

A Retrospective of the Development of the Civil Law in 2022

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Abstract

Concerning the development of the civil law from the end of 2021 to the beginning of 2023, in terms of the General Principles of the Civil Code, for the issue of damages for pain and suffering, it can be noted that scholars and courts in recent years have tended to recognize that victims of the unlawful infringement on their property can be compensated for their non-pecuniary damages. Regarding the issue of the extinctive prescription, it has been reiterated that the right of claim on registered real property is not subject to the statute of limitations provided in Article 125 of the Civil Code. Nevertheless, only when real property is registered in accordance with our country's law will the right of claim on it not be subject to Article 125 of the Civil Code. In terms of the development of the part of Obligations, concerning the limitation of the freedom of contract, legislation and judiciary focus on the amendment of The Equalization of Land Rights Act and the recognition of obligation to contract system respectively. As for the case of compulsory apology, the J.Y. Interpretation No. 656 is clearly revised. It is now considered that the "proper measures" under Article 195, Paragraph 1, Second Sentence of the Civil Code should not include the situation where the court orders the defendant to apologize through a judgment. In terms of the development of the part of Family, the issue of same-sex marriage is highlighted, which includes the following three aspects. First, Article 3, Paragraph 2, Article 9, Paragraph 2 and

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the proviso of Article 16, Paragraph 1 of the Act for Implementation of J.Y. Interpretation No. 748 are repealed, making them consistent with the provisions of conclusion of marriage and divorce in the Civil Code. Second, both judicial rulings and administrative practices have recognized the validity of same-sex marriages between our citizens and foreigners even though the national law of foreigners does not recognize same-sex marriages, while the same-sex marriage between our citizens and people from People's Republic of China is an exception. Third, Article 20 of the Act for Implementation of J.Y. Interpretation No. 748 is amended, and thus the provisions of the Civil Code concerning adoption can apply *mutatis mutandis* if one party of the same-sex marriage adopts the genetic or adopted child of the other party, or both parties of the same-sex marriage co-adopt the genetic child of third party.

Keywords: damages for pain and suffering, extinctive prescription, freedom of contract, The Equalization of Land Rights Act, obligation to contract, compulsory apology, Act for Implementation of J.Y. Interpretation No. 748