SPC Guiding Case No. 245: Application by Yang [X]cheng for State Compensation for Wrongful Enforcement by Xuzhou Intermediate People’s Court

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Keywords

State compensation; compensation for wrongful enforcement; appearance of rights; judgment confirming title

Holding

Where a people's court takes enforcement measures against stocks and other property in the name of the person subject to enforcement based on share registration, and an actual rights holder such as a dormant shareholder applies for state compensation on the basis of a judgment confirming title that was obtained only after the people's court had taken enforcement measures and completed enforcement, the people's court shall not support the application in accordance with law.

Basic Facts

In January 2014, the Xuzhou Intermediate People's Court of Jiangsu Province accepted and docketed the enforcement applications of several applicants for enforcement. During the enforcement process, based on a successive seizure, it took enforcement measures against the stocks in the case registered in the name of Jiangsu [X]li Investment Development Group Co., Ltd. (hereinafter "Jiangsu [X]li Company"), the person subject to enforcement, and completed enforcement in September 2014.

On December 11, 2014, the Xuzhou Economic Development Zone People's Court of Jiangsu Province rendered the civil judgment No. 353 [2013] Kai Shang Chu Zi, confirming, among other things, that more than 1.976 million shares of the stocks in the case held by Jiangsu [X]li Company belonged to Yang [X]cheng. Yang [X]cheng applied to the Xuzhou Intermediate People's Court for compensation on the ground that the effective judgment had confirmed his title and that the aforementioned enforcement acts of the Xuzhou Intermediate People's Court were wrongful. On June 19, 2017, the Xuzhou Intermediate People's Court rendered the decision No. 1 [2016] Su 03 Fa Pei: dismissing Yang [X]cheng's application for state compensation. Yang [X]cheng was dissatisfied and applied to the Compensation Committee of the Jiangsu Provincial High People's Court for a compensation decision.

Judgment

On November 15, 2017, the Compensation Committee of the Jiangsu Provincial High People's Court rendered the state compensation decision No. 10 [2017] Su Wei Pei: affirming the decision No. 1 [2016] Su 03 Fa Pei of the Xuzhou Intermediate People's Court. Yang [X]cheng was dissatisfied and filed a petition with the Compensation Committee of the Supreme People's Court. On September 29, 2019, the Compensation Committee of the Supreme People's Court rendered the decision No. 95 [2019] Zui Gao Fa Wei Pei Jian: dismissing Yang [X]cheng's petition.

Reasoning

The focus of the dispute in this case was whether the enforcement and other measures taken by the Xuzhou Intermediate People's Court of Jiangsu Province constituted wrongful enforcement and whether they infringed Yang [X]cheng's property rights.

First, it did not constitute wrongful enforcement for a people's court to take enforcement measures against stocks and other property in the name of the person subject to enforcement based on share registration.

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Article 244 of the Civil Procedure Law of the People's Republic of China (as amended in 2012) provides: "Where the person subject to enforcement fails to perform the obligations determined in the legal document in accordance with the enforcement notice, the people's court shall have the power to seal up, seize, freeze, auction, or sell off the property of the person subject to enforcement in the portion for which the obligations are to be performed..." Article 25 of the Provisions of the Supreme People's Court on Several Issues Concerning the Handling of Enforcement Objections and Reconsideration Cases by People's Courts (Fa Shi [2015] No. 10) provides: "With respect to an objection raised by a person not involved in the case, the people's court shall determine whether such person is a rights holder according to the following standards: ... (4) equity interests shall be determined according to the registration by the administration for industry and commerce and the information published in the enterprise credit information publicity system..." According to the aforementioned provisions, the stocks in the case were registered in the name of Jiangsu [X]li Company, the person subject to enforcement, and the Xuzhou Intermediate People's Court of Jiangsu Province, taking preservation and enforcement measures based on the appearance of rights shown by the share registration, did not violate the provisions of law. Jiangsu [X]li Company, the person subject to enforcement, failed to perform the obligations determined in the effective legal document in accordance with the enforcement notice, and the Xuzhou Intermediate People's Court of Jiangsu Province took enforcement measures against the sealed stocks; the enforcement acts had a basis in law.

Second, Yang [X]cheng and Jiangsu [X]li Company entered into a share-holding-on-behalf-of (nominee shareholding) contract, which had contractual effect only as between the two contracting parties. As against external third parties, share registration carries publicity and public credibility, meaning that the effect of the contract does not extend to external third parties. In Yang [X]cheng's action for confirmation of share title, it was confirmed that more than 1.976 million shares of the stocks in the case held by Jiangsu [X]li Company belonged to him, but enforcement of that confirmation was ultimately not achieved. He could assert his rights and seek relief against Jiangsu [X]li Company through civil litigation; however, his claim that the court's enforcement was wrongful on the ground that the enforcement acts of the Xuzhou Intermediate People's Court infringed his ownership had no basis in law.

Third, all preservation measures taken by the Xuzhou Intermediate People's Court of Jiangsu Province over the stocks in the case preceded the preservation in Yang [X]cheng's title-confirmation case, and the sale of the stocks in the case all occurred before September 2014, whereas Yang [X]cheng obtained the civil judgment No. 352 [2013] Kai Shang Chu Zi only in December 2014, that is, after the Xuzhou Intermediate People's Court of Jiangsu Province had completed the sale and disposal. Yang [X]cheng could not use the civil judgment No. 352 [2013] Kai Shang Chu Zi, obtained after the Xuzhou Intermediate People's Court of Jiangsu Province's freezing and sale, to resist the court's enforcement measures, nor could he use it as a basis for asserting the right to state compensation.

In summary, the enforcement and other measures taken by the Xuzhou Intermediate People's Court of Jiangsu Province did not constitute wrongful enforcement, did not infringe Yang [X]cheng's property rights, and no compensation should be paid in accordance with law.

Relevant Legal Provisions

Article 248 of the Civil Procedure Law of the People's Republic of China (this case applied Article 244 of the Civil Procedure Law of the People's Republic of China as amended in 2012)

Article 25 of the Provisions of the Supreme People's Court on Several Issues Concerning the Handling of Enforcement Objections and Reconsideration Cases by People's Courts (Fa Shi [2015] No. 10, as amended in 2020)

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