SPC Guiding Case No. 182: Peng Yuxiang v. Nanjing Urban Construction and Development (Group) Co., Ltd. (Recovery of Labor Remuneration Dispute)

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

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Keywords

Civil / recovery of labor remuneration / bonus / obligation of approval

Holding

Where an employer provides that a worker may obtain a bonus upon completing certain performance, and the employer refuses to perform its approval obligation without justifiable grounds, if a worker who meets the conditions for the reward claims that the conditions for the reward have been satisfied and that the employer should pay the bonus in accordance with the provisions, the people's court shall support the claim.

Basic Facts

Nanjing Urban Construction and Development (Group) Co., Ltd. ("Chengkai Company") formulated in August 2016 the "Interim Measures of Nanjing Chengkai Group for Rewards for Introducing Investment Projects" (the "Reward Measures"), which provided that, upon successfully introducing a commercial housing project, Chengkai Company would comprehensively consider factors such as the project scale and the consolidated statement of annualized average profit, and would determine the total reward based on the project's examined and approved expected profit or income as the reward base, at a rate of 0.1% to 0.5%. The reward would be applied for by the Investment and Development Department after formulating the specific reward composition for each department or other personnel, and would be paid after deliberation and approval by the group's leadership. In February 2017, Peng Yuxiang joined Chengkai Company as manager of the Investment and Development Department. In June 2017, the Investment and Development Department formed meeting minutes determining the department's internal reward distribution plan, under which the general manager would receive 75% of the department's bonus and the other project participants would receive 25%.

During Peng Yuxiang's tenure, the Investment and Development Department that he headed successfully introduced six projects: Wuxi Hongmei Xintiandi, Yangzhou GZ051 plot, Rugao York Town, Xuzhou Jiaozhuang, Gaoyou Hongji Wanhe City, and Xuzhou Pengcheng Machinery. For the above six projects, the Investment and Development Department successively submitted six reward applications to Chengkai Company.

Until Peng Yuxiang resigned from Chengkai Company, Chengkai Company had not paid the above rewards. After labor arbitration proceedings, Peng Yuxiang brought a lawsuit within the statutory period, requesting Chengkai Company to pay rewards of RMB 1,689,083.

During the trial, Chengkai Company acknowledged that the six projects at issue preliminarily met the conditions for rewards under the Reward Measures, but claimed that Peng Yuxiang's claim for bonus payment could not be established on the grounds that, although the total rewards for the three projects including Wuxi had been approved, the specific bonus distribution details had not been approved, and that the reward applications for the three projects including Xuzhou had not been approved. In response to the court's inquiry of "if Peng Yuxiang continues to submit reward applications for the above projects at the present stage, whether Chengkai Company will initiate the review procedure," Chengkai Company expressly

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declined, and stated that it would not initiate the approval procedure for the six projects thereafter. In addition, Chengkai Company also claimed that Peng Yuxiang had committed serious dereliction of duty in the Wuxi Hongmei Xintiandi project and the Rugao York Town project, that the two projects had suffered serious losses, and that Chengkai Company had already paid Peng Yuxiang rewards for outstanding performance in land acquisition; however, it failed to submit sufficient evidence to prove these claims.

Judgment

On September 11, 2018, the Qinhuai District People's Court of Nanjing rendered Civil Judgment (2018) Su 0104 Min Chu No. 6032: Peng Yuxiang's litigation claims were dismissed. Peng Yuxiang refused to accept the judgment and appealed. On January 3, 2020, the Nanjing Intermediate People's Court of Jiangsu Province rendered Civil Judgment (2018) Su 01 Min Zhong No. 10066: (1) Civil Judgment (2018) Su 0104 Min Chu No. 6032 of the Qinhuai District People's Court of Nanjing was revoked; (2) Chengkai Company shall, within fifteen days from the effective date of the judgment, pay Peng Yuxiang rewards of RMB 1,259,564.4.

Reasoning

The effective judgment of the court held: The focus of the dispute in this case was whether Chengkai Company should, pursuant to the Reward Measures, pay the Investment and Development Department to which Peng Yuxiang belonged the rewards for the six projects including Wuxi Hongmei Xintiandi.

