

LEASE AGREEMENT BETWEEN RELATIVES IN ISLAMIC LAW PROCEDURE FOR DRAWING UP

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ABSTRACT

This scientific article was called "The procedure for concluding a lease agreement between relatives in Islamic law". It analyzed the legal regulations regarding rental contracts concluded between relatives. According to him, the issues of the permissible hiring of his child on a rental basis in works other than household chores, as well as the fact that the child hires his parents for rent, hiring relatives older than him for rent were discussed.

In the coverage of the topic, several of the most moderate sources were used in the Hanafi sect.

KEYWORDS: Religion, Islamic Law, Relationship, Hanafi Sect, Legal System.

INTRODUCTION

In Islamic law, the family is considered sacred. Serious attention is paid to the relationship of kinship. Factors that negatively affect this attitude are considered. Perhaps measures were taken to strengthen it. Before the arrival of Islam, the rules regarding family and social relations, like all spheres, were regulated by the traditional legal system. Whoever defended the rights of this system paid the rights of the other.

In the regulation of social relations, special attention is paid to family, fraternal relations. In particular, in the regulation of the rules regarding lease agreements, social and legal problems that may arise in society, especially among relatives, have been prevented. Because one of the main goals of the Islamic religion is to restore the established kinship, to regulate the relations between them regarding all the Sahas. Allah Almighty explained the Qur'an in Karim as follows:

وَاعْبُدُوا اللَّهَ وَلَا تُشْرِكُوا بِهِ شَيْئًا وَبِالْوَالِدَيْنِ إِحْسَانًا وَبِذِي الْقُرْبَىٰ وَالْيَتَامَىٰ وَالْمَسَاكِينِ وَالْجَارِ ذِي الْقُرْبَىٰ وَالْجَارِ الْجُنُبِ
وَالصَّاحِبِ بِالْجَنبِ وَابْنِ السَّبِيلِ وَمَا مَلَكَتْ أَيْمَانُكُمْ إِنَّ اللَّهَ لَا يُحِبُّ مَنْ كَانَ مُخْتَالًا فَخُورًا (سورة النساء / 36)

“Worship God and do not associate anything with him. And do good to parents. And also relatives, orphans, the needy, a kindred neighbor and a foreign neighbor, a companion next to you, a passenger (stranger), and those under you (dependent). Of course, God does not love arrogant and boastful people” [7; 84].

The phrase “to do good”, presented in verse, expresses a common meaning and includes spending on them, treating them beautifully, not doing evil, but acting on their rights, following the terms of mutual agreement, agreements and agreements.

The Prophet (peace and blessings of Allah be upon him) said:

عن أنس بن مالك: أن النبي صلى الله عليه وسلم: مَنْ سَرَّهُ أَنْ يُعْظِمَ اللَّهُ رِزْقَهُ وَأَنْ يَمُدَّ فِي أَجَلِهِ فَلْيَصِلْ رَحِمَهُ [4;443]

Narrated from Anas ibn Malik:

The Prophet (peace and blessings of Allah be upon him) said: “Whoever is pleased that the fast of rizqo will be wide and his life will be long, then So let him be attentive on Silai rahm(that you communicate with your relatives, that you visit them, that you sit with them and that you are always aware of their circumstances), that is, strengthen the ties of kinship”.

It is obvious that Islamic etiquette prohibits breaking the ties of kinship. Perhaps it is being explained that it is worthwhile to follow. Therefore, in the Islamic religion, it is important to follow the ties of kinship, as well as to study the rules regarding various legal relations between them, including lease agreements.

Lease agreement between parents and children. It is not permissible for a child to hire his parents for rent. Perhaps it is from his obligations that the child will take care of his parents when they reach adulthood, provide assistance in fulfilling their daily chores. Therefore, in the event that the child hires his parents for rent, they will not be forced to perform the tasks specified in the contract. Perhaps the contract will be considered invalid without the decision of the court. This is stated in the work “Muhitu-l-Burhoniyya” as follows:

“It is not permissible for a son to hire his father for rent. If an agreement is concluded between them, the father can cancel it at his discretion. At this point, the decision of the court is not required” [2;452].

Mutual agreements on social relations in Islamic law are terminated by the decision of the court. But in the event of an oral agreement or a written contract by hiring a child's parents for rent, this agreement can be terminated by the parents themselves without the decision of the court. This is a vivid expression of the protection of their rights, while being the reverence of the Islamic religion to the parents.

The hadith narrated by Jobir raziyaallahu anhu was studied in depth by the scribes. According to him, “The messenger of Allah, peace be upon him, said to a man”, You and your property belong to your father”[5;391].

The scribes expressed two different opinions regarding the judgments from this hadith. The first is that the property that the child earned as a profession is the property of the father. Because the content of Hadith testifies to this. The second is that what the child finds belongs to himself, not his father. The words of the Prophet sallallahu alayhi wasallam do not mean that the child has father possession of what he has earned [1;158].

Indeed, if the first thought is taken into account, a one-sided approach to Hadith will arise. Because the hadith says:

“You and your possessions belong to your father”. This means that the property you find yourself and your profession is the property of your father, which also means that you are the slave of your father”. This meaning is contrary to the general rules in Islamic law. Therefore, it is desirable to make a second opinion at will.

Still, in accordance with the agreement between the father and the child, the father will be entitled to the ujra mentioned in the contract if he fulfills the specified task.

