



On the Existing Problems and Countermeasures of China's Civil Litigation Reconciliation System

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Abstract

As a crucial mechanism for resolving civil disputes, the civil litigation settlement system plays a significant role in conserving judicial resources and facilitating the resolution of conflicts. However, the lack of clear legal definitions regarding the nature, characteristics, and effects of civil litigation settlements has led to various practical challenges. These challenges include inconsistent identification of the nature of civil litigation settlement agreements, difficulties in their implementation, and instances of non-compliance by obligors after signing such agreements. To address these issues, this analysis examines potential problems that may arise in practice while integrating relevant theories from civil law jurisdictions concerning the concept and validity of civil litigation settlements. Additionally, it considers the existing legal provisions in our country. The aim is to clarify the concept of civil litigation settlements through legislation, establish a framework for recognizing their validity, and create a supportive mechanism for the enforcement of settlement agreements. This approach will provide actionable recommendations to resolve the identified challenges.

Keywords

Civil Procedure Law of the People's Republic of China; Civil litigation settlement system; Validity determination

1. Summary of civil litigation settlement in China

According to Article 53 of the Civil Procedure Law of the People's Republic of China (hereinafter referred to as the "Civil Procedure Law"), both parties have the right to settle on their own in the course of civil proceedings. However, the concept, effect and method of civil litigation conciliation are not clearly stipulated. In order to facilitate the discussion of the existing problems of civil litigation conciliation system, this paper is necessary to discuss.

In terms of the recognition of the concept of civil litigation settlement, some scholars pointed out that in the process of civil litigation, settlement refers to the two parties reaching a settlement agreement on their own for the purpose of resolving disputes (Wang Honglian, 2003). As to whether the settlement agreement can be recognized as civil litigation settlement, there are mainly two viewpoints in the academic circle. One view is that only the settlement agreement reached by the parties in the litigation is confirmed by the court or the settlement reached under the auspices of the court, which belongs to the litigation settlement stipulated in China's Civil Procedure Law, and the settlement without court confirmation is the extra-litigation settlement. Scholars who hold this view argue that litigation settlement refers to the act in which the parties voluntarily reach an agreement on litigation disputes under the auspices of the judge or through self-negotiation, and the court confirms the termination of the litigation according to law (Li Yihua, 2019). In other words, litigation settlement has the effect of directly ending litigation only after the review and confirmation of the court, and the settlement without the review and confirmation of the court is an extra-litigation

settlement and does not have the effect of directly ending litigation (Shen Guanling, 2015). However, another view holds that as long as the settlement reached by the parties themselves in the litigation is a litigation settlement. The first view is generally accepted by the academic circle. At the same time, in China's judicial practice, litigation settlement is represented by the parties negotiating an agreement within the litigation system, and then applying to the court to make a mediation statement or to withdraw the suit to end the proceedings (Xiao Jianhua & Wang Yong, 2017).

Foreign academic circles have a more consistent definition of litigation settlement, that is, in the course of litigation, in order to solve legal disputes and end the proceedings, the parties reach a settlement on all or part of the subject matter of the litigation, and the content of the settlement is stated to the court, recorded in the court record behavior is litigation settlement (Rosenbeck, 2008; Shindo Koji, 2008). It can be seen that the definition of litigation settlement in China is slightly different from that in foreign countries. It is not required to record the contents of the settlement in the court record, but generally believes that the litigation settlement agreement needs to be confirmed by the court to end the litigation procedure.

In the determination of the effect of civil litigation settlement, we can find the answer from the legal provisions of other ways to resolve the parties' civil litigation disputes in our country. China's Civil Procedure Law does not directly stipulate the effect of litigation settlement, but regulates some non-trial dispute resolution methods, and strengthens the function of dispute resolution through the coordination and cooperation between litigation and non-litigation. For example, according to the provisions of Article 206 and 248 of the Civil Procedure Law, the civil mediation agreement confirmed by the court is enforceable. And the arbitral award can also be used as the basis for enforcement. It can be seen that the civil litigation settlement agreement does not have the same enforceability as the civil mediation agreement, which further indicates that the civil litigation settlement system in China is not as effective as the non-litigation mediation system of the court, but needs to go through the court to confirm this link to end the litigation process to achieve.

