

Giving preference to one of the children with a gift with his brothers' consent

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

In the name of Allaah, the Most Merciful, the Bestower of Mercy

Question: I am a young person who has to support my parents and brothers, and I am the only one who works in this family. My father got a plot of land from the municipality services which I paid. After a period, we sold the plot of land and I bought a house with its money. All the members of the family agreed to buy it. So, is this act valid?

Shaykh Aboo `Abd-al-Mu`iz `Alee Ferkous al-Qoobee (May Allaah the Most High preserve him): All praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon whom Allaah sent as a mercy to the Worlds, upon his Family, his Companions and his Brothers till the Day of Resurrection.

As a rule, the father should be equal and just towards his children in donation. Therefore, he should not favour or prefer some of them to the others, because the Prophet ﷺ says: “**Fear Allaah and be just to your children**”¹.

However, if all the children agree to see their brother favoured with a donation and relinquish their right of their own will, it will be allowed for him to take the gift for himself; but if some of them refuse to grant it to him since the beginning, the gift should be annulled and taken back from him, due to the saying of the Prophet ﷺ to Al-Basheer Ibn Sa`d: “**Take it back then**”², i.e. the gift, because he was not just to his children.

The perfect knowledge belongs to Allaah عزَّ وجلَّ. Our last prayer is all praise is due to Allaah, the Lord of the Worlds. Peace and blessing be upon our Prophet, his Family, his Companions and Brothers till the Day of Resurrection.

Algiers, Jumaada Ath-Thaaniya 12th, 1427. Corresponding to: July 7th, 2006.

¹ This hadeeth is consensual (reported by Al-Bukhaaree and Muslim). Reported by Al-Bukhaaree, chapter of “Gift”, concerning the fact of calling to witness as regard the gift (hadeeth 2587), Muslim, chapter of “Gifts” (4267) and Al-Baihaquee (12351) on the authority of An-Nu`maan Ibn Basheer رضي الله عنهما.

² Reported by Al-Bukhaaree, chapter of “Gift” (hadeeth 2586), and Muslim, chapter of “Gifts” (hadeeth 4267), An-Nasaa'ee, chapter of “Gifts” (hadeeth 3688), Ibn Hibbaan (hadeeth 510) and Al-Baihaquee (hadeeth 12349), on the authority of An-Nu`maan Ibn Basheer رضي الله عنهما.