



THE MAIN FACTORS OF THE TERMINATION OF THE LEASE CONTRACT IN ISLAMIC LAW

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ABSTRACT

The article entitled "The main factors of the termination of the lease agreement in Islamic law" was covered based on the following topics. In particular, the expiration of the lease agreement. Although the term has not expired, the leased property has been used, as well as it has been damaged beyond use or completely destroyed, and both or one of the parties to the contract has died.

At the same time, when there are reasons that prevent the termination of the lease agreement, its term will be extended, and in this case, payment or payment will be given.

KEYWORDS: *rent, tenant, tenant, rent, price, contract, exchange.*

In Islamic law, in contracts related to social and legal relations, its start time and validity period are determined in advance. Compliance with these clauses of the agreement is required by both parties.

In Islamic law, rent is a contract (agreement) concluded for a profit equal to the compensation [2, p. 221; 4, 5-b]. After the conclusion of this contract, it imposes obligations on both parties, like any other legal relationship. For example, the lessor (tenant) must hand over the leased item, the lessee (tenant) must pay the rent (rent) on time, as well as return the rented item to the owner at the end of the contract, and so on.

Termination of the lease agreement at the end of the specified period: in this case, it does not matter whether the leased property was used or not, as well as whether the intended purpose was achieved or not. What is important is that the term specified in the contract has come to an end. This is explained in the sources of the Hanafi and Shafi'i sects as follows: "The rental contract is terminated at the end of the term" [5, p. 507; 1, 447]. Therefore, at the end of the term, the contract is void, and the lessee must stop using the leased item and take measures to return it to the owner.

In Islamic law, some cases are excluded from this rule. The book "Badoius sanoe" says about it: "If the contract is made daily, monthly, yearly, it will not be terminated at the end of the first period. If the lessee continues to use the contract, it will be considered extended until one of the parties requests termination" [3, p. 82]. For example, in the case of daily, monthly or annual rent contracts, after the first period ends, if the tenant continues to use the property on the second day, as well as on the first day of the next month and the first day of the next year, the contract will be automatically renewed. This contract is terminated only at the request of one of the parties.

Also, although the term has expired, the contract is not terminated for some reasons. This is explained in the work "Muhitul-Burhani" as follows: "After the expiration of the rental contract, if there is any reason that prevents the return of the property to the owner, the contract price will be extended in exchange for an example" [5, p. 508]. For example, if the land is leased for planting crops, the contract will not be terminated if the harvest is delayed for various reasons. Maybe it will be extended until it is created. In this case, a certain amount of financial damage to the tenant was prevented. But for the additional period, not the rent specified in the contract, but the fee is charged.

In Islamic law, it is assumed to pay attention to several things in determining the amount of the reward. It is said about this in the work "Roddul-mukhtar": the amount of remuneration is comparable to others. In this, the time and place of the lease agreement, as well as the gender of the money are taken into account [8, p. 62]. One of the main conditions for determining the fee is not to exceed the amount of the fee mentioned in the contract. It is also compared to the amount of remuneration specified in the contract for the same or similar work. So, in the above matter, the price should be determined according to the rule. However, according to Burhoniddin Mahmud Bukhari (d. 616/1219), the author of "Muhitul-Burhani", "We say that in this case, the amount of remuneration specified in the contract is not obligatory. In fact, the reward should have been wajib. If the amount of the reward is greater than the amount of the reward, no additional amount is required. If it is less, it should be reduced. Based on this, if we say that the fee mentioned in the contract is obligatory, then it is not necessary to reduce anything. Therefore, we have made the reward obligatory" [6, p. 453]. Because this situation causes various conflict situations between the parties. First of all, the amount of remuneration is determined by comparison with the work in the place where the contract is valid. It may be less or more than the contract amount. As mentioned above, if the specified amount of ujra



exceeds the amount, the ujra itself will be due. Secondly, the decision of the experts or the court is necessary to clarify the amount of the fee. Therefore, it is appropriate to support the ijthad opinion of mujtahid Burhaniddin Mahmud Bukhari (d. 616/1219).

At the same time, the lease agreement can be terminated with the agreement of the parties before the end of the term.

In Islamic law, there are other factors that lead to early termination or absolute cancellation of a lease.

It is understood that the rental agreement is binding on both parties after the conclusion, that is, it cannot be terminated or canceled for trivial reasons after the conclusion of the agreement. It is explained in the book "Badoius sanoe": "Rent is due". It cannot be canceled without valid reasons" [3, p. 36]. It is also stated in the book "Asl": "The lessor and the lessee have no right to cancel the rental agreement before the term" [10, p. 550]. Premature termination of a contract without any valid reason is against the rules of Islam. Because Allah says in the Holy Qur'an: "O you who believe! Keep the agreements (covenants)" [11, p. 106], he said. (Maidah, verse 1)

But as mentioned above, the contract can be terminated early if there are valid reasons. This is explained in the book "al-Asl": "In our (ie, Hanafis) lease is canceled for good reasons. According to the Shafi'is, the contract of lease is canceled only when there is a defect" [10, p. 551]. Therefore, according to the Hanafis, a valid reason alone leads to the termination of the contract. According to the Shafi'is, the contract is terminated only if there is a problem with the use of the leased item due to some fault.

