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Rights due from a deceased's estate

Fatwa no. 48

Q: My brother died leaving just me and his two wives. My brother and I were partners in real estate, money and some other property. We also had some debts. I would like to divide the estate, after selling some property to repay the debts, and give each wife her share of the inheritance. What is the share of each? Should we repay the debts from the capital before dividing it and can we sell the real estate or estimate its value, and how do we do that?

A: The debts should be paid from the joint capital before the division of the inheritance, as you were partners in both money and debts. After paying off the debts, if your brother made a will other than paying off the debts it should be paid out of his share from the estate before the division of the inheritance among his heirs. Then you and your brother's two wives may share the rest of your brother's inheritance; they will have one quarter of the estate between them and you will have the rest of it, if the situation is as you mentioned in the question.

As to the issue of estimating the value of the property and selling it, this should be done by mutual consent between you and your brother's wives, if they are rational. If any disputes arise between you over anything, you must resort to the court to settle your disputes and give you your rights.

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May Allah grant us success! May peace and blessings be upon our Prophet Muhammad, his family, and Companions!

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