

Evaluate the Impact of Real Estate Application as Ownership Limitation Factor from the Perspective of Iranian Law

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ABSTRACT

According to rule juridical, dominance and Article 30 of civil law, the owner of the property right in their possession of any of the material and legal. Domain takeovers owner, depending on the type of occupation and how. Partly take over's the scope of the owner of the risk to the neighbors, not loss in those cases dominance rule and the potential loss. Which creates limitation ownership is an owner. Owner only limited actions. but with regard to the population has increased, the rapid urbanization, rural workers in cities, industrial units in the cities, the spread of increasingly cities, towns, streets, roads, green spaces, public health, medical care and public services, and real estate owned by the owners of the executive devices as a social necessity showed his face. So executive devices, including the municipalities in possession of real estate and how to buy, and the seizure of such property, sometimes with abuse of the legal authority, that they are a violation of the rights of proprietary. Even in addition to the limitation of ownership, are also under expropriation owners. That speech injustice and extortion on people in these cases. On the other hand, the legislators with some of its rules also limitation ownership is owners. Including the provisions of the law passed by the arable land use and gardens, 1374 and 1385 reform. And land-use change is in terms of its relation with the universal rights abuse can sometimes executive devices. and proprietary to lead a violation of the rights of persons, and that the multiplicity of multiplicity of litigation in the Administrative Judiciary Court confirms double dealing with the terms and conditions of use change and legally is an issue that necessity is undeniable and will try to limit the possibility that vague seamy angle cash and analysis, and to answer the question that Iran's rights in the land and property ownership limitation in what is the role and position.

KEYWORDS

proprietary rights, land - use change, maintaining user, the moor, land

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Introduction

As we know with regard to the hadith, People are on their property seized Nabawi populace and civil law , 30 and dominance people have a right to rule Barmal any occupation , income and exploitation, and are used . But with the progress of human societies and science and technology and urbanism and widen the streets and land allocated to use parks and green spaces and melas ... and that means ownership is the most complete human rights can and it is not the same objective , the absolute right to their ownership of the means to specific , and all governments to use for the welfare of the public and a better society as well as with the increase in population and the rise in the public's needs the necessity of the existence of the rules and regulations relating to the expropriation for urban jobs and housing construction and planning , and also the most sense , because in the planning of the most complex housing and urban planning species in the current communities around the world , especially in the third world . And all these issues of land - use change and property owner or landowners and ownership of the owner of their property. in this regard to restrict property laws more people including law determining the status of the real estate in government projects and municipalities adopted by the 29 / 8 / 1367 style Text integrated and the protection farable land and gardens 31 / 3 / 1374 Act and subsequent amendment enacted 1 / 8 / 1385 andunity of votes in this regard and the reconstruction of urban and Imran Act 1347 and bill how to buy property and land and real estate programs for the implementation of the government and the public how real estate and lands real estate calendar municipalities adopted by the 1380 needed to pass , reduced to the relationship with the various aspects of the legal and administrative elements involved in how to interpret laws and pointed out , to address the issue within the framework of comprehensive plan research is serious a necessity . as well as with regard to the end of the letter in the investigation into proprietorial and ownership rights and land - use change agriculture and gardens and real estate detailed and comprehensive plan as ownership limitation factors will be discussed .

The first topic: determining and land - use change agriculture and gardens

The above discussion before the speech, in two parts regarding the foundations of lead public law on proprietorial rights of legal and jurisprudential basis :

The first speech

Foundations lead public law on the rights of proprietorial

It is noteworthy that somewhere in the investigation of the special rules , excellence public rights , sowed will see more discussion of the important bases of bases on the primacy of the rights of proprietorial public rights . Overall, the foundations of our rights in more domination. So the foundations of private sovereignty, in this discussion want to pay theories and a greater propensity to maintain public right sat the time of the creation of the contrast between the private rights and the rights and the public in the legislation, such theories, as the basis of a law, or orientation legislators in the position of a law in favor of the universal rights, and went on to express their legal sources precedence public law on proprietorial rights. proper in this part of the First, the ideas of

Islamic law, our legal system, under the title jurisprudential basis, in the first paragraph and then, in conformity theories other legal systems that some of them, are likely to consider the Iranian lawmaker, under the title legal basis second paragraph scrutinize, we examine:

Article jurisprudential basis (provincial rule governing the impossible not loss rule, etc.) jurisprudential basis system of Islamic law as a legal system, based on the principles and rules that Aezam Brigade scholars, in their books to identify some of these rules, and explain to the introduction and some indication each. Some of these rules are rules of Islamic jurisprudence, based on the basis of the needs of the public and government. To other interpretation, these rules as and when necessary, to solve the problems of an Islamic state.

