

Expiration of the Lease Period and its Effects in Iran's Civil Law with a Look at the Statutory Provisions of Egypt and France

Amir Reza khadish

Ph.D. student of law, Faculty of Humanities, Amol Branch, Islamic Azad university, Amol, iran

Abstract: Lease is an agreement reached by a landlord and a tenant as a result of which the latter is conveyed the possessory rights of a real estate or a property belonging to the former. The person having the possession of a real estate property is called the landlord and the person being conveyed the possessory rights thereof in a lease contract is called the tenant. The present study is looking for answers to two questions. The first one is pertinent to the whereabouts of the lease period expiration in Iran's law as compared to the regulations of Egypt and France? The second question is related to the idea as to what are the effects of lease period expiration in Egypt and France's laws in contrast to Iran's regulations? The results of the present study indicated that the lease contract is terminated as soon as it reaches its expiration date. However, although there is no particular text on the explicit or implicit resumption as well as extending of the lease contract in Iran's law in comparison to the regulations enforced in France and Egypt, it is feasible corresponding to the general principles.

[Amir Reza khadish. **Expiration of the Lease Period and its Effects in Iran's Civil Law with a Look at the Statutory Provisions of Egypt and France.** *N Y Sci J* 2018;11(3):95-98]. ISSN 1554-0200 (print); ISSN 2375-723X (online). <http://www.sciencepub.net/newyork>. 14. doi:[10.7537/marsnys110318.14](https://doi.org/10.7537/marsnys110318.14).

Keywords: lease, Iran's law, France's law, Egypt's law, effects of lease

1. Statement of the Problem:

Lease is a distinct contract by way of which the landlord delegates the interests of the leased property for a specified period of time in exchange for a set rental to the tenant. The lease contract features specific characteristics distinguishing from the other contracts inter alia which its temporariness is the most prominent one.

Such a characteristic renders the lease contract distinguished and separate from a great many of the other contracts, including sale contract, barter contract, remittance contract, guarantee contract and so forth; however, this is not an exclusive feature of the lease contract because sharecropping, shared-irrigation, partnership and other contracts are enumerated amongst the temporary contracts.

The other challenge of the present study in regard of the lease contract is that the parties may specify a certain period of time and, evidently, the lease contract is repudiated with the expiration of the set time. But, it happens occasionally that the parties do not define any specific time period and/or they determine part of the interest based on another method, including the expression of distance in which case there are different methods offered in response thereto in various legal systems. For the same reason, the present study, meanwhile investigating with the issue in Iran's law, makes references to the laws of Egypt and France so as to make it clear the way the intended issue is treated by the legislator of these two legal systems.

2. Study Questions:

How is the lease agreement expiration in Iran's law as compared to the laws of Egypt and France?

What are the effects of lease agreement expiration in the laws of Egypt and France in comparison to Iran's law?

3. Study Hypotheses:

- Apparently, the expiration of the lease period in Iran's law is laid upon more robust premises and legal doctrine as compared to the laws of Egypt and France.

- It seems that the effects of lease period expiration in the laws of Egypt and France are more to the benefit of the landlord.

-

4. Study Method:

The present study has been conducted based on a descriptive-analytical method.

5. Analyzing the Lease Agreement Expiration in the Laws of Egypt and France:

In lease contracts, the tenant becomes the owner of the interests of a rented property for a specific period of time and the termination of the agreement marks the tenant's end of rights over the exact property being rented. Generally, it can be stated that the rent relationship between the tenant and the landlord reaches a stop with the expiration of the contract period. However, the legislators of different legal systems have enacted regulations considering their own economic and social expediencies that are

envisaged incongruent to the preliminary principles of law in the first place. Of course, the present study has not investigated the specific foreign laws extant in this regard for different reasons.

5.1. Egypt's Law:

The lease contract is terminated with the expiration of the period of time specified by the parties; but, if the tenant continues occupying the leased property even after the termination of the lease period and with the landlord's consent, the lease is implicitly resumed. Therefore, the discussions on the termination of the lease contract takes one of the following roads:

5.1.1. The Termination of the Lease Contract with the Expiration of the Lease Period:

Article (598) of the Egypt's civil law stipulates that "the lease contract terminates with the expiration of the time period specified in the contract; in this case, there is no need for issuing a notice and demanding the tenant to vacate the property being leased".

