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INTERPRETATION OF CONTRACTUAL OBLIGATIONS AND WARRANTIES FOR ITS IMPLEMENTATION IN THE LEGAL SYSTEM OF IRAN AND THE UNITED KINGDOM

INTERPRETACIÓN DE OBLIGACIONES CONTRACTUALES Y GARANTÍAS PARA SU IMPLEMENTACIÓN EN EL SISTEMA LEGAL DE IRÁN Y EL REINO UNIDO

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ABSTRACT

The interpretation of the contract as one of the important issues of contract law in the branch of private law has always been of particular importance in various legal systems. The importance of this issue in the implementation of contractual obligations, obvious to everyone. By studying legal systems like the United Kingdom system, it is clear that the legislative and judicial system has always taken new steps to establish and complete the rules for the interpretation of the contract and has reduced the barriers to the implementation of contracts in the private relations of individuals. The study of this subject in Iranian law and the attitude to the laws, especially, civil law, states that the discussion of the interpretation of the contract is far from the point of view of the concept, and merely to mention the dispersed instances while discussing the texts of the contract. In this paper, we try to clarify the subject and adapt the rules and interpretative principles of legal systems with scattered instances in the legal texts, a coherent and disciplined chapter on the interpretation of contracts, in addition to resolving the existing vacuum in this field, by eliminating the ambiguity Contracts have also been assisted in fulfilling its obligations.

Keywords:

Interpretation of the contract, interpretative rules and principles, description of the contract, modification of the contract, completion of the contract, modification of the contract.

RESUMEN

La interpretación del contrato como uno de los temas importantes del derecho contractual en la rama del derecho privado siempre ha sido de particular importancia en varios sistemas legales. La importancia de este problema en la implementación de las obligaciones contractuales es obvia para todos. Al estudiar en sistemas legales como el Reino Unido, queda claro que el sistema legislativo y judicial siempre ha tomado nuevos pasos para establecer y completar las reglas para la interpretación del contrato y ha reducido las barreras para la implementación de los contratos en las relaciones privadas. de individuos. El estudio de este tema en el derecho iraní y la actitud hacia las leyes, especialmente el derecho civil, establece que la discusión de la interpretación del contrato está lejos del punto de vista del concepto, y simplemente para mencionar las instancias dispersas mientras se discute el textos del contrato. En este artículo, tratamos de aclarar el tema y adaptar las reglas y principios interpretativos de los sistemas legales con instancias dispersas en los textos legales, un capítulo coherente y disciplinado sobre la interpretación de los contratos, además de resolver el vacío existente en este campo, Al eliminar la ambigüedad, los contratos también han sido asistidos en el cumplimiento de sus obligaciones.

Palabras clave:

Interpretación del contrato, reglas y principios interpretativos, descripción del contrato, modificación del contrato, finalización del contrato, modificación del contrato.

INTRODUCTION

he rights of commitments and, in particular, contracts are among the key issues of private law. The importance of this branch of private law is clear due to the wide range, variety and application of the law, as well as the direct connection with the economic system in society. Obviously, the purpose of concluding each contract is to enforce its provisions and commit to the effects of the contract. In order for a contract to not be in a standstill in its course of execution, its provisions must be clear, and the parties have no quarrels about the terms of credit, contractual terms and how they are enforced.

The need for discussion of the interpretation of the contract is then essential in order to create a gap in the implementation of the provisions of the contract and its effectiveness in the individual and social relations of the parties, in effect, the interpretation of the contract with clarity and the disclosure of the terms and expressions and the wishes of the parties, the way for the correct implementation of the contract and serves the purpose of the parties. The issue of interpretation of the contract has been studied in various legal systems. In the Common Law system, this discussion is expressed in book titles "Construction" and "Interpretation" relating to contracts and commitments.

By studying in the legal system of Iran and approaching the legal texts about contracts, we are aware of the influence of interpretative factors such as custom, law, and ... but the dispersion and lack of concentration of materials, as well as the examples of cases, rather than the expression of the rule on the one hand and on the other hand Not paying attention to the interpretative principles and rules adopted in various legal systems that in fact help to eliminate obstacles in the implementation of the contract, this reasoning is strengthened, in which the rules and interpretative principles are to be compiled in accordance with the principles governing the contracts. And "general rules for the interpretation of the contract".

The rights of the United Kingdom are unwilling to suspend the contract and try to strike at the time of the breach of contract the contractor with the other guarantees of performance, including termination and damages. However, the above idea prevents such a solution in this country. There are no grounds for suspending non-symmetric obligations, like Article 380 of our Civil Code. For example, under Article 41, Article 41 of the Law of Merchandising of England, adopted in 1893. "Even if the vendor pledges to surrender immensely, He may refuse to surrender ". This article is in effect the option of suspending the execution of the contract The Ontario Law on Amendments to the Regulation is very limited, and the more comprehensive plan proposed by the United Commercial Code of the United States has been proposed for suspension (Alan, 2006).