Here are some important these rules that sometimes gifted province and governing Islamic rule, people are also gifted negation loss at the arrival of losses, we examine: confirms the foundations of jurisprudence rules are some Province, indicating that the Islamic ruling Province on population and property of the people. The province of necessity and solve the problems, and forgery. In Islamic jurisprudence, the province in different fields. Ruling Province on property and provincial governing impossible and refusal man, of the sort. In this clause one of these rules under the title of the province, impossible. Rule over the province to examine the impossible, first and then the provisions of the documents and the meaning of it were discussed.

Documents this rule

Most scholars, to end this rule, there is no need to argue, and giving reasons to this rule is seen as principle. For this reason, the ruling and clear backing its intellectual, or that evidence of the velayat-e faqih and needless of discussion. explaining velayat-e faqih, the deepest and at the same time oldest jurisprudential debate and, perhaps, there was no proof of principle Juridical in this sense, no doubt, and discussions about the circle and only about province, but in this case, the province, impossible accepted here regardless of evidence related to velayat-e faith, the documents this rule, it is to be noted that in the first place, with regard to the effect of some of the most likely to be, it can be said that the al-Hakim but refusal man, I. e., ruling that instead of one impossible and refusal man, decide. Including the tradition, narrative Salamah bin Kahil and version. Second, reason and intellectuals also confirmed this rule; what is that all members of society adhere to the rule of law, and those that can be found legal duties or necessity and justice, and also breach of prejudice. Soothe only way in the meantime, the provincial governor's admission to the right to abide by the interests of the community, to justice. Thirdly, the consensus among the evidence is the rule, in the words of many scholars, one can claim or the lack of consensus in connection with the contrary.

The concept of this rule

According to the law, that if any of the rights of others or refrains from homework to abandon its legislative or prevent individuals to be their rights, but the name Hosni the judge and the ruling due to the work of the tyrant oppression. Ruling Islamic society or by appointees, he can deputy chief of him, and what his task of Bob province. Therefore, and, ruling a basic condition for the implementation of the rule. The other condition and demanded the right. So



the ruling to anyone, impossible, the province, won't be able to act on the impossible, only for the provincial governor or his appointees is fixed and with regard to this point is that some scholars confirmed, in some cases, refused to accept such as bin religion, cannot be forced to action to impossible, as arbitrary act caused chaos. Also have the right to demand, and he does not refer to the ruling, the ruling intervention provide won't be the rule where the application of Islamic jurisprudence, in many cases. Even in the prayers rule is used. a coercive zakat who pay for it, in spite of such conditions to refuse. in dealings, in many cases of this rule is used. For example, if the seller to avoid taking worth Province, governor of the impossible, the price of the deal. This decree, also in the buyer; if the bill, i. e., deal. Or, if the debtor assuming wealth, would refuse to paying homage to Din, can the ruling. The ruling beholden to pay the required religion and, in case of a refusal from him. Other cases such as he refused to promise to, in accordance with the provisions of the contract or refusing to sell property hoarding or refused to pay alimony vital, or refusing to divorce or refusal of division of property and partner ... there is in these cases, the provincial governor of. impossible, it can be said that in the legislative stage, legislators may with respect to the rule, for the government or the public devices, according to the provincial people on the property. That regarding g the legislation, for solving the conflict between the rights of persons with proprietorial argument and the refusal, and refused to be forged.

The role in Iran's rights

In order to investigate the role of the rule of legislation and use of legislators from this rule, it is worthy to the public, and then regulations relating to the implementation of plans by the municipal public, to examine individually.

The role of the rule in public regulation

It is safe to say that rule over the province in the impossible some of our country's regulations, in particular those related to the commitments, and has a role of origin. Inspired by legislators in the rule of law and the laws such as civil law, trade regulations that under the regulation, sitting on the implementation of the tasks and constitutional duties, and the right to belong to another, or on lost and, according to the person or judicial, administrative or agency, Deputy sitting on the right to apply. Regulations in law, there is a position with regard to this rule. For example, in the concept of related to promise to keep from falling cases deregulated in some cases, but creditor and vice - president of the ruling. In Article 271 h. M: that must be taken to Dbin person or who has a mandate from him to pay or to someone who has the right to legally bill in Article 273 in the same law regarding the solution, when creditor refuses to accept the right, appointed: the right to refuse to accept it, is committed to giving way to the governor or his deputy go out of date and it is responsible for the damage that may be, it will not be allowed to enter. In section related to conditions, with regard to this rule, in Article 238 h. I said: If in the condition of the current contract and coercion committed to do it, but it is possible, by another person, can it be possible to do that, committed to provide. It is noted that in this article, but committed impossible as the ruling and instead, committed to implementing the commitment of the committed property.

