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The Legal Effect of the Preliminary Contract

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Abstract

The legal effect of the preliminary contract should be based on the theory of contracting. Comparing to the theory of negotiation and the theory of content determination, the theory of contracting is more appropriate in terms of respecting for parties' autonomy and meeting the purpose of concluding the preliminary contract. Besides, the theory of contracting better reflects the modern society's respect for and implementation of the principle of good faith, to maintain the security of transactions. Moreover, it is advantageous to the operation of judicial practice when applying the theory of contracting to the legal effect of the preliminary contract. Based on the theory of contracting, failing to perform the preliminary contract constitutes breach of it. It's supposed to apply the fault principle to judge whether the parties breach the preliminary contract or not, but the burden of proof is on the defendant.

Keywords

The Preliminary Contract; Legal Effect; the Civil Law.

1. Introduction

The conclusion of the contract is not overnight, the parties need to continuously contact and negotiate in order to finalize the contract. In this process, periodic agreement shall be protected by law. The preliminary contract is a typical approach for parties to stabilize the agreement of phased negotiations, which has a wide range of applications in the transaction practice, [1] like the subscription signed by the consumer and the developer when the commodity house is in the process of construction.

However, the legal effect of the preliminary contract has not been clearly defined in China's civil law up to now. There are different viewpoints which are the theory of contracting, the theory of negotiation and the theory of content determination.It is necessary to research on the legal effect of the preliminary contract, which is conducive to identifying the rights and obligations between the parties [2] and will further affect the confirmation of the breach of preliminary contract and the subsequent liability of the default party. Besides, it is requisite to determine what circumstances mean breach of the preliminary contract, especially understanding article 7 of Interpretation by the Supreme Peoples Court of Several Issues Concerning the Application of Title One General Provisions of Book Three Contracts of the Civil Code of the People's Republic of China. The resolution of these issues is conducive to unifying judicial decisions and safeguarding the interests of the parties involved.

2. Respect for Parties' Autonomy

From the perspective of parties' autonomy, the parties shall be bound by the declaration of intention, and the key to finding out the parties' true intention is to see the purpose. Article 495(1) of the Civil Code specifies that the object of the preliminary contract is 'to enter into a contract within a certain time limit in the future, but whether this object refers to the process or the result of the conclusion of the official contract, different understandings of it will lead to

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different interpretations of the legal effect of the preliminary contract. The former emphasizes the obligation to negotiate, corresponding to the theory of negotiation, while the latter underlines the obligation to conclude the official contract, corresponding to the theory of contracting.

The theory of negotiation holds that the parties of the preliminary contract only have one duty to negotiate in good faith. Once the parties have fulfilled their duty to negotiate in good faith for the conclusion of the official contract, it can be regarded as conducive to the realization of the purpose of the contract.[3] Just as the case of *Dai Xuefei v Jiangsu Suzhou Industrial Park Huaxin International City Development Corp Ltd* noted:

> "[T]he significance of the preliminary contract is to create the conditions for the eventual conclusion of the formal and fully formed contract by negotiating under the principle of fairness and good faith."[4]

In accordance with Article 495(1) of the Civil Code, the contract whose purpose is 'to enter into a contract within a certain time limit in the future' meets the definition of the preliminary contract. Otherwise, if the parties do not want to enter into the official contract, only for the purpose of fixing the results of the negotiation, first of all, the contract may not be characterized as a preliminary contract. Secondly, for such a situation, using the preliminary contract system to regulate it may damage the parties' freedom. The parties do not have the intention to contract in the future but have to bear the binding force of the preliminary contract, which seems to be an overkill. Scholars who hold the theory of contracting point out that the purpose of the preliminary contract is contracting rather than negotiation.[5] The party has the right to request the other party to fulfill the preliminary contract and conclude the official contract. In the case of *Zhang Li v Xuzhou Tongli Real Estate Corp Ltd*, the court held:

> "[I]f either party breaches the contract, fails to sign a contract with the other party or fails to sign contract with the other party in accordance with the contract, it shall be liable to the other party for breach of contract."[6]

