187186 - It is not permissible for the guardian to dispose of wealth belonging to the one who is under his guardianship, except in a manner that will most likely be in the latter’s best interests

the question

My father died and left behind two wives and several children. The second wife has three sons who are all minors, and they are in Yemen. His first wife, who is my mother, and her sons are all in Saudi; they are all adults and are married.

The second wife and her sons have wealth that they inherited, and I am their guardian until they grow up. Their mother is asking me to give her the equivalent of two thirds of their inheritance so that she can buy a villa (detached house) for them to live in. Please note that she lives with her sons in an apartment that she owns, and she purchased our share in it.

Is any zakaah due on this wealth if I keep it until the youngest child, who is eight years old, grows up? If I give her what she wants, will I have betrayed the trust? What do you advise?

Detailed answer

Praise be to Allah.

Firstly:

The guardian must take care of the wealth of those who are under his care, look after it, develop it and give any zakaah due on it. If he is rich then it is better for him to refrain from using their wealth, but if he is poor then he may eat from it on a reasonable basis. If he is actively investing their wealth (or doing business with it), he is entitled to take payment like that of one who does similar work.

Please see the answer to question no. 59933

Secondly:

In the answer to question no. 136047 we stated that zakaah is obligatory on the wealth of the minor, the orphan and the one who is insane, and that it becomes due on the estate after one year has passed since the death of the testator. The purpose of the guardian keeping the orphans' wealth is so that he can maintain it and invest it; therefore zakaah must be paid on it every year. Hence it is prescribed for the guardian to invest the wealth of those who are under his guardianship and not leave it to be consumed by zakaah year after year.

Thirdly:

It is not permissible for the guardian to dispose of the wealth of those who are under his guardianship except in a manner that will most likely be in their best interests. The scholars of the Standing Committee said:

The guardian must protect the wealth of the children from loss and should spend from it on their food, drink, clothing and other things they need. The guardian should invest the wealth of the minors until they reach the age of maturity, and it is not permissible for him to dispose of in a manner that will most likely be in their best interests.

End quote from Fataawa al-Lajnah ad-Daa'imah (16/352)

Shaykh Ibn 'Uthaymeen (may Allah have mercy on him) said:

The orphan's guardian should dispose of the orphan's wealth in ways that will make it grow and are in his best interests. As for disposing of it in ways that will decrease it or damage it, that is not permissible.

End quote from Fataawa Islamiyyah (4/453)

What appears to us to be the case from your question is that your young brothers do not need to buy the villa (detached house) mentioned, and there is no interest to be served for them by spending their money on such things, so long as they have accommodation that is sufficient for

them. So we do not think that you should give their mother any of their wealth for this purpose. Try to explain this matter to her calmly and come to some agreement with her as to what is best with regard to her children’s wealth.

And Allah knows best.