

Исследование дилемм применения правила замещающей сделки и путей их разрешения An Exploration of the Application Dilemmas of the Substitute Transaction Rule and Pathways for Resolution

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Аннотация. Статьи 584 и 591 Гражданского кодекса Китайской Народной Республики и ст. 60 толкования Верховным народным судом общих положений раздела о договорах впервые прямо устанавливают правило о замене сделки. Они вводят новый метод расчета убытков за нарушение условий договора, позволяя стороне, не нарушившей условия, заключить альтернативную сделку и потребовать разницу между ценой контракта и ценой альтернативной сделки в качестве ожидаемого ущерба. Это правило обеспечивает институциональную поддержку обязанности стороны, не нарушившей его, по уменьшению убытков и получению полной компенсации, а также отражает законодательную политику, которая способствует повышению эффективности транзакций и контролю рисков. Тем не менее в судебной практике границы его применения, стандарты определения его разумности и его взаимосвязь с другими методами правовой защиты остаются предметом значительных разногласий. Связь между правилом о заменяющей сделке и механизмами расторжения контракта и проверки его обоснованности неясна. Когда это правило вступает в конкуренцию с правилом о рыночной цене и компенсации упущенной выгоды, возникают дублирования в объеме компенсации, несогласованные стандарты расчета и проблемы двойного возмещения. Соответственно, необходимо прояснить предпосылки для применения правила о заменяющей сделке, определить его разумность путем двойной оценки временных и рыночных условий и провести различие между ним и другими методами компенсации, чтобы определить сферу его применения. Создание единого стандартизированного судебного документа (стандарта) повысит эффективность и справедливость системы средств правовой защиты в случае нарушения контракта.

Ключевые слова: убытки за нарушение контракта; заменяющая сделка; ожидаемые проценты; полная компенсация

Abstract. Articles 584 and 591 of the Civil Code of the People's Republic of China and Article 60 of the Supreme People's Court's Interpretation on General Provisions of the Contract Section for the

first time explicitly establish the substitute transaction rule. They introduce a novel method of calculating damages for breach of contract by allowing the non-breaching party to engage in a substitute transaction and claim the difference between the contract price and the substitute transaction price as expectation damages. This rule provides institutional support for the non-breaching party's duty to mitigate loss and the pursuit of full compensation, and it reflects a legislative policy that promotes transactional efficiency and risk control. Yet in judicial practice the boundaries of its application, the standards for determining its reasonableness, and its relationship to other remedial methods remain the subject of considerable controversy.

The articulation between the substitute transaction rule and the mechanisms of contract termination and reasonableness review is unclear; when the rule competes with the market price rule and the compensation of lost profits, there are overlaps in the scope of compensation, inconsistent calculation standards and issues of double recovery. Accordingly it is necessary to clarify the prerequisites for applying the substitute transaction rule, to determine its reasonableness through dual assessments of time and market conditions, and to distinguish it from other methods of compensation in order to delineate its scope of application. Building a unified and standardized adjudicatory standard will enhance the efficiency and fairness of the remedy system for breach of contract.

Keywords: damages for breach of contract; substitute transaction; expectation interest; full compensation

Articles 584 and 591 of the Civil Code explicitly establish the substitute transaction rule within the system of damages for breach of contract. Article 60 of the Supreme People's Court's Interpretation on General Provisions of the Contract Section further specifies the conditions under which this rule applies and the method of calculating damages, thereby providing the non-breaching party with a path to compensate its performance interest by engaging in an actual transaction. This institutional design not only enriches the remedies available under Chinese contract law, it also reflects the legislative values of encouraging loss mitigation and emphasizing transactional efficiency. Yet in practice the operability and predictability of the rule fall short of its normative aims. Some scholars and practitioners contend that a substitute transaction must be premised on contract termination in order to maintain clarity of the contractual relationship and the boundaries of liability, whereas other views maintain that the substantive reasonableness of the substitute transaction should not be shackled by a formal requirement of termination. There is also divergence over how to assess the reasonableness of a substitute transaction, the delineation of a reasonable period, and the coordination of the rule with other methods of calculating damages such as the market price rule and compensation for lost profits. These divergences give rise to risks of double compensation or undercompensation. Such unresolved issues increase uncertainty for parties seeking to exercise their rights and undermine the substitute transaction rule's potential to achieve fairness and efficiency.

