

Recognition, Treatment and Procedural Design of Disputes on the Ownership of Case-Related Criminal Property

Yanqing Fang*

School of the English Language and Culture, Xiamen University Tan Kah Kee College, Xiamen, China

247682022@qq.com

**Corresponding author*

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Abstract: The new Criminal Procedure Law on the property involved in the handling of larger judicial institutionalized adjustments. It initially reflects the legislator on the protection of the legitimate property rights of citizens. However, the judicial practice involved in the determination of the ownership of the handling of the property is still not a sound pre-trial processing mechanism. There are still flawed trial procedures and the lack of post-sentence remedies which involves criminalization of the people. The main reason for the main people from the criminal. In this regard, Long Zongzhi has pointed out that "emphasizing the protection of the general interests of society in public prosecution cases, and emphasizing that the public prosecution authorities can represent the requirements of the victims. These situations have more or less ignored the plurality and contradictory nature of the interests of society, and neglected the unique requirements of the victims.....[9]." The legislative value concept, therefore, should be the criminal procedure of personal rights and property rights protection of the concept of equal importance. We should learn from the extraterritorial models for handling disputes over the ownership of property involved in cases. Specifically stipulate the procedures for handling seized, detained and frozen property, giving victims and outsiders who have disputes over the ownership of property in a case the right to file lawsuits with the court. And through the rules of civil litigation, the ownership of the property involved in the case shall be determined, thus regulating the handling of the property involved in the case.

1. Introduction

Along with China's socialist rule of law construction process, the legal system is becoming increasingly complex. Specific dispute resolution is no longer a single legal norm. It is often integrated in a variety of substantive law and comprehensive procedural system. Criminal property has both evidence and property attributes, so the treatment of criminal property should have a criminal law basis, but also to follow the requirements of civil law. However, in judicial practice, the focus of the trial of criminal cases also lies in the defendant's conviction and sentence. The treatment of the property involved in the case often emphasizes the role of its evidence, thus

ignoring its own property nature. Improper handling may infringe on the lawful property rights of the interested party. It may also trigger the risk of litigation and petition, and thus impede the realization of justice. The new criminal procedural law released in 2012 particularly increased the criminal suspect. In 2012, the new Criminal Procedure Law specifically added the confiscation procedure of illegal proceeds of criminal suspects. Defendants fleeing and death cases (hereinafter referred to as the special confiscation procedure), which seems to reflect the legislative trend of the Criminal Procedure Law in safeguarding the right to property. However, the operation of the practice runs counter to it, and fails to solve the problem of identifying and dealing with the disputes over the ownership of criminal-related properties in China. Moreover, it has not even been generally recognized by the practice of the criminal trial. Cao Jianming, the chief prosecutor of the Supreme Prosecutor's Office, pointed out in his report on the work in 2014 that: After the implementation of the amended Criminal Procedure Law and Civil Procedure Law, some procuratorial organizations and procuratorial personnel are still not adapted to the concept of law enforcement and the way of handling cases. They have not performed sufficiently the new functions assigned to them after the amendment of the law. And they have not been strict enough in implementing the new requirements of safeguarding human rights and standardizing law enforcement. There are still problems such as the unlawful seizure and freezing of property involved in cases, and infringement of the lawful rights and interests of participants in litigation. All these lead to a significant reduction in the value and functioning of the legislation. The purpose of this paper is to study the causes of the problem and judicial remedies, so as to draw more attention to the judicial theory and practice of criminal property ownership disputes.

