ISSN: 2710-0170

Nature and Specific Determination of Substituted Performance Agreements

Qianshuo Guo

School of Law, Beijing Normal University, Beijing 100000, China

*Corresponding author email: 1259397694@qq.com

Abstract

Article 27 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of the General Provisions of Contracts in the Civil Code of the People's Republic of China, which came into effect in December 2023, explicitly stipulates the consensual nature of substituted performance agreements. To conduct a specific analysis of the underlying reasons for this stipulation, it is essential to proceed from the legislative purpose and the intrinsic nature of contracts themselves. Specifically, the parties to a substituted performance agreement do not stand in an unequal relationship with respect to the distribution of interests; therefore, such agreements should not be characterized as real contracts. Concerning the legal nature of substituted performance agreements, the theory of debt modification contracts should be adopted to preserve the identity of the original debt relationship. Furthermore, under the premise of acknowledging their consensual nature, it has become practically unnecessary to distinguish between substituted performance and novation in judicial practice.

Keywords

Substituted performance; Consensual contract; Real contract; Novation.

1. Introduction

The Civil Code of the People's Republic of China does not provide detailed provisions on the specific legal nature or applicable rules governing substituted performance agreements. Consequently, both academic circles and judicial practitioners have long been engaged in debates over the characterization of such agreements. Article 44 of the *Minutes of the National Conference on Civil and Commercial Trial Work* (2019) stipulates that, after the maturity of the debt performance period, if the property specified in a property-for-debt agreement has not been delivered to the creditor, the creditor shall nevertheless retain the right to request the debtor to perform the obligation of delivery. This provision, in substance, recognizes the consensual nature of property-for-debt agreements. However, the Minutes still fail to clearly delineate the conceptual boundaries among property-for-debt agreements, substituted performance agreements, and novation agreements. Nor do they offer a concrete explanation as to whether substituted performance agreements should be classified as consensual contracts or real contracts. In judicial practice, any mischaracterization of the nature of a property-for-debt agreement may readily lead to inconsistent or even contradictory judicial outcomes.

The first paragraph of Article 27 of the Interpretation of the Supreme People's Court on *Several Issues Concerning the Application of the General Provisions of Contracts in the Civil Code of the People's Republic of China*, which came into force on December 5, 2023, explicitly provides: "Where the parties agree on property-for-debt and reach an agreement before the maturity of the debt performance period, and there are no circumstances affecting the validity of the contract, the people's court shall determine that the agreement takes effect from the time the parties' expressions of intent are consistent." This provision ultimately negates the practical nature of substituted performance agreements and affirmatively confirms their consensual character. Nevertheless, it is worth delving deeper into the following inquiries: Why did the Supreme People's Court choose to reject the previously dominant doctrinal theory of real contracts? What constitutes the lack of a legitimate basis for utilizing this theory to fill the relevant legal lacunae? Moreover, if substituted performance agreements are to be characterized as consensual contracts, how should the boundary between substituted performance and novation be demarcated, and does the traditional distinction between the two remain necessary? These questions still await further theoretical clarification and judicial elucidation in the process of constructing a systematic and well-defined substituted performance regime.

2. The Debate between the Real Nature and the Consensual Nature of Substituted Performance Agreements

2.1. Presentation of the Issue

The so-called substituted performance agreement, according to the prevailing view, refers to a contract whereby, for the purpose of extinguishing an existing debt relationship, the creditor agrees to accept a different performance offered by the debtor in lieu of the originally stipulated performance. Whether a substituted performance agreement should be classified as a consensual contract or a real contract has long been one of the focal points of theoretical debate. Characterizing substituted performance agreements as real contracts represents the predominant view in civil law scholarship in the Taiwan region of China. As a typical institution within the civil law tradition, Article 309 of the *"Civil Code"* of the Taiwan region stipulates: "If the creditor accepts a different performance in place of the originally stipulated performance, the debt relationship is extinguished." The precedent set by the Taiwan "Supreme Court" in its 1976 Tai-Shang-Zi No. 1300 judgment further explicitly defines substituted performance as a real contract, holding that "for the establishment of substituted performance, the mere agreement of the parties is insufficient; it is necessary to actually render a different performance." This judicial precedent effectively unified the criteria for determining the nature of substituted performance agreements in the judicial practice of the Taiwan region. Numerous eminent scholars in the Taiwan region also subscribe to this view. For instance, the late jurist Mr. Shi Shangkuan clearly stated: "For the establishment of substituted performance, the mere agreement of the parties is insufficient; it is necessary to substitute the originally stipulated performance by actually rendering a different performance. Hence, it is a real contract [1]."

