On Judicial Judgments about the Risk-Bearing under the Contract Law in the P.R.C.

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This article aims at analyzing judicial judgments on the risk-bearing from the following points of view.

1. On the relationship between the dissolution of contract and the risk-bearing in the case of damage and loss of the targeted matter because of majesture force. In this case, there is the question which rule should be applied. In this point, judicial judgments as well as legal scholar’s theories are not yet unified.

2. On the relationship between the delay of recipient and the risk-bearing. In China, prominent scholar such as Wang Liming asserts that the rule of risk-bearing should not be applied to the delay of recipient which results in liabilities for breach of contract.

To be sure, there are some judicial decisions which regard the delay of recipient as the breach of contract. But they assume that the risk-bearing passes from the seller to the buyer as the effect of the breach of contract.

3. On the relationship between the dissolution of contract and the risk-bearing in application of article 148. Shall the risk of damage and loss of the targeted matter caused by the majesture force be still bore by the buyer when the aim of a contract cannot be achieved owing to the fact that the quality of a targeted matter fails to meet the requirement? My conclusion is that the risk is dealt within the framework of not the rule of risk-bearing but the restoration to the original status of the dissolution of contract.