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Damages Caused by the Non-Entitlement of the Seller's Income in the Laws of Iran and England

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Abstract

This research examines the concept of seller's warranty in transferring ownership of goods during a sale contract. In Iranian law (Article 362 of the Civil Code), a seller guarantees ownership of the sold item and the right price. However, ambiguity exists regarding compensation for the buyer if the seller lacks ownership. A landmark court decision (consensus decision of 811) allowed the buyer to claim the difference in price due to inflation (in cases of seller ignorance) based on similar goods. This decision considered principles outside the Civil Code and the 2000 General and Revolutionary Law of Civil Affairs. In English law (Sale of Goods Act 1979, Section 12(1)), the seller has a primary obligation to transfer ownership to the buyer. The aim of this research (descriptive-analytical method) is to compare remedies for a seller's wrongful transfer under Iranian law, particularly considering decision 811.The research seeks to establish a clear basis for seller liability in compensating the buyer. This would create a unified and consistent legal system for compensating damages suffered by wronged parties. Ultimately, the research aims to identify the most effective method of compensation that restores the buyer's position to pre-damage conditions. Based on the research findings, determining damages based on the price at the time of sale is found to be a suitable solution for compensating the buyer.

Keywords: *Damages, Rights of The Seller, Guarantee of Understanding, Seller, Rights of Iran and England.*

INTRODUCTION

One of the most important effects of selling is the transfer of full ownership of the product to the customer. If part or all of the merchandise is not owned by the seller and belongs to someone else, the merchandise will not be transferred to the customer and the seller will be the guarantor and responsible. The responsibility of the seller for the price received and the payment of compensations to the ignorant buyer is a guarantee of understanding. In this way, if the item is sold by someone else, the seller is the guarantor to return the money he took for the price of such work to the buyer (Katouzian, 2014: 222). In Iranian law, according to the text of Article 362 of the Civil Code, including the effects of a validly concluded sales contract, it is a guarantee of the understanding of the seller in relation to the seller and a guarantee of the understanding of the buyer in relation to the price, and the provisions of Articles 390 and 391 of the Civil Law in the fourth discussion under the title of guaranteeing the understanding of the statement It says: "If the seller is entitled to a third party and the buyer is unaware of it, the seller, in addition to the obligation to return the price received, will also be obligated to pay the compensation to the buyer. The knowledge and ignorance of the seller does not affect the responsibility for the damage caused to the buyer. In judicial practice, the interpretation of the word "compensation" was a source of controversy for a long time, and some courts considered the compensation to be only limited to the price and costs related to the seller, such as the broker's fee, and some, in addition to the costs related to the seller, they have considered it to include a decrease in the value of the price or an increase in the selling price. Finally, the Legal Department of the Judiciary announced in its advisory opinion No. 7/197 dated 02/05/1382 that compensations to the customer are basically damages and expenses incurred by the customer in the relevant transaction. such as brokerage expenses, freight and repairs and the like and does not include the increase in the price of the property. Regarding the damages caused to the customer, especially in the event that the seller is entitled to the proceeds of the sale and the delay in refunding the transaction price to the customer and the decrease in the value of the price and as a result the decrease in the purchasing power of the customer due to the inflation in the society, the procedure of the courts of justice was not very uniform and coherent and until Before the issuance of unanimous decision No. 733 dated 07/15/1391, it was still a source of disagreement among judges. Some of the judges considered the devaluation of money to be part of the damage, and some

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others disagreed that the devaluation of the money is part of the damage. Finally, in terms of issuing conflicting opinions by the courts of justice, the General Board of the Supreme Court issued a unanimous decision No. 733 dated 07/15/1391 with the content that according to Article 365 of the Civil Code, "corrupt sale has no effect on ownership". ; That is, the goods and the price still remain in the ownership of the seller and the customer, and according to articles 390 and 391 of the Civil Code, if after the payment of the price, the seller is entitled to the other party in whole or in part, the seller is the guarantor and must return the price, and in the case of the customer's ignorance Corruption is also covered by the compensation paid to the customer, and since the price was in the possession of the seller, in case of a decrease in the value of the price and it is proved, according to the application of the title of compensation in Article 391 of the Civil Law, the seller is legally required to compensate it. Unanimity decision No. 811 dated 1/4/1400 has put an end to these disputes to a large extent, because in cases where the seller is entitled to the goods and the buyer is ignorant of the existence of corruption, it is not the same as in the unanimous decision No. 733 dated 15/7/1393 of the General Board the Supreme Court of the country has also stated that the seller must be responsible for the compensation to the buyer, including the reduction in the value of the price. Whenever the price is the common currency of the country, the court will determine the amount of compensation according to the legal generalities related to the method of compensating damages, including the article 3 of the law. Civil liability approved in 1339, when necessary, by referring the matter to an expert and based on the rate of price increase (inflation) of properties that are similar in terms of type and characteristics to the one being sold. In English law, one of the most important legal sources of the sale contract is the Sale of Goods Law approved in 1979, which replaced the 1893 law. In paragraph 1 of article 2 of the aforementioned law, the sale contract is defined as a possession contract. According to the mentioned paragraph, the contract of sale is: "a contract in which the ownership of goods is transferred to the customer in exchange for an amount, or the seller agrees with the customer to transfer the ownership of the goods to the customer in exchange for an amount." The recent contract is called an agreement on sale. Although the aforementioned agreement is included in the definition of the contract of sale, its provisions are different from the contract of sale. According to Clause 4, Article 2 of the said law, in the sale agreement, the parties agree on the transfer of ownership of the goods in the future or subject to the occurrence of a condition in the future. One of the most important obligations of the seller is his obligation to transfer the ownership of the goods to the customer. According to Clause 1, Article 12 of the Law on the Sale of Goods, the seller transfers the ownership of the goods to the customer during the sale contract, and in the sales agreement, the seller undertakes to transfer the goods to the customer at the appointed time. If the goods are owned by the seller and no one has a right to the goods except him, then the ownership is transferred to the customer as a result of the sale contract (Yacoubi Mahmoodabadi and Amini, 2018: 117).

In Iranian law, according to the philosophy of unanimity, which is to end different interpretations of the law; But unfortunately, the decision of the said unit of procedure could not decisively eliminate these interpretations and ambiguities, and the unanimous decision of the said procedure itself has caused confusion and we are still witnessing the division of opinions that compensation for the compensation to the buyer should be done by paying the daily price or by paying The price difference based on the inflation index? What does the Supreme Court mean by price compensation? Is it meant to pay the transaction price based on the inflation index of the central bank or the daily price of the property based on referral to an expert? And if an ignorant customer goes to the judicial authorities to request compensation for his losses at the daily rate, the court can, using the regulations and laws in the country, charge the seller in addition to paying the price received and the opportunities that were lost for the ignorant buyer during this period. condemn him to pay more amount than that on the basis of devaluation of currency and increase of inflation rate and increase of selling price compared to the time of transaction or not? In this article, he tries to investigate this issue and analyze this issue in the laws of Iran and England.

