

Disposition of the Estate of the Deceased without the Permission of the Heirs: Its Circumstances and Juristic Rulings and Its Impact on Sustainable Development

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ABSTRACT

The courts are witnessing claims filed by some heirs against a fellow heir who has acted concerning the estate of the deceased — such as a father or mother — without consulting them regarding the course of action undertaken. This disposition may involve directing part of the inheritance towards charitable purposes, such as donating the deceased's vehicle to a charitable organisation, or dedicating a plot of land as a cemetery, or the disposition may be motivated by self-interest, resulting in disputes and animosity. Alternatively, the heir may sell property belonging to the deceased to a party with whom he has agreed to take a share of the proceeds, on the condition that the buyer conceals the transaction from the remaining heirs.

This monopolisation of the estate — or part thereof — by one of the heirs causes psychological distress to the rest, sows enmity and resentment towards their relative who acted without their permission, disturbs social relations among them, and negatively affects economic activity and sustainable development. The Kingdom of Saudi Arabia, through its courts, prevents the proliferation of such conduct which contravenes Islamic law, civil law, and the rights of others. This research sheds light on this recurring problem in the light of the statements of jurists and their established legal maxims.

The Research Objectives were represented in the following key matters:

1. Achieving justice in the distribution of inheritance, and establishing sound relations and bonds of affection among the heirs.
2. Establishing the concept of lawful sustenance and warning against exploiting the inheritance for unlawful gain, which would result in harm to the exploiter in his religion in the Hereafter.
3. Clarifying the impact of an heir's disposition of the estate without the knowledge or permission of the other heirs on social relations among members of society and on sustainable development.
4. Demonstrating the capacity of Islamic law to find appropriate solutions for contemporary issues that arise in people's lives.

This research concluded with a set of scientific findings, which are detailed at the end of the study.

The research also concluded with a set of important recommendations, listed at its conclusion, that are closely connected to the subject matter.

Keywords: inheritance — division — disposition — permission — sustainable development — economy

1. INTRODUCTION

All praise shall exclusively be due to Allah alone, and may Allah's prayers and peace be upon the one after whom there is no prophet.

To begin with:

Violent and exhausting disputes often occur among heirs after the death of their predecessor, for various reasons, including: the pursuit by the eldest or most powerful heir to monopolise the entire estate and deprive the rest of their rightful share; or the confinement of inheritance to male heirs only, excluding the females; or securing a highly valuable portion of the estate that yields substantial personal profit; or disposing of the estate, if it is tangible property, by selling it at a price agreed upon with a buyer in exchange for a share of the proceeds, all without the knowledge of the other heirs. Subsequently, he partakes in the estate according to his own share, thereby taking an additional portion beyond the others without their permission. Once they discover this, disputes and conflicts arise, and some heirs may file legal claims seeking annulment of the sale and

Research Problems and Questions:

This research addresses a fundamental question, namely: What is meant by the disposition of a deceased person's estate without the permission of the heirs — its circumstances and legal rulings?

This fundamental question gives rise to a set of subsidiary questions that are closely related to identifying the various situations in which some heirs dispose of the estate without the permission of the others, without receiving authorisation from them, and without their consent or knowledge, and to clarifying the ruling on each of these cases in light of the jurists' determinations and established legal principles.

Reasons for Selecting the Research Topic:

The reasons may be confined to two principal matters:

First: The urgent desire to identify a number of legal rulings and guidelines pertaining to the problem of certain heirs unilaterally disposing of the estate without agency, permission, satisfaction, or knowledge.

Second: The prevalence of disputes observed in the corridors of the judiciary concerning inheritance cases, among which are cases where some heirs act unilaterally in relation to the estate, often driven by personal individual interest.

Research Objectives:

It may be said that the most significant objectives sought by this research are summarised as follows:

1. Contributing, through this research, to the promotion of solidarity, harmony, love, mutual understanding, and cohesion among heirs after the death of their predecessor, who left them an estate to be divided among them in accordance with the rulings of Islamic law.
2. Compiling the various aspects of this topic into a single work.
3. Clarifying the impact of an heir's unilateral disposition of the estate without the knowledge or permission of the other heirs on social relations among members of society and on sustainable development.
4. Demonstrating the capacity of Islamic law to resolve disputes between litigants in inheritance cases in a manner that achieves justice, fairness, and satisfaction for them.

