105152 - What if her brother is her wali and he entrusts the matter of her marriage to her maternal uncle?

the question

A girl lives with her grandmother and maternal uncle. She also has a brother who lives in another country. She does not have other relatives and her brother is her wali 'guardian' but he entrusted his uncle to be her guardian and to get her married. So a student of knowledge started the marriage contract in presence of witnesses and under the guardianship of her uncle on behalf of her brother. Is this marriage contract valid or not? The contract has taken place already, but she did not start living with him yet. If her brother comes to attend her wedding, should they redo the contract or it is valid already?.

Detailed answer

The wali may appoint someone else to take care of the marriage of the female relative under his care, whether he is one of her relatives, such as her maternal uncle, or someone else.

Ibn Qudaamah (may Allaah have mercy on him) said in al-Mughni (7/14): It is permissible to delegate guardianship in the case of marriage, whether the wali is present or absent, because it is narrated that the Prophet (peace and blessings of Allaah be upon him) delegated Abu Raafi' with regard to his marriage to Maymoonah, and he delegated 'Amr ibn 'Umayyah with regard to his marriage to Umm Habeebah. And because it is a contract of exchange, so it is permissible to delegate it, just as it is permissible to delegate to others in matters of buying and selling. End quote.

It says in Fataawa al-Lajnah al-Daa'imah (18/103): The shar'i form of the marriage contract includes the proposal of the wali or his deputy, and the acceptance of the husband or his deputy, and that should be in the presence of two witnesses of good character. End quote.

Based on that, the marriage contract which was done in this case by the maternal uncle acting as the brother's deputy, is a valid marriage, and it is not essential that the brother be present on the wedding day.

And Allaah knows best.