

SALES OF ITEMS ON CREDIT IN ISLAM: THE EXPERIENCE OF JAIZ BANK

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Abstract

Islam as a complete way of life has laid down rules and regulations in all spheres of life. All contracts should be observed in accordance with Islamic tenets. Sales of items which serve as the basis of human daily activities and interactions are given close attention by *shari'ah* so that people's life and properties are safeguarded and a balance is maintained in the society. Where credit is involved in the sale, the different parties should be cautious to avoid being trapped in the ugly behaviour of *Riba* (usury). Since the inception of Jaiz Bank, scholars are engaged in useful discussions as to determine whether the bank is in conformity with the norms of *shari'ah* or not on this issue. This paper seeks to analyse this important practice in the society with particular reference to its operation in *Jaiz* Bank and with a view to bringing out useful suggestions to that effect.

Introduction

Islam is not only a religion but also a complete way of life encompassing all spheres of human endeavor. The Qur'an has categorically mentioned that:

There is not an animal (That lives) on the earth, or a being that flies on its wings, but (forms part of) communities like you. Nothing have We omitted from the Book, and they (all) shall be gathered to their Lord in the end. **(Qur'an 6:38)**

The economy is one of the most important aspects of human life on earth. Therefore Islam has laid down rules and regulations in detail even in the minute aspect of human economic activities. Indeed the longest verse in the Glorious Qur'an is on economic dealings; in particular debt or credit.

Credit or *Qadr* in Arabic is defined as giving out wealth (money, goods, animals, food) to a person who will utilize and return it back after sometimes.¹ Credit is allowed in Islam. The creditor is encouraged to give out credit because of the saying of Allah (S.W.T):

Who is He that will loan to Allah a beautiful loan? for ((Allah)) will increase it manifold to His credit, and He will have (besides) a liberal reward. **(Qur'an 57:11)**

In this respect, Prophet also says:

Whoever removes for his brother the hardship of this world, Allah will remove for him the hardship of hereafter.²

On the other side, taking credit is allowed because the Prophet (S.A.W) himself took credit though it is discouraged except in genuine need. Taking debt should be resorted to only in times of necessity otherwise it should be avoided. The Prophet (SAW) in his *Ahadith* discourages taking debt and seeks refuge from it. Therefore a Muslim should be moderate in his spending and avoid extravagance that will drive him to debt. Allah (SWT) says:

▼ It is He who produces Gardens, with trellises and without, and dates, and tilth with produce of all kinds, and olives and pomegranates, similar (in kind) and different (in variety): eat of their fruit in their season, but render the dues that are proper on the Day that the harvest is gathered; but waste not by excess: for Allah loveth not the wasters. **(Qur'an 6:141)**

And give to the kindred his due and to the *Miskîn* (poor) and to the wayfarer, but spend not wastefully (your wealth) in the manner of a spendthrift. **(Qur'an 17: 26)**

In a *Hadith*, the Prophet says: "O Allah I seek refuge in You so that I will not be overwhelmed by debts and people".³ It is also reported that the Prophet used to repeat: "O Allah I seek refuge in You from sinful acts and debts". He was asked why you always seek refuge in debt. He said, "If a person is indebted, he usually tells lies and breaks his promises".⁴

Some conditions must, however, be fulfilled for taking credit. These include that the amount to be credited must be known; if the item is an animal its feature and age should be known; the item should be one that is allowed to be given out as a gift. An item not possessed or forbidden items should not be given out as credit; and that the creditor must be someone who is allowed to give out gift or buy/sell an item.⁵

***Bay' al- Iynah* and Sales on Credit**

Iynah is an Arabic word which means money or help. It is defined as a sale of an item not possessed by a person. It is also defined as sales of an item with a specific amount of money on credit then buying it in cash with a less amount of money. It is a process mostly used to exploit a debtor and thereby end up in *Riba*.⁶

Bay' al-Iynah is forbidden because it generally leads to *Riba* except for some instances. Therefore it is forbidden because of the principle of *Sadd al-Zari'ah* (blocking the means) not that it is forbidden in itself. On the basis of this principle; that which leads to *Haram* becomes *Haram*. The basis for this principle in the Glorious Qur'an is the saying of Allah (SWT):

And insult not those whom they (disbelievers) Worship besides Allâh, lest they insult Allâh wrongfully without knowledge. Thus we have made fairseeming to each people its own doings; then to their Lord is their return and He shall then inform them of All that they used to do. **(Qur'an 6: 108)**

From this verse abusing the idols is forbidden because it will lead the idolators to abuse Allah (SWT) not that it is forbidden in itself. Also, Allah :(SWT) Says

And O Adam! Dwell you and your wife in Paradise, and eat thereof as you both wish, but approach not this tree otherwise You both will be of the *Zâlimûn* (unjust and wrongdoers). **(Qur'an 7: 19)**

Adam (A.S) was forbidden to come near the forbidden tree because that will lead him to eat the tree not because coming near the tree is forbidden.

According to Al- kashnawy, *Al-Iynah* is forbidden. It is a situation whereby a person requests another person to buy an item of ten naira for him from his pocket and he buys it from him with twelve naira (for example).⁷

The essence of forbidden this type of contract is that it is a credit that favors the creditor which is not allowed in Islam. It is also an indirect way of consuming *Riba*.

