

Principles Of Business 1

Written By

Maulana Ashraf Ali Thanvi Rahmatullah Alaihi

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BUYING AND SELLING

1. When a person says : "I have sold this item for so much" and another person says : "I have bought it", that item will be sold and the person who purchased it will be its owner. If the seller decides not to sell or the purchaser decides not to buy it, they will not be able to do so. The former will have to hand it over and the latter will have to accept it. This act of selling an item is known as a sale.

2. A person says : "I have sold this item to you for R2." The other person replies : "I accept", "I am happy with that price" or "Okay, I've taken it." By replying in any of these ways, the item will be sold. Now, neither does the seller have the choice of not handing over the item nor does the buyer have the choice of not purchasing it. However, this rule will only apply when this conversation takes place between both parties in one place or in one sitting. If one of them says : "I have sold this item to you for R4" and the other person remains silent on hearing this price, stands up from his place, goes away to buy the item from someone else or goes away for some other reason, and in carrying out all these actions he changed his place and then he replies : "Okay, I'll buy it for R4", in such a case that item will not be considered to be sold. However, if thereafter, the seller, grocer, etc. says : "Okay, I give it to you" or "Okay, take it", in such a case it will be sold.

Similarly, if the seller, grocer, etc. stands up or goes away for some other work, and the buyer says : "Okay, I've taken it", even then it will not be regarded as sold. In short, if both the parties reach an agreement in one place, only then will the item be considered to be sold.

3. A person says : "Give me this item for R1." The other person replies : "I've given it." In saying this, the sale will not take place. However, if thereafter, the buyer again says : "I've taken it", it will be sold.

4. A person says : "I am taking this item for R1" and the other person replies : "Take it"; the sale will take place.

5. After checking the price of an item, a person handed the money to the seller and took the item away. The seller accepted the money happily. The seller did not say

anything verbally as to how much he is selling the item nor did the buyer say that he is buying it. In such a case, by merely taking an item and handing over the money for it, the item is considered to be sold and the sale is valid.

6. A hawker came selling guavas. Without asking him anything, the person took out four big guavas from his basket and placed R1 in the hawker's hand. The hawker accepted this money happily. This sale is valid irrespective of whether they uttered any words or not.

7. A person said : "I am selling this string of pearls for R10." The buyer replied : "I've taken five from the string of pearls" or "I've taken half the string of pearls." As long as the seller does not agree, the sale will not take place. This is because, he offered the entire string of pearls for sale and as long as he does not agree, the buyer does not have the right to buy a part of it and leave out the other part. If she wishes to purchase it, she will have to buy the entire string. However, if the seller says : "I am selling each pearl for R1", and the person says that he has taken five pearls, then five pearls will be considered to be sold.

8. A person is selling four different items and says that he is selling the lot for R4. Without obtaining his agreement, the buyer cannot purchase one or two items and leave out the others because he wishes to sell all the items together. But if the seller gives the price of each item individually, it will be permissible for the buyer to purchase one or two items and leave out the rest.

9. When buying and selling an item, it is also necessary to show the item properly and spell out the terms clearly. The seller should abstain from speaking in vague terms which could result in problems and arguments. Similarly, the price has to be clearly laid down and agreed upon. Even if one of these factors is not made clear and agreed upon, the sale will not be valid.

10. A person purchases an item with money. The seller says : "Hand the money over to me first and then I will give you the item." The buyer replies : "Hand the item over to me first and then I will give you the money." In such a case, the money will have to be given first and then only will the item be given to the buyer. The seller has the right to refuse to hand over the item until he receives the money for it.

However, if he purchases an item in return for another item, changes money in return for money or a person purchases clothing in return for clothing, and in all these cases this sort of argument takes place, then each one will be asked to place his hand on the others hand and then the exchange will take place.

Finding out the price of an item

1. A person closed the palm of his hand and says : "Give me that particular item for whatever money is in my hand." And it is not known what is in his hand; whether he has dollars, rands, cents, a gold coin; whether he has one, two or many. Such a transaction is not permissible.

2. In a certain city, two different currencies are in vogue. The person will have to inform the seller that he intends buying a particular item with a particular currency. If the person does not inform him and says that he is selling a particular item for a particular price and the buyer says he will take it, then we will have to see which currency is more in use in that place. The currency that is more in use will have to be given as payment. If both the currencies are used equally, the transaction will not be valid and will be *fâsid*, i.e. imperfect.

