

A Retrospective of the Development of the Civil Law in 2018

Yu-Hung Yen*

Abstract

From the end of 2017 to the beginning of 2019, the judicial aspect of the civil substantive law developed as a result of several important decisions and resolutions made by the Supreme Court. These decisions and resolutions cover multiple aspects in respect of the Civil Code, including the extinctive prescription set forth under the Part of General Principles (focusing on the issues of the commencement time of the extinctive prescription under Article 128 of the Civil Code and the extinctive prescription of public nuisance cases), management of affairs without mandate (focusing on the system structure of management of affairs without mandate), unjust enrichment (focusing on how the person suffering losses can exercise her/his rights in the events of unjust enrichment from others' payment and unjust enrichment not from others' payment where the real property is registered in the name of the beneficiary), torts (focusing on whether the right to be forgotten should be acknowledged, its relation with illegality, and its legal effects), penalty (focusing on whether the right to claim penalty is an accessory right, the extinctive prescription for claiming penalty and how to calculate the amount of the penalties) set forth under the Part of Obligations, as well as the mortgage set forth under the Part of Rights in Rem (focusing on the relationship between the third party who creates a mortgage for a debtor and the guarantor, and the interpretation and application of Article 880 of the Civil Code). Based upon scholars' opinions having been published, this article provides comments and analysis on the court decisions and judicial interpretations selected by the author.

Furthermore, from the legislative perspective, the civil substantive law during this time period also developed as demonstrated by a number of important

* Assistant Professor, College of Law, National Taiwan University.

E-mail: yhyen@ntu.edu.tw

legislative activities, such as the still-in-progress amendment to the provisions of the extinctive prescription led by the Ministry of Justice, the amendment to the Enforcement Guidelines of Article 34-1 of the Land Act, and the enactment of the Enforcement Act of Judicial Yuan Interpretation No. 748, which are all worthy of introduction in details.

Keywords: extinctive prescription, lawful management of affairs without mandate, the payment type of unjust enrichment, right to be forgotten, penalty, Enforcement Guidelines of Article 34-1 of the Land Act, J.Y. Interpretation No. 748