Under Article 609-2 of the US Commercial Code, "1. A contract of sale to any party entails the condition that the expectation that the contract will be fully implemented shall not be compromised." In other words, in any sales contract, this contains an implied condition that the other party will fully comply with its obligations. Once there is reasonable ground for non-enforcement of the contract by one party, the other party may, at the written notice, requesting a satisfactory guarantee, and until the guarantee has been received, it may be suspended if it is reasonably practicable according to the commercial standard. Any performance that has not previously been received by us has been suspended (Honnold, John, 1991). Generally speaking, the rights of the United Kingdom are limited to the concept of the suspension of the foreign contract. In general, given that compensatory remedies for breach of contract in most cases result in damages and termination of contracts, for this reason, the country's legal and judicial jurisdiction is unwilling the suspension of the contract as a guarantee of performance of the breach of contract. In this regard, the first question raised is that if the law of the United Kingdom is unwilling to suspend contractual obligations, then what is the solution in the face of a breach of obligations by one of the parties? In England, a breach of a contract is in a state of affairs, and the affected party must respond to the fact that his response can be in the form of an acceptance or rejection of a breach, which, in the event of a rejection of the breach, can oblige the contract to terminate the contract. A violation of a contract in the law of this country can take place in two implicit and explicit cases, which are examined below:

In the analysis of the explicit contravention of the contract, it can be said that the explicit violation of the contract is a time when a party to the contract explicitly declares that it will not be bound by the contract and expressly notify the opposing party that in this case the explicit violation of the contract has been made and the injured party has two There is a solution: First, before the contract is fulfilled, it is still waiting for the commitment and if it fails to act in due time, it will return to the court or to accept the explicit rejection of the contract and terminate the contract. The lawsuit points out that the reader agreed in April to have someone

The claimant claimed his damages before June 1, and the court ruled in his favor, as is clear from the case, in British law, the legal proceedings based on the termination of the contract are in violation of contractual obligations. According to the writer, the adoption of this The

procedure is in favor of the British law, because sometimes the contract is suspended and it is not pledged to wait until the termination of the contract, and this requires time and pressure from the courts, which, in turn, brings with it difficulties It seems to be legal and economic in the interests of the injured party (Smith, 1989).

The rejection or declaration of non-commitment is implied by the obligation of the will to do things that make the contract impossible, and the result of his behavior is that he no longer intends to fulfill his obligations; for example, in the contract for the sale of land or the goods of the seller, that commodity or land To another person to sell and deliver, or if "A" has agreed upon the will in accordance with the will to transfer the house to "B", but to "C", this is also a kind of non-commitment or rejection of the contract implicitly. Case Frost v. knight ", in which the conspirator agreed to marry his father if he died, but when his parents were alive, he broke his reputation and the other party immediately demanded his compensation and won the suit. Although the lawsuit on another marriage cannot be repeated and the lawsuit for breach of the promise of marriage has been abolished, the principles of the convoy are widely adhered to in this case (Geoffrey, 2001).

DEVELOPMENT

Referring to law schools, we find that discussing preferential schools is due to the legitimate aim of the law. A group seeks to protect the rights of the individual and his interests, and believes in his authenticity. They are in fact recognizing the right of movement for the rights of a person to be one's personal integrity and see it as a right to self-interest. In this sense, what is worth is to give a human personality and protect him from others and the community. Attention to individual rights in this school makes the individual philanthropy chain linked to natural law schools. In fact, the Inferiority School, which has an idealistic approach to law science, was built against the oppression of historians throughout history, and defenses in It is equal to this set. Hence this A school based on rights is directly related to the individual's school of origin, which stems from the goal of "the creation of rights" (Shayegan, 2011).

In the private affairs of individuals, the group also paid attention to two principles of justice and considered "arbitrary justice" as the only pillar of the gull, and it does not consider "the freedom of contract" and "the will in private law." In discussing the interpretation of the provisions of the contracts, the aim of the first "distribution" is to identify the ambiguities in the will and to resolve the existing ambiguities by resorting to the will of the individual interests of the co-contractors of the provisions of the contract. Hence, the view of individualism in the context of the interpretation of the provisions of the contract is as follows.

A) The terms of the contract are conceptualized individually and solely as a result of individual liberty and the rule of the will of individuals, and they can conclude the terms of any contract with each other, and no one can be incapable of contradicting his will and will. In concluding and executing a contract, any person can make a relationship with any person who wants to make a profit and earn a profit.

B) In discussing the works of the contract, each party to the contract is intent on building a domination over another, and it is natural that each one has a more powerful tool, it will dominate the other. They have been asked to be mutually entrusted and Due to respect for this, social security regulations do not have the power to influence the provisions of the contract. In the event of a dispute, the interpretation of the provisions of the contract is strictly for the common intention of the parties at the time of the conclusion of the contract, and it shall resolve the ambiguity with respect to the one of them in gaining more profit.

C) The interpretation of the contract considers its purpose to be the implementation of justice, but the concept of justice itself, so that if someone decides about another, always "determines that Kant argues that there is a case in which justice is not respected, but where one is about It decides itself (Katouzian, 2004). Accordingly, in the assumption of any rape and rape, the contract of employment concluded between the employer and the worker is valid, subject to the conditions specified by each of them, and the judge cannot, in contravention of these agreements, take into account the amount of working hours, wages and other matters.

D) The prosecutor shall, in the interests of interpretation of the contract, act in a manner that does not in practice distort or modify the contract. Without paying attention to the interests and the will of the parties and the intention and will of the parties, and the replacement of the socially beneficial effects in practice, the parties will be diverted from the intention and purpose that they intend to conclude the contract. Therefore, in interpreting the terms and conditions of the contract, in accordance with the general document of the contract and the loading of the meanings agreed upon by the parties, they will resolve the ambiguity and not benefit from social interpretative factors.

