

THE BARGAIN PURCHASE OPTION: SHOULD IT BE MORE THAN AN OPTION?

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Abstract

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This study examines the bargain purchase option, which gives the lessee the option to buy the leased asset at the end of the lease period at a price significantly less than its fair market value. The study analyses the approach that the laws of Jordan and the United Arab Emirates (UAE) employ to enable the lessee to practice this option (Al-Azzawi, 2013). To achieve this goal, the main foundations and characteristics of the lessee's option to purchase are studied under both jurisdictions showing that while Jordanian law treats the option to purchase as a contractual choice (Al-Khasawana, 2005), the UAE law moved further to protect the option by law. This difference is discussed in terms of its impact on the degree of protection that prospective users of financial leases may enjoy with regard to the bargain purchase option. This article concludes with some results and recommendations for sake of improvement, mainly the need to embrace legal protection of the option to purchase under the Jordanian legal system, and the need to grant the lessee the right to seek compensation in the case of lessor's failure to transfer the leased property within the period set by the law in the UAE.

Keywords: Financial Lease, Lessor, Lessee, Option to Purchase, Jordan, UAE

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1. INTRODUCTION

A financial lease contract is a relatively modern innovation in the realm of in-kind financing. It has been introduced to fulfil the need of various industries for funding, especially in the case of a need for high-value capital equipment such as machinery, vehicles, vessels, aircraft, and individuals, particularly in the case of financing of real estate and motor vehicles (Equipment Leasing and Finance Association [ELFA], 2022). The financial lease contract is one of the most important legal mechanisms that come from the heart of commercial reality (Sudžuka, 2014). It does help overcome the hardships of purchasing high-cost capital equipment and assets whether for commercial or private use.

It is a special type of combined contract that allows for flexible financing with elements of the conventional lease and purchase contracts (Devprakash, 2022). The financial lease contract can go more complicated when several parties are involved with different types of obligations. This might happen when a financial leasing company (the lessor) has to buy the leased object from a third-party provider upon request of the lessee (Duweidar, 1998).

The economic relevance of financial leases and their increased global adoption by the business sector have encouraged many Middle Eastern countries to enact special laws to regulate this important contractual financial mechanism (Al-Qaisi, 2018). Jordan was amongst the first countries in the region to enact a special law for financial leases (Law No. 45 of 2008). Reliance on

lease solutions in various industries in the UAE is not a new practice; the country nevertheless did not have a special law on financial leases until 2018 when Federal Law No. 8 on Financial Leasing was enacted. Both laws provide the lessee with several modes of protection but the most important is the bargain purchase option. It allows the lessee to buy the equipment or the property subject to the financial lease contract at the end of the contract period at a price significantly below its fair market value.

This option perhaps forms the backbone of the concept of a financial lease and without it, the financial lease may become drastically less attractive, and maybe inconsequential. It is indeed the reason behind the high relevance of the option to purchase for both businesses and individuals which has encouraged the authors to look at this topic. This of course coupled with the limited literature that tackles this issue in particular.

The primary purpose of this study is to introduce an analytical portrayal of the nature of the option to purchase given to the lessee under both jurisdictions. It specifically tackles the following research questions:

RQ1: How did Jordan and UAE regulate the lessee's option to purchase?

RQ2: What are the legal implications of the current regime, in other words, is this option works as a right to the lessee under both jurisdictions?

RQ3: Is the lessee enjoying enough protection when it comes to practising this option?

The study employs descriptive, analytical, and comparative techniques to achieve its goals. The current research contributes to the existing literature as it specifically reviews prospective legal developments with regard to the lessee's option to purchase. The main finding of this research paper is that the degree of protection that the lessee enjoys regarding the option to purchase may either be contractual or legislative, and the adoption of the legislative protection is highly recommended as it creates more balance in the relationship between the parties of a financial lease contract since most of the time the lessee is more likely to be the weaker party.

