

On the Basic Principles of Civil Law Applicable Boundaries in Judicial Judgments

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ABSTRACT

As the core guidelines that run through the entire civil legislation and judicial practice, the basic principles of civil law are of great significance in judicial adjudication. This article aims to explore the applicable conditions, restrictions and relationships between the basic principles of civil law in judicial judgments and other legal norms. By analyzing the function and value of the basic principles of civil law in legislation, justice and practice, this article believes that the basic principles of civil law should be used as an important benchmark to supplement legal loopholes and equitable case justice in judicial adjudication, but at the same time, they are subject to the statutory framework. When applying the basic principles of civil law, judges should fully consider the actual situation of the case, combine the spirit of law and policies, and ensure the fairness and reasonableness of the judgment results. The research of this article is to improve China's civil legal system. As well as it is of practical significance to guide judicial practice.

KEYWORDS

Basic Principles of Civil Law; Judicial Judgment; Applicable Boundaries; Legal Loopholes; Case Justice.

1. INTRODUCTION

Forward: The basic principles of civil law are the guidelines for civil legislation and the code of conduct for civil activities. In judicial judgment, the applicable boundaries of the basic principles of civil law are not only related to the stability and authority of the law, but also directly affect the justice and fairness of the case. With the continuous development of society and the increasing improvement of the legal system, the role of the basic principles of civil law in judicial judgment is becoming more and more important. However, how to have the accurate application of the basic principles of civil law in cases to avoid the arbitrariness and uncertainty of the application of the law has become an urgent problem to be solved in the current judicial practice. This article will discuss the legislative value of the basic principles of civil law, the judicial function and its specific application in judicial judgment, in order to provide references for judicial practice.

2. LEGISLATIVE VALUE AND JUDICIAL FUNCTION OF THE BASIC PRINCIPLES OF CIVIL LAW

The basic principles of civil law, as the cornerstone and soul of civil legislation, not only carry the basic spirit and purpose of civil law, but also the important basis for the code of conduct of civil activities and judicial judgment. It deeply reflects the general rules and requirements of society, and is a comprehensive embodiment of adjusting social relations and civil law concepts.

(1) The legislative value of the basic principles of civil law

The basic principles of civil law show immeasurable importance within the legislative framework.

HeadFirstThe basic principles of civil law can effectively cope with the inherent limitations of civil law. Civil legal norms often adopt a legislative strategy that is precise and vague. Precise legislative strategies ensure the clarity, stability and efficiency of the law, but it is difficult to avoid individual injustice, incomplete coverage and lagging problems. Although vague legislative strategies are flexible and widely applicable, they may over-authorize judges, causing the risk of judicial abuse of power. The integration of the basic principles of civil law cleverly balances the clarity of rules and the flexibility of discretion, integrates individual justice with universal principles, and effectively makes up for the shortcomings of precise legislation.

Secondly, the basic principles of civil law ensure the dynamic adaptability of the law. Its inherent ambiguity expands the boundaries of the law. Judges can integrate new demands in the fields of economy, politics, philosophy and other fields into the legal system according to the needs of social development and through the interpretation of basic principles, so that the law can keep pace with the times, continue to adapt to the changes of society, and highlight the flexibility and modernity of the law. .

The last, the basic principles of civil law also maintain the security attributes of the law. In view of its ability to promote the evolution of law, the law can achieve a gradual and growth path while maintaining relative stability. This model avoids frequent changes in the law, ensures the coherence and stability of the law, and thus defends the security of the law.

(2) The role of the basic principles of civil law in judicial practice

The basic principles of civil law also play a crucial role in the process of judicial adjudication.

The basic principles of civil law act as the guiding principle of legislation. When formulating the basic civil law, the basic principles of civil law are often formed before specific systems and norms, and serve as the benchmark for formulating the latter. Therefore, the basic principles of civil law constitute the theoretical cornerstone and origin of the civil legal system and norms, and point out a clear direction for civil legislation.

Secondly, the basic principles of civil law have the functions of behavioral guidance and judicial basis. Civil law norms originate from the basic principles of civil law, have direct operability and specificity, and guide participants in civil activities to act legally and properly. In the judicial ruling, the basic principles of civil law have become the benchmark for interpreting civil legal provisions. When hearing civil cases, the court must explain the connotation, constituent elements and legal consequences of the applicable legal provisions, and the interpretation results shall not violate the basic principles of civil law.

Finally, the basic principles of civil law also have the effect of filling legal gaps. When the court cannot find a clear basis from the current law in the trial of the case, it can directly invoke the basic principles of civil law to make a ruling. This function makes the basic principles of civil law a link between the discretionary power of judges and the framework of statutory law, providing a more flexible and comprehensive basis for judicial decisions.

3. CONDITIONS FOR THE APPLICATION OF THE BASIC PRINCIPLES OF CIVIL LAW IN JUDICIAL JUDGMENT

When discussing the application conditions of the basic principles of civil law in judicial judgment, we need to deeply understand the logical relationship and legal spirit behind it.

(1) Priority application stipulated by specific laws and regulations

In the practice of specific civil trials, we should first follow the principle of "priority application stipulated by specific laws and regulations". This is because the basic principles of civil law, as abstract legal principles, should be applied on the premise of the omission stipulated by specific laws. In other words, when there are clear and specific legal provisions, we should first apply these provisions instead of directly resorting to the basic principles of civil law.