For the viewpoints of the theory of contracting, one view indicates that it is tantamount to use the contractual freedom in the preliminary contract to limit the contractual freedom in the official contract, and this limitation is extremely unreasonable.[3] What's more, another opinion even expresses that the theory of contracting is the destruction of parties' autonomy, because it purely stresses the maintenance of the the performing party' interests. If the situation changes after the preliminary contract was concluded, the enforcement of contracting undermines substantive fairness and justice.[7] This kind of restriction criticized by the opinion is the essence of parties' autonomy in the civil law, which not only emphasizes the self-determination of the parties, but also necessarily requires self-responsibility. With full capacity for civil conduct, the parties have the ability to know and understand the preliminary contract system. They have chosen to enter into a preliminary contract and should be subject to the constraints of the legal effect of the preliminary contract. Otherwise, it is not only the trampling of the legal effect of the preliminary contract, but also detrimental to the rights and interests of the performing party. The viewpoint that the theory of contracting is tantamount to the enforcement of contracting confuses the two different concepts of the legal effect and the liability for the enforcement of performance.

In addition, one view suggests that there may also be other purposes of the preliminary contract. For instance, the parties intend to safeguard the results of their negotiation in the contracting stage, knowing that it is unlikely to conclude the official contract, or to use the preliminary contract to avoid the heavy burden of proof on the injured party under the system of *culpa in contrahendo*.[8] As for the viewpoint, if the preliminary contract is considered with the purpose

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of reducing the burden of proof for the parties, and the parties do have the intention to contract in the future, then reducing the burden of proof for the parties is not so much the purpose of the preliminary contract, but rather the function or role of it. As with other contracts, like the sales contracts, the ultimate purpose of the parties is the execution of sale, which means that the seller delivers goods and transfers ownership of the subject matter to the buyer, and that the buyer pays the seller. In addition to the conclusion and performance of the contract, there are other significance, such as the liquidation of the seller's inventory and the seller is able to make a profit, while the buyer is able to satisfy the needs of production or life. Similarly, the preliminary contract can have various functions, and some scholars have divided the functions of the preliminary contract based on different stages, from ensuring contact, to consolidating the periodic results, to preventing the other party from negotiating with a third party, and finally, to preserving the opportunity for change.[9] The fundamental purpose of the preliminary contract is still the future conclusion of the official contract. If the parties are not considered to have the obligation to conclude the official contract, it will frustrate the purpose of the preliminary contract.

Some scholars object to the absolute distinction between the theory of contracting and the theory of negotiation, arguing that they are either 'hard' or 'soft', and that the theory of content determination 'neutralizes' the two approaches.[10] The theory of content determination judges the legal effect of the preliminary contract by the specific content of the preliminary contract, and the proponents believe that the content of the contract terms will determine the degree of expectation and reliance of the parties.[11] Does the theory of content determination respect the true intention of the parties more than the the theory of contracting?

The current academics mainly classify the contract based on the completeness of the content of the preliminary contract or the nature of the pending clauses. The former like the preliminary contract hierarchy theory, which, according to the content of the contract, classifies the preliminary contract into simple preliminary contract, typical preliminary contract and complete preliminary contract, among which the simple preliminary contract and the typical preliminary contract apply the theory of negotiation, while the complete preliminary contract adopt the theory of contracting;[11] The latter, for example, one viewpoint sorts the pending clauses into subjective and objective clauses. If there are subjective pending clauses, indicating that the parties have no intention to be bound by the preliminary contract for the time being, the theory of negotiation should be applied. By contrast, if there are objective pending clauses, the theory of contracting should be held. [12] Although such a classification of the legal effect of the preliminary contract might be clearer, the problem is that the purpose of the preliminary contract is unidentified. It seems that the preliminary contracts which consist of different clauses have different purposes. However, as mentioned above, the fundamental purpose of the preliminary contract is to enter into the official contract within a certain time limit in the future, and the categorization of contracting and negotiation is not in line with the essential character of the preliminary contract.[5] The so-called theory of content determination can "neutralize" the theory of contracting and the theory of negotiation doesn't truly respect the parties' autonomy, not to mention that the theory is difficult to be reconciled with the basic issue that the preliminary contract aims at the conclusion of the official contract. Besides, the criteria for determining the theory are quite controversial, with different types of standards being intertwined in the academic community. For example, the preliminary contract hierarchy theory focuses on the decided terms, considering the preliminary contract contains how many essential or core terms to determine the legal effect of the preliminary contract, similar to the view of categorization of subjective and objective clauses.[8] Additionally, the 'type series' theory[13] are further broadened. It can be seen that the judgment criteria of the theory of content determination are various, for each has its own rationale, but not mature or forming a mainstream view. It is difficult to hide the challenges in the application. Therefore, it is not

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appropriate to apply the theory of content determination on the legal effect of the preliminary contract.