The paper adopts the following structure: Section 2 introduces a literature review of the topic. Section 3 analyses the methodology used to conduct this research. Section 4 presents the results and discussion. Section 5 is the research conclusion.

2. LITERATURE REVIEW

There are several options available to lessees in a financial lease contract when the contract period ends (El-Haija, 2022). These options are: to purchase the leased property, return the leased property, or renew the contract for another period (Al-Azzawi, 2013). Most lessees prefer the option to purchase because the price of the leased asset at this stage is far lower than the fair market price since the lease payments made throughout the lease period are considered part of the final price (Al-Khasawana, 2005). The option to purchase given to the lessee is the main distinction between a finance lease and an operating lease contract (Ananthanarayanan et al., 2020; Hammad Allah, 1999). The coming few subsections will analyze the lessee's option to purchase and its characteristics.

2.1. The concept of the bargain purchase option

As the Jordanian Civil Code of 1976 is the historical source of the UAE Civil Transactions Act of 1985 (Federal Law No. 5 of 1985 promulgating the Civil Transactions Law of the United Arab Emirates), the general rules of contract under both jurisdictions give the options to embrace contractual conditions allowing the parties the right to view the property, select an item, or return in case of a fault¹. These options make the contract non-obligatory as the contracting party has the choice to revoke the contract (Dawas, 2004). For example, the "option of placing conditions" is a right granted to contracting parties to either implement or revoke the contract during a period determined in the contract itself (Sultan, 2015). Similarly, the "option to view" is the right of the contracting party, such as the purchaser or lessee, to either implement or revoke the contract once they have seen the property if they did not have the option to do so at the time, they concluded the agreement (Dawas, 2004). The "option to select" is the right given to one of the contracting parties to select one of several items mentioned in the contract (Sultan, 2015). Finally, the option to return in case of fault is the right given to the contracting party, such as the purchaser or lessee, to implement or revoke the contract if they discover a defect in the property, provided that they were not aware of the fault at the time they concluded the contract (Dawas, 2004).

From the above, it can be noticed that all options provided to the contracting parties to either implement or revoke the contract are based on the general principles of contract law as stipulated in the civil code under both jurisdictions. However, a financial lease contract as a special type of contract has been regulated by a special law and it gives a further option to the parties it is the bargain purchase option or what is also called the lessee's option to purchase. The parties to the financial lease contract enjoy this option of course alongside other contractual options available under the general rules of contract explained above.

2.1.1. Defining the option to purchase

The UAE Law No. 8 of 2018 on Financial Leasing does not define the option to purchase. However, it provides an implied meaning in Article 1 by stating "...by giving [the lessee] the option to own the leased property". Further information is provided in Article 4(7) of the law by stating that the right of the lessee to own the leased property is a component of the financial lease contract. Article 21(2) of the same law states that "the lessee may, during the commission of the contract and with the consent of the lessor, come to own the leased property, provided that he has completed the agreed lease payments as well as any other fees, allowances, or expenses agreed to..."

The situation is the same in the Jordanian Financial Lease Law of 2008, where more than one article refers to the option to purchase. For example, Article 6(B) states that "the lessee may come to own the leased property in exchange for the complete payment of the remaining lease payments before

¹ See Articles 177–195 of the Jordanian Civil Code and Articles 219–242 of the UAE Civil Transactions Act.

the end of the contract period, as long as the contract does not state otherwise". Article 12(C) states something similar although never explicitly defining or explaining the concept of the right to purchase. It is quite clear that both jurisdictions do not have a statutory definition of the option to purchase under the financial lease contract.

Some jurists have defined the option to purchase as "a right given to the lessee by the financial lease contract to purchase the property at the end of the contract period at a price less than the expected market value" (Al-Azzawi, 2013). This definition is incomplete, as it does not refer to the right of the lessee to own the leased property during the contract period and does not clarify if the origin of the right to purchase is in the law or not.

