

The Regulations of Sales by Model in Jordanian Law and Islamic Jurisprudence

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Abstract

The study aimed to elucidate the legal and regulatory treatment when sold goods do not conform to the model accepted by the buyer, utilizing a descriptive-analytical and comparative approach. It was divided into two sections. The first section expounded on model-based sales in Islamic jurisprudence, identifying various types in view of different models and the Islamic jurisprudential stance on such sales. The second section addressed model-based sales in Jordanian civil law under Articles 468 and 469. Key findings revealed the Jordanian legislator's recognition of the model-based sale contract and formulation of regulations in the Civil Law. However, it did not cover all related provisions, leaving other matters subject to general rules. The study recommends the necessity for the Jordanian legislator to expand provisions for model-based sales in the Civil Law and include detailed regulations.

Keywords: *Model-Based Sale, Option of Inspection, Conforming Model, Jordanian Law, Islamic Jurisprudence.*

Introduction

Islamic jurisprudence has considered the model-based sale, with varying opinions and divergent rulings. Similarly, Jordanian legislators have regulated the model-based sale within the provisions of civil law under Articles 468 and 469. Contracting parties may choose to adopt a model for the sale or a sample of it to make it clear to the buyer. This model is an integral part of the sale, providing insights into the nature and quality of the sold goods.

Customary practices dictate that the knowledge of the sale and its identification, as well as the buyer's consent, should be established by the seller presenting a model indicating the nature and characteristics of the goods (Mansoor and Paul, 2022). Model-based sales occur when the goods are not physically present before the contracting parties, particularly in transactions involving bulk goods such as grains, wool, or metals and standardized goods like fabric and similar quantifiable items. Model-based sales are prevalent in practical life.

The presentation of the model to the buyer or their agent signifies knowledge of the sale, negating gross ignorance. This is because the model represents the sale in a reduced form, and granting the buyer access to it fulfills the purpose of seeing the goods, as they have essentially seen the goods when they have seen the model. This is because the model is an integral part of the sale. In case the model deviates from the rest of the sale, the legislator has stipulated specific conditions to address such discrepancies by granting the buyer options to either reject or accept the sale at a reduced price if it does not conform to the model. The legislator has also provided solutions for disputes between the contracting parties regarding the conformity of the sale to the model.

Research Problem

The research problem arises from the insufficient legal and regulatory treatment of model-based sales, necessitating an exploration of the intricacies of such sales and the consequences of non-conformity between the model and the actual goods. Additionally, it raises questions about potential differences between model-based sales and the option of inspection. The problem becomes particularly pertinent when

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the model is lost, and there is an inability to ensure conformity between the model and the actual goods, which will be the focus of this research.

Research Significance

The significance of this research lies in the fact that the model-based sale contract is a crucial and practical type of contract, being one of the most common contracts in daily life, as it falls under the category of reciprocal contracts and is a form of exchange contract. Therefore, the research's importance lies in elucidating the legal and regulatory treatment when the sold goods do not conform to the model accepted by the buyer.

Research Methodology

To study this type of practical and everyday contracts that occur in real-life situations and are susceptible to fraudulent practices, a descriptive-analytical approach will be adopted. This approach allows for a comprehensive examination of these contracts and their real-world applications. The study will also involve a comparison of the opinions of Islamic Sharia scholars with the legal rulings outlined in Jordanian legislation. This will be achieved through the use of a comparative methodology, which aims to provide integrated solutions for this contract and establish safeguards for both parties involved in the contract.

Chapter 1

Rulings of Model-Based Sales in Islamic Jurisprudence

One of the aspects encompassed by the evolution of trade is a longstanding human activity that has been known to the earliest human societies. Over time, this activity has undergone significant development, covering various forms of exchange, methods of transportation, contract types, types of goods, presentation methods, and more. This activity is closely tied to human life, as there is no individual in any time or place who is not either a seller or a buyer. Therefore, it is essential for people to understand the rulings of Islamic Sharia in these transactions to protect themselves from consuming the property of others unjustly or having their own property consumed unjustly. Where it is legally permissible for a legal person, or legal person, to be a party to a contract, have a physical presence, and have the right to property. Rights and obligations

. In light of this, we will clarify the rulings of model-based sales and the opinions of Muslim jurists regarding this type of sales.

