

Entrepreneur using client's money in building project

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: I own a lot of land and I want to raise a building containing rooms for sale. The price is paid by instalments; some of its parts are anticipated. Knowing that I do not own money, but I start with the anticipated money of the customers that they pay, so what is the ruling regarding this work? And may Allaah bless you.

Answer: All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

It is not required that the worker uses his personal money in the construction contract¹, it is even permissible to use the money of the person looking for construction in his project, whether the builder receives the capital of the person looking for construction in the assembly of the contract entirely or he postpones it or takes it by known instalments for a fixed time. In fact, the construction contract relates to the work and the thing which will be built after the agreement of the two parties. However, they should determine the characteristics of the product, its quantity, surface, kind and the required characteristics, among them, the delimitation of a term which should be respected by the two sides if all the religious conditions are satisfied.

The same ruling goes for the contract As-Salam², except that one should perceive the capital in the assembly of the contract so that it will be valid according to the opinion of the majority of the scholars, contrarily to Maalik رحمه الله.

¹ Construction contract: is a contract which is set in order to make a product, and which the manufacturer should respect. The product's characteristics are defined in advance and the price is known beforehand.

It is composed of:

- 1-The person looking for construction, whether it is an individual, a firm or a state.
- 2-The maker: the person who prepares the raw materials and who uses them for constructing, he is like a seller.
- 3-The constructed thing: the raw material which the constructor transforms into the wanted thing.
- 4-The price: the money which the person who asks for a product gives to the constructor in return for the asked thing.
- 5-The form: what is expressed in order to conclude the contract.

² As-Salam: the selling of something which characteristics are defined in advance and in which we receive the price in the assembly of the contract conclusion.

It is composed of:

- 1-The two contracting parties: the seller and the buyer.
- 2-The thing for which we conclude the contract and it contains two elements: the capital of As-Salam, which is the price, and the product.
- 3-The form: the means by which the contract is concluded.

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As-Salam is also different from the construction contract by the fact that the sold thing is a debt that should be honoured, whereas in the construction contract, the sold thing is concrete not a debt, and it is not required to perceive the capital of the person who asks for construction as it is previously mentioned. However, in both contracts, it is permissible to use the money of the person who asks for construction or the person with whom we conclude As-Salam contract for the two products. Moreover, the benefit is mutual between the two contracting parties. The constructor or the person to whom we entrust something to construct, takes advantage of the anticipated capital or the money given by instalments, so, he uses it in his behalf in order to fulfil his current need, and the person who looks for construction will benefit from the reduction of the price. Consequently, he will benefit from the difference between the price set by this salesman and that of other salesmen, thus, the two parties will benefit. Otherwise, there will be much discomfort and hardship for many people, and the rule says: "**Difficulty brings about ease**". Allaah تعالى says:

وَمَا جَعَلَ عَلَيْكُمْ فِي الدِّينِ مِنْ حَرَجٍ
[... and has not laid upon you in religion any hardship]³

The perfect knowledge belongs to Allaah عزَّ وجلَّ. Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet, his Family, his Companions and Brothers till the Day of Resurrection.

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³ Soorah al-Hajj [22:78]