2. LITERATURE REVIEW

Following thorough investigation and diligent research by the researcher, and within the limits of his sources, the names of certain books, studies, and articles were identified, which did not detail or establish what this research has detailed and established herein. Some of these works focused solely on legal aspects. Our research, by contrast, provides a deeper examination of the situations in which one of the heirs disposes of the estate, in light of the statements of the jurists, and highlights its negative effects on both the individual and society. Furthermore, it provides jurisprudential and foundational legal analysis absent from previous studies, along with an expanded explanation of the term "disposition" linguistically and in terms of legal Islamic terminology.

Research Methodology

The nature of this research necessitated an inductive analytical methodology, focusing on the exposition of rulings and circumstances related to the disposition of the deceased's estate by one of the heirs without the permission of the others.

Research Structure and Procedures:

The research comprises an introductory **Introduction**, five **Topics**, a **Conclusion**, **Recommendations**, and an **Index of Sources and References**, arranged as follows:

Introduction: Summarising the idea of the research, clarifying its importance, problems and questions, reasons for selection, objectives, literature review, methodology, and research structure.

Topic One: Clarification of the Terms Contained in the Research Title.

Topic Two: Investigation Into Lawful Ownership through The estate of Inheritance.

Topic Three: The Legal Principle Regarding the Disposition of Jointly Owned Property.

Topic Four: Circumstances in Which Some Heirs Dispose of the Estate Without the Knowledge or Permission of the Remaining Heirs, and the Rulings on Each Case.

Topic Five: The Impact of an Heir's Unilateral Disposition of the Estate Without the Knowledge or Permission of the Heirs on Social Relations Among Members of Society and Sustainable Development.

Conclusion: Including the most important Research Findings and Recommendations.

Index of Topics

Index of Sources and References.

Topic One: Clarification of the Terms Contained in the Research Title

The proposed title of this research is: *Disposition of the Deceased's Estate Without the Permission of the Heirs: Its Circumstances and Jurisprudential Rulings, and Its Effect on Social Relations Amongst Members of Society.*

This necessitates the clarification of the terms comprising this title.

1. Disposition: This is a verbal noun from the pattern *tafa'ul*, with its root being *ṣarafa*, from which the verb *taṣarrafa* is derived. Al-Azhari stated that *ṣarf* means fluctuation and craftiness. It is said: "So-and-so *yaṣrifu* (manages) and *yataṣarrafu* (disposes) and *yaṣtarifu* (earns) for his dependents," i.e., he earns a livelihood for them. It was narrated from Yunus that he said: "*Ṣarf* means craftiness, hence it is said: 'So-and-so *yataṣarrafu*,' i.e., he employs stratagems." Allah the Almighty said: *So you are unable to avert (it), nor (to) obtain help* [Al-Furqan: 19]. A crafty man is referred to as *ṣayraf* and *ṣayrafi* (money changer). Abu al-Haytham said: "*Ṣayraf* and *ṣayrafi* mean one who is crafty, turning about in his affairs, experienced therein." [6]

This is in terms of language. However, in the terminology of the early jurists, one hardly finds a precise definition for the term *taṣarruf* (disposition), though it is frequently used in their discourse, attached to various jurisprudential topics. They say: *Disposition of the sick, disposition of the guardian, disposition of the interloper, disposition of the legally incapacitated*, and so forth. It appears that they refrained from providing a definition due to the clarity of its meaning within the context of legal issues, with each attached usage imparting a specific legal meaning associated with permissibility or prohibition. Nevertheless, this did not prevent contemporary jurists from formulating a specific definition for the term *disposition*. Among the clearest, in the view of the researchers, is the definition of Shaykh Muhammad Salam Madkur, who said: "*Disposition* is what is issued by a legally competent individual by his will, upon which the Lawgiver predicates a certain consequence. It is therefore broader than a contract, and than obligation by agreement, because disposition may be an action, such as taking possession of some permissible property, usurpation, receiving a debt, or revocation [of divorce]." [21]

