

EVALUATION OF MOVABLE PROPERTY OWNERSHIP OF RIGHTS IN IRAN

Dr.Ali Faghih Habibi¹

Abstract

The presence of foreigners in any country certainly has effects and consequences will be many problems. These types of problems can legally leave of their own work and in the community. Among these cases and problems arising from the presence of strangers under different names in each country, can be found in the areas of: employment of foreigners, trading and sales, etc., can be mentioned. On the other hand governments interact with each other are forced to accept foreign nationals on its territory and the aliens - If the merchant or service provider industry inevitably tough case to places for business and your home will need ... The A study of movable property ownership of rights and Iran's effective solutions.

Keywords: of property, movable property, ownership.

¹Faculty Member Department of Law, Meymeh Branch, Islamic Azad University, Meymeh, Iran.

Introduction:

According to Article 19 of the Civil Code: ((objects that carry it from one place to another is possible without having to enter or location of the failure, it is real))

According to Article 20 of the same law: ((All liabilities such as loans, same price, sales and lease leasehold is movable with respect to the Courts in order ...)) So the definition of immovable property in Article 19 of the Civil Code and defined in detail task instances that might be doubtful in Articles 20, 21 and 22 of the Civil Code to come.

So what about foreign ownership of real property, we'll be outside the scope of this material. But in terms of special features some of the assets or rights that are equivalent to movable property or real property rights, it is necessary to consider each of these separately. In recognition principle and, except in the case of movable property, the civil law by Article 8 ((immovable property and be silent about this matter ((assets)) as exceptions do not see foreigners' rights and legislative activities as stated in the law of silence Act of 1310 (the above) it can be concluded that the principle of the freedom and permit foreign ownership of movable property and rights in its judgment in case contrary meaning is clear.

Today, with advances in communication science, technology and international trade and commerce intensive competition may be replaced by legal entities or natural persons for commercial companies, cartels and trusts and associations of economic and non-profit institutions, whether they. A: corporate shares

The provisions relating to foreign companies and the conditions of registration in Articles 3 to the Companies Registration Act 1310 Hijri And Articles 2 through 23 Registration of Companies Act 1310 Hijri statute law enforcement. And the registration of the branch or representation of foreign companies approved in 2001 is predicted.

Here we registered foreign companies or their branches in two brief outline of it.

Before the Islamic Revolution

Registration of foreign companies and branches to represent them before the Islamic Revolution in accordance with Article 4 of the Law on Registration of Companies Act of 11 Persian date

Juan 1310 solar subsequent amendments and 2,6,7,9 observance of the law and the regulations implementing Articles 1 to 24 law on registration of Companies Act 1310 with subsequent amendments took place 2nd of June. There is no prohibition for registration of foreign companies and also recorded separately for registration of foreign companies or foreign company branches or agencies of foreign companies specifically not registered

After the Islamic Revolution

Article 81 of the Islamic Republic of Iran's constitution provides: ((concessions formation of companies or institutions dealing with commerce, industry, agriculture, mining and services to foreigners is prohibited)).

However, since the adoption of the constitution of the Islamic Republic of Iran has adopted a law allowing foreign companies to its executive, practically Companies Registration Office for registration ((branches of foreign companies)) also refused. constitution were numerous problems for ministries and public institutions were contracted by foreign companies creates, on the executive branch of the Guardian Council to inquire into with regard to Article 3 of the registration of companies ...

According to the provisions of the Law Concerning allow registration of the branch or representation of foreign companies, the Council of Ministers regulation law enacted in Article 10, and after the release of provisions shall finally registration permit issued by foreign companies in Iran and the Companies Registration Office must these companies were registered.

1. Approved 01/February/2000 After recording a foreign company registered Hiram must admit it is signed by the Director General of documentation. Statement includes important points will be certified and the company name, type of shares and partnership and so on, the main center and its citizens, the amount of capital at the time of application, at what location at what date registered in their country of origin and the What kind of jobs will be in the industrial or financial, registration date and number in Iran is clear.

