

SECOND PART OF THE SECOND PART, QUESTION 77

Of Cheating, Which Is Committed in Buying and Selling (In Four Articles)

We must now consider those sins which relate to voluntary commutations. First, we shall consider cheating, which is committed in buying and selling: secondly, we shall consider usury, which occurs in loans. In connection with the other voluntary commutations no special kind of sin is to be found distinct from rapine and theft.

Under the first head there are four points of inquiry:

- (1) Of unjust sales as regards the price; namely, whether it is lawful to sell a thing for more than its worth?
- (2) Of unjust sales on the part of the thing sold;
- (3) Whether the seller is bound to reveal a fault in the thing sold?
- (4) Whether it is lawful in trading to sell a thing at a higher price than was paid for it?

Whether it is lawful to sell a thing for more than its worth?

IIa IIae q. 77 a. 1

Objection 1. It would seem that it is lawful to sell a thing for more than its worth. In the commutations of human life, civil laws determine that which is just. Now according to these laws it is just for buyer and seller to deceive one another (Cod. IV, xlv, De Rescind. Vend. 8,15): and this occurs by the seller selling a thing for more than its worth, and the buyer buying a thing for less than its worth. Therefore it is lawful to sell a thing for more than its worth

Objection 2. Further, that which is common to all would seem to be natural and not sinful. Now Augustine relates that the saying of a certain jester was accepted by all, "You wish to buy for a song and to sell at a premium," which agrees with the saying of Prov. 20:14, "It is naught, it is naught, saith every buyer: and when he is gone away, then he will boast." Therefore it is lawful to sell a thing for more than its worth.

Objection 3. Further, it does not seem unlawful if that which honesty demands be done by mutual agreement. Now, according to the Philosopher (Ethic. viii, 13), in the friendship which is based on utility, the amount of the recompense for a favor received should depend on the utility accruing to the receiver: and this utility sometimes is worth more than the thing given, for instance if the receiver be in great need of that thing, whether for the purpose of avoiding a danger, or of deriving some particular benefit. Therefore, in contracts of buying and selling, it is lawful to give a thing in return for more than its worth.

On the contrary, It is written (Mat. 7:12): "All things... whatsoever you would that men should do to you, do you also to them." But no man wishes to buy a thing for more than its worth. Therefore no man should sell a thing to another man for more than its worth.

I answer that, It is altogether sinful to have recourse to deceit in order to sell a thing for more than its just price, because this is to deceive one's neighbor so as to injure

him. Hence Tully says (De Offic. iii, 15): "Contracts should be entirely free from double-dealing: the seller must not impose upon the bidder, nor the buyer upon one that bids against him."

But, apart from fraud, we may speak of buying and selling in two ways. First, as considered in themselves, and from this point of view, buying and selling seem to be established for the common advantage of both parties, one of whom requires that which belongs to the other, and vice versa, as the Philosopher states (Polit. i, 3). Now whatever is established for the common advantage, should not be more of a burden to one party than to another, and consequently all contracts between them should observe equality of thing and thing. Again, the quality of a thing that comes into human use is measured by the price given for it, for which purpose money was invented, as stated in Ethic. v, 5. Therefore if either the price exceed the quantity of the thing's worth, or, conversely, the thing exceed the price, there is no longer the equality of justice: and consequently, to sell a thing for more than its worth, or to buy it for less than its worth, is in itself unjust and unlawful.

Secondly we may speak of buying and selling, considered as accidentally tending to the advantage of one party, and to the disadvantage of the other: for instance, when a man has great need of a certain thing, while another man will suffer if he be without it. In such a case the just price will depend not only on the thing sold, but on the loss which the sale brings on the seller. And thus it will be lawful to sell a thing for more than it is worth in itself, though the price paid be not more than it is worth to the owner. Yet if the one man derive a great advantage by becoming possessed of the other man's property, and the seller be not at a loss through being without that thing, the latter ought not to raise the price, because the advantage accruing to the buyer, is not due to the seller, but to

a circumstance affecting the buyer. Now no man should sell what is not his, though he may charge for the loss he suffers.