In contrast to the high school, the school was founded on social authenticity. Followers of the School of Social Origin recognize contractors as an over-social nature and do not believe that the contract is the result of the freedom of individuals and the will of their will. In this school, no one is

free to deal with any person and to whatever he wants to, so that he will be socially corrupted by earning his profit, then, when confronted with a contract, the magistrate will find out when he concludes a private contract It conflicts with the social interests and public order of society and it will vote on its dissolution (Farjad, 2009).

In the context of discussing, concluding, and interpreting the contract, this school fails to address the supreme instrument of the individual's school of origin, the "common intention," and considers the assumption that it will be in vain. In the interpretation of the contract, there is also a vague term expressing the fact that the forms in the text are either contradictory or predetermined or different from each other. Nevertheless, how can it be possible to understand the common intention of the parties and to eliminate the existing ambiguity? Therefore, in interpreting the contract, it considers the function of a reasonable and reasonable person to be more intimate. Extramarital factors outside the contract, such as the custom, law, fairness, good faith, and the theory that makes this principle a fundamental factor in contracts and its interpretation of the "principle of the rule of will" (Sadeghi Moghaddam, 2013).

In this case, Article 21 of the Civil Law of the Czechoslovakia, adopted in 1950, must be interpreted in a manner consistent with the considerations of the conditions in which it is located, consistent with the common socialist life. In the case of ambiguous legal practices for the implementation of a unified economic program, the declaration of will must be consistent with the activities resulting from the "Interpretation of Supplemental Contracts" and "The Principle of the Will of the Will" of the theorists of this school in expressing the inconsistencies entered into the executive, as well as the contracts relating to The family points out the inability of the above principle to establish a legal relationship between the people of the community. The judge in interpreting the contracts that the worker and the employer take into account social conditions and giving the opinion of common law and good faith and fairness to a more ambitious will, considers the employer's claim that the agreements reached in the contract are in vain and preserves the social benefits of the willful will They think, in the way that the parties themselves, with the consideration of all these materials,

Contract has come. In this way, the attitude of the social-cultural school in the contract and its interpretation implies the following points (Hosseini & Rafiee, 2012):

A) The concept of a contract is social, individuals cannot communicate with each other as they wish, and must take steps to realize the interests of the community before securing their own interests. In concluding and executing contracts, it is profitable to profit from social benefits and has a full achievement.

B) In the works of the contract, the discussion of the domination of personal interests is not considered and the executive power is replaced. Thus, the concept of justice adjustment emerges and prevents harm to individuals.

C) In the course of justice, the concept of justice is not determined by the people themselves, but the state is not in a position to balance in the distribution of wealth, although it is involved in the private relations of individuals. Hence, in the interpretation of justice, with the help of social factors, one selects an interpretation that is more in the interest of the community, because the benefit of the community has always been in the distribution of wealth by observing fairness and creating an economic balance.

D) The provisions of the contract shall be carried out in a manner which is in the best interest of the community. However, whenever a contractual term has a vague meaning or a number of meanings, the term "social" agrees with the meaning of the consent of individual interests. The result is that in interpreting the attitude towards the interpretation of justice based on the teachings of the school of social authenticity, we can say that the interpretation of the contract is based on the interests of the interests and interests of society, in which social tools are used to translate the conventional and reasonable will of the community (Darabpour, 2012).

The attention to the fundamentals of the school of individual origin and social primacy suggests the extremes of these two schools, and the "principle of freedom of contract" is the application of their own theories. In the school of originality, attention has been paid to the extent to which the community and the impact of private relations have shifted to the "rule of will." It should be said that while neglecting the will of individuals and their release is risky, the extreme in the face and the ignorance of society is also inappropriate to say that the will, if left unchecked and arbitrarily restricted, will be overthrown and excessive. I have to say that he does not step in the creation of equality and justice, and sometimes he plays a key role in the "principle of sovereignty of will", which is the suppression of justice. The followers of this school in the expression of equality only refer to the intent and the consistency, not the equality of power as economic power, which does not mean justice, because they are also convinced to escape from the social frauds of a piece of bread. Nevertheless, it is agreed that in the "principle of sovereignty of sovereignty" how can one deal between a poor with a great capitalist, in fact, this principle is a weapon for survival, not thinking and economic competition in social life. In

interpreting the contract, one should avoid excesses in the interests of one's own interests. Sometimes, the conscientious authority, in referring to the common intention of the parties, and the interpretation of the provisions of the contract for the individual's interests, concludes the path to him, and he remarks this unfair interpretation of the interpretation. He sees justice in using the principle of fairness, while its provisions are not in the will of the parties, and sometimes takes legal action to the will of the parties and compels them to obey these social requirements.

Regarding the extremism of community advocates and the supremacy of the principle of collective sovereignty in private relations, it should be noted that, although the intervention of social tools and the defense of the whole of society in the face of the individual is the cause of the survival of society and its maintenance, it should not lead to the role The will of the contractors disappears completely. Defending social interests and its supremacy over the will of individuals in private relations, although a barrier against the rich, is a factor in transforming ourselves into giant capitalism. In a society where people's rights are valued, their will can be limited by controlling factors such as the law, but how much comfort can be guaranteed in the place where the controls themselves are at the disposal of the state and solely in the interest of the interests? How can one override the concessionary will in concluding or interpreting the contract and rule the supposed personal will (the normal human being)?