2. Reality Troubles: Practical Examination of Handling of Disputes over the Ownership of Property in Criminal Cases

2.1. No timely Resolution to Pre-trial Stakeholder Ownership Disputes

[Case 1] The plaintiff Guo met telecommunication fraud, the money remitted to the fraudster designated the account of the defendant Yang. The police immediately notified the bank to freeze the account. However, the case was not prosecuted due to the fraudsters were not brought to trial. The public security organs have also failed to deal with the money frozen in the account owned by Yang. The plaintiff, Guo, applied to the public security authorities for the return of the fraudulent funds. The public security authorities did not return the money first. The reason is that the ownership of the money on the account is not clear, they need to wait for the results of the trial. Guo then sued the court demanded the defendant Yang returned 30,000 yuan of unjustified gains. The trial found that the account was opened by the fraudster using the defendant Yang's identity documents. Yang did not know about it. The court finally rejected the plaintiff Guo's claim. The reason is: the plaintiff Guo suffered losses is responsible for the fraud perpetrator rather than the defendant Yang. The plaintiff Guo asked the defendant Yang returned 30000 yuan of unjustified gains which is a lack of appropriate factual and legal basis.

In recent years, the incidence of fraudulent crimes using telecommunications and the Internet has continued to be high. According to figures released by the Ministry of Public Security, "more than 437,000 cases of telecommunication fraud were reported nationwide in 2023 (see table 1). Top 5 Typical Cases of Telecommunication Network Fraud in 2023 is shown in Table 2. The Ministry of Public Security guided public security organs around the country has established a graded and classified warning and dissuasion mechanism (see Table 3). There are few victims similar to Guo. However, according to the Ministry of Public Security's regulations, "if the ownership of the property involved in the case is unclear or disputed," it cannot be returned in advance. Article 26 of the Ministry of Public Security's Provisions on Handling Economic Crime Cases by Public Security

Organs states: "The return of property involved in a case that has not been transferred shall generally take place after the court's judgment has entered into force. Where it is necessary to return the victim's lawful property and its fruits in advance. The property shall be registered, photographed or videotaped, valued and the reasons for its return noted in the case file. The photographs of the original property, the list and the victim's receipt procedures shall be kept in the file for inspection. However, with one of the following circumstances, they shall not be returned in advance: (a) the basic facts of the case has not been verified; (b) the ownership of the property involved in the case is unclear or controversial; (c) the need to transfer the case to a foreign jurisdiction. This also means that if the defendant is delayed in arriving at the case, then the victim's legal property rights will not be remedied. The special confiscation procedure may seem to solve such a problem, but unfortunately, the special confiscation procedure is only applicable to major crimes such as corruption and bribery and terrorist crimes. And it is only an illusion.

Table 1. Cases of Telecommunication Network Fraud in 2022&2023

	Total number of cases	Funds involved
2022	464,000	318 billion yuan
2023	437,000	328.8 billion yuan

Table 2. Top 5 Typical Cases of Telecommunication Network Fraud in 2023

"Jingdong Customer Service" (96 million)	AI fraud (4.3 million)	Free "dating" (1.2 million)	"Millions of Protection" Insurance (1.74 million)	Pig-butcher Scam (17 million)
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Table 3. Graded and Classified Warning and Dissuasion mechanism

Capital Warning Instructions	Dissuasion in Person	Interception of Fraudulent phone calls	Interception of Text messages	Disposal of URLs
9.4 million	9.4 million	2.75 billion	2.28 billion	8.364 million

2.2. No timely Resolution to the Trial Proceeding Stakeholder Ownership Dispute

[Case 2] Defendants Zhuang Mou and Jiang Mou together defrauded the victim Wang Mou 1 million yuan. Zhuangmou transferred 300,000 yuan to Jiang's account for the purchase of a car. Jiang then purchased a 200,000 yuan Toyota Camry car. The car was seized after the crime. At the time of the first trial, a bank argued to the court that the car was mortgaged to the bank and should not be treated as illegal proceeds. Jiang claimed that the car was purchased with his own credit card loan, and that only 22,000 RMB was paid with the money transferred by Zhuang. In the end, the first trial decided to auction the car to offset the refund. In practice, since the law does not require that interested outsiders be notified and heard, and some outsiders are not even informed of the disposition until long after the competent authority has made the decision to return the disposition. It is not common for outsiders to raise objections to the ownership of the seized property during the trial, and it is more common for the victims to raise disputes over the ownership of the seized property. Ownership disputes, known as ownership confirmation disputes in civil litigation. It requires a series of court proceedings, in which the plaintiff and defendant are equally confronted and involved in the investigation and collection of evidence before a judgment is made. But in the criminal trial process, the interested party cannot be like civil proceedings. They are unable to participate equally in the court proceedings and present evidence in their defense. In addition, due to the different division of labor in the trial, criminal judges are not familiar with civil trials. In practice, it is also difficult for them to determine the ownership of property. Therefore, how can the handling of property in criminal trials be fair and just?