3. A person has some money in his hand, he opens his hand, shows it to the seller and asks him to sell him a particular item for all that money. The seller saw the money in his hand and handed over the item but did not know the exact amount of money that was in the buyer's hand. This transaction is valid.

Similarly, if the buyer places a heap of money before the seller on a mat, etc. and the latter agrees to sell him the item for that heap of money, the sale is valid even if he does not know the exact amount kept before him..

In short, once the seller sees the money, it is not necessary to tell him how much money there is. But if he does not see the money with his own eyes, it is necessary to specify the exact amount. A person says : "I will take this item for 10 coins." If in such a case, he does not specify the total amount of money and the matter is not settled, this transaction will not be valid.

4. A person says :

(a) "Take this item, what is the need to agree on a price? Whatever the price will be, I will collect it from you. How can I take extra from you?"

(b) "You can take this item away. I will find out the price from home and let you know later."

(c) "Someone else had taken a similar item. You can pay me whatever that person had paid."

(d) "Pay me whatever you wish, I will not refuse it. I will accept whatever you give me."

(e) "Find out the price in the bazaar and then pay me whatever the market price is."

(g) "Go and show this item to a certain person and you can pay me whatever he quotes you."

The transaction will be invalid in all the above instances. However, if the price of the item is made known at that very place and the cause which had made the transaction invalid is no more found, the transaction will become valid. If the price was made known after there was a change in their places, then the first transaction will be invalid. However, once the price is made known, they can recommence the transaction.

5. There is a particular shopkeeper from whom one orders whatever one needs and the goods are delivered to the person's home. Today he might order some betel nut,

tomorrow he might order some catechu (a vegetable extract eaten with betel leaves), some other day he might order a few coconuts, etc. and when purchasing these items he did not bother to ask about the price and thought to himself that whenever the account comes he will pay whatever he has to pay. Such a transaction is permissible.

Similarly, a person sent a prescription to a chemist requesting for some medicine but did not ask for the price thinking to himself that once he recovers from his sickness he will go and pay whatever he is owing. This is also permissible.

6. A person has got R1 in his hand and says : "I am buying this item for this R1." He has the choice of giving that same R1 or he could take out another R1 and hand it over to the seller. The only condition is that it must not be counterfeit.

7. A person purchased an item for R1. He has the choice of giving a R1 coin, two 50c coins, five 20c coins, etc. As long as they total R1, the seller cannot refuse to accept that money. However, if the person does not give such coins but gives 1c and 2c coins, the seller has the right to accept or refuse. If he does not wish to accept any coins, the buyer will have to pay in notes.

8. A person sold a writing case or a suitcase. The key for both these items will also be considered to be sold. He cannot charge separately for the key of the writing or suit case nor can he withhold the key.

Having knowledge of the item that is to be purchased

1. When purchasing dry groceries, seeds, etc. a person has the choice of purchasing it after having it properly weighed or he could say : "I am buying a certain amount of wheat for R1." Alternatively, he could purchase it as it is (i.e. without having it weighed nor specifying any amount) and say : "I am buying this heap of wheat for R1." No matter how much of wheat may be in that heap, all will belong to him (once he purchases it).

2. When purchasing, mangoes, guavas, oranges, etc. one has the choice of purchasing them by merely counting them or purchasing them in heaps. If a person purchases all the mangoes that are in a basket for R2 without knowing how many there are in it, the transaction will be valid. All the mangoes will be his irrespective of how many come out from that basket.

3. A woman came around selling fruit. The person said to her : "Give me some fruit equal to this brick in weight for R1." The woman agreed to sell the fruit by using the brick as a weight. However, none of them know the weight of the brick itself. Despite this, the transaction will be valid.

4. A person purchased an entire basket of mangoes, guavas, oranges or any other fruit for R100 on the condition that there are 400 mangoes (or whatever other fruit there may be) in that basket. When the mangoes were counted, there were only 300. The person purchasing the mangoes has the choice of taking them as they are or not buying them. If he buys the entire basket, he does not have to give R100. Instead, he will have to pay for only 75% of the total amount. If there are 350 mangoes, he

will have to pay for 88% of the total amount. In short, the fewer the mangoes, the lesser he will have to pay.

