SPC Guiding Case No. 151: Taizhou Deli’ao Auto Parts Manufacturing Co., Ltd. v. the Administrator of Zhejiang Jianhuan Machinery Co., Ltd. (Zhejiang Antian Law Firm) and China Everbright Bank Co., Ltd. Taizhou Wenling Sub-branch (Third-Party Revocation Action)

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

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Keywords

Civil / third-party revocation action / bankruptcy proceedings / individual repayment act / plaintiff standing

Holding

Where, after the drawer of a bank acceptance bill enters bankruptcy proceedings, the bankruptcy administrator brings an action requesting revocation of the paying bank's act of deducting the bill amount from the drawer's repayment account within six months before the court accepted the bankruptcy application, and the court renders a judgment supporting the request, the guarantor of the bill has a legal interest relationship with that effective judgment and has plaintiff standing to bring a third-party revocation action.

Basic Facts

On March 21, 2014, China Everbright Bank Co., Ltd. Taizhou Wenling Sub-branch ("Everbright Bank Wenling Sub-branch") signed a Comprehensive Credit Agreement and a Maximum Amount Guarantee Contract with Zhejiang Jianhuan Machinery Co., Ltd. ("Jianhuan Company") and Taizhou Deli'ao Auto Parts Manufacturing Co., Ltd. ("Deli'ao Company") respectively, agreeing that Everbright Bank Wenling Sub-branch would provide Jianhuan Company with a maximum credit line of RMB 5.2 million during the period from April 1, 2014 to March 31, 2015, and that Deli'ao Company and others would provide joint and several liability guarantee for the maximum principal balance of RMB 5.2 million under the credit agreement. On April 2, 2014, Everbright Bank Wenling Sub-branch signed a Bank Acceptance Agreement with Jianhuan Company, under which Jianhuan Company provided a 50 percent deposit (RMB 2.6 million), and Everbright Bank Wenling Sub-branch issued an acceptance bill of RMB 5.2 million to Jianhuan Company, with a maturity date of October 2, 2014. On October 2, 2014, Chen 1 remitted RMB 2.6 million to Chen 2's account at Industrial Bank, and then Chen 2 remitted the RMB 2.6 million to his account at Everbright Bank Wenling Sub-branch, and then Chen 2 remitted the RMB 2.6 million to Jianhuan Company's repayment account at Everbright Bank Wenling Sub-branch. On October 8, 2014, Everbright Bank Wenling Sub-branch deducted RMB 2,563,430.83 from Jianhuan Company's above account, and successively paid the holders of the acceptance bill a total of 37 payments totaling RMB 5.2 million.

On January 4, 2015, the Yuhuan County People's Court of Zhejiang Province accepted Jianhuan Company's bankruptcy reorganization application and designated Zhejiang Antian Law Firm as the administrator (the "Jianhuan Company Administrator"). Because reorganization failed, the Yuhuan County People's Court of Zhejiang Province ruled to terminate Jianhuan Company's reorganization procedure and declared it bankrupt for liquidation. On October 13, 2016, the Jianhuan Company Administrator brought an action requesting revocation of the individual repayment act. On January 10, 2017, the Yuhuan County People's Court of Zhejiang Province rendered the civil judgment (2016) Zhe 1021 Min Chu No. 7201, ordering Everbright Bank

Wenling Sub-branch to return RMB 2,563,430.83 to the Jianhuan Company Administrator plus interest losses. Everbright Bank Wenling Sub-branch appealed, and on July 10, 2017, the Taizhou Intermediate People's Court of Zhejiang Province rendered the second-instance judgment (2016) Zhe 10 Min Zhong No. 360, dismissing the appeal and affirming the original judgment.

In January 2018, Everbright Bank Wenling Sub-branch sued Deli'ao Company and others in the Wenling City People's Court in a guarantee contract dispute. Both the plaintiffs and defendants appealed the first-instance judgment to the Taizhou Intermediate People's Court, and the second-instance judgment ordered Deli'ao Company and others to jointly repay Everbright Bank Wenling Sub-branch the principal of the advance payment and interest.

Deli'ao Company then sued in the Taizhou Intermediate People's Court to revoke item 1 of the civil judgment (2016) Zhe 1021 Min Chu No. 7201 of the Yuhuan County People's Court of Zhejiang Province and the civil judgment (2016) Zhe 10 Min Zhong No. 360 of the Taizhou Intermediate People's Court.

