

Rulling of Gasb

- ① 3 things
He has to return it
ex: - Stole a car
- Stole metal to build house
- majority scholars: break down the house & return
- Another opinion: give back similar to the stolen item
cause it will cost him too much
to break down whole house
- ② Pays for any decrease in the value of stolen item
- ③ Pays the rent for the stolen car for the period it was stolen
ex: if he was to rent the stolen item market
in the market: it's renting price

فَصْلٌ : [الْعَصْبُ] :

وَمَنْ غَصَبَ^(١) مَالاً لَّاحِدٍ .. لَزِمَهُ رَدُّهُ وَأَرْشُ نَقْصِهِ
وَأُجْرَةُ مِثْلِهِ ، فَإِنْ تَلَفَ^(٢) . ضَمَنَهُ بِمِثْلِهِ إِنْ كَانَ لَهُ مِثْلٌ ، أَوْ
بِقِيَمَتِهِ^(٣) إِنْ لَمْ يَكُنْ لَهُ مِثْلٌ أَكْثَرَ مَا كَانَتْ مِنْ يَوْمِ الْعَصَبِ
إِلَى يَوْمِ التَّلَفِ .

فَصْلٌ : [الشُّفْعَةُ] :

وَالشُّفْعَةُ^(٣) وَاجِبَةٌ بِالْخُلْطَةِ دُونَ الْجَوَارِ^(٤) ، فِيمَا
يُنْقَسِمُ دُونَ مَا لَا يُنْقَسِمُ^(٥) ، وَفِي كُلِّ مَا لَا يُنْقَلُ مِنَ الْأَرْضِ
- كَالْعَقَارِ وَغَيْرِهِ - بِالثَّمَنِ الَّذِي وَقَعَ عَلَيْهِ الْبَيْعُ . وَهِيَ عَلَى

- (١) الاستيلاء على حق الغير عدواناً .
- (٢) العبرة في القيمة بالنقد الغالب ، فإن غلب نقدان وتساويا .. عين القاضي واحداً منهما .
- (٣) حق تملك قهري يثبت للشريك القديم على الشريك الحادث بسبب الشركة بالعوض الذي ملك به ، وقد شرعت لدفع الضرر .
- (٤) فلا شفعة لجار الدار ، ملاصقاً كان أو غيره .
- (٥) كحمام صغير لا ينقسم فلا شفعة فيه ، فإن أمكن انقسامه كحمام كبير يمكن جعله حمامين .. فإن الشفعة تثبت فيه .

أَلَيْسَتْ يَلَدُ ظُلْمًا مُجَاصِرَةً عَلَى حَقِّ الْغَيْرِ = Taking over someone's right out of oppression : without permission

- ⊗ Different ways it can happen and they have different names
They All have Different rullings

- ① If someone's rights is taken secretly
from a protected place, it's called سِرْقَةً : stealing : rulling on thief : cut his hand
- ② If it's taken by confronting and robbing him = مُتَحَارِبَةً :
- opinion : Judge has choice : killed, crucified, opposite hands & legs cut off, exiled from the earth
- opinion : According to the crime : ➤
- ③ taken by snatching = اخْتِلَافًا
- ④ taken by cheating after it's entrusted with it = خِيَانَةً

Stolen item breaks

: Took something without Any right
& it breaks

= You give something exactly similar
if there is something similar

- What if it's something that so precious
you can't find similar to it

= You pay back it's value

how much to pay back
= pay the stolen item's highest price

ex: stole gold: it got destroyed
gold price goes up & down