Yes, the ordinary person always takes into consideration the interests and measures all aspects, but the main objective of the parties is to establish a legal relationship of competition, not to consider it expedient, and in the competitive sphere, there is a sense of excess. The attention in the above article also makes it possible to reduce the extremism of the defenders of the school of social integrity and to choose the one that unites the interests and individual interests of "the principle of the rule of will according to its constraining factors" and social. In this way, it emerges as a basis of the interpretive rule derived from the system of the combination of individual and social originality and gives rise to creativity. On the other hand, paying attention to the principles of "Integrating the personality and community of origin", a new and intermediate school, accepted by the School of Individualism, reflects the respect for the supreme personality and the right to take on the privilege of life, and, on the other hand, placing the limiting factors together with these principles, the importance of protecting the social interest. And the tranquility of communal life. In this way, individuals do not lose sight of competition and profit in concluding contracts and will regulate whatever they want, but they will consider social limiting factors in establishing legal relationships, in such a way that failure to adhere to these factors Restrictions will invalidate their treaties (Faghihi, 2011).

With the critical examination of both schools, it should be acknowledged that in the interpretation, the legal system of Iran and England has used the compilation of the school. The legal system of Iran views the attitude of the contract and its interpretation to maintaining social and social cohesion. On the one hand, the validity of the will is validated and it recognizes the contract as its function, and on the other hand, by preventing the restriction of the will of the people by limiting the factors. As the basic principle of the Natural Rights School, it is possible to pass the following documents to the "principle of the rule of will" (Katouzian, 2004, p. 53):

A) Article 56 of the Constitution condemns the sovereignty of man to his own social destiny as the human right and condemns rape by any means and by any group.

B) Article 46 of the Constitution condemns and protects the sovereignty of persons in respect of property.

Expressing the originality of "the principle of the rule of will"; c) Article 10 of the Civil Code as the most important sponsor in creating the credit nature of the contract, in the manner prescribed by Articles 183, 191, 194 and 195 of the Code of Civil Procedure, the main purpose of the formation and implementation of the provisions of the contract is the intention Sharing and agreeing on the will of the individual. On the other hand, he expresses the principles and other materials of the importance of the interests and social interests. No one can:

A) Article 40 of the Constitution stipulates in the conflict of rights of persons of the community that this principle of deduction "shall impose its actions as a means of harm to non-violations of the public interest. The conflict between the rights of individuals against each other and the conflict between the rights and interests of persons with interests and socially. Do not allow Iran to consider societies in the face of individualism and the school of social integrity, and it considers it to be superior to the protection of individuals' private rights; hence, it defines the scope of rights and freedoms in the community and does not allow individuals to violate those rights. Give

B) In the discussion of contracts, only when the will of individuals is supported, this will not lead to the harm of other individuals and society as a whole. Article 975 of the Civil Code defines the three principles of law, public order, and good morals as the protectors of the community in expressing the limits of the principle of the rule of will and controlling it and concluding, implementing and interpreting

the opposite of the community. In the executive section, with the provisions of Article 6 of the Civil Procedure Act of 2000, the prosecutor has been instructed to refrain from hearing claims under Article 975 of the Civil Code. In the final section, “the principle of freedom of contract”.

C) The precision of Article 10 of the Civil Code, which states that this is not inconsistent with: "If the law does not explicitly exclude the law": This article is the law that maintains and maintains the validity of this principle.

D) The consideration of Article 220 of the Civil Code is in order to pay attention to the legal and customary works, so that in executing the contracts, in addition to fulfilling voluntary commitments, I also have all legal and contractual obligations, although not at the time of the conclusion of the contract, are aware of these obligations. Article 224 of the Civil Code also treats a contractor against a customary term and thus expresses the interference of social interference in the private relations of individuals (Safai, 2011).

Thus, by providing legal documentation, it turns out that the legitimate aim of protecting the individual and his will is in the light of social constraints. The judge will benefit from individual and social integration studies by accepting the combined theory and not paying attention to the high school of individual origin and community authenticity. Thus, in the interpretation of the contract, this is the case (Shahidi, 2007):

A) The ambiguity of the contract shall be interpreted in such a way as to arise from the common intention of the parties (Articles 191 and 194 of the Civil Code).

(B) When the parties are unable to resolve the contract ambiguity, the interpretation of the standard and reasonable will of the contractor shall be considered in the same terms as the parties to the contract. In the form of formal protocols, the parties will be liable, although not mentioned in the contract (Articles 356, 220 and 221 of the Civil Code).

C) Legal constraints are respected in relation to the joint intention, and the terms of the opposition to these limitations are eliminated (Article 975 of the Civil Code).

D) Whenever the term “semantic” is to be contrary to social interests, the signification of that meaning is to be pre-term, although the meaning is in accordance with the intention of the parties. Therefore, the judge will acquire a different meaning in order to ensure that the marriage is not even inadequate and is close to the will of the persons (Article 223 of the Civil Code).

E) In the interpretation of the existing vacancy contract with interpretative tools such as the custom, the good faith and ethics are compensated and the contract is completed (Articles 356 and 221 of the Civil Code).

