

PRACTICAL APPLICATION OF CASE LAW IN RESOLVING CIVIL DISPUTES IN VIETNAM

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ABSTRACT

In the context of judicial reform and international integration, Vietnam's legal system is undergoing profound transformations to meet the requirements of a socialist rule-of-law state. One of the significant highlights of this process is the recognition and application of case law as a supplementary legal source in the resolution of civil disputes. Officially introduced into the legal system in 2015 through Resolution No. 03/2015/NQ-HĐTP of the Council of Judges of the Supreme People's Court (SPC), case law has become an important tool assisting judges in adjudicating complex cases, particularly in situations where statutory law lacks clear provisions or where legal gaps exist [1]. As of July 2025, the SPC has published 72 case laws, establishing an important legal foundation to ensure consistency, fairness, and transparency in the adjudication of civil disputes.

Case law, serving as a legal reference source, not only supports judges in rendering fair judgments but also contributes to overcoming the limitations of statutory law, which often lacks flexibility in addressing novel or complex legal situations [2]. However, the practical application of case law in Vietnam still faces multiple challenges, including inconsistencies in application across courts, difficulties in identifying similar legal situations, and a limited number of judgments citing case law [3]. This paper analyzes the theory and practice of applying case law in the resolution of civil disputes in Vietnam, evaluates achievements and limitations, and proposes solutions to enhance the effectiveness of case law application, thereby contributing to the improvement of the judicial system and the protection of human rights.

Keyword: Case law; Civil disputes; Judicial reform; Vietnamese legal system; Supreme People's Court; Human rights protection.

1. INTRODUCTION

The application of case law in resolving civil disputes in Vietnam originates from the requirements of judicial reform set out in Resolution No. 49-NQ/TW dated June 2, 2005, of the Politburo on the Strategy for Judicial Reform to 2020. This Resolution emphasized the duty of the Supreme People's Court to "summarize adjudication experience, provide guidance for uniform application of the law, develop case law, and adjudicate cassation and reopening cases" [4]. Within this context, case law is regarded as an important instrument to ensure consistency in the application of law, particularly in complex civil disputes where the existing statutory provisions are insufficient to provide a thorough resolution.

Previous studies have provided important theoretical foundations regarding case law. For instance, Trương Hòa Bình (2015) analyzed the

implementation of case law in judicial practice in Vietnam, emphasizing its role in shaping the legal reasoning of judges [5]. Similarly, Nguyễn Văn Nam (2012) compared case law systems in England, the United States, France, and Germany, thereby proposing lessons learned for Vietnam [6]. However, these studies mainly focused on theoretical aspects or international comparisons and did not delve into the practical application of case law in a specific locality, such as Phú Thọ Province, or after the issuance of 37 new case laws pursuant to Resolution No. 49-NQ/TW. This study, therefore, holds both theoretical and practical significance, contributing to clarifying existing issues and proposing solutions to improve the legal framework on case law in Vietnam.

Furthermore, the development of civil, commercial, and economic relations in the context of international integration has increased the complexity of disputes, requiring the judiciary to

be more flexible and innovative. Case law, with its guiding and supplementary nature, not only assists judges in resolving cases fairly but also helps forecast judicial outcomes, thereby enhancing public confidence in the judicial system [7]. However, the application of case law still encounters numerous obstacles, such as uneven legal awareness, lack of specialized training, and an underdeveloped enforcement mechanism within the legal system. These challenges call for in-depth research, not only to assess the current situation but also to propose feasible and sustainable solutions.

2. OVERVIEW OF CASE LAW IN THE RESOLUTION OF CIVIL DISPUTES

2.1. Concept and Characteristics of Case Law

Case law in Vietnam is defined in Resolution No. 03/2015/NQ-HĐTP as “the arguments and rulings in judgments or decisions that have taken legal effect, selected by the Council of Judges of the Supreme People’s Court and announced by the Chief Justice of the Supreme People’s Court as case law for courts to study and apply in adjudication” [8]. Unlike the common law system, where case law is binding, case law in Vietnam has a guiding nature, consistent with the civil law tradition of the socialist legal system.