Therefore, China's civil litigation settlement to end the way can be summarized as the following two models, one is in the litigation after the parties to the reconciliation, the plaintiff to the court to request the withdrawal of the lawsuit to end the proceedings, that is, the settlement and withdrawal model; Second, the two parties voluntarily settle and reach a settlement agreement, or by applying for a settlement agreement under the auspices of the court, and then apply to the people's court for mediation to end the litigation process, that is, the settlement to mediation mode. The civil litigation reconciliation system is mainly aimed at resolving disputes between the parties through non-litigation means and saving judicial resources, but whether it can really implement its legislative purpose depends on the application of civil litigation reconciliation in practice.

2. The existing problems in the system of civil litigation reconciliation in China

2.1 Problems arising under the mode of first instance settlement and withdrawal

The above summarizes the mode of ending litigation proceedings after the parties' litigation settlement. In the mode of conciliation to mediation, there is no dispute on the validity determination because the court conciliation gives it the enforcement power stipulated by law. However, in terms of the conciliation and withdrawal mode, it can be divided into two cases: withdrawal in the first instance and withdrawal in the second instance. First, we will discuss the withdrawal in the first instance. The legal consequence will be regarded as that the plaintiff has not filed a lawsuit, and the defendant may Sue again because he does not fulfill the content of the settlement agreement.

In judicial practice, there are different views on whether to Sue based on the original dispute content or the settlement agreement content. Some courts believe that the settlement agreement has the legal consequences of the change or confirmation of the original creditor's rights and debts. For example, in the case of Yang Mou 1 v. Yang Mou 2, a private lending dispute (2019) Chuan 1302 Civil Judgment No. 4273, it was noted at the beginning of the Republic of China that "The settlement agreement has a binding contractual force for both parties. It represents a change or confirmation of the claims and debts between the two parties prior to the establishment of the settlement agreement. Receipts, such as other acknowledgments of debt, are insufficient to overturn the terms of the settlement agreement. Therefore, it should be performed in accordance with the content stipulated in the settlement agreement." Therefore, the parties should bring a lawsuit based on the contents of the settlement agreement. There are also courts that the settlement agreement is a contract that has not taken effect before applying to the court to make a mediation statement or applying for the withdrawal of the final proceedings. In the case of a contract dispute between a capital

management company Limited and Yang Mou and Xiao Mou, in the first instance litigation, the preferred company and Yang Mou and Xiao Mou settled out of court on their own and reached a settlement agreement. The Beijing Municipal High People's Court made (2021) Beijing people's final No. 207 civil judgment that the settlement agreement in this case is based on the true intention of the parties signed, is the result of the parties on their own disposition of their entity rights, "the agreement has a contractual binding force on the contracting parties. After the parties signed the "settlement agreement", the plaintiff did not apply to withdraw the prosecution, and the parties did not apply to the court to make a mediation statement, resulting in the court of first instance failed to end the proceedings of the case. However, as far as the nature of litigation settlement is concerned, it should be a civil legal act."

It can be seen that the court has different opinions on the recognition of the settlement agreement. On the one hand, if the settlement agreement is regarded as the modification of the original claims and debts, it means that the original claims and debts have been changed and cannot apply for the execution of the original claims and the performance of the original debts. However, the premise of the change of claims and debts is that the original claims and debts relationship is very clear, and the settlement agreement was established in the first instance to solve the dispute or unclear legal relationship between the parties, so it is not appropriate for the court to identify the settlement agreement as the change or confirmation of the original claims and debts relationship, nor can it be inferred that the original claims and debts have been very clear just by reaching the settlement agreement. On the other hand, if the mediation agreement reached by the parties without a mediation statement made by the court or without an application for withdrawal of the court is regarded as an invalid contract, it indicates that the court termination procedure is one of the requirements for the effectiveness of the settlement agreement. In this case, without the court termination procedure, it is difficult for the parties to ensure the realization of the creditor's rights through the settlement agreement. This requires the practical circles to unify the recognition of the effective conditions and nature of the settlement agreement as soon as possible, otherwise it will directly affect the realization of the parties' creditor's rights and debts and the determination of seeking court relief.

To sum up, the first instance plus withdrawal mode has the problem of whether to prosecute the original dispute or the settlement agreement if the lawsuit is brought again. At the same time, the first instance plus withdrawal mode is based on the unilateral intention of the plaintiff to end the lawsuit, and the risk brought by the withdrawal is borne by the party abiding by the agreement. If it fails to perform the obligations stipulated in the agreement, the plaintiff will go through the litigation process again. Time-consuming and laborious, it will also increase new risks.