Other scholars believe that there is no fundamental difference between the theory of contracting and the theory of negotiation, both of which are oriented towards negotiation based on the principles of good faith and fairness, and both of which result in the conclusion of the contract for reasons other than those of the two parties. They believe the legal effect of the preliminary contract can only be 'to create an obligation for the parties to negotiate in good faith in order to enter into the official contract'.[14] The Second Civil Trial Division and Research Office of the Supreme People's Court agree with it, holding that the parties retain the decision-making right to complete the transaction after the conclusion of the preliminary contract, but they should make reasonable efforts to promote the conclusion of the contract during the negotiation process, without deliberately distinguishing the theory of conclusion with the theory of negotiation.[15] Such an explanation still does not respond to the doubts about the theory of contracting is 'hard' and the theory of negotiation is 'soft', and the expression of 'negotiating in good faith in order to enter into the present contract' is confusing. Does it only required negotiation, or does it just required contracting, or both? Why do some require contracting and the other only need to negotiate in good faith? Such an ambiguous standpoint is not as objective or practicable as the categorized discussion of the theory of content determination. In this regard, the theory of contracting is more reasonable.

3. Maintenance of the Transaction Security

From the perspective of transaction security, the theory of contracting can encourage the parties to be careful in concluding the preliminary contract, and increase the civil sanction for bad faith. In the case of *Wuhan Putijinjie commercial Corp Ltd v Wuhan Xianghualin commercial development Corp Ltd*, the court clearly expressed:

> "[P]reliminary contract not only has the legal effect of negotiation, but also has the final effect of contracting...Since the parties have entered into the preliminary contract, they have formed a trust relation between themselves, and therefore have a reasonable expectation of concluding the official contract in the future, which should be protected in accordance with the law."[16]

The theory of contracting is indeed beneficial to improve the parties' prudence to enter into the preliminary contract, placing an obligation on the parties to conclude the contract rather than merely to negotiate. It enhances the binding force of the preliminary contract to increase the parties' cost of contracting, so that the parties would take practical considerations of whether it is necessary to form a preliminary contract, which could enhance deterrence of the preliminary contract of bad faith. Imagine the following situation: party A and party B signed a preliminary contract, agreeing to sign the official contract within a certain period of time limit in the future. However, party A later found that collaboration with party C is more favorable, but had signed an preliminary contract with party B. So party A intended to break the preliminary contract. If party A directly refused to negotiate, regardless of adopting what theory, it constituted breach of contract. However, if party A in order to avoid the above breach of contract, continued to negotiate with party B maliciously, and refused to sign the contract with party B on the ground that they can't reach a consensus, it is difficult to prove party A's breach of contract by adopting the theory of negotiation. On the contrary, applying the theory of contracting is easier to regulate party A's bad faith behavior.

However, one view opposes that malicious negotiation can be sanctioned through *culpa in contrahendo*. The parties can agree on liquidated damages and deposit clauses in the preliminary contract to control this kind of behavior, but the same scholar also thinks that it is

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difficult to prove the 'malicious negotiation'.[17] Another opinion indicates that even if supporting the theory of negotiation, how to judge whether parties reasonably fulfill the obligation of negotiating in good faith is very difficult, for the principle of good faith is very abstract and it's impossible to completely get rid of the subjectivity and uncertainty of the legal principle.[13]

With regard to those arguments, first of all, the preliminary contract is an independent contract, even if applying the theory of negotiation, the parties did not perform or not properly fulfill the obligation to negotiation is also bear the 'liability for breach of contract'. The liability for breach of preliminary contract is different from *culpa in contrahendo*. From the perspective of the search order of the basis of the right to claim, it is not appropriate to skip the liability for breach of contract in the preliminary contract and directly resort to the *culpa in contrahendo* to deal with the problem of malicious negotiation. Secondly, whether it is 'malicious negotiation' or 'good faith negotiation', it is not only difficult to prove, but also too subjective to judge. Besides, there are also many risks that make negotiation a mere formality, which is difficult to truly achieve the purpose of negotiating in good faith. Civil law emphasizes the spirit of contract and the protection of the trust interests of the parties, which is the most important to maintain the security of the transaction. Since the parties have chosen the preliminary contract to achieve their purpose, they must accept the constraints of it and perform their contractual obligations.

