

The Developments of the Theories and Practices of Stand Form Contracts under the Consumer Protection Law

Sheng-Lin Jan^{*}

Abstract

Since the implementation of the Consumer Protection Law (CPL) on January 13, 1994, more than 20 years have been passed. The most commonly litigating disputes related to the provisions of the CPL are those arising out of standard form contracts.

Based on the decisions of the Taiwan Supreme Court and the final decisions of the Taiwan High Court, this paper explores the developments of the theories and practices of standard form contracts from the angles of incorporation of standard clauses into contract, interpretation of standard clauses, control over of the validity of standard clauses, effect of invalid standard clauses, and model standard clauses. In particular, problems associated with the validity of standard clauses are core of the explorations.

In this regard, after reviewing courts' decisions relating to the transactions of pre-sold houses, sale brokerage of real estates, performance guarantee for sale prices, maximum amount mortgage, credit card, mandate of sale and purchase of stocks, underground parking, this paper scrutinises the validity and invalidity of the standard form clauses involved in these transactions. The review and scrutiny aims to expound the author's opinion that the entirely exempting clauses, self-contradictory clauses, unreasonable risk allocation or transfer clauses contained in the standard form contracts used by the business enterprises shall be considered as invalid due to violation of the principles of good faith and

^{*} Professor of Law, College of Law, National Taiwan University; Fu Ssu-Nien Memorial Chair Professor, National Taiwan University.
E-mail: shlijan@ntu.edu.tw

reciprocity prescribed by Art. 12 CPL, and Art. 13 and 14 of the Enforcement Rules of CPL.

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