The role of the rule in specific regulations

With the regulations relating to the implementation of public schemes by the Municipality, would be the case that seems to be in the position of legislators and the establishment of these cases, the provincial governor rule by impossible Sharia or his appointees, have mercy. Indeed, legislators cases to tackle problems and obstacles facing the implementation of the plan, the problem of the conformity with reference Province Salehi proprietorial on rights of their rights in different ways, has refused to high. The use of leverage on impossible Province in such cases can be seen as a means to frontline having universal rights, proprietorial rights. in an example to prove the claim that our legislators in some cases for privileging the universal rights of proprietorial rights , the rule , we can take advantage to Article 4 bill how to buy real estate and lands owned by the state public plans for the implementation of the 1358 Act . for in this article , that is , if the price of land from Adiala Jail and real estate and installations and rights in agreement with the plan and public device rights proprietorial, determined and determines Adila prices by a delegation consisting of three people is determined by the expert . One of these rights experts, by proprietorial and one of them by the municipal (e. g) and an expert on the third, is determined by the two sides . In any case, the article said, if elected, experts in this refusal and refusal, Saliha the court to determine their property . This, just in note 2 and 4 h . N. T. Sh also predicted. The aforementioned, on the basis of what the situation is such a decree , apparently the same rule over the province is impossible in this article , Saliha court , but one expert in determining the impossible . In addition, the aforementioned relating to the appraisal and provincial court indetermining the experts to evaluate the price of proprietorial rights, in accordance with article 8 L. h . N. Khprovincial , regarding the refusal and refusal of the transaction is also predicted . explaining that if after pricing to techniques , the owner of the rights of proprietorial, refused to transfer their rights to the executive apparatus , prosecutor or his representative , but as a person , impossible to deal and transfer proprietorial rights to the administration will take action . 8 article in the law that ... If owner within a month from the date of the administration announced to one of the prescribed in the note 2 of 4 for the transaction or go deal, somehow , the refusal of much for the second time , and after the expiry 15re - deadline day calendar , the value of the estate expert panel stated in Article 4 or Motion Picture 2 have already been set , and an area of the property, to register the farewell and prosecutor or his representative, transfer and within a month to evacuate and eviction will act.

The role of the rule of law

First, it is worthy to re - point out that the rule of not loss, the main role for the rules as the necessity and emergency rule and even rule over the province and the impossible to play with the assumption that , for example, in some cases in the relevant regulations , provincial legislators on a fence has forecast ,this kind of rule has also been not loss and confirms the effect of the rule of law in this . However, cases can also be found that legislators with more attention to this rule issued a decree to harm to the public with a view to prefer universal rights proprietorial rights. For example, in the role of not loss rule in the laws related to the implementation of public schemes, we can determine the real estate law status in government projects and municipalities. The law, the owner of the

rights of proprietary kind of involvement in their rights for a certain period is banned and after the passage of time, can be determined to impose proprietary rights. Predicted ban, according to the not loss rule and not harm the devices and in fact not harm to the public. 1 note in the law in the event that the implementation of the plan and possessing property located within it enacted under the schedule, at least 5 years have been adjourned until next year, real estate owners in the plan of all proprietary rights, such as the construction of construction or reconstruction or increase construction and repair and sales and the rent and mortgage, etc., and in the event that less than 5 years, owner of obtaining a license commitment during the implementation of the project is when the time before 5 years starts, the right to charge the construction and reconstruction the recent note, affirming that the owner of the proprietary rights, the right to receive real estate prices in their property during the implementation of the plan will be a ban and restrictions on the exercise of these rights, the proprietary has forecast.

Article 2: the legal basis

There are theories that can be put into this position, most Western legal systems, though it might be Islamic also hints, the purpose of these theories, governance and the rule of the will of the general public to persons of one's own free will. According to these theories, sovereignty or exclusively in particular person and that he can be settled on the rights of persons. However, regardless of whether the monopoly of sovereignty, society and society in front, and freedom of originality in cases of conflict between the rights of society, and the social rights that should be observed. In this speech, confirming the fundamentals of absolute authority confirmed the authenticity of the society, respectively.

