212415 - His uncle told him: Pay back the debt if you can, otherwise do not pay it. Then his uncle died

the question

My husband took the money from his uncle (fathers brother). His uncle told him to pay him back if he can or if he has enough and if not dont pay back. His uncle is now died. My husband is confused. Is he required to return the money or not. His work is on and off. He works on contract. During the contract he has enough money but after contract he uses the saved money until he finds another contract. He doesn't have his own property or extra savings. Still my husband wants to pay back his uncles money. Due to the seriousness of not paying back the loan. But the problem is whom we should give that money to. Are we suppose to give to each an every person who is the inheritor or only to the uncle's wife to distribute among the others. Please note the uncle's family is extemely rich they even don't need this money and its not much for them. My husband is worried about akhirah and he wants to pay off to the right person so that he may feel better.

Detailed answer

Praise be to Allah.

Firstly:

The debtor is obliged to repay his debt when he is able to do so, and his obligation is not discharged unless he pays it off, because the Prophet (blessings and peace of Allah be upon him) said: “For a rich man to delay repayment is wrongdoing.” Narrated by al-Bukhaari (2287) and Muslim (1564). He (blessings and peace of Allah be upon him) also said: “A person owes whatever he took until he pays it back.” Narrated by Ahmad (20156). Shu‘ayb al-Arna’oot said concerning the isnaad of this hadeeth: It is hasan because of corroborating evidence.

The fact that your husband’s paternal uncle said, “Pay me back if you can or if you have enough” does not necessarily mean that the debt has been waived, and in these words there is no clear

indication that the obligation has been waived; rather it depends on whether you are able to pay back. This condition is binding according to Islamic principles, because it is required to allow more time for a debtor who is in financial difficulty, because Allah, may He be exalted, says (interpretation of the meaning):

“And if the debtor is in a hard time (has no money), then grant him time till it is easy for him to repay”

[al-Baqarah 2:280].

Granting more time does not mean that the debt is waived; rather it is still an obligation that is owed, until the debtor is able to pay it back. If he is able to pay back the entire amount, then he is obliged to pay it back. If he is able to pay some of it, he should pay back whatever he is able to, little by little, until he has discharged his obligation. There is no differentiation between a large amount or a small amount, and it makes no difference whether the creditor is rich or poor, so long as he has not decided to forego his rights.

Secondly:

If the person to whom the debt is owed has died, then what the debtor must do, when he is able to, is to repay the money to his heirs, or ask all of them to let him off, or at least ask each heir to let him off his share of this money. The Prophet (blessings and peace of Allah be upon him) said: “Whoever leaves behind wealth, it is for his heirs.” Narrated by al-Bukhaari (2297).

This money should be given to all of the heirs, or their deputy, if they have appointed one, or their guardian, if they are not yet adults.

And Allah knows best.