



## The nineteenth question of Fatwa no. 1637

**Q 19: What is the ruling on selling a broken or a defective commodity without the seller notifying the buyer about the defect at the time the auction is held? Is it permissible for the buyer to return the commodity after he knows of the defect?**

**A:** It is prohibited for a seller to hide the latent defect of a commodity which diminishes its value in a way that causes harm to the buyer. If the defect exists prior to contracting and the buyer only happens to know about it after the sale is concluded, he has the option to retain the commodity and receive a compensation for the defect which is estimated according the supposed price of the commodity if free of defect and its price in case of defect.

**( Part No : 13, Page No: 211)**

The buyer may also return the commodity to the seller and take his money back. This type of sale is known as Khiyar Al-`Ayb (a type of sale which involves the buyer's option to retain or return a defective commodity to the seller). This is supported by the Hadith narrated by `Uqbah ibn `Amir (may Allah be pleased with him) who said, "I heard the Messenger of Allah (peace be upon him) say: ﴿ [A Muslim is the brother of a fellow-Muslim. It is not lawful for a Muslim to sell his fellow-Muslim a deficient item, unless he shows him this defect.](#) ﴾ (Related in Musnad Ahmad ibn Hanbal), and Ibn Majah in his Sunan (Hadith compilations classified by jurisprudential themes), vol. 2, p. 755. This is the wording as narrated by Ibn Majah. This Hadith is also narrated by Al-Bukhari in his Sahih (authentic book of Hadith), vol. 3, p. 10 in the form of Hadith Mawquf (a Hadith narrated from a Companion of the Prophet) on the authority of `Uqbah ibn `Amir. The Hadith says: ﴿ ["It is not lawful for a person to sell a commodity in which he knows that there is a defect, unless he makes it known."](#) ﴾ This is also supported by the Hadith narrated by Al-Bukhari in his Sahih on the authority of Hakim ibn Hizam (may Allah be pleased with him) who said, "The Messenger of Allah (peace be upon him) said: ﴿ [The seller and the buyer have the right to retain or return goods as long as they have not parted or till they part; and if both the parties spoke the truth and described the defects and qualities \(of the goods\), then they would be blessed in their transaction, and if they told lies or hid something, then the blessings of their transaction would be lost.](#) ﴾

**( Part No : 13, Page No: 212)**

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

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