

The Determination of Possession in Property Law and the Crime of Embezzlement in Criminal Law

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Abstract: Possession is the starting point of property rights. In pure possession without any legal factors, it encompasses all the most fundamental characteristics of property law: willpower, dominance, and exclusivity. Although the property law replaces the factual requirement of possession with a rational design of rights and becomes the core of domination, the important role of possession in the property law has not been lost as a result. The possession system of property law reflects the protection of citizens' interests and plays a very important role in maintaining social stability and peace. In the handling of affairs, it is necessary to reasonably control personal behavior and facilitate substantive control of things.

Keywords: Possession, Property Law, Embezzlement, Criminal Law

1. INTRODUCTION

After the promulgation of the Property Law, the systems of possession and bona fide acquisition in Chapter 9 of the Civil Law have become more closely and complex in connection with the practices of possession, recovery of stolen goods, and confiscation of criminal tools in the Criminal Law. This article aims to explore the intersection and conflict between criminal and civil issues. The role of the possession system in the property law is mainly reflected in the auxiliary aspect of status. Modern property law has shifted from property ownership to the direction of property utilization, to make modern property law more reasonable in its content and structure and highlight its normative role, it is necessary to redefine the ownership system and the crime of embezzlement in property law, which poses a challenge to property rights doctrine.

Actively understand the connotation of the possession system in the property law and the crime of embezzlement. The identification of the possession system in the property law is the main standard for measuring the crime of embezzlement and theft, and judgments can be made based on the heart element and body element as the two elements of possession. At that time, the specific form of behavior dominated by human will was the possession of things, and human will be completely combined with possession. In other words, in the era of pre legal relations, de facto control and management of things was the only way to achieve the will of things.

The complete combination of the two, on the one hand, manifests as the complete dependence of the will control of things on the possession controlled by the behavior of things, that is, where possession is, where will control is. On the other hand, it manifests as the complete reliance on possession to maintain the willpower of things, that is, if the actual control and management of things no longer exist, the willpower of things immediately becomes unreliable and difficult to sustain. Since the criminal law system focuses on the infringer rather than the possessor, and the prohibition of behavior rather than the confirmation of rights, the criminal law does not delve too deeply into the reasons for the possessor's possession of property. The criminal law focuses on the factual state of possession, and only asks whether or in what

serious way the infringer has infringed on others' de facto possession. It is precisely because the civil law system focuses on the possessor rather than the infringer, that the possessor must have a clear intention of possession.

Civil law places emphasis on the right to possess, rather than delving too deeply into the specific state of possession. There are no particularly strict requirements for the objective way of possession adopted by the possessor, but rather granting great freedom to maximize the use and profit rights of property. The crime of embezzlement is the illegal possession of property entrusted to oneself by others for illegal purposes, with a large amount not returned. From a subjective perspective, the crime of embezzlement is taking possession of oneself. The act of not returning the property that should have been monopolized by others, only for long-term use, is a general civil infringement, involving a large amount of money, and refusing to hand it over is illegal and has already constituted a crime. The conditions for the constitution of the crime of embezzlement: illegal possession is a prerequisite for the establishment of the crime of embezzlement, indicating that the act of privately occupying public or private property of others, the state, etc. due to personal needs is of a legal nature and is taken care of by others in a legal form.

In the era of pre legal power relations, the consciousness, dominance, and exclusivity of the possession of things can only be expressed in the context of abandoning the influence of rights in all statutory laws, which are objective and inevitable laws in the control of things that do not depend on human will. These laws constitute the basic conditions for the emergence and maintenance of the control of things. In the control of property rights over things,

2. THE PROPOSED METHODOLOGY

2.1 Understanding the Possession System of Property Law

As for stolen goods and contraband, since they also need to be restored through legal procedures, the possession of stolen goods and contraband is also protected by the criminal law, and the infringement of the possession of stolen goods and contraband is prohibited by the criminal law. From the perspective of form, it is inconceivable that the criminal law

protects the possession of stolen goods and contraband, but in essence, the intention expressed in the criminal law is that "the law does not allow others to arbitrarily infringe on the property illegally possessed by the perpetrator. To an objective extent, there are many reasons for the formation of legal facts, and their forms are also diverse. According to common sense of life, this act of escrow is entrusted.

When evaluating the behavior of holding someone else's forgotten property, it should be noted that the act of holding someone else's forgotten property is legal. If the other party has no demand for return, the perpetrator has the right to freely manage these properties within a specified time. In the control of the use value of the property, the object of the will is the property itself, not the rights on the property. The pursuit of will is the realization of the practical value of things, rather than the result of changes in rights. Therefore, under the domination of the use value of things, the rights of things are static and stable, and the significance of rights lies in protecting the process of domination, rather than directly participating in it. Therefore, under normal circumstances, rights do not play any role in the control of things. If the transferee obtains ownership of the immovable or movable property in accordance with the provisions of the preceding paragraph, the original owner has the right to request compensation from the person without the right to dispose of the property. If a party obtains other property rights in good faith, the provisions of the preceding two paragraphs shall apply.

