

Standardized Renewal of Mobilizable Property Mortgages Obtained in Good Faith under the Civil Code System

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Abstract: Under the civil code system, the bona fide acquisition system of movable property mortgages faces many challenges. The current law stipulates that when applying to cases of mobilizable property mortgage acquisition in good faith, there are problems such as confusion in the form of the constituent elements of the adjudication standard and the inconsistent criteria for determining the elements. This article aims to discuss the construction of the standard of good faith acquisition of movable property mortgage, and put forward the second-order structural theory, that is, the prerequisites and the specific constituent elements of good faith acquisition. Through legal renewal, this article strives to provide clear reference standards for the good faith acquisition of movable property mortgages to ensure the fairness and consistency of the judgment.

Keywords: Movable Property Mortgage, Acquisition in Good Faith, Legal Renewal, Constituent Elements, Civil Code.

1. Introduction

The system of bona fide acquisition of movable property mortgage is an important part of the Civil Code, which aims to protect the interests of a third party in good faith and maintain the security of transactions. However, in practical application, due to the ambiguity and incompleteness of the current law, the constituent elements of the refereeing standard is confused, and the criteria for determining the elements are inconsistent, which brings many difficulties to judicial practice. Therefore, this article will start from the normative structure obtained in good faith of movable property mortgage, and discuss how to improve this system through legal renewal to ensure its effective implementation.

2. Theoretical Basis for Obtaining Movable Property Mortgage in Good Faith

The acquisition of movable property mortgage in good faith refers to in a specific situation, that is, when the person without the right to dispose of establishes a mortgage on the movable property that is not owned by him, iff the mortgagee is not aware of this and meets the conditions stipulated by law, then the mortgagee can obtain the mortgage on the movable property in accordance with the law. The design of this system aims to balance the conflict between the protection of ownership of movable property owners and the maintenance of transaction security, and to ensure the stability and fairness of transaction order.

The importance of obtaining movable property mortgages in good faith is reflected in many aspects. First of all, it ensures the security of the transaction, so that the counterparty can still obtain collateral in good faith when it is unable to judge the ownership of the movable property, thus reducing the transaction risk. Secondly, it promotes the convenience and efficiency of transactions, so that movable property can be used as a financing tool more flexibly to serve economic development. Finally, it embodies the principle of fairness and justice of the law, and safeguards the public interest of

society and the order of transactions by protecting the interests of a third party in good faith.

The constituent elements of mobilizable property mortgage obtained in good faith mainly include the following three aspects. No right to dispose of, that is, the perpetrator (registered nominal person) establishes a mortgage on other people's movable property without the right to dispose of it. This is the prerequisite for the application of the goodwill acquisition system, and it is also a necessary condition for protecting the rights and interests of movable property owners. Goodwill means that when the mortgagee receives the mortgage, it does not know that the mortgagor has no right to dispose of the movable property, and this ignorance is not caused by the negligence or negligence of the mortgagee. The time of good faith judgment shall be the time when the mortgage is established, that is, the moment when the mortgagee and the mortgager reach a mortgage agreement and go through the relevant procedures. Registration For movable property mortgages, registration is the method of publicity and one of the important conditions for acquisition in good faith. Through registration, it can ensure the openness and transparency of the mortgage right, so that the potential counterparty can understand the mortgage situation on the movable property, so as to make wise transaction decisions. At the same time, registration is also an important basis for the mortgage against a third party, ensuring that the legitimate rights and interests of the mortgagee are effectively protected.

The system of bona fide acquisition of movable property mortgage occupies an important position in the civil code system, with a profound theoretical foundation and great significance. By clarifying its constituent elements and interpretation, we can better understand the original design intention and operation mechanism of this system, so as to better apply it to judicial practice and maintain transaction security and transaction order.

3. Normative Structure of Mobilizable Property Mortgage Obtained in Good Faith

The system of bona fide acquisition of movable property mortgage Although the provisions in the current law provide certain guidance for judicial practice, there are still problems of ambiguity and incompleteness.

The current law does not give clear and specific provisions on the constituent elements of the acquisition of movable property mortgage in good faith. For example, the law does not give detailed explanation or guidance for the judgment criteria of "good faith", resulting in judicial practice, judges often need to make judgments based on their own understanding and experience, which increases the uncertainty of the referee to a certain extent. The current law does not clearly stipulate the scope of application of the acquisition of movable property mortgage in good faith. As a result, in judicial practice, the law does not give a clear solution to the problem of good faith acquisition of movable property mortgages of certain special types of movable property or movable property mortgages in certain situations, thus increasing the difficulty of judicial adjudication. The current law also has shortcomings in the registration system for the good faith acquisition of movable property mortgages. Although registration is an important way to publicize movable property mortgage rights, the current law does not clearly stipulate the specific procedures and requirements of registration and the inquiry method of registration information, which affects the implementation effect of the bona fide acquisition system of movable property mortgage to a certain extent.

