

"The Impact of the Corona Epidemic on the lessee 's Obligations in the Lease Contract"

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Abstract: This study aimed to find legal solutions to the effects of the lease contract, especially the obligations of the lessee, with an indication of the impact of the Corona epidemic on the breach of these contractual obligations in the lease contract. The descriptive analytical approach was used, so the legal texts regulating the lease contract were analysed, and the consequent obligations thereof, explaining what the jurists and commentators went to in light of the exceptional circumstances. The research showed that the Corona epidemic has caused great and unusual damage to the world, whether material or physical.

Keywords: Corona Epidemic, The Lessee, The Lease, Obligation, Debtor.

1. INTRODUCTION

The tenant is able to benefit from the rented property according to the lease contract, and thus he has benefited from the property for housing or for other purposes without incurring purchase expenses, even if the cost of the real estate is large, and that the lease contract is considered one of the most social contracts due to the great importance of the lease contract for its parties. The lessor has the opportunity to benefit from his money by investing it in a secured way, which provides him with a financial resource while retaining ownership of his real estate. The same case is for the tenant. Rent is a way to benefit from a little money and obtain the benefit of the rent when he cannot buy it because he is unable to pay its price. Therefore, the legislator has given increased attention to this contract to achieve a balance between the needs of the two parties, and also for social stability and economic prosperity as well. The effects that the lease contract entails as an obligation on the lessee are: payment of the rent, preservation of the rented property, and its return to the lessor at the end of the lease term.

And due to the spread of the Corona epidemic in 2019 in the Chinese city of Wuhan, where it spread rapidly and unprecedentedly until it reached Jordan in March of 2020, which prompted the Jordanian government to take firm measures to confront this virus along with the World Health Organization, which had sounded the alarm to announce a case emergency to confront this epidemic, and announced the implementation of Defense Law No. (13) for the year 1992, which constituted a legal shift in dealing with the epidemic, which led to a change in the legal positions of people in some contracts such as the lease contract, as the issue of the lease contract remained a matter of debate in Court corridors.

This epidemic was seen as force majeure on the one hand, as the impossibility of implementing the obligation is absolute impossibility, whether it is complete or partial in continuous contracts, and on the other hand, it did not make the implementation of the obligation impossible, but rather made it exhausting for the debtor, as he is exposed to a huge loss, because the Corona epidemic affected some contractual obligations in a direct way due to the health and security measures taken by the government.

Due to the importance of the lease contract, the Jordanian Civil Code regulated the provisions related to the lease contract from Articles (710-658), and the Jordanian legislator also issued the Landlords and Tenants Law to protect the lease contract, and although the Jordanian legislator regulated the obligations of the tenant in normal circumstances, he did not do so in exceptional circumstances.

Accordingly, we will discuss the obligations imposed on the tenant in light of the Corona epidemic, and the extent of the lessee's eligibility for rent during this period, in accordance with the provisions of the Jordanian Civil Code.

Terminology of Study

1- **Rent:** It is the lessor's conferment on the lessee of an intended benefit from the leased property for a specific period in exchange for a known consideration.

2- **Force Majeure:** It is an unexpected occurrence that is not possible to pay and makes the implementation of the obligation impossible without there being a fault on the part of the debtor.

3- **Emergency circumstances:** It is an unfamiliar or abnormal general situation or abnormal general physical event that was not taken into account by the contracting parties at the time of concluding the contract and it is not in its power to arrange its occurrence after the contracting and which results in the implementation of the contractual obligation being burdensome for the debtor so that it threatens him with a heavy loss even if the implementation of the obligation does not become impossible.

The First Topic

The Ability of the Parties to Implement the Implications Of The Lease Contract In Emergency Circumstances

The contract arranges a legal bond between its parties so that one of them is a creditor and the other is a debtor, and accordingly the creditor must do an act to stop the debtor from doing an act or transfer something, when the contract is concluded fulfilling its conditions and elements, so that the two parties to the contract must implement the obligations that arose from it. Here, we ask a question in the event that a circumstance occurs outside the will of the two parties to the contract that leads to a breach of their contractual obligation, we will clarify this by defining what the lease contract is and the Corona epidemic in the first section, then we will address the statement of implementing the obligation according to the principle of good faith and emergency circumstances in the second.