4. Operation of Judicial Practice

Some scholars have pointed out that the theory of contracting is conducive to avoiding the cumbersome judicial operation and improving judicial efficiency.[5] The scholars did not explain how the theory simplifies the judicial operation. From this angle, it is better to say that the theory of contracting can be more beneficial to the judgement of the responsibility for the breach of the preliminary contract. As one view said: 'the liability for breach of contract is the embodiment and derivative of the theory of contracting.'[18] The party of the preliminary contract who disputes to the court or arbitration institution hope the other party bears the corresponding responsibility for breach of contract under the protection of public power. The judges or arbitrators start from judging the rights and obligations of the parties in the preliminary contract, and firstly discuss the legal effect of the preliminary contract. If the parties have the obligation to conclude the contract, logically, failure to conclude the contract naturally constitutes breach of the preliminary contract. Then, they would discuss the liability for breach of preliminary contract, including whether the preliminary contract can enforced to perform.

On the contrary, if the parties only have the obligation to negotiate in good faith, for one thing, as mentioned above, how to judge negotiation in good faith is a difficult problem: Can the decided terms be changed? How do parties formulate the pending clauses without contradicting the former agreement reached by them? In this regard, one scholar has proposed to strengthen the operability of the negotiation obligation by supplementing the content of the preliminary contract with the external situation like the behavior of the parties: first, judging whether it violates the principle of good faith from the behavior of the parties; second, the determined terms shall not be arbitrarily changed; third, comprehensively judging the subjective reasons in the undetermined terms.[11] This point of view still gives the subjective matter space to question. If the two parties can not reach an agreement through negotiation, how to judge whether the other party's 'subjective matter' or the implementation is in good faith? How to prove it? It is difficult to judge whether there is a breach of contract, which is the first question that the theory of negotiation meets in the process of practical operation. Secondly, in terms of responsibility, there is no room for further discussion of responsibility, but with regard to compensation for losses, what is the amount of it? What are the distinctions

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between it and *culpa in contrahendo*? Does it compress the applicable space of the preliminary contract? Comparatively speaking, the logic of the theory of contracting is more convenient to apply to judicial practice.

The theory of content determination is not universal. The content of contracts of different natures varies greatly, even if the contract is of the same nature, the understanding of its main terms may be different.[19] For example, the main terms of the preliminary contract of the sales contracts and the preliminary contract of the lease contracts are quite different. If the theory of content determination is to be applied, there will be a set of content judgment criteria for different types of preliminary contracts. This not only puts forward tedious research tasks for scholars, but also proposes higher requirements for the quality of legal practitioners, which is obviously difficult to adapt to the existing judicial level. Besides, the viewpoint that most of the current research on the theory of content determination is based on the transaction prototype of various agreements containing future contracting clauses in transaction practice, and there are still deficiencies in the observation of the preliminary contract system from the perspective of 'ought to be' and 'history' is also quite valuable.[20]

5. Confirmation of Breach of The Preliminary Contract

After clarifying the legal effect of the preliminary contract, it is known that the parties have the obligation to conclude the contract. If the parties fail to perform the obligation or the performance is not in accordance with the preliminary contract, it constitutes breach of it. This part will discuss under what circumstances the parties should bear the liability for breach of contract in combination with the provisions in the newly issued the Interpretation of General Provisions of Contracts.

China's current laws doesn't mention what is the legal effect of the preliminary contract. But for the circumstances of breach of the preliminary contracts, the Interpretation of General Provisions of Contracts provides for article 7(1), which stipulates two types of breach of preliminary contracts: one is refusing to conclude the official contract, and the other is violating the principle of good faith when negotiating the conclusion the official contract resulting in failure to conclude the official contract. How to reasonably explain the article is set out in detail below.

To begin with, if one of the parties refuses to conclude the official contract, does the refusal mean the party has not negotiated at all, or does it mean that the party has negotiated with another party but they cannot reach a consensus? The condition is a typical case of anticipated breach of contract that the party explicitly refuses to negotiate so that they can not strike an agreement. From the perspective of system interpretation, only in this way can it be distinguished from another situation.