In the judicial practice of mainland China, a considerable number of judgments also adhere to the aforementioned viewpoint. When adjudicating cases involving the validity of property-for-debt agreements, many courts at various levels have rendered decisions on the grounds that substituted performance agreements constitute real contracts. They hold that if the creditor and debtor have merely reached an agreement to substitute a different performance for the original one, but this different performance has not yet been actually performed, then the substituted performance agreement is not established. Consequently, the creditor has no right to request the debtor to perform that different performance. Such judicial determinations, in essence, negate the purely consensual agreement between creditor and debtor formed based on the meeting of their wills. This undoubtedly significantly restricts the autonomy of civil subjects in arranging their legal relationships according to their own will, contravenes the fundamental principle of party autonomy in civil law, and may also undermine the principle of good faith while posing potential threats to transaction security and stability. *The Minutes on Several Legal Issues Concerning the Adjudication of Property-for-Debt Cases* issued by the Jiangsu Provincial High People's Court in 2014 once indirectly explained some considerations behind

ISSN: 2710-0170

characterizing substituted performance agreements as real contracts, namely, aiming to prevent parties from using property-for-debt agreements for frivolous litigation or maliciously transferring liability assets, thereby safeguarding judicial authority and credibility. However, such policy considerations alone are insufficient to provide full legitimacy for courts to analogize substituted performance agreements to the rules governing real contracts during adjudication, and may even raise concerns about improper expansion or abuse of judicial power [2]. Ascertaining the facts of the case, discerning the true intent of the parties, and curbing frivolous litigation are fundamental principles and bottom lines that judges should adhere to in fulfilling their adjudicative duties. If judges, influenced merely by certain doctrinal theories, readily negate the valid agreement reached between parties within the context of modern contract law where freedom of contract is the core principle, their reasoning may appear tenuous and risk excessive intervention in party autonomy in private law. Therefore, it is necessary to proceed from the intrinsic legal purpose underlying the construction of the real contract system itself and conduct an in-depth inquiry into whether the blanket characterization of substituted performance agreements as real contracts in contemporary judicial practice possesses sufficient rationality and necessity.

2.2. In-Depth Inquiry into the Legitimacy of the "Real Nature" of Substituted Performance Agreements

The concept of the real contract is, in fact, a historical product of the civil law tradition's reception of the Roman law's consumption loan contracts. Against the backdrop where the theory of private autonomy has been universally recognized and has become the cornerstone of modern civil law, the notion of a "real contract" that still requires the actual delivery of the subject matter as an essential element for the formation of the contract exhibits a somewhat self-contradictory character within the system of obligations law [3], and the necessity of its existence has long been widely questioned and criticized in legal academia. Currently, scholars in the Taiwan region of China often tend to argue for the limited existence value of real contracts in contemporary law from the perspective of special legislative policies concerning gratuitous contracts. For example, the renowned civil law scholar Professor Wang Zejian pointed out: "Real contracts are gratuitous in nature, and specifically take the 'delivery of the thing' as a formation requirement, enabling the parties to have an opportunity for consideration and deliberation before the delivery of the thing, serving a warning function [4] ." It can thus be seen that the primary reason why positive law retains and recognizes the validity of real contracts in specific areas stems from the special position occupied by gratuitous contracts within the entire contractual system. Based on specific legislative policy considerations, the law specially grants the party obligated to perform in a gratuitous contract a certain "right of rescission" or "cooling-off period" before actual performance, to balance the interests and risks of both parties.

