

principle and profit, where profit rate is variable or fixed for 1 to five years as agreed.

7. 7. At Settlement MCCA® will be the owner and permit the member register his/her name on the title

8. 8. Upon repayment of the moneys owed to the cooperative, the Agent re-assumes the rights from the co-operative through the last rental installment, where he/she will be the full owner of the property.

4. Is the Ijarah Muntahia Bittamleek considered as two contracts in one?

4- Abu Hurayrah related that the messenger (peace be on him) prohibited two sales in one sale.

The expression "two sales in one sale" was explained to refer to holding a compensation (sale) and a gift (donation) in one without specifying the sale price or a man say I'll sell you this now for 100 and 150 deferred, however they separate without specifying what the purchaser requires. Such a transaction is prohibited since it involves Gharar (ambiguity/deception).

For more information on the above refer to the book

"Almajmooua", Almuhaazab explanation" volume 9 page 219.

احادیث مبارکہ کی تبویب و ترتیب نو کے ساتھ
فقہ اسلامی کا عربی زبان میں ایک خوبصورت مرقع

المستند

تالیف: علامہ غلام رسول قاسمی

تقریظ: حضرت علامہ محمد عبدالکلیم شرف قادری

ناشر: مطبوعات رحمة للعالمین، بشیر کالونی، سرگودھا

6. then Agent full fill the agency contract with a promise to purchase and sign MUR Contract according to MURABAHA concept by fixed installments that contains of principle and profit, where profit rate is fixed.

3. What is Ijarah Muntahia Bittamleek and how can it be structured?

3- Ijarah Muntahia Bittamleek

Ijarah Muntahia Bittamleek is a mode of finance which is adopted by Islamic Financial Institutions. It is a contract where Islamic Financial Institution finances the property or equipments against mutual agreed rental installments that consists of profit and principle, where profit can be fixed or floated (variable) as agreed. At the end ownership of property is transferred to the client with the last installment.

Ijarah Muntahia Bittamleek can be structured by two ways:

1. The promise of the assigned Agent.
2. Sale of beneficial right and lease back.

What is the promise concept?

1. •The cooperative appoint the member as an agent on behalf of MCCA® towards purchasing the property;
2. •Agent promise to lease to own the property from MCCA®;
3. •The cooperative promise to lease to agent so he can own the property based on Ijara Muntahia Bittamleek;•
4. Agency is build through Memorandum of Understanding;

Steps of the promise to lease:

1. 1.Member first apply for finance,
2. 2.MCCA® assess member and give him a conditional approval.
3. 3.Member finds property on time then approach MCCA® again.
4. 4.MCCA® valuate the property then give him the approval or reject: upon approval MCCA® assign him as an Agent on behalf of MCCA®.
5. 5.upon approval agent full fill contract of sale with vendor through Real Estate Agent.
6. 6.Agent full fill the agency contract with a promise to-lease to own and sign Tamleek Contract according to Ijarah Muntahia Bittamleek concept by agreed rental installments that contains of

It is no crime in you If you seek of the bounty of your Lord Al-Baqara 198

That is because Murabaha represents looking for more It is also subsumed under the general rule that legalizes sale Allah sayeth "Allah hath permitted trade".

2. The Prophet (PBUH) permitted the sale of the commodity for more than its purchase price. He said: "if the two commodities are different, buy and sell as you wish.

3. The consensus of the Ummah on the permissibility of the Murabaha sale. The Kassani has pointed out that the people inherited these kinds of sales (Murabaha and other sales) throughout the generations and ages without any protests of non acceptance.

2. How do MCCA® structure Murabaha?

2- MCCA® structured Murabaha where its connected with a promise:

There are three parties to it. The seller, the buyer and MCCA® as an intermediary trader between the buyer and the seller. MCCA® here does not purchase unless the buyer specifies its desire and a prior outstanding promise to purchase. MCCA® Murabaha is designed as per AAOiFI standards.

MCCA® structured the promise through Agency as follows:

- The cooperative appoint the member as an agent towards purchasing the property;
- Agent promise to purchase the property;
- The cooperative promise to sell the property to the agent based on deferred payments at fixed profit rate

How it works?

1. Member first apply for finance.
2. MCCA® assess member and give him a conditional approval with a waiting list.
3. Member finds property on time then approach MCCA® again.
4. MCCA® reassess member and value the property then give him the approval and assign him as an Agent.
5. Agent full fill contract of sale with vendor through Real Estate agent.

6. Once the price is fixed, it cannot be decreased in case of earlier payment, nor can it be increased in case of default.

7. In order to pressurize the buyer to pay the installments promptly, the buyer may be asked to promise that in case of default, he will donate some specified amount for a charitable purpose. In this case the seller may receive such amount from the buyer, not to make it part of his income, but to use it for a charitable purpose on behalf of the buyer.

8. If the commodity is sold on installments, the seller may put a condition on the buyer that if he fails to pay any installment on its due date, the remaining installments will become due immediately.

9. In order to secure the payment of price, the seller may ask the buyer to furnish a security whether in the form of a mortgage or in the form of lien or a charge on any of his existing assets.

10. The buyer can also be asked to sign a promissory note or a bill of exchange, but the note or the bill cannot be sold to a third party at a price different from its face value.

Bai' Mu'ajjal Sale can be done in two ways:

A-Ordinary Bai' Mu'ajjal Sale:

There are two parties to it, the seller and the buyer. The seller is an ordinary trader who buys a property without depending on a prior promise of purchase, and then he displays it for Bai' Mu'ajjal sale for a deferred price and a profit to be agreed upon.

B- Bai' Mu'ajjal Sale connected with a promise:

There are three parties to it. The seller, the buyer and the finance entity as an intermediary trader between the buyer and the seller. The finance entity here does not purchase unless the buyer specifies its desire and a prior outstanding promise to purchase.

EVIDENCE OF LEGALITY

1. The legality of Bai' Mu'ajjal Murabaha sale is (obtained) obvious from:

☆ اللهم اني لك صمت و بك امنت و عليك توكلت و على رزقك افطرت ☆

To understand Islamic Banking

Frequently Asked Questions from MCCA.
Muslim Community Co-operative Australia)

1. What is Murabaha and how can it be structured?

1- Murabaha

Definition:

["Murabahah" is, in fact, a term of Islamic Fiqh and it refers to a particular kind of sale having nothing to do with financing in its original sense. If a seller agrees with his purchaser to provide him a specific commodity on a certain profit added to his cost, it is called a "murabahah" transaction. The basic ingredient of "murabaha" is that the seller discloses the actual cost he has incurred in acquiring the commodity, and then adds some profit thereon. This profit may be in lump sum or may be based on a percentage.]

Bai' Mu'ajjal (Sale on Deferred Payment Basis)

1. A sale in which the parties agree that the payment of price shall be deferred is called a "Bai' Mu'ajjal."

2. Bai' Mu'ajjal is valid if the due date of payment is fixed in an unambiguous manner

3. The due time of payment can be fixed either with reference to a particular date or by specifying a period, like three months, but it cannot be fixed with reference to a future event the exact date of which is unknown or is uncertain. If the time of payment is unknown or uncertain, the sale is void.

4. If a particular period is fixed for payment, like one month, it will be deemed to commence from the time of delivery, unless the parties have agreed otherwise.

5. The deferred price may be more than the cash price, but it must be fixed at the time of sale.