2.3. No Legal Relief of the Interested Party Ownership Disputes after Judgment

[Case 3] The defendant Zhang, and others sold three modern crafts worth RMB 46,900 as antique goldware at a price of RMB 310,000 to the victim, Wang. Therefore, they were convicted of fraud, and the three artifacts were confiscated as instruments of crime. After the verdict, the victim Wang claimed that he had paid the corresponding consideration. The artifacts should be owned by him and returned, and should not be confiscated as instruments of crime. Although the court ordered the defendant to pay back Zhou's losses in the judgment, in essence the defendant had already squandered the money he had obtained by cheating. The ordered compensation has also become a mere scrap of paper. Therefore, in order to minimize their losses, Wang applied to the court for the return of the tools. However, because the case has been adjudicated, it is impossible to restart the trial process to identify ownership, and the Criminal Procedure Law does not give the victim the right to appeal. After the verdict came into effect, Zhou's claim also did not belong to the court to initiate trial supervision procedures for statutory reasons. Thus, the court rejected Wang's application. Article 64 of the Criminal Law of China provides that one's property used for the commission of a crime shall be confiscated. That is to say, the confiscation of the tools of the crime is limited to the perpetrator is the sole subject of ownership. Others have no right to the property.[14] However, in practice, in the determination of the instrumentalities of crime, there are often a variety of circumstances such as belonging to the common property or the setting of mortgages or pledges, etc. ... Especially in this case, the victim has paid the consideration, can be recognized as having obtained the "tool" ownership issues? This is not easy to ascertain during a criminal trial, and there are no avenues of appeal or retrial proceedings for interested parties to seek relief after the judgment has entered into force.

3. The Trial Perspective: Criminal Property Ownership Disputes in Criminal Prosecution Law Omissions

The above three cases together reflect a problem: due to the omission of existing laws and regulations and the blankness of the specific operational provisions, and these situations lead to the judicial organs in the process of handling the case for the handling of the property involved in the case is often arbitrarily large. This easily leads to the determination of errors. Once a mistake is made, there is no set of effective procedures to ensure that genuine rights holders can seek redress in the course of criminal proceedings. For a long time, due to the bondage of absolute instrumentalist legal values. In the country and even a considerable number of criminal lawyers and criminal law practitioners, the concept of criminal law is the "sword" or dictatorship machine. It is a tool for carrying out the functions of class dictatorship, suppressing class enemy resistance, and punishing serious criminal offenders [12]. The private rights of persons interested in criminally involved property cannot be legally remedied in the course of criminal proceedings. It is precisely because of this tendency to emphasize the criminal over the civil in the criminal case handling process in China. In addition, there is also a lack of procedural norms of operation. Therefore, it is necessary to here on the criminal procedure law and its interpretation of a simple comb, find out the blind spots and weak points. Thus, it is necessary to solve the legal bottleneck that restricts the handling of disputes over the ownership of property involved in criminal cases.

Table 4 and 5 show the list of relevant provisions of the old and new Criminal Procedure Law and its interpretations on the handling of disputes over the ownership of criminal property. From the above table, we can clearly see that there's almost no provision in the original Criminal Procedure Law and its interpretation of disputes over the ownership of the property involved in the case. There are only vague provisions of the victim's lawful property. If the victim is clear, it should be returned in a timely manner. In practice, the handling of disputes over ownership of property is not

operational. When China amended its Criminal Procedure Law in 2012, it gave the parties, their defenders, litigation agents, and interested parties the right to file complaints or accusations. It also explicitly required people's courts to deal with seized, detained or frozen property and interest thereon in their judgments, and created special confiscation procedures, among other things. Subsequent interpretation of the Criminal Procedure Law is a direct indication of the direction of what the court should do when the ownership of unknown. It should be said that the introduction of these procedural provisions, conducive to solving the problems existing in our practice. It reflects the criminal procedure law to protect the property rights of the legislative trend. However, there are also some issues that need to be further clarified or explored, which will be discussed in the following three aspects.