2.2 Problems arising under the mode of settlement and withdrawal of the second instance

In the proceedings of second instance, the withdrawal of suit after settlement may have the problem of inconsistent recognition of the validity of the settlement agreement. From the previous analysis of the concept of settlement in civil proceedings, it can be seen that there are two kinds of recognition of the concept of settlement in civil proceedings. Therefore, in practice, there will be completely different recognition of the validity of settlement agreement in civil proceedings. In this regard, the relevant court judgment documents can be analyzed and compared. In the case of Contract Dispute between Beijing Urban Construction Heavy Industry Co., Ltd. and Beijing Longchang Weiye Trading Co., LTD., the plaintiff and the defendant reached a settlement agreement and withdrew the suit in the second instance procedure, but the defendant did not perform the corresponding obligations in accordance with the provisions of the settlement agreement after the withdrawal of the lawsuit, so the plaintiff sued with the settlement agreement. The court of first instance decided that the defendant in accordance with the provisions of the settlement agreement to perform, although the defendant is not satisfied with this and the settlement agreement belongs to the civil litigation settlement on the grounds that the court of second instance found that the agreement is not enforceable, and the court to implement the plaintiff in the previous second instance after the withdrawal of the lawsuit has taken effect after the first instance judgment rather than the relevant content of the settlement agreement, but its appeal was rejected. Beijing Second Intermediate People's Court made (2017) Beijing 02 Min End 8676 civil judgment stated that "the litigation settlement agreement between the two parties is a general civil contract, legal and valid, and both parties should earnestly perform their obligations". The Court of second instance also discussed in the reasons for the judgment: "As a commercial subject, the City Construction Heavy Industry Company voluntarily issued a settlement agreement to Longchang Trading Company and promised a high amount of liquidated damages, but after the account was lifted, the City Construction Heavy Industry company did not perform the subsequent payment obligations according to the contract, which was somewhat subjective and malicious, contrary to honesty and credit, and harmful to the litigation order. The court of first instance ordered the City Construction Heavy Industry Company to pay

800,000 yuan of liquidated damages according to the contract, and there was nothing wrong". Therefore, the contents stipulated in the settlement agreement between the two parties were implemented.

In the same case, after the settlement agreement was reached in the second instance procedure and the lawsuit was withdrawn because one of the parties did not fulfill the content of the settlement agreement and sought judicial relief again, the guiding Case No. 2 issued by the Supreme People's Court in 2011, "Wu Mei v. Sichuan Meishan Xicheng Paper Co., Ltd. sales contract Dispute Case", the handling result was completely different. In this case, Wu Mei applied to the court of first instance for the execution of the original judgment because the defendant Shanxi City Paper Company of Sichuan Province did not perform the obligations stipulated in the settlement agreement signed at the time of second instance, and the court of first instance granted the execution. The defendant then filed an application for execution supervision with Meishan Intermediate People's Court, and claimed not to execute the original judgment of first instance on the grounds that the two parties had signed a settlement agreement. However, the court held that, "When the parties withdraw the lawsuit because they have reached a settlement agreement, the second instance ends, and the judgment of the first instance takes effect and is enforceable; Secondly, because the parties did not apply to the people's court to make a mediation agreement, the litigation settlement agreement between the two parties is an extra-litigation settlement agreement, which cannot be enforceable; Finally, Xicheng Paper company violates the principle of good faith and fails to perform the settlement agreement, at this time, the judgment of first instance should be executed." It can be seen that for similar cases in which the parties reached a settlement agreement in the second instance of civil litigation and then withdrew the suit, there will be different situations when the court executes the effective judgment of the first instance or the content of the settlement agreement reached in the second instance, which may be contrary to the expected result of the parties. On the one hand, the introduction of the second instance means that the parties are not satisfied with the implementation of the first instance judgment, and then the settlement agreement reached on a voluntary basis just solves this problem. When the settlement agreement cannot be performed and cannot achieve its expected result and then request the court for relief, in the court's validity determination of the settlement agreement, there may be a case that it is not enforceable because it has not gone through the court's confirmation of the settlement agreement and is identified as a non-litigation settlement, so it is determined that it is not enforceable and the judgment of the first instance is still implemented; At the same time, Article 336 of the Judicial Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China also clearly stipulates: "If the plaintiff of the original trial repeatedly sues after withdrawing the suit in the procedure of second instance, the people's court will not accept it." That is to say, after the original trial plaintiff withdrew the suit in the second instance of civil litigation, he cannot re-sue the original dispute to seek relief. Therefore, if the lawsuit is withdrawn after the settlement of the second instance, if it cannot seek relief through the settlement agreement, it will face the situation that it can only accept the judgment of the first instance, which is obviously contrary to the original intention of the parties to reach a settlement to solve the litigation dispute. At the same time, it also means that the plaintiff of the second instance may spend more time, energy and litigation costs, but it is still counterproductive.