Judgment

On March 15, 2019, the Taizhou Intermediate People's Court rendered the civil judgment (2018) Zhe 10 Min Che No. 2, dismissing the claims of the plaintiff, Taizhou Deli'ao Auto Parts Manufacturing Co., Ltd. Deli'ao Company appealed to the Zhejiang Provincial Higher People's Court. On July 15, 2019, the Zhejiang Provincial Higher People's Court rendered the civil judgment (2019) Zhe Min Zhong No. 330: 1. revoking the civil judgment (2018) Zhe 10 Min Che No. 2 of the Taizhou Intermediate People's Court; 2. revoking the civil judgment (2016) Zhe 10 Min Zhong No. 360 of the Taizhou Intermediate People's Court and item 1 of the civil judgment (2016) Zhe 1021 Min Chu No. 7201 of the Yuhuan County People's Court of Zhejiang Province, namely "order the defendant China Everbright Bank Co., Ltd. Taizhou Wenling Sub-branch to return RMB 2,563,430.83 to the plaintiff, the administrator of Zhejiang Jianhuan Machinery Co., Ltd., Zhejiang Antian Law Firm, within one month from the effective date of the judgment, and to compensate interest losses at the benchmark interest rate for loans of the same category in the same period prescribed by the People's Bank of China from October 13, 2016"; 3. changing item 2 of the civil judgment (2016) Zhe 1021 Min Chu No. 7201 of the Yuhuan County People's Court of Zhejiang Province, "dismissing the remaining claims of the plaintiff, the administrator of Zhejiang Jianhuan Machinery Co., Ltd., Zhejiang Antian Law Firm," to "dismissing all claims of the plaintiff, the administrator of Zhejiang Jianhuan Machinery Co., Ltd., Zhejiang Antian Law Firm"; and 4. dismissing the remaining claims of Taizhou Deli'ao Auto Parts Manufacturing Co., Ltd. The administrator of Zhejiang Jianhuan Machinery Co., Ltd., Zhejiang Antian Law Firm, applied to the Supreme People's Court for retrial. On May 27, 2020, the Supreme People's Court rendered the civil ruling (2020) Zui Gao Fa Min Shen No. 2033, rejecting the retrial application of the administrator of Zhejiang Jianhuan Machinery Co., Ltd., Zhejiang Antian Law Firm.

Reasoning

The Supreme People's Court held, regarding whether Deli'ao Company had the right to bring a third-party revocation action: If Jianhuan Company had failed to deposit the bill amount in full into its account at Everbright Bank Wenling Sub-branch as agreed before the maturity of the bill in issue, then based on the abstract nature of negotiable instruments and Everbright Bank Wenling Sub-branch's status as the primary obligor of the bank acceptance bill, Everbright Bank Wenling Sub-branch would have to first pay the bill amount to the holder, and then seek recourse against the drawer (Jianhuan Company in this case), and Deli'ao Company would also need to bear joint and several repayment liability as agreed. Because Jianhuan Company deposited the bill amount in full into its account at Everbright Bank Wenling Sub-branch as agreed before the maturity of the bill in issue, and Everbright Bank Wenling Sub-branch paid the bill amount to the holder, there was no issue of Jianhuan Company owing Everbright Bank Wenling Sub-branch the bill amount, and Deli'ao Company did not need to bear joint and several repayment liability. However, because the bankruptcy administrator of Jianhuan Company brought an action requesting revocation of the individual repayment act with respect to Jianhuan Company's remittance to its account at Everbright Bank Wenling

Sub-branch before the maturity of the bill, if the bankruptcy administrator's claims were supported, Deli'ao Company, as the guarantor of Jianhuan Company's application to Everbright Bank Wenling Sub-branch for the issuance of the bank acceptance bill, would have to bear joint and several repayment liability. Therefore, the result of the original case had a legal interest relationship with Deli'ao Company, and it should be determined that Deli'ao Company was a third party without an independent claim as prescribed in Article 56 of the Civil Procedure Law.

Relevant Legal Provisions

Article 56 of the Civil Procedure Law of the People's Republic of China.

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