

## Selling Real Estate Properties with the Intention of Trading Using Portions of Its Price: Sustainable Development of Financial Assets

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**Abstract:** *There is a recent text that cited a clear jurisprudential problem, and it is the hadith: "Whoever sells a house and does not put its price in something like it, he will not be blessed in it." The basic principle is that it is permissible to sell the property, and its price obtained from its sale is in the ownership of its owner. He can do with it whatever he wants, and he is not required to buy it. With it, or part of it, another property, and this resulted in many problems that required monitoring a set of controls, the responses of the scholars of jurisprudence towards this correct text, and an explanation of the secrets and rulings of this legislation that achieve the hidden interests of the sellers of their real estate.*

*Real estate trade in the Kingdom of Saudi Arabia is a very distinct activity, and individual merchants always seek to regulate real estate trade according to Sharia controls, seeking what is permissible and blessed, and this research contributes to covering a number of these important aspects.*

*The objectives of the research were the most important:*

- 1. Providing legal answers to merchants' questions about repeatedly purchasing a subsequent property for a portion of the price of a previous property that was sold and collected.*
- 2. Monitoring a group of miscellaneous provisions and controls related to this topic in one place.*
- 3. Proving the ability of Sharia to find appropriate solutions to people's calamities in their lives.*

*This research concluded with a set of scientific results that we explained at the end of the research.*

*It also concluded with a set of important recommendations listed at the end, which are relevant and related to the field of this research.*

**Keywords:** *Real Estate - Buying - Selling - Intention - Blessing*

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### INTRODUCTION

Praise be to Allah alone, and prayers and peace be upon the one after whom there is no prophet.

#### To begin with:

Real estate is an area of extensive commercial activity, with owners frequently engaging in real estate transactions involving both sales and purchases. Likewise, individuals who are not professional traders often find themselves compelled to sell their old property due to an urgent financial need. Following the sale of a property and the receipt of its proceeds, sellers generally fall into two categories: Those who do not consider allocating a portion of the proceeds for the purchase of another property, and those who are mindful of this matter, adhering to the Prophetic tradition, which states: "Whoever sells a house and does not use its price to purchase another like it, no blessing shall be upon it." Such individuals seek to avoid the loss of blessings in their wealth and ensure financial stability. The practices of these two categories give rise to several important legal and doctrinal considerations that govern real estate transactions,

necessitating a structured approach to the applicable jurisprudential rulings and regulatory principles.

#### **Research Problems and Questions:**

This research study seeks to answer a **fundamental question**, which is: What is meant by selling real estate with the intention of trade using portions of its price? From this central question, several subsidiary inquiries arise, all of which are closely related to examining the legal rulings and regulatory principles applicable to real estate transactions. These include: When an individual sells a property and obtains its proceeds, is it recommended for them to allocate a portion of the funds towards the purchase of a new property? Or is this matter merely permissible, with no particular preference or religious directive in favour of reinvesting in real estate?

#### **REASONS FOR SELECTING THE TOPIC:**

The reasons for selecting this topic can be summarised in two key points:

First: The pressing need to document a set of legal rulings and regulatory principles related to the funds obtained from selling a previous property for the purpose of purchasing a subsequent one.

Second: The frequent inquiries raised by real estate traders and other individuals regarding this issue.

#### **RESEARCH OBJECTIVES:**

The primary objectives of this research can be outlined as follows:

1. To support the research agenda of Najran University in the field of contemporary jurisprudential issues.
2. To contribute to the dissemination of legal rulings and regulatory guidelines concerning funds obtained from real estate sales.
3. To consolidate dispersed issues related to this subject in a single comprehensive study.
4. To demonstrate the capability of Islamic jurisprudence in addressing contemporary financial challenges based on its established legal principles.

#### **LITERATURE REVIEW:**

Following a thorough review and investigation by the researchers within the available sources, some scattered articles and jurisprudential rulings related to the subject were found. However, none reached the depth and scope of this research.

#### **RESEARCH METHODOLOGY:**

Due to the nature of this study, an inductive and analytical approach has been adopted, focusing on examining the legal rulings and regulatory principles related to the reservation of commercial goods by the competent authorities for various reasons.