On the other hand if a man find that he derives great advantage from something he has bought, he may, of his own accord, pay the seller something over and above: and this pertains to his honesty.

Reply to Objection 1. As stated above (Ia IIae, q. 96, a. 2) human law is given to the people among whom there are many lacking virtue, and it is not given to the virtuous alone. Hence human law was unable to forbid all that is contrary to virtue; and it suffices for it to prohibit whatever is destructive of human intercourse, while it treats other matters as though they were lawful, not by approving of them, but by not punishing them. Accordingly, if without employing deceit the seller disposes of his goods for more than their worth, or the buyer obtain them for less than their worth, the law looks upon this as licit, and provides no punishment for so doing, unless the excess be too great, because then even human law demands restitution to be made, for instance if a man be deceived in regard to more than half the amount of the just price of a thing*.

On the other hand the Divine law leaves nothing unpunished that is contrary to virtue. Hence, according to

the Divine law, it is reckoned unlawful if the equality of justice be not observed in buying and selling: and he who has received more than he ought must make compensation to him that has suffered loss, if the loss be considerable. I add this condition, because the just price of things is not fixed with mathematical precision, but depends on a kind of estimate, so that a slight addition or subtraction would not seem to destroy the equality of justice.

Reply to Objection 2. As Augustine says “this jester, either by looking into himself or by his experience of others, thought that all men are inclined to wish to buy for a song and sell at a premium. But since in reality this is wicked, it is in every man’s power to acquire that justice whereby he may resist and overcome this inclination.” And then he gives the example of a man who gave the just price for a book to a man who through ignorance asked a low price for it. Hence it is evident that this common desire is not from nature but from vice, wherefore it is common to many who walk along the broad road of sin.

Reply to Objection 3. In commutative justice we consider chiefly real equality. On the other hand, in friendship based on utility we consider equality of usefulness, so that the recompense should depend on the usefulness accruing, whereas in buying it should be equal to the thing bought.

Whether a sale is rendered unlawful through a fault in the thing sold?

Ia IIae q. 77 a. 2

Objection 1. It would seem that a sale is not rendered unjust and unlawful through a fault in the thing sold. For less account should be taken of the other parts of a thing than of what belongs to its substance. Yet the sale of a thing does not seem to be rendered unlawful through a fault in its substance: for instance, if a man sell instead of the real metal, silver or gold produced by some chemical process, which is adapted to all the human uses for which silver and gold are necessary, for instance in the making of vessels and the like. Much less therefore will it be an unlawful sale if the thing be defective in other ways.

Objection 2. Further, any fault in the thing, affecting the quantity, would seem chiefly to be opposed to justice which consists in equality. Now quantity is known by being measured: and the measures of things that come into human use are not fixed, but in some places are greater, in others less, as the Philosopher states (Ethic. v, 7). Therefore just as it is impossible to avoid defects on the part of the thing sold, it seems that a sale is not rendered unlawful through the thing sold being defective.

Objection 3. Further, the thing sold is rendered defective by lacking a fitting quality. But in order to know the quality of a thing, much knowledge is required that is lacking in most buyers. Therefore a sale is not rendered unlawful by a fault (in the thing sold).

On the contrary, Ambrose says (De Offic. iii, 11): “It is manifestly a rule of justice that a good man should not depart from the truth, nor inflict an unjust injury on anyone, nor have any connection with fraud.”

I answer that, A threefold fault may be found pertaining to the thing which is sold. One, in respect of the thing’s substance: and if the seller be aware of a fault in the thing he is selling, he is guilty of a fraudulent sale, so that the sale is rendered unlawful. Hence we find it written against certain people (Is. 1:22), “Thy silver is turned into dross, thy wine is mingled with water”: because that which is mixed is defective in its substance.