Table 4. List of Relevant Provisions of New Criminal Procedure Law

2012	Article 115	Article 360
	Article 234	Article 364:
	Article 280 - Article 283	Articles 507-523

Table 5. List of Relevant Provisions of the Old Criminal Procedure Law

1996	Article 198	Keep the property for verification.
1998	Article 289	Return it in a timely manner

3.1. No Licence of the Pre-trial Disputes over Property Rights

Among the above provisions, those relating to the handling of pre-trial disputes over ownership are the new article 115 of the Criminal Procedure Law and the special proceedings. In article 115, an interested party may bring a dispute over the ownership of seized and frozen property unrelated to the case to the competent authorities, and the procuratorial authorities have the right to review the dispute [3]. This provision appears to give the interested party the right to submit a dispute over ownership to the competent organ. However, its legislative purpose is more to emphasize the strengthening of supervision of the investigative authorities' adoption of compulsory investigative measures such as seizure, detention and freezing. Therefore, the object is limited to property unrelated to the case. In practice, the probability of investigating authorities taking compulsory investigative measures such as seizure and freezing that have nothing to do with the case is very small. The vast majority of property with disputed ownership is related to the case, such as the theft of other people's motorcycles after the car robbery, the motorcycle is the tool of the crime, related to the case, but the motorcycle belongs to who owns it, and there is a dispute over ownership.

Then look at the special confiscation procedure, which is only applicable to major crime cases such as corruption and bribery crimes and terrorist activity crimes. In other words, a minor criminal case such as Guo's case of being cheated cannot initiate the procedure. Such a stipulation is obviously contrary to the purpose of the legislation [1]. Wang Zhaoguo, vice-chairman of the National People's Congress, stated in the Explanation on the Amendments to the Criminal Procedure Law of the People's Republic of China (Draft) made at the Fifth Session of the Eleventh National People's Congress that "the amendment of the Criminal Procedure Law is necessary to further strengthen the punishment of crimes and the protection of the people. There is an urgent need to further guarantee that the judicial organs punish crimes accurately and timely and protect citizens' litigation rights and other legitimate rights by improving the criminal procedure." From the viewpoint of extra-territorial legislation, countries that have set up such confiscation procedures, such as the United States and Germany, have also not limited the procedure to major crime cases[10]. Nowadays, under the framework of the current Criminal Procedure Law, only major criminal cases can be confiscated or returned to the relevant right holders through the special

confiscation procedure, and for general cases, it is obvious that this path is not available. Although article 234 of the criminal procedure law provides that "the victim's lawful property shall be returned in a timely manner", but this kind of stolen property is seized, the property is handled by the seizure of the authorities or the trial authority, there is no corresponding provision. Therefore, in practice, there is a situation in which the three authorities pass the buck to each other, which can easily lead to the legal rights of the stakeholders of the property involved in the case being unprotected.