Deserving of The Proceeds of the Sale

If the sale is valid and valid, either the seller must be the seller of the owner, or the owner must be authorized in advance, or the owner's guardian or guardian, otherwise the transaction will not be valid and valid, but it is an example of a nosy sale and needs the owner's permission. Therefore, if someone sells someone else's property (whether he sells it for himself or for the owner) and the owner of the property does not allow the

transaction, he can take that property from the buyer, and the buyer, in the event that the seller is entitled to income from the sale, can refer to the seller and take back the price from him, of course, this type of transaction is often done by usurpers. (Tahiri, 2012: 113). Therefore, when a part of the goods sold goes to a third party, in this case, the single contract is divided into valid and invalid contracts due to the plurality of transactions (the rule of dissolution of a single contract into multiple contracts) and the seller's share is valid and the buyer's share is valid. will be invalidated, and the seller will be obliged to reject a part of the price that is placed in front of the sold item belonging to someone else, and the buyer, if he is unaware of the other's entitlement to the seller, can cancel the sale with respect to the entire sold item. (option of dividing the transaction) and in this case, the seller will be required to reject the entire price, so the basis of the warranty for the part of the sale that is owed to the third party is the same as the case where the entire sale is owed to the third party. In the civil law, the guarantee of understanding refers to the case where the seller becomes entitled, in other words, the ownership of the seller is not transferred to the buyer due to the ownership of the property (Hosseini Moghadam and Rabati, 2021: 201).

When the seller is not the owner of the property, and the original owner did not sign the transaction, the sale becomes due to someone else and is taken from the buyer. As a result, the seller is the guarantor of the seller, and the meaning of the guarantee is the exchange guarantee. In this regard, the civil law says: "If after the receipt of the price, the whole of the sale or the penalty is due to the third party, the seller is the guarantor, even if the guarantee has not been declared", "In case the third party is entitled to all or part of the sale, the seller must pay the price of the sale." and in the case of the buyer's ignorance of the existence of corruption, the seller must also be responsible for the compensations received by the buyer", and it is also applied in the case of receiving an intercession after the valid sale has taken place and the effect of which is the transfer of ownership of the sold item from the seller to the buyer. This issue comes to mind that if the seller belongs to someone else, who is the guarantor of the seller's understanding in front of the intercessor, and is the seller's or the buyer's responsibility to guarantee the understanding? Article 817 of the Civil Law stipulates: "In front of a partner who owns by the right of intercession, the buyer is the guarantor of the understanding, not the bailee, but if at the time of intercession, the object of intercession has not yet been given to the customer, the intercessor will not have the right to refer to the buyer." had". (Arabshahi Kazir, 2018: 112).

The Basics of Guaranteeing Understanding in Iranian and English Law

The guarantee of understanding means the responsibility of each seller and customer towards the other party's income from the sale and the price. In this section, we will examine the basics of the guarantee of understanding in Iranian and British law.

In Iranian Law

According to paragraph 2 of article 362 of the civil law, the guarantee of understanding of the works of sale is that it has been done correctly. The aforementioned article stipulates: "The effects of a valid sale are as follows" and then in paragraph 2 of the same article it is stated: "A contract of sale makes the seller the guarantor of the understanding of the goods and the buyer the guarantor of the understanding of the price" and then in the fourth topic, under the title "Guarantee of understanding", he has talked about the related materials in detail about the guarantee of understanding. In the drafting of other articles of the Civil Law, the same legal basis has been followed, including Article 708 of the Civil Law, which stipulates: "The person who is the guarantor of the sale, in case of cancellation of the sale due to reduction or option, is released from the guarantee. According to the above article, as a result of the sale contract, the seller will be the guarantor of the sale. The seller (warranty) has also disappeared, and as a result, this obligation (warranty) that was placed on the guarantor due to the guarantor contract will also be canceled and the guarantor's liability to the buyer will be discharged (Katouzian, 2023: 290). The guarantee contract was valid and valid for a period of time, and then due to the disappearance of the cause of debt, this legal entity (guarantee contract) has ended, and on the other hand, the issue of cancellation or cancellation will always be a valid contract because a void contract has no legal existence. Therefore, according to the above two points of the provisions of 708 BC, it will be as follows: "Third party guarantee of the seller's obligation to understand the price (guarantee) is also valid, assuming the correctness of the sale, but if the sale contract is canceled or revoked for any reason. The warranty contract is also considered

terminated and the guarantor's liability is also discharged, and the customer must refer to the buyer. This ruling can't be justified except by accepting that the guarantee of understanding of the works of sale is valid, because if the guarantee of understanding of the works of sale is corrupt, the guarantee of it (the guarantee of understanding) will be one of the examples of the guarantee of "mal lem yajb" assuming the authenticity of the sale. which the civil law declared invalid. Some of the civil legal commentators have attributed the provision of the above article to the famous saying of Imamiyyah jurists and considered the guarantor's acquittal to mean that "guarantee" does not include cancellation or cancellation (ibid.: 299).

I understand you want me to keep the text unchanged. Here it is:

As it can be seen, the civil law considers the warranty of understanding as a result of the sale to be valid, therefore, the third party's guarantee of this obligation, even in the assumption of the validity of the sale, did not consider it as a guarantee of the debt that was not caused by it, and therefore considered it to be valid. While the Imami jurists, since they consider the guarantee of understanding as one of the corrupt effects of the sale, therefore, in the assumption of the authenticity of the sale, they have considered the guarantee of the understanding of the sold as one of the examples of the guarantee and ruled to invalidate it. The provisions of Article 708 of the Civil Code have no jurisprudential basis, and here the legislator has followed his own basis, which considers the guarantee of understanding from the works of sale to be valid. Also, in the last part of Article 379 of the Civil Law, which stipulates: "...and if the seller is bound to give a guarantee for the understanding of the sold and does not fulfill the condition, the buyer has the right to cancel". Otherwise, it will be legally impossible to fulfill the condition, because according to the above article, the seller is obligated to return the price to the buyer in the event of the sale being due to the third party. (obligation to reject the price) introduced by the guarantor, now if the guarantee of the understanding of the effects of the sale is not considered valid and the seller's obligation to return the price is due to the corruption of the sale contract, then if the price is never due to the third party, the seller will not have the obligation to reject the price and give the guarantor In order to understand the sale, considering that there is no debt or obligation in this case (assuming the sale is correct), it will be void (the guarantee will be "must be obligatory", and according to Article 691 of the Civil Code, the guarantee of a debt that is not caused by it is void and therefore the implementation of the condition will be impossible (Amirmohammadi, 2015: 305).

In the end, it can be concluded that the civil law has followed two conflicting bases regarding the guarantee of understanding. Because in some articles of the civil law, the guarantee of sale is considered as one of the effects of sale, and in other articles, the guarantee of understanding is considered as the effect of sale of corruption. This shows that there is a conflict between jurisprudence and civil law in this case. But it seems that the stronger opinion is that the guarantee is to understand the effects of the sale, because the corrupt sale has no effect on the property.

The Basis of Guarantee of Understanding in English Law

In comparative law, the purpose of imposing compensation and reparation for damages is to bring the victim of a loss due to a corrupt transaction to the state before the damage, but not in a way that increases his property. In fact, civil liability has not been established so that business and profit can be obtained from that place. The purpose is only to restore the customer's situation to the time before the damage occurred. In other words, the "compensatory nature" of paying damages is important and desirable.