2.3 Problems in the execution of civil settlement agreement

First, the former part analyzes the problems that may arise under the mode of settlement and withdrawal, and finds that there are certain differences in judicial practice in determining the effectiveness of the settlement agreement in the withdrawal of the second instance. The key reason is that the civil settlement agreement itself is not enforceable, and it can only really play a role after being confirmed by the court. Thus, binding both parties to perform the agreement, and achieve the effect of execution in accordance with the content of the settlement agreement. If the settlement agreement has not been confirmed by the court, the defendant may use the settlement agreement as a delaying measure to temporarily not perform his obligations, in order to achieve the expected effect of the final execution of the judgment of first instance.

Second, there may be some problems related to timeliness in the mode of conciliation to mediation. The original intention of the litigation-to-mediation mode is to convert the settlement agreement into a mediation agreement by applying to the court to make a mediation statement, because the mediation statement made by the court confirms the content and legality of the parties' mediation agreement, so that the mediation statement with payment content becomes the basis for the parties to apply for execution. By making the content of the agreement the basis for execution, on the one hand, the litigant settlement will be in a passive position, because it can be completed by the court mediation, which is not conducive to the role of litigant settlement in reducing the workload of the court, thus making

the system difficult to play its real role. On the other hand, according to Article 100 of the Civil Procedure Law and relevant laws, most of the mediation agreements that do not need to make a mediation statement are cases that do not need to be enforced and take effect after being signed and sealed by the parties, court personnel and the clerk; However, a mediation agreement related to a case that requires a party to fulfill its obligations and necessitates court enforcement due to difficulties in performance can only be legally effective after being served to both parties. This means that if one party reneges before both parties sign the mediation agreement, the agreement will not be effective (Zhang Ying, 2020), and it still needs to be decided by the court. In the countries of the civil law system, as long as the parties jointly disclose the contents of the settlement to the court and find it valid after the court's review, and record it in the court's record, the record can have the same effect as the court's definitive judgment (Translated by Cao Yunji, 2017). However, in China, litigation settlement is incorporated into the mediation procedure of the court, and the parties jointly state the contents of their settlement to the court. Even if the court records the contents in the written record after review, the written record does not have the same legal effect as the effective judgment. In most cases, it can take effect only after the process of making the mediation statement, serving the parties, and signing by both parties. However, the completion of this process needs to take a certain time cost, which will not only affect the timeliness of litigation settlement, but also give the parties a certain opportunity to regret.

3. Analysis on the solution path of China's civil litigation settlement system

The main problem of civil litigation settlement lies in the difficulty of execution and different identification of nature, and the difficulty of implementation is mainly because the civil litigation settlement agreement is not enforceable. Therefore, to solve the problems existing in civil litigation settlement, we can explore from the two aspects of identifying the nature of civil litigation settlement agreement and enhancing its enforcement effect. It is also possible to explore and analyze the relief ways that can be found for civil litigation settlement.

3.1 Clarify the nature of civil litigation settlement agreement

Because there is no explicit provision of law about the nature of civil litigation settlement in our country, there are disputes about whether it belongs to litigation settlement or extra-litigation settlement. Although Article 241 of China's Civil Procedure Law expressly stipulates the content of the settlement agreement reached by the parties themselves and the related issues of the execution of the settlement, the execution of the settlement and the litigation settlement are not the same concept, and the settlement agreement and the settlement agreement generated in the execution are only one of the factors of the execution of the settlement (Tan Qiugui, 2020). In terms of the identification of the nature of litigation settlement agreement, there are mainly the following theories:

3.1.1 Private law act theory

The act theory of private law is also called the act theory of pure private law or the act theory of law. This theory holds that both litigation settlement and extra-litigation settlement are contracts in private law in essence, that is, legal acts of the nature of pure private law. Even though they can have the effect of procedural law, they are still private law acts in nature. There is no distinction between the two except that litigation is settled in a court of law. After the parties reach the litigation settlement agreement, the disputed legal relationship in the substantive law has been eliminated, and the subject matter of the litigation procedure is also eliminated. This theory is more consistent with the legal basis of the contractual nature of the litigation settlement agreement (Wei Guiyu, 2022). According to this view, if the litigation settlement agreement is reached, the subject matter of the litigation will be eliminated, so that the trial of the case lacks the object of litigation, and the effect of ending the litigation procedure can be achieved. However, it cannot prove why the settlement agreement with the nature of private law can achieve the legal effect of ending the proceedings, ignoring its legal theory research in the proceedings.

3.1.2 The theory of litigation conduct

The act of litigation theory corresponds to the act of private law theory, which holds that although the litigation settlement agreement is a contract in civil law, its main content is to produce a certain litigation effect, and maintains that litigation settlement is a litigation act. In this case, the effect of litigation settlement agreement will not be affected even if there are defects in substantive law. This theory ignores the private law nature of the litigation settlement agreement, and cannot explain the argument that the settlement agreement is still effective even when it has substantive defects, which is one-sidedness.

3.1.3 Theory of coexistence of two acts

This theory holds that the litigation settlement agreement is a kind of settlement contract in substantive law and a litigation act in procedural law, and the two acts coexist and will not affect each other. However, this theory does not summarize the relationship between the substantive law and the procedural law effects when the litigation settlement agreement is established. This is contrary to the original intention of the parties to sign the settlement agreement, which hopes to eliminate the subject matter of the lawsuit and end the proceedings by eliminating the disputes of rights and obligations in the entity.

3.1.4 An act of two natures

This theory is the general theory followed by the litigation settlement system in the current civil law system. It maintains that the litigation settlement agreement is an act, which can be evaluated from two aspects: substantive law and procedural law. It holds that the effectiveness of litigation settlement needs to meet the requirements of both the substantive law civil legal act and the litigation act in the procedural law, both of which are indispensable. Compared with the above three theories, this theory not only recognizes the nature of substantive law and procedural law, but also summarizes the circumstances of the effect of litigation settlement, and is adopted by the countries of civil law system (such as Japan and Germany). Therefore, the nature of litigation settlement agreement can be better summarized by adopting the theory of one act and two natures.

To sum up, for the nature of the settlement agreement, it is more appropriate to adopt the theory of "one act with two properties". As for how the two interact, Japanese scholar Hideo Nakamura's "class structure theory" puts forward corresponding views. "Litigation settlement is divided into two levels, private law act and litigation act, which belong to two different classes, in which private law act is the lower structure. Litigation behavior belongs to the upper structure; When there are defects in the private law act of the lower structure, it will directly affect the effect of the whole litigation settlement, while the defects in the litigation act of the upper structure will not hinder the private law act of the lower structure." In other words, when the litigation settlement agreement has defects in the litigation law, it will affect the nature of its litigation behavior, but the nature of the private law behavior at the lower level will not be affected, and the agreement still belongs to the civil law contract and can seek relevant norms for relief; However, if the litigation settlement agreement in the lower class has defects stipulated in the substantive law, the nature of the litigation law will also be affected.

3.2 Clarify the civil litigation settlement agreement and its effect in legislation

The foregoing is clear about the nature of the settlement agreement in civil proceedings, so its validity should be determined in accordance with the "theory of two natures of one act". In this regard, it can be clarified from the legislation, and from the perspective of substantive law, it can add the content of "settlement contract" in the Civil Code, and provide for the determination of its concept and effect. Specifically provide the definition of the conciliation contract, in terms of effectiveness provisions, can give the conciliation contract the corresponding certainty, such as the parties after the conciliation contract comes into force may not again with the dispute before the settlement agreement, but the conciliation contract is invalid or revoked except, in order to ensure that the conciliation agreement has a certain binding force on the parties; From the perspective of the procedure law, the civil procedure law has stipulated the litigation settlement system, which can be further improved on its existing provisions. For example, in Article 53, "both parties can settle on their own" on the basis of further pointing out that the agreement reached by the two parties in the litigation settlement agreement is a litigation settlement agreement, which echoes the provisions of the substantive law; At the same time, add the content of stipulating its effect, such as stipulating that the litigation settlement agreement and the judgment have the same effect, and the parties sign the litigation settlement agreement after reaching a settlement, the case will end, without withdrawing the lawsuit and other means, so as to clarify the judicial recognition of its effect. In addition, in the aspect of the enforceability of the litigation settlement agreement, it can be stipulated that the content of the litigation settlement agreement confirmed by the court is enforceable, so as to solve the problem of difficult execution.