Good cause means any circumstance that occurs in the lessee, lessee, or leased property. These include the death of the lessee or lessee, serious damage to the leased item, or total loss.

Accordingly, the rental agreement may be terminated prematurely for the following reasons:

1. Use of the leased item (although the term of the contract has not expired);
2. Damage to the rented object to the extent that it cannot be used or its complete destruction;
3. Death of one of the parties;

The contract is terminated when the leased item is used. "Fatavoi Qazikhan" says about this: "If the lease is concluded for a specific purpose, the contract is terminated when the intended purpose is achieved" [9, p. 270]. All sectarian scholars have agreed on this issue. Because once a goal is formed, there is no point in holding it until the end of the set period. Therefore, it will be necessary to return it to the owner.

In Islamic law, the role of words and phrases used in making agreements is important. Therefore, both parties were required to clarify the most delicate aspects of the lease agreement. An example of this is the following issue from "Muhitul-Burhani". "If a person rents a boat to reach the city of Kufa, it is ironic

that he can reach his home there" [6, p. 564]. In this matter, the parties used the phrase "to reach the city of Kufa" when concluding the agreement. Therefore, according to the requirements of the contract, as soon as the tenant enters the territory of this city, he must stop using the land and return it to the owner. But according to the "Istehsan" rule, it is permissible for him to continue using the rented land and reach his home in Kufa. Islamic law does not consider that the contractual requirements have been violated in this case.

Defects to the extent that the leased item cannot be used or its complete destruction will result in the termination of the lease agreement. This is described in the work "Muhitul-Burhani" as follows: "If the leased item is defective to the extent that it cannot be used, the tenant terminates the contract. Because he cannot use the property as specified in the contract" [6, p. 498]. In this case, there may be defects that prevent the use of the leased property, there may be defects that were not identified during the conclusion of the contract. Because it is assumed that the damage will increase with use even to the point where the property cannot be used. In this case, it can be concluded that the contract was prematurely terminated due to the protection of the property of the owner. The general rule is that the detected defect should not have been caused by the customer.

Death of one of the parties. It is stated in the work "Fiquhul-Islam wa adillatuhu": "When the tenant or one of the tenants dies, the rental contract is terminated" [7, p. 758]. Based on this, according to the Hanafis, the lease contract is terminated regardless of the death of both parties or any of them. In this case, it does not matter whether the specified period has expired or not, as well as whether it has been used or not. The Hanafis considered this situation as a valid reason.

If it is judged that the contract will not be terminated, but will be transferred to their heirs, an action will be taken contrary to the general rules related to the lease agreement and the rules of inheritance. In particular, the tenant's heirs must continue to use the property and pay the rent on time. The heirs of Mujir will have the right to own Ujra. This situation is not permissible in Islamic law. First of all, persons who were not involved in the conclusion of the lease agreement are given the right to use the leased property, especially the right to possess it and dispose of it. Second, it is inconceivable that a deceased person would leave to his heirs the use of something or the temporary ownership of a certain share. Therefore, the Hanafis came to the conclusion that the right of ownership or temporary occupation does not pass to the heirs of both parties.

According to the Shafi'is, the contract does not lose its validity in this case. It is said in the work "Mughnil-muhtaj": "If one rents a certain thing, the contract is not terminated by the death of both parties or one of them. Perhaps the contract will not expire until the end of the specified period. Because the contract expresses necessity" [12, p. 457]. It seems that the Shafi'is did not consider the death of one of the parties as a valid reason. Therefore, legal relations such as the use of the leased property, as well as the ownership of the second party rent, will be transferred to the heirs due to the fact that the contract has not



expired. Therefore, in this case, since the lease agreement is still in progress, the issues related to the disposal or ownership of rent without dividing the shares in the inheritance between them will go directly to the conciliators.

In conclusion, the lease agreement is important because it regulates social and legal relations, is made equal to a certain amount of compensation, and is valid only for a specified period. Therefore, it is necessary to stop using it at the end of the specified period. If it continues to be used, it is considered extended in the contract. Its validity period will be the amount of the term specified in the previous contract.

The agreement of both parties is required for early termination of the contract. In this case, both parties should not object to the termination of the contract. Otherwise, the contract cannot be terminated at the request of one of the parties.

Defects discovered during the use of the leased property, as well as defects caused by natural disasters without the influence of the tenant, lead to the termination of the contract. However, it is up to the tenant to use as much as possible.

Fatwas of the Hanafis are appropriate in the matter of terminating the contract due to the death of one or both of the parties. Because the heirs are not the same person, there is no possibility of mutual problems arising between them when the right of use and ownership is given. Therefore, they are free to terminate the contract and conclude or not conclude a lease agreement after the equal distribution of their shares in the inheritance among the heirs.

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