Section One: What the lease contract is in light of the Corona epidemic

It is known that the Corona epidemic occupied the world in many ways, and led to physical and material damage that we may need a number of years to compensate for, and we may find a precedent for it in similar epidemics hundreds or thousands of years ago, which caused harm to humans, as is the case we are witnessing these days, or may be more severe than we are. Accordingly, it is imperative that we address the general frameworks for it and get to know them. We will clarify our topic in this section by defining the lease contract in Jordanian law, then we will talk about the definition of the Corona epidemic in the second section.

First: Definition of the lease contract

In this section, we will present the definition of the lease contract in the language, in the civil law, and in the Jordanian judiciary. This is as follows.

1- "Lease" linguistically:

It is the reward for the work, where the compensation is in return for the work, so it is called "the reward." Also, it is intended to mean selling the benefit, so the lease is a contract of selling a known benefit, and the house tenant is a contract for a known benefit from the house, and for this reason the one who rents the house does not have the right to rent it to others because he only owns the benefit⁽¹⁾.

¹Al-Othaymeen, Al-Sharh Al-Mumti' on Zad Al-Mustnqa', Volume 10, p. 5.

2-"Lease " terminologically:

Article 658 of the Civil Code states that the meaning of lease is: "the ownership of the lessor of an intended benefit from the thing rented for a specific period in exchange for a known consideration." ⁽²⁾ So it becomes clear to us that the contract is not considered a lease contract unless it is signed on some of the things that are expected to be beneficial such as a house, a car, or a commercial store.

3- "Lease" judiciary:

The judiciary defined the lease contract as "the sale of the usufruct of the property for a known consideration."⁽³⁾ This is what was mentioned in the Jordanian Civil Code based on the text of Articles 493 and 680 of the Civil Code regarding the effects related to the delivery of the usufruct from the thing sold.

Section Two: The Concept of Corona Virus

The Corona epidemic is a fact that has an impact on the legal relationship in general, and the contractual relationship in particular, which affects the principle of "the contract is the law of the contracting parties, and from here we explain the concept of this epidemic, as we will explain it linguistically, juris prudently, and scientifically, as follows.

First: Definition of Epidemic in Language

An epidemic is every highly contagious disease that rapidly spreads from one place to another, infecting humans, animals and plants, and is usually fatal like the plague (cholera epidemic / plague). So the epidemic is the calamity that befalls money, and the money is destroyed because of it, or it is destroyed in an apparent and tangible way.⁽⁴⁾

Second: Definition of an Epidemic in Islamic Jurisprudence

Islamic jurisprudence does not agree on defining the concept of the epidemic, but in its entirety it is close in terms of content, as some Malikis⁽⁵⁾ defined it as: "a pandemic is what one cannot ward off even if one knows about it," and also: "a pandemic is a name for everything that affects and diminishes a person." It was also defined as: "what is destroyed and unable to pay, usually, a measure of fruit or vegetable after selling it."⁽⁶⁾

The Hanbalis⁽⁷⁾, Ibn Qudamah defined it: "An epidemic is every pest in which no human being is made, such as wind, locusts, and thirst...", and it was also defined: "A pandemic in which no human being is made, such as wind,

²See Article 658 of the Jordanian Civil Law No. (43) of 1976

³Rights Cassation, Decision No. 786/1982, dated 4/1/1983, Adalah Center Publications.

⁴Ibn Mandhoor, Jamal al-Din Muhammad, Lisan Al-Arab, Dar Sader, Beirut, Part 2, 1992, pp. 431-432.