Secondly, if one of the parties has violated the principle of good faith when negotiating the conclusion of the official contract resulting in failure to conclude the official contract, how can we explain it? In such case, it shall be determined whether the parties violate the principle of good faith. Does it mean that as long as the parties have fulfilled the principle of good faith during negotiation, even though they fail to conclude the official contract, it doesn't constitute breach of contract? Does it imply that Interpretation of General Provisions of Contracts take the theory of negotiation? According to the interpretation of the Second Civil Division of the Supreme People's Court, the parties still retain the decision-making right to complete the transaction after concluding the preliminary contract, but they should make reasonable efforts to promote the conclusion of the official contract during the negotiation process. They don't deliberately distinguish between the theory of contracting and the theory of negotiation. They consider the accountability of the parties as the criterion. If the two parties negotiate in good faith but fail to reach an agreement, they have no accountability, and it does not constitute

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breach of contract.[15] Based on the discussion in the previous part, it's more reasonable to apply the theory of contracting to the legal effect of the preliminary contract. So the interpretation of Article 7 of the Interpretation of General Provisions of Contracts should be carried out on the premise that the parties have the obligations to conclude the official contract. Avoiding answering precise legal effect of the preliminary contract, and only discussing whether the parties have the 'accountability', it confuses the legal effect of the preliminary contract with the imputation principle when the parties violate the preliminary contract.

Under the premise that the parties have the obligation to conclude the official contract, if the parties fail to fulfill the resulting obligations of concluding the official contract, it constitutes breach of contract based on the principle of strict liability. However, the problem is that if the parties still fail to fulfill the contract after good faith consultation, it does not constitute breach of contract in accordance with Article 7(1) of the Interpretation of General Provisions of Contracts. It seems to be a contradiction. In the light of the interpretation of the Supreme People's Court, the key to judging the breach of contract is whether the parties are accountable. Does it mean it's necessary to consider whether the parties are at fault in judging the breach of contract? In other words, does it mean that the fault liability principle should be adopted to judge whether the parties have breached the contract? The critical point lies in the fact of the law and policy orientation of the liability principle in preliminary contract.

Strict liability originates from the common law system, as it is usually a *facio ut des* and the principle of equal value is fully manifested, while the civil law system emphasizes the fault principle and limits the application of liability for breach of contract.[2] China's Civil Code elaborates the concept of 'breach of contract' with 'a party fail to perform its obligations under a contract, or its performance fails to satisfy the terms of the contract'.[21] The party shall bear the liability for breach of contract. Generally speaking, the principle of strict liability means it is not necessary to consider the fault of the party. As long as it violates the agreement of the parties or legal provisions, it shall bear the liability for breach of contract.[22] But the Civil Code also stipulates a number of fault liabilities, such as the power supplier's liability, the contractor's liability, the custodian's liability and so on.[2] First of all, the existing law does not exclude the principle of fault liability in the contract law, which means there is room for the application of fault liability in the preliminary contract. Secondly, although the preliminary contract is also a *facio ut des*, its object is the conclusion of the official contract, particularly. Especially when the parties embrace the sincerity and goal to achieve the official contract, they have made reasonable efforts to negotiate, but have been unable to reach an agreement, resulting in the failure to conclude the official contract. If the parties are still required to bear the liability for breach of contract, it is unfair to the parties, and the applicable effect of the principle of good faith is greatly reduced. In addition, on the premise that the theory of contracting has been taken as the legal effect of the preliminary contract, the parties have been made careful to conclude the preliminary contract and given greater constraints. It is necessary to give an exception to the parties who make reasonable efforts to negotiate in good faith, rather than rigidly applying the theory of contracting. Adopting the fault principle not only respects the parties' autonomy, but also conducive to the substantive fairness. Finally, Article 4 of Interpretation of the Supreme People's Court on the Relevant Issues concerning the Application of Law for Trying Cases on Dispute over Contract for the Sale of Commodity Houses clearly states that the condition of the return of deposit is 'reasons not attributable to both parties'. It can be seen that the judicial interpretation also holds the view of fault liability. It has been tested by practice in the field of sales of commodity house, and it is feasible to apply fault principle to the preliminary contract. Therefore, on the basis of the theory of contracting, it is more reasonable to interpret article 7 of the Interpretation of General Provisions of Contracts by adopting the fault principle.

