# War Series: Rogue Charterers, Vessel Misappropriation, and the Illusion of “Washed” Titles – Applying the 2001 UAE Supreme Court Gulf War Precedent to GCC Maritime Logistics in the 2026 Iran War

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**Introduction: The Maritime Fog of War and the Weaponization of Charter Parties As the**

2026 Iran War aggressively destabilizes the Middle East, the world’s most critical maritime chokepoints, the Strait of Hormuz, the Arabian Gulf, and the Gulf of Oman, have been transformed into theaters of intense logistical paralysis. With naval blockades, soaring war risk premiums, and sweeping economic sanctions dominating the operational landscape, the global shipping industry finds its standard Charter Party Agreements (CPAs) fracturing under the pressure.

While much of the industry’s focus is understandably directed toward the frustration of time charters, safe port warranties under standard BIMCO forms (such as CONWARTIME or VOYWAR), and off-hire disputes, a far more considerable legal crisis is emerging in the offshore sector: the outright misappropriation of vessels.

Operating under standard bareboat agreements (such as the

BIMCO BARECON form), certain charterers are exploiting the geopolitical chaos by invoking the 2026 war not merely to excuse operational delays, but to entirely evade their absolute obligation to redeliver the vessel. Taking advantage of the "fog of war," these operators effectively hijack multi-million-dollar assets, sever communications, and attempt to "wash" the vessel's title through opaque judicial sales in peripheral jurisdictions, eventually re-flagging the ship and deploying it back into lucrative trade routes under a new identity.

In standard peacetime practice, disputes arising from these CPAs are overwhelmingly directed to arbitration, most notably under the London Maritime Arbitrators Association (LMAA) Terms. However, an LMAA arbitral award is ultimately a contractual remedy; it cannot physically intercept a stolen ship. When a misappropriated vessel suddenly drops anchor in a GCC port, shipowners require immediate, coercive *in rem* action from local civil courts.

For maritime stakeholders navigating this crisis, the UAE Federal Supreme Court provides an effective blueprint for vessel recovery. By examining a landmark judgment (Federal Supreme Court Judgment No. 252 of 2001, Civil), which adjudicated a complex vessel misappropriation stemming from the Second Gulf War (the 1990 Iraq-Kuwait conflict), we can transpose these powerful jurisdictional precedents directly onto the maritime realities of the 2026 Iran War.

## The Factual Matrix: Transposing the 1990 Gulf War Misappropriation

The factual matrix of UAE Supreme Court Judgment No. 252/2001 serves as a perfect analogue for the aggressive title disputes erupting today. The dispute originated in the shadows of the 1990 Gulf War and the subsequent international embargoes, mirroring the blockades and sanctions defining the 2026 conflict.

On March 27, 1990, the original shipowner (the First Respondent) leased their vessel, the *Arabian Sea* (registered in Basra), to a commercial operator (the Charterer) under a five-year bareboat charter. Shortly after the vessel was delivered, the geopolitical landscape violently collapsed. As the regional war escalated and sanctions isolated operations, the Charterer exploited the blackout. When the charter period expired, the Charterer flatly refused to redeliver the vessel to the original owner, under the cover of wartime blockade and boycott.

Years later, the original owner tracked the vessel down. It had entered the territorial waters of the UAE and docked at the Port of Sharjah, flying the flag of Belize and operating under a new name, the *Baron*. Acting swiftly, the original owner petitioned the Sharjah Court of First Instance and successfully secured a conservatory arrest order (Attachment No. 4/1997), physically trapping the ship in port and demanding its delivery free of any encumbrances.

The legal battle escalated when a foreign corporate entity, Redcap Limited (the Intervener/Appellant), intervened in the lawsuit, demanding the arrest be lifted. Redcap claimed they were the new, legitimate owner of the vessel, having purchased it in 1996 for $1,700,000 USD through a formal judicial sale executed by the High Court in Kenya.

Relying on standard international maritime principles, Redcap argued that a judicial sale at public auction physically purges a vessel of all prior liens, encumbrances, and ownership claims. They asserted that if the original owner had a grievance regarding the stolen ship, their claim must be directed exclusively against the $1.7 million sale proceeds held in Kenya, not against the physical vessel itself. Furthermore, the Intervener launched a jurisdictional challenge, arguing that the UAE courts had no authority to adjudicate the ownership of a foreign-flagged vessel, owned by a foreign entity, that was merely passing through UAE waters

“incidentally.”

**Jurisdictional Supremacy: The “Asset in Port” Trap**

In 2026, foreign shipowners, rogue charterers, and P&I Clubs frequently assume that because a CPA is governed by English law, or because a vessel flies a flag of convenience, GCC courts will decline jurisdiction over complex ownership disputes. The UAE Supreme Court dismantled this assumption.

The Intervener argued that under the UAE Maritime Commercial Law, the vessel’s presence in Sharjah was merely “incidental” and did not grant the civil courts substantive jurisdiction over an international ownership dispute.

The Supreme Court rejected this entirely, anchoring its ruling in the absolute sovereignty principles of the UAE Civil Procedure Code. The Court established a definitive rule: the physical presence of the asset dictates the jurisdiction.