This is what is supported by natural law and many international conventions, including the 1980 Convention on the International Sale of Goods. The introduction of damage assessment methods such as "alternative transaction" and "current market price claim" at the time of termination of the transaction in Articles 75 and 76, in pursuit of the same goal of compensation for damages with the intention of restoring the economic situation of the affected party.

Prohibition of interest acquisition in civil liability is justified in English law. Civil liability, whether in its general sense in terms of responsibilities and violations arising from the contract, or in its specific sense in terms of legal and non-contractual requirements, pursues only one main and important goal, which is to compensate the victim and restore his status to It is the time before suffering and entering the damage. This goal has a territory

and scope that closes the chapter of any other demands and expectation of excess from the affected area. In other words, civil liability is the possibility of claiming damages from the person who caused the loss, it is not a means of obtaining profit. This system is only compensatory and repairs and erases the damage, but does not add anything to the amount of damage suffered. A look at the rules governing civil liability in the legal system of foreign countries such as England also confirms this opinion. There, this topic refers to this basic point with the title that "the claim of benefits is not covered by the legal regime". (Harvey, 2018: 65) According to this theory, the principle of compensation requires that if the claimant's loss, which is caused by committing a quasi-criminal act or civil liability, has been reduced in some way due to the funds received from collateral and other sources, the same The responsibility of the perpetrator of the harmful act is reduced and mitigated. This phrase means that even if the victim is able to claim and cover his loss from other sources such as insurance in addition to the cause of the loss, this does not mean that he can still receive the equivalent of the damage and compensation from another source. Just like the insured, he should also demand from the injured party. But in practice, this theory led to significant problems in England, which was caused by opposing arguments and protests. English courts had to deal with these opposing opinions for decades.

In England, one of the most significant legal sources governing sale contracts is the Sale of Goods Act approved in 1979, which replaced the 1893 legislation. Article 2, paragraph 1 of this Act defines a sale contract as a contract where the ownership of goods is transferred to the customer in exchange for an amount, or where the seller agrees to transfer ownership of the goods to the customer for a price. The latter arrangement is termed a sale agreement. While both fall under the umbrella of sale contracts, they differ in their regulations. According to Clause 4, Article 2 of this law, parties to a sale agreement may agree on the future transfer of ownership, contingent on certain conditions. The subject matter of a sale contract can either be an existing product in the seller's possession or a future product to be made or acquired.

Obligations arising from sale contracts are categorized into two groups: material and non-material conditions. As per paragraph 3 of Article 11 of the Sale of Goods Act, breach of material obligations allows the aggrieved party to terminate the contract, whereas breach of non-material obligations only entitles the party to claim damages.

One of the primary obligations of the seller is to transfer ownership of the goods to the customer. As stipulated in Clause 1, Article 12 of the Sale of Goods Act, the seller effectuates this transfer during the sale contract, or in the case of a sale agreement, must transfer ownership to the customer at the specified time. When the goods are owned by the seller with no conflicting claims, ownership is transferred to the customer upon the sale contract.

It is not imperative for the seller to be the owner of the goods before transferring ownership to the customer, as indicated in Clause 1, Article 12 of the Sale of Goods Act. Additionally, in a sale agreement, the seller may never become the owner of the goods, such as when desired goods are transferred to the customer through a third party. Breach of Clause 1, Article 12 grants the customer the right to cancel the contract or claim damages.

Clause 2 of Article 12 mandates that the seller guarantees the goods are free of encumbrances and can be controlled by the customer without interference. In instances where an item is sold without the owner's permission, the subsequent buyer may face legal repercussions. For example, a buyer who purchases a product under a possession condition may believe they have the right to sell it by continuing installment payments. If it later transpires that the initial seller lacked the authority to sell, legal disputes may ensue among the involved parties, with the resolution typically involving the payment of remaining installments by the initial seller (Yacoubi Mahmoodabadi, 2018: 119).

The response to the aforementioned assumption in our law differs. If the seller is not the owner at the time of the transaction, subsequent ownership does not affect the transaction's status, as stated in Article 254 of the Civil Code: "Whenever someone transacts with respect to property and it is subsequently transferred to a third party, the mere acquisition will not influence the previous transaction.

Seller's Responsibility for Price Rejection "Nosy," in this context, refers to someone who engages in futile or interfering activities without reason (Moin, 2007: 1081). Legally, it also denotes a person who, without

authorization, deals with property belonging to another or in the care of another, conducting a transaction (Mahregh Damad, 2023: 107). One essential condition for the validity and effectiveness of ownership contracts, including sales, is that each party must own the property at the time of transfer to the other. Article 247 of the Civil Code stipulates: "A transaction with property, other than a lien, bequest, or power of attorney, is not valid, even if the owner is internally satisfied. However, if the owner or his agent allows it after the transaction, then the transaction is deemed correct and valid."

Various types of nosy transactions occur due to the intent of the transaction for oneself or the owner. It's possible for a nosy seller to sell someone else's property as their own, either knowingly or ignorantly. Although there are differences in some opinions regarding presumptive rulings, according to jurists, all these cases can be categorized as nosy transactions. Thus, a nosy transaction is one conducted without the owner's permission or legal representation by someone with legal capacity, intentionally, knowingly, or in ignorance, for oneself or the owner (Jaafarian and Pour Mohammad, 2018: 15).

If someone sells another's property without permission, and the owner doesn't enforce the transaction, the customer has the right to demand a refund from the seller. If the customer is aware of the nosiness of the sale and still proceeds with it, they are entitled to demand the price only if it remains with the seller. If the price is lost, they cannot demand the principal. Additionally, if the owner has derived benefits and incurred damages beyond returning the property, the customer (Alam) cannot demand these damages from the seller since they were aware and the losses resulted from their own actions. Therefore, whether the customer is aware of the transaction's nosiness or ignorant, they do not have the right to keep it for free, and if the price remains available, it should be refunded (Haeri, 250: 1993).

Sometimes, the seller may sell property belonging to someone else. If the real owner is later identified and refuses to acknowledge the transaction, some jurists argue that if the original price remains intact, the buyer has the right to request a refund from the seller. This is because there is no legal basis for the transfer of ownership of the existing price from the buyer to the seller unless a valid sale has occurred between the parties. Since a void sale does not affect ownership, the customer can reclaim the original price" (Novin, 2011: 256).

However, if the buyer is aware of the other party's entitlement, some jurists argue that the buyer does not have the right to demand a refund from the seller (Shaheed Sani, 1992: 172). Another group of jurists, however, distinguishes between scenarios where the original price remains intact and when it is lost. They state: "If the original price is destroyed, and the buyer is aware of the other party's entitlement to the seller, the buyer cannot request a refund from the seller. In this case, the buyer's action effectively transfers ownership of the price to the seller" (Sheikh Ansari, 1994: 145).

