

قانون مدنی ایران به انگلیسی
IRANIAN CIVIL CODE

SUB-SECTION 2
CONCERNING ENDOWMENT

Article 55.

An endowment consists in the surrender of the property, and the devotion of its profits to some purpose.

Article 56.

An endowment takes place when the bequeather of pious foundation makes an offer by any form of words which definitely carry this meaning and when the first generation of beneficiaries, or their legal representatives if they are limited in number, as in the case of children, accept it; or if the beneficiaries are unlimited in number or the endowment be made for the benefit of the public, then the acceptance of the judge is required.

Article 57.

The bequeather of pious foundation must be the owner of the property to be endowed and, in addition, must be possessed of capacity to contract and to make valid transactions.

Article 58.

It is permissible to endow only such property as can be exploited without detriment to its existence, whether it be movable or immovable, held in undivided shares or divided up.

Article 59.

If the endower does not hand the substance of the endowment over to the possession of the foundation to which it has been bequeathed, the endowment is not yet completed, but once it has been delivered the endowment is authentic.

Article 60.

In respect of delivery, urgency is not essential: so long as the bequeather of pious foundation has not revoked the endowment, whenever delivery is given the endowment become final.

Article 61.

When the endowment takes place in the proper form and is delivered it is binding and the endower is not permitted to revoke it nor to make any alterations in it, nor may he expel any one of the beneficiaries, nor make any new beneficiaries, nor appoint anyone to share with the beneficiaries; nor, if in the text of the agreement the administrator is not specified, may he appoint an administrator, nor may he interfere in the capacity of administrator.

Article 62.

In the event of the beneficiaries being limited in number they themselves shall take delivery, and delivery to the first generation shall be sufficient; and if the beneficiaries are unlimited or the bequest is to be devoted to the public use, either the administrator or the judge shall take delivery.

Article 63.

The guardian and executor of persons who are under disability will take delivery of the endowed property on their behalf and if the bequeather of pious foundation has reserved the office of administrator to himself, then the fact of his taking delivery shall suffice.

Article 64.

Property of which the profits are temporarily granted to another party can be the object of an endowment, and similarly it is permissible to endow landed property to which a right of easement is attached, without prejudicing the said right.

Article 65.

The validity of an endowment which may result to the detriment of the endower's creditors, is dependent on the permission of the creditors.

Article 66.

An endowment for an unlawful purpose is null and void.

Article 67.

The endowment of property of which it is not possible to give and take delivery is null and void, but if the bequeather of

pious foundation alone is not capable of taking and giving delivery, but the beneficiary is capable of taking delivery, then such an endowment is valid.

Article 68.

Anything which, either by nature or in accordance with usage and custom is reckoned as forming part of the dependencies and appurtenances of the endowed property, is included in the endowment, unless the endower has made special provision to the contrary, in the sense mentioned in the Chapter concerning Sales.

Article 69.

An endowment for the benefit of non-existent persons is invalid, unless it follows in succession from living beneficiaries.

Article 70.

If an endowment is made jointly to persons who do not exist and to persons living, it is valid in so far as it concerns the living and null and void in so far as it concerns those who do not exist.

Article 71.

Endowments to persons unknown have no validity.

Article 72.

An endowment for the benefit of the bequeather of pious foundation himself in such a way that the endower makes himself the sole beneficiary or one of the beneficiaries or provides for the payment of his debts or other obligations out of the profits of the endowed is null and void, whether it is concerned with his lifetime or with the period after his decease.

Article 73.

Endowments to children, relatives, servants or guests and so on, are valid.

Article 74.

In the case of an endowment for the public use, if the endower also becomes entitled to benefit under the endowment he is permitted to benefit.

Article 75.

The bequeather of pious foundation may reserve to himself the trusteeship - that is to say the management of the affairs of the property - either for his lifetime or for some specified period, and also may appoint as guardian some other person who either independently or in conjunction with the bequeather of pious foundation shall administer the property. The guardianship of the endowed property may be handed over to one or more persons other than the bequeather of pious foundation who will carry out the administration either individually or jointly, and similarly the bequeather of pious foundation may lay down the condition that he himself or the trustee appointed, may arrange for an administrator, or may make provision for any arrangement to this end which he shall consider proper.

Article 76.

Anyone whom the endower has designated as administrator has the option, in the first instance, of accepting or refusing the trusteeship; once he has accepted he cannot withdraw; and, once he has refused, it is as if he had never been designated as administrator.

Article 77.

In any case in which the endower has vested the trusteeship in two or more persons independently, when one of them deceases, the other or others take possession individually and if it be laid down that such taking possession shall be collective, then an act of taking possession on the part of any one of the trustees shall not be valid unless it has the approval of the other or others, and after the death of one of them the judge shall appoint a person to be added to the survivors in order that they jointly enter into possession.

Article 78.

The bequeather of pious foundation may appoint a supervising trustee without whose knowledge and approval no administrative act may take place.

Article 79.

Neither the endower nor the judge can remove an administrator who has been specifically appointed in the deed of endow-

ment, unless such a right shall have been provided for, and if the administrator be shown to be dishonest, the judge shall co-opt a trustee.

Article 80.

If the endower has made a special provision concerning the attributes of the administrator, and the administrator loses those attributes, he ceases to act as an administrator.

Article 81.

In the case of endowment to the public, if the bequeather of pious foundation has not appointed a trustee, the management of the affairs of the endowed property shall be carried on in the manner prescribed in Article 6 of the law of the 28th Shaaban 1328 (September 4th 1910) but in the case of endowments to private individuals if there is no special trustee, the supervision is incumbent on the beneficiaries themselves.

Article 82.

