

Expropriation of Loans owed by Father, from Heirs

Ref: *Sefer Mishpatim, Hilchot Malveh Veloveh, Chapters 11–12*

	Expropriation of debt from heirs
Heirs past majority and promissory note present	✓ Purchasers may also expropriate, because it is known to the public
Heirs past majority and loan was supported by Oral Statement only (even with witnesses) – <i>Milvah Beal Peh</i>	✓ Only under 3 special circumstances (But not from purchasers) because public do not know about it 1) Debtor while mortally ill, admits debt 2) End of loan date was not yet due (and therefore likely that it was still owing) 3) Debtor was in <i>nidui</i> (under ban) for not repaying his debt.
Heirs past majority with note and not witnesses	× (Nor from purchasers) – not public knowledge and maybe deceased already paid. Because do not need witnesses for payment.

	Expropriation of debt from heirs
Heirs below majority even if loan was supported by a promissory note	× (unless the 3 special circumstances as previously stated)
Loan was owed to a gentile who was being paid interest	✓ Through appointment of a guardian. Otherwise interest consumes the estate
Deceased's widow demands payment for her <i>ketubah</i>	✓ Through appointment of a guardian. Otherwise interest consumes the estate
The judge commands that payment should be made	✓ Guardian appointed to contest and pay if necessary
Plaintiff claims deceased stole property	✓ Guardian appointed to contest and pay if necessary
Plaintiff claims that he purchased the property from deceased and has witnesses	× While heirs are minors we cannot accept testimony without deceased's presence
Plaintiff produces deed of sale of property which is authentic	✓

A court can sell the property of the deceased where this would be necessary but there is a special procedure.

Also, the court may give a document called an *adrachta* to a plaintiff allowing him to expropriate property from the deceased.

Reminder

Expropriation Procedure by Courts. Ref: *Sefer Mishpatim*,
Hilchot Malveh Veloveh, Chapter 22.
Pack on Expropriation of Property



Court may be penalised if it was not careful in its investigations regarding property.

Reminder

Pack on Inheritance

