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Second question of Fatwa no. 4097

Q 2: A man, who had two sons - a mature son and a nine-year-old son - died, then his brother bought land for some thousands and asked his elder nephew to pay half of its value and take half of the land (for his younger brother and himself). Nevertheless, the young man refrained, saying that he did not want to share the land and that he would make a waiver on behalf of both his brother and himself. Is it permissible for him to make a waiver on behalf of his younger brother or should he pay the value of the portion of land belonging to his brother? Conversely, should the uncle pay the money on behalf of the young boy until he grows up and can decide for himself? How should this issue be dealt with?

A: If the reality is exactly as what is mentioned in the question, the underaged boy should have a Shar`y (Islamic legal) Waliy (guardian) as defined in the will of his deceased father. However, if his father did not specify a Waliy; the Shar`y ruler should appoint one for him. This Waliy has the responsibility before the Shar`y ruler to manage the property of the underaged boy. May Allah grant us success! May peace and blessings be upon our Prophet Muhammad, his family, and Companions!

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