And, in the adaptation of meaning to the word, there are two meanings, one of which derives from social instruments and the other arising from the common intention of the parties, the meaning chosen by the parties of fashion, but this choice is subject to non-conflict with the social interest (Articles 10, 191 and 975 of the Civil Code).

In the UK legal system, it can also be seen that the judge, together with the importance of the will and the intention of the parties in concluding the contract and securing their goals in the interpretation of the contract, chooses an interpretation which, in addition to providing personal interests, is not detrimental to the community (Stone, 2003).

Thus, in the face of a contract and its interpretation, the judge must establish two basic points:

A) Interpreting that it originated from the intent to subscribe to the outcome of the contract in order to secure their individual interests and expectations (McKendrick, 2005).

B) The parties consider the contract to be a component of society and never allow it to ignore social norms in order to safeguard individual interests. In fact, in interpreting the contract, he opposes the requirements and norms of the society and chooses an interpretation that, in addition to providing personal interests, is also in the interests of providing social benefits. By balancing the points, the interpretation of the contract means understanding the mutual intention in line with their demands, taking into account social constraints and respect for social populations. Therefore, in the interpretation of the contract, the teachings of individual schools and social authenticity coexist with each other and condemn the judiciary.

After familiarizing themselves with the concept and scope of the interpretation of the contract and the role of the schools of personal and social originality in this section, we examine the means of interpretation that are rooted in the individual and social concepts. In fact, interpretive schools are the cause of existential interpretations of various instruments and they play an essential role in shaping them. With the attitude to the school of inalienable rights and individual originality, as well as other interpretive schools, the literal meaning of the role of the instruments derived from the contract itself is apparent in its interpretation. Therefore, the examination of contractual terms and expressions and the role of the willingness of contractors to regulate contracts from the point of view of the nature and the requirements of the contract itself, on

the other hand, are two of the most important interpretive tools that, in their formation, they consider themselves borrowed from the schools. In the face of the contract, the judge takes into consideration the individual concept and, in accordance with the will of the will (the theory of inner will and the theory of willpower), and the scope of their contracts and their effects, to eliminate the ambiguity of the common will of the parties and the provisions contained in the contract document (Haeri Shahbolagh, 2009).

With respect to social schools, such as the public social education school, the school of social justice, as well as interpretive schools, is like a free scientific research to interfere with social factors in the interpretation of a contract. In the face of the contract, the court, in addition to reviewing the instruments arising from the text of the contract and its founder, also looks at outsourced instruments and, with the help of them, addresses the completion and clarity of the parties' intentions and vague and incomplete terms (Hosseini & Rafiee, 2012).

It is precisely defined in the interpretation and definition of the concept that it is essential to discuss the interpretation of the contract of mutual intention and their joint intention in concluding the contract and determine the extent of the obligations of the parties, since clarifying and eliminating the ambiguity of the intention of the parties and reaching the will They are the ultimate goal and purpose of the interpretation of the contract. Based on this, the most important factor of the interpretative factors is to pay attention to it. In fact, the contract owes its foundation to itself, and it gives its origin to the argument of a particular value interpretation.

The theory of apparent will and intrinsic will have been discussed as two interpretive tools in legal systems. The adherents of the inner will acknowledge that the relationship between the inner and inner consistency of the individuals is linked to each other as the cause of the contract and expresses the limits and other conditions of it, the means of expressing oneself as the external agent, and the real intention of the parties, are not original. In contrast to the apparent fan farms, the basis for the formation of contracts is the apparent and declarative will of the coordinators, and the intent of the inborn exegesis of individuals without expression in the outside world has no effect on the contracts. In truth, the rights value for things that are created in the mind and affect the community, each one can decide on one's decisions in and out of another.

In Iran's law, reviewing the laws relating to the contract, especially civil law, indicates that what is considered as the principle of the will of the will is the inner will and attention to the intention and purpose of the persons, but this does not prevent it. That the apparent intention of accepting is not in Iranian law. Yes, the magistrate in some cases gives priority to the apparent will of the individuals and does not accept the reason for it. Therefore, the apparent will not as a principle, but as complementary to the inner will in an ambiguity of the will of the helper parties. The following reasons are important in expressing the influence of the inward intention of individuals as the principle of contract interpretation (Safai, 2011):

A) The realization of a contract in the world of credit is subject to the existence of the intent of the individual. Attention to the first part of Article 191 of the Civil Code and to the association with the latter part of it is to confirm this allegation.

B) In the discussion of the agreement of wills, attention is also made to the subjective will of the individuals. At the same time, attention is drawn to the logic of Article 194 of the Civil Code and its application to Article 191 of the Civil Code, which states that this is the manner in which the parties of the same contract ... ": In part of Article 194 of the Civil Code, the meaning of the intention of the writer, according to its concept, "... accepts that the other party intends to create it, in Article 191 of the Civil Code, is the intrinsic will of individuals.

C) In the discussion of the distorting factors of will, what is considered by the legislator is the attention to the result of the "inward will of the individuals." Article 199 of the Civil Code, in the same vein, specifies the meaning of misconceptions and mistakes. "The result of misconduct or reluctance is not the effect of the transaction. These concepts are totally dependent on the intent of individuals, and by referring to their intent and intent, that these fragile agents of intent and discovery are discovered and impede the effect of the marriage in real life.

