SPC Guiding Case No. 140: Li Qiuyue et al. v. the Villagers' Committee of Hongshan Village, Timian Town, Huadu District, Guangzhou (Liability Dispute for Breach of Safety Protection Obligations)

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Keywords

Civil / duty of safety protection / public place / compensation for damage

Holding

The duty of safety protection of the manager or operator of a public place shall be limited to a reasonable scope and commensurate with his or her management and control capabilities. Where a person with full capacity for civil conduct, while privately climbing a fruit tree in a scenic area to pick fruit, accidentally falls and thereby causes damage to himself or herself, and claims that the manager or operator bears compensation liability, the people's court shall not support the claim.

Basic Facts

The Hongshan Village scenic area is a national AAA-level tourist attraction with no admission ticket. The Villagers' Committee of Hongshan Village, Timian Town, Huadu District, Guangzhou City, Guangdong Province ("the Hongshan Village Villagers' Committee") is the owner of the waxberry trees beside the river channel of the Lovers' Embankment within the scenic area, and it did not provide villagers or tourists with any free waxberry-picking activity. On the afternoon of May 19, 2017, Wu Mou privately climbed a tree to pick waxberries and accidentally fell from the tree and was injured. Thereafter, a villager sent Wu Mou to the Hongshan Village clinic, but there was no one at the clinic at the time. A villager dialed 120, but the ambulance was slow to arrive. Later, a Hongshan Village villager, Li 1, drove Wu Mou to the Timian Town Hospital of Huadu District, Guangzhou, for treatment. Wu Mou was transferred the same day to the Guangzhou Hospital of Integrated Traditional Chinese and Western Medicine, where he died the same day after rescue efforts proved ineffective.

On January 26, 2014, Hongshan Village held a meeting and adopted the "Hongshan Village Rules and Regulations" by vote. Article 2 of the rules provides that every villager shall conscientiously protect the various property interests of the village collective, and that every villager shall urge his or her children to conscientiously protect the various public facilities and landscaped trees within the village, and that any villager who intentionally damages public facilities shall be responsible for compensating all costs.

Wu Mou was a villager of Hongshan Village, born in 1957. Li Jikun was Wu Mou's spouse, and Li Qiuyue, Li Yueru, and Li Tiantuo were Wu Mou's children. Li Qiuyue, Li Yueru, Li Tiantuo, and Li Jikun brought a lawsuit in court, asserting that the Hongshan Village Villagers' Committee had failed to perform its duty of safety protection and that, after the accident occurred, the defendant had failed to take timely and necessary rescue measures and should be liable for Wu Mou's death. They requested an order that the defendant bear 70% of the personal injury compensation liability, amounting to RMB 631,346.31.

Judgment

On December 22, 2017, the Huadu District People's Court of Guangzhou, Guangdong Province, rendered Civil Judgment (2017) Yue 0114 Min Chu No. 6921: (1) the defendant, the Villagers' Committee of Hongshan Village, Timian Town, Huadu District, Guangzhou, shall compensate the plaintiffs Li Qiuyue, Li Yueru, Li Tiantuo, and Li Jikun RMB 45,096.17, payable within 10 days from the date the judgment takes legal effect; and (2) the other claims of the plaintiffs Li Qiuyue, Li Yueru, Li Tiantuo, and Li Jikun were dismissed. After the judgment was pronounced, Li Qiuyue, Li Yueru, Li Tiantuo, and Li Jikun and the Villagers' Committee of Hongshan Village, Timian Town, Huadu District, Guangzhou, both appealed. On April 16, 2018, the Guangzhou Intermediate People's Court of Guangdong Province rendered Civil Judgment (2018) Yue 01 Min Zhong No. 4942: dismissing the appeal and affirming the original judgment. After the second-instance judgment took effect, on November 14, 2019, the Guangzhou Intermediate People's Court of Guangdong Province rendered Civil Ruling (2019) Yue 01 Min Jian No. 4, ordering a retrial of the case. On January 20, 2020, the Guangzhou Intermediate People's Court of Guangdong Province rendered Civil Judgment (2019) Yue 01 Min Zai No. 273: (1) revoking Civil Judgment (2018) Yue 01 Min Zhong No. 4942 of this court and Civil Judgment (2017) Yue 0114 Min Chu No. 6921 of the Huadu District People's Court of Guangzhou, Guangdong Province; and (2) dismissing the claims of Li Qiuyue, Li Yueru, Li Tiantuo, and Li Jikun.

Reasoning

The court in its effective judgment held that the focal point of dispute in this case was whether the Hongshan Village Villagers' Committee should bear compensation liability for the damaging consequences suffered by Wu Mou.

First, the Hongshan Village Villagers' Committee did not breach the duty of safety protection. As the manager of the Hongshan Village scenic area, the Villagers' Committee bore a duty of safety protection to ensure that tourists were not harmed, but the content of the duty of safety protection should be limited to the reasonable scope of the scenic area manager's management and control capabilities. The Hongshan Village scenic area is an open scenic area that did not provide villagers or tourists with waxberry-picking activities, and the waxberry trees themselves posed no safety hazard. To require the Villagers' Committee to fence off all trees in the scenic area, set up warning signs, or take other protective measures would clearly exceed the standard of care of a prudent manager. From the perspective of caring for public property and civilized conduct, neither villagers nor tourists should privately climb trees to pick waxberries. As an adult with full capacity for civil conduct, Wu Mou should have fully foreseen the danger of climbing a waxberry tree to pick the fruit and should have consciously avoided such dangerous conduct. Therefore, the claim of Li Qiuyue, Li Yueru, Li Tiantuo, and Li Jikun that the Hongshan Village Villagers' Committee failed to perform its duty of safety protection lacked a factual basis.

Second, Wu Mou's fatal fall was caused by his privately climbing a tree to pick waxberries, and there was no legally recognized causal relationship between the fall and the Hongshan Village Villagers' Committee. The "Hongshan Village Rules and Regulations" provide that villagers shall conscientiously protect the village collective's property interests, including public facilities and landscaped trees. Those rules are a code of conduct and a moral norm for Hongshan Village villagers, and form the public order and good customs of Hongshan Village. As a Hongshan Village villager, Wu Mou privately climbed a tree to pick waxberries, violating the village rules and public order and good customs, and thereby caused the damaging consequences. Those consequences had no legally recognized causal relationship with the Hongshan Village Villagers' Committee.

Finally, the Hongshan Village Villagers' Committee was not at fault for the consequence of Wu Mou's fatal fall from privately climbing the tree. Wu Mou's fatal fall was caused by his own negligent conduct, and the Villagers' Committee could hardly foresee and prevent the consequences that might result from Wu Mou's private tree-climbing. After Wu Mou fell and was injured, the director of the Hongshan Village Villagers' Committee, Li 2, promptly dialed 120 to seek help, and before the ambulance arrived, another villager drove Wu Mou to the hospital for treatment. Therefore, the Hongshan Village Villagers' Committee was not at fault

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for the occurrence of Wu Mou's damaging consequences.

In summary, Wu Mou accidentally fell to his death while privately climbing a tree to pick waxberries, and the consequence is deeply regrettable. Although Hongshan Village was the location of the incident and the waxberry trees were collectively owned by the Hongshan Village Villagers' Committee, Wu Mou's act of private picking was contrary to the village rules and regulations and to public order and good customs, and the Hongshan Village Villagers' Committee did not breach the duty of safety protection and should not bear compensation liability.

Relevant Legal Provisions

Article 37, paragraph 1 of the Tort Liability Law of the People's Republic of China.

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