



QUID 2017, pp. 2095-2100, Special Issue N°1- ISSN: 1692-343X, Medellín-Colombia

**THE PRINCIPLE OF GOOD WILL IN THE IMPLEMENTATION CONTRACT BY COMPARATIVE
STUDY IN EGYPTIAN CIVIL LAW**

(Recibido el 23-06-2017. Aprobado el 27-08-2017)

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Abstract: Good will has a complex concept .In Egyptian law, Egypt's Civil Code stipulates in good will in the execution of the contract. In the part that is related to contract associated primarily civil law Egypt's other works to the good or bad faith . In Iranian law, although different rules are based on some provisions required to comply in good will in the performance of the contract. But accepting it as a rule of thumb is doubtful. In this paper, it has been discussed the status of good will in the perspective of law enforcement contract in Egypt, France and Iran .

Keywords: good will, contract enforcement, the law of Egypt

1. INTRODUCTION

Business growth and diversification in the field of domestic and international transactions and it is the emergence of world imperialism in the context of economic globalization, the complexity of the business relationship between the parties. In such circumstances good will has been known as a rule binding in various stages of contract. Nearly countries with written rights placed in this group.

Many Islamic countries such as Egypt has followed this matter and it is recognized stipulated a "bona fide" in civil law while civil law in our country doesn't mention to "goodwill" . A different opinions raised on the legal principle and conflicting stories to be attributed Jurisprudence. Investigating to lawyers and legislators view on the principle of good faith from the beginning to now shows the tendency to accept the Iranian law. Since e-commerce law passed in 2003 explicitly mentioned before the legal term for crawling over it into law, judicial procedures and areas of our laws up and then forced to accede to the markets and the effects of various judicial procedures unpredictable in this regard to correct legislation and in accordance with Islamic rules . It is already ,can be seen a comprehensive legal study undertaken to correct legislation and in accordance with Islamic rules in this regard,.

1.1. The purpose of the "principle" of the principle of good will

About the meaning of the word "principle" here, there are four hypotheses, it would be mentioned them here briefly. This argument is used as a demonstration of good faith as a foreign issue.

1-Legal hypothesis: There may legislator in cases where the individual assumes materials in good faith and its framework is based on the respective interests, as the case.

2.The legal jurisdiction: The laws of some countries as a legal jurisdiction accepted in good faith and for approving it, it has been said that the principle of good faith, Article 2268 French Civil Code says:

"Goodwill on the property is supposed and the person who cites malice (awareness of legal defects at the time of possession) must be proved it. " It is required to possess, assume good faith. The other side, which

he attributed to bad faith must prove his claim. Article 965 of the Egyptian Civil Code says: "It is given in good faith constantly, can be considered the legal presumption of good faith of Appearance and the emergence of the principles of legal authority to conduct the wise and legal way.

So good behavior and speech is convincing evidence of their true intentions. For example, individual control over property ownership marker appearance, or speak seller of the product is indicative of the apparent health. Sheikh Ansari on ways to prove the ignorance of swindle at the expense of states' "the person who is affected admit evidence, and promising contender with the right hand proves your ignorance, because of lack of knowledge on the principle of necessity reigns. Sheikh Ansari says about the ways of proving ignorant insanity: "The admission of the negation, the binet, and the promise of the claimant proves to such a degree of ignorance, because the principle of non-science is governed by the principle of necessity. If he is an outsider and is not aware of the price, his promise will not be accepted "

This phrase is based on the appearance and principles of operation in the repository and the acceptance of the role of ignorance.

3- Jurisprudence: Good faith can be judged as an official.

4. Practical principle: sometimes doubts exist or lack of good faith, we must refer to operating principles in cases of doubt. Given that goodwill has two distinct and independent aspects, it can be based on two practical principles. First: the theory of non-knowledge, and second: the principle of innocence. Because goodwill has been interpreted in some cases to ignorance and lack of knowledge and since the forbearance of ignorance of the realization of the guarantee in the law of the receiving countries is the principle of good faith, one can be considered to have been taken away. So, goodwill can be as a proof of it as a foreign subject matter, of course, good faith is also used as a verdict in the form of proof in which case it is a commitment and commitment that obliges the parties to comply with it.

