

Recognizing the Agent's Authority to Engage in Self-Dealing as the Rule in Iranian Law and Islamic Fiqh

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Article Info

Article type:
Research Article

Article history:
Received
20 December 2023
Received in revised form
26 February 2024
Accepted
17 March 2024
Available online
22 December 2025

Keywords:
agent,
interest,
self-dealing,
absolute authorization

ABSTRACT

Iranian law contains only limited rules on self-dealing and its effects. The permissibility of self-dealing as the default rule can be inferred from Article 198 of the Civil Code. The legal status of an agent's self-dealing, especially where the principal has not expressly authorized it but has granted the agent general or absolute authority to contract, is disputed in Islamic fiqh and Iranian law. General rules of transactions do not clearly settle the matter. Some scholars accept self-dealing only where the principal has expressly permitted it, while others maintain that an agent authorized to transact, even generally or absolutely, may contract with himself unless expressly prohibited. Using a descriptive-analytical method, this article argues that under the principles of contractual stability, freedom of will, and freedom of contract, the agent's self-dealing is effective unless a statutory or contractual prohibition exists. Restrictive rules should be treated as exceptional, interpreted narrowly, and should not be transformed into general principles.

Cite this article: Abhari, H., Hosseini Moghadam, S. M., & Hosseini Moghadam, S. H. (1404). Recognizing the Agent's Authority to Engage in Self-Dealing as the Rule in Iranian Law and Islamic Fiqh. *Studies of Islamic Jurisprudence and Basis of Law*, 20(2), 75-100. <https://doi.org/10.22034/fvh.2024.17688.1886>



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DOI: <https://doi.org/10.22034/fvh.2024.17688.1886>

Introduction

Self-dealing by an agent has rarely been regulated in Iranian law. Article 198 of the Civil Code supports the general possibility that one person may represent both sides of a transaction or otherwise form a transaction in a dual capacity. The more difficult question concerns an agent who has not received express permission to self-deal but is broadly or absolutely authorized to contract. Jurists and legal scholars have offered competing analyses, and the absence of a clear general rule has produced disagreement.

Methodology

The study is descriptive-analytical. It examines primary legal and fiqhi sources, extracts the central theories and solutions, and then critically evaluates them. The article seeks to challenge prior approaches and to present a new legal and fiqhi solution based on evidence that has often been overlooked.

Literature Review

Several articles have addressed self-dealing and the agent's transaction with himself, including studies on the nature and legal status of self-dealing and on the agent's self-contracting. However, previous works generally did not identify the default rule or did not determine whether the starting point is freedom or prohibition when an agent holds an absolute authorization.

Findings

Because contracts are legal constructs, the issuance of offer and acceptance and the existence of multiple legal wills by one person are technically possible. Article 198 of the Civil Code confirms this as a general rule. Where the agent has express authorization or a general permission to transact, there is no serious disagreement over validity. Article 1072 of the Civil Code concerns marriage and family law and is exceptional; it cannot be generalized to all contracts. In absolute authorizations, no statutory limiting rule prevents self-dealing. Articles 196, 197, and 201 of the Civil Code also indicate that, as a rule, the identity of the counterparty is not essential to the validity of ordinary contracts.

Discussion

Prior research often assumed a traditional default of prohibition. The present article argues that this approach is inconsistent with the principles of contractual stability and freedom of contract. The agent remains bound by the principal's interests, by the scope of authorization, and by the agency contract. Iranian law already provides remedies for breach of these duties, including non-effectiveness, options, and liability under the relevant provisions of the Civil Code. These remedies do not imply a general ban on self-dealing.

Conclusion

When the agent is expressly or generally authorized to transact, self-dealing is valid. When the authorization is absolute, there is still no general rule prohibiting the agent from contracting with himself. The agent's duties to act within authority and preserve the principal's interest remain in force, and their breach should be addressed through the remedies already provided by law. Consequently, the rule should be validity and effectiveness of self-dealing, with prohibition limited to cases of express statutory or contractual restriction.

Declarations

Author Contributions: The authors contributed to research design, source analysis, drafting, and review.

Data Availability Statement: Not applicable.

Acknowledgements: No acknowledgement was declared in the source file.

Ethical Considerations: The authors observed the ethical principles governing the conduct and publication of scientific research.

Funding: No specific financial support was declared.

Conflict of Interest: No conflict of interest was declared.

Declaration on Generative AI and AI-assisted Technologies: Not specified in the source file.