If the customer is unaware of the void nature of the sale, regardless of whether the seller is aware of their lack of ownership or remains silent, and the customer conducts the transaction based on the appearance of the seller's possession, the customer is entitled to reject the price and reclaim whatever they provided to the seller. This includes the original price or its equivalent, as well as fulfilled and unfulfilled interests. Additionally, the customer has the right to demand compensation for any defects created during their occupation of the property. Even if the seller has benefited from the price, whether or not they have utilized these benefits, the customer has the right to demand reimbursement from the seller. This is based on the principle of "Al-Maghroor Yarjaj Ali Man Ghareh" (Asgharzadeh Banab, 2021: 333).

In conclusion, the seller's guarantee (Qaida Ali Al-Yid) requires that the buyer can request a refund from the seller in all cases, regardless of whether the buyer has a right other than the seller's and regardless of whether the original price remains intact or is lost. This is because the validity of the sale does not affect ownership, and according to the principle of Ali Al-eed, the seller's guarantee is relative to the received price.

In English law, a person who sells goods without ownership rights is referred to as a "non-owner seller" or a "prisoner." This individual transfers goods to a third party without the owner's permission, position, or consent (Atiyah et al., 2010: 368). In this legal system, one of the most significant examples of unauthorized representation is the void transaction, governed by the principle of "Nemo dat quod non habet." This principle, emphasized in Article 21 of the Sale of Goods Act 1979, protects property rights by stipulating that if goods

are sold by someone who is not their owner and who lacks the authority to sell them, the buyer does not acquire better ownership than that held by the seller, unless the owner behaves in a manner that conceals the seller's inability to sell.

The second principle aims to protect commercial transactions. According to this principle, a person who purchases a product in good faith and without knowledge of the seller's lack of ownership, at its normal price, is entitled to legal ownership. Therefore, conflicts arise between confirming and protecting the owner's right to their property on one hand and safeguarding the interests of the buyer who acquired the goods in good faith on the other hand. For this reason, exceptions have been introduced to the "Nemo dat" rule, which will be discussed below. Exceptions to the rule of void sales, among the exceptions to the rule of unauthorized agents, include:

The rule of estoppel: If the original owner, through their words or behavior, leads the buyer to mistakenly believe that the unauthorized seller actually has the right to sell the goods, the original owner cannot claim the nullity of the contract (Bryan, 2004: 54).

According to Article 2 (1) of the Agency Law of 1889, a commercial agent who possesses the goods or their ownership documents with the owner's consent, even without the authority to sell, can validate the transaction if they act according to the usual procedures of a commercial agent and the buyer is in good faith and unaware of the agent's lack of authority (Treitel, 2003: 2003). The same applies to a seller or possessor in continuous possession of the goods or their ownership documents, provided the buyer acts in good faith and is unaware of the seller's lack of authority.

When a sale is made based on a legal authority with the order of a competent court, the legal provisions of the sale of goods, including the lack of ownership by the seller, do not invalidate the contract. Also, according to Article 23 of the Sale of Goods Law, when a seller transfers ownership of the goods to the buyer under a contract that cannot be legally revoked, a buyer who purchases the goods in good faith and without knowledge of the seller's ownership defect becomes the rightful owner.

According to Article 22 (1) of the Sale of Goods Law approved in 1979, if goods are sold in a public market in accordance with market customs, a buyer in good faith is entitled to ownership, even if the seller is not the owner. The same applies to a bona fide buyer purchasing a motor vehicle under a lease with an ownership condition (Brik, 2002: 6).

Unanimous Decision No. 811 of the Supreme Court introduces the concept of guarantee of understanding in Iranian law. This occurs when a transaction is deemed invalid because the seller is entitled to a third party, and the original owner rejects it while the seller has already received the transaction price. In such cases, the civil law designates the seller as the guarantor of understanding and requires them to refund the full price. If the customer is unaware of the seller's entitlement to the other party, the seller must compensate the customer. Articles 390 to 393 and Paragraph 2 of Article 362 of the Civil Code address the guarantee of understanding.

According to the unanimous decision of the Supreme Court No. 733 of 1393, the decrease in the value of the monetary price is one of the compensations the seller must provide to the customer. Regarding the method of compensation, two procedures were debated between the Supreme Court and Talley; one based on the general index of inflation and the other in the form of subjective inflation until the Supreme Court decided to compensate for the decrease in value in the form of subjective inflation in unanimous decision No. 811 (Judicial assistant of the Supreme Court of the country in public affairs, 2021).

Unanimous ruling No. 811 of the Supreme Court, which can be seen as issued due to differences in opinions among the courts regarding the provisions of unanimous ruling No. 733 of the General Board of the Supreme Court, appears to offer a better solution for compensating the buyer in cases where the buyer is entitled to the sale. The general board took into account the opinion of the second branch of the Court of Appeals of Kurdistan Province, which presented a forward-looking legal argument showing concern for the economic consequences of the decision and compensating the victim. This demonstrates the courage of the judges of the said branch in presenting an argument against prevailing practices.

In a part of the decision of the second branch of the Court of Appeal of Kurdistan Province, it is stated that the compensation for the decrease in the value of the price should be based on maintaining the value of the price according to the daily price, and the court must issue a compensation order considering how much money the customer should add to the price in order to be able to repurchase it. The difference between the original price and this new price can be claimed as damages due to the decrease in the value of the price.

Regarding the effects of guarantee of understanding in the relationship between the buyer and the owner in the laws of Iran and England, it is raised when the transaction price has been increased due to the buyer's work and the owner wants to claim it. Thus, questions arise: Does this work have no legal value and is it not respected because it was done on someone else's property? Should there be a distinction between a person who buys someone else's property in good faith, believing the seller is the real owner, and one who colludes with the seller in illegal possession, or are both considered the same according to the law, and no good faith can protect property damage?

Article 393 of the Civil Law addresses all these questions and stipulates: "Regarding the excess resulting from the buyer's actions in the sale, the provisions of Article 314 will apply." In this manner, the buyer is deemed a usurper in any case and cannot claim wages for the work they did not perform. However, if the increase resulting from the buyer's work has an independent existence, such as tree fruits or statues installed in the garden, it belongs to the buyer. Otherwise, any increase in the selling price connected with the sale will revert to the owner. If the buyer was unaware of the corrupt sale, they can seek compensation from the seller based on Article 391 of the Civil Code (Fazi and Asadeghi, 2019: 31).

To summarize, if the transaction price increases due to the buyer's actions and the owner wishes to annul the sale, Article 393 of the Civil Code dictates that if the increase stems from separate objects (e.g., tree fruits), it belongs to the buyer, but if it is connected, like the fatness of a sheep, the buyer's action is akin to usurpation and merits no reward.

The Sale

Return of the Sale

The buyer of someone else's property, if they receive the sold item despite the corruption of the transaction, is considered a usurper, and their ignorance of the property's true ownership does not absolve them of responsibility. The civil law treats a corrupt contract similarly to usurpation in terms of the effects of illegitimate possession, and distinguishes between true usurpation and pseudo-usurpation. Article 308 states that using someone else's right constitutes aggression, and proof of possession without permission is considered usurpation. Despite this, both the usurper and the true usurper bear the same responsibility. After a third party claims ownership, the buyer must return the item to the rightful owner. Article 259 stipulates that the possessor is the guarantor of the object and its benefits, and rejecting the transaction does not diminish the buyer's obligation, even if it entails expenses or hardships (Jalali Mehr, 2015: 54).

