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Article Content

Title : [Taiwan Code of Civil Procedure \(2003.06.25 Amended \)](#)  

PART II PROCEDURE IN THE FIRST INSTANCE

CHAPTER II MEDIATION PROCEEDING

Article 403 Except in cases provided in the subparagraphs of the first paragraph of Article 406, the following matters shall be subject to mediation by the court before the relevant action is initiated:

1. Disputes arising from a relationship of adjacency between real property owners or superficiaries, or other persons using the real property;
2. Disputes arising from the determination of boundaries or demarcation of real property;
3. Disputes among co-owners of real property arising from the management, disposition, or partition of a real property held in undivided condition;
4. Disputes arising from the management of a building or of a common part thereof among the owners of the dividedly-shared title or persons using the building;
5. Disputes arising from an increment or reduction/exemption of the rental of real property;
6. Disputes arising from the determination of the term, scope and rental of a superficies;
7. Disputes arising from a traffic accident or medical treatment;
8. Disputes arising from an employment contract between an employer and an employee;
9. Disputes arising from a partnership between the partners, or between the undisclosed partners and the nominal business operator;
10. Disputes arising from proprietary rights between spouses, lineal relatives by blood, collateral relatives by blood within the fourth degree of relationship, collateral relatives by marriage within the third degree of relationship, or head of the house or members of the house;
11. Other disputes arising from proprietary rights where the price or value of the object in dispute is less than NTD 100,000.

The Judicial Yuan may, where necessary, order the amount provided in the eleventh subparagraph of the preceding paragraph to be reduced to NTD 50,000 or increased to NTD 150,000.

Article 404 In matters not provided in the preceding paragraph, a party may apply for mediation before initiating the relevant action.
In cases where the parties have agreed to refer their dispute to court mediation before initiating the relevant action, an action initiated by one party shall be deemed an application for mediation by that party upon the objection

of the opposing party. Notwithstanding, where the parties have proceeded orally on the merits, no such objection may be raised.

Article 405 The mediation shall be initiated on a party's application. The application provided in the preceding paragraph shall specify the legal relation in dispute with a description of the dispute. The original copy or a photocopy of the documentary evidence, if any, shall be produced. The court having jurisdiction over an application for mediation shall be determined in accordance with the provisions of Section 1, Chapter I of Part I which shall apply *mutatis mutandis*.

Article 406 In case of any of the following, a court may by a ruling immediately dismiss the application for mediation:

1. Where, according to the nature of the legal relation, the status of the parties, or other circumstances, the mediation is considered infeasible or plainly and manifestly unnecessary, or there is clearly no prospect of a successful mediation;
2. Where mediation by another legally authorized mediatory agency has been sought with no successful result;
3. Where the dispute arises from negotiable instruments;
4. Where the dispute is raised by a counterclaim;
5. Where the notification to be served upon the opposing party should be effectuated either by constructive notice or in a foreign country; or
6. Where the dispute arises from a claim by a financial institution based upon a loan contract or credit card contract.

The ruling provided in the preceding paragraph is not reviewable.

Article 406- 1 A summary court judge shall conduct the mediation proceeding. The mediation shall be attempted in advance by one to three mediators appointed by the judge. The judge will appear in such mediation session when the mediation has reached a stage with prospect shown for a successful mediation or the circumstances require the judge's presence. Notwithstanding, mediation may be conducted immediately by the judge upon the parties' agreement to do so or where the judge considers it appropriate to do so. In cases where a party has objected to any of the appointed mediators provided in the preceding paragraph, or where the parties have agreed to appoint other appropriate persons, the judge may re-appoint or appoint such persons as agreed-upon by the parties.

Article 406- 2 The district court shall prepare a list of candidates within its jurisdictional boundaries who are suitable to be appointed and act as mediators. The Judicial Yuan shall prescribe the number, qualification, term of office, and the appointment or dismissal of such candidates and other relevant matters. A judge may, where he/she considers it necessary to do so, appoint persons to act as mediators irrespective of the list provided in the preceding paragraph.

Article 407 The judge shall designate the mediation session on his/her own initiative. The subsequent mediation session may be designated by the chief mediator or, absent a chief mediator, by the authorized mediator. The provisions of Article 156 and Article 159 shall apply *mutatis mutandis* to a judge's designation of a mediation session. The pleading for the mediation application or the court record of an oral application shall be served upon the opposing party along with the notice of a mediation session. The notice provided in the preceding paragraph shall bear a note on the legal effect of a failure to appear.