In light of these difficulties, this article undertakes a systematic analysis of the boundaries of the substitute transaction rule, focusing on its institutional preconditions, criteria of reasonableness, and coordination with competing methods of compensation. On this basis, it proposes optimization strategies that

balance legislative intent with judicial practice, aiming to furnish feasible institutional suggestions for the robust operation of the substitute transaction rule. The article proceeds from the legislative positioning and values of the rule, analyses the triple dimensions of its application dilemmas, and finally explores the logical structure and operability of solution pathways.

1. Substitute Transactions and Their Regulation in Chinese Law

A substitute transaction refers to a transaction concluded by the non-breaching party with a third party to replace the original contract when the other party is in breach. In effect, when the debtor commits a fundamental breach, the creditor concludes a contract with another person to obtain the same subject matter as in the original contract; if the price of that contract is unfavorable to the creditor compared with the price in the original contract, the creditor may claim compensation from the debtor for the difference between the original contract price and the substitute transaction price. As the system of damages for breach of contract has been improved, the substitute transaction rule has gradually demonstrated its theoretical and institutional significance in China's civil and commercial fields. Although the term "substitute transaction" is not explicitly named in the Civil Code, it has already been recognized in doctrine and to some extent in case law. Article 60 of the Interpretation on General Provisions of the Contract Section issued in 2023 is the first judicial interpretation to systematically provide for substitute transactions and marks its formal inclusion in the damage compensation regime. This section first traces the development of substitute transactions in Chinese legal theory and judicial decisions and then analyses the process of establishing the system at the

legislative and interpretive levels in order to present the evolutionary logic and normative foundation of incorporating the substitute transaction rule into the Chinese contract law system.

1.1. Substitute transactions in China before the judicial interpretation

Although the Contract Section of the Civil Code does not directly use the term “substitute transaction,” legal theory and practice in China had already recognized the substitute transaction rule prior to the promulgation of the Interpretation on General Provisions of the Contract Section. In theory, many scholars discussed substitute transactions even before the enactment of the Civil Code. For instance, Zhang Jinhai pointed out that the substitute transaction rule is an important method for calculating expectation interest; it accurately reflects the creditor’s actual loss in cases where the creditor has terminated the contract and concluded a contract with another person in order to obtain the same subject matter as in the original contract, and it performs a function that the market price rule or the price-minus-cost method cannot replace. Sun Liangguo argued that substitute transactions have unique theoretical advantages and operational convenience over traditional expectation damages or specific performance, such as placing the creditor in a position close to that of contract performance, increasing certainty, preventing or minimizing the social costs of indirect loss, and effectively allocating market risk.

At the same time, the court also applied certain principles during the trial process. For instance, in the case of “Jiexiu Anyi Xinchang Coal Chemical Co., Ltd. (hereinafter referred to as Xinchang Company) vs. Nanjing Iron and Steel Co., Ltd. (hereinafter referred to as Nanjing Steel Company) concerning a sales contract dispute”¹ and in the case of “Hefei Yi Certain Pharmaceutical Co., Ltd. and Hefei En Certain Pharmaceutical Co., Ltd. vs. Yang Certain Pharmaceutical Group Guangzhou Hai Certain Pharmaceutical Co., Ltd. and Yang Certain Pharmaceutical Group Co., Ltd. regarding abuse of market dominance”² the court recognized that the party adhering to the contract could sign procurement contracts with other companies at the current market price to compensate for losses and accepted the claim for damages made by the adhering party.

