

Check the Condition of Subjective Conditions and Effects of Legal Jurisprudence

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The Principle of Autonomy of volition (Will Authority) means the parties of agreement for the legitimacy of the obligations and contracts. Therefore, condition is a ancillary covenant means being obliged and bound. In its technical sense, it is an obligation within another contract. A condition may be either express or implied. There have been investigations and discussions on various kinds of implied term. However, the mentally established condition has not been investigated yet. In contemporary times however, some jurists have taken this type of terms into account in order to explain certain legal issues. However, there has not been any study or investigation on the nature and concept of this condition, nor on the foundation of its validity, nor on its exact classification, extensions and effects in jurisprudence and law. The results of this study indicate that mentally established condition is one established in the minds of the parties to the contract. It is a concomitant of the contract although the parties to it have not had any actual attention at the time of conclusion. Mentally established condition is among the implied conditions finding its validity the generality of the proofs of validity of conditions. Some of the consequences of mentally established conditions can be seen in legal issues such as option for lesion, destruction of the object of sale before delivery, the maintenance of wife in the period between marriage contract and wedding, right of lien, option for delay, option for defect and the like in the Shiite jurisprudence and the law of Iran which will be discussed in more detail in this study.

Keywords : Condition, Express Condition, Implied Condition, Mentally Established Condition

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