

Stipulating a penalty for late payment in purchase by instalment

The bank sold cars to three people for a sum to be paid later, namely twenty-three thousand, and I was told that the contract included a clause stating a penalty to be paid in the event of delay in payment. The monthly payment is 270 dinars i.e., my partners and I can pay off the money easily. Please advise us, may Allaah reward you.

Praise be to Allaah.

Firstly:

In this transaction it is essential for the bank to take full possession of the car in real terms, by buying it and taking possession of it; the bank should not merely be an intermediary between you and the owner of the car. Any failure to meet this condition means one of two things:

1-

That the bank is selling something that it does not own, which is haraam.

2-

That the bank is not really selling it, rather it is giving a loan with interest; it pays the company one hundred – for example – on your behalf, on condition that it will get 120 back from you in instalments. This is obviously riba.

Secondly:

The fact that the bank has stipulated a penalty to be paid in the event of a delay in paying instalments is the essence of riba. It is not permissible for anyone to take part in such a transaction, even if he is

certain that he is able to make the payments, because that is lending approval to a riba-based contract, which is haraam. The Islamic Fiqh Council

has issued a statement that it is haraam to impose penalties for delays in making payments.

It says in the statement of the Islamic Fiqh Council no. 133 (14/7), issued during its fourteenth conference in Doha:

If the purchaser delays a payment and does not pay at the specified time, it is not permissible to make him pay any amount in addition to the debt on the basis of a clause agreed upon in advance, or without any such clause, because that is riba and is haraam. End quote.

Based on this, if the bank imposes a penalty for late payment, it is not permissible for you to buy the car from them. The same applies if it does not take possession of the car and is only acting as an intermediary to pay the money on your behalf.

And Allaah knows best.