1. Summary of the company's charter,
2. Name Major representative in Iran and if some independent representative name them all,

3. Name of persons who have authority to sign on behalf of the company,
4. names of persons who were residing in Iran and to receive all communication related to the Company are qualified, if a foreign company has branch as well

company registration offices be established, demand registration of the branch will be in accordance with the declaration that transcription certification authority for the registration of companies in Iran and its annex to be a branch manager, then will attempt to register a branch in Tehran. In both ads a branch of the records relating to the branch, where the branch is established will be sent. To run the same ad in the local newspaper or circular also publish a location record. Iranian foreign companies can operate in the following areas:

1-offer after-sales services of foreign goods.

If foreign companies to sell goods or services to Iranian persons undertake to provide after-sales service can apply for registration of the branch or representation of foreign companies to accept it.

Executive.

2-operation agreements signed between Iranian persons and foreign companies. The start of operations and contracts concluded between Iranian individuals (natural persons or legal entities, both public and private) and foreign companies foreign party may request the registration of the branch or their representatives.

3-examine and prepare the ground for foreign companies investing in Iran.

First, it must be said that foreign companies are planning to invest in Iran can act both as follows:

3.1 In the framework of the provisions of the Law on Foreign Investment Promotion and Protection Act of March 1380 And its implementing regulations by referring to the Organization for Investment, Economic and Technical Assistance of Iran and submission of documents and obtaining approval of the Council of Ministers for Finance (1)

3.2 direct partnership with Iranian individuals and entities through the creation of businesses or shares in existing businesses.

In connection with the review and preparation for action in two cases foreign companies are able to establish a branch or agency.

4.Cooperation with Iranian technical and engineering companies to work in third countries where Iranian technical and engineering companies Foreign companies contracted to provide the necessary evidence can register the branch or their representatives will also act in Iran

Technical and external engineering projects in third countries have been selected to do Technical equipment for the construction, etc. in selected third countries and for related matters with one or several foreign companies have signed partnership agreement.

And to carry out such projects with Iranian technical and engineering companies involved in the contract can apply to register a branch or agency in Iran.

5-boost non-oil exports of the Islamic Republic of Iran and the transfer of technical knowledge and technology from foreign companies that promote exports of non-oil products such as industrial production, agriculture, crafts and ... Be active. Foreign companies to transfer technology to build products to Iranian persons drawn and factories to produce various products to transfer technology to the Iranian people that they can apply to registration of the branch and its representation in Iran.And foreign companies that provide technology industrial products, and in connection with facilities.

6. Do activities permitted by the government agencies that are legally authorized to issue such permits will be issued for the provision of services in areas such as transport, insurance, commodity inspection banking, marketing and so on.to registration of the branch and its representation in Iran apply.

Providing services in the areas of transport, including sea, air, land with permission of the relevant agencies such as the Department of Transportation Terminals is possible As well as activities in the fields of banking license from the Central Bank of the Islamic Republic of Iran is permitted, as well as other responsible agencies can issue permits in areas mentioned.

tock companies listed on the Stock Exchange

Regulations investments in foreign entities referred to in paragraph C of Article 15 of the Law on the stock exchange the Fourth Economic, Social and Cultural Rights on persons of foreign investment in the Tehran Stock Exchange 11/June/2006 adopted by the Council of Ministers, foreign investors in the stock exchange to foreign direct with the intention of making a profit and management shares that are apparently not subject to the restrictions of ten percent.

The acquisition is subject to far below demand:

- A) demand the Iranian government is not contrary to the provisions of the Covenant.
- B) demand is not contrary to Iranian law and public order of the country.
- C) the applicant's home country nationals and Iranian companies and institutions *have acquired the right to obtain at least virtually the same amount of property.*

B) bank stocks

According to Paragraph D of Article 21 of the monetary and banking more than forty percent ownership stake in any bank outside Iran can not belong to natural or legal persons, except in accordance with law.