First Requirement

Types of Sales Sold with Different Model Views and the Position of Islamic Jurisprudence on their Sale

According to the opinions of jurists from the four main Islamic schools of thought, there are three types of models, and sales falling under them. In this section, we will present each type and the opinions of jurists from the four schools of thought regarding them.

First Type: Models Matching the Commodity

This applies to bulk goods, standardized goods, fluids, and manufactured goods in the contemporary context. Selling with the view of such models is considered valid, and it obliges the buyer if the goods conform to the model. This is applicable in sales composed of equal parts, such as grains, flour, and the like. In this type of sale, the buyer sees a model of the product and requests the seller to provide a similar item. This can happen whether the sold goods are absent from the contract assembly when specifically identified or are present in a single undivided container. If the goods are in multiple containers, the buyer takes a model from one of them and requests the seller to provide an item identical to it. The seller should only give the buyer a product from the container that the model was taken from.

Second Type: Proximity Numerical Models

In this type, there is a minor variation that is neither considered significant from a Sharia perspective nor recognized as a market practice, and it does not affect the value of the sale. Examples include walnuts, almonds, and eggs. In such cases, it is sufficient for the buyer to see a model of the product, and the sale is considered valid and binding for the buyer. If there is a minor variation, it is excusable and does not lead to disputes.

The three major schools of Islamic jurisprudence (Hanafi, Maliki, and Shafi'i) agree on the validity of selling based on the view of a proximate numerical model, such as walnuts, almonds, pears, and the like. There is no mention of it in the Hanbali school. If the buyer sees the numerical model, purchases the goods based on this view, and it's clearly specified in the contract, the sale is valid according to the Hanafi and Maliki schools, but it is considered void according to the Shafi'i school unless the buyer explicitly includes the option to inspect.

Third Type: Viewing Models Through Reflected Images

In the case of viewing the model of the sold item through reflected images, such as those seen on a mirror, on the surface of water, or on sensitive tapes like photographic images, the sale is valid based on viewing these models. However, the buyer is not obliged, and they have the option to inspect, mainly due to the potential for misperception or misunderstanding. While the image indicates the essence of the sale, its attributes may not be accurately reflected.

Type 4: Catalog or Image-Based Models

The fourth type involves a picture or what is commonly referred to as a catalog through which the nature and type of the item being sold are conveyed, along with its characteristics. If the image represents a piece of furniture, for instance, details such as the wood type, paint type, quality, color, and grade are specified.

The sale based on viewing this type of model is considered valid if the item is absent from the contract assembly, and the buyer has the option to inspect it.

This type of sale has become prevalent in this era, with many companies featuring images of their products in what is known as a catalog. When a buyer selects an item for sale, they send the product's price and its number to the company. The company may be located in another country, and in this case, the legal ruling on this sale varies among the Hanafi jurists.

According to the Hanafi school, the sale is considered valid but not binding until the buyer sees the item and approves it. If the seller (the company) stipulates that the sale is binding upon the buyer if the item matches the specifications seen in the image, as is common in this era, the sale is considered void in the Hanafi school.

In the Maliki school, the sale is deemed valid and binding under the conditions of remote sales. If any of these conditions are breached, the sale is considered void.

The Shafi'i jurists lean towards considering it void but acknowledge its validity with the condition of the option to inspect.

The Hanbali school deems it valid and binding.

*Second Requirement**The Islamic Jurisprudence Stance Regarding the Means of Selling by Model*

The Hanafi and Maliki jurists concur on the validity of selling by model and its obligation on the buyer, whether the item is absent or present during the contract, and whether it is difficult to see or not. This is valid when the model is similar or numerically close.

The Shafi'i jurists permit it, but with the condition that the model be included in the contract, and the item to be sold must be specific. The Hanbali jurists add the requirement that the item must be present during the contract.