1.2. Establishment of the substitute transaction rule

The establishment of the substitute transaction rule in China relies both on domestic judicial practice and on foreign legislative models. Prior to the promulgation of the Interpretation on General Provisions of the Contract Section, although the concept of a substi-

tute transaction is common in international contract conventions or model laws, it remained unfamiliar in Chinese law. Establishing a substitute transaction rule aligns with the development of contract law, and the majority of international contract law instruments include such rules. For example, Articles 75 and 76 of the United Nations Convention on Contracts for the International Sale of Goods (CISG) separately provide for the substitute transaction rule and the market price rule when no substitute transaction is made. Article 75 provides: “If the contract is avoided and if, in a reasonable manner and within a reasonable time after avoidance, the buyer has bought goods in replacement or the seller has resold the goods, the party claiming damages may recover the difference between the contract price and the price in the substitute transaction as well as any further damages recoverable under Article 74”. In the common law world, similar “cover” systems and market-price-based damages are also widely accepted. For example, in the United States the Restatement (Second) of Contracts refers to substitute transactions in sections 347 (General Rule of Damages), 350 (Mitigation of Damages), 351 (Foreseeability), and 360 (Adequacy of Damages); Article 2 of the Uniform Commercial Code builds its remedies for the sale of goods around the substitute transaction concept. Thus the establishment of the substitute transaction system in China has solid theoretical and practical support.

Although Articles 584 and 591 of the Civil Code provide a legal basis for the rule by prescribing loss mitigation, they do not expressly regulate substitute transactions. To fill this gap, the Supreme People’s Court promulgated the Interpretation on General Provisions of the Contract Section at the end of 2023, which for the first time expressly provides for substitute transactions. Article 60 paragraph 2 establishes the rule of compensation in cases of substitute transactions: if the non-breaching party lawfully exercises the right to terminate the contract and conducts a substitute transaction, and claims to calculate the interest it would have obtained from performance by taking the difference between the substitute transaction price and the contract price, the people’s court shall support the claim; if the substitute transaction price clearly deviates from the market price at the place of the substitute transaction at the time it occurs, and the breaching party requests that the interest be calculated by taking the difference between the market price and the contract price, the people’s court shall uphold the request. In other words, when the non-breaching party lawfully terminates the contract and makes a substitute transaction, its expectation loss is calculated as the difference between the original contract price and the substitute transaction price and should be supported by the

¹ Nanjing Intermediate People’s Court Civil Judgment No. (2018) Su 01 Min Zhong 1694.

² Supreme People’s Court (2020) Civil Judgment No. 1140 of the Supreme Court on Civil Knowledge.

court; but if the substitute transaction price is significantly higher or lower than the market price at the time, the breaching party is entitled to request that the expectation interest be calculated on the basis of the difference between the market price and the contract price to prevent the non-breaching party from obtaining improper gains through an unusual transaction. Article 60 paragraph 3 further provides: “Where the non-breaching party lawfully exercises the right to terminate the contract but does not make a substitute transaction, and claims to calculate the interest it would have obtained from performance by taking the difference between the market price at the place of performance within a reasonable period after the breach and the contract price, the people’s court shall support the claim.” This in effect establishes the market price rule. Combined with Article 584 of the Civil Code, the interpretation concretizes two specific rules for calculating damages: the substitute-transaction-price-based method and the market-price-based method. Incorporating substitute transactions into the calculation of expectation damages marks the formal establishment of the substitute transaction system at the judicial level in China.

Since the establishment of the substitute transaction rule, courts across the country have applied it with increasing frequency and in a broader range of contract types. For example, the rule has been applied in cases involving construction engineering and processing contracts, such as Chengdu XX Decoration Engineering Co., Ltd. v. Sichuan Province XX Construction Co., Ltd. over a sub-contracting dispute³, as well as in cases concerning house leasing contracts, such as Hubei XX Ecological Agricultural Technology Co., Ltd. and Hubei XX Real Estate Co., Ltd. v. XX Ecological Agricultural Technology Co., Ltd.⁴. However, with its widespread application, the rule has also revealed problems that cannot be ignored.

