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Nature of Deposit contract in Iran civil Law

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[NATURE OF DEPOSITE CONTARCT IN IRAN CIVIL LAWS]

The most important feature of civil law is, permission to the law maker, parties , and Law students to distinguish their knowledge by analyzing his or other law professors theory and critic others idea by his theory . in this article I want to write the feature and nature of Deposit contract in Iran Laws .

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4) Nov2,1966. Supreme court of France, Title1171, Planiol .

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Introduction:

The most important complexity in Civil Law is , the parties are sometimes distracted what should they do in their legal affairs as an example if one or two have failure of his or her obligations, specially one wants to keep his assets into the others such as his money , cars, and real estate , this is precisely fact that the magistrate can not know who's right.

Therefore , the main feature in civil law is , the parties specified their hidden intention to make a contract before ending and to write a strong full file terms in each contract.

In accordance to Iran civil code Article 10 the law maker has the right to the parties to make a contract with their will, otherwise the contract is against the law and 'Share Islam.'

As you see that the legislator let the parties to make a contract by their will and don't limitation parties ,but in this article the lawmaker only notified its right the parties to make a contract and don't talk about qualities and terms of the contract .

Therefore , the parties intention it's the main problem of the magistrate to interpretation the parties internal intention, because I case law before calling for the case they should be found the parties intention that did not specify in the contract.

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In this article we will consider the different contract that sometimes can be distracted the Judge to find the best way for concluding the case on the court.

'Deposit Contract.'

Defined the Deposit:

According in Iran civil code Article 607 Says:

Deposit is the contract ; one can give his properties into the others to protect and keep his assets freely .

As you see that the main reason for making an agreement like the above contract is, the owner put his property to the others for protecting and keeping without neglecting and as the owner wants to refer get back his property he can give his assets as soon as possible .

So if the parties intention not to make deposit and they didn't aware that their intentions are to make the deposit their agreement is being null_ and void because their first intentions is to make a deposit not the other contract .(1)

To better understand the said issue look at the below example:

When a worker put his bike to his employee's yard or a customer put his coat at restaurant there is not any contract

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is happened by the parties agreement because in this issue one wants to put his coat at restaurant without the shopkeeper's permission .(2)

First Topic(elements of Deposit):

1)As we said deposit is a contract that one gives his assets to the others for protecting and keeping safety and the parties make decision to accept their agreement mutually so if one permitted the others to keep his property with out inform acceptance there is not any agreement happen mutually .

In fact for making a contract as like as the above title we need bilateral intentions; that sometimes it might be created implied acceptance or sometimes it could be made orally .

It meant that we need permission of the owner for making a contract , so some professors believe that the above contract it looks like a permitted contract it means that the parties specially owner can terminate the contract automatically .

Therefore , in the above contract as one knows that both his right and interest is in jeopardy it can null and void the contract without inform accepting .

2)For that reason ;a serve that the trustee will have done for keeping the property , it would not be done by against any things and the said serve must be done freely.

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For that we can say the deposit contract it looks like a loan contract that the trustee should be able to do all his best to keep and protect the properties ,otherwise the failure could be voided by the forcible and unpredictable events.

As you see that in deposit the owner can only give the right to the trustee for protecting and keeping the property in fact it's a kind of permission that the owner gives the trustee for the mentioned assets .(3)

'Third Topic .' (Deposit and Leases the means and facilities)

In contrast to Deposit and loan we said in deposit we need owner permission and in loan we need the creditor's let, now if we want to consider the differences between ' the Lease contract, as you know that in leases contract the land lord is only give his properties to the Tenant by taking a mount of money in fact in leases contract the tenant can seize all property for awhile by paying some money due to his/ her usages ; however in deposit the owner it gives right to the trustee to keep his assets without paying any money .

From the reason that sometimes the owner gives the right to the trustee to lend and rent the said properties it meant that the trustee can rent the said assets for a while by the owner inform permission .

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The most important feature in leases contract is that if the landlord can revoke tenant rights not to able transfer the assets interest to the others , and if the landlord didn't reject his rights the tenant can rent the properties interest to the another one .(4)

To better understand look at this example"

If one put his places to the others for parking his car; and the landlord it rights to move and protect the tenant's car , it meant this contract it integrated of leases and deposit because the not only the landlord ought to protect the tenant's car but also he has to move it.

Therefore , in contrast to Deposit and Trust fund , the Trust fund duty is to protect the content of the money or the properties not to protect the assets by the owner's permission.(5)

Some others professors believe that not only the Trust Fund Should be kept the said properties but they must protect it; however 'Mazaud believes that the Trust Fund must be kept the assets not to protect it .(6)

In the end we know that the main thing for making a proper contract is the parties 'Intention' and if one or two did not tell his intention briefly the contract is suspended, and in the future we'll consider the other elements in 'Deposit contract.

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