If the model is an image of the item, the Hanafi jurists agree with the Hanbali jurists that selling is permissible without restrictions, whether the item is absent or present and regardless of the ease of observation. However, the Hanafi jurists believe that the sale is valid without imposing it on the buyer, and the buyer has the option to see it. If the seller insists on removing the option to see it, the sale becomes void. The Hanbali jurists believe in the obligation of the option to see the item if it is presented in accordance with the model.

The Maliki jurists differentiate between the presence or absence of the item and the ease of observing it. If the item is absent or present but with difficulty in observing, the sale is binding for the buyer if the item matches the characteristics seen in the image. If the item is present in the contract without difficulty in observing it, the sale is void if imposed and valid with the option to see it. If the item is too distant, the sale is void if imposed, whether the model is similar, numerically close, representational, or otherwise. It is valid with the option to see it.

Regarding the means of selling by model, the Hanafi jurists believe that the concept of "seeing" is not limited to direct visual observation but also includes smelling, tasting, touching, and hearing in sales where these senses are relevant. The buyer is not obligated to make the purchase merely by looking at the item, in contrast to the majority who believe that "seeing" refers to direct visual observation. According to the Hanafi school, if the buyer looks at the item, the purchase is binding regardless of the type of item. However, they permit the condition of the option to see, whether this view serves a purpose for the item or not.

The Shafi'i jurists permit such a sale, and it is binding if it serves a purpose for the item; otherwise, the sale is void. As for the Hanbali jurists, the sale is valid and binding for the buyer when the view is through a transparent surface, as it accurately reflects the item's true condition. The Maliki jurists do not specifically mention this means. The three schools, Hanafi, Maliki, and Hanbali, have agreed on the validity of selling absent items by description but differ in terms of its obligation.

*The Second Chapter**Provisions of Selling by Model in the Jordanian Civil Law*

In this section, we will review the Jordanian legislator's position on regulating sales by model and how they have structured the provisions of such sales. This is done in accordance with the following divisions:

*The First Requirement**Provisions of Selling by Model According to Article (468) of the Jordanian Civil Law*

The Jordanian legislator has regulated selling by model and its conditions in Article 468 of the Civil Law, which states:

"1. If the sale is by model, it is sufficient to see it, and the item to be sold must conform to it. 2. If it becomes apparent that the item does not conform to it, the buyer has the choice to accept it or reject it."

According to the text of this article, it becomes clear that there are conditions for selling by model. The Jordanian legislator has also provided the buyer with choices in this type of contract. We can extract these conditions based on what is stated in Article 468/1 of the Civil Law, which says:

"If the sale is by model, it is sufficient to see it, and the item to be sold must conform to it."

Two conditions can be deduced from this article:

First Condition: The model must refer to the item to be sold. The text of the previous article implies that when the sale is by model, seeing the model is sufficient. The sight here is not for its own sake but to provide a complete idea about the item being sold, ensuring that the buyer knows it sufficiently, thus eliminating any gross ignorance, and is satisfied with it. The provided model must give a clear and sufficient indication of the item being sold.

Second Condition: The item being sold must conform to the model. This condition is mentioned in Article 468/2 of the Jordanian Civil Law, which states:

"If it becomes apparent that the item does not conform to it, the buyer has the choice to accept it or reject it."

According to this text, the item being sold must be in conformity with the model. If the seller presents a model, such as a quantity of oil or fat, the item being sold must be in conformity with the model in terms of its type and class. If the seller presents a model in the form of a car or a bicycle, the item being sold must be in complete conformity with the model in terms of the type of iron used, design, shape, and agreed-upon colors. The seller is not absolved of responsibility if they deliver goods that are different in type or quality from the model, even if they are of the common type in the market or better than the type represented by the model or of higher value. Fulfillment must be with the very thing the debtor originally committed to, and the buyer is not obligated to accept anything different, even if it is superior or of greater value.