In all cases in which the endower has made special arrangements for the management of the estate, the administrator shall carry out these arrangements, and if no arrangements are laid down, he shall act with regard to repairs, leases, and the collection of profits and their division among the beneficiaries and the maintenance of the property and so on, like a trustworthy agent.

Article 83.

The administrator may not entrust the trusteeship to another unless the endower has given permission in the text of the deed of endowment, but if in the deed of endowment it is not stipulated that he shall personally administer the property he may appoint an agent.

Article 84.

It is permissible for the endower to make provision for a portion of the profits of the estate to be devoted to the remuneration of the trustee, and if no remuneration for the trustee has been specified, the administrator is entitled to a fair remuneration.

Article 85.

After the profits of the estate have been realised and

apportioned, each of the beneficiaries specified may take possession of his portion, even if the administrator withholds permission, unless the bequeather of pious foundation has made such permission a condition of possession.

Article 86.

Should the bequeather of pious foundation not have made special provision, the expenses for upkeep and repairs and for the operations necessary for the exploitation of the estate shall be a prior charge before the rights of the beneficiaries.

Article 87.

The bequeather of pious foundation may lay down that the profits of the estate be divided between the beneficiaris equally or unequally, or that the division shall be made at the discretion of the trustee or of some other person to divide the profits as he thinks best.

Article 88.

The sale of the estate in the event of its suffering damage, or of fears being entertained that damage will be incurred of such a kind as to render it incapable of exploitation is permissible, provided that the maintenance of it is impossible, or that no one can be found to undertake it.

Article 89.

Whenever part of an estate becomes damaged or liable to damage in such a way that exploitation is rendered impossible, that portion shall be sold, unless the damage to that portion is detrimental to the exploitation of the remainder, in which case the whole estate shall be sold.

Article 90.

An endowment which is allowed to be sold shall be converted into an estate which is as near as possible to the intentions of the endower.

Article 91.

In the following cases the profits of the estate endowed for the public shall be expended on public services:-

1. In cases where it is not known how the profits of the

estate are to be expended, unless there exist some indications as to the endower real desires.

2. In cases in which the expenditure of the profits of the estate in the special manner laid down by the bequeather of pious foundation is impossible.

SUB-SECTION III.

CONCERNING THE ENJOYMENT OF RIGHTS OPEN TO EVERYONE (MUBAHAT)

Article 92.

Everyone may, in accordance with the laws and regulations applicable to each one of them, derive benefits from rights open to everyone (mubáhát)

SECTION 3

Concerning the rights of easement concerning the Property of another and the rights and privileges appertaining to a landed property in relation to adjacent property.

SUB-SECTION I

CONCERNING RIGHTS OF EASEMENT RELATING TO the PROPERTY OF OTHERS

Article 93.

The right of easement (ertefagh) is a right held by one person on the property of another.

Article 94.

Owners of property may grant to others such rights as they please on their own property, and in this case the basis of a claim arises out of a deed or contract in virtue of which the right was granted.

Article 95.

Whenever someone's channel for running water or rain water has passed through the land or house of another person,

the owner of that house or land cannot prevent their passage, unless the absence of his right is proved.

Article 96.

A spring situated in someone's land definitely belongs to the owner of that land, unless another person has rights over its substance or its profits.

Article 97.

Whenever a person has for a long time had a water channel running through the house or property of another to his own property or has had a right in his favour, the owner of that house or land shall not hinder the taking of water nor its passage through his property, and similarly with regard to rights such as holding rights in doors, openwork windows, aqueducts, irrigation channels and so on.

Article 98.

If the owner of property has given permission to pass through it to someone who cannot do so by right, he may rescind his permission whenever he wishes and prevent the other from passing through; and similarly with other rights of easement.

Article 99.

No one has the right to take his water channel into the property of another nor to cause rain water from his roof to flow onto the roof of the property of another nor to throw snow on to it unless he has permission from the owner.

Article 100.

If the water channel of one person passes through the house of another, and if it becomes damaged in such a way as to cause damage to the house, the owner of the house has no right to oblige the owner of the channel to repair it, but he himself must take steps to prevent it from causing him loss. Should the damage to the channel obstruct the passage of water, the owner of the house is not obliged to repair the channel, but the owner of the right of passage must himself remove the obstruction, and to make the repairs may enter the house or land, but except when there is such a necessity, he has no right of entry, without the permission of the owner.

Article 101

Whenever someone derives profit, such as the working of a mill or similar things, from water which is the property of someone else in accordance with some right, the owner of the water cannot change the course of the channel in such a way as to prevent this right from being profitably exercised.

Article 102

Whenever an estate is transferred either in its entirety or in part to someone else, rights of easement over another estate or portion of it being included therein, such rights remain unchanged, unless there be a stipulation to the contrary.

Article 103

Whenever the partners in a property possess rights and benefits and that estate is divided between them, each partner shall, in proportion to his share, become the owner of those rights e. g., if an estate possessing the right of passage through another estate be divided between several persons, they each have the same right of passage as before over the said place.

Article 104

A right of easement necessarily implies the exploitation of that right e.g., if a person has the right of taking water from the springs, tanks or reservoirs of others, he shall have the right of passage to such springs, tanks and reservoirs for the drawing of water.

Article 105

Any expenses which may be necessary for the enjoyment of a right of easement are a charge upon the owner of that right, unless an agreement to the contrary has been arrived at between him and the owner of the property.

Article 106

The owner of a property on which another person has a right of easement cannot use his property in such a way as to result in damage to, or suspension of, the said right, except with the permission of the owner of the right.

Article 107

The benefits attaching to a right of easement are valid

to the extent agreed upon, or to the extent recognised by common usage, and necessitated by the exigencies of exploitation.

Article 108

In all cases where a person's exploitation of another person's property rests upon a simple permission, the owner can withdraw his permission whenever he pleases, unless there exists a legal impediment to this.