SPC Guiding Case No. 122: Henan Shenquan Zhiyuan Industrial Development Co., Ltd. v. Zhao Wujun, Ruzhou Boyi Sightseeing and Medical Theme Park Development Co., Ltd. et al. (Enforcement Supervision)

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Keywords

Enforcement; enforcement supervision; consolidated enforcement; order of satisfaction.

Holding

Where an enforcement court consolidates several cases against the same person subject to enforcement for enforcement, it shall satisfy the claims in accordance with the order of satisfaction of the various claims of the applicants for enforcement, so as to avoid harming the interests of other creditors with a prior order of priority.

Basic Facts

In enforcing four private lending dispute cases brought by Chen Dongli, Guo Hongbin, Chun Shaofeng, and Jia Jianqiang against Ruzhou Boyi Sightseeing and Medical Theme Park Development Co., Ltd. (hereinafter "Boyi Company"), Yan Qiuping, and Sun Quanying, the Pingdingshan Intermediate People's Court of Henan Province (hereinafter the "Pingdingshan Intermediate Court") had before it the original applicants for enforcement Chen Dongli, Guo Hongbin, Chun Shaofeng, and Jia Jianqiang, who respectively assigned their claims against Boyi Company, Yan Qiuping, and Sun Quanying, which they held under effective legal instruments, to Henan Shenquan Zhiyuan Industrial Development Co., Ltd. (hereinafter "Shenquan Zhiyuan Company"). Based on the application of Shenquan Zhiyuan Company, on April 4, 2017, the Pingdingshan Intermediate Court rendered Enforcement Ruling (2016) Yu 04 Zhi 57-4, changing Shenquan Zhiyuan Company to be the applicant for enforcement in the above four cases, with a total claim amount of RMB 129,605,303.59 (including principal, interest, and other expenses), and consolidating the four cases for enforcement.

The state-owned land use right certificate number involved was Ru Guo Yong [2013] No. 0069, which recorded a total land area of 258,455.39 square meters for the parcel. The Pingdingshan Intermediate Court assessed and auctioned a portion of the land, namely the land south of the center line of the east-west road within the company park, with an area of 160,720.03 square meters. The commissioned assessment and auction of the land area was not divided, and no separate land use certificate was issued.

The land and above-ground buildings involved were seized by multiple courts, and the order of priority (sequential seizure) of the parties involved in this case was: 1. the Chen Dongli case; 2. the Guo Hongbin case; 3. the cases of Guo Zhijuan, Cai Linghuan, Jin Aili, Zhang Tianqi, Yang Damian, Zhao Wujun, and others; 4. the Jia Jianqiang case; 5. the Chun Shaofeng case.

On April 4, 2017, the Pingdingshan Intermediate Court rendered Enforcement Ruling (2016) Yu 04 Zhi 57-5: "The unsold property, after deducting the hot spring hotel and residential building No. 1, shall be used to satisfy the debt to Shenquan Zhiyuan Company at the reserved price of RMB 153,073,614.00. The project payment owed by Boyi Company to the construction unit shall be refunded by Shenquan Zhiyuan Company and its shareholders Chen Dongli, Guo Hongbin, Chun Shaofeng, and Jia Jianqiang after the construction unit completes its final account."

Zhao Wujun raised an objection, requesting the court to protect and satisfy the applicant's claim strictly in accordance with the order of seizure after realizing the claims of the creditors whose seizure was earlier in priority.

Judgment

On May 2, 2017, the Pingdingshan Intermediate People's Court of Henan Province rendered Enforcement Ruling (2017) Yu 04 Zhi Yi No. 27, dismissing Zhao Wujun's objection. Zhao Wujun applied to the Henan Provincial High People's Court for reconsideration. The Henan Provincial High People's Court rendered Enforcement Ruling (2017) Yu Zhi Fu No. 158 and others, revoking Enforcement Ruling (2017) Yu 04 Zhi Yi No. 27 and Enforcement Ruling (2016) Yu 04 Zhi 57-5 of the Pingdingshan Intermediate People's Court of Henan Province. Henan Shenquan Zhiyuan Industrial Development Co., Ltd. filed a petition with the Supreme People's Court. On March 19, 2019, the Supreme People's Court rendered Rulings (2018) Zui Gao Fa Zhi Jian Nos. 848, 847, and 845, dismissing the petition request of Henan Shenquan Zhiyuan Industrial Development Co., Ltd.

Reasoning

The Supreme People's Court held that the disputed focus of this case was Zhao Wujun's objection that the debt-in-lieu-of-property ruling harmed the interests of other creditors with an earlier order of priority. The Pingdingshan Intermediate Court consolidated the four cases for enforcement after Chen Dongli, Guo Hongbin, Chun Shaofeng, and Jia Jianqiang assigned their claims to Shenquan Zhiyuan Company, but the order of seizure of the land and property in the four cases differed, and not all of them were the first to seize the land or property involved. Although Jia Jianqiang applied to the enforcement court to seize the operator headquarters office building on the B29 plot of the land involved, the land use right within the area occupied by that building had previously been seized. Under the spirit of Article 23, Paragraph 1 of the Provisions of the Supreme People's Court on Sealing, Distraining, and Freezing of Property in Civil Enforcement by the People's Court, that the effectiveness of seizing the land use right extends to the above-ground buildings, Jia Jianqiang's seizure of the building and the land use right within the area occupied by the building were all sequential seizures. Although the enforcement court consolidated the cases of Chun Shaofeng and Jia Jianqiang with the cases of Chen Dongli and Guo Hongbin for enforcement, the order of satisfaction should still be determined in accordance with the order in which Chun Shaofeng, Jia Jianqiang, Chen Dongli, and Guo Hongbin applied for seizure based on their respective claims. The Pingdingshan Intermediate Court's ruling to use all the property involved to satisfy the debt to Shenquan Zhiyuan Company in substance advanced the order of satisfaction of the claims of the original Jia Jianqiang and Chun Shaofeng, whose seizure order was later, and harmed the lawful rights and interests of the creditors whose sequential seizure was earlier.

(The judges of the effective judgment: Xiang Guohui, Mao Yiquan, and Zhu Yan.)

Relevant Legal Provisions

Article 204 of the Civil Procedure Law of the People's Republic of China.

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