If the buyer finds that the item being sold conforms to the model, they are obligated to accept the item and take delivery, and they cannot rely on prevailing customs, such as the taste of the item or personal experimentation. Acceptance of the model is considered a waiver of the item's taste or personal experimentation. The buyer is not allowed to reject the item, even if they find it unsuitable or inappropriate for their needs.

If it appears that the sale is not in conformity with the model, the law has established consequences and options for the buyer as provided in Article (468/2) of the Civil Code, which states: "2- If it appears that it does not conform to it, the buyer has the choice to accept it if he wishes or return it." These effects stipulated by the Jordanian legislator are as follows:

First: The buyer accepts the sale in the form presented to him, as conformity of the sale to the model is determined in favor of the buyer. It is his right to waive this right at his sole discretion. In this case, he cannot claim any compensation for non-conformity of the sale to the model, lack of quality, or discrepancies in specifications between the model and the sale. This is because he can choose the second or third option, and as long as he is able to choose, he cannot demand anything from the seller except through these options. The buyer is not prevented from proceeding with his presentation to the seller, bargaining with the seller to pay the seller a sum of money in exchange for the buyer's satisfaction with the sale. If the buyer accepts the sale in this manner, and the seller is informed of this, he cannot later change his acceptance. This is because his acceptance of the sale in this manner is an individual act that binds him, and he cannot revoke it by his sole will once the will is expressed and the seller is informed of it.

This option has been affirmed by the Jordanian Court of Cassation in one of its judgments, in which it stated: "When the goods subject to the claim arrived in the free zone in Zarqa, the defendants (A.Q) and (A.Q) transferred the goods from the truck coming from the Arab Republic of Egypt to another truck belonging to the Eagle International Company for Integrated Shipping Services, which directed the goods to Tikrit, Iraq."

At that time, the plaintiff paid the remaining price of the goods subject to the claim and the Iraqi customs fees to deliver the goods to (KBR) company, considering that the latter had purchased the goods from the plaintiff. The plaintiff claimed that (KBR) rejected the goods because they did not conform to the required technical specifications agreed upon (according to the sample), and he filed this lawsuit to recover the amounts he paid as the price for the mentioned goods, along with compensation for damages and lost profits. Upon examining the text of Article 468 of the Civil Code, it becomes clear that if the sale is made based on a model, it is sufficient to see it, and the sale must be in conformity with it. If it appears that it does not conform to it, the buyer has the choice to accept it if he wishes or return it...

Secondly: Rejecting the sale. In this case, the buyer insists on the necessity of conformity of the sale to the model, and it is incumbent on the seller to deliver the sale in accordance with the agreed-upon model. Otherwise, the seller would be in breach of his obligation. If the seller fails to fulfill the model, he is compelled, after giving him notice, to execute what he had committed to physically when that is possible. Alternatively, it can be executed by way of compensation.

It is worth mentioning the statute of limitations that applies to the buyer's claim regarding the non-conformity of the sale to the model. Some legal opinions state that all the options available to the buyer indicate that the buyer's claim regarding the non-conformity of the sale to the model is subject to a statute of limitations, and it cannot be heard after fifteen years from the time of the delivery of the sale to the buyer. In other words, it becomes time-barred after fifteen years as stipulated.

In the general rule, and not under the short statute of limitations established for claims related to hidden defects in sales or claims of price adjustment or reduction, which are, in the first case, six months and, in the second case, one year, as there is no provision specifying this period, it is subject to the general rules of prescription.

However, the Jordanian judiciary, represented by the Court of Cassation, has taken a different approach and granted the buyer the right to use the "defect option" and the lawsuit used by the holder of the defect option, which is not subject to the provisions of Article (521) of the Civil Code after the expiration of six months from the delivery of the sale, unless the seller commits to a longer duration. This is reflected in a decision of the Jordanian Court of Cassation which stated: "...we find that although the legislator did not directly specify the prescription period for claims related to sales based on a model, referring to the explanatory memorandum of the Jordanian Civil Code, Article (468) of the Civil Code derives from the provisions of Articles (324 and 325) of the Code of Civil Procedure, as explained by Professor Ali Haydar. Referring to these two articles and their explanation, it becomes clear that in the event of a discrepancy between the sale and the model, the buyer only has the option of defect, and therefore the judgment on the conformity or non-conformity of the sale to the model is determined by the opinion of the experts in accordance with Article (469) of the Civil Code.

