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On the Legal Effect and Discrimination of the True Intention Reservation in the Civil Code

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Abstract: The interpretation rules for expressions of intent in the Civil Code of the People's Republic of China do not clearly distinguish whether the counterparty is aware of the reservation of the true intention of the declarant at the subjective constitutive elements level. The interpretation results are highly dependent on judicial discretion, which may lead to a deviation between the judicial conclusion and the normative purpose of the true intention reservation system. At the level of legal application, true intention reservation can draw on the normative logic of false expressions of intent in the Civil Code of the People's Republic of China. By constructing a three-layer analytical framework of "identification of subjective intention-determination of whether the counterparty is aware-rule of balance of interests", it seeks a reasonable balance between the true intention of the declarant and the protection of the counterparty's interests, thereby enhancing the accuracy and uniformity of the judicial conclusion of related cases and effectively maintaining the transaction order and substantive fairness and justice.

Keywords: Civil Code, Reservation of True Intent, Expression of Intent, Comparative Study

1. Introduction

In legal transactions, the ideal state is that the parties reach autonomy of will based on their true intentions. However, in reality, situations where the expression of intention does not match the true intention of the mind occur frequently. The essential feature of the reservation of true intention lies in the element of subjective intentionality: the signifier is fully aware of the discrepancy between the external expression and the true intention in his heart, but still opts to conceal the true meaning based on considerations of interests or other factors [1]. How exactly should the retention of true meaning rule in the Civil Code be interpreted? What standards and principles should be adopted when judging its validity rules?

2. Basic theories of civil legal acts with true intent retained

2.1. The constituent elements of the act of keeping the true intention confidential

A manifestation of intention made by the person expressing it when they are fully aware that there is no corresponding true intention or no awareness of the internal effect [2]. Based on the provisions of

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the law code, let's analyze the composition and essential elements of the reservation of true intention. The composition of the reservation of true intention must possess the following three essential elements: (1) There must be an expression of intention, meaning that the declarant has completed the expression of the intention and objectively there exists the existence of the expressed intention. "Although the reservation of true intention belongs to the type of defects in the expression of intention, the declarant's expression of the intention should have legal value." [3] (2) There must be a discrepancy between the expressed intention and the true intention of the declarant, that is, the expressed intention of the declarant does not conform to the true intention of the declarant; the inner effect intention reserved by the declarant is inconsistent with the expressed intention.(3) The declarant must know that the expressed intention does not conform to the true intention and still deliberately make the expressed intention, that is, the declarant knows that there is no intention to express in his heart, and the expressed intention is made by the declarant intentionally, that is, the true intention of the reservation of the true intention does not conform or is inconsistent with the expressed intention, and this is done by the declarant intentionally; while the counterparty does not understand or does not know that the inner effect intention of the declarant has been reserved.

2.2. Analysis of the subjective aspect of the actor in the retention of true meaning

The subjective composition of the retention of true intention needs to meet three core elements: First, the concealment of the effect intention, that is, the actor knows that the external expression does not conform to the inner true intention, but still intentionally makes a false expression. For example, the debtor falsely gives property to evade execution, and there is no true intention to transfer ownership in his heart. The second is the false nature of the act of expression, that is, there is an objective inconsistency between the external expression and the true intention in the heart. Article 146 of the Civil Code of our country clearly distinguishes between collusive false expression and retention of true intention. The latter belongs to unilateral false expression and the other party is unaware of it. Thirdly, the actor must be fully aware that the expression deviates from the true intention.

The motives for concealment of true intentions by the actors are diverse, which have different impacts on legal evaluations. Generally, the act of reserving the true intention is valid, but the actor must bear the liability for breach of contract or compensation for reliance interests. If the true intention of malice is retained and the interests of a third party are harmed, it may be deemed as malicious collusion and thus invalid in accordance with Article 154 of the Civil Code. Actions involving public order and good customs may be directly nullified for violating ethics and morality.

In conclusion, the subjective aspect of the reservation of true intention is manifested as the mental state of the actor deliberately concealing the true intention. Its legal evaluation requires comprehensive consideration of multiple factors such as the actor's motivation, the relative party's cognition, and social public interests. In judicial decisions, courts should penetrate the formal appearance and be guided by substantive fairness, avoiding the actor using the reservation of true intention to evade legal obligations. Future legislation can further refine the criteria for determining the subjective elements, clarify the effect rules under different motives and cognitive states, and unify the judicial standards.

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3. Preservation of the validity of civil legal acts and disputes over positions and views

3.1. Differentiating the subjective aspects of different actors

For the counterparties who knew at the time of making the expression of intent that the expression was untrue, but still accepted the untrue expression of intent from the other in order to obtain their own benefits, they no longer act in good faith. Their interests are n worthy of legal protection, and there is no longer any necessity for the law to maintain tl validity of the false expression of intent. Therefore, in such circumstances, determining a civil act is invalid is conducive to the implementation of the effective element of "true expression of intent" [4].

If the counterparty is unaware that the declarant has reserved the true intention, the expression of intent is valid. The core element of true intention reservation is that the declarant "intentionally" makes an expression that is inconsistent with the true intention, indicating that the declarant consciously conceals the true intention. It means that the declarant knows his true intention and intentionally takes different actions, while the counterparty is unaware and in an ignorant state. If the counterparty knows that the declarant has the intention of true intention reservation, the expression of intent is invalid. If the declarant makes an external expression different from the true intention he/she actually meant, the act will be invalid. The invalidity caused by the reservation of true intention shall not harm a third party. If the counterparty knows that the declarant's reservation of true intention leads to the invalidity of the declarant's intention, the invalidity shall not be effective against a bona fide third party, in order to emphasize the protection of transaction security [5].