It is noted here that he "included the condition of legal competence in the definition to exclude the dispositions of the insane and the legally incompetent, and included the condition of volition" [23], which is a very important condition that applies to what is addressed in this research—namely, the presence of intent on the part of one of the heirs to effect something concerning the estate without agreement with the remainder of the heirs. Indeed, his action closely resembles usurpation, theft, and plunder in terms of monopolising the entire estate and its eventual outcome by transferring it into his sole ownership without lawful right, thereby depriving the heirs of their entitlements. This results in long-term legal disputes and severe familial conflicts that greatly impact their social relations.

What has been mentioned by the linguists regarding the meanings of "disposition", namely fluctuation and craftiness, applies precisely to the state of the heir who disposes of the estate without the permission of the other heirs. It is customary among such individuals to employ stratagems, to shuffle and mix matters for the heirs, especially if they are among the weak who are unable to defend themselves or find a path to remedy, foremost among whom are vulnerable women whose rights are frequently violated in this matter. Satan may even incite some heirs to deprive them of their inheritance, following the path of the people of ignorance.

2. The Estate of the Deceased: This refers to what is left behind by one whose death has been fully realised, comprising fixed assets such as real estate and land, and moveable property such as gold, silver, currency, vehicles, furniture, and similar items. According to the majority of jurists, the estate also includes real rights such as easements—e.g., rights of drainage or water access—and rights of usufruct, such as the right to benefit from a leased or borrowed item, as well as personal rights such as the right of pre-emption and options like the contractual option.

However, the Hanafi jurists are of the view that the concept of the estate does not include usufructs such as leases or loans, due to the termination of such contracts upon the death of their holders, and because usufructs are not considered property according to the earlier Hanafi jurists [15].

And the current practice in the courts and judicial forums proceeds upon the view of the majority, which is more protective of the interests of the heirs.

3. The Permission of the Heirs: This refers to the authorisation granted by those who have a legally established right to the estate of the deceased—by virtue of marriage, manumission, or kinship—permitting a fellow heir to dispose of the estate; whether by inventorying its assets, selling its property, or distributing it among all entitled parties in accordance with the prescribed shares of inheritance under Islamic law. This definition has been deduced by the researchers from the linguistic and terminological meanings of "permission".

As for the jurists, the essence of permission revolves around authorising an individual to act in a matter from which he was otherwise prohibited by law due to the right of another [2]. This applies to the heir in relation to the estate, as he

is prohibited—like the rest of the heirs—from unilaterally undertaking personal acts that harm the other heirs' ability to receive their shares following the death of the deceased. This is distinct from the case where the other heirs grant him permission to act, or consider him their representative entrusted with the collective interest—namely, the inventory, appraisal, and distribution of the estate.

4. His Circumstances and Juristic Rulings: The pronoun refers to the one who disposes of the estate personally without permission or agency from the remainder of the heirs. Undoubtedly, such a disposition does not fall outside the five legal rulings: obligation, recommendation, prohibition, dislike, and permissibility, all of which this research examines.

5. The Effect Thereof on Social Relations among Members of Society: This refers to examining a range of negative consequences arising from one heir's disposition of the deceased's estate in a manner that secures a personal, self-serving benefit, while causing pure harm to the other heirs by absolutely or partially depriving them of their rightful shares in their predecessor's estate.

Topic Two: Investigation Into Lawful Ownership through The estate of Inheritance

Inheritance is deemed one of the sources of lawful earnings and a cause of ownership, as the estate of the deceased devolves upon his heirs according to their legally prescribed shares. Al-Rāzī mentioned that it is among the types of property that come to a person without his volition, saying: "That which is obtained without one's choice, such as inheritance, is lawful" [25]. Allah has undertaken the regulation of these shares with precise, wondrous, equitable, and miraculous organisation, by which benefit is secured for the heirs, and their newly inherited shares are added to their pre-existing private ownerships. For those among them who are poor, they have thereby obtained lawful sustenance from this estate.

