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TIMESHARE SALES

Q. I was always under the impression that timeshare sales are impermissible until I stumbled across the fatwa of Mufti Ebrahim Desai who claims that it is permissible. Please clarify if timeshare sales are permissible.

A. These sales are not permissible.

Firstly, it should be understood that an issue may not be dealt with in isolation of Islamic morality and spirituality. Our life on earth is a transitory affair. We have been dispatched to earth with an evil nafs to purify ourselves for the Meeting with Allah Ta'ala and for our everlasting salvation and happiness in Jannat.

Therefore, any activity, practice or institution which is inimical and detractory of these lofty goals, will be haraam regardless of the legal (Fiqhi) validity which the practice may be having.

Taking up residence for even a day at an immoral resort in Tunisia or elsewhere is haraam, hence buying a timeshare unit in a property at a holiday resort where vice and immorality predominate is haraam even if it be assumed that the contract is technically valid. This suffices for a Mu'min. He need go to further than this ruling.

The halaalizing of this type of timeshare unit is in flagrant violation of the Qur'aanic command: *"Do not approach near to zina."* The analogy for the zigzag mufti's licensing the haraam timeshare unit is like hiring a maid. Everyone knows that it is permissible to employ a maid. It is an *Ijaarah* contract. But if the mufti is fully aware or there is *ghaalib zann* that the objective is to fornicate with the maid, then by what stretch of Imaani logic and Ilmi logic will he issue a fatwa of *jawaaz* (permissibility) despite the Fiqhi veracity of the contract?

The moron-maajin mufti may argue until doomsday and present pages of texts from Fiqhi kutub to bolster his evil zigzag fatwa of permissibility, but he cannot fool Allah Ta'ala with his corrupt fatwa which in reality is a licence for fornication. If the mufti has a valid conception of *Khauf-e-Ilaahi* (Fear for Allah), he will most assuredly advise the person of the impermissibility of hiring a maid without proffering pages of Fiqhi texts consisting of legal technicalities to

bamboozle and to flaunt academic expertise when in reality he simply portrays his own academic *jahaalat*, moral deficiency and spiritual bankruptcy.

The Reality

In transactions of trade and commerce, the determinant is the reality of the concept, not the deceptive terminology. The principle as stated by the Fuqaha is “*Al-ibratu fil uqood al-ma’naa las soerah*”.

Stupidly playing with words mentioned in the contract to deceive himself and others, the mufti maajin seeks to convey the idea of the timeshare concept being a sale transaction (*aqd-e-bay*). But this is furthest from the reality of the concept of timesharing which every moron can understand is a plain *aqd-e-ijarah* (leasing contract).

The wording in the contract such as *deeded ownership and real property* does not alter the nature of the deal neither in terms of the Shariah nor in terms of the kuffaar law. The application of *real estate laws* in terms of kufr law does not transform the leasing contract into *aqd-e-bay* according to the Shariah.

The liability of tax payment, far from transforming the lease contract into a sale transaction, only emphasises the invalidity of the whole contract by virtue of it being an egregiously *faasid* (corrupt) condition. Also, the addition of fees apart from the rental is another *faasid* condition.

In a sale transaction, the buyer becomes the sole owner of a tangible asset (*mabee*). Once ownership passes to the buyer, it will remain his property as long as he does not alienate his ownership by means of selling it or making a gift of it or by his death when his heirs become the owners.

But this extremely deceptive leasing contract is falsely portrayed as a ‘sale’ transaction. The condition: “*the owner may do whatever is desired: use the week, rent*

it, give it away, or sell the week to another prospective buyer.”, states with clarity that the item of sale is *the week’s residence*. There is no tangible asset which passes into the perpetual ownership of the imaginary ‘buyer’. A temporary right is sold. The imaginary ‘buyer’ is the tenant.

Furthermore, what kind of sale is it which requires the return of the ‘asset’ after a week without the ‘owner’ receiving payment for an asset which the morons seek to present as the property of the lessee? And, what type of Shar’i sale is this stupidity which stipulates in the contract that the item is ‘sold’ for only a week, and after the expiry of the week it must be returned free to the ‘seller’?

This absolutely corrupt and stupid fatwa is stupendously more stupid and bereft of Shar’i basis than this mufti’s fatwa of permissibility of rum, whisky and vodka. The couple of Fiqhi terms incongruously employed by the mufti only serves to highlight his *jahaalat* and his endeavour to deceive and mislead the ignorant who have no way of understanding the bunkum disgorged by the *maajin* mufti.

If a mufti lacks the ability and the *baseerat* to comprehend the practical consequences of his fatwa, then he is termed mufti maajin – mufti moron – mufti

jaahil who is unable to distinguish between right and left. This is the *haalat* of all zigzag muftis of our era.