2. RESULT AND DISCUSSION

2.1. Egyptian rights

Egyptian civil law also states good faith in the implementation of the contract. In the chapter on the effects of the contract, it was first mentioned in Egyptian civil law has caused other effects on good or bad faith, some of which are as follows:

1. Creating a constraint for the customer who claims to be inadequate and intends to refer the seller to the seller in good faith and to remove the restrictions if there is a general misconception.

2. Good faith condition for cancellation of the wrong contract (Article 124 of the Egyptian Civil Code).

3. In accordance with article (2/150) of the Egyptian civil code, consider the common intention of the parties but the nature of the transaction, trust and mutual trust are also in keeping with the current custom of trading, in this article, it has not been well-intentioned, but the words "Amanat and Thraqt" are used in Egyptian law as equivalent.

4. Subject to article (2/139) of the Egyptian civil law, the right to enter into an agreement with third parties in good faith is not prejudiced. The materials of the Egyptian Civil Code refer specifically to good faith, such as: Sermons that have forbidden the "fault" of "fraud and abuse" and "harm to others".

5. Material of the Egyptian civil code is implicitly referred to as goodwill. Sermons that have forbidden the "fault" of "fraud and abuse" and "harm to others". Good faith in all contracts, such as betraying, is good for good intentions. Among other things, "good faith leads to the implementation of all contracts"

As detailed in the Egyptian Civil Code, the following is said: "Good faith shadows all contracts in all stages whether determining the subject of the contract (interpretation of the contract) or how it is executed. Blanjoyl and Bolanjiyah say: The judge, as he forbids, is instructed in the formation of marriage. The barrier is fading. In the stage of its implementation, the confusion and faint are the name of an action with the difference that the deal is related to the creation and development of the contract and the fault is used at the time of its implementation. "

Many countries have taken good note of the role of contract enforcement and have explicitly stated it in the law. Including paragraph 3 of Article 1134 of the Civil Code of France, paragraph 2 of article 1 of the

Civil Code of Japan, article 1, paragraph 2, of the Swiss Civil Code, Article 242 of the Civil Code of Germany, Clause 2 of Article 1134 of the Belgian Civil Code and Article 2 of the Turkish Civil Code and Article 148 of the Egyptian Civil Code. In the language of the jurisprudents, there are phrases used in conjunction with the formulation of the contract, which is in fact the observer of the contracting stage, such as: "If the authority of the lawyer is limited to the implementation of the contract, the assembly will not be fixed for the contractors", On the implementation of the contract of interpretation, such as: "the performance of the worker ", "the performance of the Bamtatzat al-Aqad ", " al-Wafa bmovjab al-Aghd ", " al-wafa al-Aqat ", are of great use.

For example, Sheikh Tusi interprets the refusal of a person to surrender his mortgage, to refrain from welfare due to the contract.

In legal texts written in Arabic and the laws of countries such as Egypt, they interpret the implementation of the treaty as "enforcing the law." and many works titled "Hassan Eleniyeh Fatih Tanafiz Alaghud" have been written in this field. Article 1134 of the French Civil Code provides: Contracts that are in conformity with the provisions are for the parties in the law. Article 148 of the Egyptian Civil Code follows with a slight difference in the text of the French Civil Code and provides in this regard:

It is obligatory for the contract to be executed in accordance with the contract and in a manner consistent with what is goodwill. And the contract is not limited to the obligation to comply with the terms of the contract, but also the supply of goods. In accordance with the law and custom and justice in accordance with the nature of the commitment, but the Iranian legislator when ratifying the Civil Code, the head of Article 1134 has been included in two Articles 10 and 219 of the Civil Code. It is obligatory for the contract to be executed in accordance with the contract and in a manner consistent with what is goodwill and the contract is not limited to the obligation to comply with the terms of the contract, but also the supply of goods ,according to the law and custom and justice in accordance with the nature of the commitment, but the Iranian legislator when ratifying the Civil Code, the head of Article 1134 has been included in two Articles 10 and 219 of the Civil Code. However, the invocation of the third paragraph does not refer to the principle of good faith. This seems to be due to the fact that in the jurisprudence of God and as if this principle was not accepted by the