Another defect is in respect of quantity which is known by being measured: wherefore if anyone knowingly make use of a faulty measure in selling, he is guilty of fraud, and the sale is illicit. Hence it is written (Dt. 25:13,14): “Thou shalt not have divers weights in thy bag, a greater and a less: neither shall there be in thy house a greater bushel and a less,” and further on (Dt. 25:16): “For the Lord. . . abhorreth him that doth these things, and He hateth all injustice.”

A third defect is on the part of the quality, for instance, if a man sell an unhealthy animal as being a healthy one: and if anyone do this knowingly he is guilty of a fraudulent sale, and the sale, in consequence, is illicit.

* Cod. IV, xlv, De Rescind. Vend. 2,8

In all these cases not only is the man guilty of a fraudulent sale, but he is also bound to restitution. But if any of the foregoing defects be in the thing sold, and he knows nothing about this, the seller does not sin, because he does that which is unjust materially, nor is his deed unjust, as shown above (q. 59, a. 2). Nevertheless he is bound to compensate the buyer, when the defect comes to his knowledge. Moreover what has been said of the seller applies equally to the buyer. For sometimes it happens that the seller thinks his goods to be specifically of lower value, as when a man sells gold instead of copper, and then if the buyer be aware of this, he buys it unjustly and is bound to restitution: and the same applies to a defect in quantity as to a defect in quality.

Reply to Objection 1. Gold and silver are costly not only on account of the usefulness of the vessels and other like things made from them, but also on account of the excellence and purity of their substance. Hence if the gold or silver produced by alchemists has not the true specific nature of gold and silver, the sale thereof is fraudulent and unjust, especially as real gold and silver can produce certain results by their natural action, which the counterfeit gold and silver of alchemists cannot produce. Thus the true metal has the property of making people joyful, and is helpful medicinally against certain maladies. Moreover real gold can be employed more frequently, and lasts

longer in its condition of purity than counterfeit gold. If however real gold were to be produced by alchemy, it would not be unlawful to sell it for the genuine article, for nothing prevents art from employing certain natural causes for the production of natural and true effects, as Augustine says (De Trin. iii, 8) of things produced by the art of the demons.

Reply to Objection 2. The measures of salable commodities must needs be different in different places, on account of the difference of supply: because where there is greater abundance, the measures are wont to be larger. However in each place those who govern the state must determine the just measures of things salable, with due consideration for the conditions of place and time. Hence it is not lawful to disregard such measures as are established by public authority or custom.

Reply to Objection 3. As Augustine says (De Civ. Dei xi, 16) the price of things salable does not depend on their degree of nature, since at times a horse fetches a higher price than a slave; but it depends on their usefulness to man. Hence it is not necessary for the seller or buyer to be cognizant of the hidden qualities of the thing sold, but only of such as render the thing adapted to man's use, for instance, that the horse be strong, run well and so forth. Such qualities the seller and buyer can easily discover.

Whether the seller is bound to state the defects of the thing sold?

Ia IIae q. 77 a. 3

Objection 1. It would seem that the seller is not bound to state the defects of the thing sold. Since the seller does not bind the buyer to buy, he would seem to leave it to him to judge of the goods offered for sale. Now judgment about a thing and knowledge of that thing belong to the same person. Therefore it does not seem imputable to the seller if the buyer be deceived in his judgment, and be hurried into buying a thing without carefully inquiring into its condition.

Objection 2. Further, it seems foolish for anyone to do what prevents him carrying out his work. But if a man states the defects of the goods he has for sale, he prevents their sale: wherefore Tully (De Offic. iii, 13) pictures a man as saying: "Could anything be more absurd than for a public crier, instructed by the owner, to cry: 'I offer this unhealthy horse for sale?'" Therefore the seller is not bound to state the defects of the thing sold.

Objection 3. Further, man needs more to know the road of virtue than to know the faults of things offered for sale. Now one is not bound to offer advice to all or to tell them the truth about matters pertaining to virtue, though one should not tell anyone what is false. Much less therefore is a seller bound to tell the faults of what he offers for sale, as though he were counseling the buyer.

