161164 - Their parents made bequests before they died stating that the estate was to be divided in a specific manner; do they have to follow that?

the question

Our mother died last year but we didnt distribute the wealth as we wanted to keep everything for our farther as he might need it in future because no body knows about the time.
on 6th of Dull Hijjah our father passed away.
our mother wanted her jewelries to be distribute among her daughters (as we are three sisters and one brother)the house our brother is the nominee.
now we want to know how to distribute every thing according to Islam our according to our parents wish.our main aim is we do not want to do anything that either we or our parents will be accountable in front of Allah.

Detailed answer

Praise be to Allah.

If your father and mother did not share out their estates when they were still alive, such that each person took his share and disposed of it, then what they said is regarded as a bequest (wasiyyah) and a bequest to an heir is not to be executed except with the permission of the other heirs.

If all the heirs agree to the bequest, and they are adults of sound mind, there is nothing wrong with that. But if they want to divide the estate according to the rules of sharee‘ah, they have the right to do so, and they do not have to carry out the bequest, because the principle is that it is not permissible to make a bequest to an heir. If a bequest is made to an heir, it is not to be carried out except with the consent of all the heirs, because of the report narrated by Abu Dawood (2870), al-Tirmidhi (2120), al-Nasaa’i (4641) and Ibn Maajah (2713) from Abu Umaamah who said: I heard the Messenger of Allah (blessings and peace of Allah be upon him) say: “Allaah has given each person who has rights his rights, and there is no bequest for an heir.”

The hadeeth was classed as saheeh by al-Albaani in Saheeh Abi Dawood.

It was also narrated by al-Daraqutni from Ibn ‘Abbaas as “It is not permissible to make a bequest to an heir unless all the heirs want that.” Classed as hasan by al-Haafiz Ibn Hajar in Buloogh al-Maraam.

And Allah knows best.