2. Difficult Issues in the Operation of the Substitute Transaction Rule

As one of the important methods of damages established in the Civil Code, the substitute transaction rule aims to enhance the predictability of remedies for breach of contract and the reasonableness of judicial outcomes by clarifying the calculation of performance interest. Yet in judicial practice it still faces multiple disputes and difficulties that require further clarification and refinement. First, there is significant disagreement over whether a substitute transaction must be premised on contract termination, making it uncertain for the non-breaching party to exercise its rights. Second, although the judicial interpretation

proposes to use the market price during a “reasonable period” after the breach as the benchmark when no substitute transaction is made, it does not specify criteria for determining such reasonable period, which leads to vagueness in assessing the reasonableness of substitute transactions. Third, the substitute transaction rule overlaps and conflicts with the market price rule, lost profit compensation (i.e., expectation interest), and incidental damages. If not properly handled, this may result in double compensation or inadequate compensation. Therefore it is necessary to discuss in depth the preconditions for applying the substitute transaction rule, the standards for judging reasonableness, and its relationship with other methods of compensation, so as to address the focal points of dispute in practice and provide theoretical support and practical suggestions for optimizing the system.

2.1. Must a substitute transaction be conditioned on contract termination

Article 60 paragraphs 2 and 3 of the Interpretation on General Provisions of the Contract Section both take “contract termination” as a prerequisite for applying the rule, suggesting that a substitute transaction requires the non-breaching party to terminate the contract. The interpretation has two purposes in making this requirement: on the one hand, it clarifies the time when the non-breaching party may claim damages for performance interest from the breaching party; on the other hand, it is intended to prevent the non-breaching party from simultaneously demanding continued performance and privately entering into a substitute transaction, thereby creating confusion in rights and obligations. Both academic and practical circles support the view that substitute transactions require contract termination. For example, Liu Chengwei argued that in cases of specific goods, if the non-breaching party enters into another transaction without lawfully exercising the right to terminate, performance may become impossible and the non-breaching party may become the breaching party, making it impossible to claim damages based on the substitute transaction rule. Thus the substitute transaction must be premised on contract termination. Some cases reflect this view: in the case of Xu and Chen over a brokerage service contract, the court found that the buyer’s delay in performance did not fundamentally frustrate the purpose of the contract; the seller did not terminate the contract with the buyer, and the buyer was in breach of contract⁵. However, other scholars contend that termination should not be a prerequisite for substitute transactions. In most situations, it is logical to require the non-breaching party to terminate first: only after termination may it confidently seek another transaction; otherwise, the

³ Sichuan Provincial High People’s Court (2024) Chuan Min Zai No. 163.

⁴ Intermediate People’s Court of Xiangyang City, Hubei Province, (2025) E 06 Min Zhong 1481.

⁵ Beijing Second Intermediate People’s Court (2010) Civil Judgment No. 05929.

existence of two contracts simultaneously may lead to double performance or overlapping liabilities. Yet strictly requiring a formal notice of termination or agreement may sometimes impede timely loss mitigation. If breach is inevitable and time is pressing, it is reasonable for the non-breaching party to conduct a substitute transaction in advance, consistent with the duty to mitigate loss, even if, literally, the condition “termination first” has not been satisfied. If termination is treated as a necessary element of a substitute transaction, then a non-breaching party that enters into another transaction without terminating may be viewed as abandoning performance under the original contract and concluding a new one, which might itself constitute breach or bar the non-breaching party from claiming damages from the breaching party. Balancing the formal requirement of contract termination with the substantive need for loss mitigation requires clearer guidance. The current judicial interpretation does not elaborate on this point, leaving judges wide discretion in individual cases, which is not conducive to achieving the purpose of the substitute transaction system.