Therefore, when the parties come to an agreement in determining a specific time period for the lease contract, the aforementioned contract terminates with the expiration of the time period because they have demanded no other reason for terminating their rental relationship after the lease period was expired.

5.1.2. Implicit Renovation of the Lease Contract:

Article (563) of the Egypt's civil law stipulates that "if the tenant still continues residing in and benefiting from the lease property even after the expiration of the lease term and it is also found agreed by the landlord, the lease contract is resumed with the same prior conditions existing in the contract and it is extended to a commonly accepted period of time".

It can be perceived from the article that if the lease period is limited and specified and then it comes to an end but the tenant still continues occupying and benefiting from the leased property and it does not encounter any objection by the landlord and it can be understood from the situation that s/he has not problems with it then a new lease contract is formed the basis of which is implicit requirement and acceptance. The tenant's requirement is comprehended with his or her continuation of residing in the leased property and the landlord's acceptance is signified with his or her lack of objection.

5.2. France's Law:

In France's law, the lease contracts for which a time period has been specified by the parties terminate upon reaching the due date. Article (1737) of France's civil law stipulates in this regard that "written contracts of lease terminate with the expiration of the time period specified by the parties without there

being any need for issuing a notice regarding the termination of contract by any of the parties". In France's law, the unwritten lease contracts are treated as rental contracts for which no specific time period has been specified by the parties. In this case, the legislator's will takes the position of the parties' volition and a time period will be imposed to them.

But, the lease contracts for which a period of time has been specified, as considered in France's law, is the contract of the written form in which a specific period of time has been determined by the parties. Article (1737) of France's civil law has been criticized by the French jurists because it is not logical to consider every unwritten lease contract as a contract for which a time period has not been specified; it is quite likely that the parties might have come to an agreement regarding the period of time during which the lease contract shall take effect.

6. The Period and Effects of Lease Contract Expiration in Iran's Law:

In Iran's law, as well, the lease contract terminates with the expiration of the agreement's specified time period. Article (494) of the civil law states in this regard that "the lease contract is discharged as soon as it reaches its expiration date. If, after the expiration of the lease contract, the tenant still continues occupying the leasehold without it being agreed by the landlord for a while, s/he has to pay rentals for the aforementioned period of time even if s/he has not benefited from the property being rented; in addition, the tenant is obliged to pay rentals for the leasehold in case that s/he has been benefited therefrom when the landlord has previously indicated agreement to the continuation of his or her occupancy of the property being leased unless the landlord is found having allowed him or her to make use of the rented property free of charge".

7. Renewal and Extension of the Lease Contract:

The possibility to extend the lease contract to any further date is not faced with any problem in Iran's law; because the lease contract is inter alia the consensual contracts and there is not stipulated any special formalities for it by the legislator. The explicitly renewed lease contract is deemed as a new contract the conditions of which are sometimes the same conditions specified in the prior lease contract or they may even be signed bearing changes in certain conditions.

The implicit renewal of the lease contract that is granted in Egypt and France's laws under the governance of particular regulations has not been scrutinized and investigated by the Iranian legislator. There is the possibility of implicitly renewing the

lease contract in Egypt and France's laws both featuring somewhat similar rulings in this regard and these two legal systems recount the lease contract that is renewed implicitly as a lease contract for which no time period has been specified and such lease contracts come to an end as soon as the installments of the leasehold are paid.

Although the implicit renewal of the leasehold has not been clearly mentioned in the regulations in Iran's law, there is the possibility of implicitly renewing the lease contract based on the general rules; that is because, the expression of the volition might be explicit or implicit in the consensual contracts. If the latent volition is considered as governing such contracts, then the way of making such a consent is devoid of any effect on the contract's enforcement and the governance of the latent will is the subject that has been confirmed by the Islamic jurists and the majority of the jurists.

8. The Law on the Tenant and Landlord Interrelationships, Approved in 1998:

The law passed in 1998 tries to assert the point that the proposition of the legal issues should be away from the affective and emotional matters. The idea that a tenant might have financial problems or has difficulty in providing himself or herself with a housing does not matter to the legislation and legislature and it is an issue that has to be considered and resolved by the government (executive branch) and its economy policies.

