

200448 - The heirs do not have the right to take back from their sister's children a gift that she received from them with their consent, then her children inherited it

the question

My Grandfather wrote a will giving 1/4 of his Land to my Mother and the rest to be shared equally amongst 7 Children and the Wife. They agreed to it and it was implemented some 14 years back. My brother and I inherited from our Deceased Mother 11 years ago. Now Our uncles and aunts want to contest the Will which they already accepted to whilst we have built a 2 storey building on some part of our mothers portion. Is it possible to cancel the inheritance when we go to the law courts according to Islamic Law ?

Detailed answer

Firstly:

The will that your grandfather made to his daughter, who is your mother, is not permissible according to sharee'ah, because it is a bequest to an heir. But if the other heirs agree to it, they have the right to do so and it becomes valid to allow the bequest.

See question no. [174421](#)

Secondly:

If the one to whom the bequest was made died before the one who made the bequest, then that bequest becomes invalid.

It says in al-Mawsoo'ah al-Fiqhiyyah (43/273):

The bequest becomes invalid if the named beneficiary dies before the one who made the bequest, according to the consensus of the fuqaha', whether the one who made the bequest was aware of his death or not, because the bequest only becomes binding with the death of the one making the bequest and the acceptance of the beneficiary. End quote.

But if the one who made the bequest [your grandfather] died when the beneficiary [your mother] was still alive, and the heirs all agreed to that bequest after their right to the wealth was confirmed, i.e., after the death of the one who made the bequest, and your mother took possession of that land based on their approval of the bequest, then your maternal uncles and aunts have no right to take it back after having agreed to it, whether that was before the death of the beneficiary [your mother] or after her death, and whether that was before you disposed of this land or afterwards, because their agreement to the execution of the bequest meant that they gave up their rights to what was given to your mother. When the recipient has taken possession of the gift, the giver has no right to take it back after that.

See also the answer to questions no. [166393](#) and [137971](#)

And Allah knows best.