In response to the shortcomings stipulated by the current law, some scholars have put forward the second-order structure theory of standardized good faith acquisition of movable property mortgages. This theory divides the normative structure of movable property mortgage obtained in good faith into two levels: prerequisites and specific constituent elements. In terms of prerequisites, the premise of obtaining the movable property mortgage in good faith is that the mortgage contract is valid and the main claim is alive. This means that if the mortgage contract is invalid or the main claim has been extinguished, even if other constituent elements are met, the acquisition of the movable property mortgage right cannot be established in good faith. This provision ensures the legality and validity of the system of bona fide acquisition of movable property mortgages. In terms of specific constituent elements, the acquisition of movable property mortgage in good faith needs to meet the requirements of no right to dispose of, good faith and registration. Among them, "no right to dispose" refers to the perpetrator's disposal of other people's movable property without the right to dispose of it; "goodwill" means that the mortgagor does not know that the mortgagor has no right to dispose of the movable property when accepting the mortgage, and this ignorance is not caused by the negligence or negligence of the mortgagee; "registration" means that the movable property mortgage has been carried out in accordance with the law. The registration has been announced. These elements together constitute the core content of the good faith acquisition of movable property mortgages.

The proposal of the second-order structural theory provides clearer and more specific guidance for the normative construction of the system of good faith acquisition of

movable property mortgages. It clarifies the movable property mortgage. The prerequisites and specific constituent elements obtained in good faith provide clearer and more specific adjudication standards for judicial practice. At the same time, it also reveals the internal logic and operation mechanism of the system of obtaining movable property mortgages in good faith, which helps us to understand and grasp the spiritual essence of this system more deeply.

4. Legal Renewal of Movable Property Mortgage Obtained in Good Faith

4.1. The Necessity and Urgency of Legal Renewal

Although the system of bona fide acquisition of movable property mortgages has been stipulated in the current legal system, in the face of the increasingly complex and changing transaction environment and various challenges in judicial practice, the improvement of its normative structure is particularly urgent. Legal renewal, as a manifestation of judicial activism, aims to supplement and improve the current law through the joint operation of judicial judgment and doctrine to meet the needs of social development.

There is a significant need for the legal renewal of the bona fide acquisition system of movable property mortgages. On the one hand, the ambiguity and incompleteness of the current legal provisions lead to the inability of adjudication standards in judicial practice, which affects the fairness and authority of the law. On the other hand, with the development of the economy and the innovation of transaction methods, the bona fide acquisition system of movable property mortgages faces new challenges, such as the emergence of new movable property and the rise of digital trading platforms, which have put forward new requirements for the existing system.

In addition, the urgency of legal renewal cannot be ignored. With the increasing frequency and complexity of transaction activities, the number of disputes over the good faith acquisition of movable property mortgages is increasing, and the inadequacy of the current law makes the handling of such disputes particularly difficult. Therefore, it has become an urgent priority to improve the bona fide acquisition system of movable property mortgages through legal renewal.

4.2. Specific Measures and Paths for Legal Renewal

Clarify the constituent elements and recognition standards. Through judicial interpretation or legislative revision, the constituent elements of the acquisition of movable property mortgages in good faith shall be clearly defined, and the corresponding criteria for identification shall be formulated. This helps to unify the scale of judicial judgment and improve the certainty and predictability of the law. Strengthen the registration management of movable property mortgages to ensure the accuracy and integrity of registration information. At the same time, a convenient registration information inquiry mechanism should be established to facilitate the counterparty to understand the mortgage situation on movable property and reduce transaction risks.

With the emergence of new movable property and the rise of digital trading platforms, the bona fide acquisition system of movable property mortgage needs to be adjusted accordingly. For example, for the establishment of mortgages and good faith acquisition of digital movable property (such

as cryptocurrencies, digital works of art, etc.), special regulations need to be formulated to adapt to the characteristics of such new assets. In judicial practice, judges should give full play to their activity and flexibly use legal principles and spirit to make judgments according to the specific situation of the case. At the same time, the academic and practical circles are encouraged to conduct in-depth research and discussion on the system of bona fide acquisition of movable property mortgages, so as to provide theoretical support and practical experience for legal renewal.

Legal renewal obtained in good faith for movable property mortgage is a complex and arduous task. By clarifying the constituent elements and identification standards, improving the registration system, adapting to new movable property and transaction methods, and strengthening judicial Activism and other measures, we can gradually improve this system and provide a strong legal guarantee for transaction safety and order.

5. Conclusion

The system of obtaining movable property mortgage in good faith is an important part of the Civil Code, which is of great significance to protecting the interests of a third party in good faith and maintaining the safety of transactions.

However, the current legal provisions have many shortcomings in applying to cases of good faith acquisition of movable property mortgages. Through the discussion and analysis of this article, we put forward the second-order structural theory of the standardized acquisition of movable property mortgages in good faith, and pointed out the necessity and specific measures for legal renewal. It is hoped that these research results can provide useful references and lessons for judicial practice and promote the improvement and development of the system of good faith acquisition of movable property mortgages.

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