Article (1) of the law on the tenant and landlord interrelationships, ratified in 1998, asserts that "since the date the law was rendered indispensable, the renting of all the places, including residential and commercial, places of occupation and profession, educational places, dormitories and governmental buildings and other places of the like that is actualized within the format of formal or ordinary contracts shall obey the regulations of Islamic Republic of Iran and other rules mentioned in this law as well as according to the conditions agreed by the tenant and the landlord".

Article (2) of the law on the tenant and landlord interrelationships, enacted in 1998, stipulates that "the ordinary lease contracts shall be arranged in two copies both of which bearing the specification of the rental period and signed by both the tenant and landlord as well as by two other persons trusted by them as the witnesses".

Article (3) of the same law has the following proposition regarding the termination of the lease contract: "after the expiration of the lease term, the leasehold is vacated based on a request made by the landlord or any one on his or her behalf as ordered by the notary public divisions within a week for lease

contracts signed formally and within a week after the adjudication of a lawsuit for the lease contracts signed informally, ordinarily, by the order of the judicial authority and judicature constables' enforcement of the ordinance.

9. The Effects of Tenancy for Years in Iran's Law:

Lease contract is an agreement by means of which the tenant becomes the owner of the interests of the exact property being rented (Article 466). Taking the possession of a property is different from being the owner of the interests of a real estate or landed property and a person has to sign a contract with another party in order to be qualified for becoming the owner of the interests and benefits of the property.

Article (494) of Iran's civil law stipulates that "the lease contract is dismissed as soon as it reaches its due date and if, after the expiration of the lease contract, the tenant continues enjoying the benefits of the leasehold without its being agreed by the landlord, s/he has to pay rentals for the aforesaid extra period of time even if s/he has not taken any advantage of the leasehold and if it is agreed by the landlord then the tenant is only obliged to pay rental fees in case s/he has benefited from the leasehold unless the landlord is found having specified the otherwise, i.e. the free of charge use of the leasehold".

Therefore, according to the article mentioned above, the outcomes of the lease period expiration can be enumerated as below:

- The leasehold is entrusted to the tenant after the expiration of the lease contract. The leasehold is given by the landlord to the tenant to make benefits thereof and it is entrusted to the tenant during the entire period of lease time. With the expiration of the lease contract, it will become devoid of the rent subject effect but the title "entrustment" holds on till the tenant is asked to vacate the leasehold by the landlord.

10. Conclusion:

Lease contract terminates as soon as it reaches its expiration date. Although there are no particular texts on the explicit or implicit renewal and extension of the lease contract in Iran's law, unlike Egypt and France's law, the general principles consider it likely. The difference lies in that if the lease contract is renewed implicitly, the way it is stipulated in Egypt and France's laws, its time period shall be specified according to the common law while there is no particular text regarding the time period of the lease contracts that are renewed implicitly and quite the same way that the parties reach an agreement regarding the other lease contract terms and conditions they have to also implicitly conclude the time period.

If the tenant continues using the leasehold even after the expiration of the agreement and the landlord disagrees with his or her doing so, the tenant is envisioned as a usurper and his or her possession of the leasehold causes liabilities to him or her in which case s/he is responsible for any defect and deficiency that might come about, though there is no document and evidence proving so. But, if the landlord is found having expressed his or her content then the tenant will be obliged to pay rental fees on the condition that s/he has benefited from making use of the leasehold.

References:

1. Emami, Sayyed Hassan, (1994), "civil law", v.1.
2. Al-Sanhoury Abdul Razzaq, Ahmad, (1979), "Aqd Al-Ijar", Farhang.
3. Shahidi, Mahdi, (1999), "formation of contracts", Tehran, jurists.
4. Fathi Zaqloul Pasha, Ahmad, (1913), "the explication of Egypt's civil law (Cairo)", Farhang.
5. Katouziyan, naser, (1997), "the general rules of the contracts", v.1.
6. Nowin, Parviz and Khajehpiri, Abbas, (1999), "civil law", no.6, Tehran, Ganj-e-Danesh.
7. Collart Dutileul. F et Delebecque. Ph. »Contrats civil et commerciaux« .
8. colin et copitan »cours elementaire de drait civil Francais« Tomes 2.
9. Collart Dutilleut. F et Delebeque. Ph. »Contrats clvils et commercieux«.

3/25/2018