⁵Hazrashi Abdul Rahman, The Effect of Excuse and Catastrophe on Contractual Obligations in Islamic Jurisprudence Compared to the Theory of Emergency Conditions in Algerian Civil Law, Note for a Master's Degree in Islamic Sciences, Majoring in Sharia and Law, Faculty of Islamic Sciences, Al-Kharouba, University of Algiers, academic year 2005/2006, p.12

⁶Al-Kharshi, Abu Abdullah Mohammad bin Abdullah Al-Maliki, a Brief Explanation of Khalil, Beirut, Dar Al-Fikr Printing, without date, Part 5, p. 190. Quoted from: Mohammad Bukamash, The Theory of Emergency Conditions and Its Relationship to Pandemics, Journal of Human and Social Sciences, University of Batna, Volume 13, Issue 26, issued on 1/6/2012, pg. 52.

⁷Ahmed Ali Hassan Al Ali and Saleh Ahmed Al-Lahibi, A Legal Reading of The Emerging Corona Virus, the Journal of the Kuwaiti International Law School, the eighth year, Issue 6, June 2020, pp.604-605.

rain, snow, hail, ice, thunderbolt, heat, thirst, as well as locusts and the like.”⁽⁸⁾ It is clear here that the jurists the Hanbali school agreed on one definition.

And the Shafi’is⁽⁹⁾ defined it by Al-Shafi’i as : “A *pandemic or an epidemic is all that destroys the fruit or some of it without a crime.*” We note that the Shafi’is followed the Hanbali approach in the concept of the pandemic also by natural phenomena.

Accordingly, we can define it as an involuntary scourge that goes beyond the will of man, leading to the destruction of money or souls, which cannot be expected or prevented.

Third: Define the Corona pandemic scientifically

Corona is a corona virus due to the bumps on its surface that resemble a crown, (Covid-19) is derived as follows: “CO” which are the first two letters of “Corona” and “VI” or two letters of the word “Virus” and “D” is or a letter of the word Disease, and a number 19 was added to it to indicate the year in which it was found.⁽¹⁰⁾

It is an acute respiratory syndrome, in addition to the Middle East respiratory syndrome, as this syndrome differs from Corona in that it affects the brain and heart and may lead to death, especially in the elderly and those with serious diseases, and it spreads among people as Corona is currently spreading among people.⁽¹¹⁾

Second: The principle of good faith and emergency circumstances that must be taken into account when executing the contract

We will explain each of the principle of good faith and emergency circumstances and the extent of their impact on the contractual relationship of the parties to the contract.

Firs: The principle of good faith when executing the contract

One of the most important principles governing contractual relations is that the contract is the law of the contracting parties, and this principle gives both contracting parties the right to adhere to the terms of the contract, with which it is possible to harm the other party, when one party exceeds adherence to its rights arising from the contract, and it was necessary to have a principle that addresses this issue, which is the principle of good faith when executing the contract.

This principle is considered one of the principles that moral values urge in the life of both contracting parties, and stipulating it in law only makes it a legal obligation that entails legal effects on the parties of the contract.

Dealing in Islamic law extends to the realization of legitimate interests, which are based on the rule of preventing harm taking precedence over bringing interests⁽¹²⁾ . Dealings in the Islamic law forbid harm, as well as what counts in contracts is meanings and intentions, not words and structures, and this is stated in Article 214 of the Jordanian Civil Code. Accordingly, the Court of Cassation stipulated that: “The agency contract was ambiguous and erroneous, and since what counts is the intentions and meanings and not the words and structures, it becomes clear that there is ambiguity in the agency contract for the purposes of completing the sale and the contract, and the interpretation of

⁸Hazrashi Abdul Rahman , *ibid*, p. 12.

⁹Ahmed Ali Hassan Al Ali and Saleh Ahmed Al-Lahibi, *ibid*, p.605.

¹⁰UNICEF website: <https://www.unicef.org/ar>, accessed on: 4/1/2022 at: 21:26.

¹¹Mohamed Omar Mahmoud, *Criminal Responsibility Resulting from the Transmission of the New Virus (Covid 19), State and Law in the Time of the Corona Pandemic*, collective author, Revival of Law Sciences Series, International Scientific Refereed Journal, Special Issue, First Edition, Morocco, May 2020, p. 11.