When the parents of the child are life above them or with them, relatives of equal rank, that is, grandparents, uncles, uncles, uncles and aunts, as well as those whose parents replace them in the absence of life, are treated as if they were their parents. Although, in fact, the provision and care of these persons is among the universal qualities, it is highly noble that the child performs these activities as a task. Although the above verses and hadiths do not mention persons whose names are mentioned, they fall into the Darius of meaning and content, which is understood from the verses and hadiths.

Narrated from Anas ibn Malik:

The Prophet (peace and blessings of Allah be upon him) said: “Whoever is pleased that the fast of rizqo will be wide and his life will be long, then let him have mercy on Silas, that is, strengthen the ties of kinship”.

It is obvious that Islamic etiquette prohibits breaking the ties of kinship. Perhaps it is being explained that it is worthwhile to follow. Therefore, in the Islamic religion, it is important to follow the ties of kinship, as well as to study the rules regarding various legal relations between them, including lease agreements.

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The hadith narrated by Jobir raziya'llahu anhu was studied in depth by the scribes. According to him: “The messenger of Allah, peace be upon him, said to one person”, you and your mole are your father”.

The scribes expressed two different opinions regarding the judgments from this hadith. The first is that the property that the child earned as a profession is the property of the father. Because the content of Hadith testifies to this. The second is that what the child finds belongs to himself, not his father. The words of the Prophet sallallah alayhi wasallam do not mean that the child has father possession of what he has earned [1;158]. Indeed, if the first thought is taken into account, a one-sided approach to Hadith will arise. Because the hadith says, “You and your possessions belong to your father”. This means that the property you find yourself and your profession is the

property of your father, which also means that you are the slave of your father. This meaning is contrary to the general rules in Islamic law. Therefore, it is desirable to make a second opinion at will.

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When the parents of the child are life above them or with them, relatives of equal rank, that is, grandparents, uncles, uncles, uncles and aunts, as well as those whose parents replace them in the absence of life, are treated as if they were their parents. Although, in fact, the provision and care of these persons is among the universal qualities, it is highly noble that the child performs these activities as a task. Although the above verses and hadiths do not mention persons whose names are mentioned, they fall into the Darius of meaning and content, which is understood from the verses and hadiths. Perhaps, it is recommended to eat, wash, tidy up the House, deal with the upbringing of their children, and so on. In cases other than household chores, it is permissible for a woman to demand rent. About this in the work "Mabsut" it is said:

"A lease agreement will be permissible for feeding her husband's sheep, breastfeeding a child from another woman, and for work that is not part of similar household chores. Because of such works marriage will not be subject to neither fear nor judgment aspect which assumes the woman man for Reason" [9; 62]. Apparently, in matters where a man hires a woman for rent, the Urfi rules are taken into account. It will be permissible for a woman to demand all kinds of work, except for household chores, that is, rent, regardless of severity or lightness. The work "Fatavoi Tatarxoniya" says:

"It is permissible for a husband to hire a woman for rent to cover bread for sale" [3;82]. So the mistress of the household does not have the right to demand ujra for baking bread to eat, but it is permissible for her to demand a salary if she bakes bread for sale. From this, it will be appropriate for a woman to demand a ujra from her husband if he does certain chores in order to help her husband's daily income.

The fact that a woman hires her husband for rent is stated in the work "Muhitu-l-Burhoniya" as follows:

"It is permissible for a woman to hire her husband for rent. In the narration from Abu Hanifa, the mind is false" [2; 452].

The work "Fatavoi Qozixon" says:

"After the conclusion of the Act, the husband is forbidden to serve the woman. If the task specified in the contract is fulfilled, the woman will have to give the specified allowance (rent) to the person's responsibility" [6;216].

This agreement is canceled according to the decision of the court. Because in this case, a man is barred from serving his woman, since there is a meaning of insults in relation to a man. It is not permissible for a man to perform his personal services on the basis of a lease agreement, in addition to providing a woman with benefits. Still, if a man has done the agreed work, it will be necessary to give his wife the Ushr (The type of tax charged at the expense of one tenth of income) mentioned in the contract.

In conclusion, the legal basis of lease agreements between close relatives in Islamic law was studied in detail in Islamic law and became important in the regulation of social relations.

Summing up the topic in the coverage, the following can be cited;

- In Islamic law, persons for whom a lease agreement is concluded are clearly defined. They can conclude a mutual lease agreement regardless of personality, gender, social origin.
- Attention should be paid to a subtle aspect between the hiring of a father by a son. The father may own the opinion of some scribes in relation to the property of his son. For example, a parent disposes of the property of his son in some cases without his permission. This condition does not negatively affect the relationship between them. Therefore, taking into account the opinion of the above phenomena, the parent remains the one who has entered into a lease agreement within the framework of his property. This legal attitude is more than logical. Therefore, it is said that when a son hires his father for rent, the mind will be canceled by itself.
- The lease agreement between the couple does not contradict the bond of affection towards each other. Perhaps this system was taken from the fact that the husband was unfairly imposed on the spouse of the person.
- It is obvious that the analysis of the opinion of the faqihs (The religion of Islam, who is well versed in the laws and laws of Sharia) about the rental relations between parents and children, brothers and sisters, spouses and other close relatives, research on the topic based on reasonable sources and conducting explanatory work to the general public, in addition to leading to the formation of legal knowledge and skills in this area, will lead to an increase.

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