Second: speech on the foundations of theories precedence public law on the rights of proprietary

Article 1: bases, confirming the absolute rule

According to a group of scholars mostly belong to the west, the person or persons who should be the absolute priority on the people and to complete this way, the rights of the people's of these theories, theory sovereignty Supernatural - God that hereunder it: first, and then the theory of its role in Iran's rights talk:

Opinion: A) The documents

following the release of the kings of Europe and the church on the one hand and the Emperor. On the other hand, the theory of absolute rule by lawyers France took consistency. French kings policy, the coppery three goals in the face. Rejected allegations of the Holy Roman Empire - German and consolidation of independence against Pope and removing obstacles that still feudal lords in direct power of the king. For the realization of triple goals, should have the necessary conditions for the authority of the monarch, through a justification and Tebeen philosophical and provide legal and top authority in the kingdom and the authority of the times, in front of foreign powers. Louis XV., King of France, in 1770, said in a statement: one that has kings, on behalf of God's will. Principle of power, God, not to the people. So kings, only God are responsible for power that has granted to them. Louis XIV ahead of him, while a phrase that was given to the documents, saying: is that I view the absolute sovereignty, from the legal point of view, in the 19th century blossomed and an important results.

in the evening, inspired by ideas, Minister of the impact of the German jurists and philosophers, such as Hegel, Van , Van doctrine of absolute rule , en route to prove the absolute nature - and unlimited the writ of the government - the country went ahead , but with this difference, that the other sovereignty, to the king and the unique and special . The concept of universal and massive government - the country, the concept of the country's successor.

B) the concept of this theory

This theory find drive beyond sovereignty in nature and attributed it to the divine sovereignty or move the spirit of the world. It is not sovereignty of the people and not the person or group that other social domination. Supernatural, the root of power is more or less , and some kind of natural to the limit . In the divine theories , because I must end to set the relationship of the government and the people .Cannot sovereignty in the sky. Should divine force on the ground in the world and the earth .So , it is necessary to have a caliphate or Amin, such a domination .The official who, in the original mandate and the source of power. by that at the same time , and cannot rule is the target of advice and determining the origin of power , and to his authority until it is legitimate to take steps in the same direction and honesty .

C) the role of this theory of Iran's rights :

To examine whether this theory in some influential regulations or not is better than the first public regulations and then in regulations governing the implementation of the plan by the municipal public action:

The role of the theory in general regulations

2h in principle. A said that the Islamic Republic of Iran, the military - faith in God's unique and sovereignty and to legislate, and the necessity of caving in on it. As well as fifty and sixth in the principle that absolute sovereignty over the world and of God and man, on the fate of the ruling their social . and no one can the divine right of the human deprivation or to serve the interests of certain individual or group and the right of the nation guided in ways that the following principles . As the above principles, the country's sovereignty in our sovereignty and divine is the sovereignty of God and the people. However, other principles in our constitution, which indicates that the enforcement of the divine sovereignty, comprehensive faqih. Fifty seventh , for example, in principle, said that the ruling powers in the Islamic Republic of Iran are: the legislative , executive and judiciary under divorced Province and Emmett imamate in accordance with the principles of the future of this law, apply these forces , independent of one another , In any case, with regard to this theory of our constitution , there is , of course , this theory legislative acceptable , so it will be , adopt all the laws in which the divine governance and the rule of comprehensive but , so that such a person or institutions of the mandate , but they can , in connection with the rights of the people, through appropriate decisions . to the Civil Code , cases that sharia ruling , which seems to be the Wali Faqih in our legal system can get on the property belonging to a decision from the others , is not in the province , but impossible derived from the thought that sovereignty, belongs to God and comprehensive by but is applied , for example, in Article 28 h . M : property that unknown Ali owner with permission or need him before ; the poor purposes . or ,

in accordance with article 56 h . M, if that is dedicated to the public interests. In this case, the ruling accepted.

The role of this theory of specific regulations

In some of the provisions relating to the implementation of public schemes, which settled on cases, a special person. Better lawmaker, as some people, has been granted powers that can be used his powers, the role of Chapter al - Khattab and decision - makers to play the final. We legislators in such edicts , has been affected by the idea that somehow , in some of the sovereign people, there is a need to take part in the case of the powers in the public interest and prefer public law on proprietorial rights .

Article 2: bases, confirmed the authenticity of society

The opinions expressed are mainly in the west expressed that originality and give priority to the society and gives the group and in the meantime, alone would not play much role. One of the most important of these theories, view social rights that we examine here under. The study revolves around the theory and its role in Iran's rights.