3.2. Procedural Provisions on the Handling of Property Involved in the Trial Process Are Still Obviously Flawed.

First, there is a lack of procedural openness, and there is no requirement for the court to notify and hear stakeholders. Most stakeholders had no way of knowing about the trial. Some stakeholders were not even informed of the disposition of the case until long after it was handed down by the trial body. In practice, interested parties may be unaware of the facts of the case, the criminal procedure, the outcome of the judgment, etc., and are obviously unable to safeguard their legal rights. Secondly, the people's court's review is not a courtroom investigation, or only stops at a written review. The interested party is still unable to participate in the criminal proceedings even if he or she raises objections. Their rights of defense and application for investigation and evidence collection are difficult to be effectively safeguarded. Thirdly, the people's court in reviewing the determination of ownership is clear what should follow the standard of proof has not been stipulated. China's criminal procedure is the standard of proof of the facts are clear, the evidence is indeed sufficient, and ownership of the determination of civil disputes. In civil litigation, the minimum standard of proof is a high degree of probability, that is, "based on daily experience may reach the height of that, produce a close confirmation of the possibility of doubt that is ruled out [5]". For interested parties, they are not legal professionals; their ability to prove cannot meet the standard of proof in criminal proceedings, and the objection is bound to be difficult to get the support of the criminal trial judge. Fourthly, in those cases where ownership is considered to be unclear, what percentage should be returned? In practice, this is clearly not operational. Finally, those who cannot be recognized as the proceeds of crime or other property involved in the law should be recovered property involved in the case shall not be confiscated. According to Article 234 of the Criminal Procedure Law, how such a situation should be handled can leave the trial judge at a loss.

3.3. Lack of Remedies for Interested Parties Following the Improper Handling of Property Involved in A Case

An interested party is a person who claims ownership of the property for which confiscation is sought, including the defendant, the victim or even a third party outside the case. In special confiscation proceedings, the interested party has the right to appeal within five days against the decision to confiscate the illegal proceeds or to reject the application, or even to apply for the initiation of trial supervision proceedings. Outside the special confiscation procedure, victims and third parties outside the case, other than the defendant, do not have the right to appeal the judgment. So, is it possible to go through the channel of requesting the procuratorate to counter-appeal? Article 584 of the Supreme Prosecutor's Rules of Criminal Procedure of the People's Procuratorate (for Trial Implementation) gives a negative answer. This article states: "The people's procuratorate shall lodge a counter-appeal if it believes that the first instance verdict or decision of the people's court at the same level is in one of the following circumstances: (1) where the facts are found to be unclear and there is insufficient evidence; (2) where there is solid and sufficient evidence to prove guilt but the verdict is acquittal, or where innocence is found to be guilty; (3) where the verdict is

lenient for a felony, or where the verdict is severe for a misdemeanor, and where the application of the sentence is clearly inappropriate; (4) Cases of incorrect determination of charges, multiple convictions for one crime, or multiple convictions for one crime, or cases that affect the sentencing or cause serious social repercussions. (5) Cases in which criminal penalties were waived or in which probation, restraining orders or restrictions on the reduction of sentences were applied incorrectly [2]." As for trial supervision procedures, the people's courts can only initiate such procedures if they are "likely to affect the conviction and sentence". It is clear that this does not apply to cases in which the ownership of the property in question is improperly recognized. Although the new criminal procedure law requires that the people's court shall make a judgment on the seizure, detention, frozen property and its fruits. But the court in the omission of wrong judgment and corrective procedures are not clear, which is clearly contrary to the criminal justice "must be corrected when there is a mistake" principle. The so-called "mistakes must be corrected" principle means that in the course of criminal justice, if an error in adjudication occurs, it should be corrected; not only should there be no limitations on such corrections, but institutional and procedural safeguards should be provided for such corrections[15].

