

## قانون مدنی ایران به انگلیسی (۷)

## (۷) Iranian Civil Code

### SUB-SECTION (3) REGARDING THE OBJECT SOLD

#### Article 348.

The sale of something of which the sale or purchase is by law forbidden, or which is not (describable as) property or which can bring no reasonable profit or which is not within the seller's power to deliver is null and void unless the purchaser himself is able to take possession of it.

#### Article 349.

The sale of property that is a religious endowment is not valid unless there is a dispute among the beneficiaries in such a way that endowed property and except in the cases provided for in the chapter relating to Endowed Property.

#### Article 350.

Property can be sold in divided or undivided shares: or if the property consists of goods that can be divided they can be sold in parts, or they can be sold according to sample for delivery after a period.

#### Article 351.

When goods are of a general nature, i.e. when they can be specified from numerous units, their sale is only valid when their quantity, quality and description is given.

#### Article 352.

An unauthorised sale is not binding unless permission has been given by the owner, as has already been stipulated in connection with unauthorised contracts.

#### Article 353.

If it is found that specified goods sold are not according

to specification, the sale is void and if a part of the goods sold are not up to quality then that part of the sale is void and the purchaser also has the right to cancel the remainder of the deal.

#### **Article 354.**

When a sale is arranged by means of samples, all the goods sold must be similar to the sample; otherwise the purchaser has the right to cancel the contract.

#### **Article 355.**

If property is sold as being of a certain area and it is found that it is less than the stipulated size, the purchaser may cancel the deal. Also if it is found that the area exceeds that laid down, the seller may call off the deal. In both cases, however, the two parties may come to a mutual agreement in regard to the shortage or the excess.

#### **Article 356.**

Anything which is according to common usage and practise should form part of the object sold or is considered as an attachment to it or which is indicated to be a part of this object forms part of the sale and belongs to the purchaser, even if this has not been clearly stated in the contract of sale and even if the two parties to the contract were not aware of the common usage.

#### **Article 357.**

Anything that according to common usage does not form part of the object sold will not be affected by the sale unless the contrary has been clearly stipulated in the contract.

#### **Article 358.**

Under the above two articles if a garden or house is sold the trees of the garden and the passage and water channel and whatever is attached to the building in such a manner that it cannot be detached without damage belong to the buyer. On the contrary crops on land, fruit on trees and young of pregnant animals do not belong to the buyer unless this has been stipulated

in the contract of sale or is considered as part of the object sold according to common usage. In any case, however, the parties can come to some other agreement.

### **Article 359.**

If there is some doubt whether something is included in the sale according to common usage, then the contract of sale will not cover that thing unless some stipulation is made to that effect.

### **Article 360.**

Anything that can be sold independently can also be excluded from the sale.

### **Article 361.**

If after a contract has been made for the sale of some specified object and it is found that this object does not exist, then the sale is null and void.

## **SUB-SECTION (4) REGARDING CONSEQUENCES OF A SALE**

### **Article 362.**

The consequences of a regularly conducted sale are as follows:

- (1) The buyer becomes the owner of the object sold and the seller of its price as soon as a sale is effected.
- (2) a contract of sale makes the seller responsible for defects in the object of the sale and the buyer for defects in its price.
- (3) a contract of sale makes the seller responsible for delivery of the object sold.
- (4) a contract of sale makes the buyer responsible for payment of the price.

## **ITEM (1) REGARDING OWNERSHIP OF THE OBJECT SOLD AND ITS VALUE**

### **Article 363.**

If in a contract of sale there is an option of cancellation or if a period of grace is fixed for the delivery of the object sold

or for the payment of its price, this will not prevent transfer (of ownership).

Thus if the object of the sale is specified or the price fixed and before they are handed over one of the two parties becomes bankrupt, then other party will have a right of claim.

#### **Article 364.**

In the case of a conditional sale the ownership becomes binding from the date of the contract and not from the date on which any option expires. In the case of a sale in which delivery is a condition, such as a sale of coins against other coins, the ownership passes from the date of delivery and not from that of the contract,

#### **Article 365.**

An invalid sale does not in any way cause ownership to pass.

#### **Article 366.**

Anyone who, following a sale that has been invalidated, takes delivery of any object, must return it to the owner. Otherwise, he will remain responsible for the object itself and any profits thereon in case they are lost or damaged.

### **ITEM (2) REGARDING DELIVERY**

#### **Article 367.**

Delivery consists in the object sold being placed at the disposal of the buyer so that he has control of it and can benefit from it in any way he likes. Taking delivery is effected when the buyer assumes control of the object bought.

#### **Article 368.**

The delivery takes place when the object sold is placed at the disposal of the buyer even if the latter has not actually taken possession.

#### **Article 369.**

Delivery is operative in various ways according to the varying nature of the object sold. It must be done in a way that is accepted as valid according to common usage.