Forms of *Bay' al-Iynah*

Scholars have identified three forms of *bay' al-iyinah*

1. To request a person to buy an item for you which you subsequently buy the item from him with a higher price on credit. This is not allowed.
2. To request a person to buy an item for you and promise to buy the item from him without mentioning the profit to be given. This is *makruh*.
3. A person seeking an item to purchase from another person but he couldn't get them; on this, he immediately went and bought the item and request the person to buy it from him if he wishes. This allowed without restriction of amount or time i.e. whether with the same amount or lesser or higher and whether on credit or in cash.⁸

Another form of sales on credit which need to be considered here is where a person sell an item on credit and wishes to buy it himself from the person. In *Ashal al- madarik*, it is stated that:

Whoever sells an item on credit, he is not allowed to buy the item with lesser amount cash down or on credit with shorter period than the first one or (buy it) with greater amount and longer period, but is allowed to buy it with the same amount or higher amount cash down.⁹

In another word when you sell an item on credit and decide to buy it from the person, twelve of these contracts are involved of which three are allowed while nine are forbidden. This is illustrated in a tabular form as follows:

Period		Amount	

	Same amount	Lesser amount	Higher amount
Cash down	Allowed	Forbidden	Allowed
Shorter period	Allowed	Forbidden	Allowed
Same period	Allowed	Allowed	Allowed
Longer period	Allowed	Allowed	Forbidden ¹⁰

But where a person sells an item on credit and he decided to buy it, making part payment while the rest of the amount is postponed to a later period; nine forms are involved of which five forms are allowed while four are forbidden.

Amount	Period		
	The rest of the amount for a period of one month	The rest of the amount for a period less than one month	The rest of the amount for a longer period
Sold half cash down	Forbidden	Forbidden	Forbidden
Sold at 10 naira and bought at 10 naira; 5 naira cash down	Allowed	Allowed	Allowed
Sold at 10 naira and bought at 12 naira; 5 naira cash down ¹¹	Allowed	Allowed	Forbidden

Jaiz Bank and the Sale in Credit

Jaiz Bank is a bank established in Nigeria with the aim of fulfilling the need of Muslims in Islamic banking. In other words, it is based on Islamic tenants so as to fill the gap created by common banks which is based on *Riba* (Usury) and therefore against the norms of Islam.

Mode of sales of items on credit by *Jaiz Bank*

The bank according to the manager, Gusau Branch requires a customer to satisfy the following conditions before selling out item for him on credit.

- i. The customer must maintain a functional account with the bank
- ii. The customer makes a request (in writing) for the item he is interested in to the bank.
- iii. The Bank requests the customer to find the item in the market and collect an invoice which describes the item and the owner. In which case, the customer serves as an agent of the bank.
- iv. The Bank then enters an agreement with the customer. The agreement involves:
 - Undertaking of promise that he will buy the item in question.
 - Agency agreement (*Wakalah*). This means that he agrees to be the agent of the bank in dealing with the owner of the item to be purchased
 - The undertaking of promise that he will follow the rules of the bank including 10% or 20% down payment depending. This is called commitment deposit (*Hamish Jiddiyyah*).
- v. Upon collecting the invoice with the items description and price; the customer and the bank agree on the amount purchased and the amount to be sold to the customer.
- vi. The bank makes payment of the item directly to the owner's account.
- vii. The customer collects the item directly from the owner.¹²

Comments

From the foregone explanations and what is obtained practically in *Jaiz Bank*, you will find out that:

- (i) The bank has fallen in one of the prohibited forms of *bay' al-Iynah*. For example in the situation whereby a customer prices an item he is interested in and then informs the Bank to pay on his behalf and then the Bank sells out the item to him with a higher price on credit is contrary to the provision of *Shari'ah*. In *Mukhtasar al-khalil*, the various forms of prohibited contracts are listed of which is a situation whereby a person says to another person: purchase it (an item) with ten (naira or so) cash down and I will buy it from you with twelve (naira or so).¹³

- ii. **Exploitation:** whereby the customer serves as an agent of the bank without reward willingly or unwillingly on his need of the item. *Shariah* forbids exploiting someone's circumstances to your own need.
- iii. By agreeing on the price before the bank pays the owner is like the bank is selling what it has not possessed yet. This is against the tenants of *Shari'ah*. In a *hadith*, the Prophet (*SAW*) says: "Do not sell what you do not possess".¹⁴

Recommendations

In order that the Bank avoids falling into one form or another of prohibited class of *Bay' al- Iynah* and thereby ending in *Riba*, it is recommended that:

- i. The Bank upon receiving a request by the customer should avoid entering any agreement with the customer until after the purchase of the item.
- ii. Preferably the Bank should have warehouses so that it owns its items that it needs to sell to its customers.
- iii. The Bank should involve more hands-on expertise in Islamic jurisprudence especially our local scholars who are learned in *Fiqh al- Islamy*

Conclusion

Islam as a complete way of life has laid down rules and regulations concerning all aspects of life including economic aspects. The essence of Islamic economy is to maintain balance in the society so that no any section is neglected. To face contemporary challenges some conscious Muslims came up with the idea of Islamic Banking which will be free of any form of exploitations seen in western type common Banks. Islamic Banking takes the form of *Jaiz* Bank in Nigeria. One of the ways the Bank uses to avoid falling into *Riba* is to sell items on credit to its teeming customers. However, care should be taken so that the Bank do not fall into *Riba* in one form or another of prohibited *Bay' al- Iynah*.

Notes and References

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