SPC Guiding Case No. 129: The People's Government of Jiangsu Province v. Anhui Haide Chemical Technology Co., Ltd. (Ecological Environment Damage Compensation)

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Keywords

Civil; ecological environment damage compensation litigation; payment by installments.

Holding

Enterprises, public institutions, and other producers and operators that hand over hazardous waste generated in the course of production and operation to enterprises or individuals that lack the qualifications for hazardous waste disposal, causing environmental pollution, shall bear ecological environment damage liability. The people's court may, taking into account factors such as the subjective fault and operating conditions of the enterprise, public institution, or other producer and operator, and after the liable party provides effective security, order it to pay the compensation by installments.

Basic Facts

On April 28, 2014, Yang Feng, the marketing department manager of Anhui Haide Chemical Technology Co., Ltd. (hereinafter "Haide Company"), handed over 29.1 tonnes of waste alkali liquor generated in the company's production process to Li Hongsheng and others, who lacked hazardous waste disposal qualifications, for disposal. Li Hongsheng and others handed over the above waste alkali liquor to Sun Zhicai, who lacked hazardous waste disposal qualifications, for disposal. On April 30, 2014, Sun Zhicai and others dumped the waste alkali liquor into the Yangtze River, causing serious environmental pollution. On May 7, 2014, Yang Feng handed over 20 tonnes of Haide Company's waste alkali liquor to Li Hongsheng and others for disposal, and Li Hongsheng and others handed over the waste alkali liquor to Sun Zhicai for disposal. Sun Zhicai and others dumped the waste alkali liquor into the Yangtze River in two batches on May 7, 2014 and June 17 of the same year, causing the centralized drinking water source intake in the urban area of Jingjiang City, Jiangsu Province to be interrupted for more than 40 hours from May 9 to 11. From May 8 to 9, 2014, Yang Feng handed over 53.34 tonnes of waste alkali liquor to Li Hongsheng and others for disposal, and Li Hongsheng and others handed over the waste alkali liquor to Ding Weidong for disposal. Ding Weidong and others dumped the waste alkali liquor into the Xintongyang Canal on May 14, 2014, causing the centralized drinking water source intake in the urban area of Xinghua City, Jiangsu Province to be interrupted for more than 14 hours. After the above pollution incidents occurred, the Jingjiang Municipal Environmental Protection Bureau and the Jingjiang Municipal People's Procuratorate jointly entrusted the Jiangsu Provincial Environmental Science Society to assess the pollution damage. After investigation and assessment, the Jiangsu Provincial Environmental Science Society issued an Assessment Report in June 2015. The People's Government of Jiangsu Province filed a lawsuit before the Taizhou Intermediate People's Court of Jiangsu Province, requesting an order that Haide Company compensate RMB 36,379,000 in ecological environment restoration costs and RMB 18,189,500 in losses of ecological environment service functions, and bear assessment fees of RMB 260,000 and litigation costs, among others.

Judgment

On August 16, 2018, the Taizhou Intermediate People's Court of Jiangsu Province rendered Civil Judgment (2017) Su 12 Min Chu No. 51:

1. Defendant Anhui Haide Chemical Technology Co., Ltd. shall compensate RMB 36,379,000 in environmental restoration costs;

2. Defendant Anhui Haide Chemical Technology Co., Ltd. shall compensate RMB 18,189,500 in losses of ecological environment service functions;

3. Defendant Anhui Haide Chemical Technology Co., Ltd. shall compensate RMB 260,000 in assessment fees.

After the judgment was pronounced, Anhui Haide Chemical Technology Co., Ltd. appealed. On December 4, 2018, the Jiangsu Provincial High People's Court rendered Civil Judgment (2018) Su Min Zhong No. 1316:

1. Civil Judgment (2017) Su 12 Min Chu No. 51 of the Taizhou Intermediate People's Court of Jiangsu Province is affirmed. Anhui Haide Chemical Technology Co., Ltd. shall, within sixty days from the date this judgment takes effect, pay RMB 54,828,500 in compensation into the Taizhou environmental public interest litigation fund account.

2. Anhui Haide Chemical Technology Co., Ltd., after providing effective security to the Taizhou Intermediate People's Court of Jiangsu Province, may pay 20% of the above amount (RMB 10,965,700) within sixty days from the date this judgment takes effect, and pay 20% of the above amount (RMB 10,965,700 per installment) respectively before December 4, 2019, December 4, 2020, December 4, 2021, and December 4, 2022. If any installment is not performed on time, the People's Government of Jiangsu Province may apply to the court for compulsory enforcement of all unpaid compensation. If Anhui Haide Chemical Technology Co., Ltd. fails to perform its payment obligation within the period specified in this judgment, it shall, in accordance with Article 253 of the Civil Procedure Law of the People's Republic of China, pay double the interest on the debt for the period of delay in performance.

Reasoning

The effective judgment of the court held that Haide Company, as a chemical enterprise, bore the obligation to prevent environmental pollution with respect to the hazardous waste alkali liquor generated in its production and operation. Haide Company allowed Yang Feng, the person in charge of its marketing department, to hand over the waste alkali liquor to individuals lacking hazardous waste disposal qualifications for disposal, resulting in the waste alkali liquor being dumped into the Yangtze River and the Xintongyang Canal and seriously polluting the environment. Article 64 of the Environmental Protection Law of the People's Republic of China provides that where damage is caused by environmental pollution and ecological damage, tort liability shall be borne in accordance with the relevant provisions of the Tort Liability Law of the People's Republic of China. Article 65 of the Tort Liability Law of the People's Republic of China provides that where damage is caused by environmental pollution, the polluter shall bear tort liability. Article 15 of the Tort Liability Law of the People's Republic of China designates restoration to the original condition and compensation for losses as the means of bearing liability. Environmental restoration costs, losses of ecological environment service functions, and assessment fees are all concrete forms of the legal liability of restoration to the original condition and compensation for losses. Pursuant to Article 15, Paragraph 1, Item 6 and Article 65 of the Tort Liability Law of the People's Republic of China, and Article 1, Paragraph 1 and Article 13 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Tort Liability Dispute Cases, it was not improper to order Haide Company to bear tort compensation liability.

Haide Company applied to pay the compensation by installments on the grounds that its enterprise was overburdened and short of funds, and that paying the full compensation within a short period would cause the enterprise to go bankrupt. In order to ensure the effective connection between the protection of the ecological environment and economic development, the People's Government of Jiangsu Province stated after the hearing that, provided Haide Company could provide evidence proving that it conformed to the direction of national economic structural adjustment and could achieve green production transformation, and

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provided effective security, it agreed that Haide Company pay the compensation in five installments pursuant to Article 231 of the Civil Procedure Law of the People's Republic of China.

(The judges of the effective judgment: Chen Ying, Zhao Li, and Wu Xiaoling.)

Relevant Legal Provisions

1. Article 65 of the Tort Liability Law of the People's Republic of China.

2. Article 64 of the Environmental Protection Law of the People's Republic of China.

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