Comparing the UAE and Jordanian approaches to the right to purchase shows that, in both situations, when it is mentioned in the financial lease contract, the right is an authorization by which the purchaser may come to own the leased property during the contract period or after the complete payment of the agreed lease payments, as well as any other fees, allowances, or expenses, agreed to, as long as the financial lease contract does not mention otherwise (Abd al-Qadir, 2011; Qudeih, 2018).

However, there is a major difference between the two laws. This right is a fundamental element of the financial lease contract in UAE law regardless of whether it is mentioned in the contract (Al-Sa'di, 2009). The contracting parties cannot prevent the lessee from exercising his right in purchasing the leased property (Al-Shawabkeh, 2011; Al-Mafraji, 2014). Any term to the contrary may end up invalid. The situation is different under Jordanian law; the right to purchase is not a central element of the contract. In other words, the law only protects the right of the lessee in purchasing the leased property if it is only mentioned in the lease contract.

An important question that arises in this context is whether exercising the right allows the lessee to own all or part of the leased property. In fact, neither the Jordanian nor the UAE law expressly deals with partial ownership. Instead, they only refer to ownership of the leased property as one unit. Few scholars have argued that partial ownership by force of a financial lease contract is not allowed. However, partial ownership of property whether movable or immovable is allowed according to the general rules of law, and neither the law nor the nature of the financial lease contract contradicts partial ownership.

Another important question related to the consideration is what the lessee must give to have the leased asset. In other words, what price the lessee must pay to own the asset. It should be noted that Jordanian law did not set a special rule on that, which means the consideration made against the transfer of ownership of the leased asset will be determined according to the parties' agreement. A special reference shall be made to the lease payments made during the contract period since it might count as a part of the consideration.

The UAE law takes the same position, Article 21 of the UAE Federal Law No. 8 of 2018 on Financial Leasing states that the ownership of the leased asset is transferred to the lessee by way of an independent contract, with the condition that all payments mentioned in the lease contract are paid. This Article

draws various scenarios for the consideration that can be paid alongside the lease payments and it might include a separate payment at the time of the transfer of the ownership, which might be at a nominal price, a price agreed on in the contract, or just as a gift. There is no doubt that this position respects the will of the contracting parties to set the price that should be paid by the lessee to own the leased asset, it is indeed a precise application of the principle "the contract is the law of the parties".

2.1.2. The legal foundations of the option to purchase

Comparative legal studies have differed regarding the legal foundation of the option to purchase given to the lessee, with scholars taking two general approaches. The first approach states that the lessee is granted the option to purchase based on an agreement within the lease contract, while the second finds the foundation of the option in the law. Therefore, the first approach is based on the parties' autonomy, while the second is based on the law.

Jordanian law has followed the first approach, stating that if no agreement is made to grant the option to purchase, the lessee has no choice other than returning the leased property or renewing the lease. He has no right to exercise the option to purchase in this case (Al-Shawabkeh, 2011). Reference should be made here to Article 12(1/C) of the Jordanian Financial Lease Law of 2008, which states, "If the lessee exercises the option to purchase mentioned in the lease contract...". Here, Jordanian law clarifies the legal foundation of this option when stating "mentioned in the lease contract".

Based on this, it is not necessary that the option to purchase be present in the lease contract to be considered a financial lease contract and its absence would not exclude the contract from the realm of the financial lease (Al-Mafraji, 2014; Al-Azzawi, 2013). This is explicitly confirmed in Article 3(A) of the Jordanian Financial Lease Law, which states that "A contract is classified as a financial lease contract subject to certain conditions even if it does not include the option to purchase". With this statement, Jordanian law follows the Anglo-Saxon approach.

