

Condictio indebiti

Kort definisjon

Krav om tilbakeføring av mottatt betaling/oppfyllelse ved feilbetaling;
Betaling i villfarelse om pliktens eksistens eller omfang, eller for mye/lite

Hensyn

For: Korreksjonshensyn → materielt sett riktig oppgjør + Unngå tilfeldig fordel/ulempe
Mot: Oppgjørshensyn → mottakerens innrettelse + forutberegnelighet

1

Rettsfakta

- Anvendelse: "Feilbetaling"?
- Kjerneområdet: Betalt i villfarelse om pliktens eksistens/omfang
- Men: Intet "formelt condictio indebiti"-begrep, jf 01/1580; også hvis betalingen skyldes en kriminell handling
- Unntak: Betaling av foreldet gjeld kan ikke kreves tilbake
- Utgangspunkt: Tilbakebetalingsplikt?
- Tja, Bergsjøer → Nei (unnt. tilleggsbetaling); Lilleholt → Ja.
- Vurderingstema: Konkret helhetsvurdering av hva som er mest "rimelig", 85/290 (Birgo)
- Motstående hensyn: Oppgjørshensynet VS korreksjonshensynet
- Momenter:
- Skyld på noen av sidene? Ond/god tro?
- Objektiv årsak: Forhold på betalers/mottakers side?
- Graden av betalingspress? (Jo mer press, jo mer rimelig med restitusjon)
- Tiden som har gått: Lang eller kort tid? (Jo lengre tid → ikke restitusjon)
- Betalingens art: Kontant/hensynet; Behov for innrettelse (ex for mye løn)
- Mottakers konkrete innrettelse (Jo mer innrettelse → ikke restitusjon)
- Partenes stilling: Profesjonelle parter / forbruker
- Hvis tatt forbehold om tilbakebetaling ved feil → Ofte avgjørende

2

Rettsgrunnlag

1

Avtale

- Avtalefrihet: Partene kan alltid bli enige om endelig oppgjør eller tilbakebetaling

2

Lov

- Ikke konsekvent lovgivning. Reglene er i hovedsak ulovfestede

3

AOP?

- Jaui
- Dommer: Rt 1985 s. 290 (Birgo), Rt 1997 s. 1029 (M/S Marlin), Rt 2001 s. 1580 (Slåtto Husbygg), Rt 2010 s. 816 (Konsesjonsavgift), HR-2016-2491-A

3

Rettsvirkning

- ⇒ Tilbakebetalingsplikt
- Med eller uten renter?
- Hovedregel: Ansvarrente
- Unt: Skal en god del til hvis det først er rimelig med tilbakebetaling
- Hvis forbrukt: Berikelsesavleggelse?
- Antakelig ja (Indebitum betyr tross alt berikelse...)

Treatise On The Quasicontract Called Promutuum And On The Condictio Indebiti

Huangqi Zhang



Treatise On The Quasicontract Called Promutuum And On The Condictio Indebiti:

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en el recuadro de la derecha arriba los valores que se dan debajo corresponden al mismo la denominación de color rojo abarca al conjunto de coloraciones similares al estándar rojizas 4 etimología

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web fácilmente encontrar códigos de colores html para su sitio web utilizando nuestro selector de color tabla de color y de color html nombres con códigos hex color rgb y valores hsl los tres colores primarios rojo verde y azul están elaborados con

una mezcla la mayor intensidad del color deseado con la menor intensidad de los otros

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web en las siguientes tablas se da una lista de colores están agrupados por similitud de modo que a cada color básico se le han asociado sus matices el matiz es la cualidad que permite diferenciar un color de otro permite clasificarlo en términos de rojizo verdoso azulado etc se refiere a la ligera variación de tono que un color hace en el círculo

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released on 19 march 2020 through universal latin 2 the album was produced by sky rompiendo 3 it was preceded by the singles blanco morado and rojo with the latter being released the same day as the album

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