2.2. Difficulties in assessing the reasonableness of substitute transactions

The judicial interpretation requires that where no substitute transaction is made, losses shall be calculated based on the market price at the place of performance within a reasonable period after the breach. Yet the interpretation does not provide a fixed standard for what constitutes a “reasonable period,” leaving discretion to judicial practice but also creating uncertainty. The length of the reasonable period may vary depending on the nature of the subject matter, market supply and demand, and trading practices. For example, in the spot market for bulk commodities, it may be reasonable to procure substitute goods within a few days, whereas real estate transactions are more complex and a reasonable period may be measured in months. How can one determine whether the non-breaching party has taken a substitute transaction within a reasonable period? If the period has expired, should any loss due to price increases afterwards not be compensated? These questions require judicial determination in each case. Granting judges flexibility allows them to tailor judgments to individual circumstances, but it also creates unpredictability for parties regarding the scope of compensation.

In practice there have been cases illustrating this difficulty. In the contract dispute between Shanshan Energy and Tianqi Lithium, Shanshan concluded a substitute supply contract with a third party within twenty days after a delivery delay. The court held that the substitute transaction occurred within a rea-

sonable period and awarded the price differential as damages⁶. In another case between Huatai Company and Changjiang Company, there was a two-month interval between the refund of the advance payment and the first substitute procurement⁷. Although the court ultimately recognized a substitute transaction, the lack of clear standards led to dispute. In practice, the non-breaching party may hesitate between procuring too early and risking paying a higher price and waiting too long and fearing that subsequent losses will not be supported, thereby missing the optimum time to mitigate losses, which undermines the application of the substitute transaction rule and may affect the fairness of the compensation outcome.

2.3. Conflicts between substitute transactions and other methods of damages

As one method for calculating damages for breach of contract, the substitute transaction rule coexists with other methods such as the market price rule, lost profit compensation (i.e., expectation interest), and incidental damages. Article 584 of the Civil Code provides that damages include actual losses and the interest that would have been obtained from performance, and that compensation should be equivalent to the loss caused by the breach in order to prevent overcompensation. Article 60 of the Interpretation clarifies that if the non-breaching party terminates the contract and conducts a substitute transaction, the loss of expectation interest should be calculated by taking the difference between the substitute transaction price and the contract price, and the market price rule should not be applied so as to prevent duplicate compensation; only when the substitute transaction price clearly deviates from the market price may the calculation be adjusted based on the market price to control the amount of damages. This shows that the substitute transaction rule and the market price rule have overlapping functions, both serving to calculate expectation interest. Once the non-breaching party has obtained a performance result similar to that of the contract through a substitute transaction and has compensated its lost profits by taking the price difference, it may not also claim damages based on the market price difference or again claim lost profits, otherwise double recovery would occur.

However, in judicial practice the boundaries between these rules remain blurred. For example, in the case of Zhuji Tianjie Building Materials Co., Ltd. v. Zhejiang Guangda Construction Co., Ltd., the court recognized that the plaintiff implemented a substitute transaction through market procurement, yet it also referred to market price fluctuations in its reasoning, without strictly distinguishing the methods of compensation, thereby blending the rules and creating an unclear calculation logic. In another

⁶ Hunan Province Higher People’s Court (2017) Xiang Min Final Judgment No. 241.

⁷ Anhui Provincial High People’s Court (2020) Wan Min Shen No. 3474.

case between Nanjing Iron and Steel Company and Xinchang Coking Chemical Company, the court supported the non-breaching party's claim for damages based on a substitute transaction purchased from a third party at a price higher than the contract price, thus manifesting the priority of the substitute transaction rule. But the court did not explicitly examine whether the substitute transaction price fell within the normal market range and thus did not address concerns about overcompensation⁸.

In addition, incidental damages (such as transportation costs, storage losses, and preparation costs) may be claimed under Article 584 of the Civil Code if they were foreseeable, but their scope must be distinguished from expectation interest to avoid overlapping compensation. Therefore, the boundaries of application between the substitute transaction and other methods of damages need to be clarified. The existing differences in judgments and confusion in application reflect a disconnect between theory and practice and reveal systemic gaps in achieving the objective of "full compensation without windfall gains."