*(“The original principle is regional judicial jurisdiction, and the administration of justice is a public interest exercised by the State within the limits that achieve this interest through its national judiciary… Therefore, the international jurisdiction vested in the national judiciary is, in this capacity, a matter of public policy linked to the sovereignty of the State.”)*

Applying Article 21 of the Civil Procedure Law, the Court held that UAE courts possess absolute jurisdiction over lawsuits filed against foreigners who have no domicile in the UAE, provided the lawsuit relates to “funds or property located within the State.” The Court explicitly ruled:

*(“The reason for jurisdiction in that case goes back to the fact that the disputed property is located in its territory, which is an objective criterion based on the location of the property. If it is located there, jurisdiction is established for the State’s courts, even if the source of the obligation*

*did not arise there, or if the presence of the property was incidental.")*

Furthermore, the Court harmonized this with Article 115 of the UAE Maritime Commercial Law applicable at the time, confirming that a dispute over the "ownership of a vessel" unequivocally constitutes a "maritime debt" justifying an immediate conservatory arrest. For 2026 rogue charterers hoping to use UAE ports as temporary safe havens, the precedent is clear: the moment your hull crosses into UAE territorial waters, the protective veil of foreign jurisdictions is challengeable.

**Piercing the "Cleansed Title" Myth: The Burden of Proving Foreign Law**

The most considerable finding by the Supreme Court, and the most critical warning for the 2026 crisis, was its treatment of the Kenyan judicial sale. The Intervener believed that presenting a foreign court's auction decree would automatically force the UAE courts to recognize their clean title.

Under the GCC civil law framework, foreign law is not treated as binding legal authority that a judge must independently research; rather, it is treated purely as a "material fact." According to strict conflict of laws principles, the party relying on a foreign legal mechanism (such as the purging effect of a Kenyan judicial sale) bears the absolute burden of conclusively proving the existence, text, and application of that foreign law.

Because the Intervener merely alleged the effect of the foreign judicial sale in their memorandums but failed to formally, procedurally prove the foreign law to the standard required by UAE evidentiary rules, the Supreme Court upheld the lower courts' dismissal of the Kenyan sale entirely.

*("Foreign law is a mere fact, the burden of proving which falls on the party invoking it, and the Appellant did not*

*prove its existence.”)*

By invalidating the foreign judicial sale due to evidentiary failures, the Court retroactively erased the Intervener’s title. The Supreme Court confirmed the original owner’s absolute title to the vessel, solidifying the Sharjah arrest order and mandating the ship be handed over to them, completely free of any actions taken by the rogue charterer. The Intervener, despite having paid $1.7 million, lost the ship.

**Strategic Playbook for Maritime Logistics in the 2026 Crisis**

For international shipowners, lessors, and maritime litigators attempting to secure assets in the chaotic theater of the 2026 Iran War, the 2001 UAE Supreme Court precedent dictates a highly determined, localized strategy.

Bypass LMAA Delays for Immediate Asset Recovery: While you must commence LMAA arbitration (if not modified) to resolve the underlying BARECON or NYPE breach regarding the unpaid hire or failure to redeliver, arbitration will not physically stop the ship from trading. Shipowners must utilize maritime intelligence to track misappropriated vessels. The moment a stolen vessel enters UAE or broader GCC waters (such as Jebel Ali, Fujairah, or Sharjah), owners must immediately file an *ex parte* application under local maritime law (e.g., UAE Maritime Law Art. 115) to arrest the vessel based on the ownership dispute. The local courts may assert jurisdiction strictly based on the physical presence of the hull.

Do Not Fear “Title Washing” or Flags of Convenience: If a rogue bareboat charterer has attempted to extinguish your title by routing the vessel through a dubious judicial sale in a peripheral jurisdiction, do not assume your claim is reduced to chasing the sale proceeds. As the precedent proves, UAE courts will heavily scrutinize foreign judicial sales. If the new “owner” cannot flawlessly prove the foreign law that

allegedly purged your title, the UAE courts may disregard the foreign auction and return the physical asset to its original registered owner.

Strict Evidentiary Hygiene for Foreign Law: Conversely, if you are a legitimate buyer of a vessel that was lawfully auctioned during the 2026 conflict, and you face an arrest in the UAE from a disgruntled former owner, you cannot merely submit the foreign court judgment. You must submit legally authenticated, translated copies of the foreign maritime legislation, supported by expert legal affidavits, to prove *as a matter of fact* that the foreign judicial sale extinguished all prior encumbrances. Relying on "general principles of international maritime law" may result in a fatal loss at the local courts.

**Conclusion: Territorial Reality Over Contractual Illusion**

The 2026 Iran War has created a highly volatile environment for wider international commercial operations, where severe disruptions in shipping lanes, banking, and port operations have catalyzed a surge in distressed asset scenarios, complex cross-border restructuring, and, in some instances, outright maritime opportunism. As international operators, distressed stakeholders, and occasional rogue charterers navigate these disruptions, whether to resolve legitimate operational disputes, execute complex foreign sales, or obscure vessel identities, the belief that standard LMAA arbitration clauses will keep procedures safely insulated in London while the physical ships continue to trade or seek refuge in the Middle East may not be the case.

UAE Federal Supreme Court Judgment No. 252/2001 provides clarity in this sense. The GCC civil law framework is often protective of its territorial sovereignty. When a maritime asset enters domestic waters, the state's courts possess the jurisdiction to arrest it, adjudicate its true ownership, and strip away fraudulent or unproven foreign titles. For shipowners fighting to reclaim their fleets in the 2026

crisis, the message is clear: the most powerful weapon in your arsenal is not just the arbitration clause in your charter party, but the sovereign reach of the local port state.

Wasel & Wasel demonstrates extensive expertise in navigating complex maritime disputes, admiralty matters, and vessel arrests within the UAE courts and international arbitration forums. The firm has a proven track record of representing maritime contractors in grievance proceedings before the UAE Federal Courts to challenge the precautionary seizure of vessels. Their capabilities include advising logistics companies on appealing vessel arrest orders and successfully obtaining stays of execution from the UAE Federal Supreme Court against lower court vessel seizure orders. Furthermore, Wasel & Wasel actively handles complex charter party disputes, recovers outstanding debts under SUPPLYTIME agreements , and represents international shipping companies in London-seated LMAA arbitration proceedings concerning vessel sales and management.

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