Many scholars in mainland China also largely agree with this view. For instance, Professor Liu Jia'an believes: "Contemporary law should proceed from the gratuitous nature of contracts and understand the real nature of contracts as a technical means by which the law grants the promisor who undertakes to give gratuitously a right of rescission [5]." Linking the gratuitous attribute of a contract with its real nature is essentially a conclusion drawn from the perspective of interest balancing. Because in a typical gratuitous contract, the party rendering the performance does not receive a corresponding property equivalent or economic return from the other party, there exists a practical need in the allocation of contractual rights and obligations to favor that performing party to achieve a substantive balance of interests between the two parties [6]. In other words, after a gratuitous contract is formed and becomes effective, due to the special nature of the contract itself, the performing party often bears significantly greater performance risks and potential disadvantages compared to the other party. Therefore, whether a contract is gratuitous cannot directly and absolutely serve as the sole or substantive

ISSN: 2710-0170

criterion for determining whether that contract should be a real contract. A more persuasive criterion should be: does the inherent nature of the contract necessarily lead to an unbalanced and unequal relationship between the parties in the allocation of rights and obligations and the sharing of risks?

A further examination of the specific provisions of China's positive law reveals that the contracts explicitly possessing a real nature in the *Civil Code of the People's Republic of China*, which took effect in 2021, mainly include: the deposit contract stipulated in Article 586, the custody contract stipulated in Article 888 (when the parties have not agreed on storage fees or the agreement is unclear), and the loan contract between natural persons stipulated in Article 679 (when no interest is agreed). Compared with the previous *Contract Law*, the *Civil Code* further clarifies in the relevant provisions the rule that these real contracts are "formed upon delivery of the subject matter" (rather than merely affecting effectiveness). A brief analysis of the nature of these types of contracts is as follows: First, regarding custody contracts and loan contracts between natural persons, for custody contracts, China's *Civil Code* stipulates that when the parties have not agreed on storage fees or the agreement is unclear, it is deemed gratuitous custody. Simultaneously, the parties may also exclude the application of the real nature through special agreement. Therefore, the current mainstream view holds that only when the parties have neither agreed on storage fees nor made a special agreement regarding the consensual nature of the contract can such custody contracts be considered real contracts [7]. For loan contracts between natural persons, their real nature is also highly controversial. Article 680 of the *Civil Code* stipulates that if a loan contract does not stipulate the payment of interest, it is deemed to bear no interest. The prevailing academic opinion currently tends to distinguish between natural person loans of a civil mutual-assistance nature and those with a commercial profit-making intent, and to determine their formation requirements separately. It is generally held that only in consumption loans between natural persons of a civil nature where no interest is agreed can they be considered real contracts [8]. From this, it is evident that the characterization of the real nature of the aforementioned two types of contracts is closely related to their gratuitous essence. As for the deposit contract, its essence is a form of security for claims provided by the depositor to the recipient, guaranteeing the performance of the principal obligation. The depositor voluntarily assumes the adverse consequence of forfeiting the deposit if they breach the agreement and fail to perform the obligation. Although, according to the "deposit penalty rule," the recipient must return double the deposit if they breach, considering the accessory and security nature inherent to the deposit contract itself, the party receiving the deposit (usually the creditor or the party performing first) often holds a superior bargaining position in the conclusion of the contract (such as the party accepting an offer in a sale). The party paying the deposit needs to enter into the deposit contract and pay the deposit to secure the successful conclusion of the "main" contract. In this regard, the depositor bears risks of disadvantage and pressure that are significantly greater than those borne by the recipient. Therefore, characterizing the deposit contract as a real contract can provide protection for the relatively weaker depositor [9].