Conversely, the UAE law follows the second approach, granting the lessee the option to purchase by force of law. The option to purchase in the UAE law takes the form of a right rather than a simple option. It is one of the foundational elements and the primary rights resulting from a financial lease contract regardless of whether the lessee ultimately decides to use it or not. This can be inferred from Article 1 of the UAE Federal Law No. 8 of 2018 on Financial Leasing which includes "the right of an option to purchase the leased asset according to the provisions contained in this law" in the definition of a financial lease contract. Likewise, Article 4(7) of the same law considers giving the lessee the option to purchase the leased asset as a constituting element of the lease contract with the authority of law. This means that, for such a contract to be valid as a financial lease contract, it must contain an option to purchase. In other words, if the parties agree to prevent the lessee from exercising the option to purchase, the contract is not

a financial lease contract anymore (Al-Shawabkeh, 2011; Qudeih, 2018). What should be mentioned here is that the UAE law reflects the Latin and French approach, which grants the option to purchase by and with the authority of law (Al-Mafraji, 2014).

2.2. Characteristics of the lessee's option to purchase

Giving the option to purchase to the lessee in a financial lease contract is one of the most important elements that distinguish a financial lease contract from other contracts in countries that consider this option a foundational element of the financial lease contract. Therefore, this option contains a collection of characteristics and advantages. These will be outlined below, particularly as the option to purchase given to the lessee is permissible and consensual and the exercise of this option results in a new contract.

2.2.1. The option to purchase as permissible

The lessee is given three options at the end of the contract period: purchase and owns the leased asset, renew the lease contract, or return the leased asset to the lessor and end the contract (Abd Hamadi, 2011). The concept of permissibility in the option to purchase differs between the Jordanian and UAE legal systems. For Jordanian law, permissibility consists of two parts. The first is whether the option exists, as explained above Article 3 treats the contract as a financial lease contract even if it does not include the option to purchase². The second part relates to the use of the option itself. It is not assumed that the lessee will request the purchase of the leased asset as an automatic outcome for the lease payments made in course of the contractual relationship between the lessee and lessor (Abd al-Qadir, 2011; Qudeih, 2018). It is nevertheless still a matter of choice as the lessor may lose interest in the leased asset at the end of the contract.

In the UAE law, the concept of permissibility only means using the option to purchase the leased asset at the end of the contract period. The lessee may use this right and own the leased asset, or he may not use the right and renew the contract or return the asset to the lessor. Regarding the permissibility in the presence of this option or not, as explained above, this is not possible in the UAE as the option to purchase is given to the lessee by the law and not the parties' agreement. Likewise, it is not permissible to prevent the lessee from this right, as any contract that does not include this right is invalid as a financial lease contract.

2.2.2. The option to purchase results in a new contract

The financial lease may lead to a complex relationship as it consists of several contracts, beginning with the lessor's promise to lease to the lessee. There might be then a contract of sale connecting the lessor with the provider, seller, or contractor. Afterwards, a financial lease contract

connects the lessor with the lessee. Then, there is a promise to sell from the lessor to the lessee, concluding with a final sale if the lessee desires to exercise the option to purchase (Al-Shawabkeh, 2011; Al-Azzawi, 2013). Therefore, the right to purchase gives the lessee the right to own the leased asset and transfer the ownership of the asset to him by announcing his desire to do so at the end of the contract (Al-Khasawana, 2005). This leads to the conclusion of a contract of sale, after the lease contract, to transfer the ownership of the leased asset from the lessor to the lessee.

The emergence of a sale contract between the lessor and lessee remains contingent on the lessee exercising his right to the purchase option. If the lessee announces his desire to purchase at the end of the contract, it will result in a new contract between the lessor and lessee and it is a sale contract. This contract has several legal effects, the most important of which are the payment of the sale price of the leased asset, registering the asset in the lessee's name if needed, and transferring the ownership to the lessee. Otherwise, the lessee must return the leased asset to its owner which is the lessor.

3. METHODOLOGY

The study employs descriptive, analytical, and comparative techniques to achieve its goals. It relies on an analysis of the primary source of laws in both jurisdictions. It also involves reference to the scholarly work relating to the topic. This includes literature focusing on the contract of lease in general and financial lease in specific. However, the available literature seldom handles the lessee's option to purchase in the required degree of depth and this is what the current research mainly adds to the overall scholarly work on the topic of financial lease.