Iranian legislator. In the description of the article, Semoeira writes: "The draft law on civil law in Egypt was such: The law has drawn between two criteria, the first is the intrinsic criterion, the consistency of which is intentional and the other is the material criterion and its reliance on the custom, and the German legislator chose it and the Sheikh's House removed it by arguing that the public would consider us goodwill from the second criterion. While this argument is not correct, because it does not require our standard of material materiality. And this criterion is in the implementation of all current contracts, contrary to the Romanian law, which considers it in some of the current contracts and they are construed by "Contrats de bonne foi "or "raids of Hassan al-Niya" in contrast to that they call "contract law" (Contrats de droit strict) or "negotiable contracts"

Examples of good faith performance in the Egyptian law are: Electricity will select the shortest possible route in the contract, and the carrier is obliged to transfer the goods from the proper direction to the owner of the load and for good faith, it has taken into account the award and the punishment. For example, a debt that does not have a bad faith in defaulting on your debt and on the other hand, the underlying obligation has the responsibility of contracting an unpredictable loss at the time of the conclusion of the contract, If the failure to perform the contract is due to a major fault or error¹and there are contracts that require the good faith to be implemented like the co-operation requirement between partners in the company's contract, even the law permits the liquidation of the company in case of disruption of partners.²

Even the law permits the liquidation of a company in case of disruption of partners.³

In the insurance contract, the insurer is obliged to cooperate in the declaration of incidents during the course of the contract, and in the event of an accident, the work of the body will endeavor to reduce the loss of the insurer's obligation⁴

And requires the customer to disclose the defect within a reasonable period of time to the seller and the tenant can not forbid the landlord from

Egyptian Civil Code, 570 ¹

French Civil Code, Article 1871, and Egyptian Civil Code ² 530-531.

French Civil Code, Article 1871, and Egyptian Civil Code ³ 530-531

French law of July 13, 1930, Articles 17, 19 and 21. ⁴

performing urgent and necessary repairs to maintain the same property.

2.2. The principle of good faith and protection of ignorance

Some lawyers divide goodwill into two kinds of support and counsel. And they believe that someone who practices legal action is ignorant or mistaken and imagines that his action is in accordance with the law or is being deceived or deceived and legitimate lawmakers support him in the face of the detrimental consequences. This kind of goodwill is not ethical virtue, because if the subject did something good or bad in a state of ignorance, mistake in matching, inactivity, distress, or negligence. It is not worthy of admiration or denunciation, that is to say, the benefactor does not arise. However, since this person's actions are not due to his misconduct, he is protected by law, such as: The taking of an unreasonable person in other than his obligation to compensate for the loss of the right to claim maintenance costs and the like is not fair. Therefore, from the point of view of the rights of some countries, such as France, goodwill and misconduct are considered as one of the grounds for the mistaken effect of contracts.

A) French Civil Code

In French law, willfulness is the main source of obligations and it takes all its power. Principle is the reciprocity of the contract; therefore, the will must be wise and free. Under the influence of the theologians of the theology and the church, they believed that the deal should be in accordance with morality, as a result, firstly, it is supported by the victim's ignorance and mistake and so the wrong theory of the title of Reza is reflected as one of the essential conditions of the contracts in the 1109th article of the French Civil Code.

The article states: "If Reza is caused by a mistake, reluctance or seclusion, it is not valid in any way" and Article 1117 states: "A contract based on error, reluctance or legal regulation is not void, (Noori, Mohammad

Such a contract only gives the wrongful right to request a cancellation or termination of the contract " Famous French lawyers have divided the effects of ignorance and misconception into contracts into three parts. First: A mistake in hindering: There is a case where there is a misunderstanding between the two sides, and each one understands another's purpose in the wrong way. Such a mistake destroys Reza and

prevents the conclusion of the contract and thus invalidates the contract and it's in three cases:

Mistake in the nature of the contract. The mistake is in the person whose character is most significant. Mistake due to commitment. In French law, this kind of mistake is related to legal doctrine and judicial procedures and French civil law has been mistakenly missed as an obstacle to the outcome of that absolute void. Second: Mistake as a defect of will: This kind of mistake that causes relative void, not absolute void, that is, the two parties are in the form of the contract and the subject of the transaction and the direction of the commitment achieve to the agreement but their satisfaction stems from the false idea that they have come to true the mistake in the subject of the transaction or in the party that came about 200 BC, and Article 1110 has raised them. Third: ineffective mistake: this kind of mistake does not inevitably harm the intention and cause, for example, these can be mentioned as ineffective errors: Mistake in non-essential aspects, on the part of the party whose personality is not significant, mistaken in the person's motives and means of engagement, miscalculation, and so on.