Theory social rights

In this regard, first and then the concept of documents that theory study it :

Opinion: 1- the documents

thought of being original writings wise men in society . Socrates students, particularly in the book, Plato, president of the rights and the specific requirements of the community. Seemed to Plato, society has a specific requirements and justice demanded that all their duties in order to fulfilling the general - purpose. August count, the Universal Declaration of Human Rights, rejected due to the human character of the community. He origin rules governing the social life, terming it , and in this way to prove superior originality and collective interests . In Germany, 19 , a prominent lawyer, by the end of the century in favor of the law , the person as the original goal of search , the law is not only a means to provide social interests . He disagrees with Bentam why personal interest, has rights rules

2 - The concept of this theory

to the followers of the school, the purpose of the rules of law, providing social order and happiness in life is the common people. So if the rights to life, and secure the release of Fred and the requirements of her life in common with others, how can you forget claimed that their ultimate goal is reached?

Contrary to what the individual rights advocates contend, from the perspective of social, there is no absolute right in front of the public interest. Live with other people, a series of various tasks for him and his release, whether in the fields of political and economic and contracts, which are the public interest. Indeed, based on the theory, single right of owners, but there is limited to the rights of the owners, something that is out of a total of inferred laws and regulations. Where the public interest conflict with the right owner, public interest on the frontline of ownership and it is not fitting that the ownership of the stone, such as an obstacle to the realization of common interests. So although the owner of

the space above the ground, and it is ownership, but it does not mean that he could prevent acts that public interest in it; as telegraph and telephone lines . Sometimes, public interest in conflict with the property that led to the cancellation ownership rights and the rule of law in these cases, under the circumstances , can the private ownership in the public interest sealed the Rhine, if the lawmaker consideration materials , sovereignty and the predominance of public law on private law , the measure is meant to limit the private or personal rights and all the facts view mirror in social life and legislators , inspired by this theory, may touch regulations that conflict in public rights and the rights of proprietorial, superiority and give priority to the public rights .

B - The role of this theory of Iran's rights:

First of the effectiveness of this theory in general rules and regulations role in theory, we say:

1 - the role of the theory in general regulations.

In some laws, with the materials and social benefits, the rights of the proprietorial people towards their property is limited . As another, legislators, inspired by the idea of society and the theory of originality to enact laws that if the authenticity of theories, dominated by the ruling was adopted, the laws to the scope of the situation at the example, note 2 Article 987 h. I says : Iranian women in marriage ,the foreign nationals, education , property right in a moveable assets under foreign domination of the economy , not in this matter , according to social materials , such a woman from having deprived of real estate . Such a position, so the social interests that may possess property moveable assets by these women, foreign economic domination. also , for example, we can to a bill nationalizing the forests in this article pointed out that , as of the date of the ratification of the act , legal , and all the forests and pastures and wood and natural forest lands , and public property belonging to the government , even though before that date , its people and ownership of the document .

2 - the role of this theory of specific regulations .

It is probable that basically, laws, on how possession of the rights of the proprietorial executive devices and solutions in the laws, which led to the transfer of these rights to the administration , with this thinking and the idea is that the best interests and the interests of social, preceded the limitless support for the rights of the proprietorial. explaining that , if it is to be the rights of proprietorial, in this case , if such a person does not agree with the transfer of their rights , according to the principle of freedom of contracts, the executive apparatus , the feasibility of the plan . But if the material and social benefits expected in this case, the laws which will be imposed in cases where social materials to allow proprietorial rights and forced to transfer their rights to the relevant administration or so to speak to the public.

Third: speech tantamount to lead public law on the rights of the Iranian law proprietorial

Fifty seven bases, accepted our legal system, legal sources (of the Constitution, laws, regulations, procedures, tradition and doctrine) . Non - public resources,

including specific resources available in the limitation or proprietary rights against public schemes include:

Article Supreme Council resolutions Construction and Architecture:

1351 legislator in years. Sh , legal under the law, the establishment of the Supreme Council of architecture and urban Iran has approved in the law and to co - ordinate urbanization and plans to create a better environment for the people , as well as to promoting architectural art in Iran and observance of different styles of traditional and national and providing criteria and aspects of its original considering new methods of scientific and technical and as a result of good principles and find ways to building in various parts of the country , according to the climatic conditions and lifestyle council under the title of architecture and urban Iran has established .The formation of the council and the main documentary about how and the powers and functions that law, the establishment of the Supreme Council of architecture and urban 23 / 12 / Iran is 1351. of the tasks of the council's approval of the plan of the city, a comprehensive review of the necessary proposals on the general policy for urban design, cabinet ministers to the proposals and bills, urbanization and regulations relating to a comprehensive plan that includes the city, how to use of land, the determination of the industrial zones, housing, trade, public facilities, green space and the other in the city's general requirements. Of course, although the law's powers and the adoption of the criteria and standards and regulations urbanism to the council has been taken into account, however, have the right to the legislative council and other interpretation to create the right and duty to the people. However, it seems that the council can proprietary rights of the people, but these rights deprived limitation is not possible. Indeed, urban planning of limitation ownership. Under Article 30 h . M , Maliki towards theirproperty right all forms of exploitation and use , including can build on construction or separation and division , and consolidate the partition parts . Also Article 38 h . M , requires the ownership of landownership space where to go up.