In sum, while the substitute transaction rule plays an important role in enhancing the objectivity and judicial predictability of calculating damages for breach of contract, it still faces multiple challenges in specific application: first, whether it must be premised on contract termination is controversial; second, the assessment of its reasonableness is difficult; third, it conflicts with other methods of compensation. These problems are detrimental to the application of the substitute transaction rule and to the realization of its legislative purposes. The next part of this article analyses these issues and provides suggestions for improvement.

3. Proposals for Solving Problems with the Substitute Transaction System

3.1. Substitute transactions should be predicated on fundamental breach

Although substitute transactions are generally accompanied by contract termination, they do not require contract termination as a precondition. This is the consensus in comparative law and is consistent with the legislative model of the Interpretation. International contract legislation or drafts, such as the CISG, contain the term "contract termination" in the context of substitute transactions, but in practice do not treat termination as a prerequisite for substitute transactions. The purpose of the substitute transaction system is to achieve full compensation, implement the duty to mitigate, increase market efficiency and reduce waste of resources. If the substitute transaction rule requires contract termination as a prerequisite, it will conflict with the duty to mitigate.

The period between the acquisition of the right to terminate and the actual exercise of that right may be long; if the notice of termination does not reach the other party, cannot be delivered, or the other party disputes it, the substitute transaction will be delayed. This is unfair to the non-breaching party and inconsistent with the needs of market efficiency. If contract termination is a prerequisite, the substitute transaction cannot function during this period, contrary to the efficiency objective of loss mitigation. Furthermore, it may cause the non-breaching party to delay exercising the termination right and observe market changes to speculate, thereby shifting all risk of price fluctuations onto the breaching party; this is unfair and violates the principle of fairness. The ultimate effect of a substitute transaction is to shift the loss caused by breach to the breaching party; thus the breaching party must bear the consequences of price fluctuations of the subject matter. This presupposes that the breaching party's fault is serious and that it has lost the right to continued performance. Therefore, the precondition for applying the substitute transaction rule should be the breaching party's fundamental breach, not contract termination. Although in the event of fundamental breach the non-breaching party usually exercises the right to terminate and the contract terminates, this does not directly cause termination. Courts applying the rule should analyse the facts to determine the timing of the non-breaching party's substitute transaction; if it is determined that a fundamental breach has occurred, the court should recognize the substitute transaction and ensure the operation of the system.

3.2. Determining reasonableness through dual time and market criteria

The purpose of establishing the substitute transaction system is to promote full compensation, implement the duty to mitigate, and reasonably allocate market risk. In practice, however, a non-breaching party and a third party may collude maliciously to conduct a substitute transaction at an unreasonable price in order to improperly transfer risk to the breaching party. Therefore, substitute transactions must also be conducted within a reasonable range; reasonableness is their inherent requirement. The reasonableness of a substitute transaction is mainly reflected in the reasonableness of the price and the reasonableness of the timing. Price reasonableness and time reasonableness are closely related yet conceptually separable: generally, if the transaction is delayed beyond a reasonable period, the price will be unreasonable, whereas a transaction within a reasonable period usually implies a reasonable price. The judicial interpretation takes the market price as the yardstick for assessing the reasonableness of a substitute transaction; if the substitute transaction

⁸ Nanjing Intermediate People's Court Civil Judgment No. (2018) Su 01 Min Zhong 1694.

price is roughly equivalent to the market price at the time, it is presumed to be reasonable. Conversely, if it obviously deviates from the fair market level, the damages should be adjusted based on the market price difference. This prevents collusion and protects the breaching party's interests while avoiding speculative gains by the non-breaching party, reflecting both the principle of fairness and the principle of offsetting benefits and losses.

Substitute transactions must not only be reasonable in price but also in timing. When a party breaches, the timing window becomes crucial. The law requires the non-breaching party to "without unreasonable delay" undertake the substitute transaction. From experience, "if the market price of goods fluctuates greatly, the reasonable period will be shorter; conversely, seasonal or unique goods will lead to a longer reasonable period." Although the interpretation does not specify time reasonableness, we should pay attention to whether the substitute transaction occurs within a reasonable time. The assessment must be grounded in the context: substitute transactions arise to replace the original contract; assessing their reasonableness should avoid hindsight and should consider the market conditions at the time of the transaction.

