

Deprivation of the Debtor in the Civil Law

Student Name

Ibrahim Khazraj Abdulmaged Almansor

Supervisor

Dr. Yaseen Mohammad Al-Jbouri

Abstract

This study dealt with the subject of "Debtor Discussion Defense" (Comparison Study) along with investigation the provisions of the Jordanian and Iraqi Civil Laws, making comparison with the Egyptian Law, recourse to the jurisdiction opinions related to the subject matter and guided by the awards of the Iraqi, Jordanian and Egyptian Cassation Courts, for the purpose of achieving the study objective which is proving the guarantor right in "stay of execution" on his properties until performing execution on the debtor's properties and the significance of the same on the commercial and civil relations and on insurance contracts, in general.

I have divided this study into chapters so that I would be able to cover the entire subject through studying the concept and definition of "debtor discussion" and demonstrating its characteristics and its emerge phases; then, studying the defenses granted to the guarantor in the guarantee contract and addressing the payment conditions in the "debtor discussion", its legal adaptation and how to claim for the same and use it as a defense, concluding with the impacts and effects of "Debtor Discussion Defense", its application forms, for the purpose of studying the bank guarantee since it is one of the "Debtor Discussion Defense" applications as well as the letter of guarantee being invalidator of the "Debtor Discussion Defense" for the purpose of achieving the study outcome, since the Iraqi, Egyptian and French Legislators and most of the civil legislations, adopted the "Debtor Discussion Defense", but the civil Jordanian legislator

has not adapted such defense because he made the guarantor jointly liable with the original debtor where the creditor has the right to recourse on the debtor or guarantor, which is derived from the Islamic jurisdiction.

Finally, I specifically recommended gathering the "Debtor Discussion Defense" provisions scattered within the civil law provisions, confine it in one specific article, to provide a direct and express text for "Debtor Discussion Defense" and incite the civil Jordanian legislator to amend the law provisions taking into consideration claiming the debtor first prior to claiming the guarantor.