If, after counting, more than 400 mangoes come out, the balance will belong to the seller. The buyer does not have the right to take more than 400. But if the buyer purchases the entire basket without specifying how many there are, then whatever number comes out will be his; whether they are more or less.

5. A person purchased a head-covering which is made of such a fabric that if a part of it is torn, the entire garment will become spoilt and useless. At the time of purchasing it, the person made this condition that it is 3 metres in length. When it was measured, it turned out to be less than 3 metres. In such a case, the price of this fabric will not be reduced. Instead, the buyer will have to pay the full price that had been agreed upon. However, in such a case, the only concession that they will have is that despite their agreeing on a price, the buyer has the right to take the item or leave it. If more than 3 metres are found in that length of fabric, it will belong to the buyer. He does not have to pay any additional amount of money for it.

6. A woman purchased two silk belts at night. The following morning she noticed that one of the belts is made of cotton. The transaction with regard to both these belts is not permissible; neither the one made of silk nor the one made of cotton. Similarly, if a person purchased two rings on the condition that they are made of turquoise, and later he learns that one of them is not made of turquoise but of something else, the transaction with regard to both is not permissible. If the person still wishes to purchase one of the two or both of them, then the method of doing this is that they should commence the transaction all over again and thereafter the buyer can purchase whichever one he wants.

Purchasing on credit

1. It is permissible to purchase an item on credit. However, it is necessary to specify a period of time, i.e. you will pay the amount after 15 days, after one month or after four months - whatever the case may be. If a person does not specify any period but merely says : "I don't have the money now, I will pay you later", this has two aspects to it : (i) He says : "I will purchase this on condition that I will pay you later." In such a case the transaction will be invalid (faasid). (ii) If the person does not include this condition in the actual transaction, but after purchasing it he says : "I will pay you later", this will be permissible.

If he did not mention anything within the transaction nor anything after the transaction, the sale will be valid and in both these instances he will have to pay cash for the item. If the seller gives on credit on his own accord, it will be permissible. But if he asks for the money immediately, the person will have to give it.

2. At the time of purchasing an item a person says :

- (a) "Give me that item, once I get my money I will pay it to you."
- (b) "When my brother comes, I will pay you."
- (c) "Once the orchard bears its fruit, I will pay you."

(d) Alternatively, the seller says : "Take the item now, and you can pay me whenever you wish."

In all these cases, the transaction will be invalid. One has to specify a period of time and then purchase the item. If the person purchases the item and then says any of the above, the transaction will be valid and the seller has the right to ask for the money immediately. The exception is that the seller cannot demand for the money before the orchard can bear its fruit.

3. When paying in cash, the price of 200 grams of wheat is R1. But if the person buys on credit, he receives only 150 grams. This transaction is valid on the condition that the buyer is informed of this at that very time.

4. The above rule applies when the seller asked the buyer whether he is going to pay cash or take it on credit. When he replied that he is going to pay cash, the seller gave him 200 grams. And when he said credit, the seller gave him 150 grams. But if the seller says : "If you pay cash, this will be the price, and if you take it on credit, this will be the price", then such a transaction will not be valid (since the buyer has not specified his intention of paying cash or taking on credit).

5. A person purchased an item after promising to pay for it after one month. On the expiry of one month he went to the seller and told him that he must give him a respite for another 15 days, after which he will pay him his money. If the seller agrees, it will be permissible. However, he also has the right to demand the money immediately.

6. Once the person has the money, it is not permissible to delay in paying. He cannot say : "I won't give you today, I'll give it to you tomorrow", "Don't come to collect it now, come at such-and-such time", "I don't have change now, once I get some change I will pay you". All this is *haram*. Once the person asks for the money, you should make the change and give him his money immediately.

However, if the person purchases something on credit and promises to pay after a certain period of time, then once the time expires, it will be *wajib* on him to pay the money. It is not permissible to delay or make the person "run" for his money once the specified time expires. But if the person does not have the money nor was he able to obtain it from someone else, then he has no alternative but to pay it the moment he receives the money. Once he receives the money, he cannot delay in fulfilling his debt.