¹²Dr. Abdullah, Abdul Rahman, *The Impact of the Principle of Good Faith in Commercial Contracts*, Journal of Sharia Research and Studies, Volume 6, Issue 63, 2017, p. 70.

the agency contract in line with the principle of good faith and the validity of the contract, and the defendants' inclusion of fees, expenses, and advocate's fees.⁽¹³⁾

Good faith requires the absence of fraud, unfairness and deceit, and commitment to sincerity, honesty and trust in the implementation of the obligation. The principle of the contract is the law of the contracting parties, which requires the implementation of all the terms of the contract. For example, if the Corona epidemic affected the issue of stopping the movement of foreign trade, which would result in not providing the building materials agreed upon in the contract, that item at the same price, that is, there is an alternative to the item that cannot be provided due to Corona and agreed upon in the contract, and perhaps of better quality than it. The Court of Cassation ruled that: "..... *The use of the leased property as a place for violating the provisions of the law in a way that leads to arranging financial obligations on the property or its owner is considered as illegal use and violates the principle of good faith in the implementation of contracts and leads to contractual liability, which includes the amounts paid by the plaintiff due to the violation committed by the defendant during his occupation of the bakery of the subsidized flour price differences*⁽¹⁴⁾. It also ruled: "..... *And pursuant to the provisions of Articles (199, 202, and 239) of the Civil Code..... It does not affect the validity of this result that the defendant requested the expert procedure for the purposes of not profits are achieved with regard to the housing project subject of arbitration as long as we have concluded that the agreement does not provide him with rights emanating from his work in the company, Also, there is no harm in the Court of Appeal if it relied in its distinguished ruling on the rejection of the appeal on reasons other than those relied upon by the Court of First Instance, as this does not violate the law, but is in accordance with the provisions of Article 187 of civil assets, and therefore what the appellant raised in these reasons is required to be rejected.*"⁽¹⁵⁾

Article 202 of the Jordanian Civil Code stipulates that: "1- The contract must be executed in accordance with its contents and in a manner consistent with what is required by good faith.2- The contract is not limited to obliging the contracting party to what is stated in it, but also deals with what is among its requirements according to the law, custom and the nature of conduct". Thus, we find that the legislator has obligated the contracting parties to observe the principle of good faith, sincerity and honesty when signing the contract, so that this implementation does not turn against the second party.⁽¹⁶⁾

Section two:Emergency circumstances that arose during the contract signing period

Conditions and events that differ from the conditions of the parties signing the contract may occur when executing the contract, which results in the non-implementation of the obligation, or these events lead to the temporary non-implementation of the obligation, which leads to an imbalance in the contract. Based on this, it is necessary to take into account the specificity of those developments that impede the implementation of the contract, as the principle of good faith between the parties requires that the contractual terms be considered and negotiated with the aim of achieving an economic balance between the two parties to the contract and reconciling their interests.

These urgent matters have to affect the terms of the contract until the two parties return to negotiation about them, and they are usually in contracts that need time for their implementation. There is no doubt that the implementation of contracts is affected when new circumstances intervene at all social, political, economic and health levels, as is the case in the Corona circumstance, which requires to face these difficulties as long as the contract remains continuous, and results in increased costs that affect contractual obligations, which leads to a difficult path. As a result the debtor

¹³Cassation Rights, Decision No. 3972/2021, dated 10/28/2021, Your Decision publications.

¹⁴ Cassation Rights, Decision No. 4391/2021, dated 11/14/2021.

¹⁵ Cassation Rights, Decision No. 2486/2021, dated 6/23/2021.

¹⁶ Dr. Hussein Amer, Abuse Of Rights And Cancellation Of Contracts, Cairo, Egypt Press,1960, 1st edition, p. 76.

is included in the list of financial defaulters, and thus threatens his ability to implement his contractual obligation.⁽¹⁷⁾ Whereas, from our point of view, the following are required in these circumstances:

1- That these new circumstances impede the implementation of what was committed to in the contract:

These new conditions lead to the inability to implement the obligation of the contract, and these obligations did not reach the point of impossibility due to the expiration of the obligation, as they are possible to implement, but they are burdensome for the debtor, and there may be circumstances that prevented the implementation of the obligation.

