101022 - His sister gave up her share of the inheritance then she regretted it

the question

My sister gave up her share of a store to me after our parents died, but now she regrets it and she wants to change her mind. Does she have the right to do that?.

Detailed answer

Praise be to Allah.

The way in which we address this problem will be based on an attitude of kindness, generosity and chivalry, and on the basis of what we would like to think of you, that you are generous, decent and of noble character, because our great religion teaches us to be kind, uphold ties of kinship and respond to good treatment in kind, because she is your sister who grew up with you and you share ties of kinship with her, and she has great rights over you with regard to looking after her, managing her affairs and striving to make her happy. So it is better for you to be kind to her and give back what she gave up for you, and to respond to her first act of kindness with one that is even greater, and to let her off so that Allaah will let you off on the Day of Resurrection.

It was narrated that Abu Hurayrah said: The Messenger of Allaah (peace and blessings of Allaah be upon him) said: “Whoever agrees with a Muslim to cancel a transaction, Allaah will forgive his sins on the Day of Resurrection.” Narrated by Abu Dawood (3460) and classed as saheeh by al-Albaani in Saheeh Abi Dawood.

According to a version narrated in al-Sunan al-Kubra by al-Bayhaqi: “Whoever agrees with one who regrets it to cancel the transaction, Allaah will forgive his sins on the Day of Resurrection.”

Ibn ‘Abd al-Salaam said: Agreeing to cancel a transaction for someone who regrets it is an act of kindness that is enjoined in the Qur’aan. End quote, quoting from al-Mannaawi in Fayd al-Qadeer (6/79).

Rather, we say to you: It would have been better for you to return to your sister what she had given to you as soon as you realized that she regretted it, and you should not have forced her to say that to you in words, so that she would not feel embarrassed or awkward.

Ma'mar – who was one of the best of the Taabi'een – said:

One of the worst acts of kindness is when you force a person to ask (for what he needs) when he feels shy before you, so your act of kindness will not make up for the pain of the shyness that he went through. It would have been more appropriate for you to find out about what your brother needed and send him what he needs, and not force him to ask. End quote.

This is how it should be among siblings, for their joy is one and their grief is one.

Always remember the great reward that you will have with Allaah if you do what your sister wants and give back that which she regrets giving, and relieve her distress, and continue to be kind to her and uphold ties of kinship with her, especially since she regrets giving it up because she is in difficulty and is facing poverty. In that case you should offer her help and give her that which will relieve her hardship, and reward her for her initial giving up of her share to you. Allaah says (interpretation of the meaning): "Is there any reward for good other than good?" [al-Rahmaan 55:60].

The reports quoted above were quoted from 'Uluw al-Hammah by al-Sayyid al-'Afaani (2/612-651, 5/288-302).

But if she initially gave it up because of shyness due to the fear of blame in a society that mistreats women with regard to inheritance, or for fear that her brothers might sever ties with her if they thought that she was insisting on her rights, then in that case it is haraam for you to consume that wealth, and it must be given back to her. The fuqaha' have stated that whatever is taken due to shyness is haraam wealth.

It says in al-Mawsoo'ah al-Fiqhiyyah (18/263):

The Shaafa'is and Hanbalis state that if wealth is taken due to shyness, such as if he asks

someone else for wealth in front of people and he gives it to him due only to shyness, or he gives it to him out of shyness, and the recipient knows that the giver only gave it to him out of shyness, it does not become his property and it is not permissible for him to dispose of it, even if the recipient did not ask for it. What matters here is the knowledge that the one who gave his wealth gave it out of shyness, not out of generosity and not for something in return.

Hence if he joins people whilst they are eating, and they ask him to eat with them, but he knows that it was only because they felt shy, it is not permissible for him to eat their food. End quote.

To sum up: You should return to your sister that which she gave up to you, so as to preserve love between you and uphold the ties of kinship.

We ask Allaah to compensate you with something better.

And Allaah knows best.