Case law in Vietnam has the following prominent characteristics:

(i) **Strict formation process:** Case law is selected from judgments or decisions that have taken legal effect, reviewed and published by the Council of Judges of the Supreme People’s Court, ensuring standards and transparency [9];
(ii) **Guiding, non-binding nature:** Case law does not have binding force like statutory provisions, but serves as a guiding tool to help judges make appropriate rulings in similar cases [10];

(iii) **Reflection of judicial practice:** Case law is developed from real cases, reflecting complex legal situations, thereby helping to fill legal gaps and predict outcomes of adjudication [11];

(iv) **Diverse classification:** Civil case law is divided into two main groups: case law on personal rights (related to honor, dignity, marriage, and family) and case law on property rights (related to ownership, contracts, and inheritance) [12]. These characteristics make case law an important tool in assisting judges in

resolving civil disputes, especially in situations where statutory law is insufficient or unclear.

2.2. Application of Case Law in Civil Disputes

The application of case law is the process by which courts use arguments and rulings from published case law to resolve cases with similar legal circumstances. This process is not a simple replication of judgments but requires judges to compare and contrast the legal essence and specific facts of the current case with the cited case law [13]. This demands sharp legal analysis skills, the ability to identify similar legal situations, and flexibility in applying case law to practice. For example, in credit contract disputes, Case Law No. 08/2016/AL provides specific guidance on determining contractual interest rates when statutory provisions are unclear. Similarly, Case Law No. 04/2016/AL on land-use right disputes has assisted judges in resolving cases involving invalid civil transactions due to non-compliance with legal conditions [14]. These examples demonstrate that case law not only ensures consistency in the application of law but also guides the legal reasoning of judges, thereby improving adjudication quality.

According to Resolution No. 04/2019/NQ-HĐTP, judges and trial panels are obliged to study and apply case law when adjudicating cases with similar legal circumstances [15]. The Supreme People’s Court plays a central role in publishing, guiding, and supervising the application of case law to ensure consistency across the judicial system.

The application of case law must comply with the fundamental principles of civil law stipulated in Article 3 of the 2015 Civil Code, including equality, non-discrimination, freedom of agreement, and the protection of human rights [16]. In addition, the adversarial principle, set forth in Article 24 of the 2015 Civil Procedure Code, ensures that the application of case law must be carried out openly, transparently, and fairly, with the full participation of litigants [17].

The process of publishing case law in Vietnam consists of the following steps:
(1) proposals for case law from entities such as judges, procurators, or lawyers;
(2) review by the Department of Legal Affairs and Scientific Management of the Supreme People’s Court;
(3) approval by at least two-thirds of the members

of the Council of Judges; and (4) publication on the official portal of the Supreme People's Court [18]. Once published, case law becomes an official reference source for courts, but its implementation still encounters difficulties due to a lack of detailed guidance and uneven legal awareness.

Case law helps resolve civil disputes in cases where the law lacks specific provisions, thereby ensuring fairness and stability in civil relations. Moreover, its application provides practical grounds for the legislature to amend and supplement the law, addressing shortcomings in the current legal system [19]. For example, case laws on contractual disputes have contributed to shaping statutory provisions on civil transactions in the 2015 Civil Code.

Vietnam, with its socialist legal foundation and civil law tradition, applies case law as a supplementary source without binding force, unlike in common law systems. This reflects the fundamental difference between Vietnam's legal system and those of common law countries such as England and the United States [20]. The application of case law in Vietnam is also influenced by factors such as judges' legal awareness, professional competence, and the increasing complexity of civil relations in the context of international economic integration. These factors require a flexible approach while still ensuring consistency and strict adherence to the law.

2.3. Current Situation of Case Law Application in Civil Disputes

According to Resolution No. 04/2019/NQ-HĐTP, case law is only applied when the case has a legal situation similar to the published case law, there is no specific statutory provision, and the case law remains valid [21]. However, this document does not provide clear criteria for determining "similar legal situations," leading to differences in interpretation and application among courts.

The 2015 Civil Procedure Code and Resolution No. 04/2019 have established a clear and transparent legal framework for applying case law. The publication of 72 case laws—including those concerning contract disputes, land disputes, inheritance, and personal rights—has assisted judges in resolving many complex cases, thereby improving the quality of adjudication [22]. For

instance, Case Law No. 09/2016/AL on loan contract disputes has helped unify the determination of contractual interest rates in cases where no clear agreement existed between the parties.