2- The occurrence of differences in the financial capacity between the parties to the contract: What is meant by it is that the rights and obligations of the contract exist in a balanced manner throughout the life of the contract, and it is assumed in the contracts. Also, the contractor has the right to compensate him for his breach without the need to stipulate that in the contract.⁽¹⁸⁾

In order for the aggrieved party to be able to renegotiate, he must include this clause in the contract in advance so that its provisions can be amended, and the new circumstances must have an effect on the contract. In the event that they do not mention the condition in the contract when concluding it, the two parties shall mention that in the contract by agreement and mutual consent, and if they do not agree, then resort to the judiciary, based on the legal provisions that allow this.

THE SECOND TOPIC

The Corona epidemic as an exceptional and unexpected circumstance and its impact on the lease contract for the lessee

The Corona epidemic is classified as an unprecedented phenomenon that affected countries and shook their economies, and the world lived with an unprecedented health condition.

And since the Corona epidemic was a material incident that affected all areas of life, including legal relations in general and contracts in particular, so that the reality of the contract affected the law of the contracting parties, and this is a fixed principle in jurisprudence and law. Therefore, we must discuss the phenomenon of the Corona epidemic between the force majeure and the emergency conditions.

Accordingly, we have divided this topic into two requirements, which are as follows:

The first requirement: the Corona epidemic as a sudden event or as a force majeure.

The second requirement: the Corona epidemic as an emergency circumstance.

The First Requirement

Corona epidemic as a sudden event or as a force majeure.

What the contracting parties must implement is the obligations that have resulted from them in the contract, and accordingly the contractor cannot absolve himself from the resulting obligations in his debt, and no party has the right

¹⁷ Dr. Ali Abdel Aziz Al-Fahham, The Authority of Administration in Modifying the Administrative Contract - A Comparative Study, Ain Shams University, Faculty of Law, Ph.D. Thesis, 1975, pg. 311.

¹⁸Dr. Hani Mahmoud Hamza, The legal System Applicable To International Administrative Contracts Before The International Arbitrator, Al-Halabi Human Rights Publications, 2008, 1st edition, p. 204.

to exempt himself except by virtue of a provision in the law or by agreement between the parties. But , as a result of the occurrence of force majeure during the period of its implementation, it becomes impossible and the contractor cannot implement.

We will see it successively:

First: Force Majeure

Article (247) of the Jordanian Civil Code stipulates that if a force majeure occurs so that the implementation of the obligation becomes impossible, then the obligation expires and the contract itself is annulled. It was also mentioned in Article (261) of the Civil Code stating that the person is not obligated to guarantee when it is proven that the damage occurred due to a reason he had no part in, such as a sudden accident or the act of others etc. Hence, it becomes clear to us that the legislator has defined for us the nature of the obligation that expires in contracts binding on both sides, such as a lease contract due to a foreign act or an accident that makes the implementation of the obligation impossible, and therefore the contract is rescinded on its own.

The legislator specified the foreign cause by which the obligation ends , which is any accident that is unexpected and cannot be repelled⁽¹⁹⁾, which is determined by Article (261) of the Jordanian Civil Code, in the event of which the person is released from the guarantee, unless the law stipulates otherwise.

The meaning of force majeure or sudden accident should be expanded and left absolute, because the definition may narrow the cases in which it is applied, bearing in mind that exceptional circumstances are endless, with which the text can be applied to any exceptional case that may occur.

The French legislator, in Article 1218 of the Civil Code⁽²⁰⁾, stated that: "There is force majeure in matters of contracts, where if there are accidents beyond the debtor's ability, which is unexpected at the time of the contract and cannot be avoided."⁽²¹⁾ The French judiciary described force majeure as having a mixture of three basic components: unpredictability, inability to resist, and external factors.⁽²²⁾

Jurists defined force majeure, including Al-Sanhouri, as: "*an unusual matter that occurs and we cannot get rid of it, so that the implementation of the obligation is not possible.*"⁽²³⁾ Sulaiman Murq̄s defined it as: "*an unexpected occurrence that we cannot avoid and leads to a breach of an obligation.*"⁽²⁴⁾ Dr. Sewar defined it as: "*Every matter in which the defendant has no control and which is the cause of the damage, as a result of which the defendant is completely or partially not liable.*"⁽²⁵⁾

¹⁹Dr. Ali Abdel Aziz Al-Fahham, *ibid*, p. 312.