Article 5 second paragraph) commission after the Supreme Council of architecture and urban

the commission important and constructive role in creating the rules and regulations, urbanization and consequently affect the rights of proprietary real estate owners, located in the city. The commission legal document, A.H. 5 . T. Sh. U . Sh. M. A . The law in addition to the Supreme Council, urbanization and architecture, as the highest decision - making body on issues of urbanization, predicted the commission also as a reference below the Supreme Council, to provide minuteness plans to detailed plans has been famous. 1365 years in the city of Tehran. Sh , detailed plans , according to the renovation of the municipal functions and powers . this year to reauthorize the establishment of the Supreme Council of the law, Article 5 Construction and Architecture Iran 1370 union, which has prepared a detailed plan , municipal and deprived of a commission was an independent legal personality who are currently commission of five well - known , but the reality is that the commission , said the commission note Article 5 of the law. Under the note , review and approve the detailed plans urban and changes in the city of Tehran to them by a commission composed of

representatives of Housing and Urban Communities, ministers, force in the country (relevant Deputy), head of the environmental protection and the mayor of Tehran or representative plenipotentiary him and Chairman of the Tehran city council secretariat in location, secretary of the Commission and the mayor of Tehran and or representative plenipotentiary him and meetings with the presence of the majority of the members of the commission, and recognize decisions with at least 4 votes, is valid. Cities in other under Article 5 the law and detailed plans approved urban and changes in each province or by General administration has formed a commission, headed by the governor or governor general and chairman of the Association of township and mayor and representatives of the Ministry of Culture and Arts and Housing and Urban Communities and consultant engineering design producer. That part of the detailed maps, which was approved by the municipal council, to run for mayor of indispensable. With regard to the above-mentioned article that the formation of such a legal document has formed a commission to decide detailed plans other cities in the country, the text of Article 5 pointed out the law, and with the approval of the law 1351 in years. Sh, decision-making authority on the detailed design cities across the country, this year has been the commission.

Article KGS), the Islamic Council city

Another references that with regard to the current can be enacted laws, using the authority of the legitimate rights of proprietorial, located in the city of real estate owners under the influence of its decisions. Islamic Council city and municipal two bodies affiliated to shrink and credibility and authority, in fact, the validity of each other and authority. In Iran, the mayor of the city, by the Council is elected for a four-year terms. However, the city council, the municipal council and the city is not like a joint-stock company that council, the General Assembly of the company and its chief executive mayor. In the relevant laws, duties and powers to the Islamic Council of the city is considered that some of the powers of the municipality and some of those related to other agencies, urban management and therefore cannot be the municipality subset of the Islamic Council of the city, though it cannot be denied that the law, the Islamic Council, various controls on the municipal affairs. Islamic Council of the city, has duties and powers in Article 71 h. T. Sh. In addition, the rules and regulations, duties and powers to the council. Sometimes, we see that legislators in the powers of public approval of the plan for the city have been attaching Islamic Council, and yet, the Islamic Council city can even if indirect rule, a source in the position and rights of proprietorial people. 34 71 article in the law in one of the functions and powers of the city, the Islamic Council reviewed and approved plans to guide and comprehensive and detailed urbanism and privacy and legal limits cities after it by municipalities. Islamic Council, after examining the city and provide their views in this regard, the plans for final approval of the relevant authorities to legal. In addition to the 11 in the same substance cooperation with the approval of the plan for the city around the city with plans to guide and comprehensive urbanism after provide it with the approval of the municipality by the Interior Ministry and the Ministry of Housing and Urban Communities city council tasks. In Article 15 h. N. U. Sh, stated: of the law by article 2 should be guided by the Ministry of the Interior, construction and renovation operations and reform the city for a five-year term, according to the comprehensive map of the city in the case, which lacks a comprehensive plan to