4. RESULTS AND DISCUSSION

As explained above, the lessee is likely to exercise the option to purchase the leased asset by the power given to him by the virtue of law or contract. When the lessee exercises his right, there are several procedures that the contract parties must follow to reach their goal of transferring the ownership of the leased asset. This section will discuss the process of exercising the option to purchase and then cover the results of using that option.

4.1. Procedures to exercise the option to purchase

At the end of the contract period, the lessee must specify his position regarding purchasing the leased asset. If the lessee declares the desire to purchase, the lessor must respond by taking all necessary steps to finalize the process with a contract of sale between the parties. Paragraphs C and D of Article 12 of the Jordanian Financial Lease Law of 2008 set the procedures for that, and it states:

• C.1. If the lessee exercises the option to purchase mentioned in the lease contract, and the leased asset is a real estate or moveable property that requires registration, the lessor must relinquish it with the relevant registration authorities within fifteen days from the date he is informed of it in

² Article 3, Paragraph A of the Jordanian Financial Lease Law of 2008.

writing. If the lessor fails to do so, the lessee may resort to the relevant court to receive a judgment for the transfer of the ownership of the property to his name.

- C.2. If the lessor fails to perform his obligations stated in section (1) of this paragraph without a valid reason, the lessee is entitled to legal compensation (9% yearly) of the value of the leased asset from the date the lessor fails to perform his obligations to the time he does so, in addition to the right of the lessee to demand compensation for any other harm or delay incurred according to the provisions of the enforcing legislation.

- D. If the lessee exercises the option to purchase specified in the contract, and the leased asset is not a real estate or a movable property that requires registration, the lessee is considered the owner by default by simply informing the lessor in writing that he has exercised the option mentioned, as long as no other agreement has been made.

Article 22 of the UAE Federal Law No. 8 of 2018 of Financial Leasing draws the procedures to be followed by stating that:

1. If the leased asset is real estate, the lessor must transfer the ownership of the property to the lessee with the relevant government authority within 15 working days from the date he is informed in writing that the lessee is exercising the option to purchase.

2. If the leased asset is a movable property that requires registration, the lessor must relinquish it to the lessee with the relevant government authority within 15 working days from the date he is informed in writing that the lessee is exercising the option to purchase.

3. If the leased asset is neither real estate nor a movable property that requires registration, the lessee is considered the owner by default by simply informing the lessor in writing that he is exercising the option to purchase the leased asset.

The coming few pages will analyze the implications of the exercise of the right to purchase real estate or movable properties that require registration, and ordinary movable property.

4.1.1. Exercising the right to purchase real estate and movable property that requires registration

The term “real estate” involves all things that are characterized by stability and cannot be transferred or altered without being destroyed or fundamentally changed (Al-Takruri, 2011). The Jordanian Financial Lease Law of 2008 defines a special type of movable property in Article 2 which states “Movable property is what, subject to enforcing legislation, must be registered with the relevant authorities, including automobiles, boats, and aeroplane”. The same definition is used in Article 1 of the UAE Federal Law No. 8 of 2018 on Financial Leasing.

It is generally accepted that lease contracts can include real estate or special types of movable properties that require registration, with the condition that they are offered by a producer or provider and not consumer products (Al-Azzawi, 2013). According to Article 1 of the UAE Federal Law No. 8 of 2018 on Financial Leasing, a leased asset is “all movable or non-movable properties that can be used while remaining unaltered”. This agrees with the Jordanian Financial Lease Law of 2008, which

states that the leased asset is all movable or non-movable properties from which a benefit can be obtained and used repeatedly while remaining unaltered. It does not include money or financial instruments³. However, an important question arises in this context about the suitability of intellectual property rights for financial leases. It seems initially nothing in the law prevents this type of contract as long as the nature of the intellectual property right subject of the contract is amenable to a financial lease.