Based on the foregoing, our court's jurisprudence, in its General Assembly decisions numbered (229/2001), (123/1999), and (181/1991), has determined that the non-conformity of the sale to the model gives the buyer the right to use the "defect option" and the lawsuit used by the holder of the defect option, which is not subject to the provisions of Article (521) of the Civil Code after the expiration of six months from the delivery of the sale unless the seller commits to a longer duration. The legislator's intention in not hearing the claim after this short period is to achieve stability in transactions, so that the seller is not threatened with the buyer's rejection of the sale or his warranty claims for an extended period, and this period is sufficient for the buyer to be able to assess who inspects the sale to determine whether it has a defect that deviates from the agreed specifications in the sales contract, and since there is no provision in the Civil Code that indicates that the legislator distinguishes between sales based on a model and other types of sales

with regard to the prescription period preventing the hearing of the claim in the case where the sale is delivered to the buyer with a defect, and since non-conformity of the sale to the model is just one type of defect in the sale, the buyer's claim to void the contract and demand the price and compensation for damages is not heard after six months from the delivery of the sale, unless the seller commits to a longer warranty period or proves that concealing the defect was fraudulent on the part of the seller. In this case, and since it was proven that the counterclaimant (the buyer) filed her counterclaim on the date of 28/4/2016, and the delivery date according to the latest sales invoice as per the account statement is 6/9/2014, the counterclaim is filed after the expiration of the six months stipulated in Article (521) of the Civil Code. As the Court of Appeals reached a different conclusion, its judgment is erroneous and subject to appeal based on the reasons for appeal. Therefore, we decide to annul the distinctive judgment and return the case to its source for the necessary legal proceedings.

Based on the above, if the buyer exercises one of the aforementioned options, his right to use the other option is forfeited unless the seller agrees, as his expression of his free will in using one of the options and the communication of this expression to the seller means that this expression has taken effect. It is an expression of an individual will that he cannot retract unless it reaches the seller's knowledge through direct communication or agreement with him.

The Second Requirement

Provisions of Sales Based on a Model According to Article 469 of the Jordanian Civil Code

Article 469 of the Jordanian Civil Code states the following:

If the contracting parties differ regarding the conformity of the sale to the model, and both the model and the sale are present, then the opinion of experts prevails. If, however, the model is in the possession of one of the contracting parties, the judgment regarding conformity or non-conformity belongs to the other party unless the contrary is proven.

If the model is in the possession of a third party by mutual agreement of the two parties, and the sale is specific and explicitly agreed to be the one in question, then the judgment belongs to the seller regarding conformity, unless the buyer proves otherwise. If the sale is specific in terms of type or explicitly agreed to be the one in question, but there is no agreement on its being the one in question, then the judgment belongs to the buyer regarding non-conformity unless the seller proves otherwise."

From the above text, it can be inferred that the Jordanian legislator has provided solutions for resolving disputes between contracting parties over the conformity of the sale to the model. In such cases, it is essential to resolve the disagreement between them. However, legal issues arise when the model is lost. Therefore, Article 469 of the Civil Code addresses these issues as follows:

First Scenario: Disagreement between the Seller and the Buyer with the Model Present

Article 469(1) of the Civil Code states: "If the contracting parties differ regarding the conformity of the sale to the model, and both the model and the sale are present, then the opinion of experts prevails." According to this provision, if the model is present, the opinion of experts determines whether the sale conforms to the model or deviates from it.

In the case of a sale based on a model, such as electrical appliances, where the seller claims that the sale conforms to the model and the buyer claims that it deviates from the model, there are two possible approaches to resolve the dispute:

Agreement between the Parties: The parties can agree to appoint an expert engineer in electrical appliances to determine whether the sale conforms to the model or not. This expert's opinion can help resolve the dispute between them.