The establishment of this principle not only helps to maintain the stability and authority of the law, but also ensures the consistency and predictability of judicial judgments. Because specific legal provisions usually have clear constituent elements and legal effects, which can provide judges with a clear and specific basis for judgment. Only when these provisions cannot be applied or will the application lead to injustice in the case, do we need to consider the application of the basic principles of civil law.

(2) Make up for legal loopholes

However, in judicial practice, we often encounter situations where specific legal provisions are missing or there are legal loopholes. At this time, the basic principles of civil law play an important role in filling legal loopholes and connecting legal spirit and policy.

When applying the basic principles of civil law, judges need to fully consider the actual situation of the case and combine the spirit and policies of the law to ensure the fairness and reasonableness of the adjudication. In this process, the discretion of judges is given full play, but it is also limited by the statutory framework. This restriction not only reflects the guidance that judges must follow the basic principles of civil law, it is also reflected in the fact that the judgment results must be in line with the purpose and value pursuit of the law. Therefore, the application of the basic principles of civil law is not a random and unlimited discretion, but a rational choice bound by the spirit of law and policy under the framework of statutory law.

(3) The equity of individual case justice

In addition to being a benchmark for filling legal loopholes, the basic principles of civil law also have the function of equity in judicial adjudication. When the universal provisions of the law conflict with the fairness of the case, the judge can put aside the literal requirements of the law and directly adjudicate the case according to the requirements of justice. This equity function requires judges to have a high degree of legal literacy and moral judgment. Because justice is an abstract and pluralistic concept, which involves fairness, justice, rationality and other aspects. Judges need to specifically interpret and apply justice in specific cases according to the actual situation of the case and the spirit and policies of the law. The performance of this balanced function also needs to be subject to certain restrictions and constraints. Because if the judge can abandon the literal requirements of the law at will, the stability and authority of the law will be seriously challenged. Therefore, when equitifying the justice of each case, the judge must ensure that the judgment results meet not only the requirements of justice, but also the purpose and value pursuit of the law.

4. THE RELATIONSHIP BETWEEN THE BASIC PRINCIPLES OF CIVIL LAW AND OTHER LEGAL NORMS

When exploring the broad influence of the basic principles of civil law, we inevitably examine it in a broader legal system. This includes not only its relationship with other domestic legal norms, but also its connection with international law.

(1) Relationship with common law

As the general outline of civil legislation, the basic principles of civil law have an unshakable position. It is not only the code of conduct for civil activities, but also an important basis for judges to judge cases. Compared with common law, the basic principles of civil law have higher legal effect, and

their effectiveness takes precedence over the specific provisions of civil law. This means that in specific cases, when the basic principles of civil law conflict with common law, the basic principles of civil law should be the primary basis for judgment.

However, this does not mean that common law can be ignored under any circumstances. In fact, it is a basic principle of judicial trial that special law is applied first to common law. However, in certain circumstances, such as the provisions of common law that obviously violate the basic principles of civil law, this principle is no longer applicable. At this time, the judge needs to make judgments in accordance with the basic principles of civil law to ensure the fairness and reasonableness of the case handling. This relationship of "foundation and exception" not only reflects the authority and stability of the basic principles of civil law, but also gives judges the flexibility and judgment in the face of special situations.

(2) Relationship with the Constitution

As the fundamental law of the country, the Constitution has the highest legal effect. It is not only the cornerstone of national governance, but also the fundamental basis of civil legislation. The formulation and implementation of the basic principles of civil law must strictly abide by the provisions and spirit of the Constitution. This means that in judicial judgments, when the basic principles of civil law conflict with the provisions of the Constitution, the provisions of the Constitution shall be the primary basis for judgment.

The application of the basic principles of civil law should also reflect the value and requirements of the Constitution. For example, constitutional principles such as respecting human rights and safeguarding freedom should run through the application process of the basic principles of civil law. This not only helps to safeguard the legitimate rights and interests of citizens, but also helps to promote social harmony and stability. Therefore, it can be said that there is a "fundamental and guarantee" relationship between the basic principles of civil law and the constitution. The Constitution provides fundamental guidance and guarantee for the basic principles of civil law, while the basic principles of civil law promote social progress and development through the specific application of constitutional principles.

(3) Relationship with international law

With the deepening development of globalization, the role of international law in domestic civil activities is increasingly prominent. The basic principles of civil law are not only applicable to domestic civil activities, but also closely related to international law. This connection is reflected in many aspects. In foreign-related civil cases, judges should fully consider the relevant provisions and spirit of international law. This not only helps to ensure the international consistency and acceptability of the judgment results, but also helps to enhance the international influence and credibility of China's judiciary. Therefore, it can be said that there is a "connection and interaction" relationship between the basic principles of civil law and international law. This relationship not only promotes the exchange and integration of legal systems at home and abroad, but also provides useful references for China's civil legislation and judicial practice.

5. CONCLUSION

In summary, the basic principles of civil law occupy an important position in the legal system, and there is a complex and profound relationship with common law, the Constitution and international law. These relationships not only reflect the extensive influence of the basic principles of civil law, but also provide comprehensive guidance and guarantee for their application in judicial adjudication.

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