



(Part No : 13, Page No: 201)

Option sale

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Fatwa No. (2636):

Q: Having been poor, my father (may Allah be merciful with him) sold a plot of land for a paltry price twenty years ago. However, the buyer asked my father to give him the title deed of the house we live in so that he may have a legal document against us, sons, in case we claim a right to the plot of land in the future. Upon this, my father gave him the deed which was signed by witnesses. Twenty years later, we have already claimed a right to the land by registering it in our names as it was not registered in the name of the buyer. We, urged by some people on the pretext of being poor while the buyer is very rich, did so on account of the land's rise in value. However, the buyer did not submit the title deed of the house taken as a guarantee against my father, claiming it to be lost. Now, my brothers and I feel that we have overtaken the plot of land illegally. However, some experts whom the buyer consulted told him that it is he who is at fault for not safekeeping the title deed of the house which would substantiate his claims if available against those sons whom he had known will claim a right to the land.

I am, in fact, inquiring about the Shar`y (Islamic legal) stand, for we fear Allah (may He be Exalted). Is he entitled to the land and do we have to return it to him? Or, is he not entitled to it and we may keep it? As-salamu `alaykum warahmatullah wabarakatuh (May Allah's Peace, Mercy, and Blessings be upon you!)

A: If it is the case that your father had sold a plot of land for a paltry price, and prices rose afterwards,

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and the buyer had been given the title deed of the house you live in, which was later lost, the buyer will be entitled to the land. This is regardless of whether the price rose, is the same as on the date of buying or has dropped. This is also regardless of whether the title deed your father gave to the buyer is safely kept or lost, as long as your brothers and yourself feel that you have overtaken the land illegally knowing that your father had sold it to him. Moreover, registering it has no effect regarding proving your ownership. In fact, it stands for encroaching upon the right of others. Thus, you have to ask Allah's forgiveness, repent to Him and return the land to the buyer unless you and him agree consensually otherwise.

May Allah grant us success! May peace and blessings be upon our Prophet Muhammad, his family and Companions!

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