Excessiveness Other than the Object of Sale

According to Article 366 of the Civil Code, anyone who profits from a corrupt sale must return the money to the owner. This rule does not grant any entitlement to the buyer, and the contract is void in all cases. The seller is considered a guarantor if a third party is entitled to the goods, and they must return the selling price. If the buyer is unaware of the corruption, the seller is responsible for compensation incurred by the customer. These provisions also apply in the case of seized property, and if the buyer is unaware of the usurpation and the true owner demands it, they can seek compensation from the seller. If the buyer is aware of the usurpation, they have the right to claim the price amount (Javadi, 2023: 21). These provisions are also applicable in the transaction of the seized property, and "if the buyer is ignorant of the usurpation and the owner has appealed to him, he can also appeal to the seller for the price and damages, even if the sale has been lost to the buyer himself." If the buyer is aware of usurpation, "he has the right to refer to the amount of the price".

One of the most common and serious issues in this regard concerns the rights of the parties in a corrupt sale, which we will examine below:

According to Article 365 of the Civil Code, a corrupt sale does not affect ownership.

Based on Article 365 of the Civil Code, many legal authorities consider such transactions invalid, and numerous rulings have been issued by relevant authorities in this regard, which we will refrain from mentioning to avoid delay.

Now, in cases where the sale is nullified due to the rights of a third party, three situations arise: a) Both parties must sell to others. b) Both parties are unaware of the rights of others. c) The buyer is unaware that the seller is not entitled to sell.

In the last scenario, the seller is responsible for guaranteeing the legitimacy of the transaction and must: first) refund the price regardless of the buyer's awareness, and secondly) compensate the ignorant buyer for the canceled sale.

Due to the increasing number of contemporary jurists addressing inquiries such as: "In a corrupt transaction where the buyer is unaware of the true owner, and years later, if the true owner rejects the transaction after prices have increased significantly, without the buyer having spent any additional money on the transaction: A- What is the amount guaranteed by the seller in refunding the price? The amount at the time of the transaction or at the time of payment? B- Is there a distinction between the buyer's awareness and ignorance in this case? C- If the seller is liable for the transaction price at the time of the transaction, and there is a significant difference between the transaction price and the refund due to inflation, can the seller be held liable for this difference and other damages? D- Can the buyer refuse to accept the transaction price and demand the delivery of another item of equivalent quantity and quality?

The majority of jurists believe that a seller involved in a corrupt transaction is only responsible for refunding the amount received, without considering damages or currency devaluation (inflation). Therefore, there is no distinction between the buyer's awareness or ignorance (Ayatollah Mirza Javad Tabrizi, Ayatollah Seyed Ali Sistani, Ayatollah Safi Golpaygani, Ayatollah Mohammad Fazel Lankarani).

According to legal principles, a buyer may improve the property through possession, thereby increasing its value. For instance, buying land and preparing it for farming, constructing houses, sewing clothes from purchased cloth, or milling purchased wheat can all increase the value of the property obtained through a corrupt contract.

In this context, Article 393 of the Civil Code states: "Regarding the excess resulting from the buyer's action in the sale, the provisions of Article 314 shall apply." Article 314, which falls under the category of usurpation, stipulates: "If, as a result of the usurper's action, the value of the usurped property increases, the usurper shall not have the right to demand additional compensation..."

Examination of the Object of Sale

In the implementation of the guarantee of understanding in the relationship between the buyer and the owner, it arises when the transaction price increases due to the buyer's actions, and the owner wishes to reclaim it by referring to him. This raises the question: Does the buyer's work have no legal value because it was performed on someone else's property? Shouldn't there be a distinction between an ignorant customer and a knowledgeable one?

In response to this question, it should be noted that there are certain aspects to consider: If the increase resulting from the buyer's actions in the sale has an independent existence and is separate from the sale itself, such as the fruit of a tree, produce of the land, or a statue installed in the garden, then regardless of the buyer's awareness, this surplus belongs to him and cannot be claimed by the seller.

Sometimes, the increase caused by the buyer's actions, while contributing to the increase in the selling price, is independent of the sale itself. For example, if a buyer equips a car with an air conditioner, plants a tree, or installs a fence around a property. In such cases, after it is established that the goods belong to another party, the owner cannot reclaim these specific items by returning the goods, and the buyer can separate them from

the goods. In this scenario, Article 314 of the Civil Code specifies that unless the surplus is real property, it belongs to the usurper.

A clear example of this situation, as also mentioned in the law, is when land is purchased, and the buyer sells trees or plants from it. If the seeds and roots belong to the buyer, then naturally, the product also belongs to them.

In Article 33 of the Civil Law, it is stated: "The produce obtained from the land belongs to the landowner, whether it grew naturally or through the landowner's actions, unless the produce is not derived from the original seed or grain. In such cases, the tree and the produce belong to the owner of the original seed or grain, even if planted with the landowner's consent."

Payment of Damages to the Owner

It is possible that during the buyer's possession of the item, the owner suffered damages. For instance, if the item was a vehicle and the buyer's possession caused the owner to lose income, the buyer may be liable for compensating the owner for such losses. Similarly, if the item was a piece of land, and the buyer's possession resulted in damages to crops or structures, the buyer may be responsible for compensating the owner for these damages.

In this context, due to the illegal possession of another person's property, which is not naturally protected by the law, and the no-fault responsibility imposed on the possessor, they are obliged to compensate the owner. However, the scope of the buyer's obligation to compensate should be clarified. What expenses should the owner be reimbursed for, and in other words, what constitutes compensable damages?

Regarding the damages incurred by the owner, these include expenses such as the preparation of official documents, broker fees, maintenance costs for the property, legal fees, and also the decrease in the value of the transaction price. However, an important and debatable issue not explicitly addressed in legal texts is the decrease in the value of the transaction price due to delays in refunding the customer after the transaction corruption is revealed. This reduction in purchasing power for the customer is a significant concern. Now, the main issue is how to compensate for this damage.

Types of Damages Incurred by the Customer in Case of Third-Party Entitlement in Iranian and British Law

In Iranian Law

If the owner rejects the transaction conducted by the buyer who is unaware of the seller's third-party entitlement and seeks recourse to the customer, if the property is still available, it should be returned. If it is lost, it should be replaced (with an equivalent property or compensation) by the customer. If the property generates income or benefits, the owner has the right to claim these from the customer based on ownership rights. Additionally, besides the transaction price, can the customer seek compensation from the seller for other incurred damages? Articles 391 and 263 of the civil law use the term "compensation" broadly.

Dr. Emami elaborates on the damages an ignorant buyer can claim from a seller in cases of usurpation or sale cancellation. Some examples include:

The difference between the contract price and compensation paid to the owner in case of damage to the object of sale.

Remuneration for benefits received by the owner during the possession period by the customer.

Necessary transaction costs like brokerage fees, document preparation, taxes, etc.

Costs for maintaining and protecting the usurped property.

