

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

A Series of Answers by Eminent Scholar Ata Bin Khalil Abu al-Rashtah, the Ameer of Hizb ut Tahrir to the Followers of his Facebook Page (Fiqhi)

Question & Answer

The Ahadeeth of the Messenger (saw) that forbid two sales in a single sale and two agreements in a single agreement

To: Jaber Thawabta

(Translated)

Question:

Assalamu Alaykom Wa Rahmatullah,

A Question about transactions:

We want to rent a land in order to extract stone from it for a sum of money and in case of non-validity of the stone, we will turn the sale to a proportion. Is this transaction valid or not valid being two contracts in one contract? Please reply as soon as possible.

Answer:

Wa Alaykom Assalam Wa Rahmatullah Wa Barakatuh,

My brother, it is not permissible to make a contract in another contract conditionally. You are saying here that the first contract is a lease on condition that if the stone is invalid, then the contract turns to sale by proportion, and although this part is not clear in your question, you did not show what is meant by the word "proportion", but it most likely means that it turns to another contract i.e. not the first lease contract, but it is converted to another contract.

Based on this understanding (*Tarjeeh*), the *Ahadeeth* of the Messenger ﷺ that forbid two sales in one sale, and two agreements in a single agreement are applicable here:

Al-Tirmidhi narrated in his *Sunan* that Abu Hurayrah (may Allah be pleased with him) said: «نَهَى» **The Messenger of Allah ﷺ forbade two transactions in one.** This *Hadeeth* was classed as *Hasan Saheeh* by Abu Essa.

- It was narrated by Ahmad that Abdul Rahman bin Abdullah bin Masood ((رضى الله عنهما)) from his father, he said: «نَهَى رَسُولُ اللَّهِ ﷺ عَنْ صَفْقَتَيْنِ فِي صَفْقَةٍ وَاحِدَةٍ» **"The Messenger of Allah ﷺ has forbidden two contacts in one contract"**.

It was mentioned in the *Islamic Personality Vol. 2* in the chapter "Sale by Debt and Installments":

"...in conclusion, if one of the contractors said to the other, 'I sold you my house for one thousand upon your selling me your house for one thousand' and he says, 'I have accepted', in this one sale contract there occurred two sales which is not permitted since the Prophet ﷺ prohibited two sales in a sale and two agreements in one agreement..."

Therefore, this contract is invalid, and as I said this answer is based on the *tarjeeh* that the word "percentage/proportion" refers to a new contract, not the lease contract, but a contract of selling stones by percentage. In other words, the lease contract with a limited pay is converted into a sale contract for the resulting stones by percentage; **however, if this is not what was intended, then re-send the question in a clear way, and may Allah be with you.**

Your brother,

Ata' Bin Khalil Abu al-Rashtah

26 Rabii' Al-Awwal 1440 AH

Corresponding 04/12/2018 CE

The link to the answer from the Facebook page of the Ameer:

<https://web.facebook.com/AmeerhtAtabinKhalil/photos/a.122855544578192/959616304235441/?type=3&theater>

The link to the answer from the Ameer's page on GooglePlus:

<https://plus.google.com/u/0/b/100431756357007517653/100431756357007517653/posts/P8EH1jZ4hsN>