### **Article 370.**

If parties to a contract fix a time for delivery of the object of sale, the ability of the seller to deliver the object need not exist till this object has to be delivered; the ability to deliver need not exist at the time of sale.

### **Article 371.**

In sales which are dependent an the permission of the owner of the object in question, it is sufficient if the seller can deliver whenever the permision is given.

### **Article 372.**

If the seller can only deliver a part of the goods sold, then the sale is valid for that part but not for the remainder.

### **Article 373.**

When the goods are already in the buyer's possession, a fresh delivery is not necessary; the same applies to the sale price.

### **Article 374.**

For taking possession of the goods, no authorisation is necessary. The buyer can take possession of goods he has bought without any authorisation.

### **Article 375.**

Delivery should be made at the place where the contract was concluded, unless another place is required by common usage or unless by a provision in the contract of sale a special place has been fixed for the delivery.

### **Article 376.**

In case of delay in delivery of the goods sold or of their price, the party in defaul will be forced to make delivery.

### **Article 377.**

Either the seller or the buyer can retain the goods sold or their price until the other party is prepared to deliver his part,

unless a special time has been fixed for the delivery of the goods sold or the payment of their price, in which case the price or the goods respectively should be handed over at once.

### **Article 378.**

The seller who has voluntarily delivered the goods sold before receiving their price cannot reclaim them, except in the case of the cancellation of the transaction, assuming that he has the option to do so.

### **Article 379.**

If the buyer undertakes to give security or a pledge for the sale price and fails to carry out this obligation, the seller will have the right to cancel the contract. If the seller promises to provide security against any defect in title and fails to provide it. the buyer will have the right to cancel the contract.

### **Article 380.**

In the case of the bankruptcy of the buyer, if he has retained in his possession the actual object of the sale. the seller can reclaim it and he can keep the object sold if it has not yet been handed over.

### **Article 381.**

Costs of delivery, such as transport to the place of delivery and also the expenses of checking, weighing and so on are at the charge of the seller, but those connected with the payment of the price are to be paid by the buyer.

### **Article 382.**

If in regard to the expenses of the transaction or the place of delivery, common usage lays down some rules contrary to those detailed above or if in the contract some stipulations to the contrary are made, the common usage or these stipulations shall be followed.

The seller and the buyer can also modify the above rules by mutual consent.

### **Article 383.**

The delivery comprises also the things which are considered as parts and accessories of the object sold.

### **Article 384.**

If under a contract the object sold is fixed in quantity and if on delivery less than this quantity is handed over, the buyer will have the choice of cancelling the contract or of taking the quantity available on payment of the right proportion of the price. If the object sold exceeds in quantity the amount fixed in the contract, the excess belongs to the seller.

### **Article 385.**

If an object sold is one that cannot be divided without damage, such as a house or a carpet, and if it is sold as being of a fixed size but on delivery it is smaller or larger in size, then the buyer in the former case and the seller in the latter can cancel the contract.

### **Article 386.**

If in the cases described in the above two articles the deal is cancelled, the seller must refund, over and above the price, any costs of the contract and reasonable expenses incurred by the buyer.

### **Article 387.**

If the object sold perishes before delivery, even without fault or neglect of the seller, the sale will be cancelled and the price restored unless the seller has already applied to magistrate or his substitute for the enforcement of the delivery, in which case the loss will be borne by the buyer only.

### **Article 388.**

If before delivery a thing sold deteriorates the buyer can cancel the sale.

### **Article 389.**

If under the circumstances described in the above two articles the loss of the object or its deterioration in value is due to an act of the buyer, he will have no claim on the seller and must pay the price.

### ITEM (3) ON SECURITY AGAINST FAULTS IN TITLE

#### Article 390.

If, after acceptance of the price of the object sold, third-party rights are discovered in respect of the whole or of a part, the seller is a guarantor, even though he were not specifically declared to be such.

#### Article 391.

If third-party rights are discovered in respect of the whole or of a part of the object sold, the seller must return the price of the object sold; and if the purchaser be ignorant of the existence of the defect in title, the seller must also take responsibility for the losses suffered by the purchaser.

#### Article 392.

In the case mentioned in the previous article, the seller must be responsible for the whole, of the price which he has received in relation to the whole or part of the object sold, even though after the conclusion of the sale for any reason whatever there should be a reduction in price.

#### Article 393.

In respect of the excess which may have accrued to the object sold owing to the acts of the purchaser, the provisions of Article 312 shall apply.

### ITEM (4) ON PAYMENT OF PRICE

#### Article 394.

The purchaser must pay the price at the agreed time, and at the place and in accordance with the conditions which are laid down in the deed of sale.

#### Article 395.

If the purchaser does not pay the price at the agreed time, the seller will have the right to cancel the transaction in accordance with the arrangements concerning the option of delaying the payment of the price; or, he will have the right to demand that the judge shall compel the purchaser to pay the price.