Additionally, the two legal systems have clarified how the leased asset must be purchased if it is real estate or private movable property. According to Article 12, Paragraph C of the Jordanian Financial Lease Law of 2008, the lessor must relinquish the leased property to the relevant registration authorities within fifteen days from the date he is informed of the option in writing. If he fails to do so, the lessee has the right to approach the relevant court to receive a ruling transferring the asset into his name. This is also mentioned in Article 22, Paragraphs 1 and 2 of the UAE Federal Law No. 8 of 2018 on Financial Leasing with a slight difference: the UAE law does not specify what happens if the lessor fails to register the asset in the lessee’s name within fifteen days. This study believes that further amendments to the law are needed to clearly state the lessee’s right to a special type of court ruling that directly transfers the ownership to the lessee’s name. The option of compensation as in the case of Jordanian law is also worth consideration for sake of strengthening the protection of the lessee.

4.1.2. Exercising the option to purchase a movable property that does not require registration

Movable property is everything that does not contain the characteristics of real estate and can be moved from its place without any damage (Al-Takruri, 2011). Just as the lessee might exercise the option to purchase real estate and special movable properties, she/he might do so with other movable properties. The lessee must announce her/his desire to purchase the movable property as agreed to between the parties and at the time specified in the lease contract.

The difference between the option to purchase between the first category (real estate and special movable properties) and the second (other movable properties) is that it is not necessary to register the transfer of ownership. Article 12(D) of the Jordanian Financial Lease Law of 2008 and Article 22 of the UAE Federal Law No. 8 of 2018 on Financial Leasing adopted a similar position with regard to this type of asset. The lessee has the right to directly own the leased asset if it is neither real estate nor a special movable property by simply informing the lessor in writing of his exercise of the option. The written notice of desire to exercise the option to purchase may appear as a form of obligation on the lessee, but it is also a sort of protection for him since it proves the practice of the right to purchase.

³ See Article 2 of the Jordanian Financial Lease Law of 2008.

4.2. The outcomes of the option to purchase in a lease contract

The option to purchase given to the lessee expires with the end of the contract (Al-Shawabkeh, 2011). This is explicitly stated in Paragraph A.1 of Article 21 of the Jordanian Financial Lease Law of 2008, which states, "If the contract ends without the lessee exercising the option to own according to the terms of the lease contract or if the lease contract is annulled according to its terms or the provisions of this law, the lessee is required to return the leased asset immediately to the lessor, bearing the costs of returning the asset, unless an alternative agreement has been made". The same meaning can be found in Article 21, Paragraph 4 of the UAE Federal Law No. 8 of 2018 on Financial Leasing. Based on this point, the lessee must announce his desire to purchase the leased asset at the appointed time and perform all the responsibilities that come with it. Likewise, the lessor must complete all the necessary legal procedures to finish the sale after the lessee announces his desire to purchase following the contract and the law. Therefore, what are the outcomes that result from the exercise of the option to purchase by the lessee on both sides of the financial lease agreement? The answer to this question comes in two parts.

4.2.1. Outcome of the option to purchase for the lessor

The Jordanian Financial Lease Law of 2008 defines a lessor as "a legal person registered according to the relevant enforcing legislation, one of the aims of whom is to exercise the activity of leasing, excluding insurance companies and limited partnerships". The UAE, on the other hand, defines the lessor in Article 1 of Federal Law No. 8 of 2018 of Financial Leasing by stating that it is "a legal person licensed to conduct the activity of leases from the central bank".

Therefore, in comparing these laws, a lessor may only be a legal person. Alternatively, a lessee may be a natural or a legal person. Upon the practice of the option to purchase by the lessee, the lessor must transfer the ownership of the leased asset and register it in the name of the lessee (if it is a real estate or a private movable property) within fifteen days from the date he was informed in writing by the lessee⁴. Suppose the lessor does not complete his obligations by transferring the property. In that case, Jordanian law but not UAE law permits the lessee to approach the courts with a special request to transfer the ownership of the asset into the lessee's name. The lessee may also demand compensation for the lessor's failure to act.

