5-** Purchase and sale of meat and fat which are imported from non-Muslim countries or are taken from the hands of infidels is void. However, there is no harm if one knows that it is from an animal which has been slaughtered according to Islamic law.

**Issue No. 6-** It is haraam and void to purchase and sell things which have been acquired by means of gambling, theft, or void transaction, and it is not permissible to appropriate them, and if a person buys them, he should return them to their original owner, and if he does not know the original owner, he should act according to the instruction given by the Mujtahid.

## **Conditions of a Seller and a Buyer**

**Issue No. 7-** There are some conditions for sellers and buyers:

1. They should be baligh.
2. They should be sane.
3. They should not be impudent, that is, they should not be squandering their wealth.
4. They should have a serious intention to sell and purchase a commodity.
5. They have not been forced to sell and buy.
6. They should be the rightful owners of the commodity which they wish to sell, or give in exchange; or they should represent the owner, or be the guardian of the minor.

**Issue No. 8-** If a person sells the property of another person without his consent, if the owner concedes later and gives permission, the transaction will be valid.

## **Conditions of Commodity and What is Obtained in Exchange**

**Issue No. 9-** The commodity which is sold, and the thing which is received in exchange, should fulfill the following conditions:

- 1- Its quantity should be known by means of weight or measure or counting and number.
- 2- It should be deliverable. Therefore, selling an animal which has run away is not correct.

**4-** Another person should not have any right on the commodity or its replacement once it is sold. Therefore, a property that has been put in pledge with someone, cannot be sold without his permission.

### **Formula of Purchase and Sale**

**Issue No. 10-** The parties involved in a transaction may pronounce the formula of purchase and sale in any language they know. Hence, if the seller says in English, “I have sold this property in exchange of this money” and the buyer says, “I accept it”, the transaction is in order. It will also be all right if the formula is pronounced in wordings other than this with the same meaning. And if the formula is not pronounced, but the seller hands over the commodity to the buyer with the intention of selling it to him, and the buyer also takes it with the intention of buying it, it will be sufficient, provided that all the conditions of transaction have been met.

**Issue No. 11-** Signing the papers of transaction whether it is in a public Notary Office, or elsewhere, is reckoned as verbal formula.

**Issue No. 12-** At the time of pronouncing the formula of transaction, the two parties involved should have the Niyyat of Insha', i.e. by uttering the above mentioned words, they are genuinely intent upon buying and selling. Similarly, where practical buying and selling takes place instead of verbal formula, there should also be the Niyyat of Insha'.

## **Cash and Credit Interaction**

**Issue No. 13-** If a commodity is sold for cash, the buyer and the seller can, after concluding the transaction, demand the commodity or the money from each other and take possession of it . The possession of immovable things, like, house, land, etc., means that it should be handed over to the buyer so that he can have discretion over it, and handing the movable things, like carpets, dress, etc. to the buyer means that he should have full discretion over them and that there should be no obstacle if he wants to take them somewhere else.

**Issue No. 14-** In transactions on credit, the period should be fixed clearly, and if a date is not fixed, the transaction is void.

**Issue No. 15-** If a commodity is sold on credit, the seller cannot demand what he has to receive from the buyer before the stipulated period is over.

**Issue No. 16-** If a person sells a commodity cash with a price, and on credit with a higher price, for example, if he says: "I sell this commodity to you cash at this price, and at 10% dearer than that on credit, and the customer accepts it, there is no objection in it, and the transaction is not reckoned as a usury.

**Issue No. 17-** If a person sells a commodity on credit, but, later he reduces his claim and takes the balance in cash, there is no harm in it.

## **Conditions for Contract by Advance Payment**

**Issue No. 18-** Purchase by advance payment means that a buyer pays the price of a commodity, and takes its possession later. Hence, the transaction will be in order, if for example, the buyer says, “I am paying this amount so that I will take possession of such and such commodity after six months”, and if the seller says, “I agree”, it will be sufficient. Even if no formula is pronounced, and the buyer pays the money with this intention, and the seller takes it with this intention, it is in order.