3.3 Establishment of supporting guarantee mechanism for litigation settlement agreement

The reason why litigation settlement cannot play a role or has validity defects lies in that it has not been paid attention to in the litigation procedure. Therefore, the corresponding supporting protection mechanism can be provided in the lawsuit to avoid the possible problems in the lawsuit settlement agreement. On the one hand, provisions can be added

to the pre-trial procedure for the court and the parties to make corresponding judgments on whether the case can be settled, so as to prepare materials and exchange evidence around this issue, clarify the focus of the dispute with the help of the court, and help the parties to have a clearer understanding of the two choices of settlement or continuing litigation, so as to carefully consider. Reduce the occurrence of contravention and other phenomena; On the other hand, it can strengthen the court's examination of the validity of the litigation settlement agreement, and examine whether the settlement agreement is signed by the two parties voluntarily, whether the content of the agreement is the true intention and whether it conforms to the legal provisions; At the same time, in the review, the court should straighten out its own position in the litigation settlement of the parties, and play an auxiliary role rather than choosing for the parties. In addition, the form of litigation settlement agreement can be unified, so as to be more convenient and clearer in the examination of its effectiveness. At the same time, in order to protect the legitimate rights of both parties, after the settlement agreement comes into force, the right of the parties to plead can be added to the design of the civil litigation settlement system. For example, if a party violates the principle of good faith in order to reach part of the settlement agreement during the formulation of the settlement agreement by cheating or forgery of evidence, or violates the relevant legal provisions, The other party may apply to the court for cancellation of the settlement agreement when there is factual evidence to prove the existence of the relevant circumstances (Dai Wei, 2022).

3.4 Other avenues of relief

The litigation settlement agreement has the attribute of private law in the substantive law, so there will be flaws in the effect, such as major misunderstanding, fraudulent coercion and other circumstances that lead to the cancellation of the settlement agreement, etc. Therefore, relief can be carried out in the following ways:

First, for the litigation settlement agreement with slight defects, the effect of such settlement agreement has not been denied, so if the court allows the parties to improve the relevant materials by applying for correction and other ways, so that the defects of the settlement agreement can be corrected; Second, in the case that the settlement agreement is invalid and will be revoked, the parties can request the People's Court to continue the trial. Based on the reality that the dispute cannot be resolved by means of litigation settlement, the parties can request the original trial court to continue the trial on the premise that the settlement agreement as envisaged in the preceding paragraph does not need to be withdrawn to achieve the effect of ending the proceedings. On the one hand, it can save more time and judicial resources in solving civil disputes than re-suing. On the other hand, the original trial court has already had a corresponding understanding of the facts of the dispute case, so it is more reasonable and convenient to request the court to continue the trial. Third, the settlement agreement is invalid or revoked to initiate a corresponding lawsuit, exercise the right of cancellation provided by the civil law, and facilitate the parties to better choose remedies based on the actual situation.

4. Conclusion

China's civil litigation conciliation system enables the parties to voluntarily reach an agreement through the way of conciliation to resolve civil disputes, which is of great significance for the development of non-litigation dispute resolution mechanism in our country, and is also a shortcut for the parties to resolve civil disputes. However, its application is hindered by the problems such as inconsistent validity identification and difficult implementation in judicial practice. In this regard, through the analysis of its situation in relevant judicial practice, combined with the theory and the corresponding legal provisions, the nature and effectiveness of the civil litigation settlement agreement are discussed, and the conclusion is drawn that the civil litigation settlement agreement has a dual nature, and the litigation settlement must meet the requirements of both the entity and the procedure in order to play an effective role. Therefore, some suggestions on the existing problems are put forward from the aspects of system construction, pre-court procedures and corresponding relief methods.

The research of this paper focuses on the concept and nature of civil litigation settlement and the recognition of the effectiveness of civil litigation settlement agreement in judicial practice. It may neglect other theories and research perspectives, but it hopes to provide some reference suggestions for improving the solution of relevant problems in the application of China's civil litigation settlement system.

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