D) Reviewing the effects of the contract on both parties and third parties also indicates the eschew of the will of the will of the willfulness of the transaction ... unless it is in appearance ". In Article 196 of the Civil Code, it is stated that the opposite of the contract "shall stipulate the opposite of the contract, or prove otherwise contrary to it, as specified in the sentence, where, after the contract, it is determined by referring to the real will to prove that the person who transmitted the transaction to The intention was to do another, but at the time of the conclusion of the contract, the transaction was for the same person as the name was not mentioned in the contract.

E) The formal trading entity in Article 218 of the Civil Code is also an example of the acceptance of the intrinsic will as the principle of concluding and interpreting the contract. In order for the judge to find out the nature of the

transaction, there is nothing but a reference to the true intention of the parties because their apparent intention is an agreement. However, the apparent intention and its role in interpreting the contract were also considered by the legislator.

A) In the discussion of the immovable property of the law of registration, he has given supremacy to apparent will. Reviewing 22, 47, and 48 of the law of registration indicates the superiority of the contract document to the other. Therefore, the apparent intention in the Sindh is contemplated and the contrary is not accepted.

B) In formal documents, priority is also given to apparent intention. Article 1292 of the Civil Code does not consider the claim of denial or doubt regarding the official documents and expresses the opinion of the terms and conditions of the value document in expressing this superiority.

C) Carrying the words on the common sense are also among the reasons and documents related to the acceptance of apparent will. Consequently, in conceiving from Article 224 of the Civil Code, some writers acknowledged that, in the meaning of Article 224 of the Civil Code, it was meant to validate the customary appearance of the contract and the preference and fulfillment of the apparent.

Send feedback No other party to the contract can claim that the meaning of the contract has not been meaningful and customary in terms of the contract, and the court has no right to derogate from the meaning of the terms of the contract through interpretation (Hosseini & Rafiee, 2012); however, it should be noted that the meaning of the custom is to Once valid, the judgment of the court shall be interpreted in an interpretation that does not conflict with the actual purpose of the persons. Therefore, when it comes to the intrinsic will of the contradiction of the meanings used in the true reality of the parties to the custom, there will undoubtedly be a meaning that arises from the abyssal and true of the parties, not its customary meaning. The choice of the common sense on the meaning that comes from the contractor's terms of reference does not mean the lack of consideration of the will of the persons in the interpretation of the contract. This is the recognition of the supreme object of interpretation, and all social agents are known to contribute to it.

In England, the law is different. In this country, first, the translation of the book was interpreted by the interpreter and "authenticity of the true intention" of the Portuguese poetry theory of the French writers of Chonddors for the common intention of the parties was not a matter of reference to the intrinsic will of the parties, but this theory in the new law of England The other principle is not accepted (Treitel, 2003).

Indeed, the existence of the authentic theory of the true intention of the parties in the old days was related to the ordinary proportions of the people. At a time when social life was not advanced in modern times and technology was not invaded in society, the appeal was justified by the parties' intent, but today the cause of this principle has been lost for two reasons: first, the expansion of industry and technology on the one hand raises the complexity of relations Socializing and, on the other hand, reducing their coexistence and closeness. Therefore, with the industrialization of societies that create artificial arts, close-to-human and human relations have their place in technological relationships.

Second, the existence of complex and international conventions in private relationships does not allow the possibility of further thinking, and places him on the side and on the side to pay attention only to expressing (Hosseini & Rafiee, 2012).

However, today, the acceptance of the intrinsic will as a principle in the English law of the United Kingdom is abandoned, and what is being given is the provisions of the documents and phrases used by the parties to the agreement to suppress the courts to apparent.

Replacing it with the inner will is rooted in the form of contracts and how they are coordinated. In this country, contracts are divided into four groups in terms of form. Some of these contracts must be signed with the document, and some others must be written, the third group is the contracts that must be signed and the last group of contracts that can in any way be. Conclude.

The general rule is that a written agreement cannot be changed verbally (verbally). Therefore, in written contracts, both with the official document or ordinary document, as well as the contracts with which the documents are written, the search is to find the common will of the parties to the contract in accordance with the documents and phrases, and the court cannot ignore the documents and understand the intent of the individuals and assume such assumptions. What is mentioned is the real will of the parties. The reference to the document is also the standard and literary meaning of words (Jaffey, 2008).

However, in some cases, due to the non-existence of a common intention with apparent will, it is valued and used for the purpose of forgiveness, for example:

A) Oral reason has been accepted for the purpose of displaying the commercial or commercial character, as well as the explanation of the hidden ambiguity and the proof of the contrary, which is not explicitly foreseen in the contract.

B) Anyone who claims to have made a mistake in concluding the contract must prove his claim and the court will remunerate the contract if it finds an effective mistake by referring to the intent of the person. Therefore, in order to be free of responsibility, it must first be established that the signature of the signed document is fundamentally different from the document which the signatory intends to sign, and the second error must be verified that he has signed it from negligence and negligence and the third must prove that if the document content of the document He would not go to Yeamza Sindh.

C) The occurrence of unwillingness or unlawful influence on the contract may affect the legal effect of the contract of avoidance during the negotiation process, the parties shall be free of any threats or unlawful acts. Therefore, in interpreting the contract, the magistrate would undermine the legal effect of the contract by admitting that the claimant had actually been convicted or that he had been compromised. It is clear that in order to understand these issues, it identifies the occurrence or non-occurrence of reluctance by reference to the intent and past negotiation of the contract and particular circumstances in the conclusion of the contract.