From the three real contracts stipulated in substantive law, it can be seen that the theoretical basis for constructing the real contract system, or its inherent legal purpose, is to grant a right of revocation to the performing obligor, who is in a relatively disadvantaged position due to the nature of the contract itself, allowing them room for careful assessment before actual delivery. Based on this legal purpose, we can further deduce the theoretical basis for regarding substituted performance as a real contract: to grant the debtor, after both parties agree to replace the original performance with a different one, the right to decide whether to perform this act of disposition before the actual delivery of the different performance. It emphasizes that the extinction of the original debt relationship requires not only the agreement of both parties but also the debtor’s actual performance, essentially allowing the party promising the different

ISSN: 2710-0170

performance to retain a right of revocation [10]. The premise for this conclusion is that the performing obligor in a substituted performance agreement is in a relatively disadvantaged position compared to the original creditor in terms of interest distribution. In practice, debtors, unable to perform the original obligation, may propose a different performance that is significantly disproportionate in value to the original performance to extinguish the debt relationship [11]. In such cases, classifying the substituted performance agreement as a real contract to avoid the debtor being forced to perform a different performance that clearly exceeds the value of the original performance seems acceptable. However, the reasons for parties entering into substituted performance agreements vary. It cannot be assumed that the value of the substitute provided by the obligor is higher than the original performance. Even if, after the maturity of the original debt, the parties agree that the debtor's book worth 100 yuan offsets a debt of 2 million yuan, as long as the agreement reflects the true intention of the parties and does not violate the interests of third parties, the substituted performance agreement should be valid. Therefore, the view that the performing obligor and the creditor in a substituted performance agreement have unequal interests is not derived from the nature of the contract itself but from an assessment of the specific content of the contract between the creditor and debtor. However, the contract content depends on the parties' intent. In specific contractual agreements, whether the creditor or the debtor is in a relatively disadvantaged position results from their voluntary consideration of various interests or risk factors, unrelated to the attribute of "substituted performance agreements" as a type of contract. This view confuses the boundary between the nature of a contract and its specific content. Thus, the theoretical premise for regarding substituted performance as a real contract does not hold. Consequently, the judicial practice of analogizing substituted performance agreements to the legal provisions on real contracts does not align with the inherent legislative purpose of constructing the real contract system and lacks a legitimate basis for filling legal gaps. As some scholars have criticized, "from the historical evolution of contracts, the types of real contracts have gradually decreased, especially in the context of emphasizing the principle of intent. Given that Chinese current law does not regulate substituted performance as a typical contract, it is more appropriate to follow this trend rather than be constrained by the foreign legislative precedent of real contracts [12]."

2.3. Substituted Performance Agreements Should Be Recognized as Consensual Contracts

In fact, the view that classifies substituted performance agreements as real contracts stems from a misinterpretation of positive law provisions. Whether it is the *German Civil Code* (*Bürgerliches Gesetzbuch § 364*(2)(1): The debt relationship is extinguished as soon as the creditor accepts a different performance in place of the performance owed.) or Taiwan's *Civil Code* provisions on substituted performance, the literal meaning of the legal texts does not reflect the regulatory effect on the consensual basis of substituted performance. The requirement in the law that the creditor must "accept actual performance" to establish substituted performance aims to emphasize, from the perspective of the effect of extinguishing the original debt, that the actual performance is necessary to achieve the purpose of extinguishing the debt relationship, not to deny the mere agreement between the creditor and debtor on substituted performance. Compared to ordinary debt performance, in substituted performance, for the debtor to achieve the effect of extinguishing the debt by providing a different performance in place of the original performance, their unilateral intention is insufficient; the creditor's consent (express or implied) is also required. Otherwise, such performance would constitute undue payment. In other words, the extinction of the debt is premised on the agreement of both parties, which constitutes the substituted performance agreement. Ordinary performance, whether a unilateral act or a quasi-juridical act, does not

ISSN: 2710-0170

involve an "agreement" between the debtor and creditor. Therefore, substituted performance is by no means a form of debt performance [13].