Objection 4. Further, if one were bound to tell the faults of what one offers for sale, this would only be in order to lower the price. Now sometimes the price would be lowered for some other reason, without any defect in the thing sold: for instance, if the seller carry wheat to a place where wheat fetches a high price, knowing that many will come after him carrying wheat; because if the buyers knew this they would give a lower price. But apparently the seller need not give the buyer this information. Therefore, in like manner, neither need he tell him the faults of the goods he is selling.

On the contrary, Ambrose says (De Offic. iii, 10): "In all contracts the defects of the salable commodity must be stated; and unless the seller make them known, although the buyer has already acquired a right to them, the contract is voided on account of the fraudulent action."

I answer that, It is always unlawful to give anyone an occasion of danger or loss, although a man need not always give another the help or counsel which would be for his advantage in any way; but only in certain fixed cases, for instance when someone is subject to him, or when he is the only one who can assist him. Now the seller who offers goods for sale, gives the buyer an occasion of loss or danger, by the very fact that he offers him defective

goods, if such defect may occasion loss or danger to the buyer—loss, if, by reason of this defect, the goods are of less value, and he takes nothing off the price on that account—danger, if this defect either hinder the use of the goods or render it hurtful, for instance, if a man sells a lame for a fleet horse, a tottering house for a safe one, rotten or poisonous food for wholesome. Wherefore if such like defects be hidden, and the seller does not make them known, the sale will be illicit and fraudulent, and the seller will be bound to compensation for the loss incurred.

On the other hand, if the defect be manifest, for instance if a horse have but one eye, or if the goods though useless to the buyer, be useful to someone else, provided the seller take as much as he ought from the price, he is not bound to state the defect of the goods, since perhaps on account of that defect the buyer might want him to allow a greater rebate than he need. Wherefore the seller may look to his own indemnity, by withholding the defect of the goods.

Reply to Objection 1. Judgment cannot be pronounced save on what is manifest: for “a man judges of what he knows” (Ethic. i, 3). Hence if the defects of the goods offered for sale be hidden, judgment of them is not sufficiently left with the buyer unless such defects be made known to him. The case would be different if the defects were manifest.

Reply to Objection 2. There is no need to publish beforehand by the public crier the defects of the goods one is offering for sale, because if he were to begin by announcing its defects, the bidders would be frightened to buy, through ignorance of other qualities that might render the thing good and serviceable. Such defect ought to be stated to each individual that offers to buy: and then he will be able to compare the various points one with the other, the good with the bad: for nothing prevents that which is defective in one respect being useful in many others.

Reply to Objection 3. Although a man is not bound strictly speaking to tell everyone the truth about matters pertaining to virtue, yet he is so bound in a case when, unless he tells the truth, his conduct would endanger another man in detriment to virtue: and so it is in this case.

Reply to Objection 4. The defect in a thing makes it of less value now than it seems to be: but in the case cited, the goods are expected to be of less value at a future time, on account of the arrival of other merchants, which was not foreseen by the buyers. Wherefore the seller, since he sells his goods at the price actually offered him, does not seem to act contrary to justice through not stating what is going to happen. If however he were to do so, or if he lowered his price, it would be exceedingly virtuous on his part: although he does not seem to be bound to do this as a debt of justice.

Whether, in trading, it is lawful to sell a thing at a higher price than what was paid for it?

Ila Ilae q. 77 a. 4

Objection 1. It would seem that it is not lawful, in trading, to sell a thing for a higher price than we paid for it. For Chrysostom* says on Mat. 21:12: “He that buys a thing in order that he may sell it, entire and unchanged, at a profit, is the trader who is cast out of God’s temple.” Cassiodorus speaks in the same sense in his commentary on Ps. 70:15, “Because I have not known learning, or trading” according to another version†: “What is trade,” says he, “but buying at a cheap price with the purpose of retailing at a higher price?” and he adds: “Such were the tradesmen whom Our Lord cast out of the temple.” Now no man is cast out of the temple except for a sin. Therefore such like trading is sinful.

Objection 2. Further, it is contrary to justice to sell goods at a higher price than their worth, or to buy them for less than their value, as shown above (a. 1). Now if you sell a thing for a higher price than you paid for it, you must either have bought it for less than its value, or sell it for more than its value. Therefore this cannot be done without sin.