***Khiyârush Shart* - the right to return goods**

1. At the time of purchasing an item, a person says : "I have the right to take or return this item within one day, two days or three days. If I wish, I will keep it, if not, I will return it to you." This is permissible. He has the choice of returning the item within the period that he specifies or of keeping it.

2. A person says : "I have the right to take or return this item within three days." Three days expired and this person did not say anything nor did he return it. He will now have to take that item. He does not have the right to return it. However, if the

seller permits him to do so, it will be permissible. He cannot return it without obtaining the consent of the seller.

3. It is not permissible to make such a condition for more than three days. If a person makes a condition for four or five days, we will have to see whether he makes a decision within three days or not. If he returns the item within three days, it will be considered to be returned. If he decides to keep it, the transaction will be valid. If three days pass without knowing whether he is going to keep the item or return it, the transaction will become invalid.

4. Similarly, the person selling the item also has the right to say : "I have the choice of taking my item back within three days." This is also permissible.

5. At the time of purchasing an item, a person says : "I have the right of returning this item within three days." The next day he comes and says : "I have decided to keep this item and I am not returning it." Once he says this, his right will be forfeited and he cannot return that item. In fact, even if he goes to his own house and says that he has decided to keep that item, his right will be forfeited. When a person wishes to cancel his transaction or return the item, he will have to do it in front of the seller, he cannot do it behind his back or in his absence.

6. A woman says : "My mother has the right - if she says that I should keep it, I will do so, if not, I will return it." This is permissible. This woman or her mother can return the item within three days. If this woman or her mother come and inform the seller that she has decided to keep the item, this right will now be forfeited and the item cannot be returned.

7. A person takes two or three pieces of cloth and says : "I have the right for three days. Whichever one I like, I will pay R10 per piece and keep it." This is permissible and he can select one piece of cloth within three days. But if the person takes four or five pieces of cloth (i.e. more than three) and says that he will select one from them, this transaction will be invalid.

8. A person had stipulated the right to return the item within three days. Thereafter, he began using it at home, e.g. if it is something that is used to cover himself, he began covering himself with it. If it is something that is worn he began wearing it. If it is something to lay out, he began laying it out. In all these cases, the right to return the item will now be forfeited.

9. However, if a person uses an item merely to see whether it is suitable or not, e.g. a woman purchases a dress, sheet or carpet. Thereafter, she puts on the dress to check whether it fits her well or not and removes it immediately thereafter, wraps the sheet around her to check whether its length and width is suitable or not, or spreads the carpet to see whether its length and breadth is suitable or not. In all these cases, she still has the right to return these items if she wishes to do so.

Purchasing an item without seeing it

1. A person purchases an item without having seen it. This transaction is valid. However, once he sees the item, he has the right to return it or keep it. This is

irrespective of whether there is any defect in the item or not. Even if the item is exactly as he had envisaged it to be, he still has the right to return it or keep it.

2. A person sold an item without even looking at it. This person who sells the item does not have the right to take it back after he sees it. Only the buyer has the right of returning an item after seeing it.

3. A hawker came selling peas. The top of the heap had all good quality peas. Upon seeing this, the buyer bought the entire basket of peas. However, the peas that were in the bottom of the heap were of an inferior quality. He still has the right to return them. However, if all the produce is of the same quality, it will be sufficient to see a few. Once he does this, he forfeits the right to return them irrespective of whether he sees all the produce or not.

4. A person bought guavas, pomegranates, coconuts or anything else which is generally not all the same. As long as the person does not see all the fruit, he will have the right to return them. By his seeing a few of the fruit, he does not forfeit the right to return.

5. If a person purchases something that is to be consumed (either by eating it or drinking it), he does not forfeit his right to return by merely seeing it. He should also taste it. If he does not like it, he has the right to return it.

6. A person had seen an item long ago. He purchased it today but did not look at it at the time of purchasing it (thinking that there is no need to do so since he had seen it previously). When he took it home, it was exactly as he had seen it a long time ago. After seeing it, he does not have the right to return it. However, if, after seeing it after so long, he notices some difference in it, he has the choice of keeping it or returning it.

Defects in an item

1. When selling an item, it is *wajib* on the person to show all the defects that may be found in it. It is *haram* to conceal the defects and to convince the person into buying such an item.