²⁰Hamza Qatal, *Sources of Obligation, Tort Liability, the Act Due for Compensation*, Dar Homa for Printing, Publishing and Distribution, Algeria, 2018. pg. 66.

²¹French Civil Code, promulgated by Ordinance No. 131/2016 of 10 February 1882016.

²²Jalti Mansour, *The Legal Effects of the Novel Corona virus Covid-19 on Contractual Obligations*, *Annals of the University of Algiers 1*, 2020, p. 490.

²³Belabdoun Awad, *Mechanisms for Preserving Job Positions in Light of the Corona Pandemic Crisis*, *Journal of Labor and Employment Law*, Faculty of Law and Political Science, University of Mostaganem, Volume 5, Issue 1, Date 6/8/2020, p. 77.

²⁴Abd Al-Razzaq Al-Sanhouri, *The Mediator in Explanation of the New Civil Law*, *Sources of Obligation*, Part 1, Volume 2, Al-Halabi Human Rights Publications, Lebanon, New Third Edition, 2009, p. 963.

²⁵Suleiman Murq̄s, *Explanation of Civil Law, The General Theory of Obligation*, International Press, 1964, p. 367.

The Second Section

Corona epidemic and the extent to which it is considered as a force majeure in the lease contract
The Corona epidemic as a reason for which the obligation falls without compensation: we must first review the requirements of force majeure, and then match these conditions on the lease contract.

Here we can say that three conditions must be met in any accident in order for it to be considered force majeure, which are as follows:

1- Not expecting the event to happen: The accident must be unexpected at the conclusion of the contract, and if it is otherwise, it departs from the concept of force majeure. It cannot be applied in lease contracts.

In this regard, the Court of Cassation ruled that: "And regarding the first and second reasons, which imply that the Court of Appeal was mistaken by not taking into account the specificity of the lease contract that is the subject of cassation and its impact on emergency circumstances and force majeure that swept the world, and not considering the lease contract concluded between the appellant and appellee against them suspended due to the activation of the provisions of Defense Law No. 13 of 1992."⁽²⁶⁾ The Court of Cassation took into account that the lease contract between the contracting parties passes through a sudden, exceptional event, but it did not specify whether the lease contract falls under the theory of emergency conditions or force majeure.

2- Inability to prevent emergency force: With this incident, it must result in the absolute impossibility of executing the obligation, and the force majeure must be impossible to be prevented. Otherwise, it does not fall under the concept of force majeure, and therefore the lessee is not relieved of his responsibility even if it was unexpected.⁽²⁷⁾ And this condition,⁽²⁸⁾ we find that it is applied to the Corona epidemic, because the prevention of force majeure is required to be impossible.

3- That the accident is not related to the will of the parties: The Corona epidemic is an event that has nothing to do with the will of anyone in the contract, and therefore if the debtor neglects to take what is necessary for safety, he is responsible for that and cannot invoke force majeure to get rid of his obligations. So, if we assume that we live under Corona conditions, outside the control of everyone, and we assume that someone hired a house, and the contract period was three years, starting from the date of 1/5, then the Defense Law was announced, and in order to be lenient with the tenants, the rents for the month of April were exempted, as is the case with banks, but this circumstance cannot be invoked until today to evade paying the due wages.