Thus, positive law provisions on substituted performance only require, from the perspective of the performance act, that the creditor must actually accept the different performance for the debt to be extinguished. However, as mentioned, substituted performance cannot be regarded as ordinary performance. Inferring from this that the legal provision includes the requirement that the formation of a substituted performance agreement based on the parties' agreement requires the debtor's actual performance confuses the distinction between substituted performance agreements and performance acts. Such interpretation exceeds the literal limits of the law and is improper. The aforementioned agreement between the creditor and debtor can be reached either at the time the creditor actually accepts the different performance or before the actual performance. After the agreement is reached, if the debtor fails to deliver the performance actually, they should bear the obligation to fulfill this agreement [14].Denying the validity of agreements reached before the acceptance of the different performance contradicts the principle of autonomy of will and also affects transaction efficiency in practice, being redundant. Recognizing the validity of the substituted performance agreement reached between the parties essentially acknowledges the consensual nature of substituted performance agreements.

Therefore, whether from the legal purpose of constructing the real contract system or from a purely literal interpretation of the law, classifying substituted performance agreements as consensual contracts better aligns with the true intention of the parties and more reasonably explains the legal cause of substituted performance.

3. Legal Nature of Consensual Substituted Performance Agreements

The determination of the legal nature of substituted performance serves a purpose. When a substituted performance agreement is normally performed, its legal nature does not affect the judgment of the parties' rights and obligations in practice. Only when the debtor's different performance is defective does the legal nature of the substituted performance agreement become the basis for the parties' claims. Therefore, the legal nature of substituted performance agreements should be discussed from the perspective of defects in the substitute.

3.1. The Doctrine of Similar Sale

Article 365 of the *German Civil Code* stipulates: If a thing, a claim against a third party, or another right is provided in place of performance, the debtor is liable for defects in the right or thing to the same extent as a seller. This provision is based on the quasi-sale theory. This theory holds that the debtor's provision of a different performance and the creditor's release of the original performance constitute a consideration relationship. The creditor exchanges the claim for the subject matter of the different performance, and the positions of the creditor and debtor in this exchange are similar to those in a sale contract. Therefore, when the different performance is defective, the creditor, as the buyer, may exercise rights against the debtor, demanding that the debtor bear the seller's warranty liability for defects in the different performance, or claim damages. They may also directly rescind the substituted performance agreement or, based on the right to restitution in damages, request the debtor to again bear the obligation under the original debt relationship, thereby reviving the original debt relationship that had been extinguished due to the actual different performance.

However, if the original debt was based on a gratuitous contract, such as a gift contract, according to Article 662 of *China's Civil Code*, the donor, in principle, does not bear warranty liability for defects in rights or things, except in exceptional circumstances where compensation is required. If substituted performance agreements were uniformly interpreted as sale

ISSN: 2710-0170

contracts under such circumstances, "it would be improper to impose warranty liability where none originally existed [15]."

3.2. Debt Modification Contract Theory

Building on this, some scholars, from the perspective of maintaining the identity of the debt relationship, propose the theory of special debt modification contracts. This theory holds that the parties' substituted performance agreement modifies the content of the original debt, but because its economic purpose remains unchanged, the original debt relationship should not lose its identity due to the modification. The modified debt relationship is extinguished by the substituted performance act [16]. Since the identity of the original debt relationship remains unchanged by the substituted performance agreement, when the different performance is defective, the treatment method should be determined according to the underlying relationship of the original performance. For example, if the debtor had a seller's performance obligation, defects in the performance after the change of subject matter should still be governed by the rules on warranty for defects in sales. If the debtor had a donor's performance obligation, the relevant rules on gift contracts should apply regarding warranty liability for defects. This theory better explains the debtor's warranty liability when the different performance is defective and is more preferable.

4. Substituted Performance and Novation

In practice, courts often refer to substituted performance and novation collectively as "property-for-debt." However, some scholars believe that property-for-debt agreements should be interpreted based on the parties' intent to determine which type of performance substitution they constitute [17]. In judicial practice and theory, scholars often distinguish between substituted performance and novation based on the real nature of substituted performance acts and the consensual nature of novation agreements [18]. Can a clear standard be found to distinguish between substituted performance and novation agreements while acknowledging the consensual nature of substituted performance agreements?

