

Legal Problems on the Charitable Trust in Japan

Tadahiko Fujino (Mitsubishi Trust and Banking)

The Charitable Trust was finally realized in Japan in May 1977.

The first Charitable Trust is called "The Imai Memorial Charitable Trust for Overseas Cooperation," which aims at contributing to the economic and social development of developing nations. It took us more than half a century before the realization of the Charitable Trust since the establishment of the Trust Act in 1922, on which the Charitable Trust is based.

Though the basic reasons why its realization was delayed are as follows :

(1) the under development of the philanthropic activities in our country, (2) the precedence of the Charitable Corporation under the Civil Law as a similar legal system, (3) lack of public understanding of the trust, the detailed and more serious bottlenecks are as follows : (1) the absence of subordinate laws to the Trust Act, as to the ministerial ordinance, (2) lack of the tax advantages, (3) the great number of unsolved problems remaining concerning legal principles and legislation.

The author was heavily worried about these problems participating in the practical business of undertaking the first Charitable Trust.

Some of them were solved in the process of the establishment of the first case. But most of them are as yet unsolved. Therefore the Charitable Trust in Japan under existing circumstances is a very inconvenient system with many restrictions.

The purpose of this paper is to look for the clue to the removal of bottlenecks from two points of view ; the legal principles and the legislation.

The author hopes that this paper will trigger a solution to these problems and the

Charitable Trust will make a contribution to the development of philanthropic activities in our country.

The contents of this paper are as follows :

- 1 The realization of the Charitable Trust
- 2 Problems concerning the settlement of the Charitable Trust
- 3 Problems on the contents of the trust agreement
- 4 Problems which should be solved before the development of the Charitable Trust