- Article 407- 1 Where the mediation is conducted by a mediator, its proceeding shall be directed by such mediator. Where there are two or more mediators, the judge shall appoint one as the chief mediator to direct the proceeding.
- Article 408 The judge may, where necessary, order the parties or their statutory agents to appear in person at the mediation session. Where necessary, the mediators may request the judge to issue such an order.
- Article 409 In cases where a party has failed to appear at the mediation session without just cause, the court may by a ruling impose a fine not exceeding NTD 30,000 on such party. The same principle shall apply even if the agent of a party has appeared but the party disobeys the order provided in the preceding article without giving a justifiable reason.
An appeal may be taken from the ruling provided in the preceding paragraph; the execution of the ruling shall be stayed pending such appeal.
- Article 409- 1 For the purpose of the mediation, the court may, on a party's motion, prohibit the opposing party from altering the status quo or disposing of the object in dispute, or order such party to perform or refrain from performing specific acts. Where necessary, the court may order the movant to provide a security. No appeal may be taken from the ruling on the motion provided in the preceding paragraph.
The court shall, before taking the measures provided in the first paragraph, accord the parties an opportunity to be heard, except in cases where the court considers it inappropriate to do so or the party has failed to present any statement after being so notified. The measures provided in the first paragraph cannot be used as a writ of execution and shall be inoperative upon conclusion of the mediation proceeding.
In cases where a party has disobeyed the order for the measures provided in the first paragraph without giving a justifiable reason, the court may by a ruling impose on such party a fine not to exceed NTD 30,000.
An appeal may be taken from the ruling provided in the preceding paragraph; the execution of the ruling shall be stayed pending such appeal.
- Article 410 The mediation proceeding shall be conducted in a courtroom or, where necessary, at another appropriate place. The mediators shall obtain the judge's permission in order to conduct the mediation proceeding at another appropriate place.
The mediation provided in the preceding paragraph may be conducted without being open to the public.
- Article 410- 1 In cases where the mediators find the existence of one of the circumstances provided in the subparagraphs of the first paragraph of Article 406, they shall report such fact to the judge for disposition.
- Article 411 The mediators may receive daily fees, travel expenses, and appropriate compensation for conducting the mediation. The Judicial Yuan shall prescribe the accounting and the rates of such expenses and compensation. The daily fees, travel expenses, and compensation provided in the preceding paragraph shall be borne by the national treasury.
- Article 412 A third person having an interest in the subject matter of the mediation may, with the permission of the judge, intervene in the mediation proceeding. The judge may notify the third party of the mediation proceeding and order him/her to intervene.
- Article 413 For purposes of clarifying the relationships and the issues in dispute, the parties or persons who have the relevant special knowledge/experience or who know the whole story about the subject matter, or other interested

persons may be heard, and an on-site inspection or inspection of the object of mediation may be conducted during the mediation process. The judge may take evidence where necessary.

Article 414 The mediation shall be conducted peacefully and sincerely. Appropriate mediation/guidance shall be provided to the parties. An appropriate proposal should be recommended with a view to a fair and amicable resolution acceptable to the parties.

Article 415 (Repealed.)

Article 415- 1 In the mediation of disputes over proprietary rights, with the consent of both parties, the mediators may, in their discretion, propose the terms of mediation.

Except as otherwise agreed-upon by the parties, the terms of a mediation provided in the preceding paragraph shall be determined by the majority of the mediators.

Where the mediators are unable to determine the proposed terms of the mediation in accordance with the preceding paragraph, the judge may, with the consent of both parties, determine the proposed terms or designate another mediation session or deem the mediation unsuccessful.

The terms of the mediation proposed by the mediators shall be made either in a writing bearing the date, or shall be indicated in the mediation proceeding transcript by the court clerk, signed by the mediators, and forwarded to the judge for review and approval. After the judge approves the proposed terms, the mediation shall be deemed successful.

The writing of the approved proposed terms of the mediation provided in the preceding paragraph shall serve as the mediation proceeding transcript.

Where the judge proposes the mediation terms, the mediation shall be deemed successful upon entry of such terms in the mediation proceeding transcript by the court clerk.

Article 416 A successful mediation is reached upon the agreement of the parties. A successful mediation shall take the same effect as a settlement in litigation. Where grounds exist for nullifying or revoking the mediation, the party may initiate an action for a nullification declaration or for revoking the mediation in the original court.

In the case provided in the preceding paragraph, the mediation applicant may consolidate his/her claim arising from the subject matter of the mediation or interpose a counterclaim and request the court to adjudicate such claim jointly upon entering a decision declaring the nullification of or revoking the mediation. In such cases, the action shall be deemed to have been initiated upon the filing of the application for mediation.

The provisions of Article 500 to Article 502 inclusive and Article 506 shall apply mutatis mutandis to the cases provided in the second paragraph.