Legal costs and damages incurred from legal proceedings initiated by the owner against the ignorant customer.

These compensations can be claimed based on causation. Moreover, the ignorant buyer can seek reimbursement from the seller for expenses related to document preparation, broker fees, property maintenance, transaction price preparation, legal fees, and damages resulting from delays.

The damages incurred by the customer are as follows:

Costs of Concluding

The Sale To finalize a transaction, the customer typically accrues various costs, which are not limited and can vary widely. For instance, these costs may include the expenses of the buyer's travel until the contract is concluded and ownership is transferred, the broker's fee, legal advice costs to ensure the buyer's peace of mind, expenses related to preparing official documents, costs associated with determining the transaction price and maintaining it, appraisal costs, and more. Such damages must be compensated by the seller, without a doubt, because the seller is the cause of the buyer's involvement. Essentially, the seller has misled the buyer by presenting themselves and creating confidence in the buyer, leading to the buyer incurring expenses to finalize the contract. Therefore, based on the principle of fairness and confirmation, these damages are compensable.

Compensation for Sale Interests

Article 392 of the Civil Code stipulates that if a third party is entitled to the proceeds of all or part of the sale, the seller must refund all or part of the received price, even if a reduction in price occurs after the sale contract due to any reason. This is because a void contract does not affect ownership, and as per Article 366, the seller must refund the received price to the buyer. The reduction in price in the sale belongs to the owner, and they cannot demand it as compensation from the seller because the seller was not the cause of it. If the reduction in price is due to the buyer's actions, Articles 328 and 331 of the civil law hold the buyer responsible.

Similarly, if the buyer's actions lead to a price increase in the sale, Article 393 of the Civil Code applies the provisions of Article 314 regarding usurpation. According to Article 314: "If the value of the usurped property increases due to the actions of the usurper, the usurper cannot demand a higher price unless the increase is tangible, in which case the excess property belongs to the usurper." This is because the buyer's actions on the property are unauthorized by the owner. However, if the buyer is unaware that the sale is to the detriment of another party, they can demand compensation from the seller for their actions, as per Article 391 of the Civil Code.

The guarantee of understanding applies when the seller is a foreign entity or acting on behalf of one. In such cases, the guarantee of understanding is considered. However, in general sales, where the responsibility lies with the seller, the guarantee of understanding does not apply. In these instances, the seller is obligated to deliver the property that belongs to the owner or to whom it is authorized to deliver. If it is later discovered that the property belongs to someone else, the seller is deemed to have not fulfilled their obligation, and the obligation remains intact.

Additionally, Article 261 of the Civil Code states: "If the seller gives possession to the buyer, and if the owner does not consent to the transaction, the buyer is liable for the principal property and its benefits for the period it was in their possession, even if they did not derive any benefits."

According to the aforementioned ruling, when the owner rejects a questionable transaction, they can reclaim from the buyer not only their property but also any benefits derived from the property, tangible or intangible. In this sense, even if the buyer is unaware of the rights of the other party, they are treated as a usurper because, in jurisprudence, a party involved in a void contract is considered a usurper. The buyer can also recover the price paid to the seller once the seller's entitlement is proven. However, does the buyer have the right to demand reimbursement for the benefits provided to the owner? And if so, can both tangible and intangible benefits be claimed?

Examining Iranian law, it can be argued that the opinion of recent jurists is more justified theoretically. This is because the seller has empowered the buyer over the property, allowing them to utilize it apart from the financial transaction, and the buyer has purchased the goods with trust and confidence in this authority. The buyer, assuming legal ownership, does not intend to pay additional money beyond the price as compensation for the

benefits received from the seller. Therefore, the seller has effectively entrusted the buyer with these benefits, and if the owner demands the property and its benefits, the buyer can also refer to the seller's deception and claim the benefits of the goods.

The Iranian Court has adopted a similar stance in ruling No. 83-14/1/17, Branch 4, stating: "In cases where the buyer is unaware of the voidness of the transaction, the seller is liable for compensations and damages incurred by the buyer, regardless of whether a formal guarantee has been made. The benefits demanded by the owner from the third party in the event of a sale are considered compensations and damages, subject to legal provisions governing this matter." (Nikfar, 1998: 94).

In this provision, the exchange of interest is not bound to acceptance or rejection, and there is no indication that it can be revoked through any of the aforementioned methods. Consequently, the ignorant buyer, after paying the owner, can demand from the seller compensation for the damages caused to him, in exchange for both tangible and intangible benefits.

Other Damages

In the Civil Code of Iran, certain articles explicitly or implicitly recognize the principle of guarantee of understanding in sale transactions. Conversely, other articles within the same legal framework introduce this principle in cases of void contracts, including Article 391 M, which states: "If the seller is entitled to receive all or part of the proceeds of the sale, they must refund the sale price, and if the buyer is unaware due to the voidness of the sale, the seller must also compensate the buyer."

In this article, "voidness" refers to the invalidity of the sale. Therefore, according to this provision, if a sale is invalidated due to the seller's entitlement to a third party, the seller is obligated to refund the price (guarantee of understanding). If the buyer is ignorant of the transaction's voidness, the seller must not only refund the price but also compensate for any losses. Thus, this article acknowledges the guarantee of understanding arising from the voidness of the sale and the nullification of the transaction.

In English Law

Under English law, a buyer can claim damages from the seller regarding third-party ownership rights (entitled to the seller's income) if the buyer has not terminated the contract. According to Articles 11, 12, and 53 of the Sale of Goods Act, selling goods without the owner's permission constitutes a breach of a fundamental condition, entitling the buyer to terminate the contract. However, the customer can, if he sees fit, consider the violation of the mentioned condition as a non-essential condition violation and demand damages instead of canceling the transaction. (Robert Clark, 2011: 98) Of course, jurists believe that according to the judicial procedure in cases of sale of property without permission, it is not possible to claim damages, they said in the statement of the relationship between paragraph 1 of article 12 and paragraph 4 of article 11 of the sale of goods law. The provisions of paragraph 4 of article 11 is that if the buyer accepts the goods, he can no longer reject it due to the violation of the basic condition by the seller, but must be demoted from the role of the basic condition to the non-essential condition violation (warranty) stage. and initiate a lawsuit to claim damages. On the other hand, in the case file of Rowland against Devel, it is said that the provisions of paragraph 4 of article 11 prevent the buyer from recovering the full price from the seller and he is forced to claim damages through a lawsuit. However, the relevant court did not accept this theory and argued that in this case, since the seller did not have the right to sell the goods, therefore, basically, the sale did not take place, so that the violation of the condition in that shipment becomes unsubstantial, and the issue of claiming damages is raised. Therefore, regarding the relationship between paragraph 1 of article 12 and paragraph 4 of article 11, basically it cannot be applied to the violation of the condition of paragraph 1 of article 12. Judge Eskin declared in that case that based on the theory of non-fulfillment of sale, it is difficult to sell goods without a license. which even obtained a non-essential condition (obligation) in that law (P.S. Atiyah. Op.cit, p 110).