Article 108 stipulates that: "After the bona fide transferee acquires the movable property, the original rights on the movable property shall be extinguished, except for those that the bona fide transferee knew or should have known of the rights at the time of acquisition." It has an important reference value for the issue of obtaining the ownership of stolen goods that may be involved. Theft refers to the act of illegally occupying public property, repeatedly using public or private property, and deceiving oneself in the process of using public property, taking possession of public and private property in a way that is not easily detected by others mainly reflects the subjective understanding of the perpetrator.

The main reason why theft constitutes a crime is that its behavior is intentional, knowingly causing harm to others and the country, and illegally occupying property, resulting in serious harmful consequences. To scientifically determine the crime of embezzlement and theft, it is necessary to analyze the problem from the perspective of the civil law system, to correctly distinguish between the crime of embezzlement and theft. The result of the use value of something controlled by others is mostly manifested as the acquisition of another 'new thing'. When the 'original object' as the dominant object far exceeds my actual ability to use it directly in space, the new object, as the result of domination, will also far exceed my own usage needs in quantity.

2.2 The Status of Possession in the Exclusivity of Property Right Control

So, unlike the original, the meaning of the new thing to oneself is no longer the value of use, but its value. From the above judicial interpretations, it is not difficult to find that judicial practice generally allows for the application of bona fide acquisition to buyers of stolen goods who are not at fault, unaware, or unaware, that is, the buyer obtains ownership, the offender redeems at the original price, the offender compensates for losses at the price, or returns the buyer after the case is closed. The main criteria for measuring theft and

embezzlement are the characteristics of embezzlement behavior, such as the strong embezzlement behavior exhibited by the embezzlement crime, and the perpetrator will legally become an individual illegal possession, because it is intentional, it constitutes a crime.

To determine the crimes of embezzlement and theft, it is necessary to promptly understand the legality and illegality of their actions. This is one of the main criteria for determining the crimes of embezzlement and theft. From the perspective of civil systems, it is considered whether this behavior has constituted intentional possession of the object, and whether the possession behavior is legal. The reason why the value of one thing reflects the other thing is possible is because of the opposition between the two things, and behind it is the opposition of the will between the owners of different things. The reason why the other reflection of the value of one thing is realized is that there is comparability between opposite things through the intermediary of value, and behind this comparability is the agreement of the opposing wills of different owners at a certain Equant.

Can this inappropriate effect be eliminated by explaining and limiting the goodwill acquisition in the judicial interpretation? From the perspective that bona fide acquisition is a common term in civil law and does not have a time limit for paid transactions between unauthorized dispositioners and property acquirers, it is not possible to provide a particularly personalized interpretation of "bona fide acquisition" in the 1996 judicial interpretation. From this, we can see the complexity between the pursuit in criminal law and the bona fide acquisition system in civil law: the debt relationship between the unauthorized disposer and the criminal property acquirer arises before the criminal act and cannot be applied to bona fide acquisition. Embezzlement is a keyword in the crime of embezzlement, which has already covered the connotation of the embezzlement system, and its behavior can be manifested as fraud, corruption, and seizure, it was also emphasized that the intentional possession behavior constituted using official convenience is also within the scope of national institutional regulations.

The methods for realizing the value control of things can be divided into two categories based on the transaction form, that is, the reasons for payment by others. One is the beneficial consideration, which means that the owner transfers the possession of the thing to others, so that others can use and benefit from the possession, and then realize the value control of the thing from the consideration payment of others. The second is the guarantee consideration, which means that the owner transfers the value of the future property to others conditionally, thereby obtaining credit payments from others and achieving the control of the value of the property.

3. CONCLUSION

In summary, this article takes institutional recognition as the research topic, mainly exploring the system of possession in the property law and the determination of the crime of embezzlement. Firstly, we understand the system of possession in the property law. Possession is a factual state in which people control things, and legal protection can prevent violent behavior by rights holders. Illegal possession is a prerequisite for the establishment of the crime of embezzlement. The act of privately occupying public and private property of others, the state, and other individuals due to personal needs has a legal nature, emphasizing the ownership of other people's property. The reason why possession occupies a fundamental position in property law

can be explained from two perspectives: socio-economic and social concepts. From a socio-economic perspective, the domination of the use value of the things recognized by possession, whether in the past, present, or future, has become an unshakable fundamental necessity for human survival and development, and constitutes the starting point of all socio-economic activities.

4. REFERENCES

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