D) Contracts contrary to public order and the laws of England are void, so if the parties to the agreement and the document appear to have good faith and to conclude a healthy contract, but in the internal context of the various interests and interests of the community, the judge will pay the agreed price by verifying their intent. In the Parkinson's case against the company (Ltd), the Ambulance College, in which a colonel named Nam Parkinson paid $ 3,000 to the Charity Fund, but in actual fact, he had earned his salary due to the payment, the court, in addition to knowing the title to him He did not refund Vieira's money. The contract was inconsistent with honesty in the country's affairs and was unjustly in Kamen. Consequently, with the view of the apparent intent and willpower in the legal system of England, in the interpretation of the treaties, the main instrument of the contract as the conventional and reasonable person of the community is interpreted as a shared will (Treitel, 2003).

The obligation to pay damages due to non-fulfillment of obligations is social and legal rights established in order to maintain order and balance in society and respect the contract and the contract between the parties to the contract. When a person is committed to doing so, his execution is legally, socially, ethically and even religiously. This is a good thing in all societies and nations, and its violation is considered an antisocial mistake and practice. For this purpose, and in order to prevent this offense, most countries have predicted their own financial guarantees (counterparties' compensation) in their laws. This is clearly foreseen in Iranian law. In order to compensate for the damage caused by a contractual violation, various ways have been foreseen in Iran's law, the most important of which is the explicit determination of losses during the conclusion of the original contract and before the damage is brought in by the parties. The payment of this damage or the harmful one from which the condition of the obligation is called, or by a third party from which it is insured. The basis for the right to determine damages by the parties to a contract in Iran's Article 230 (Novin, 2015).

In some jurisprudential sources, they have categorized the obligations for a contract, a conditional, and an indemnity. A conditional commitment or conditional commitment is an obligation that is made during the contract, such as a surety or conditional mortgage under Article 241 (a). Iran According to the law, the condition during the marriage may be included in one of the three forms of the condition of the adjective, the condition of the verb of the result, either in the original marriage or in the original marriage. According to the definitions given in the condition, the determination of the contractual damages is also in the nature of one kind of verbal condition, the terms of which are the implementation of a material act; that is, the payment of a sum as compensation, whether this condition is included in the necessary clause, or in It is worthy of note. Of course, it should be noted that there is a controversy between jurists as to whether the condition is obligatory whether or not it is binding. Some believe that the condition is void, and some say that the condition is not necessary, and some also believe that the condition of the marriage is the function of the type of marriage that the condition is included in it; in other words, if the marriage is permissible, termination of that marriage will lead to the loss of the necessity It will also be provided (Ghanovati, 2010).

In some sources, jurisprudence has categorized the obligations as obligatory, conditional, and obligatory. A conditional commitment or conditional commitment is an obligation that is made during the contract, such as a surety or conditional mortgage under Article 241 (a). Iran According to the law, the condition during the marriage may be included in one of the three forms of the condition of the adjective, the condition of the verb of the result, either in the original marriage or in the original marriage. According to the definitions given in the condition, the determination of the contractual damages is also in the nature of one kind of verbal condition, the terms of which are the implementation of a material act; that is, the payment of a sum as compensation, whether this condition is included in the necessary clause, or in Admission

Of course, it should be noted that there is a controversy between the jurists as to whether the condition is obligatory, whether it is binding or not. Some believe that the condition is void and some believe that the condition is not necessary and some also believe that the condition of the marriage is the function of the type of marriage that the condition is included in it; that is, if the marriage is permissible, termination of that marriage necessitates the loss of Waiting on condition will also be. However, this does not conflict with the inherent necessity of the condition, but until the contract has been terminated, the condition is indispensable, and the violation is unlawful, whether the agreement is necessary or permissible. Finally, if a marriage is terminated, its subject matter is ruled out, so the clause contained therein will be ruled out. In support of this argument, one can refer to Article 777 AH. Iran noted that the mortgage lender's mortgage terms have been authorized by the mortgagor in the sale of the property. This is allowed if the mortgage is legally mortgaged by the mortgagor and the other confirmation of this argument is based on the permissibility of the marriage contract in accordance with Article 643. M, the condition of the guarantor of the alien is known to assume a defect in the lucrative property (Sheikh Nia, 2012).

Also, the terms of the contract for the Mudarabah or the condition of payment of the damages to the owner of the contract in the Mudarabah contract, which is permissible, is also valid under Articles 552 and 558. Therefore, given the unity of the existing criterion, it can be argued that the condition for determining the damage in a contract is a condition of the verb; whether it is necessary for the marriage, the law therefore, the practice of such a condition is also based on the rule of "Al-Mu'min-o-n-Shrvtvm" and Article 10 AH. A pledge is required (Jafari Langroudi, 2007).

The condition of determining the contractual damages is a kind of collateral damage that has the following characteristics.

1. Substitute damages. For this reason, the appointed amount will be the loser. Therefore, all sentences for compensation in this regard should be observed. Secondly, in the event of default, the creditor cannot claim the principal and the payment of that amount as a result of the failure of the creditor as the damages in the contract, since this one is another vicegerent, but if the amount determined for delay in delay or delay in the payment, there is no problem in the possibility of claiming both obligations, as previously stated.