Therefore, courts applying the substitute transaction rule should determine its reasonableness through both market and time criteria, according to the market conditions at the time of the transaction, to prevent collusion and better achieve the rule's purposes.

3.3. Clarifying the scope of application of substitute transactions

As a method of compensation for breach, damages based on substitute transactions must be coordinated with other methods of compensation. First, the conditions triggering a substitute transaction must be strictly limited: only when the breach is serious enough to frustrate the purpose of the contract may the non-breaching party terminate and seek a substitute transaction; for minor breaches that do not warrant termination, the non-breaching party should continue to demand performance, and prematurely entering another transaction would itself constitute breach. This precondition ensures that substitute transactions are applied after an orderly sequence of remedies. Secondly, in determining the reasonable market price, one must adhere to the principle of full compensation while taking into account the duty to mitigate. Article 584 of the Civil Code states that damages include expectation interest but may not exceed the loss foreseeable at the time of breach. Article 60 of the Interpretation stipulates that when the non-breaching party terminates the contract and conducts a substitute transaction, expectation interest should be calculated as the difference between the

substitute transaction price and the original contract price; when no substitute transaction occurs, the difference between the market price during a reasonable period after the breach and the contract price shall be used. When the substitute transaction price is significantly higher than the prevailing market price and lacks justification, courts may instead calculate damages based on the market price difference to avoid overcompensation; conversely, if the price difference can be explained by legitimate urgency, it should be considered reasonable and compensation should be based on the actual difference.

Thirdly, when the non-breaching party procures in advance without terminating the contract, a balance must be struck between protecting its interests and maintaining the order of contract performance. On the one hand, the duty to mitigate requires the non-breaching party to stop the loss in time; when a fundamental breach renders further performance impossible, it is justified to procure a substitute without waiting for completion of termination procedures. On the other hand, if the breach does not yet reach the level justifying termination, the non-breaching party should not prematurely procure another performance; otherwise its own conduct may be treated as breach. Finally, the substitute transaction rule and the market price rule already have a clear mechanism of linkage: once the non-breaching party has made an appropriate substitute transaction, damages must be limited to the difference between the substitute transaction price and the original contract price, and it may not additionally seek compensation based on the market price difference. Only when no substitute transaction is made or the substitute transaction is clearly unreasonable may the market price rule apply. This unified calculation avoids overlapping application of different methods, ensures full compensation of the non-breaching party's loss, and prevents it from choosing a calculation method to secure windfall gains. Therefore, when applying the substitute transaction rule, one should strictly examine its conditions and coordinate it with other methods to prevent abuse. The Supreme People's Court could publish more guiding cases on substitute transactions to provide examples for lower courts and strengthen typological guidance.

In summary, facing the problems encountered by substitute transactions, it is necessary to clarify their relationship with other compensation methods at the level of legal application, reasonably delimit their scope of application, and promote typological guidance in judicial practice. Only by clarifying the institutional linkages and strengthening guidance can the substitute transaction rule be applied scientifically and effectively, thereby achieving its functional positioning and value goals in the system of remedies for breach of contract.

4. Conclusion

The introduction of the substitute transaction rule marks a key step toward a more scientific, predictable and systematic approach to damages for breach of contract in China. Its compensation calculation based on an objective difference fills the gap in judicial practice of vaguely estimating the expectation interest, strengthens the protection of the non-breaching party's interests and the constraint of the duty to mitigate, and provides important support for the substantive justice and transactional

efficiency pursued by contract law. However, in its application the rule still faces controversies regarding the preconditions for its use, the difficulty of assessing reasonableness, and conflicts with other methods of damages. In future, further improvement of judicial interpretation, refinement of adjudicatory rules and development of typological criteria for application are needed to normalize and make the system more practical. Only in this way can the substitute transaction rule truly become an effective tool to maintain contract order, achieve fair compensation and optimize the market environment.

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