be necessary , according to the requirements and priorities in the city , with about financial resources in the law and other municipal finances , and after the adoption of the municipal council and the approval of the Ministry of the Interior, according to the relevant projects . As regard to the above description of the city, the Islamic Council can pass development projects and has a role and in this way, the Islamic Council can rights situation in the city of proprietorial people to leave the effects and make changes. Hence, the Islamic Council of the city was also one of the sources of the constitutional order governing proprietorial rights against public schemes, and it is necessary to examine the order, and the council's views and approvals. Islamic Council, in addition to the city in the approval of the plan could be effective in the discipline proprietorial rights, in the stage of implementing the plan has also functions and powers, that the use of the powers and their actions, it will be effective rights, and we also legislations in line with the council that the position of authority, part of the discipline proprietorial rights in front of the municipal public schemes. For example, according to note 1 Article 3 L. h. N. Kh if the municipality, with rights holders proprietorial in the plan, regarding the prices of their rights to an agreement and the sum of one million riyals. In this case, the price should be agreed and municipal holder and approved the deal, the city council. In accordance with paragraph of Article 71 3 h. T. Hassan, monitor the implementation of the plan passed in the affairs of the municipality's city council.

Fourth: speech and land - use change in Iran's rights:

From definition user set a general plan with the use of property that hinder exploitation wishes , owner of property .

land - use change: that the continuity of agriculture and agricultural lands in creating the gardens, removing or an increase in the sand and other actions which, according to the Ministry of Agricultural Jihad, land - use change a Rhine any change in the gardens and agricultural lands by the owner of the need to obtain permission, and if the device has also want to implement its schemes, change application owners of the land .The need to obtain permission.

according to note a corrective maintenance of law and order, arable land and gardens, recognizing Act 1385 necessary arable land - use change and gardens in the per section commission consisting of the Jihad Organization, director of agricultural land, chairman of the Housing and Urban Communities, director - general of environmental protection in the province and a single representative of the governor, which is headed by Agricultural Jihad Organization. Relevant to the administration can without vote, in the meetings of the Commission . Company that Agricultural Jihad is bound to the maximum within two months from date according to demand or inquiry commission response to issue.

And on the basis of the end of this note the secretariat of the aforementioned commission tasked to deliver the demand, and the completion of the case.

Article 1: how to address at the request of agricultural land - use change based on the application of the law passed by the 31 / 3 / 1374 and later reform

where any land - use change agricultural areas without obtaining permission from the authorities jihad crime , the Ministry of Agriculture and qualified for judicial and legal consequences , of individuals and legal entities in cases should

be necessary to carry out land - use change plans to subordinate units of the Ministry of Agricultural Jihad in sections and cities and how to go and allowed farm land - use change and informed the garden . So in line with the necessary information regarding the issue, ahem stages of licensing land - use change is expressed as follows:

- * submitting a request to the user to change with the evidence for land ownership deed, agreed in principle to permit the establishment or by the relevant laws and administrative apparatus issued regulations and implementation of the map of the land - use change applicant.

- * documents enquiries from the authorities, legal and determine kind lands.

- * the issue in the commission note an article of the law and a user to accelerate the applicant , in line with the affairs of the clients and applicants , legislators Agricultural Jihad Organization has tasked within two months from the date of receiving or inquiry commission note , according to a law to maintain a response to the issuance of user .

- * Any change authorized user with permission from the commission note an article of the law requires a user was duties according to eighty percent of the land price day with the value of land - use change after the calendar and calculated.

- * land - use change for personal residence of agricultural land owners to 500 square meters and only for a time after licensing commission note a law to maintain a user exempted from paying taxes .

- * also plans to issue the construction of Livestock, Poultry, aquaculture , greenhouse production units, and the conversion industries and supplementary agriculture and handicraft , if a clause in the commission of a law to maintain control and licensing land - use change are exempt from paying taxes .

Article 2: the inclusion of land under the protection of arable land and gardens Act (31 / 3 / 1374) and later reform

all arable lands and the garden outside the legal realm cities, towns and villages plan also qualified Act, Hadi. Subject to the user of the law. Also limits cities, towns and villages legal in the range of definitions and privacy of the city, and how to determine town village they passed 1384 and defined.

A) City limits

are bodily from the city and in the future development of the comprehensive plan passed and approval of the plan in the face of a comprehensive plan to guide the city.

B) Town limits

towns range of residential and industrial and ... In layouts Act passed it.

C) Village range

is a range includes the context of the village and the subsequent spread in the implementation of the plan, which was approved by the authorities and determined.

Article 3: the feasibility of agricultural land - use change and gardens

In accordance with the law arable land - use change and gardens, except in emergency is prohibited. also recognize the necessity of land - use change is the responsibility of the commission that Jihad Organization membership , head of the department of agriculture in the province , director of the land affairs , head of the Housing and Urban Communities, director - general of environmental protection and deputy governor of the province , under the supervision of the Agricultural Jihad Organization .The commission, with the presence of at least 4 members have also recognize and its decisions made by a majority of the valid .