#### **RESEARCH STRUCTURE AND PROCEDURES:**

The research comprises an introductory preface, three topics, a conclusion, recommendations, and indexes of topics, sources, and references, arranged as follows:

Introduction: Containing a summary of the research idea, its significance, issues and questions raised, reasons for choosing the topic, objectives, literature review, methodology, and structure.

**Topic One:** Clarification of Key Terms of the Research Title

**Topic Two:** The Value of Real Estate and the Blessing it Brings to its Owner

**Topic Three:** Circumstances Governing the Sale of Real Estate

**Conclusion:** Highlighting key research findings and recommendations.

Index of Topics.

Index of Sources and References.

### Topic One: Clarification of Key Terms in the Research Title

The Proposed Title for This Research is "The Sale of Real Estate with the Intention of Trading Portions of Its Proceeds."

This necessitates a clarification of the key terms comprising this title.

1. **Sale (Bay')**: The term sale in linguistic usage denotes absolute exchange[7].

In jurisprudential terminology, it is defined as: "The exchange of property for property by mutual consent." [24] or "the exchange of legally recognised property with the intention of ownership transfer." [5]

Key Implications of These Definitions:

- a. The concept of "property" applies to all possessions owned by an individual, including gold, currency, camels, sheep, slaves, merchandise, and other assets.
- b. Jurists classify both the price (thaman) and the commodity (muthamman) as property, regardless of their specific form. However, among the Arabs, livestock was the predominant form of wealth, while gold and silver were referred to as "currency" (naqd)[28].
- c. Mutual consent is the fundamental principle validating commercial transactions, ensuring lawful exchange between the seller (who owns the commodity) and the buyer (who possesses the price).
2. **Real Estates (Aqarat)**: Plural of the singular "Real Estate (Aqar)," Linguistically, real estate refers to any fixed property with a permanent foundation, such as land, houses, trees, and date palms. It derives from the phrase "Aqru ad-Dar", meaning the foundation of a house. In contrast, movable property (al-Manqool) refers to assets that can be transported. Additionally, real estate is regarded as the most valuable form of property in any given category[11][8].

Islamic jurists have provided varied definitions of real estate, as follows:

- a. **Hanafis**: "Real estate is any fixed property that cannot be moved or transferred from one location to another, such as houses and lands." [13]
- b. **Malikis**: "Real estate refers to land and anything permanently attached to it, such as buildings and trees." [17]
- c. **Shafi'is**: "Real estate includes land, buildings, and trees." [21]
- d. **Hanbalis**: "Real estate encompasses land, houses, gardens, and similar properties such as mills and oil presses." [9]

These definitions are closely aligned in meaning, collectively centering on land and its attached structures and plantations. A comprehensive and exclusive definition of real estate may be formulated as follows:

"Real estate comprises all land owned by an individual, along with any structures erected upon it, including private residences, palaces used for habitation, banquet halls, hotels, multi-unit residential buildings, rest houses, roadside commercial complexes, establishments near city entrances, as well as commercial gardens designated for leisure and the crops cultivated therein. All such properties are classified as real estate due to their inherent connection to the land, with land serving as the primary factor in their classification." [22]

3. **Intention (An-Niyyah)**: Linguistically, it refers to purpose or aim, meaning the firm resolve of the heart toward an action.[11] In Islamic law, it signifies the determination to perform an act as a means of seeking nearness to Allah Almighty.[27]
4. **Trade (At-Tijarah)** in Linguistic and Technical Terms: It refers to the circulation and exchange of wealth in pursuit of growth and financial increase.[10]
5. **Portions (Al-Ajza')**: The plural form of *Juz'*, which linguistically means a share or a segment of

something.[25] In this context, it denotes a specific portion of the proceeds from a previously sold real estate, set aside for the purchase of a new property.

6. **Price (Ath-Thaman):** In linguistic terms, it signifies compensation, with its plural being *Athman*. [26] In Islamic legal terminology, it is defined as anything received by the seller in exchange for the sale, whether in cash or as a commodity. Any value given as consideration for an item constitutes its price. [29][12]

The foregoing explanations indicate that "Selling Real Estate with the Intention of Trading with Portions of Its Price" refers to the exchange of a property or asset resulting from a previous real estate sale for the purpose of acquiring another property, thereby reinvesting the proceeds in trade, securing economic gains, and attaining blessings and prosperity by owning a real estate asset that may be used for agriculture or similar purposes. This subject is examined in detail in the following topic.

