

The nature of the Floating price in Jurisprudence and Iranian Statute law

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Abstract: The celebrity in jurisprudence, and the rights required to determine the exact price and knowledge of the parties when the contract is a sale; So that if such something does not happen, sale is invalidated. In contrast, the out-group is that at least in some cases there is some kind ignorance in the price, not the sale diriment. In this paper we discuss this statement and argued that in addition to definitive determination of price Proofreader determining the sales price is agreed upon. In other words "price setting mechanisms, as well as the instances determine the price." The subject of this article that it is "necessary to definitively determine the true condition of the contract sales price as" What is the reliability and value? Appropriate the beginning, talking about the range of explanation is provided. Necessary to determine the true condition of the contract sales price is considered, both in goods. Proponents of this theory, what is foggy or sales price, the sale warrants are invalidity; but this was written solely to review the situation and uncertain pays a floating price. Because in our time - the following will come as a matter of history - the problem, the more the price is floating. Today Usually industrial products to standards and drawings produced entirely clear, and are presented to the consumer market. And catalogs, specifications and other basic goods and set properties are introduced. And sales almost freed from any ambiguity. The emphasis of this paper is on a floating price.

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1. Introduction

Price, meaning commodity prices are transaction. As on the occasion of the trade and transactions, as well as some of the other chapters have been saying of worship. Price refers to the price at which goods are traded; whether the fair value of the goods on the market is equal to or greater or less than the difference between "prices" is the same; the "price" means the customs value of the goods in the market and that it "price instance" is interpreted. Contract with a floating price, during the signing of the contracts, price is not determination of at a specific future time-dependent price, or the third party. These types of contracts are invalidated based on civil law. Based on Iranian civil law in all gratuitous contracts, financial, transaction, and price must be clear and specific.

In this regard, Article 190 and 216 of the Iranian Civil Code provisions common about all contracts, Except for contracts that are enough subject to the overview science (Such as a fall or a peace officer to resolve conflict) has been status. Provisions of this regulation there is included in the sale (Articles 338 and 342 of the Civil Code), which is used in other provisions of other financial contracts.

1-"Floating price" and its principles in terms of jurisprudents

Sheikh Ansari at the Mkasb independently of the

book in question says: "It is well known that the price level of knowledge of the true condition of the sale. After determining the price of the commodity to be sold and it is given by one party to the contract is invalidated.

"Then from Mokhtalef Al-Shiite and Tazkere Allama consensus jurisprudents, and the consensus of scholars Sharhe lome And the Sarayr, no difference between Muslims than the sentence has quoted. Shaykh Ansari says: "In any case we sentence which determines the selling price to the customer is given is correct, and... (Ansari, 1986).

The Askafi is quoted as saying: "If the parties are known to be for sale on the sales, Whereas the price for one of them is unknown, permissible is and approved, However, if it is case needed (except cucumbers) not held And when the customer pays the universe is the cucumber; Such as the vendor who sold it to me as a chorus food prices that are selling to others; But if the sale, the parties are ignorant to the price, is not approved for sale and has been terminated "(Eshtehardi, 2008);(Najafi, 1998).

2-Jurisprudents arguments in loss and ignorance is not "floating price"

A small number of Jurisprudents have commented that it is not necessary to deal with floating price. And in this regard, including the

Narratives from Imam Sadiq (AS) have pointed out.

The traditionary of the Imam narrated the case of a man, who a few dirhams bought some wheat and some of it has been delivered, After taking some time to visit the rest the While the price of wheat has promoted or relegated said: If you bought the day it pays the same amount to pay will be determined But if the price is not determined, In other words, the occurrence or transaction price will be determined whether or not in the first case the customer is required to pay a certain price In the second case (i.e. when the floating price) must pay sales price.

Third Speech: Perspectives on the Iranian law to the floating price is obviously that Necessary conditions for the validity of each transaction and the transaction is the subject of one of the specified conditions.

Floating price the statute law

Pursuant to the third paragraph of Article 190 of the Iranian Civil Code determines being transacted, including the terms of the transaction are the authenticity and as well as being transacted not only certain, but it turned out well. Pursuant to Article 216 of the Civil Code: "The deal should not obscure except in special cases where it is sufficient overview of the science."

According to the fact that gratuitous transaction, whether being transacted is an exchange and goods, Sentence paragraph of Article 190 of the Civil Code Price and sales Tuesday gratuitous(Commodity) transactions must be clear and specific.

This definition comes from the sales contract because in definition of marriage in Article 338 of the Civil Code states that: "Sale is the acquisition of the object instead of certain"

So it is necessary to marry to be considered as selling that exchange transaction (price) is known. In this regard, Article 339 of the Civil Code denies signing sales contract provides: "After the agreement between in vendor and the customer and sales price, the sales contract will be required and accepted" Consequently, the conclusion of the sale price, there must be mutual agreement on the amount.