Thus, timeshare hiring and time share sales in the haunts of zina, fisq and fujoor as are all the Hollywood, Bollywood and Devilhood centres of immorality, are Haraam. The Fiqhi texts should be left in the Kutub.

Assuming that the timeshare unit is not at a resort, and it is in a normal building in a normal residential area, then too, it is not permissible with the conditions stipulated in the contract with Interval International.

A timeshare deal is an *Ijaarah (Leasing)* contract. It is not permissible for a tenant to make a profit from the rented property. While he may let it out, it must be at the very same rental which he pays or paid the landlord.

The gold card membership and the concomitant perks are not permissible. The stipulation of benefits for the lessee in the *Ijaarah* contract is *faasid* which invalidates the contract.

The condition of allowing the tenant to make a profit by leasing the property to a third party is *faasid* and not permissible.

The condition of allowing the tenant '12 additional weeks which can be utilized at any time of the year.....' is invalid and *faasid*. Such a benefit may not be stipulated for the lessee in the contract. The leasing out of the 12 weeks by the member thereby making a profit is invalid and not permissible.

The non-refundable payment is haraam. Furthermore there is no valid sale in terms of the Shariah. There is no asset which is for sale. The hallucinated 'buyer' (the tenant) does not become the owner of any asset which is purported as the item of sale. The further stipulation of a time, e.g. one week, two weeks, etc., is a glaring refutation of the claim that this system is a sale contract. It is a *faasid/baatil* ijaarah contract.

The further condition of the return of the unit (the so-called asset sold) after expiry of the leased period is an emphatic negation of the claim that the contract is a sale agreement. Everything from A to Z in the timeshare system is haraam. The whole contract is corrupt and not permissible in terms of the Shariah.

As for the permissibility fatwa issued by mufti Ebrahim Desai of 'Ask Imam', be informed that this person has strayed from Siraatul Mustaqeem. He peddles along the path of liberalism. He is adept in the art of zigzagery, hence he issues zigzag fatwas of deception. He is astray and he misleads the informant and the unwary.

THE DECEPTION OF MUHAYA-AAT

The attempt to pass off the timeshare contract as a *Muhaya'ah* deal is utterly ludicrous. Either the mufti has miserably failed to understand what exactly *Muhaya'ah* is or he has perpetrated compound deception to mislead and deceive in his endeavour to promote the timeshare leasing product. However, in view of the timeshare lease being corrupt and impermissible, he seeks to present it as a *Muhaya'ah* deal. But this notion is palpably *baatil*.

Muhaya'ah is the division of benefits of a property jointly owned by the partners in this contract. The benefits are divided in terms of either time or place (i.e. fixed place in the jointly owned property). The division is among the owners of the property. This division has no relationship to leasing any section of the property to an outsider, i.e. one who does not own a share. Several heirs have inherited a property. In such a jointly owned property the *Muhaya'ah* contract is arranged.

This type of contract is not an *Ijaarah* (Leasing) agreement between the owner and a non-owner.

On the contrary, a timeshare is a simple *Ijaarah* contract which is rendered haraam because of several *faasid* (corrupt) conditions. These have already been explained earlier in this article. There is absolutely no relationship between *Muhaya'ah* and *Ijaarah*. The *maajin* mufti has committed chicanery in his attempt to deceptively pass off timeshare as *Muhaya'ah*.

The claim of “complete possession” in timeshare is a stupid canard fabricated to deceive and mislead. In timeshare one NEVER becomes the owner of the property or of section of the property. When the term expires, the occupier has to vacate and hand back the premises. According to the Shariah ownership is not curtailed by time or a specific period or number of weeks, months or years. Ownership is total and perpetual. There is no such ownership of a timeshare unit.

The terminology which creates the hallucination of the timeshare unit being ‘real’ property is stupid deception. In terms of the Shariah the occupied section of the property by a non-owner remains the property of the owner.

Ownership does not pass to the tenant/occupier. It is a blatant lie to claim that a real valid sale in terms of the Shariah is effected in any type of timeshare deal.

Whether the contract is a so-called ‘sale deal’ or a leasing deal, possession in both cases is *complete*. The claim that in one case the possession is ‘incomplete’ is false. In both cases the period of occupation is specified. According to the Shariah the so-called “complete possession” contract is not a sale deal. It remains an *Ijaarah* contract.

While the timeshare (*Ijaarah*) contract is between the owner of the property and an outsider, *Muhaya'ah* is a contract between joint owners of the property. No one's ownership is cancelled in the jointly-owned property on expiry of the *Muhaya'ah* agreement. There are many masaa-il related to *Muhaya-aat*, which are not applicable to *Ijaarah* and vice versa.

Timeshare is a corrupt haraam *Ijaarah* contract. It is nothing else. No amount of zigzagery by the zigzag moron muftis can alter this Shar'i reality.