Legal Proceedings: If the matter reaches the court, the court has the authority to appoint one or more experts to assess the conformity of the sale to the model. It's important to note that the expert opinion is not binding on the court, and the court can choose to accept it in full, reject it completely, modify it, or add to it. In all cases, the court has the option to appoint a second expert opinion on the same subject.

If the court adopts the expert's opinion, it becomes part of the court's judgment and is binding on both the seller and the buyer. If the court rules that the sale is conforming, the seller has fulfilled his obligation, and the buyer is required to accept the sale in the form presented by the seller. If the buyer refuses to accept it, the seller has the right to take the steps necessary for performance in accordance with the provisions of Articles 322 to 328 of the Civil Code.

If the court rules that the sale is not conforming to the model, the seller has failed to fulfill his obligation to deliver a product that matches the model. In such cases, the legal framework mentioned earlier regarding the consequences of non-conformity comes into play, including the three options granted by the law to the buyer.

In both scenarios, whether the court determines conformity or non-conformity, the court's judgment is subject to appeal through the established legal means. The final judgment issued by the highest court of appeal is the one that is recognized in terms of whether the sale conforms to the model or deviates from it.

In this regard, the Jordanian Court of Cassation issued its decision as follows: "Regarding the third and fourth grounds for the appeal, alleging errors on the part of the first-instance court, it was claimed that the expert was tasked with a different mission than what was requested by the representative of the opposing claimants in the counterclaim. Furthermore, the expert did not consider the information contained in the expedited report, and failed to account for the damages outlined in the expedited report. The first-instance court erred by relying on the expert's report, even though it contradicted the established procedures. As for the claim that the expert's findings did not align with the expertise requested by the opposing representative, by referring to the list of data submitted by the counterclaimant, our court finds that the purpose of conducting the expertise was to "identify the quality of the stone used in the construction that belongs to the claimants, and to determine the quantity of the non-compliant installed stone according to the agreed-upon specifications and standards. It was also meant to specify the defects and damages, and outline the methods for repairing the damages, which involve the removal of the installed stone, the costs of removal, installation fees, and a fair compensation estimate. Through the examination of the counterclaimant's statement, it is clear that the subject of the lawsuit is the demand for compensation for material damage resulting from the difference in the type of stone. This is supported by the counterclaimant's admission that he had an agreement with the counter-defendant, Husam, to supply first-class Arooshid stone, and that the counter-defendant in the counterclaim is responsible for providing the stone as he owns a quarry. This agreement between them was confirmed during their interrogation. However, the counterclaimant in the counterclaim provided Arooshid stone that was not of the first-class quality, and it was installed and integrated into the building structure. This is evident from the expert's report, which indicated that the difference in stone type amounted to 10% of the total value, equivalent to a total of 1657.7. The actual difference in stone price represents compensation for the material damage incurred by the counterclaimant due to the counter-defendant's failure to fulfill his obligation to supply first-class Arooshid stone. On the other hand, our court finds that the expert detailed the stone's type used in the construction, outlined the defects thoroughly, and provided a method for rectifying these defects, involving cleaning the stone. Moreover, the expert noted the difficulty in removing the stone and estimated a fair compensation, taking into consideration the information presented in the expedited report. Therefore, the expert adhered to the assigned task and accounted for the expedited report stored in the lawsuit file. Consequently, these grounds do not challenge the appealed decision and are subject to dismissal.

The Second Scenario: Loss of the Model from the Possession of One of the Contracting Parties (Seller or Buyer)

Article 469/1 of the Civil Law states: "If the model is lost from the possession of one of the contracting parties, the statement regarding conformity or non-conformity to the other party's part shall be accepted unless the opposite is proven." In this case, if the model is lost in the possession of either the seller or the

buyer, the law places reliance on the statement of the other party regarding whether the sale conforms to or deviates from the model. If the buyer claims that the sale is conforming, his statement shall be accepted, and if he claims that it does not conform to the model, his statement shall also be accepted. This statement is what the law takes into account. If the matter reaches the court, it will consider the buyer's statement, whether it pertains to conformity or deviation, unless the seller proves the opposite, demonstrating that what he provided conforms to the agreed-upon model.

