

On Judicial Cases about the Plea of Simultaneous and In Advance Performance in the P.R.C.

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The author tried to analyze 100 or more cases about the plea of simultaneous and in advance performance in recent years of the P.R.C. My conclusion is as follows;

1, Chinese Law attaches importance to the sequence of performance. In this point, Chinese law is quite different from Japanese law.

2, It is said that there is no other country where the plea of in advance performance is stipulated. It is very interesting to ask for the reason. In this point, very suggestive is the saying that the plea of in advance performance in Chinese law aims at securing the performance of contract on the grounds of mutual distrust between both parties.

3, What should be noticed is the fact that whenever the judges determine the plea of simultaneous performance, they pass the judgment of simultaneous performance of the contract. This fact shows that the concept of the plea of simultaneous performance is not recognized as the right. It is nothing but the obligation of simultaneous performance of the contract.

4, China stipulates the bilateral breach of contract. This law seems to me to be deeply connected with the idea of obligation of simultaneous performance. In fact the author can find out some judicial cases in which judges pass the judgment the bilateral breach of contract whereas those cases should be determined as the plea of simultaneous performance.