

Question 1073) - How does the shafi' claim his right after the two Talabs?

A: He will present the defendant i.e. the buyer to the judge. If the defendant admits to the plaintiffs claim, it will be ruled against him i.e. the judge will order the defendant to surrender the house or property to the plaintiff and take the price from him. If the buyer denies the plaintiffs right, the judge will impose upon the plaintiff that he present his evidence. If he cannot produce evidence, the buyer will be made to take an oath. He will swear by Allaah that he does not know that the plaintiff is the owner of the property/house by way of pre-emption. If he refuses to take an oath or if the plaintiff obtains proof, then the judge will ask, "Did you buy it or not?" If he denies having bought it, the judge will ask the praintiff to produce evidence that he did. If he cannot, then the buyer will be made to swear, "By Allaah, I did not buy it/ By Allaah this plaintiff is not entitled to pre-emption on this house as per the reason he claims."

~ al-Quduri ~