Article 4: competent authority diagnosis of lands and its position

recognition of arable land authority and gardens, head of the Agriculture Ministry of Jihad Agricultural Jihad Organization (or in the case of submission, director of the province) land is bound to uphold the judicial and administrative theory Agricultural Jihad Organization in this regard.

On the real estate in cities and villages, town's legal limits Wajid plan Hadi, from the concerned authorities like the Housing and Urban Communities and ... will come out of the inquiry.

Article 5: of change and Bella user license

Article 3 with regard to the protection of arable land and 1385 Act and gardens; any unauthorized use change without the approval of the subject of a commission note the maintenance of law and a user within the framework of the creation of the building, or an increase in removing the sand and other actions which, according to the Ministry of Agricultural Jihad land - use change. In addition to crime and offenders and dismal according to pay fines, one to three times the price of arable land and gardens at the expense of the day, with a novel application will be condemned.

* In the case of repeat offenders fines to a maximum of three times the price of land at the expense of the day with a novel application and imprisonment of up to six months in a month .

* government employees, the municipalities and institutions that the law in the implementation of arable land and gardens to recognize the judicial Saliha courts have been committed violations .while waiver acts of common (revoke licenses issued) in fines from one to three times the price of land, and the price of days to consider new user convicted and, in the case of repeat in addition to the fine to the separation of state and municipal services condemned and institutions.

* Head notary of violating the law also use to six months to two years of suspension if and sentenced to six months and exclusion of head notary will be condemned.

Fifth: The speech on land owned by ruling rights for public schemes

application of legislation in real estate and lands owned by the mayor of the city's duties in accordance with Article 55 1 of Chapter VI municipal law creating the streets and alleys and fields stands at public gardens and water, and the development of roads around the statute of the law. But the statute of the law?

Without doubt whether the ownership of property rights of on - field and privileges and established interests in one of the most basic principles that legislators in civil laws and within the framework of the law, and how to buy land owned by the government and at the time of the municipalities taken action and the public and respect the rights of the sort deserve the support and receiving or the equivalent of the value of financial and material and damage. Public and construction projects that as the custodian of the municipality to implement a series of specific operations and services, in fact, that is based on a series of graduate studies and justification from a technical point of view and economic or social span and credibility is allocated. without actually implementing development projects and technical expertise and justifications without time format and credit and outside the legal formalities for permission to be run by the organization or the administration and without any order expert backing a violation of the rights of citizens and arriving at the proprietorial squandering public property .

Conclusion

As special rules, excellence in public rights, so we will see more discussion of the important bases of bases on the primacy of the rights of proprietorial public rights. Overall, the foundations of our rights in more domination first speech on the topic issue valid jurisprudential basis , we reviewed jurisprudential basis system of Islamic law as a legal system , based on the principles and rules that Aezam Brigade scholars , in their books to identify some of these rules, and explain to the introduction and some indication each . Some of these rules are rules of Islamic jurisprudence, based on the basis of the needs of the public and government. To other interpretation, these rules as and when necessary, to solve the problems of an Islamic state. Confirms the foundations of jurisprudencerules are some Province, indicating that the Islamic ruling Province on population and property of the people. The province of necessity and solve the problems, and forgery. That of the most important of these rules, provincial rule impossible, as a rule, instead of a person can be impossible and one of their rights by others to do his homework or legal successor refused to the owner of the legal actions and he is doing . Also had a right to demand, and he does not refer to the ruling, the ruling intervention provide won't be the rule where the application of Islamic jurisprudence , in many cases . Even in the prayers rule is used. a coercive zakat who pay for it, in spite of such conditions to refuse . in dealings, in many cases of this rule is used . So we can say that in the stage of legislation, legislators may with respect to the rule, for the government or the public devices, according to the provincial people on the property. That regarding the legislation, for solving the conflict between the rights of persons with proprietorial argument and the refusal, and refused to be forged. Inspired by legislators in the rule of law and the laws such as civil law , trade regulations that under the regulation, sitting on the implementation of the tasks and constitutional duties, and the right to belong to another , or on lost and, according to the person or judicial , administrative or agency , Deputy impossible in putting the right to have an established of the rule of 271 , 273 , 238 1043 , a civil law , and 153 205 , the law

on trade and female 4 and note 2 of the present article or article 8 bill how to buy real estate and lands and public schemes adopted by the 1358 and so on. and the rules of the rule , including not loss , not need , and the necessity of emergency rule and loss of causation , the direct effect limitation ownership of the people and the predominance of public rights and the rights of proprietorial are , a law that interact with these rules , including the material 132 ,114 , 591 , 592 all civil law .

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