However, according to Article 216 of the Civil Code in cases of particularly brief about the transaction, including the price, is sufficient, the case has not been well elucidated; Some of this material except as stated in the law, the material 694 and 563 and 564 and 752 and 766 of the Civil Code are limited)(Emami,1983).

Some scholar's science of law and the customary law to suit the needs of the community have interpreted According to the public and are relative concepts have said okay, this is the exception that proves the rule of law and legal rules also examined not only within the law, Rather they must be

interpreted in light of the manner and requirements (Jaafari Langroodi,1998).

Except in special cases, such action will permit normative measures, Civil law problems can be inferred from the floating price Because it would target Iranian lawmakers and judges was barely able to have digested it, A major reason that designers of the Civil Code of the Islamic jurisprudents consequently its price is unknown or uncertain transaction that has been declared invalidate, The deal is being loss.

If it is determined that the price of some unknown transactions will not result in losses, in such cases it certain insisted on the price, Action will be deemed unnecessary. Especially when determining the price at which the contract is impossible. Although such price actually accepted in society and business and statutory parties regardless Dry practices that have been committed and act as a trustee to the extent that even the ordinary laws in country in its international oil for example, Floating price contracts will be signed. Thus, in some cases, the use of floating-prescribed price or acceptance measures to be considered by the courts.

Old European legal systems and contract pricing was part of the basic conditions without which the transaction was deemed to be revoked (Darab Poor, 1995).

Our legislators should be given to the needs of today's business community in line with the dynamics of economic growth and expedite the transactions in revised their opinions and needs time to enact laws.

Therefore pays attention to what was said, although floating in some legal systems, such as Iran's rights, unrecognized, But international and domestic level in many countries and even countries like France that have gone in its internal law the seal of the authenticity, It is increasingly accepted. Such contracts are common in most of those statutes or judicial system countries can afford trying to deny it. Current community needs and business dealings, extending the validity of a contract, more profitable business opportunity for Parties, Reduce the risk of harm to the parties, to ensure the existence and number of buyers for community needs and avoid waste production and numerous other factors the acceptance of the floating price is inevitable.

Necessity floating price contracts with producers for a long time and many years of spare parts that may be required Purchaser playgroups, is undeniable and inevitable. in many legal systems, the common need of legal logic overcame Therefore, instead of putting a floating recognized and its effects have been identified, In our beloved country, Iran, and legislators should feel the increasing need to understand the needs of today's business community and to amend laws and implementation of step with the demands of the times.

4. Discussion

1- The celebrity in jurisprudence, and the rights required to determine the exact price and knowledge of the parties when the contract is a sale; So that if such something does not happen, sale is invalidated. In contrast, the out-group is that at least in some cases there is some kind ignorance in the price, not the sale diriment.

2- The subject of this article that it is "necessary to definitively determine the true condition of the contract sales price as" What is the reliability and value?

3- If the parties are known to be for sale on the sales, Whereas the price for one of them is unknown, permissible is and approved, However, if it is case needed (except cucumbers) not held and when the customer pays the universe is the cucumber.

4- A small number of Jurisprudents have commented that it is not necessary to deal with floating price. And in this regard, including the Narratives from Imam Sadiq (AS) have pointed out.

5- In this regard, Article 339 of the Civil Code denies signing sales contract provides: "After the agreement between in vendor and the customer and sales price, the sales contract will be required and accepted" Consequently, the conclusion of the sale price, there must be mutual agreement on the amount.

6- Except in special cases, such action will permit normative measures, Civil law problems can be inferred from the floating price Because it would target Iranian lawmakers and judges was barely able to have digested it, A major reason that designers of the Civil Code of the Islamic jurisprudents consequently its price is unknown or uncertain transaction that has been declared invalidate, The deal is being loss.

7- Our legislators should be given to the needs of today's business community in line with the dynamics of economic growth and expedite the transactions in revised their opinions and needs time to enact laws. Therefore pays attention to what was said, although floating in some legal systems, such as Iran's rights, unrecognized, But international and domestic level in many countries and even countries like France that have gone in its internal law the seal of the

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8- Necessity floating price contracts with producers for a long time and many years of spare parts that may be required Purchaser playgroups, is undeniable and inevitable. in many legal systems, the common need of legal logic overcame Therefore, instead of putting a floating recognized and its effects have been identified, In our beloved country, Iran, and legislators should feel the increasing need to understand the needs of today's business community and to amend laws and implementation of step with the demands of the times.

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