Both the seller and the buyer can prove the opposite of what the other party claims through all means of evidence, as this incident is purely material. However, such proof can be exceedingly difficult, particularly when the model has been lost from one of the contracting parties, and the determination of conformity or deviation of the sale from the model falls within the buyer's right. In such a case, the seller's attempt to prove the opposite can be challenging. Therefore, the final statement that will be accepted is that of the buyer, as long as the seller cannot prove the contrary, and the opposite is indeed true.

It can be inferred from the above that the reason the law takes the other party's statement regarding conformity or non-conformity in case of model loss from the first party's possession is that the party holding the model may intentionally cause the model's loss, destruction, or concealment by fraud. This is done to compel the other party to accept a type of sale that deviates from what was agreed upon through the unilateral will of the party missing the model.

The Third Scenario: Loss of the Model from a Third Party

Article 469/2 of the Civil Law stipulates: "2- If the model is in the possession of a third party by mutual agreement of the contracting parties, and the sale is specific and agreed upon to be the exact subject matter of the contract, the statement regarding conformity shall be given to the seller unless the buyer proves the opposite. If the sale is specific in type only or specifically designated but not agreed upon as the exact subject matter of the contract, the statement regarding non-conformity shall be given to the buyer unless the seller proves the opposite."

From the above text, it can be inferred that Jordanian legislation addresses the scenario where the sale is specifically defined or designated, and both parties, the seller and the buyer, mutually agree on the nature and specifics of the sale as the exact subject matter of the contract. For instance, they agree on a specific quantity of official attire or a specific quantity of olives explicitly referred to and present in the contract's documentation. In this situation, if the model is lost from the possession of a third party and the seller claims conformity while the buyer claims non-conformity, the law resolves the matter as follows: the seller's assertion of conformity with the model is accepted, and it becomes the basis on which the buyer should accept the sale. Otherwise, the seller is compelled to take the necessary steps for presenting and depositing the sale. If the matter reaches the court, it will consider the seller's statement in this case, unless the buyer proves the contrary by demonstrating that the sale does not conform to the model.

Furthermore, the law also acknowledges the buyer's statement in cases of non-conformity, particularly when the sale is specific in type only without being segregated. In such cases, the seller could manipulate or commit fraud or negligence by providing the buyer with a type that benefits the seller while harming the buyer when segregating it, especially since the model is missing. In the event that the sale is specific in its entirety but not explicitly agreed upon as the exact subject matter of the contract, meaning that it was not seen by the buyer, described to the buyer, or its characteristics or type were not known to the buyer; rather, the buyer became aware of it through a model provided to a third party, the seller could, with ill intent, collude with the third party to destroy or conceal the model. This allows the seller to deliver a sale that deviates from the agreed-upon model, aligning with their interests against the buyer's interests.

Conclusion

In conclusion, this research, entitled "Sales by Sample Provisions," delved into the regulations governing sales by sample in Islamic jurisprudence and under Article 468 of Jordanian Civil Law. Based on the analysis and discussion, the following results and recommendations can be summarized:

Results

Selling by sample in Islamic jurisprudence requires scholarly interpretation and practical application, with permissibility varying among the different Islamic schools of thought. The Hanafis and Malikis allow it broadly, while the Shafis and Hanbalis permit it with certain conditions.

Jordanian legislations recognize the contract of sale by sample and provide regulations for it under Articles 468 and 469 of the Civil Law. However, these provisions are not exhaustive, leaving certain aspects to general legal principles.

The Jordanian legislator grants the buyer the choice to either accept or reject a sale that does not conform to the sample. If the buyer chooses one option, their right to exercise the other option is forfeited unless the seller agrees. This reflects the principle that expressing one's free will through the use of one option and delivering this expression to the seller creates binding consequences.

Jordanian legislation does not explicitly address the issue of prescription (statute of limitations) concerning the buyer's claim regarding non-conformity to the sample.

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