SPC Guiding Case No. 23: Sun Yinshan v. the Jiangning Store of Nanjing Auchan Supermarket 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 / sales contract / food safety / tenfold compensation

Holding

Where a consumer purchases food that does not meet food safety standards and requests the seller or producer to pay compensation equal to ten times the price in accordance with the Food Safety Law, or to compensate according to other compensation standards prescribed by law, the people's court shall support the claim regardless of whether the consumer knew at the time of purchase that the food did not meet safety standards.

Basic Facts

On May 1, 2012, the plaintiff Sun Yinshan purchased 15 packs of "Yutu brand" sausages from the defendant, the Jiangning store of Nanjing Auchan Supermarket Co., Ltd. ("Auchan Jiangning store"), of which 14 packs worth RMB 558.6 had passed their expiration dates. After settling the bill at the cashier, Sun Yinshan went directly to the service desk to claim compensation. When negotiation failed, he sued in court, requesting that the Auchan Jiangning store pay compensation equal to ten times the sale price of the 14 packs of sausages, i.e., RMB 5,586.

Judgment

On September 10, 2012, the Jiangning District People's Court of Nanjing, Jiangsu Province, rendered Civil Judgment (2012) Jiang Ning Kai Min Chu Zi No. 646: the defendant Auchan Jiangning store shall compensate the plaintiff Sun Yinshan RMB 5,586 within 10 days of the judgment taking legal effect. After the judgment was pronounced, neither party appealed, and the judgment became legally effective.

Reasoning

The effective judgment held: On the issue of whether the plaintiff Sun Yinshan was a consumer. Article 2 of the Law of the People's Republic of China on the Protection of Consumer Rights and Interests provides: "A consumer who purchases or uses goods or receives services for the needs of daily life consumption shall have their rights and interests protected by this Law; matters not provided for in this Law shall be protected by other relevant laws and regulations." A consumer is a concept relative to the seller and the producer. As long as goods are purchased or used or services are received in market transactions for the needs of personal or family life, rather than for the needs of production, business, or professional activities, the person shall be determined to be a consumer "for the needs of daily life consumption" and fall within the scope of the Consumer Rights and Interests Protection Law. In this case, both parties did not dispute the fact that Sun Yinshan purchased sausages from the Auchan Jiangning store, and it could be determined that Sun Yinshan carried out the act of purchasing goods; Sun Yinshan did not resell the purchased sausages for business, and the Auchan Jiangning store did not provide evidence proving that the goods were purchased for production and business. Sun Yinshan's claim for compensation for purchasing food beyond its expiration date constituted an exercise of statutory rights. Therefore, the Auchan Jiangning store's defense that Sun Yinshan was "purchasing fake goods to claim compensation" and was not a consumer could not stand.

On the issue of whether the defendant Auchan Jiangning store sold food that it knew did not meet food safety standards. Article 3 of the Food Safety Law of the People's Republic of China ("the Food Safety Law") provides: "Food producers and traders shall engage in production and business activities in accordance with laws, regulations, and food safety standards, be responsible to society and the public, ensure food safety, accept social supervision, and bear social responsibility." Article 28(8) of the Law provides that food beyond its expiration date is food whose production and sale are prohibited. Food sellers bear the statutory duty to ensure food safety and shall, in a timely manner and on their own initiative, remove food that does not meet safety standards. The Auchan Jiangning store, as a food seller, should have stored food in accordance with food safety requirements, inspected food for sale in a timely manner, and removed food beyond its expiration date; however, it still displayed and sold the "Yutu brand" sausages beyond their expiration date on its shelves and failed to perform its statutory duty. This could be determined as selling food that it knew did not meet food safety standards.

On the issue of the defendant Auchan Jiangning store's liability. Article 96, paragraph 1 of the Food Safety Law provides: "Whoever violates this Law and causes personal injury, property damage, or other damage shall bear liability for compensation in accordance with law." Paragraph 2 provides: "Where a person produces food that does not meet food safety standards, or sells food knowing that it does not meet food safety standards, the consumer may, in addition to claiming compensation for losses, demand payment of compensation equal to ten times the price from the producer or seller." Where a seller sells food knowing that it does not meet safety standards, the consumer may simultaneously claim compensation for losses and payment of compensation equal to ten times the price, or may claim only payment of compensation equal to ten times the price. In this case, the plaintiff Sun Yinshan only requested that the Auchan Jiangning store pay compensation equal to ten times the sale price, which was an act of disposing of his own rights by a party and should be supported. As for the defendant's argument that the plaintiff knew the food was expired when purchasing it and hoped to seek benefit by exploiting its error, and therefore should not be awarded tenfold compensation — since the aforesaid law provides that a consumer has the right to obtain compensation equal to ten times the price, the benefit obtained through such compensation is a benefit that the law should protect, and the law does not impose restrictive provisions on the consumer's subjective shopping motive, this argument was not supported.

Relevant Legal Provisions

Article 96, paragraph 2 of the Food Safety Law of the People's Republic of China.

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