

قانون مدنی ایران با انگلیسی (۵)
Iranian Civil code (5)

CHAPTER 1.

SECTION 5.

**REGARDING CONTRACTS WHICH DEAL
WITH THE PROPERTY OF A THIRD PARTY OR WHICH ARE
UNAUTHORISED.**

Article 247.

Contracts regarding the property of others, except those entered into by guardians, trustees or legal representatives, are not binding even though the owner of the property inwardly agrees thereto: if however after the contract has been made the owner of the property signifies his consent, the contract becomes good and binding.

Article 248.

The consent of the owner of a property in an unauthorised contract can be signified orally or by an act which signifies his consent to the contract.

Article 249.

The silence of the owner of a property, even if he is present when the consent is made, cannot be taken as indication his consent.

Article 250.

Such consent is only effective and valid if it has not been previously refused; otherwise it is not effective.

Article 251.

The refusal of an unauthorised transaction is effective whether expressed orally or by some act which indicates absence of consent.

Article 252.

Consent or refusal need not be immediate; in case of delay causing loss to a party who has acted in an authorised manner he shall have the right to break the contract.

Article 253.

In the case of an unauthorised contract, if the owner of the property dies before signifying his consent or refusal, this consent or refusal can be given by the heirs.

Article 254.

If the property referred to in an unauthorised contract subsequently passes into the possession of the unauthorised person in some way, this mere ownership will not make the original contract binding.

Article 255.

If anyone makes a contract which is acknowledged to be an unauthorised contract and subsequently it transpires that the property in question belonged to the man who made the contract or to a person, on whose behalf he was authorised to act as a guardian or legal representative, the validity of the contract depends on the renewed consent of the person who made the contract; if he does not give such a consent the contract is invalid.

Article 256.

In the event of anyone transferring property of himself or anyone else in one contract, or accepting the transfer of property, for himself or another the contract is binding on himself but is considered unauthorised for anyone else.

Article 257.

If the object of an unauthorised transaction is made the object of other transactions also, before the owner of the property signifies his consent or refusal to the first unauthorised transaction, this owner can approve any of the transactions which he likes and the transactions dependent thereon shall be valid, while the previous ones shall be null and void.

Article 258.

In respect of any profit on a property which formed the object of an unauthorised contract or in respect of any return on that property, consent or rejection will be effective as from the date of the contract.

Article 259.

When any property has been handed over to a party in accordance with an unauthorised contract and when the owner of the property does not give his consent, the party who holds the property is responsible for the same and for any profits thereon.

Article 260.

If a party holds property or its equivalent which formed the subject of an unauthorised contract and if the owner of that property agrees to the transaction and to that party's retaining the equivalent value of the property, then that original owner shall have no right to claim on the other party.

Article 261.

In the case where property has been disposed of without authority and the original owner withholds his consent, the purchaser will be responsible for the actual property and any profits on it during the time he held it, even if he has not derived any benefit from it, and also he will be held responsible for any damages to the property while it was in his possession.

Article 262.

Under the circumstances described in the above article the purchaser of the property shall have the right to claim from the man who sold it to him without authority for the return of the actual property, or the price paid or its equivalent in value.

Article 263.

If the original owner of any property refuses to sanction a transaction about it and the purchaser is ignorant of the fact that the sale was unauthorised, he can claim back from the unauthorised seller both the price paid and also any damage, but he can only claim back the price paid if he knew that transaction was made without authority.

CHAPTER I. SECTION 6. REGARDING THE TERMINATION OF OBLIGATIONS

Article 264.

Obligations can be ended in the following ways:

- (1) By fulfilment of the obligation.
- (2) By cancellation of the bargain.
- (3) By release from the obligation.
- (4) By substitution of a different obligation.
- (5) By adjustment, or offsetting of one obligation against another.
- (6) By passing of ownership (from creditor to debtor) of the amount owed.

SUB-SECTION (1) CONCERNING FULFILMENT OF THE OBLIGATION

Article 265.

If anyone gives property to another, he obviously has not done so without consideration; therefore if a person gives property

to another, while he is under no obligation to do so, he can ask for the return of such property.

Article 266.

If an undertaking is made but the person in whose favour it is made has no legal right to demand its fulfilment, in the event of the maker of the undertaking fulfilling it of his own will he can have no claim for the return of the object of the undertaking.

Article 267.

If someone who is not the actual debtor pay the debt in question although he does so without the debtor's permission, the debt shall be discharged; if however payment is made by permission of the debtor, the payer can refer to the debtor, but otherwise not.

Article 268.

The performance of an act, when it has been stipulated that it should be done by a party to the contract, cannot be effected by another person except by consent of the party in whose favour the contract was made.

Article 269.

For fulfilment of an obligation a payment by a party thereto is only effective if he delivers what he himself owns or what he is authorised by its owner to deliver, and if he is personally competent to do so.

Article 270.

If a party to an undertaking makes some payment in fulfilment thereof, he cannot claim for the return of the same from the party in whose favour the undertaking was made on the grounds that when he made the payment he did not owe the amount in question, unless he proves that the amount belonged to another but was legally in his possession though without the right to pay it to anyone.

Article 271.

A debt shall only be paid to the creditor or his attorney or to someone legally entitled to receive such payment.

Article 272.

The payment of a debt to anyone other than those specified in the foregoing article can only be made by consent of the creditor.

Article 273.