The Second Requirement

Corona Epidemic as an Emergency Event

Article 205 of the Jordanian Civil Code states that "when general exceptional circumstances occur that we do not expect, and result in the implementation of the obligation becoming impossible or burdensome for the debtor, threatening him with a heavy loss, the court may balance the interest of the two parties and restore the obligation to a reasonable extent if justice so requires". Here the legislator allows the judiciary to release from the obligation imposed on the lessee to a reasonable extent, as the legislator does not specify the circumstances or accidents that

²⁶ Dr. Muhammad Wahid Al-Din Sewar, Explanation of Civil Law, General Theory of Obligation, Part 1, Sources of Obligation, Voluntary Sources, Damascus University Publications, Faculty of Law, 11th edition, 2005/2006, p. 384.

²⁷ Cassation Rights, 5907/2020, dated 2/17/2021.

²⁸ Fawaz Saleh, Civil Law, General Theory of Obligations, Sources of Obligation, Virtual University, p. 112.

constitute an emergency. In our opinion, the legislator does well because exceptional events cannot be counted, predicted, or guessed. Accordingly, we will study this subject through three parts as follows:

First Part: The Meaning Of The Emergency Event

The majority of jurisprudential opinions unanimously agreed on the meaning of an emergency event that “it is a general situation that is not familiar and unnatural or an incident that occurred that is not taken into account by the parties to the contract at the time of its conclusion and makes the implementation of the contractual obligation burdensome for one of its parties so that it threatens him with a heavy loss, even if it does not become impossible.”⁽²⁹⁾ This exhaustion of the debtor reaches the point of threatening him with a heavy loss with the possibility of execution despite the exhaustion, and the result of the occurrence of the accident is not the expiration of the obligation, but it must be stopped to a reasonable extent.

Second Part: Agreement With The Conditions Of The State Of Emergency In The Lease Contract

The legislator is satisfied with the existence of a time interval between the time of concluding the contract and the time of its implementation, and the occurrence of an emergency event during this time period of the contract, whether the contract is temporary or immediate, and this emergency circumstance is only in time contracts. Accordingly, this theory has conditions that must be taken into account, namely:

1- **That the incident is unusual:** It is rare and does not occur in natural circumstances. By applying this to the lease contract in light of the Corona epidemic, we find that it is achieved in the lease contract, since the Corona epidemic is an exceptional and rare circumstance.

And the text of Article 205 of the Civil Code., and its application by the Court of Cassation, where it ruled that: “... and since the data of the subject matter of the lawsuit were implemented before filing the lawsuit in question, which leaves no room for saying that it constitutes a general exceptional accident that cannot be expected, and as a result there is no place for applying the provisions of Article (205) of the Civil Code..”⁽³⁰⁾

2- **Unpredictable:** That is, the contracting parties do not have to guess it or anticipate it at the time of concluding the contract, otherwise it would have been possible to develop solutions to avoid it.

And when we apply this condition on the lease contract in light of the Corona epidemic, we find that it has been fulfilled.

3- **The circumstance affects most people:** And the new incident must at least affect a group of them or the contractor himself, such as a case of bankruptcy or damage to the contractor's property.⁽³¹⁾ And when we apply this condition on the lease contract in light of the Corona epidemic, we find that it has been fulfilled.

4- **The commitment becomes burdensome:** An accident cannot be considered an emergency event, unless the fulfillment of the obligation becomes burdensome for the debtor, and not impossible to implement. The obligation becomes burdensome when the debtor is threatened with a heavy loss.

²⁹ Refer to the unexpected condition as the first condition.

³⁰ Mohammad Belarabi, the Corona virus Covid 19 lesson as a material fact and the call to reconsider some legal behaviors, an article published on the page of Maghreb Law: Articles of Private Law, www.maroclaw.com, accessed 11/1/2022, time: 11:20 am.

³¹ Cassation Rights, Decision No. 5369/2020, dated 12/28/2020, your decision publications.

Burdensome is estimated based on the obligations established by the concluded contract, regardless of the debtor's financial ability. The richness of the debtor does not mean that the obligation will not be burdensome for him, rather, it is so whenever the obligation becomes much greater than the consideration he obtains from it.⁽³²⁾

Accordingly, we find that all the conditions of the theory of emergency circumstances apply to the Corona epidemic, and it becomes clear to us that the Corona epidemic is an emergency circumstance and not a force majeure.