B) Egyptian Civil Code

The word "ignorance" and its derivatives have been used eight times in Egyptian civil law, including Article 965, which states: "Whoever takes a right while not knowing that this right is from another, If this is due to a serious and serious error, it will be considered goodwill " And instead of the mistake they use the word "false" and seventeen cases are cited in the Egyptian civil code. In Civil Code, the title of the "contract of marriage" Article 89 raises the question of Razna Reza and Article 120, which considers the mistakes referred to as void and Article 121 expresses the following meaning and misconception: When an error is so serious that if this mistake does not occur, consumers refused to close the marriage, and in particular the mistake in the essential characteristics of the object, the nature of the marriage and the descriptiveness of its essential features, Article 124, which states: "Misleading should not be in conflict with what goodwill requires" .This article is one of the uses of the right to abuse the right to abuse (tyranny, self, bullying, oppression) is in use right. The falsehood, like rejection and reluctance, are considered to be defective, and refer to two terms according to French law. The mistakes and constraints of both of Reza's shortcomings are shared at one point, and that they have an illusion that they are motivated to make a contract and the point of differentiation is that they do not play a role in the

mistake of the contracting party contrary to each other, each one has to be in a position to pursue a void of contract. There is also a fundamental difference between the gut and the ghost, a catalyst that motivates the person to contract and at the same time as the formation of the marriage, but the fault is that after the marriage .

C) Civil Code of Iran

From the perspective of legal action against so-called jurists, legal events, legal actions are things that people will arise and the legal effects they will have the same function or in other words, the sequence of the actions of works subject to the will and intention and subject intended the legal conclusion (intended results) and if emerged, its effect is going. Therefore said that the definition of "Legal action is voluntary work that the legal effect comply with what the subject will. "

So, in its definition, "legal action is voluntary work whose legal effect corresponds to what the subject wants "or" declares the will or "declaring a will to create a certain legal effect." and the law also has an effect on it. According to this definition, "will" and the creation and declaration of that essence form legal action. Hence, another group in the definition of legal practice states that "any act of induction is a legal act". This definition expresses in particular the threefold legal basis for civil rights. In contrast, this is a legal event whose legal effects are not the result of a person's will, but a law whether it is a deliberate creation (such as usurpation and loss of non-material possessions) or involuntary (such as the death and birth of a person) and incidental events, therefore, do not have any effect on the legal event. The status and impact of ignorance and mistakes in Iran's civil law can be divided into three categories: A mistake in the transaction sometimes leads to void and sometimes also leads to the lack of influence of the contract and in some cases also gives them the right to cancel, and sometimes they are not effective in marriage and do not create a right for the party.

3. CONCLUSION

3.1. Errors and ignorance of the causes of nullity or lack of influence

Article 194 of the Civil Code says: "words, gestures and other actions by its dealers, traders are willing has to agree so that the parties accept the same contract that the other party hope it is going to have a great deal that will be null and void " .We read in Article 353: "Whenever certain things to be sold as

gender specific and in fact is not the kind of transaction, is void and to the rest of the client's right to terminate "

Mistakes in the wrong issue of transaction and ignorance is one of the clearest effect of the transactions.

Despite the 199 and 200 of the wrong order about the issue of transaction or the satisfaction of the wrong interpretation implied as "the lack of penetration".

3.2.Errors and ignorance lead to termination authority

Iranian Civil Code is an important part of the effects of ignorance and Iranian Civil Code is an important part of the effects of ignorance and error-legal acts in the form of "cucumber" raised error-legal acts in the form of "authority" and to the injured party has the right to terminate the transaction such ignorance and mistakes in the price and value of transaction that deals with lesion option and confusion caused by the failure or misrepresentation, etc. Works of deception and confusion are different, except where your mistake messing with the subject of the transaction or the party to the transaction the termination of the contract or not traded, while the misrepresentation that induced the other party the right to terminate.

3.3. Inert wrong

This kind of mistake doesn't enter a hurt to satisfaction absolutely , as a result, neither void a contract nor anything else . As an example would be pointed out to these items as ineffective mistakes: So non-essential mistake in the contract that his character is not major, wrong incentives and superfluous person at the conclusion of the transaction, miscalculation and more. Article 201 provides: "mistake in party, does not impair the validity of the transaction unless in cases where the protagonist, is a major cause of marriage."

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