

127227 - Ruling on taking possession of haraam wealth by means of inheritance

the question

My grandmother lied to the heirs, her husband's sons from his first wife who was deceased, and told them: the house and some pieces of land were put in my name by your father. My grandmother died and this inheritance passed to my father. My father died and the inheritance passed to us — his sons. Is this inheritance halaal or haraam? We thought of returning it to its owners, the sons of our paternal uncle, but our paternal uncles have died. What should we do? Thank you.

Detailed answer

What your grandmother did — may Allaah forgive her — was undoubtedly invalid, because she combined two grievous major sins: lying and consuming people's wealth unlawfully. Allaah says (interpretation of the meaning):

“And eat up not one another's property unjustly (in any illegal way, e.g. stealing, robbing, deceiving), nor give bribery to the rulers (judges before presenting your cases) that you may knowingly eat up a part of the property of others sinfully”

[al-Baqarah 2:188]

“O you who believe! Eat not up your property among yourselves unjustly except it be a trade amongst you, by mutual consent. And do not kill yourselves (nor kill one another). Surely, Allaah is Most Merciful to you”

[al-Nisa' 4:29]

Moreover the fact that this happened a long time ago and the original rightful owner has died does not alter the facts at all, and it does not make this unlawful money permissible, either for the grandmother or for any of her heirs.

The majority of the Hanafis, Maalikis, Shaafa'is and Hanbalis are of the view, which is also the view favoured by Shaykh al-Islam Ibn Taymiyah, that death does not make haraam wealth halaal; rather what must be done is returning it to its owner if he is known; if he is not known, then it must be given in charity on his behalf to the poor and needy.

Haashiyat Ibn 'Aabideen (5/104);
al-Majmoo' (9/428); Ihya' 'Uloom al-Deen (2/210); al-Insaaf
(8/323); al-Qanoon al-Kubra (1/478).

This is the correct view that should be followed in order to absolve yourself of any responsibility.

Ibn Rushd al-Jadd said:

As for inheritance, it does not make haraam wealth halaal.

This is the correct view which is in accordance with common sense. It was narrated from some of those who came before that inheritance makes it permissible for the heir, but that is not correct.

Al-Muqaddimmat al-Mumahhidaat,
(2/617).

Yahya ibn Ibraaheem al-Maaliki was asked about haraam wealth: does inheritance make it permissible or not? He replied: It does not make haraam wealth halaal according to the view of Maalik. End quote. Al-Mi'yaar al-Mu'arrab, (6/47).

Al-Nawawi (may Allaah have mercy on him) said:

If a person inherits wealth and does not know from where the deceased acquired it, was it from any halaal source or a haraam source? And there is no sign, then it is halaal according to scholarly consensus. If he knows that there is some haraam in it, but he is unsure of its extent, he should take out the amount that is haraam according to his best guess. End quote al-Majmoo' (9/428)

Shaykh al-Islam Ibn Taymiyah (may Allaah have mercy on him) was asked about a man who dealt with riba and left behind wealth and a son who knew of his situation; does the wealth become halaal for the son by means of inheritance, or not?

He replied:

The amount which the son knows is riba should be taken out. It should either be returned to its owners if possible, otherwise it should be given in charity. The Prophet (blessings and peace of Allaah be upon him) stated that if wrongdoing involves money, the one who was wronged may ask for it from the one who wronged him, and he did not say that the heirs (of the one who was wronged) should ask for it. That is because heirs take over his position in this world, so whatever can be recovered in this world should go to the heirs, and what cannot be recovered in this world then the one who was wronged will ask for it himself in the Hereafter. End quote from al-Fataawa al-Kubra (1/478).

Based on the above, the money must be given back to the rightful heirs, as Allaah has enjoined, and it must be given back to them in this form because the original heirs — who are your paternal uncles, the sons of the other wife — are alive. Then after that you should look for who inherited the share of each one of them.

Perhaps Allaah will forgive your grandmother when you restore the rights in full to their owners, and ask them for forgiveness with regard to anything you cannot restore.

And Allaah knows best.