### **Topic Two: The Value of Real Estate and its Blessing for its Owner**

A Muslim's ownership of real estate offers numerous substantial benefits, particularly if it comprises agricultural land cultivated with productive crops. These benefits primarily include:

1. Self-sufficiency achieved through the production of wheat, vegetables, fruits, and other agricultural products, significantly contributing to financial savings and improving the economic situation of individuals and families.
2. Facilitating barter among people through exchanging agricultural products, dairy goods, and similar items. Barter (*muqāyaḍah*) is defined terminologically as "the exchange of commodities for other commodities" [31], or "the exchange of one tangible good for another tangible good" [6], or "the sale of one product for another" [8].

Selling originally occurs in three forms:

**First:** Two monetary items exchanged—this is currency exchange (*ṣarf*).

**Second:** Two goods exchanged—this is barter.

**Third:** One good exchanged for money—this constitutes an absolute sale (*bay' muṭlaq*) [30].

3. Real estate cultivated naturally under the direct care of its owner ensures safety from the harmful effects of chemical treatments. Owners thus enjoy products that are exceptionally healthy and natural, reminiscent of the way of life pursued by earlier generations. This clearly aligns with achieving bodily benefits, strongly encouraged by the principles of Sharia.

Ibn Muflih stated: "The Sharia of the Master of mankind, may Allah's peace and blessings be upon him—whom Allah Almighty sent as mercy to the worlds, dispatched to all humankind and jinn—encompasses the benefits of both the body and the heart" [1].

4. Converting financial capital into productive real estate is preferable to holding it idly in banks, where its value diminishes over time.
5. Reward and blessings result from animals and birds benefiting from the produce of cultivated real estate. Anas ibn Malik narrated that the Prophet (SAW) said: "No Muslim plants a tree or cultivates land from which a bird, a human being, or an animal eats, except that it is recorded as charity for him" [18][19].

This results in continuous reward and blessing—by Allah's permission—even after the planter's death, as long as the planted trees and crops continue to yield produce.

Ibn Hubayrah stated: "This Prophetic narration clearly demonstrates from a jurisprudential perspective that Allah Almighty multiplies rewards for the servant according to their acts of righteousness, and all subsequent outcomes arising from them. For instance, whoever plants a tree receives reward for everyone who eats from it, seeks shade beneath it, or uses it as a landmark. The same applies to

cultivated crops. Additionally, it clarifies that when a human, bird, or animal consumes from it, it counts as charity for the planter, as they are all creations of Allah Almighty benefiting from something planted with good intention by the person, thereby yielding reward for him"[3].

This narration explicitly provides evidence for the recommendation of acquiring real estate and agricultural lands.

Qadi Iyad commented: "This narration encourages planting trees and owning agricultural land, as many predecessors (*Salaf*) practised, contrary to those who discouraged such actions"[4].

This emphasises that whoever sells agricultural lands is recommended to set aside a portion of the proceeds to purchase other agricultural lands, seeking the blessings associated with agricultural property and the continuous rewards arising from living beings benefiting from its produce. This is consistent with the narration stating: "Whoever sells a house and does not reinvest its price into a similar property shall not be granted blessing therein." This point is elaborated in the following topic.

### **Topic Three: Circumstances Governing the Selling of Real Estate**

The researchers identified three circumstances concerning the seller of real estate, particularly agricultural property that yields financial profits in this worldly life and rewards in the Hereafter.

**First Circumstance:** If the property in question is surplus to the owner's needs, and the owner possesses other agricultural properties that continue to yield worldly and hereafter benefits, in this situation it is permissible to sell this surplus property. The owner incurs no harm or blame even if he does not allocate part of the sale price to purchase another property.

The evidence for this lies in the owner's multiple real estate holdings, wherein the sale of one property does not negate the benefits derived from the remaining properties.