2. After purchasing an item, a person noticed a defect in it, e.g. a woman notices that a cloth has been eaten up, a shawl has some moths in it or she notices any other defect. She now has the choice of keeping the item as it is, or returning it to the seller. However, if she decides to keep it, she will have to pay the full price of the item. It is not permissible for her to reduce an amount from the total price as a compensation for the defect. But if the seller agrees to reduce the price because of the defect, it will be permissible for her to pay less.

3. A person had purchased some fabric and kept it aside. A child ripped off a corner of that fabric or cut it with a pair of scissors. Thereafter, he noticed that it is damaged from the inside as well and that a rat has eaten it at several places. The person cannot return this item because one additional defect took place at his house (i.e. when the child had cut it). However, he can have the price reduced as a compensation for the defect that took place at the shopkeeper's place (i.e. the

several places that had been eaten by a rat). People who know the value of the item should be asked to estimate its present value and the price reduced accordingly.

4. Similarly, if a defect is noticed after a fabric has been purchased and already cut, it cannot be returned but the price will be reduced. However, if the seller says : "Return the cut fabric and take a full refund, I am not going to reduce the price", he has the right to ask for it and the buyer cannot refuse to return it.

If the fabric has been cut and also sewn and thereafter a defect is noticed, the price will be reduced as a compensation for the defect. In such a case, the seller cannot take his fabric back.

If the buyer sells that fabric or cuts it with the intention of sewing something for her immature child and at the same time making a firm resolution of giving it to the child, and thereafter a defect is noticed, then the price cannot be reduced. But if she cut it with the intention of sewing something for her mature child, the price can be reduced.

5. A person purchased eggs and paid a certain price per egg. When the eggs were broken, all of them turned out to be rotten. The buyer can take all his money back and it will be regarded as if he did not purchase the eggs at all. If a few turn out to be rotten, he can claim the money for those that are rotten.

If a person purchases several eggs which have all been priced together (i.e. he does not pay a certain price per egg), then we will have to see how many rotten eggs come out from the entire lot. If five or six eggs are rotten out of a total of 100 eggs, it will not be considered. But if more than this turns out to be rotten, he can claim the money for those that are rotten.

6. A person purchased cucumbers, sweet-melons, water-melons, pumpkins, almonds, walnuts, etc. When they were cut open or broken open, he noticed that they are rotten. In such a case, check whether they could be used, or they are so bad that they are absolutely useless and have to be thrown away. If they are absolutely useless, this transaction will not be valid and the person must claim all his money back. But if they can be used in some way, he must pay the market value of such items. The full price will not be paid.

7. If, out of 100 almonds, four or five are rotten it will not be considered. But if more than these turn out to be rotten, the person has the choice to reduce the price accordingly.

8. A person purchased 150 grams of wheat for R1 or 100 grams of ghee for R1. A portion of both these items was good, while the balance turned out to be bad. It is not permissible to keep the good and return the bad. If he decides to keep them, he will have to keep all. And if he decides to return them, he will have to return all. However, if the seller agrees to take back all the bad and give you the good, it will be permissible to do so. The buyer cannot do this without the consent of the seller.

9. When there is any defect in an item, the person will only have the right to return it when it is established that there is no indication that the person is happy about taking the defective item. However, once a person agrees to purchase an item after seeing the defect, he does not have the right to return that item. But if the seller

takes it back happily, it will be permissible. For example, a person purchased a goat or cow. When he went home with it, he realized that it is sick or there is a wound on its body. Once he notices this defect and expresses his consent and says to himself : "Well, it's okay. I've bought a defective animal", he will no longer have the right to return it. If he does not say anything verbally, but carries out certain actions which show that he is satisfied with the animal, then too will he no longer have the right to return it. For example, if he starts treating its wound and gives it some medication, he will no longer have the right to return it.

10. A person purchased goat's meat. When he went home, he realized that it is the meat of a sheep. He has the right to return it.

11. A woman purchased a pearl necklace or some other jewellery and also wore it at some time or the other. Alternatively, she purchased a pair of shoes and began walking around with it. Now she cannot return these items if she finds any defect in them. However, if she wears the shoes in order to check whether they fit her properly and that she does not experience any discomfort by wearing them, there will be no harm in wearing them for a little while in order to test them and she still has the right to return them if she wishes to do so.