In this is a profound lesson for every heir who attempts to dispose of the estate in a manner that yields him personal gain while inflicting harm upon the remainder of the heirs. If he realises that Allah, exalted in His Majesty, has Himself undertaken the just legal apportionment and is fully aware of the inner thoughts of those desiring to act unjustly, he will then desist from such schemes, safeguard his religious integrity, and maintain his relations with the other heirs in the best possible manner. This is precisely the aim of the Wise Lawgiver in His legislation for His servants.

The intent of all the foregoing is to clarify that the heir's share of the inheritance is pure and lawful, guaranteed with distinction by the Shariah to its rightful recipient. It must not be tainted by dubious acts that would lead it into the realm of the unlawful. Among such acts is a personal disposal that results in pure harm to the other heirs, causing exhausting disputes in the courts, often accompanied by financial costs for determining the right of every entitled individual. This is a consequence of actions tainted by the unlawful, and the unlawful, when it enters the lawful, eradicates its blessing—as is well known.

Topic Three: The Legal Principle Regarding the Disposition of Jointly Owned Property.

It is established among jurists that no disposition may be made concerning property which has devolved to partners, save with the knowledge of all of them, without exception. The majority hold that this includes the dissolution of the partnership itself, which must likewise be effected with the knowledge of them all [15]. The rationale behind the heirs' right to be informed of any disposition concerning the estate is the establishment of a right for each individual therein, whether that right be small or great. The existence of this right necessitates their right to be informed. Al-Sarakhsi stated: "The partnership among them in the estate is established" [19]. The variance in the shares of these financial rights is not a legitimate reason in Shariah for one who holds a larger share to unilaterally dispose of any part of the estate without informing the other heirs or seeking their permission for such a disposition or requesting agency on their behalf. The estate's property assumes the description of joint ownership prior to division. Once the estate is apportioned, each heir becomes sole owner of his share and may dispose of it as he pleases, without requiring the permission of the other heirs or anyone else. However, prior to the division, no heir may dispose of any part thereof save after obtaining the permission of all and verifying their satisfaction. Al-Rafi'i stated: "The partner's disposition in jointly-owned property is not permissible except with the consent of the partner" [14].

The evidence for this important principle in the matter of partnership is found in many texts, among them the hadith of Abu Hurairah, who attributed it to the Prophet [SAW], who said: "Indeed, Allah says: I am the third of the two partners so long as one of them does not betray the other; but if he betrays him, I depart from between them" [11][3]. Among the forms of betrayal is that an heir acts unilaterally to achieve personal gain while inflicting harm upon the other heirs, a harm which must be lifted and removed. Among the juristic maxims is the saying: "There is to be neither harm nor reciprocating harm," and their saying: "Harm must be removed" [27]. Indeed, the description of betrayal is realised even if one of the heirs disposes of something trivial from the estate that comes to him to the exclusion of the others. Ibn Raslan al-Shafi'i said:

"Betrayal is realised by even the least amount, even a single fals, so let the partner be wary of that, fearing for himself in matters about which he is doubtful" [12].

In conclusion, the acts of one of the heirs in dealing with the estate without the prior permission of the remaining heirs are contrary to the original legal principle, and such acts are subject to several legal conditions which shall be clarified in the

following topic.

Topic Four: Circumstances in Which Some Heirs Dispose of the Estate Without the Knowledge or Permission of the Remaining Heirs, and the Rulings on Each Case

When an heir acts in the deceased's estate without the knowledge, permission, agency, or agreement of the other heirs, their actions may fall under one of the five legal categories, as follows:

Case One: Prohibition

An heir's disposition is deemed prohibited in the following situations:

1. If the heir, immediately after the death of the deceased, proceeds to register all the deceased's properties in their own name, exploiting their authority, influence, and strength, while taking advantage of the other heirs' weakness, ignorance, or inability. They may even resort to bribery to facilitate the registration of the deceased's properties under their name.