As a result, according to English legal experts, if the condition outlined in paragraph 1 of Article 12 is violated through the unauthorized sale of third-party property, the sale contract remains unfulfilled, and no obligations are created. Consequently, the buyer can claim damages instead of terminating the contract. This principle

applies not only to the condition of paragraph 1 of Article 12 but also to other fundamental conditions specified in the Sale of Goods Act.

Opinions Issued by the Courts Regarding Decision 811

At the judicial level, there are evident ambiguities in interpreting legal provisions related to guaranteeing understanding and compensation. The term "compensation" encompasses remuneration received by the customer from the original owner and other resulting damages. In its insistence decision No. 3572 dated 12/26/42, the Supreme Court branch of the country stated: "The court's argument regarding the rejection of the third-party lawsuit is flawed because, as mentioned in a prior judgment of the Court of Interior, compensation includes remuneration received by the customer from the original owner and other damages. In this case, regardless of the remuneration, the court should investigate and comment on the damages claimed as a result of the corrupt sale."

Various courts have issued differing rulings on the payment of monetary compensation, considering factors such as the decrease in the value of money. Some courts advocate paying the monetary price according to the index rate, while others suggest determining it based on the seller's expertise or the real daily rate. Another group, suspecting usury in charging an amount exceeding the price, has only ordered the return of the contractual price. For instance, the 21st branch of the Court of Justice, in ruling No. 619/12 dated 11/7/1372, found the first court's decision to demand an excess amount from the negligent seller as having a judicial objection and ruled to overturn it.

In cases involving the seller's entitlement and the buyer's ignorance leading to corruption, as per articles 390 and 391 of the Civil Code, the seller is liable for compensations, including price reductions. The Supreme Court's unanimous decision No. 733 dated 7/15/1393 specifies that if the price is the country's common currency, compensation is determined according to legal principles related to compensating damages, including Article 3 of the Civil Liability Law approved in 1339. This decision is mandatory for all judicial and non-judicial authorities in similar cases, as per Article 471 of the Criminal Procedure Law approved in 2013 with subsequent amendments and additions.

Regarding the petition of Mr. J. M. and i. Z.Z. To you M. BC requested to demand the price of the transaction at the daily rate, according to the opinion of the official expert, due to the other's claim, amounting to fifty-one million Rials, including all legal damages, according to the contents of the case, considering that a paragraph of a strong promise in the case implies the sale of the disputed property by the defendant to the plaintiffs, and also According to the inquiry made by the Rabat Karim Property and Deed Registration Department under number 6086, which is confirmed in the file, it implies the sale of property by the defendant, and also considering that the defendant did not attend any of the meetings and did not make any objections or defenses, according to the theory of the official judicial expert, which is based on the circumstances. The case is in agreement, the value of the said property is seven million rials per square meter, equivalent to seven hundred thousand tomans, and a total of forty-nine million tomans, so the court has entered the plaintiff's claim based on articles 198, 515, and 519 of the Civil Procedure Law and articles 10, 219, 220, 390, 391, 1286, and 301 of the Civil Law, while declaring the transaction void of the contract dated 6/22/82. On the conviction of the defendant to pay the price of the property subject of the above affidavit, based on the theory of the strong expert in the case, in the amount of forty-nine million tomans, and also to pay the court fees for the reason of the conviction, the judgment issued in absentia and within the deadline of twenty days from the date of notification can be appealed in this court and after that within the deadline of 20 The applicant can be appealed to the Court of Appeal of Tehran province.

Regarding the petition No. 920260 of the second branch of the Baharistan Law Court, which includes the rejection of the appeal and the confirmation of the provisions of the petition No. 930260, which condemns the appellant to pay the amount of four hundred and ninety million Rials plus the cost of the documented proceedings, according to the expert's opinion, as the daily rate of the property subject to the guarantee of the sale of the property, the court has decided Considering the contents of the case and considering the provisions of the unanimous decision 733-15/7/93 of the General Board of the Supreme Court, which declared that in the assumption of guaranteeing the understanding of the seller, the customer is entitled to receive the price plus

the damages caused by the decrease in the value of Riyals, and considering the provisions of the sale The ordinary letter dated 6/22/82, which mentions the price of the transaction in the amount of eight million tomans, the court, based on Article 358 of the Law of Procedure and Articles 391 and 392 of the Civil Code, considering that the assumption of the seller's understanding of the property of the seller has not been established, which has the right to It is a dispute, and the customer has the right to review the price in accordance with the provisions of the aforementioned unanimous decision. Therefore, in violation of the protesting petition, the order to reject the first lawsuit claiming the daily price of the property is issued and the court's decision is final.

In the filing of Class 0100818 case, since the criterion of the calendar time of the damage caused is not stated elsewhere in the rules governing civil liability, the order to compensate the damage according to the price at the time of the execution of the order is consistent with the general principles and legal logic of civil liability and the principle of full compensation is. In addition, the mentioned criteria will prevent the abuse of profit seekers causing losses; Why, instead of encouraging them to cause double damage by delaying the payment of damages, it will make them think of paying it immediately.

Based on this, it can be said that the judicial procedure has moved in the same direction as the criteria for the calendar of damages, as in the case of the payment of dowry, it has been considered in the "execution time of the judgment". Regarding the concept of damages in Islamic law and sources, it includes all losses and damages caused to individuals, and it includes all means of coercive guarantee, except for the legitimate claim that is caused by permission, and it even includes the compensation of the property, except for the compensation of the property. It will be legitimate from resignation; Because in all cases, except for the mentioned exception, the proverbial reward is essentially within the title of "damage".

According to the ruling No. 123 dated 13/80/1400 of the respected branch 253 of the Tehran General Court of Law, the seller must bear the damages to the buyer, including the reduction of the price. If the price is the common currency of the country, the court will determine the amount of compensation according to the legal generalities related to the way of compensating damages, including the head of Article 3 of the Civil Liability Law approved in 1339, if necessary by referring the matter to an expert and based on the amount of price increase (inflation) of the property that in terms of type and the similar attributes are the same as the seller, and the subject is outside the scope of Article 522 of the Law of Procedure of General Courts and the Revolution in Civil Affairs approved in 2000. Accordingly, the decision of the second branch of the Court of Appeal of Kurdistan province is recognized as correct and legal to the extent that it is in accordance with this opinion. According to Article 471 of the Criminal Procedure Law approved in 2013 with subsequent amendments and additions, this decision is mandatory for the branches of the Supreme Court of the country, courts and other authorities, whether judicial or otherwise, in similar cases.

Decree No. 500555-17/8/1394 of the fourth branch of the General Court of Saveh, which was issued in approval of the request document No. 13/2/1394-500073 of that branch with unanimous decision No. 733-93/15/7/15 of the General Board of the Supreme Court. No compliance. Because the said unanimous vote with the right to alienate the seller and the sum of the conditions stipulated in Articles 390 and 391 of the Civil Code to "decrease the value of the price"; In other words, the seller is obliged to pay "the price of the transaction at the daily rate"; is. But the judgment of the court regarding the payment of "the fair price of the property"; have been. Secondly: Whether the amount agreed upon in the affidavit dated 9/18/81 has been fully paid by the buyer or not? It is not clear. Based on this, the investigation conducted was incompletely diagnosed and documented according to paragraph 5 of article 371 of the civil procedure law and paragraph "a"; Article 401 of that law, the appeal document requesting the violation and retrial is referred to the same court that issued the invalid decision.