Novation, also known as "performance by giving" or "indirect performance," refers to a situation where the debtor assumes a new debt to the creditor on the basis of the original debt to perform the original obligation. The old debt is not extinguished until the new debt is performed. That is, novation preserves the content of the original debt relationship while additionally providing the creditor with another means to achieve the purpose of the original creditor-debtor relationship [19].

Some scholars believe that the key to distinguishing substituted performance from novation should depend on the parties' true intention [20]. If the creditor and debtor clearly agree to replace or modify the original debt relationship with a new creditor-debtor relationship, it should be classified as substituted performance. If the parties do not intend to replace the original debt relationship but the debtor merely assumes a new debt on the basis of the original debt as a method to perform the old debt, it should be classified as novation. However, in practice, parties often only agree after the maturity of the original debt to use a different movable or immovable property to "offset" or "set off" the debtor's debt, without specifically stipulating the effect of the original debt relationship after the contract becomes effective. In such cases, courts have different determinations regarding the nature of the contract. For example, in the appeal case *Tongzhou Jianzong Group Co., Ltd. v. Inner Mongolia Xinghua Real Estate Co., Ltd.*, the court classified the agreement between Xinghua Company and the Second Engineering Department of Tongzhou Jianzong Hohhot Branch to offset the price with buildings as a novation contract. In contrast, in the guiding case published in the Supreme People's Court Gazette in 2012, *Wuhou District Land Bureau v. China Merchants Group Co., Ltd., Chengdu Gangzhao Co., Ltd.*, *Hainan Minfeng Co., Ltd.*, the court's abstract held that the agreement

ISSN: 2710-0170

between Chengdu Gangzhao Company and China Merchants Group Company to settle the debt with land constituted a substituted performance relationship. Thus, when the parties' offset agreement lacks specific provisions, how to presume the parties' true intent—whether to enter into a substituted performance agreement or a novation agreement—lacks a clear standard in judicial practice. One view holds that both substituted performance and novation agreements are agreements between parties to replace the original performance with a different one. Mere agreement constitutes novation, while acceptance of the agreement constitutes substituted performance; if the disputed property-for-debt agreement has been performed, it constitutes substituted performance, and the creditor can no longer request performance of the old debt; if the disputed property-for-debt agreement has not been performed and there is no express intent to extinguish the old debt, it should be classified as novation. This view essentially distinguishes the two based on the real nature of substituted performance acts.

We can explore the difference between the two from the legislative purpose of novation agreements. Regarding the legislation on novation, Article 320 of Taiwan's Civil Code stipulates: If a new debt is assumed towards the creditor for the purpose of performing an existing debt, unless the parties express a contrary intention, the old debt is not extinguished if the new debt is not performed. Article 364(2) of the *German Civil Code* stipulates: If the debtor assumes a new debt towards the creditor for the purpose of performing an existing debt, it shall be presumed, in case of doubt, that the debtor assumed this debt in place of performance. The normative intent of this provision is a substantive interpretation rule, aiming to clarify that, absent clear expression of intent by the parties, it must not be presumed that the parties intended to extinguish the old debt [21]. Since neither German nor Taiwanese legislation provides for substituted performance agreements but only emphasizes, from the perspective of debt extinction, that extinguishing debt by substituted performance requires actual performance, the legislators further explain in the law that contracts assuming a new debt to perform an old debt (since the new debt arises from a juristic act independent of the original contract, novation contracts cannot be real contracts [22]) do not automatically extinguish the debt. The essence lies in emphasizing that debt extinction requires actual performance, not mere agreement. As mentioned earlier, substituted performance agreements are not substituted performance acts; their nature is consensual contracts. Therefore, mere agreement on substituted performance naturally cannot extinguish the debt either. Only after the creditor actually accepts the different performance does the effect of extinguishing the original debt occur. On the other hand, after the actual delivery in substituted performance, although the original debt relationship is extinguished, the creditor may, upon defects in the different performance, restore the original debt relationship based on the right to claim damages. In novation agreements, if the creditor cannot achieve the contract purpose through the new debt, they may also request the debtor to perform the original obligation. Therefore, when the different performance is defective, both in novation and substituted performance agreements, the creditor has the right to request the debtor to perform the original obligation.

