

J. Y. Interpretation No.160 (December 21, 1979) *

ISSUE: Is the provision constitutional that no appeal may be filed with the court of third instance where the potential benefits of a successful appeal will not exceed the statutory minimum amount?

RELEVANT LAWS:

Articles 1, 16 and 23 of the Constitution (憲法第一條、第六條及第二十三條); J.Y. Interpretation No. 154 (司法院釋字第一五四號解釋); Article 466, Paragraph 1, of the Code of Civil Procedure (民事訴訟法第四百六十六條第一項).

KEYWORDS:

the right to sue (訴訟之權), duty to adjudicate the case (依法審判之義務), the amount of compensation (訴訟求償金額), property dispute (財產權上之訴訟), litigation restriction (訴訟限制).**

HOLDING: Article 466, Paragraph 1, of the Code of Civil Procedure, which provides that the plaintiff may not file a second appeal if the amount of compensation for a property dispute in the appeal is less than NT\$ 8000, is constitutional.

解釋文：民事訴訟法第四百六十六條第一項：「對於財產權上訴之第二審判決，如因上訴所得受之利益，不逾八千元者，不得上訴」之規定，與憲法並無牴觸。

* Translated by Li-Chih Lin, Esq., J.D.

** Contents within frame, not part of the original text, are added for reference purpose only.

REASONING: The right to sue provided to the people in Article 16 of the Constitution of the Republic of China is a right protected by the judiciary. The aforementioned right to sue was upheld in J.Y. Interpretation No.154, which stated that when a person's right is infringed, he or she has a right to bring a legal action for remedy and the court which has the jurisdiction of the case has a duty to adjudicate the case. While the Constitution provides a right to sue to the people, it does not specify that a person's right to sue must be protected by providing the plaintiff a right to exhaust all legal remedies including granting a right to appeal to an intermediate appellate court or the court of last resort (the Supreme Court). Whether a person's right to sue is properly protected under the Constitution shall be determined by the nature of an individual case and shall be governed by fair and reasonable legislations enacted by the legislature. Not every plaintiff must be afforded an opportunity to exhaust all legal remedies in order to protect his or her right to sue under the Constitution. Article 466, Paragraph 1, of the Code of Civil

解釋理由書：按憲法第十六條所謂人民有訴訟之權，乃人民在司法上之受益權，指人民於其權利受侵害時，有提起訴訟之權利，法院亦有依法審判之義務而言，經本院大法官會議釋字第一五四號解釋理由釋明在案。此項權利之行使，究應經若干審級，憲法並未設有明文，自應衡量訴訟案件之性質，以法律為合理之規定，非必任何案件均須經相同審級，始與憲法相符。民事訴訟法第四百六十六條第一項對於財產權上訴訟之第二審判決，如因上訴得受之利益，不逾八千元者，不得上訴於第三審之規定，即係本此意旨所定之訴訟制度，對所有當事人一體適用，以發揮定分止爭之功能，尚難謂於訴訟權之行使，有何妨礙。至上開規定，將來有無更張之必要，係屬立法上待酌之問題，不能以此指為違憲。

Procedure is enacted based on this principle. It provides that if the amount of compensation for a property dispute in the appeal is less than NT\$ 8000, the plaintiff may not file a second appeal. This litigation restriction is applicable to all litigants for the purpose of settling disputes. It is hard to argue that this litigation restriction will infringe upon the right to sue guaranteed by the Constitution. Whether this litigation restriction shall be modified or revised in the future is for the legislature to decide. The legislative discretion is not a justifiable reason to hold Article 466, Paragraph 1, of the Code of Civil Procedure unconstitutional.

In sum, the provisions set forth in Article 466, Paragraph 1, of the Code of Civil Procedure are in compliance with Articles 1, 16 and 23 of the Constitution of the Republic of China.

Justice Shih-Ron Chen filed dissenting opinion.

Justice Wei-Kuang Yiau filed dissenting opinion.

綜上說明，民事訴訟法第四百六十六條第一項之規定與憲法第一條、第十六條及第二十三條，並無牴觸。

本號解釋陳大法官世榮、姚大法官瑞光分別提出不同意見書。