The reasoning behind the prohibition of this action is as follows:

a. It contravenes the established principle regarding the succession of the estate after the death of the deceased. The estate, by law, devolves to all eligible individuals whose relationship with the deceased qualifies them as heirs. Before division, the estate remains in the name of the deceased, and only after the judge formally identifies the rightful heirs does the estate's various components pass into the names of the individual heirs. Once the lawful division is concluded, the deceased's name is removed from all property records, and each heir's share is duly attributed to their own name. If an heir, without permission, acts to transfer the estate into their own name, it obstructs the division process, as the estate has effectively been appropriated by a living heir and thus ceases to be the estate of a deceased person. Such conduct runs counter to the original principle, which dictates that the estate should never be registered solely in the name of one heir but should be divided so that each individual's share is attributed to them only after the lawful distribution is completed.

b. This disposition effectively denies other heirs their rightful shares, amounting to the unlawful consumption of others' wealth. Allah the Exalted states in the Qur'an: *"And do not consume one another's wealth unjustly..."* (al-Baqarah: 188). He also says: *"O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent..."* (an-Nisa': 29).

c. Because the sole action of an heir from among the kin, if carried out alone, entitles them to the entire estate by consensus of the jurists.

Ibn Qudamah stated: *"If one among the kin alone remains, he shall take the entire wealth by agreement of all who consider kin as heirs."* [24]

However, in our present case, the person disposing of the estate is not alone; rather, there are, in fact, other heirs present. This heir has disregarded the other rightful claimants and restricted the entitlement to himself alone. This constitutes a distortion, alteration, and deviation from the proper and original course of the Shari'ah.

2. If the heir who has disposed of the estate claims that the deceased bequeathed the entire estate solely to him, excluding all other heirs, and may even present a document purporting to prove this bequest.

Such a bequest is void, and any document purporting to establish it is null and without validity, because it constitutes a bequest to an heir, and the heir is not entitled to receive a bequest by the consensus of the jurists. This is because their right to the estate is already established, and whosoever possesses a right to the estate shall not be the subject of a bequest; rather, bequests are made to non-heirs—unless all the heirs agree and, of their own free will and knowledge, renounce their shares in favour of this particular heir due to his poverty and their wealth, or due to the meagreness of the estate and his particular need for it above theirs.

Ibn al-Mundhir stated: *"All those from whom knowledge is preserved, from among the scholars of the cities—Madinah, Makkah, Kufah, Basrah, Sham, Egypt—and all other scholars among the people of ḥadīth and the people of opinion, have unanimously agreed that there is no bequest for an heir except with the consent of the other heirs."* [4]

3. That he claims the estate does not exist, or that part of it is non-existent, despite the fact that the heirs knew the item alleged to be lost to have existed during the lifetime of their deceased relative. The legal presumption is the continued existence of what was known to exist, until a clear indication proves its absence. Al-Rajraji al-Maliki stated: *"That whose existence is proven must be presumed to remain."* [8]

Indeed, the heir who acted in this manner has, in reality, disposed of the estate or part of it, either by selling it and receiving its price, or by hiding it in a secret place—such as gold he is hoarding in expectation of its price increasing. In order to deprive the other heirs, he falsely claimed its loss as a means of deception and misguidance.

4. That the heir, who is acting as an agent (wakīl) in managing the estate, sells it to himself for a price he alleges to be most advantageous to the estate, while being capable of paying the fair market value. However, he deliberately undervalues

it under the pretext that this is the prevailing market rate and presents himself as willing to purchase it at this reduced price, thereby prioritising his own interest over that of the other heirs.

The majority of jurists have established that an agent sells on behalf of others, not to himself; for selling to oneself is fraught with suspicion of undervaluing the estate to the detriment of the other heirs who entrusted him to act in their interest. In such a case, he prioritises his own benefit over theirs, which constitutes a betrayal of trust.

This is the view of the Ḥanafīs [19], the Mālikīs [18], the Shāfi'īs [7], and the Ḥanbalīs in one narration transmitted by Muḥannā from Imām Aḥmad [24].

The proof for the prohibition is as follows:

1. It is narrated that a man bequeathed a will appointing another man as executor of his estate. This executor intended to sell a horse from the estate to himself and sought the opinion of 'Abd Allāh ibn Mas'ūd regarding the permissibility thereof. Ibn Mas'ūd said to him: *No*.