**Second Circumstance:** If the real estate constitutes a fundamental source of income for its owner—whether through rental income from buildings or agricultural land for cultivation—then it is discouraged for the owner to sell the property and disrupt both their worldly and religious interests. It is preferable for them to reinvest the proceeds or a portion thereof in another property that can be utilised for agriculture or rental purposes. This is because if the sale proceeds are used to acquire movable assets that are non-productive, then blessing (*Barakah*) is diminished from such an asset, whereas productive real estate retains its blessing. Several Prophetic narrations (*Ahadith*) support this principle, including the narration of Hudhayfah ibn al-Yaman, who reported that the Prophet (SAW) said: "Whoever sells a house and does not invest its proceeds into a similar property, no blessing shall remain therein for him." [16][2][14]

Furthermore, the preservation of productive real estate ensures the continuation of the owner's legacy. By contrast, if the property is sold and its proceeds are not reinvested in a similar asset, then the owner's memory fades among others.

The scholar Al-Manawi elaborated: "A person is expected to leave behind lasting imprints on the earth. When they erase their own traces by selling their property merely for its price, they are consequently deprived of their legacy." [23]

**Third Circumstance:** If the real estate is an essential asset for its owner's livelihood but they are compelled by necessity or dire financial need to sell it, then it is permissible for them to do so. This applies particularly to patients in need of urgent medical procedures or expensive medication, who have no other financial means except through the sale of their productive real estate. For such individuals, there is no restriction on selling their property. "It is evident that this ruling does not apply to those in dire necessity, as rulings differ between normal circumstances and exceptional necessity. If one engages in a partial reinvestment of their property's price out of need, this does not fall under the same ruling, considering that necessity is judged according to its extent." This principle is reinforced by the Hadith of Miqdām ibn Yasar, in which the Prophet (SAW) stated: "Whoever sells the land of his dwelling

without necessity, Allah shall appoint a destroyer over its price." [15] Even though some scholars have graded this narration as weak, it still aligns with the general Islamic legal principles concerning necessity. [20]

It may be appropriate in the coming periods to expand the use of technology to support this field (Ahmed, Alharbi, & Elfeky, 2022; Elbyaly & Elfeky, 2023a, 2023c, 2023e, 2023f, 2023g, 2023h, 2023i; A. Elfeky, 2017; A. I. M. Elfeky & Elbyaly, 2016, 2019, 2023a, 2023b, 2023c, 2023e, 2023f, 2023g; A. I. M. Elfeky, Najmi, & Elbyaly, 2023, 2024a, 2024b; Elfekyand, 2016; Masada, 2017; Masadeh & Elfeky, 2016).

## CONCLUSION

**Firstly:** The fundamental principle is that selling one's productive real estate is permissible. Exceptions to this principle arise under certain conditions as follows:

1. If the real estate is surplus to one's needs, and the seller possesses other productive properties, the original ruling of permissibility remains in effect.
2. If the real estate is needed to the point of necessity, whereby not selling it would cause severe harm to the owner or his close relatives, the ruling changes to obligatory.
3. If the real estate represents a productive source of livelihood for the seller, the ruling is that selling it is disliked (*makruh*), unless he reinvests its entire price or part thereof into acquiring another productive property.

**Secondly:** Benefiting from productive real estate brings about blessing (*barakah*) in the property itself and its proceeds. Selling it without necessity or compelling reason removes blessing from one's wealth.

**Thirdly:** One of the greatest means for a person to leave lasting beneficial effects is productive real estate, from which relatives and all living beings continue to benefit after one's death.

**Fourthly:** Reviving the practice of barter among people represents an effective solution to the issue of depreciating monetary value.

Fifthly: This research represents an effort towards the sustainable development of financial assets, particularly fixed real estate.

## • RESEARCH RECOMMENDATIONS:

The researchers have identified detailed recommendations for further study, which are as follows:

1. Legal Maxim: "The subsidiary follows the principal," and its contemporary jurisprudential applications in the field of real estate.
2. The barter of goods: Jurisprudential rulings and applicable regulations.
3. Money between circulation and hoarding: A Sharia-compliant economic study.
4. Legal Maxim: "Necessities are assessed according to their extent": Contemporary jurisprudential applications, with selling real estate as a model.

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