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The Exercise of Rights in Quasi Relation in Common — Taking Obligation and Right of Stock Voting as Examples

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Abstract

If the right in dispute is the right referred to in article 828, item 2 of the Civil Law, that provision shall be applied first, rather than directly applying of article 828, item 3 of the Civil Law, so to avoid that quasi owners in common shall exercise their rights only with the consent of the all quasi owners in common. Regarding the exercise of disputed rights, should article 831, 828, item 2 or 3 be applied? This application should pursue a legal interpretation that is consistent with the group meaning of co-owners of the Civil Law.

For example, in the case where heirs are quasi owners of share rights in common due to inheritance, the heirs attend the shareholders meeting and exercise the right to vote, this voting right shall be exercised in accordance with article 831, 828 item 2 of the Civil Law under the establishing of the division contract, and if the division contract cannot be established, it shall be decided by a majority.

For example, if the quasi obligation in common is inseparable, the whole ar-

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article 821 of the Civil Law shall be applied. And then each quasi creditor in common can request the debtor for payment, but can only request the debtor to pay to all the quasi creditors in common. If separable, article 831, 828, item 2 and whole article 821 of the Civil Law shall be applied. Thus, each quasi creditors in common can request the debtor to pay, but only request the debtor to pay all the quasi creditors in common.

Keywords: Quasi Co-Ownership, Quasi Obligation in Common, Quasi Right of Shareholder in Common, Dividable Obligation, Indivisible Obligation