Al-Māwardī said: *"And we know of no dissenting view from among the Companions."* [7] I have not come across this report in the books of ḥadīth and takhrij (extraction and authentication) available to me.

2. Because man is naturally disposed to seek benefit for himself, while the fundamental duty of an agent is to seek benefit for others. Therefore, he is prohibited from engaging in transactions with himself, whether selling or purchasing.

3. Because rights are ultimately connected to the contracting party, and if a person assumes both roles in a contract, he becomes simultaneously the deliverer and receiver, the claimant and the respondent, which is an impossibility.

4. Because when one person undertakes both sides of a sales contract, it leads to contradictory legal statuses; for he becomes the buyer and the seller, the claimant and the defendant, the one receiving and the one delivering, the one contesting defects, and this results in manifest contradiction.

5. Because if an agent sells to himself, suspicion arises, as it contradicts the purpose of agency; for he was chosen as an agent due to his trustworthiness and his aim to fulfil the interests of the principal. Selling to himself contradicts this aim, and thus, it is not permitted. [26]

Imām al-Awzā'ī held the view that it is permissible for an agent to sell to himself and buy for himself, and this is also one of the narrations from Aḥmad ibn Ḥanbal. However, the permissibility is conditioned upon two stipulations:

First: That he increases the price beyond the amount announced for the item.

Second: That someone other than himself undertakes the public announcement of the sale. [24]

What has become evident to us is the permissibility of such a transaction with due regard to the agent's trustworthiness. If signs of integrity are apparent and the heirs know him to be upright, trustworthy, and mindful of the interests of all, then he may buy for himself. However, if he lacks integrity, is deficient in trust, and is self-serving, then it is impermissible for him to purchase for himself.

And the evidence for this is as follows:

1. That this acting heir obtained permission for the sale from all the heirs, and is thus acting as their legitimate representative, having been appointed by them.

Al-Sāwī stated: *"The agent for a matter is not permitted to act upon it for himself except with specific authorisation; thus, one who is appointed to sell or purchase is not permitted to transact with himself except by designation."* [5] Such designation has been realised through the agency and authorisation.

2. And because the fundamental principle is that he should sell for what is in the best interest of all the heirs. Therefore, if he is trustworthy and reliable, and sells to himself for a price which they predominantly deem suitable, then there is no legal impediment to deeming the transaction permissible. Many heirs, whom Allah has honoured with wealth, righteousness, and trustworthiness, are generally approached by the remaining heirs due to the ease of dealing with them, and because—by virtue of strong familial ties—they seek the benefit of all, and are unlikely to diminish their rights, given their integrity, trustworthiness, and kinship. Thus, the suspicion of reducing their due for personal gain is remote in such a case.

Al-Jaṣṣāṣ stated: *"Since the agent is trustworthy, he is to be believed in exonerating himself, just as he is believed regarding his merchandise."* [20]

The Second Scenario: Disfavour (Karāha)

The action of the heir-agent is deemed disfavoured if it is such that it incurs no sin or punishment, yet by abstaining from it, he would attain reward and merit.

This can be conceived in a scenario where he is offered a price below that which the heirs desire, and he knows that if he were to wait a few days, he would obtain the desired price; however, he hastens and sells on their behalf at the currently

offered price without waiting for the higher one. By abstaining from the sale at the lower price, he would attain divine reward, yet if he sells at the slightly lower price, he would not be sinful nor incur any legal penalty. This is characteristic of disfavoured acts (Makrūh), which in reality pertain to performing something contrary to what is preferable. [1]

The Third Scenario: Obligation

The action of the heir without the permission of the other heirs is deemed obligatory in several cases, the most important of which is where he knows with certainty that, if he does not sell the inheritance, it will perish due to an impending calamity or be lost due to looting and seizure by thieves. In this case, he must hasten to sell the estate in order to achieve the benefit of preserving the shares of the heirs on one hand, and to prevent the detriment of the destruction of the entire estate on the other. There is no harm in selling the inheritance at a slightly lower price than the desired one, for although this constitutes a detriment to the heirs, it is a lesser detriment than the loss of the entire inheritance. Jurists have established in their legal maxims that the greater detriment is averted by incurring the lesser one, and they have stated: *“When two detriments conflict, the one of greater harm is considered by committing the lesser of the two.”* [17]