Thus, in fact, under the premise of acknowledging the consensual nature of substituted performance agreements, the practical significance of distinguishing between substituted performance agreements and novation agreements is quite limited. Therefore, in judicial practice, classifying performance substitution agreements collectively as "property-for-debt agreements" can provide judges with a unified and clear standard when applying the law. It can also free judges from the extremely difficult and practically insignificant conceptual distinctions, allowing them to focus on the case itself.

References

[1] Shi Shangkuan. General Theory of Obligations [M]. China University of Political Science and Law Press, 2000: 810-815.

ISSN: 2710-0170

[2] Huang Fen, Yu Xiaohan. Analysis of the Consensual Nature of Substituted Performance Agreements [J] . China Maritime Law Research, 2021, (1): 84.
[3] Zhu Qingyu. General Principles of Civil Law [M]. Peking University Press, 2016: 140.
[4] Wang Zejian. Principles of Obligations Law [M]. Peking University Press, 2013: 150.
[5] Liu Jia’an. An Inquiry into the Concept of "Real Contracts" [J]. Comparative Law Research. 2011, (4): 38.
[6] Ning Hongli. Gratuitous Contracts: Perspectives from Civil Law and Sociology [J]. Political Science and Law Forum, 2012, (1): 107.
[7] Wang Huasheng. On the Formation of Custody Contracts in China’s Civil Code [J]. Journal of Mudanjiang University, 2022, (1): 67.
[8] Liu Yong, Commentary on Article 679 of the Civil Code (Formation of Loan Contracts between Natural Persons) [J]. Jurists Review, 2022, (4): 175.
[9] Xie Hongfei. The Punitive Nature of Deposit Liability and Its Reasonable Control [J]. Law Science, 2023, (3): 89.
[10] Chen Ziqiang. Lectures on Civil Law II: Content and Extinction of Contracts [M]. Law Press, 2004: 333.
[11] Chen Ziqiang. Theory of Abstract Obligation Contracts [M]. China University of Political Science and Law Press, 2002: 323.
[12] Cui Jianyuan. Theory and Practice of Property-for-Debt [J]. Hebei Law Science, 2012(3): 26.
[13] Yan Zhi. Research on Legal Issues of Substituted Performance [J]. Contemporary Law Review, 2015, (1): 104.
[14] Huang Fen, Yu Xiaohan. Analysis of the Consensual Nature of Substituted Performance Agreements [J]. China Maritime Law Research, 2021, (1): 83.
[15] Chen Ziqiang. Theory of Abstract Obligation Contracts [M]. China University of Political Science and Law Press, 2002: 303.
[16] Chen Ziqiang. Theory of Abstract Obligation Contracts [M]. China University of Political Science and Law Press, 2002, p. 286.
[17] Wang Hongliang. General Theory of Obligations Law [M]. Peking University Press, 2016: 166.
[18] Fang Shaokun. On Novation [J]. Social Sciences in Guangdong, 2014(5): 254.
[19] Wang Qianwei. On Performance by Giving [J]. Chengchi Law Review, 2011(21): 35.
[20] Fang Shaokun. On Novation [J]. Social Sciences in Guangdong, 2014(5), p. 249.
[21] Fang Shaokun, Yan Cong. Legal Application and Nature Determination of Property-for-Debt Agreements[J]. Seeking Truth, 2018(5): 109.
[22] Chen Ziqiang. Theory of Abstract Obligation Contracts [M]. China University of Political Science and Law Press, 2002: 303.