4.2.2. Outcome of the option to purchase for the lessee

In Article 2 of the Jordanian Financial Lease Law of 2008, a lessee is defined as "a natural or legal person that benefits from the leased asset according to the rules of the lease contract".

The lessee must perform a set of obligations when exercising the option to purchase. Firstly, she/he must announce his intent to purchase according to what was agreed to in the contract. If he does not do that, he must return the leased property to the lessor at the end of the contract period. He must also complete the required payments and allowances in the contract (Al-Sa'di, 2009; Abu Haswa, 2009). This is a primary obligation upon the lessee whether he exercises the option to purchase or not (Abd Hamadi, 2011).

Regarding the value of the leased asset when the option is exercised, Article 21(5) of the UAE Federal Law No. 8 of 2018 on Financial Leasing considers the amount agreed upon in the lease contract as the value of the asset when the option is exercised, and the lessee may own it with the condition that all payments are made subject to any of the following financial arrangement: a promise made to sell at a nominal price, for the value of the asset at the time the contract of sale was made, or as a gift. Article 6(B) of the Jordanian Financial Lease Law of 2008 permits the lessee to own the leased property in return for completing all remaining lease payments before the end of the contract, as long as the contract does not state otherwise. This means the financial lease contract is the key to determining the price of the leased asset at the time the ownership is transferred to the lessee upon practising the option to purchase.

Regarding the purchase of the leased asset with the remaining portion of the purchase price not covered by the lease contract, this may be agreed to by the parties. It may be done in two ways: either according to the price set at the beginning of the contract or the market price at the end of the contract. The market price of the leased property is the fair value that would be represented in the open market between the lessor and lessee without any pressure.

5. CONCLUSION

After examining the bargain purchase option by analyzing the foundation and the characteristics of the lessee's option to purchase under the laws of Jordan and UAE, it is necessary to highlight the main findings of this research. The financial lease contract permits three options at the end of the lease period: purchasing the leased property, renewing the lease contract, or returning the leased property to the lessor. The most important of these options, and what distinguishes this form of lease contract from other similar types of contracts, is the option of the lessee to purchase the leased asset. The two laws compared differ in terms of the foundation of the option to purchase. The Jordanian system grants the lessee the option to purchase by agreement between the parties. In contrast, in UAE law, the law itself is the foundation of the option to purchase. This difference in the approach means a lot in terms of the degree of protection that the lessee enjoys with regard to the option to purchase. Seemingly, the lessee enjoys a better degree of protection in the UAE law than in Jordanian law. In the UAE, the right is guaranteed and it is the lessee who decides whether to exercise the option at the end of the lease period regardless of whether the option is mentioned in the financial

⁴ See Article 12, Paragraph 1/C of the Jordanian Financial Lease Law of 2008 and Article 22, Paragraphs 1 and 2 of the UAE Federal Law No. 8 of 2018 on Financial Leasing.

lease agreement. Whereas, in Jordan, the lessee will only have the right to exercise this option if it is included in the terms of the financial lease agreement. In most situations, the lessee chooses to exercise the option and owns the leased property.

There is room for enhancement under both jurisdictions. In Jordan, it is necessary to make the foundation of the bargain purchase option based on the law rather than the contract. In the UAE, the legislature should clearly state the implications of the lessor's failure to perform his obligations related to the transfer of ownership of the leased asset, especially in the case of real estate or special movable property. In more specific words, the UAE

legislature should give the lessee the right to seek compensation for the harm incurred due to the lessor's failure to perform his obligations to transfer the leased asset within the period set by the law, as well as the law needs to be more decisive on the sort of action available to the lessee in this case. A special shortened court procedure to transfer the title of the asset to the lessee might be a viable solution. This point could be a gateway to further research on the topic, but from a procedural law, dimension to examine possible means of increasing judicial protection of the option to purchase.

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