4. The Judicial Choice: Criminal Property Handling Norms of Value Orientation and Mode of Reference

The establishment of principles is often the result of the transmutation of ideas. The improvement of the system is also often a process of learning and borrowing. China's criminal property handling norms from scratch is the best example of the legislative process. Reshaping the "criminal law as the leading, civil law as a supplementary" legislative value concept. The task of the criminal law is to punish crime and protect the interests of the law by formulating the most severe sanctions. However, the protection of legal interests by criminal law is not simply reflected in its regulatory function, but also needs to be realized through its human rights protection function. Mr. Liu Wujun points out that "the rule of law should have the intrinsic character of both rigidity and flexibility. The rigidity of the rule of law highlights the depersonalized character of the law. It highlights the constraints and curbs of public law on public power and the sanctions on criminal behavior. The main idea of the rule of law is to use the rigid rules of the game to restrain and regulate the game of power, with the strength of the system to curb the abuse of power and the arbitrariness of the exercise of power. And the flexibility of the rule of law highlights the moral connotation and humanistic concern of the rule of law, highlighting the protection and shelter of individual private rights under private law[8]. But in the practice of criminal trial, hoarding in the existing evaluation mechanism, most of the criminal trial personnel are keen on the number of cases handled, the rate of completion, even if it is the Criminal Procedure Law established by the criminal incidental civil litigation, but also did not count into the caseload. It is even more thankless if the judge expends a great deal of energy in dealing with disputes over the ownership of property involved in the case. Whether or not the civil rights of interested parties are adequately protected is largely irrelevant to criminal trials. Therefore, in order to construct a model of criminal procedure and a judicial system that conforms to the modern spirit of the rule of law, we can only completely eliminate the value orientation of "criminal masters and civil subordinates" at the level of deeper concepts, and establish the humanistic concept of "people-oriented"[7]. We should uphold a criminal prosecution of personal rights and property rights to protect the concept of equal importance, and at the same time to deal with the relationship between the criminal law regulatory function and safeguard function. Only in this way is it possible to achieve the organic unity of effective punishment of crime and full protection of human rights, substantive justice and procedural justice [11].

(2) Comparative Reference to the Handling Mode of Property Involved in Cases outside the Region: In the United States, property is disposed of through two different procedures: criminal forfeiture proceedings and civil forfeiture proceedings. In either case, however, there is provision for reasonable notice to third parties and an opportunity for them to present their defense. If a third party contests ownership of the property to be disposed of, a hearing is conducted in which the third party must assert his or her rights and interests and prove them by a preponderance of the evidence [6]. In Germany, if a third party has the right of ownership or disposal of recovered or confiscated property, he or she may object and participate in the proceedings as a party to the confiscation. In principle, he has the same rights as the defendant to initiate legal remedies against the decision [4]. Japan is similar to our country; the property in the case of the procedure is combined with the criminal procedure relating to criminal liability, and the main penalty in the judgment together with the declaration. However, the difference is that Japan has also stipulated, through the Law on Emergency Measures for the Procedure of Confiscation of Goods Owned by Third Parties in Criminal Cases, that third parties must be guaranteed the right to be informed of and to participate in the criminal proceedings. Comparing the handling patterns of the above countries, it can be seen that foreign countries attach great importance to the protection of property rights in the handling of criminal cases [13]. All of them guarantee effective ways for interested parties to participate in the proceedings through effective procedural design, and treat them as parties in the criminal proceedings, giving them the right to appeal. A reasonable balance has been struck between the protection of the interests of the State and society and the protection of the interests of individual citizens.

5. Improve the Direction: Criminal Property Ownership Disputes in the Design of Procedures

Objectively speaking, there is no lack of good points in the new Criminal Procedure Law provides for special confiscation procedures. In particular, the detailed procedural provisions of the new Criminal Procedure Interpretation show that the legislator and the judiciary are careful about the confiscation of property involved in a case. However, the purpose of the procedure is to "combat corruption and terrorist crimes, and to be consistent with the requirements of the United Nations Convention against Corruption, to which China has acceded, and the relevant resolutions on counter-terrorism". Therefore, it is more aimed at solving the problem of how to recover, through legal procedures, the economic losses caused to the State when criminal suspects and defendants flee or die in these two types of crimes. It does not give much thought to how to resolve disputes over the ownership of property involved in general cases. For this reason, the role that this procedure can play is extremely limited. Then, how to get rid of the current judicial dilemma through scientific program design, to get rid of the stakeholder petitions and litigation. The author believes that it can be dispersed in the criminal procedure law on the handling of property to be integrated. That is, the reorganization of the Criminal Procedure Law, Title III, Chapter III, Article 234 and Title V, Chapter III. As a chapter of special procedures in Title V of the Criminal Procedure Law, named as the seizure, detention, frozen property handling procedures, and provide for interested parties to deal with disputes over the ownership of the issue.