The Fourth Scenario: Recommendation

The action of the heir without the permission of the other heirs is deemed recommended and commendable if he has obtained from them general permission to sell for what is most beneficial to them all. If he strives to fulfil the agency entrusted to him and secures a price that meets their satisfaction, then his sale of the inheritance in that instance is recommended, and he shall be rewarded and merited for it, in accordance with the category of commendable acts in Islamic rulings. Moreover, in doing so, he brings joy, delight, and happiness to the hearts of the heirs, and the Prophet — peace and blessings be upon him — said: *“Among the most beloved of deeds to Allah is bringing happiness to a Muslim.”* [9][10]

Al-Manāwī stated: *“Bringing joy” means bringing happiness to a Muslim by doing that which pleases him, such as giving glad tidings of a new blessing, or the removal of an affliction, or the alleviation of distress, or providing assistance in dire need, or the like of such acts which engender joy.* [16]

Indeed, the success of the acting heir-agent in securing a purchaser for the real estate inheritance and completing the transaction in the best possible manner is a great cause for bringing joy, delight, and happiness to the hearts of the heirs, and for putting their minds at ease by their attainment of their rightful shares. Moreover, it is a cause for reward for the deceased testator owing to what he left behind for his heirs from this inheritance, and their financial benefit from the sale of what was difficult to divide, or what served the best interest of all by being sold and the proceeds distributed. This reinforces the commendability encompassed by this scenario.

The Fifth Scenario: Permissibility

The action of the heir without the permission of the other heirs is deemed permissible if it does not fall within the four preceding categories. Every act not characterised by obligation, recommendation, prohibition, or dislike is deemed permissible by default. This can be envisaged in several situations, including where the acting heir secures two potential buyers willing to purchase the real estate inheritance for the same price. His selection of either of them falls within the realm of permissibility, which encompasses *“every act permitted for the doer, with no reward for performing it, nor punishment for omitting it.”* [13], which applies to the case where the acting heir chooses one of the aforementioned buyers.

Topic Five: The Impact of an Heir’s Unilateral Disposition of the Estate Without the Knowledge or Permission of the Heirs on Social Relations Among Members of Society and Sustainable Development.

The disposal of the estate by an heir without obtaining prior permission from the other heirs is an abhorrent action resembling, in some respects, the act of an interloper (fuduli) due to the lack of permission. However, it differs in that the interloper sells what he does not own, whereas the disposing heir sells an estate in which he holds a share and ownership. Nevertheless, such a right does not legally entitle him to unilaterally dispose of it without the knowledge of the other heirs. His action bears negative repercussions upon individuals and society, including the following:

1. The loss of the heirs’ rights where the estate is sold for a pittance, causing economic harm to them as they had hoped that the sale of their testator’s estate would improve their standard of living. However, the disposing heir nullified their aspiration through either haste or deceit, by which he attained a personal financial gain to their exclusion, which adversely impacts sustainable development and economic growth.
2. The propagation of enmity and hatred amongst the kin who are heirs, resulting in the severance of family ties. Courts frequently witness long-standing disputes among heirs, manifesting in evident animosity, and occasionally, physical assaults are committed by some against others.
3. The tarnishing of the reputation of the disposing heir among his family and wider community, owing to his irresponsible conduct regarding the estate, through which he failed to realise its intended purpose as ordained by the wise Legislator—namely, the proper delivery of rights to their lawful heirs, and the preservation of affection, love, and harmony amongst them following the receipt by each heir of his or her lawfully apportioned share.

