142697 - Is it permissible for the mother to register her apartment in her son’s name, with the consent of his sisters?

the question

We are siblings, one son and three daughters. My mother wants to register her apartment in my brother’s name, and we agreed to that. When he acquires another apartment, which will be less expensive than my mother’s apartment, it will be for us, the daughters. My mother is afraid that she will die with a burden of sin. We have a brother through our father, and my father registered the apartment in my mother’s name a long time ago, but my mother paid for half of the price of the apartment from her own money. Will my half-brother inherit from her?

Detailed answer

Praise be to Allah.

Firstly:

The basic principle is that it is obligatory to treat children equitably in terms of giving gifts, and it is haram to favour any of them over others, because of the report narrated by Bukhari (2587) and Muslim (1623) from an-Nu‘man ibn Bashir, who said: My father gave me some of his wealth and my mother, ‘Amrah bint Rawahah, said: I will not approve until you ask the Messenger of Allah (blessings and peace of Allah be upon him) to bear witness. So my father went to the Prophet (blessings and peace of Allah be upon him) to ask him to bear witness to my gift. The Messenger of Allah (blessings and peace of Allah be upon him) said to him: “Have you done this for all your children?” He said: No. He said: “Fear Allah and treat your children equitably.” So my father came back and took back the gift.

This applies to gifts from both the father and the mother.

Ibn Qudamah (may Allah have mercy on him0 said in *al-Mughni* (5/389): The prohibition on

favouring some children over others applies to the mother just as it applies to the father, because the Prophet (blessings and peace of Allah be upon him) said: “Fear Allah, and treat your children equitably.” And because she is one of the parents, so she is not allowed to favour some of her children over others, as also applies to the father. Moreover, what may result from the father’s favouring some of his children, namely jealousy and enmity, will also result from the mother’s favouring some of her children. Thus it is proven that the same ruling applies to her as to him. End quote.

However, if all the children approve of the gift, and they are adults of sound mind, then that is permissible, because they have the right to do that.

Based on that, if your sisters are mature and of sound mind, and they consent to giving the apartment to that brother, then there is no blame on the mother for doing that.

This applies if all the sisters agreed to completely give up their right to the apartment to their brother. But if the registering [of the apartment] was done for some purpose other than completely giving up their right, and the sisters’ intention was that the apartment should belong to them in the event of their brother moving to another apartment, then we do not advise doing that, unless there is something to guarantee the sisters’ rights in the event of their brother refusing to give up the apartment and move to another apartment. There is a difference between one who willingly gives up something completely, in which case there is no need for guarantees or documentation, and the case when forgoing something is done only on paper, for some purpose, whilst retaining all of one’s rights.

Secondly:

The husband may give his wife whatever he wants of his wealth, and he is not obliged to treat her and her children equally. Whatever he gives to her becomes her property and is added to everything else that she owns, and her heirs inherit it from her.

The husband’s son is a stranger to his wife, meaning that he cannot inherit from her so long as there is no other reason based on kinship which would dictate that he inherits from her. Based on

that, whatever estate your mother leaves behind will be for her children, and her husband’s son will not inherit anything from her.

And Allah knows best.