3.2. The provisions of various countries' legislation regarding the validity of the reservation of true intentions

Japan treats the cases of knowing and being aware of the counterpart's intentions equally because during the legislative process, the legislators of the Japanese Civil Code envisioned non-sincere expressions (i.e., joking expressions) as also falling under the purview of Article 93. The legislators of the Japanese Civil Code believed that in the case of non-sincere expressions, the counterpart should also be aware of the true intentions of the expresser, and this awareness should lead to the invalidity of the expression. Japanese scholars have criticized Article 93 of the Japanese Civil Code, arguing that in the case of narrow-sense reservation of true intentions, the expresser intentionally conceals their true intentions, and thus is more culpable. Therefore, it should only be invalid when the counterpart knows that the expresser has the true intentions. However, it is also invalid when the counterpart is aware of the expresser's true intentions.

The German Civil Code stipulates that if the declarant retains an unwillingness in the heart regarding the matter being expressed, such expression of intent is not invalid. However, if the counterparty is aware or can be aware of the declarant's true intention to retain it, such expression of intent is invalid. Article 116 (1) of the German Civil Code stipulates: "A declaration of intent shall not be invalid because the declarant makes a reservation in his mind that he does not intend to make the declaration." If such an expression is made on behalf of another person and the other person is aware of such reservation, such expression shall be invalid. The intention of this regulation lies in protecting the transactions in legal acts, but it is also a self-evident truth. The inner reservation made by the person expressing the intention cannot be recognized by the legal order, and the same should be true in public law. If the counterparty is aware of such a reservation, it does not need to be protected. Therefore, in such circumstances, the expression of intent is invalid. German civil law

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scholars have made a specific analysis, arguing that "even if the recipient of the expression of intent is aware of the reservation made by the declarant, as long as the expression of intent is made against other persons who are unaware of the reservation, the expression of intent should still be valid." That is, the retention in the mind should be invalid for the counterparty who is aware of it, but still valid for the counterparty who is unaware of it.

4. Specific methods for identifying true intent and retaining it in practice

The core feature of the true meaning reservation lies in the deviation of the appearance of behavior from the true intention. Its identification requires the integration of evidence rules, legal application and judicial techniques, and the establishment of a precise judgment system between formal requirements and substantive fairness.

4.1. Establish a hierarchical and progressive evidence review system

Written documents and electronic data are the most direct carriers. For instance, if there is a handwritten note in the contract text stating "This agreement is only for record-keeping purposes and the rights and obligations of both parties shall be subject to the supplementary agreement" or if the email exchanges clearly record "This quotation is made to comply with regulatory requirements and the actual transaction shall be carried out according to the private agreement" it can directly prove the inconsistency between the expressed behavior and the true intention. Trading habits and industry practices are important auxiliary standards. Take antique transactions as an example. "Asking for an exorbitant price" is usually a bargaining practice. If both parties have multiple subsequent negotiations to lower the price, it should be regarded as a genuine transaction negotiation. Handwriting identification and speech analysis techniques can identify formal flaws. If there are self-admitted contents such as "What was just said doesn't count and was just a response to others" in the audio evidence, combined with the context analysis of pronunciation and intonation, it can assist in determining whether it is a teasing expression or a false agreement.

4.2. Further refinement of the rules for determining the validity of acts

From "elemental judgment" to "interest balancing", the validity determination is differentiated based on the different subjective states of the counterparty. The counterparty's good faith (ignorance and unknowability): principle validity + exception revocation. When the counterparty has no fault or only minor fault, the appearance effect of the act takes precedence to protect transaction security.

Intentional misconduct (knowingly or shouldingly be aware): The principle is invalid + protection for bona fide third parties. If the counterparty participates in a conspiracy or should be aware of the true intentions (such as "dual contracts" where both parties agree on false transaction prices to avoid tax), according to Article 146 of the Civil Code, the concealment act is invalid, but it cannot be opposed to bona fide third parties.

4.3. Fully leverage the typified guiding role of guiding cases

Strengthen judicial adjudication capabilities, shift from "applying rules" to "substantive interpretation", establish a professionalized training system for judges, and advance the methods of legal interpretation. Given the complexity of cases involving true intent reservations, judges need to master the methods of purposive interpretation and sociological interpretation. In rural housing purchase disputes, witness signatures often imply the true intent of internal transactions among

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members of a collective organization. It is necessary to judge whether there is a reserved intention of "prohibition of external flow" based on local customs. Introduce economic analysis jurisprudence thinking to assess the impact of judgments on market expectations. If there is an excessive tendency towards the determination of the invalidity of true intent reservations based on intentionism, it may lead to the failure of transaction parties to fulfill their review obligations, increasing the cost of market trust; if there is an excessive emphasis on expressionism, it may allow malicious behaviors of exploiting the appearance of formalities to evade responsibility, and it is necessary to seek a balance between efficiency and fairness in individual cases.

5. Conclusion

The rules for interpreting expressions of intent established in Article 142 of the Civil Code of the People's Republic of China distinguish whether there are expressions of intent from the counterparty and assign different value weights to self-determination and protection of reliance. From the technical perspective of legislative language, the retention of true meaning is stipulated as: "If the declarant intentionally makes an expression that is inconsistent with his or her true intention, such expression of intention is valid." Where the declarant can prove that the counterparty is aware of it, he has the right to revoke such expression of intent. However, the legal consequences of the declarant exercising the right of revocation shall not be enforceable against a bona fide third party. In the future interpretation theory and legislative theoryshould achieve a modern compatibility between free will and transaction security , so that civil law can not only defend individual autonomy but also become a trusted guardian of the market.

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