Similarly, if a person purchases a flat-couch (refers to a flat wooden type of bed) or bed and lays them down out of necessity or begins to offer *ṣalāh* on that couch or uses the bed in some way or the other, he will no longer have the right to return the bed or couch. Other items could be understood in the same manner. That is, once they are used for any purpose, they cannot be returned.

12. At the time of selling an item, a person said : "You better check it properly before you buy it. Later if you find any defect in it, I will not be responsible." Despite the seller saying this, the person purchased the item. Later, he cannot return it irrespective of how many defects it may have. It is permissible for the seller to sell an item in this manner and it is no longer *wajib* on him to show the defect that may be in the item.

Glossary

Explanation of Islamic Terms

ʿĀlim : One who has attained a considerable amount of Islamic knowledge.

Amānah : A trust or something with which you have been entrusted. For further details, refer to the chapter on amānah.

Auliyāʾ : Plural of "walī". A walī is a friend of Allah.

Bāṭil : In Islamic jurisprudence it refers to an act which is invalid.

Barakah : Literally means "blessings". It also refers to the experiencing of abundance in things which are of little value.

Bayʿus salam : Technically, it refers to a contract of sale causing an immediate payment of the price and admitting a delay in the delivery of the goods.

Bid'ah : Literally means an "innovation". In Islam it refers to the introduction of new things into Islam which have no basis in the Quran or Hadith and regarding these things as acts of *ibādah*. A bid'ah is a major sin in Islam.

Du'â : Supplication, prayer or devotional phrases.

Fâsid : In Islamic jurisprudence it refers to an action which is considered to be improper.

Farâ'id : Plural of *fard*.

Fard : Literally means "compulsory". In Islam it refers to those acts and things which are compulsory on a Muslim. Abandoning or abstaining from a fard act is a major sin. Rejecting a fard act amounts to *kufr*.

Fidyah : Redemption from the omission of certain religious duties by a material donation or a religious act.

Ghee : Clarified butter.

Ghisl : The act of washing the entire body from head to toe without leaving a single place dry.

Hâfiz : One who has memorized the Quran.

Halâl : That which is lawful or permissible in Islam.

Harâm : That which is unlawful or prohibited in Islam.

Ibādah : Literally means "worship". In Islam it refers to all those acts with which one renders worship to Allah.

Ijârah fâsidah : Improper leasing or hiring. For further details, refer to the relevant chapter.

Jahannam : Hell.

Janâzah : Funeral procession. The deceased person is also referred to as a *janâzah*.

Jannah : Paradise.

Kafan : The cloth in which the deceased is enshrouded.

Kaffârah : Literally means "penance, atonement, expiation." In Islamic law it refers to redemption from the omission of certain religious duties by a material donation or a ritual act.

Kuffâr : Plural of *kâfir*. A *kâfir* is one who rejects Allah and does not believe in *Muhammad sallallahu 'alayhi wa sallam* as the final messenger of Allah.

Kufr : Refers to the state of disbelief.

Mahr : Dowry.

Makrūh : That which is disliked or detestable.

Maradul maut : Refers to the last sickness of a person after which he passes away.

Masâ'il : Plural of mas'ala.

Mas'ala : Literally means "an issue, problem or question". In Islamic jurisprudence it refers to a rule or regulation.

Mudârabah : Silent partnership. For further details, refer to the relevant chapter.

Mujâhidin : Plural of mujâhid. Refers to a person who is engaged in jihâd or war against the kuffâr.

Mustahab : That which is preferable or desirable.

Mutawakkil : One who practices tawakkul.

Nafs : The soul.

Nûr : Light.

Roti : Flat round bread.

Shafi' : One who holds the right of pre-emption.

Shaytân : The accursed devil.

Shuf'ah : The right of pre-emption.

Sunnah : An act carried out or sanctioned by Rasûlullâh *sallallâhu 'alayhi wa sallam*.

Tawakkul : The act of placing one's complete faith and trust in Allah.

Ulamâ : Plural of 'âlim.

Wâjib : Literally means "obligatory". In Islamic jurisprudence it refers to an act which has not been established by an absolute proof. Leaving out a wâjib without any valid excuse makes one a fâsiq and entails punishment.

Wakil : Representative.

Wasîyyah : Bequest.

Wilâyat : Literally means "friendship". In Islamic sûfism it refers to that stage where a person gains close proximity to Allah.