3. RESEARCH FINDINGS

The research concluded with a set of findings, the most significant of which are as follows:

- The default position concerning the estate is that none of the heirs may dispose of it without having obtained the permission of the remaining heirs, under their knowledge and awareness.
- The abundance of lawsuits in the courts pertaining to matters of estate disposal is evidence of the necessity for legal and religious awareness to avoid disputes and conflicts among the heirs.
- Disposal: it is that which emanates from a discerning individual by his volition, upon which the Lawgiver predicates a consequence; and the acts of disposal by the heir, within this research, revolve around actions he initiates secretly with regard to the estate, typically without informing the other heirs nor obtaining agency from them.
- These acts are often accompanied by subterfuge, deceit, and misrepresentation, which are behaviours unbefitting of a Muslim towards another Muslim.
- The concept of the estate, according to the majority of jurists, bears a broader indication than that of the Ḥanafī jurists, as it encompasses, according to the majority, proprietary rights and rights of usufruct; the latter is not recognised by the Ḥanafīs. The current practice in the courts and judicial forums proceeds upon the opinion of the majority, which is more favourable to the heirs.
- The permission of the heirs: it is the authorisation by those entitled to a share in the estate of the deceased, by reason of marriage, allegiance, or kinship, for a fellow heir to dispose of the estate—either through inventorying its assets, selling its properties, or distributing it to all entitled recipients in accordance with the lawful division of inheritance.
- Every unilateral act of disposal by an heir, without the knowledge of the remaining heirs, is a form of conduct which disrupts tranquillity of spirit and results in anxiety and dispute among the heirs.
- The inherited estate is one of the means of lawful gain, and a cause of ownership, whereby the estate of the deceased devolves upon his heirs according to their lawful shares.
- The legislation of the laws of inheritance is ascribed to the Divine Essence, to deter the injustice of heirs towards one another or the act of disposal by one of them in a manner that causes harm to the others.
- The rule of partnership stipulates that no disposal may be undertaken with respect to the property that has devolved upon the partners, except with the knowledge of them all, without exception; and the majority hold that this includes the dissolution of the partnership, which likewise requires the knowledge of them all.
- The rationale for the heirs' right to knowledge of any act of disposal concerning the estate is the establishment of the right of each individual therein, whether such right be minor or substantial; and the establishment of this right necessitates the establishment of their right to knowledge.
- Among the forms of betrayal is that an heir undertakes a unilateral act of disposal which secures a benefit for himself and results in harm to the remaining heirs; such harm is to be removed and eliminated.
- The disposal by an heir in the estate of the deceased in a personal capacity, without the knowledge of the other heirs, nor their permission, nor an agency, nor waiver, is subject to the five legal rulings, which have been detailed in the body of the research.
- The Kingdom of Saudi Arabia has commendable efforts in preventing the injustice of heirs towards one another, and in taking a firm stance against any individual who is prompted to act with respect to the estate in a manner that causes harm to the remaining heirs; and the judges of justice in the Kingdom grant redress to the oppressed, whose rights have been violated, and rectify the wrongdoer who has acted without lawful authorisation.
- The act of disposal by an heir in the estate without having first obtained prior permission from the other heirs is a reprehensible act, bearing resemblance to the act of the intermeddler in that it is carried out without authorisation; it differs, however, in that the intermeddler sells what he does not own, whereas the disposing heir sells an estate in which he holds some right and ownership.
- Such irresponsible conduct has negative effects on individuals and society, including the loss of the rights of the heirs where the estate is sold at an undervalued price, which results in a disruption of their economic wellbeing, as they had anticipated that the sale of their deceased's estate would enable them to attain an improved standard of living. However, the disposing heir thwarted their aspiration through his haste or by deceiving them with a deception that secured a personal financial benefit for himself at their expense. Additionally, such conduct spreads enmity and hatred among the kindred heirs, resulting in the severance of familial ties, and it is common for the courts to witness protracted conflicts among the heirs, with evident discord among them, and possibly physical altercations perpetrated by some against others. Furthermore, the disposing heir's reputation is tarnished among his family and the public owing to his irresponsible conduct concerning the estate, by which he failed to achieve the objective intended by the Wise Legislator.

4. RESEARCH RECOMMENDATIONS

From the contents of this research, a number of recommendations have become apparent, on which further writing may be undertaken, namely:

1. The deprivation of women from inheritance: its circumstances and legal rulings.
2. The yield of usufruct and its related rulings: a comparative legal study.
3. Breach of trust by a partner in trade: a contemporary legal study.

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