Third Part: The Protection of the Right of the Lessee

One of the legislative necessities of the lease contract is the legal protection due to its effects in all circumstances and conditions, especially with the spread of epidemics such as the Corona epidemic. The legal protection of the rights of the lessee should take the utmost importance, as the rent is due according to the provisions of the law when the benefit is met.⁽³³⁾ The Amman Court of First Instance stated that: *"..... As for the appellant's adherence to the Defense Law to stop the lease contract, we find that the rented property is intended for housing purposes according to the apparent evidence represented in the lease contract, and therefore the benefit from it is not stopped because of the poor financial conditions of the appellant due to the Corona epidemic. Such matter has no effect on the expiry of the contract period, which is considered the main reason for submitting the urgent request. The fact that this advocating is considered an objective advocating, the search for it goes beyond the powers of the judge of urgent matters, which is why the reasons referred to do not respond to the appealed decision and do not affect its validity."*⁽³⁴⁾

The Jordanian government has also activated the Defense Law based on the Article 124 of the Constitution, where Article 11 of Defense Law No. 13 of 1992 stipulates that: *"If it is impossible to implement any contract or obligation due to observance of the provisions of this law or any order, assignment or instructions issued pursuant to it or because of complying with these provisions, the person associated with this contract is not considered to be in violation of its terms, but rather the contract is considered suspended to the extent that the implementation of the contract is impossible, and this is considered advocating in any lawsuit that is or is being instituted against that person, or any actions taken against him as a result of his non-implementation of the contract or commitment."*⁽³⁵⁾ From the foregoing, we conclude that the lessee has the right to invoke the text of the previous article to justify his inability to implement his obligations in the contract, and in this we find that the legislator has provided legal protection to the contracting lessee and the contract as well, in that the lessee's inability to fulfil is not considered a violation of its terms, but rather this matter makes the contract suspended to the extent that the implementation of the obligation is impossible.

CONCLUSIONS

At the end of this study, a number of conclusions and recommendations are concluded, the most important of which are:

³² Takari, Haifa, The Problem Of The Inability Of Commercial Shop Tenants To Fulfill Their Obligations To Pay The Rent Due To The Corona Covid 19 Pandemic, Ijtihad Journal for Legal and Economic Studies, Volume 9, Issue 4, 2020, p. 297.

³³ Takari, *ibid.*, p. 298.

³⁴ See Article 658 of the Jordanian Civil Code.

³⁵ Amman Court of First Instance, in its appellate capacity, Decision No. 3142/2021, dated 7/11/2021, Adalah publications.

Results

This research reached a number of results, which we mention as follows:

- 1- The Corona epidemic has caused great and unusual damage to the world, whether material or physical.
- 2- A lease contract is not like that unless it is signed on something that can be used, such as a house, a car, or a commercial store.
- 3- Unexpected events such as the corona virus pandemic may occur during the execution of the contract, which may lead to an economic imbalance between the parties to the contract, or may lead to the inability of the debtor to fulfil his obligation.
- 4- The rent in the lease contract is due according to the provisions of the law when the benefit is fulfilled, and the fulfilment of the benefit by the lessor in the leased property requires the tenant to pay the rental allowance, and talking about the Corona epidemic in the lease contract requires legal protection for the rights of the tenant in lease contracts.

Recommendations

Based on the results reached, we may have a set of recommendations, the most important of which are:

- 1- The Jordanian legislator set a percentage limit when estimating the loss in relation to the lease contract, through which the commitment becomes a reasonable limit in order to facilitate the tenant, taking into account his financial ability to fulfil his obligation, and protection of the lessor's right and interest.
- 2- The Jordanian legislator grants the judge greater authority to grant the tenant an additional period in the contract.
- 3- The Jordanian legislator grants the judge greater authority to amend the terms of the contract in order to achieve economic balance for the two parties.
- 4- The Jordanian legislator grants the judge to stop the effect of the lease contract and stop the corresponding obligations, until the return of the commercial movement to a situation that allows the payment of obligations and their fulfilment.

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