SPC Guiding Case No. 2: Wu Mei v. Sichuan Meishan Xicheng Paper Co., Ltd. (sales contract dispute)

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

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Keywords

Civil procedure / enforcement settlement / withdrawal of appeal / non-performance of settlement agreement / application for enforcement / first-instance judgment

Holding

Where, during the second-instance stage of a civil case, the parties reach a settlement agreement and the people's court permits withdrawal of the appeal, and the settlement agreement has not been converted into a mediation document by the people's court in accordance with the law, the agreement is one reached outside litigation. If one party fails to perform the settlement agreement and the other party applies for enforcement of the first-instance judgment, the people's court shall support such application.

Basic Facts

The plaintiff, Wu Mei, was the owner of the Wu Mei Waste Collection Station in Dongpo District, Meishan City, Sichuan Province, engaged in the waste collection business. Beginning around 2004, Wu Mei sold waste paper to the defendant, Sichuan Meishan Xicheng Paper Co., Ltd. ("Xicheng Paper Company"). On April 14, 2009, after settling accounts, Xicheng Paper Company issued an IOU to Wu Mei stating that it owed Wu Mei RMB 1,970,000.00 for waste paper. On June 11 of the same year, the parties again settled the subsequent goods payment, and Xicheng Paper Company issued another IOU stating that it owed Wu Mei RMB 548,000.00 for waste paper. After repeated unsuccessful demands for payment of the above goods payments, Wu Mei sued in the Dongpo District People's Court of Meishan City, requesting an order that Xicheng Paper Company pay goods payment of RMB 2.518 million plus interest. The defendant, Xicheng Paper Company, did not dispute owing Wu Mei goods payment of RMB 2.518 million.

After trial, the first-instance court held that the defendant, Xicheng Paper Company, shall pay the plaintiff, Wu Mei, goods payment of RMB 2.518 million plus default interest within ten days of the judgment taking effect. After pronouncement, Xicheng Paper Company appealed to the Meishan Intermediate People's Court. During the second-instance proceedings, on October 15, 2009, Xicheng Paper Company signed a repayment agreement with Wu Mei, agreeing on a repayment plan, while Wu Mei waived the claim for interest. On October 20 of the same year, Xicheng Paper Company applied to withdraw the appeal on the ground that it had voluntarily reached a settlement agreement with the other party. After the Meishan Intermediate People's Court ruled to permit the withdrawal, because Xicheng Paper Company did not fully perform the settlement agreement, Wu Mei applied to the first-instance court for enforcement of the first-instance judgment. The Dongpo District People's Court of Meishan City supported Wu Mei's application to enforce the first-instance judgment. Xicheng Paper Company then applied to the Meishan Intermediate People's Court for enforcement supervision, contending that the original first-instance judgment should not be enforced.

Judgment

On July 7, 2010, the Meishan Intermediate People's Court issued Reply Letter (2010) Mei Zhi Du Zi No. 4, holding that, based on Wu Mei's application, the first-instance court's acceptance of enforcement of an

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effective legal instrument was not improper, and that enforcement should continue.

Reasoning

The court held as follows. Xicheng Paper Company should clearly understand the legal consequences of withdrawing the appeal, namely that once the court rules to permit withdrawal of its appeal, the first-instance judgment of the Dongpo District People's Court of Meishan City becomes effective and has compulsory enforcement effect. Although, during the second-instance stage, the parties voluntarily reached a settlement agreement stipulating the relevant rights and obligations — under which Xicheng Paper Company abandoned the exercise of its right of appeal and Wu Mei waived the claim for interest — that settlement agreement was reached by the parties outside litigation and was not confirmed by the people's court through the making of a mediation document, and therefore had no compulsory enforcement effect. Xicheng Paper Company failed to perform its repayment obligations under the settlement agreement, in breach of the agreement of the parties and the principle of good faith. Therefore, its request that the original effective judgment not be enforced on the ground that the parties had reached a settlement agreement was not supported.

Relevant Legal Provisions

Article 207, paragraph 2 of the Civil Procedure Law of the People's Republic of China.

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