First, from the perspective of the reward recipients set out in the Reward Measures, the Investment and Development Department's principal duty was to introduce projects, and it played a leading role in the introduction of various projects by Chengkai Company; therefore, it was a proper reward recipient under the document. From the perspective of the reward conditions set out in the Reward Measures, the Investment and Development Department had successfully introduced for Chengkai Company six projects — Wuxi Hongmei Xintiandi, Yangzhou GZ051 plot, Rugao York Town, Xuzhou Jiaozhuang, Gaoyou Hongji Wanhe City, and Xuzhou Pengcheng Machinery — that were in line with Chengkai Company's strategic development goals, and thus met the conditions for rewards prescribed in the document. Therefore, as to the six projects at issue, the Investment and Development Department to which Peng Yuxiang belonged had formally satisfied the conditions for reward application prescribed by the employer. If Chengkai Company refused to pay the corresponding rewards, it should state its reasons and adduce evidence to prove them. However, in this case, Chengkai Company was unable to prove that the Wuxi Hongmei Xintiandi project and the Rugao York Town project had suffered losses, and was also unable to prove that Peng Yuxiang had indeed committed dereliction of duty in the two projects. Its claim that Peng Yuxiang should not receive rewards repeatedly was also unsupported for lack of a corresponding basis. Therefore, Chengkai Company's claim that the Investment and Development Department to which Peng Yuxiang belonged did not substantively meet the conditions for obtaining rewards under the Reward Measures was not accepted by the court.

Second, the fact that the reward applications for the six projects at issue had not been reviewed, or that the approval procedure had not been completed, could not serve as a reason for Chengkai Company to refuse to pay Peng Yuxiang the project bonuses. Chengkai Company, as the creator of the bonus, had the right to set corresponding assessment standards and assessment or approval procedures. Among these, the assessment standards were substantive evaluation factors determining whether an employee could receive the bonus, while the assessment procedures were procedural procedures set up by Chengkai Company to realize its assessment authority. In the absence of special provisions, because the procedure itself does not involve the standards for evaluating the reward, whether the approval procedure has been completed cannot be a substantive evaluation factor determining whether an employee can obtain the bonus. Chengkai Company should not use the fact that the approval procedures for the six projects had not been initiated or completed as a basis for attempting to obstruct the realization of Peng Yuxiang's substantive right to obtain the bonus. In addition, conducting substantive approval of a worker's reward application is not only the

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employer's right but also the employer's obligation. In this case, the reward established by the Reward Measures was the excess labor remuneration that Chengkai Company promised to employees in order to encourage them to engage in creative labor, and in nature belonged to the "other bonuses" prescribed in Article 7 of the Provisions of the National Bureau of Statistics on the Composition of Total Wages. At this point, the Reward Measures should be regarded not only as a unilateral incentive measure exercised by Chengkai Company against employees based on its autonomy in employment, but also as an agreement formed between Chengkai Company and unspecified employees, including Peng Yuxiang, regarding the acquisition of the reward. Peng Yuxiang had now, through his efforts, satisfied the conditions for obtaining the reward set out in the Reward Measures, and he applied to Chengkai Company to realize this excess labor remuneration. Whether based on the principle of good faith or the principle of pay according to work, Chengkai Company had the obligation to initiate the review procedure to examine the reward application, in order to determine whether Peng Yuxiang's right to the bonus could be realized. If Chengkai Company refused to review, it should state reasonable grounds. In this case, Chengkai Company's claims that Peng Yuxiang had committed dereliction of duty and that the projects at issue had suffered losses could not be established for lack of a factual basis, and the company was also unable to provide a reasonable explanation for its refusal to review. Its refusal to perform the approval obligation had already harmed Peng Yuxiang's legitimate rights and interests, and it should bear the corresponding adverse consequences.

In summary, the court found that the conditions for the rewards for the six projects at issue had been satisfied, and that Chengkai Company should, pursuant to the Reward Measures, pay the rewards to the Investment and Development Department to which Peng Yuxiang belonged.

Relevant Legal Provisions

Article 4 of the Labor Law of the People's Republic of China and Article 3 of the Labor Contract Law of the People's Republic of China.

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