5.1. Initiating Disputes Over the Ownership of Criminal Case-Related Property

(1) Pre-trial disputes over ownership: If the suspect has arrived at the case, there are strict deadlines from the filing of the investigation to the effective judgment of the Criminal Procedure Law. The interested party's rights relief is available. However, if the suspect is not present or is dead, the time limit will be unpredictable. At this time, it is necessary to give the interested party to apply for the return of their legally owned property involved in the case of procedural rights. That is

to allow interested parties to the people's court to deal with seized, seized, frozen property application, at the same time on the application of the conditions for certain restrictions. That is, the premise must be a criminal suspect, the defendant fled. Three months after the investigation, they still cannot be found or the suspect, the defendant died. (2) Disputes over ownership during the trial: The Criminal Procedure Law requires that the people's court shall deal with the seized, detained, frozen property and its fruits. At this point, the participation of interested parties is both a basic element of procedural justice and a guarantee of substantive justice. By this, before the case is decided, close relatives of the suspect, the defendant and other interested parties shall be allowed to apply to participate in the proceedings or to appoint litigation agents to participate in the proceedings. (3) Disputes over ownership after the judgment has entered into force: Due to the asymmetry of information, the interested party is likely to be unaware of the trial of the case and thus absent from the proceedings. In this case, if the interested party believes that there is an error in the handling of the property involved in the case, he or she may apply to the court of first instance for a retrial in accordance with the provisions of the Criminal Procedure Law.

5.2. Trial of Disputes Over the Ownership of Criminal Property Involved in the Case

(1) Trial organization: Applications to the people's court by interested parties for the seizure, detention or freezing of property before trial may be heard by a collegial panel of the basic people's court in the place where the judicial organ that has taken the measures of seizure, detention or freezing is located. Disputes over the ownership of property involved in the case during the trial may be heard directly by the collegial panel hearing the criminal case. Disputes over ownership after the judgment has entered into force are heard by a separate collegial panel of the court of first instance. (2) Application of law: The hearing of disputes over the ownership of property involved in a case is the same as civil litigation incidental to criminal proceedings, both of which are designed to safeguard the civil rights of the parties concerned. Therefore, we can refer to the relevant provisions of the criminal incidental civil litigation. That is, the relevant provisions of civil law are applicable, excluding the criminal law, the criminal procedure law and the criminal judicial interpretation that has been stipulated. (3) Burden of proof and standard of proof: In the course of litigation, the interested party shall bear the burden of proof that he or she has ownership of the property involved in the case, and the standard of proof shall be preponderance of evidence. For the property used for criminal behavior which the procuratorial authorities claim confiscation, we should not only prove the existence of criminal behavior, but also prove that the property involved in the criminal behavior for the personal ownership of the perpetrator of the crime and had been used for the crime. The standard of proof shall be that of a guilty verdict.

5.3. Decisions on Disputes Over the Ownership of Property Involved and Remedies

In the case of pre-trial disputes over ownership, the people's court, after hearing the case, shall decide to confiscate any property found to be the proceeds of an offense or other property involved in the case, except where such property is returned to the lawful owner in accordance with the law. Where the property does not fall within the category of property that should be recovered, it shall rule that the measures of seizure, detention and freezing should be lifted. Disputes over ownership during the trial may be dealt with directly in the criminal judgment. With respect to a ruling or judgment made by a people's court in accordance with the provisions of the preceding paragraph, the close relatives and other interested parties of the criminal suspect or defendant or the people's procuratorate may file an appeal or counter-appeal.

6. Conclusions

At this point, let us review the above three cases. What we see is that someone like Wang, in order to protect their rights, frequently go the court to pay a petition visit. The court also resorted to extra-litigious means to solve the problem after a long period of receiving visits. The root of the problem is that our rule of law is not sound. The failure of the legal channels directly led to Wang's petition. We do not have the luxury of proposing radical solutions in the limited space of this article. Rather, based on the beliefs of a legal person, we are worried about the absence of the law in judicial practice. It's hoped that through our shallow exploration, we can find out the solution of the problem to provide a revelation or more appropriate ideas.

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