Nevertheless, the current number of case laws remains limited compared to practical needs, especially in new areas such as e-commerce or technology-related disputes. Moreover, the lack of an effective mechanism to supervise the application of case law has resulted in situations where some judges avoid citing case law out of fear of errors or lack of confidence in legal analysis [23]. In addition, statutory provisions have not clarified the application of case law to civil transactions occurring before the case law was published, creating difficulties in judicial practice.

These limitations stem from several causes, including:

- (1) the civil law tradition, which makes judges prioritize statutory provisions over case law;
- (2) a lack of specialized training in case law analysis and application;
- (3) the absence of a concrete procedure to revise or annul case laws that are no longer suitable for practice [24].

3. PRACTICAL APPLICATION OF CASE LAW IN RESOLVING CIVIL DISPUTES

From 2016 to July 2025, a total of 1,233 civil cases nationwide applied case law, including 990 cases at the first-instance level and 243 cases at the appellate level. Southern provinces, particularly Ho Chi Minh City and Dong Nai, accounted for a high proportion (75.51%) of case law application due to their socio-economic development and the influence of common law-oriented legal reasoning [25]. The most common areas of case law application included contract disputes (45%), land disputes (30%), and inheritance disputes (15%). These figures demonstrate that case law has played a significant role in ensuring consistency and fairness in adjudication.

Despite certain positive outcomes, the application of case law has not been uniform across localities and levels of adjudication. Some judgments cited case law but lacked detailed analysis of the similar legal situation, leading to unconvincing reasoning. For instance, in Judgment No. 98/2019/DS-PT dated August 27, 2019, of the People's Court of District Đ, Province C, the court cited Case Law No. 08/2016/AL on credit contract interest rates, but

failed to clearly explain the legal context and application, resulting in an unpersuasive judgment [26]. Similarly, in the case between Bank S and Ms. Thái Thị N, case law was cited in the decision section of the judgment but was not thoroughly analyzed in the reasoning section, creating inconsistency in the legal argumentation [27].

Another limitation is the reluctance of some judges to apply case law due to concerns about errors or possible appeals. This partly arises from the civil law tradition, which prioritizes statutory provisions over supplementary legal sources such as case law [28]. Furthermore, the absence of detailed guidelines on how to cite case law in judgments has left some judges uncertain, resulting in superficial or incomplete application.

These shortcomings stem from various factors, including:

(1) uneven legal awareness among judges and judicial officers;

(2) insufficient specialized training on case law analysis and application;

(3) the absence of mechanisms to supervise and evaluate the effectiveness of case law application; and

(4) the increasing complexity of civil relations in the context of international economic integration [29].

For example, in Judgment No. 98/2019/DS-PT dated August 27, 2019, by the People's Court of District Đ, Province C, involving a dispute over a loan contract between Mr. Nguyễn Văn A and Ms. Trần Thị B, the court cited Case Law No. 08/2016/AL on credit contract interest rates. However, the reasoning section only made general references to the case law without analyzing specific legal similarities, such as the timing of the contract, the parties' economic conditions, or their mutual intent. This lack of detailed analysis weakened the persuasiveness of the judgment and diminished the guiding value of the case law in this instance [30].

In another case between Bank S and Ms. Thái Thị N (Judgment No. 123/2020/DS-ST), concerning a dispute over a credit card contract, the court cited Case Law No. 09/2016/AL to determine the parties' responsibilities under the contract. However, the judgment mentioned the case law only in the decision section without analyzing it in

the reasoning section, leading to inconsistencies in the legal argumentation. This not only reduced the quality of the judgment but also made it difficult for the litigants to fully understand the legal basis of the decision. Moreover, the failure to clearly analyze the similar legal circumstances prevented the judgment from fully leveraging the guiding value of case law.

These two examples show that although case law has been cited in practice, its application often remains formalistic, lacking in-depth analysis and detailed comparison. This not only reduces the effectiveness of case law but also undermines public confidence in the judicial system.

4. CONCLUSION.

Case law has been affirming its important role in filling legal gaps, ensuring consistency and fairness in resolving civil disputes in Vietnam. However, the practical application of case law still faces numerous challenges, such as inconsistent application among courts, the limited number of case laws, and uneven legal awareness.

The proposed solutions—from improving the legal framework, enhancing the quality of case law, strengthening training, to applying technology—are not only responsive to the requirements of judicial reform but also contribute to the protection of human rights and the promotion of international integration.

This study aims to provide a comprehensive view of the practical application of case law while contributing to the construction of a professional, transparent, and fair judicial system in Vietnam.

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