

Question

The Al-Baraka Islamic Bank charges a 'penalty' on late payment of instalments. Is this not like the interest which non-Muslim banks charge when an instalment is not met on due date? Al-Baraka claims that Mufti Taqi Usmani of Karachi Darul Uloom, Pakistan has given the okay for this 'penalty'. Please comment.

Answer

The 'penalty' which Al-Baraka allegedly charges on overdue instalments is haraam riba. Interest cannot be legalized by changing its name and calling it penalty. Whether interest is described as penalty, profit, dividend, service fee, etc., it remains haraam riba. We do not know what question Al-Baraka has posed to Mufti Taqi Saheb and in which way the question was adorned nor have we seen the Mufti's fatwa or opinion. But, even if Mufti Taqi Saheb has issued a 'fatwa' of permissibility, it is a grievous blunder and not a fatwa of the Shariah. It will be his personal opinion which has no validity in the Shariah.

The modernists who are anti-Taqlaed and who have shrugged off the Taqlaed of the Math-habs, are quick to hide behind the skirts of liberal-minded scholars like Mufti Taqi Saheb who generally presents his personal opinion on contemporary issues. Mufti Taqi Saheb's opinions are becoming increasingly contradictory of the Shariah. Hence, we cannot attach much importance to what he says. In view of his liberal attitude and quick presentation of opinion we find modernists like Judge Navsa of the MPL committee and modernists attached to banks and similar institutions looking up to him for such "fatwas" which depart from the Shariah and which are widely divergent from Shar'i views which have been reliably transmitted to us from the Akaabireen. There is no doubt in the prohibition of the interest which Al-Baraka charges and which it tries to conceal under subterfuge of the misnomer, 'penalty'.

Question

When buying a vehicle through Al-Baraka Islamic Bank, they insist that we take out insurance. Is this permissible. We have all along understood that insurance is haraam. How can an Islamic bank stipulate that a Muslim client takes out insurance?

Answer

Al-Baraka and similar other Muslim banks are far from Islamic. They generally operate in the same way as the non-Muslim banks. People are confused and misled with the many Islamic terms they use to describe their transactions and deals. The fact that they deal in interest and impose haraam riba insurance on Muslim clients testify to the hollowness of their claims. Insurance is haraam. It is haraam for a Muslim bank to stipulate insurance.

CREDIT BUYING

Question

A vehicle nowadays is a necessity. Even if it is not solely for business purposes, those who are observant of Purdah find it extremely difficult to move from place to place without their own vehicle. Beside that proper purdah cannot be observed when using public transport, there are too many dangers. There is no need to explain these. The only way most people can acquire a vehicle is through the banks. But the banks all deal in interest. Is there any way in which a bank deal could be made to conform to the Shariah?

Answer

Undoubtedly, all banks, even the so-called 'Islamic' banks deal in riba. But there is a way in which a deal could be made to conform to the Shariah even if the bank is a non-Muslim one. It is really a simple issue. The only requirement is that the bank be made to understand that the contract should be correctly worded. Firstly, the bank has to purchase the vehicle. This is what the bank in any case does. The bank being the owner of the vehicle sells it to the client. The price of the vehicle (not the cash price) should be clearly stated in the contract. The price will be the sum of the deposit and all the instalments. This full amount should be recorded so that the client is fully aware of the purchase price at the time of the transaction. The client should not obtain insurance. Insurance is haraam. The bank should take out insurance if it wishes. The bank should pay for the insurance. It being a non-Muslim institution, it can do as it pleases. The bank knows the total amount it wants for the vehicle at the end of the day. The total amount the bank wants comprises of the cash price, the finance charges (interest), the insurance and whatever other charges there may be. The buyer of the vehicle should be concerned with only the end figure which is his purchase price. This end price must be stated at the time of the transaction. The buyer simply purchases the vehicle for this final amount which is paid in a specified number of fixed monthly instalments.

The bank should work its charges, etc. into the price and present a final single figure to the buyer. The following example illustrates this deal:

Cash price of vehicle..... R100,000

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Insurance paid by the bank..... 30,000

Finance charges, etc. 70,000

R200,000

The purchase price is R200,000. This is the amount which the contract/agreement should state. The buyer knows now that he is buying the vehicle for R200,000. It does not matter how the bank structures its calculation to reach this figure. It can do this as it pleases. The buyer is interested in only the R200,000 which he will pay in 60 equal monthly instalments. In fact, the instalments need not be equal. Any amounts could be agreed on as long as the instalments are fixed and known.

There should be no interest ('penalty') charged for any late payment of instalments. The bank has to take into consideration all these factors and the "rate of interest" over the 60 months. There should be no hidden charges which will later surface in the statements. If a bank agrees to this simple system, buying a vehicle or even a property in this way will be permissible irrespective of the bank being a non-Muslim bank or a so-called 'Islamic' bank.

If a bank is made to understand the practicality of this simple method, it will in fact render itself a favour. There is no need for the fancy religious sounding terms of muraabahah, mudhaarabah,

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mushaarakah, etc., etc. Buying a vehicle or a property on credit is the same as buying a loaf of bread or any item on credit.

The bank may be required by law to follow certain procedures to satisfy certain acts such as the Usury Act, etc. That is the non-Muslim bank's problem. The bank can draw up its usual agreement to satisfy the law. But as far as the buyer of the vehicle/property is concerned, there are only two elements in the transaction:

The fixed purchase price which is declared at the time of the transaction.

The specified number of fixed monthly instalments into which the purchase price is divided.

There is nothing else. No insurance, no penalty (interest) for late payment and no hidden charges which would cause the instalments to fluctuate. Such a deal is valid and permissible in the Shariah.

To secure its interests, the bank can pass an interest-free bond over the item (the vehicle or property, etc.), or have what they term a lien.

LEASING

Leasing a vehicle or any equipment from a bank can also be validly transacted. Leasing in fact may be simpler than purchasing. Only the monthly rental has to be agreed on. The rental will be fixed monthly payments and the lease term has to be specified. There should be no ambiguity and no hidden charges. The bank has to work all its charges into the fixed monthly rental payment. At the end of the lease term, the bank (the lessor) and the lessee can enter into a sale agreement. The bank can sell the vehicle/equipment, etc. to the lessee for a price which will be mutually agreed on. This should pose no problem as presently the banks sell the leased vehicle to the lessee for a nominal price at the end of the lease term.

However, in the leasing system, it cannot be stipulated that the bank is obliged to sell the vehicle to the lessee at the end of the term. The sale is voluntary.

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