If a person entitled to receive payment of a debt refuses such payment, the man under the obligation to pay can obtain discharge by making payment to a judge or his substitute and from the date of payment his liability for damages in respect of the object of the undertaking shall cease.

Article 274.

If a party in whose favour a contract is made is not competent to receive any payment thereunder, such payment will not be valid.

Article 275.

A party in whose favour a contract is made cannot be obliged to accept any goods thereunder that are not specified in it even if they are of a like or greater value.

Article 276.

A debtor in fulfilment of an undertaking cannot deliver any goods, of which the disposal has been forbidden by a judge.

Article 277.

A party to a contract cannot deliver only a proportion of the amount due to the other party in whose favour the contract was made, but a magistrate may grant a period of grace or arrange for payment by instalments if the debtor's financial situation calls for such action.

Article 278.

The delivery of some property specified in a contract to its owner in its actual state at the time of delivery shall discharge the party who delivers it from his responsibility, even if the property is deficient or defective, so long as the deficiency or defect is not due to the wrongful acts or the misuse of the party who hands over the property, except in the cases stipulated in this law. If however a party bound by a contract delays in delivering such property at due date and when its delivery has been claimed, he will be responsible for any deficiency or defect even if this deficiency or defect was caused by no fault of his,

Article 279.

When goods to be handed over under a contract are not particular goods but are of a general nature, a party bound by the contract need not deliver goods of the best quality, but he must not hand over goods which according to custom and usage are considered defective.

Article 280.

Any act under a contract must be performed at the place where the contract is made, unless the parties to the contract have made a special arrangement or unless usage or custom require some other procedure.

Article 281.

Any expenses incurred in connection with the payment of a debt must be born by the debtor, unless a provision to the contrary is made.

Article 282.

If under a contract one party owes several sums to one other party, the debtor shall decide on what count any particular payment is made.

SUB-SECTION (2). CONCERNING CANCELLATION OF BARGAIN

Article 283.

After a contract has been made, the parties may cancel it by mutual agreement and declare it null and void.

Article 284.

Cancellation can be made by any oral declaration or by any act which indicates such cancellation.

Article 285.

The object of a cancellation may be whole or part of the object of a contract.

Article 286.

In case of the loss of one of the two things exchanged in the transaction (e.g. the thing sold and the consideration given), the contract can still be cancelled.

In such an event the counterpart of one of the things exchanged, if the transaction be an exchange of similar things, or the price, if the transaction be a sale of an object for a price, may be given in its place.

Article 287.

Accretions and separable benefits which accrue under a contract between the time of its being made and its cancellation shall belong to the party who under the contract has become owner. But profits which are an integral part of the property dealt with under a contract shall belong to the party who owns the property after the cancellation of the contract.

Article 288.

If the owner of some property by a contract improves the property after the making of the contract so that it appreciates in value, this difference in value shall belong to him when the contract is cancelled.

SUB-SECTION (3) CONCERNING RELEASE FROM AN OBLIGATION

Article 289.

Release from an obligation takes place when a creditor voluntarily waives his claim.

Article 290.

Release from a contract is only effective when the party to the contract has the power to terminate it.

Article 291.

The release of a dead man from a debt case can be effected.

SUB-SECTION (4). CONCERNING ALTERATION OF THE OBLIGATION

Article 292.

Alteration of an obligation can be effected in the following cases:-

(1) When both parties to a contract agree owing to whatever cause to the change of the original contract in some way and its replacement by a new contract as its substitute, the party who made the original undertaking shall be released from it.

(2) When a third party agrees with the consent of the creditor under the contract to pay the debt due by the contract debtor.

(3) When the creditor under a contract transfers his rights to another party.

Article 293.

When an obligation is altered, any securities laid down in the original agreement will not be binding under the subsequent agreement, unless the two parties have made express stipulations to that effect.

SUB-SECTION (5). CONCERNING ADJUSTMENT

Article 294.

When two parties are indebted to one another, adjustment may be effected regarding their mutual debts in the ways explained in the following articles.

Article 295.

Adjustment is an automatic process which is effected without the necessity of the two parties giving their consent. Thus when two parties are indebted to one another at the same time, their debts are annulled by adjustment to the extent of the amount owed by both parties and the parties are to that extent released from their mutual debts.

Article 296.

Adjustment can only take place when object of the debts are of similar kind and when their place and date of payment coincide, no matter what may be the reason for the debt.

Article 297.

When after a guarantee has been given, the person to whom the guarantee was given (i.e. the creditor) becomes indebted to the person for whom the guarantee has been given (i.e. the debtor), this fact will not release the guarantor from his undertaking.

Article 298.

When only the place of payment differs in two debts, adjustment will be effective either on payment of the cost of transport entailed in transferring the thing from one place to another or an agreement between the parties not to require delivery in the specified place.

Article 299.

Adjustments will not be binding in respect of the indisputable rights of third parties. Thus if an object owed to a certain creditor is seized legally on behalf of a third party and if, after this seizure, the debtor becomes a creditor of his original creditor, the former cannot, under a plea of adjustment of debt refuse to deliver the seized goods.

**SUB-SECTION (6). CONCERNING PASSING OF OWNERSHIP
(FROM CREDITOR TO DEBTOR OF AMOUNT OWED)**

Article 300.

If a debtor becomes owner of (the equivalent of) what he owes, his liability ends. Thus, if anyone is the debtor of someone who has made him an heir the debt is settled after the death of the testator to the amount of the inheritance left to the debtor.