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Of course, the 'exception door' of strict liability can not be opened too wide. Otherwise it may damage the interests of the performing party. Hence, it is the defendant that should prove that it has made reasonable efforts to negotiate in good faith, and there is no liability for it, so as to reduce the burden of proof of the plaintiff. According to the theory of contracting, the parties have the obligation to conclude the official contract within a certain period of time limit in the future. Whether they breach the preliminary contract depends on whether they have fault to determine whether they should bear the liability for breach of contract, which is the above-mentioned 'accountability'. But it is not that if the official contract is not finally concluded, the defendant shall bear the liability for breach of contract. Article 7(1) of Interpretation of General Provisions of Contracts has cleared the condition. First, in the case of refusing to conclude the official contract, it's obvious of the subjective malice of the default party, which constitutes breach of preliminary contract and the default party shall bear the liability for breach of contract. Second, in the case of violating the principle of good faith when negotiating the conclusion the official contract resulting in failure to conclude the official contract, the defendant shall prove that it has conducted reasonable negotiations strictly adhering to the principle of good faith, has no fault and does not need to bear the responsibility.

Article 7(2) of Interpretation of General Provisions of Contracts provides for how to determine whether or not one of the parties has violated the principle of good faith when negotiating the conclusion of the official contract, including comprehensive consideration of two factors: one is whether the conditions proposed by the party in the negotiation obviously deviate from the contents as agreed in the preliminary contract, the other is whether or not reasonable efforts have been made in the negotiation. The first question is what can be regarded as 'obviously deviate from the contents as agreed in the preliminary contract'? One view indicates that it includes the resumption of negotiations on decided clauses and the malicious negotiation on pending clauses.[23] This view is reasonable. As far as the decided clauses are concerned, it doesn't mean that the clauses can't be changed in the least. For example, they can be polished by a more concise expression of the same meaning, or by a more detailed interpretation which does not contradict the original meaning in order to avoid malicious interpretation of the original clauses after several years. Differently, if all the existing agreements are overturned and negotiations are restarted, it is a departure from the agreement. As far as pending clauses are concerned, malicious negotiation means that the party has no real intention to conclude the official contract, but still starts or continues to negotiate. During this period, the contents of the preliminary contract referred to include the parties' explicit agreement on the contents of the official contract in the preliminary contract, the contents that can be obtained in accordance with the rules of contract interpretation and contract loophole filling.[15] Secondly, how can we interpret reasonable efforts have been made in the negotiation? One opinion interpret that the key is to see whether the conditions put forward by the parties in the process of negotiation are reasonable, and whether the conditions obviously deviate from the contents of the contract.[15] Such interpretation overlaps with the scope of the first factor. Since the judicial interpretation has stipulated the two side by side, the 'reasonable efforts' should be other criteria besides 'the contents as agreed in the preliminary contract', such as the frequency of negotiation between the parties, which can be determined by the judge according to the circumstances of the specific case.

6. Conclusions

Studying on the legal effect of the preliminary contract, the paper believes that the legal effect of the contract should adopt the theory of contracting. Compared with the theory of negotiation, the former is more in line with the purpose of the contract, respectful for the parties' autonomy, and conducive to protect the parties' reliance interests and maintain transaction security. The

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theory of contracting is also more operable in judicial practice. The theory of content determination is not desirable in judging the legal effect of the preliminary contract, as it does not conform to the basic characteristics of the preliminary contract, and various content classification standards are so staggered and different that it is not universal.

Then, based on the theory of contracting, the parties have the obligation to enter into the official contract, and failure to perform or not perform as agreed constitutes a breach of the contract. It's supposed to apply the fault principle to judge whether the parties breach the preliminary contract or not, but the burden of proof is on the defendant. In accordance with Article 7(1) of the Interpretation of General Provisions of Contracts, refusing to conclude the official contract is a typical case of anticipated breach of contract. If one of the parties has violated the principle of good faith when negotiating the conclusion of the official contract resulting in failure to conclude the official contract, it is accountable and shall bear the corresponding responsibility for breach of the contract. Article 7(2) of the Interpretation of General Provisions of Contracts provides for how to determine whether or not one of the parties has violated the principle of good faith when negotiating the conclusion of the official contract.

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[23] Sui Xiaopeng, “ Understanding of the Preliminary Contract in the Civil Code[N]” People's Court News (6 August 2020) 7.