CONCLUSION

The guarantee of understanding means the duty of the snitch in the contract of indemnification of the snitch to return the wrongfully obtained property and compensate the damages caused to the principal. This obligation is not specific to the sale or sale and the price, and it can be imagined in any compensation contract concluded

by the spy, despite other conditions. In many cases, those who create a voyeuristic contract do not have the real idea and intention to create a contract of guarantee of understanding with the original, and without knowing the reality of being voyeuristic, they make a transaction, and based on this, they intend to create a guarantee and an implicit agreement for There is no guarantee of understanding. However, this famous expression that the guarantee of understanding cannot be collected with the validity of the contract is not correct, because regardless of whether the guarantee of understanding is fulfilled by the owner before the execution or rejection of the fraudulent transaction, the fraudulent contract may be enforced, but the price is collected by the fraudulent. Do not enforce. Even if it is not specified in the guarantee, the law obligates the voyeur regardless of the consent of the parties.

In English civil law, one of the main obligations of the seller is "warranty". According to Article 1625 of the Civil Code of England, "the guarantee that the seller has in front of the buyer includes two issues: first, the peaceful possession of the seller and second, hidden defects or defects that cause the right to cancel". In this sense, the seller is the guarantor of the buyer's enjoyment of unopposed and peaceful possession of the goods and also guarantees the absence of hidden defects in it. Following Article 1625, the Moqqan elaborated on the cases mentioned in the aforementioned article and presented the obligations of the seller to guarantee the peaceful possession of the buyer in Articles 1626 to 1640.

In English law, it is a guarantee to understand the obligation that has been placed on the promise of the other contracting party in order to ensure the possession and peaceful use of the object surrendered to another, even in the assumption that the disturbance in the transfer is caused by the act of a person. Not a carrier.

Before the issuance of unanimous decision No. 733 dated 7/15/1393 and the civil law, in accordance with Islamic jurisprudence, the voyeur is considered the guarantor of the return of the price and the compensation of the customer in case the customer is ignorant of the voyeurism of the transaction. Most of the advisory opinions that have been issued by the legal department and compiled by the judiciary consider the customer as entitled to the original price including contract costs and litigation damages as customer compensation. Some of these opinions have referred the interpretation of compensation to the courts. The practice of the courts has not reached unity in this regard and some customers were considered entitled to the original price and damages for late payment with the addition of contract damages. Some others considered the customer to be entitled to the damages of the contract, including the equivalent of the value of the sale on the date of the examination as the price.

According to the consensus decision No. 733 dated 7/15/2013, it is understood that the decrease in the value of the price in the form of money can be compensated in the case of the wrongful act of the sale and the customer's ignorance of the corruption of the sale. In the aforementioned unanimous decision, the General Board of the Supreme Court considered the decrease in the value of the price as an example of compensation and considers it claimable in the assumption of ignorance of the customer; However, it seems that what the seller pays in addition to the original price is not for damages, nor is it usury, but he pays the same thing that he was engaged in while receiving the price of his obligation. Therefore, the seller must actually pay a part of the same price and is in the position of fulfilling the principle of his debt, although the nominal amount of money at the time of payment is more than the nominal amount at the time of obtaining the price, but the purchasing power and real value of both are the same. . In the latter point of view, there will be no difference between the knowledge and ignorance of the client and the restrictions such as the demand of the creditor and the ability of the debtor, which is stated in Article 522 of the Law of Procedure of Public Courts and the Revolution in Civil Affairs. The criteria for calculating currency devaluation in the unanimous vote is the same indicator announced by the Central Bank; A criterion that has already been accepted in the supplementary note to Article 1028 of the Civil Code regarding dowry.

In English law, one of the most important legal sources of the sale contract is the Sale of Goods Law approved in 1979, which replaced the 1893 law. In paragraph 1 of article 2 of the aforementioned law, the sale contract is defined as a possession contract. According to the mentioned paragraph, the contract of sale is: "a contract in which the ownership of goods is transferred to the customer in exchange for an amount, or the seller agrees with the customer to transfer the ownership of the goods to the customer in exchange for an amount." The

recent contract is called an agreement on sale. Although the aforementioned agreement is included in the definition of the contract of sale, its provisions are different from the contract of sale. According to Clause 4, Article 2 of the said law, in the sale agreement, the parties agree on the transfer of ownership of the goods in the future or subject to the occurrence of a condition in the future. One of the most important obligations of the seller is his obligation to transfer the ownership of the goods to the customer. According to Clause 1, Article 12 of the Law on the Sale of Goods, the seller transfers the ownership of the goods to the customer during the sale contract, and in the sales agreement, the seller undertakes to transfer the goods to the customer at the appointed time. If the goods are owned by the seller and no one has a right to the goods except him, the ownership is transferred to the customer upon the sale contract.

It seems that the legislator has also given a coercive basis to the guarantee of understanding and the civil liability arising from it, and therefore, in Article 362 of the Civil Law, he has considered the mentioned guarantee as one of the effects of a valid sale.

In English law, one of the most important obligations of the seller is his obligation to transfer the ownership of the goods to the customer. According to Clause 1, Article 12 of the Law of Sale of Goods, the seller transfers the ownership of the goods to the customer during the contract of sale, and in the sales agreement, the seller is obliged to transfer the goods to the ownership of the customer at the appointed time. If the goods are owned by the seller and no one has a right to the goods except him, the ownership is transferred to the customer upon the sale contract.

In English law, the claim of damages from the seller by the buyer regarding the claim of third party ownership (entitled to the seller's income) is possible when the buyer has not terminated the contract. Because according to Articles 11, 12 and 53 of the Sale of Goods Law, selling goods without the permission of the owner is a violation of the basic condition and causes the right of termination for the customer. However, the customer can, if he sees fit, consider the violation of the mentioned condition as a non-essential condition violation and demand damages instead of canceling the transaction. Of course, jurists believe that according to the judicial practice in cases of selling property without a license, it is not possible to claim damages, they said in the statement of the relationship between paragraph 1 of article 12 and paragraph 4 of article 11 of the Sale of Goods Law, the provisions of paragraph 4 of article 11 are as follows If the buyer accepts the goods, he can no longer reject it due to the violation of the basic condition by the seller, but must be demoted from the role of the basic condition to the non-essential condition violation (warranty) stage and initiate a lawsuit to claim damages. slow So, instead of calling the depreciation of cash value as compensation, it is better to consider it as the compensation of the original price due to the special nature of money.

According to the mentioned contents, it can be said that the decrease in the value of the price, both in terms of contractual liability and external liability from the contract, can be explained by the theory of the necessity of paying the exchange value of money instead of its nominal amount. In this case, there is no rotten thali. Also, all the rulings related to cash can be coordinated with the note of Article 1082 of the Civil Code. Therefore, it is better to consider the decrease in the value of cash as a compensation, considering it as the compensation of the original price due to the special nature of money, which is more efficient than any other theory in cases such as guaranteeing understanding.

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