2. Because the designated amount is considered as a loss, the parties estimate and predict the probable loss incurred due to non-fulfillment of the obligation or delay in its implementation. Therefore, Dawne cannot claim that, since the actual damage suffered, the excess on the amount determined as damage, the court will demand more damages. Also, the defendant cannot claim a lower claim for damages, and he requests the court to pay less than the prescribed amount as damages (Farjad, 2009).

Despite the shortcomings in the country's regulations on the parties' agreement on damages, the existing regulations are largely up to date and allow the parties to agree on the amount of damages resulting from the contractual violation. Developments have also been made in terms of agreeing on damages in contracts that are subject to a commitment to pay cash. Further, this is discussed in the context of domestic law (Sadeghi Moghadam, 2013).

In jurisprudence, what is known among the jurisprudents is that, in the obligations of the cleric, if the pledging does not fulfill its obligation at the end, at the outset, the cucumber will not be canceled for the pledged party because he must first have made the obligation through the obligation in advance and the power to terminate the transaction only if the obligation to commit to the commitment is useless. It should be noted that few jurisprudents believe that the initial appearance of cucumbers is terminated by the creditor. Among the same, the creditor's credentials for cancellation of cucumbers are subject to the fulfillment of the timing of the commitment, and prior to this date, the creditor has no right to terminate the contract even if the contract is anticipated.

The legal system of Iran to comply with jurisprudence is one of the systems that did not identify the theory of possible contravention of the contract, so in the current situation it would not be expected that the system would accept the theory of guarantee in a systematic and transparent manner. Nevertheless, in law Iran can see cases that have been used unilaterally to counteract a pledge, which reflects the flexibility of the Iranian legislator (Safai, 2011).

In some contracts, time is an important factor. Failure to comply with the obligation beyond the time required causes that oblige to reluctant to execute it out of time. In this case, the alternative is his compensation, but in other cases, despite the passing of the time of execution of the contract, the pledge is still pledged by the pledge to execute the pledge. In order to determine whether, after such a situation, the oblige can request a commitment to execute the contract or only have the right to claim damages, there are two points of view: 1. Regarding the theory of replacement damages, it can be concluded that the credibility of the group and originality was given to the perpetrator,

not the victim, because he is somehow accompanied by his will, which is also the result of the obligation. So this seems to be the case with Article 227 AH. M Oppose 2 Performance Priority Theoretically, this theory should first seek to fulfill the main obligation of the contract. Uses of Articles 219 and 230 AH. Mean, the oblige can demand the fulfillment of the main obligation, if the claim cannot be claimed. This theory is more consistent with legal and rational standards.

If the damage is determined for delay in the implementation, the oblige will be entitled to claim fulfillment of the obligation. Unlike when receiving damages for the offender, in this case, it is not possible to run anymore, because the application of the condition of damages is an alternative to execution. The usual way is to replace it with the execution of the pledge, which is time-consuming, but sometimes the obligation has parts. If one or more of the obligations are delayed, the oblige is entitled to receive the total damage or to that proportion which delay is due to be compensated? Although some people believe that only the delayed part is entitled to damages, which is based on the principle of fairness, but Article 230 AH. M The principle of "fragmentary inefficiency" is the ruling, since this amount has been initially considered as a violation of the violation, and the violation in the case is either a violation of the implementation of the whole or part of the obligations because the contract is not fully executed and committed violations. The oblige will be entitled to receive the total amount of damages.

CONCLUSIONS

The issue of falling of obligations from the point of view of the general and broad theory, includes many of the reasons for the collapse of obligations and, in the general sense, can be considered a fall. If, from the point of view of limited and specific theory, it is examined, some of the objects contained in the clause In fact, they are not the cause of the collapse of commitment, but the fulfillment of obligations. The combination of the two concepts of contracting and engagement Article 183 of the Civil Code has made it possible for a contract to collapse a contract with a derivative contract, although this will eventually lead to the collapse of the obligation as a result of the dissolution of the contract and some of the items directly waive the obligation and consequently The marriage contract is one that can be attributed to the loss of power in the aftermath of the incident. Due to the structure of contracts in the legal system of Iran, the conditions prevent the performance of a contractual obligation if it is first-foreign and cannot be attributed to a committed or accused person, and the other is unpredictable and the person would normally expect its occurrence And is irresistible, and the person cannot repatriate it, could lead to a commitment exemption from liability and a fall.

Whether the external event that leads to the abandonment of power makes it possible to disconnect the lawyers from the connection between the alleged causation and the assignment of non-fulfillment of the obligation to the incident or the fact that there is a barrier to non-blaming the commitment. . How is the deprivation of the power of a committed foreigner as a basis for influence, whether it relieves the relation of a given causality or proves that it is not guilty, since, according to civil law, failure to fulfill its obligation is a fault and the disconnection of the presumed relationship causes The proof of the non-hypothetical commitment and also the proof of the absence of the necessary relation between the act of the owed and the loss, the external event and the vicious cause to be exempted, which makes it unique and unique, and whenever the fault is committed as one of the reasons or not It is caused by his fault, or the third party and the incident are not in the required conditions, will not lead to disclaimer and revocation of commitment. Therefore, the abandonment of the committed power if it is conditional on Cairo's power and is not bound by the fault, in accordance with the obligations of the obligation and the type of pledging, can be considered as a failure of the obligation and can be one of the reasons for the cessation of the obligation alone.

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