

Agency Non-isolated A Comparative Study Between the Egyptian and Jordanian Law

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Abstract

This thesis is a comparative study that has handled the subject of the non-isolated Mandate in both the Egyptian law and the Jordanian law. Two major reasons have urged the researcher to conduct this study. First: the fact that non-isolated Mandate contracts have become very common in the field of real estate sales, and car sales. Secondly, none of the previous studies has investigated this subject. Therefore, this study is conducted to clarify the ambiguity between the legislative text and the real practice in order to justify the clear difference between the effects of the regular Mandate and the effects of the non-isolated Mandate. As has been mentioned in the previous paragraph, the rationale of this research is the lack and the scarcity of previous studies on this topic.

Furthermore, by virtue of the importance of the subject, and the lack of detailed texts which show the provisions of the non-isolated Mandate especially in the Egyptian legislation, the researcher has decided to address the topic implementing the comparative analytical approach. The researcher has used the analytical method by shedding some light on the legal texts concerning the topic of the research, focusing on the terms and their compatibility with the goals of the legislator and the texts contained therein. The comparative approach used in this study has been based on the Egyptian civil law which has been compared with the Jordanian civil law as well as the related laws which are allocated by Jordanian legislator. It has also been compared with the French Civil law and other Arabian legislation, along with the Islamic jurisprudence position regarding this type of Mandates. These types of comparison are supposed to enrich the research as well as to inform the reader of the legal texts related to the Mandate in the above-mentioned laws. This study consists of an introductory chapter and two sections, in the introductory chapter, the researcher has introduced the concept of the Mandate contract and the freedom of isolation and/or the step down of the individual will. The first section, has introduced the concept of the non-isolated Mandate contract and its types, the second section has discussed the provisions of the non-isolated Mandate. The study has concluded that the legal nature of the non-isolated Mandate differs, in nature, from the legal nature of the non-isolated Mandate of agreement. Both types of Mandates remain within the confines of the regular Mandate that can not be described in any other legal way such as a contract of sale or a contract of mortgage. This is so because the Egyptian and Jordanian legislators organize the provisions of this Mandate within the provisions of the regular Mandate. At the same time the researcher has recommended that the Egyptian and Jordanian legislators reduce the Real Estate registration fees and the car sales documentation fees in order to reduce the phenomenon of hiding sale in the form of non-isolated Mandate and in order not to undermine the goal for which this type of Mandates (non-isolated Mandate) has been found.

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