In case of an unsuccessful mediation, the court shall issue a certificate thereof to the parties.

Article 417 In cases of a mediation of disputes over proprietary rights, where the parties are unable but are close to reach an agreement, the judge shall take all circumstances into consideration, consult with the mediators, balance the interests of the parties, and thereafter, subject to the main intent expressed by the parties, propose a resolution on its own initiative.

The proposed resolution provided in the preceding paragraph shall be served upon the parties and the interested persons who have intervened.

Article 418

A party to the mediation or an interested person who has intervened may object to the proposed resolution provided in the preceding article within a ten-day peremptory period following the service thereof.

The mediation shall be deemed unsuccessful upon an objection raised to it within the period provided in the preceding paragraph. In cases where no objection is raised within the period provided in the preceding paragraph, the mediation shall be deemed successful in accordance with that proposed resolution.

The court shall notify the parties and the interested persons who have intervened of the objection raised in accordance with the provision of the first paragraph of this article.

Article 419 In cases of an unsuccessful mediation after both parties have appeared at the mediation session, the court may, on motion by one party, order an immediate oral argument in accordance with the litigation proceeding applicable to the subject matter. Notwithstanding, where the opposing party has moved for a continuance, the court shall so grant the motion. In the case provided in the preceding paragraph, the action shall be deemed to have been initiated upon the filing of the application for mediation. In cases of an unsuccessful mediation, where the applicant for mediation initiates the action within the ten-day peremptory period following service of the certificate of unsuccessful mediation, such action shall be deemed to have been initiated upon the filing of the application for mediation. The same shall apply where such action has been initiated before the certificate is served.

In cases where the mediation is deemed applied for by initiating the action or by the debtor's objection to a payment order and if the mediation is unsuccessful, the court shall order immediate oral argument in accordance with the litigation proceeding applicable to the subject matter, except where the party has moved for continuance. In such case, all effects resulting from the original initiation of action or the application for issuance of a payment order shall remain operative.

Article 420 In cases where one or both parties have failed to appear at the session, the judge may, in his/her discretion, deem the mediation as unsuccessful or designate another mediation session.

Article 420- 1 An action pending in the court of first instance may, with the consent of both parties, be referred to mediation.

In the case provided in the preceding paragraph, the litigation proceeding shall be stayed. Where a successful mediation is reached, the action is concluded accordingly. Where the mediation fails, the litigation proceeding shall resume accordingly.

In cases of a successful mediation after the action was referred to mediation in accordance with the provision of the first paragraph, the plaintiff may move for the return of one half of the court costs paid within three months from the day of the successful mediation.

Article 421 The court clerk shall maintain the mediation proceeding transcript, make a note of a successful or unsuccessful mediation, and of a continuance or of the oral argument. Notwithstanding, where the mediation is conducted by mediators, such mediators themselves may take note of an unsuccessful mediation or a continuance.

Where the proposed resolution provided in Article 417 is announced by the judge at the mediation session, such fact shall be indicated in the transcript. Within ten days of a successful mediation, an authenticated copy of the

transcript shall be served upon the parties and the interested persons who have intervened.

The provisions of Article 212 to Article 219 inclusive shall apply mutatis mutandis to the transcript provided in the first and the second paragraphs.

- Article 422 No mediation/guidance provided by the mediators or the judge, and no representations or concessions made by the parties during the mediation proceeding may be admitted as the basis for making decisions in an action initiated as a result of an unsuccessful mediation.
- Article 423 In cases where an action is initiated as a result of an unsuccessful mediation, the expenses for the mediation proceeding shall be included as a part of the litigation expenses. Where no such action is initiated, the applicant shall bear the expenses.
The provision of Article 84 shall apply mutatis mutandis to a successful mediation.
- Article 424 In cases where the action is initiated promptly for any of the disputes provided in the first paragraph of Article 403, it is advisable that the complaint specify the existence of one of the grounds provided in the first paragraph of Article 406 and annex such evidence as a preliminary showing thereof. Absent existence of such a ground, the action will be deemed an application for mediation.
Where multiple claims have been raised in the action, and part of such claims did not arise from the disputes provided in the first paragraph of Article 403, the provision of the preceding paragraph with regard to an action being deemed an application for mediation shall not apply.
- Article 425 In cases where the application for mediation is voluntarily withdrawn, such application shall be deemed not to have been filed. Notwithstanding, the applicant shall bear all the expenses incurred by the application.
- Article 426 The judge, the court clerk, and the mediators shall keep in confidence all information with regard to another person's professional or business secrets or other matters involving another person's privacy learned by them in the course of handling mediation cases.
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