**Issue No. 19-** If a person sells, on advance payment basis, money itself, and takes money in exchange for it, the transaction is void. But, if he sells a commodity, and takes money in exchange of it or another commodity, the transaction is in order.

**Issue No. 20-** There are six conditions of advance payment contract:

1. The characteristic, due to which the price of a commodity may vary, should be specified.
2. Before the buyer and the seller separate from each other, the buyer should hand over full amount to the seller. And if the buyer pays certain percentage of the price of that commodity to the seller, the transaction will be valid equal to that percentage.
3. The time-limit should be stipulated exactly.
4. A time should be fixed for the delivery of the commodity when the seller is able to deliver it

5. The place of delivery should be specified. However, if that place becomes known from their conversation, it is not necessary that its name should be mentioned.
6. The weight or measure of the commodity should be specified. And there is no harm in selling through advance payment contract, a commodity which is usually bought and sold by sight.

### **The right to cancel a transaction**

**Issue No. 21-** The right to cancel a transaction is called Khiyar, and the seller and the buyer can cancel a transaction in the following eleven cases:

- 1- If the parties to the transaction have not left the place where the transaction took place. This is called **Khiyar majlis**.
- 2- If either the seller or the buyer is cheated, and this is called **Khiyar Ghabn**.
- 3- If it is agreed that up to a stipulated time, one or both the parties will be entitled to cancel the transaction. This is called **Khiyar Shart**.
- 4- If either the seller or the buyer frauds and presents his commodity as better than it actually is. This is called **Khiyar tadlis**.
- 5- If either the seller or the buyer stipulates that the other would perform a certain job for the other party, or that the commodity should be of particular quality, then, the condition

is not fulfilled. In these cases, the party concerned can cancel the transaction. This is called **Khiyar takhalluf shart**.

**6-** If one of the two commodities or both are defective, and it was not known before. This is called **Khiyar 'Aib**.

**7-** If it transpires that a quantity of the commodity which has been sold belongs to a third person, and if the owner of that part is not willing to sell it, the buyer can cancel the transaction. This is called **Khiyar shirkat**.

**8-** If the seller sells a specific commodity that has not been seen by the buyer with certain descriptions, then the buyer realizes that the commodity is not as it was described, the buyer can rescind the deal. This is called **Khiyar Ruyay**.

**9-** If the buyer does not pay for the commodity he has bought for three days, and the seller has not yet handed over to him the commodity, the seller can cancel the transaction, unless the seller had agreed to allow the buyer for deferred payment till a fixed period. And if the commodity sold is perishable, like some fruits and vegetables, which would perish or decay if left for one day, and the buyer does not pay till nightfall, the seller can cancel the transaction. This is called **Khiyar ta'khir**.

**10-** A person who buys an animal, he can cancel the transaction within three days. This is called **Khiyar haywan**.

**11-** If the seller is unable to deliver possession of the commodity sold by him, the buyer can cancel it. This is called **Khiyar ta'azzurit taslim**.

**Issue No. 22-** In the following cases the buyer cannot cancel the transaction, even if there is defect in the property, nor can he claim the difference between the prices:

1- If at the time of purchasing the property, he is aware of the defect in it.

2- If he consents later.

3- If at the time of concluding the contract, the seller says he sells that property with whatever defect it may have. But, if he specifies a defect and says that he is selling that property with that defect, and it transpires later that it has some other defect as well, the buyer can cancel the transaction.

4- If at the time of concluding the contract, the buyer says that if the property has a defect, he will not cancel the transaction, nor will he claim the difference between the prices.

**Issue No. 23-** In the following cases the buyer cannot cancel the transaction if he finds out that there is defect in the property, but he can claim the difference between the prices:

1- If after the transaction has taken place, he changes the commodity so that the people can say that the purchased commodity has not remained in its original form.

2- If after the transaction realizes that there is defect in the property, but had rendered the right of cancelling null.

3- After taking possession of the property, another defect is found in it. But, if he purchases a defective animal, and before the expiry of three days, another defect appears in

the animal, the buyer can return it. And if only the buyer was given the option to cancel the deal within a fixed period, and another defect appears in the property during that period, the buyer can cancel the transaction, even if he may have taken the delivery of it.

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