Since foreign investors often tend to banking operations and money transfers with foreign banks and foreign banks accelerate, with the establishment of branches of foreign banks in free trade zones-Technology, the areas to ease the can accept foreign capital. 2

C. Insurers

In 1269 Hejri, the concession of a national Russian Insurance Institute named Lazar began working in insurance, but he failed to act on their commitments.

Conclusion:

Since the (ground) non-commodity production is increasing, as is the rule relied on their dominance in their soil and if this authority is shaken, the dominance of state and government will be shaken and altered sensitivity It is the government's plausible and acceptable.

Exceptional and temporary nature of foreign ownership on immovable property as a principle in our legal system remains unchangeable so:

1. None of the measures is projected to attract foreign capital, can not and should not be interpreted in a way that will undermine this principle.

2. If the foreigner as a result of transactions and their claims, the executive or judicial aspects, which are in a position to demand the immovable property is entitled to postpone the acquisition, it will be the governing principle.

So foreign creditor litigation judgment debtor Iranian located and seized property, in the absence of a buyer in the first auction, the auction can not take possession of the property itself.

Clearly, for this case, the exceptional and indeed exception to the exception, it should be clear legal solutions in terms of predicting. current civil law enforcement and the implementation of official documents, a definite solution to this problem can not be found.

3. facility that gradually foreign companies to register their branches in Iran or both, can not be a means of defusing the issue. In other words, foreign legal person, as an individual, does not have the possibility of acquisition of immovable property, even if such activities are in the field of housing. This is what determined the registration of the company and its activities, should be considered.

4- With regard to the status and position of our region and the world and all the different factors contributing to the decision, seems to be survival of the fittest is the rule in our legal system. Obviously prescribed time ownership for foreigners, according to the nature of these utilities - which is more akin to convey the same property - the opinion we can not be.

References

1. Abraham, MH, private international law, First Edition, Tehran, Sht, 1994.
2. Abraham, Muhammad, marriage with foreigners, Center for Islamic Propagation Office of Qom Seminary Press, First Edition, 1999
3. Afshar, Hassan, General Comparative Law, tea cosmos, January 1970 -Aghabakhshi, Ali, Dictionary of Political Sciences, p.
4. Amid Zanjani, AA, minority rights, topped Press, 1979.

5. Arfania, the legal status of Afghans in Iran, paper (Journal of Women's Rights, Issue 17, February 1991), p. 35.
6. Arfy Nia, Behshid, Private International Law, Volume I Agate Publishing, 1991
7. Booshehr, J., fundamental rights, front, Tehran University Press, Eighth Edition, 1976.
8. Boroujerdi, Abduh, Muhammad, legal principles in the Supreme Court, Printing Tehran, 1951
9. Consistory, Nasser, introduction of law, press Tehran University, 1974
10. Dehkhoda, Ali Akbar, dictionaries, Volume I, Third Edition, Tehran, Tehran University Press, 1961
11. Emami, SH, civil rights, Volume Four, publishing of Justice, 1992
12. Ideas of justice, Tehran, Cosmos, 1992, p 329
13. ImamFarhad, law, foreign investment in Iran, Yalda Publishing, Printing, 1995
14. Iraqi, E. and Znjbran, AJ, international law, first edition, published by the Institute of Labor and Social Security, 2007
15. JafariLangroodi, MJ, terminology rights, Tehran, treasure of knowledge, Sixth Edition, 1994
16. Khalatbary, Arsalan, private international law and conflict of laws, the first volume printing Village, Second Edition, 1316
17. Shahri, Amir Hossein, Hossein Abad, Amir, the advisory opinion of the Legal Department of Justice, Islamic Republic of Iran in civil matters, Official Gazette
18. Sheikh al-Sayed Ahmed, personal property, the first volume, Press Center, Tehran University, 1992
19. TabatabaiMokmny, M., administrative law and the Compilation of Humanities Books (Sht), First Edition, 1995.