Objection 3. Further, Jerome says (Ep. ad Nepot. lii): “Shun, as you would the plague, a cleric who from being

poor has become wealthy, or who, from being a nobody has become a celebrity.” Now trading would not seem to be forbidden to clerics except on account of its sinfulness. Therefore it is a sin in trading, to buy at a low price and to sell at a higher price.

On the contrary, Augustine commenting on Ps. 70:15, “Because I have not known learning,”‡ says: “The greedy tradesman blasphemes over his losses; he lies and perjures himself over the price of his wares. But these are vices of the man, not of the craft, which can be exercised without these vices.” Therefore trading is not in itself unlawful.

I answer that, A tradesman is one whose business consists in the exchange of things. According to the Philosopher (Polit. i, 3), exchange of things is twofold; one, natural as it were, and necessary, whereby one commodity is exchanged for another, or money taken in exchange for a commodity, in order to satisfy the needs of life. Such like trading, properly speaking, does not belong to tradesmen, but rather to housekeepers or civil servants who have to provide the household or the state with the necessities of life. The other kind of exchange is either

* Hom. xxxviii in the Opus Imperfectum, falsely ascribed to St. John Chrysostom † The Septuagint ‡ Cf. obj. 1

that of money for money, or of any commodity for money, not on account of the necessities of life, but for profit, and this kind of exchange, properly speaking, regards tradesmen, according to the Philosopher (Polit. i, 3). The former kind of exchange is commendable because it supplies a natural need: but the latter is justly deserving of blame, because, considered in itself, it satisfies the greed for gain, which knows no limit and tends to infinity. Hence trading, considered in itself, has a certain debasement attaching thereto, in so far as, by its very nature, it does not imply a virtuous or necessary end. Nevertheless gain which is the end of trading, though not implying, by its nature, anything virtuous or necessary, does not, in itself, connote anything sinful or contrary to virtue: wherefore nothing prevents gain from being directed to some necessary or even virtuous end, and thus trading becomes lawful. Thus, for instance, a man may intend the moderate gain which he seeks to acquire by trading for the upkeep of his household, or for the assistance of the needy: or again, a man may take to trade for some public advantage, for instance, lest his country lack the necessaries of life, and seek gain, not as an end, but as payment for his labor.

Reply to Objection 1. The saying of Chrysostom refers to the trading which seeks gain as a last end. This is especially the case where a man sells something at a higher price without its undergoing any change. For if he sells at a higher price something that has changed for the better, he would seem to receive the reward of his labor. Nevertheless the gain itself may be lawfully intended, not

as a last end, but for the sake of some other end which is necessary or virtuous, as stated above.

Reply to Objection 2. Not everyone that sells at a higher price than he bought is a tradesman, but only he who buys that he may sell at a profit. If, on the contrary, he buys not for sale but for possession, and afterwards, for some reason wishes to sell, it is not a trade transaction even if he sell at a profit. For he may lawfully do this, either because he has bettered the thing, or because the value of the thing has changed with the change of place or time, or on account of the danger he incurs in transferring the thing from one place to another, or again in having it carried by another. In this sense neither buying nor selling is unjust.

Reply to Objection 3. Clerics should abstain not only from things that are evil in themselves, but even from those that have an appearance of evil. This happens in trading, both because it is directed to worldly gain, which clerics should despise, and because trading is open to so many vices, since “a merchant is hardly free from sins of the lips”* (Ecclus. 26:28). There is also another reason, because trading engages the mind too much with worldly cares, and consequently withdraws it from spiritual cares; wherefore the Apostle says (2 Tim. 2:4): “No man being a soldier to God entangleth himself with secular businesses.” Nevertheless it is lawful for clerics to engage in the first mentioned kind of exchange, which is directed to supply the necessaries of life, either by buying or by selling.

* ‘A merchant is hardly free from negligence, and a huckster shall not be justified from the sins of the lips’