

Developments in the Law in 2013: Civil Law

Chung-Jau Wu^{*}

Abstract

The rulings of the Supreme Court contain abundant opinions and insights in year 2013. It represents the Supreme Court becomes mature to apply the legal methodology on the different cases and has the courage to try it. In addition, the reasonings in the civil legal dogmatics are rich enough and through it lead legal theories forward. Especially in the civil legal methodology, after referring our legal theory archive the Supreme Court has declared in their decisions that the Taiwanese Civil Code Section 1 with the function of supplemental feature includes actually the law-making effect within the law (eg analogy applicable) and the one outside of the law to enact through judge-made law continuously (such as the nature of things and based on the principle of equity to create a legal basis for things). This opinion has declared that we had adopted a comprehensive, following the creation of the German scholar Karl Larenz, so-called legal discovery of methodology constructed on three levels, which deserves more attention!

Keywords: Judge-made law outside the law, nature of things, preliminary contract, successive assignments of the same right, liquidated damages, defects of things

^{*} Associate Professor of Law, College of Law, National Taiwan University.
E-mail: wucjj2@ntu.edu.tw