# SPC Guiding Case No. 253: Enforcement Case of Huizhou [X] Industrial Co., Ltd., Huizhou [X] Water Purification Co., Ltd., and Qiu [X]yan

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

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## Keywords

Enforcement / enforcement implementation / designated enforcement / enforcement settlement

## Holding

1. Where enforcement work cannot be effectively advanced due to factors such as the property subject to enforcement being located in another locality, and enforcement by the people's court of the place where the property subject to enforcement is located would be more conducive to carrying out the enforcement work lawfully, promptly and effectively, the common superior people's court may designate the case to be enforced by the people's court of the place where the property subject to enforcement is located.

2. Where the property subject to enforcement involves a project serving people's livelihood and requires the assistance and cooperation of local government functional departments, the people's court may strengthen coordination and linkage with the relevant departments, guide the parties to reach a settlement agreement such as installment performance, and retain the necessary funds to maintain the normal operation of the livelihood project.

## Basic Facts

In March 2023, Huizhou [X] Industrial Co., Ltd. (“Huizhou [X] Industrial”) filed a lawsuit requesting Huizhou [X] Water Purification Co., Ltd. (“Huizhou [X] Purification”) and its legal representative Qiu [X]yan to pay overdue goods payment of more than RMB 10.41 million (same currency hereinafter) and corresponding interest. Through mediation organized by the Huicheng District People's Court of Huizhou, Guangdong Province, the parties reached an installment payment mediation agreement, which was confirmed by a civil mediation statement. Because Huizhou [X] Purification and Qiu [X]yan failed to perform their payment obligations, Huizhou [X] Industrial applied to the Huicheng District People's Court for compulsory enforcement.

During the enforcement, the Huicheng District People's Court investigated the property of the judgment debtors Huizhou [X] Purification and Qiu [X]yan and found that the judgment debtors' bank accounts contained a small amount of deposits; the registered place of the judgment debtor Huizhou [X] Purification was located in Huiyang District, Huizhou; and the four immovable properties registered under the name of the judgment debtor Qiu [X]yan were also all located in Huiyang District, Huizhou. The Huicheng District People's Court lawfully sealed the bank accounts under the names of the judgment debtors and the above immovable properties under Qiu [X]yan's name. Upon application by the Huicheng District People's Court, the Huizhou Intermediate People's Court of Guangdong Province designated the case to be enforced by the Huiyang District People's Court of Huizhou.

During the enforcement, upon investigation and verification, the four immovable properties registered under the name of the judgment debtor Qiu [X]yan were all encumbered by mortgages, and the value of the immovable properties was clearly insufficient to cover the claims of the mortgagees, making their auction a useless disposition; the judgment debtor Huizhou [X] Purification undertook a government sewage treatment project, was responsible for 60% of the sewage treatment in Danshui Urban District of Huiyang District, and

enjoyed a claim for receivable project payment. That project payment was paid by the Huiyang District Housing and Urban-Rural Development Bureau (“the Huiyang District Housing and Urban-Rural Development Bureau”) in installments on a monthly basis into the frozen bank account of the judgment debtor Huizhou [X] Purification, but a non-party, the Huiyang Sub-branch of a Huizhou commercial bank (“the Bank's Huiyang Sub-branch”), enjoyed a pledge right over the above receivable project payment. The judgment debtor used the project payment received to maintain its business operations, advance the sewage treatment project, and repay the claim of the pledgee the Bank's Huiyang Sub-branch on a monthly basis. After the Huiyang District People's Court lawfully froze the account through which Huizhou [X] Purification received project payment, the enforcement applicant Huizhou [X] Industrial repeatedly applied for compulsory enforcement of that project payment. The Huiyang District Housing and Urban-Rural Development Bureau held that, if the project payment were compulsorily enforced, it would directly affect the progress of the enterprise's sewage treatment project, thereby affecting the normal lives of nearly 200,000 residents of Danshui Urban District, and would also have a negative impact on the local ecological environment.

In order to avoid affecting the normal operations of the enterprise, safeguard the normal lives of residents, protect the local ecological environment and safeguard the lawful rights and interests of the pledgee, the Huiyang District People's Court actively organized negotiation among the parties and the pledgee, and guided the parties to reach an enforcement settlement in July 2023. The settlement agreement provided: on the premise of safeguarding the normal production and operation of Huizhou [X] Purification, ensuring the normal construction of the relevant sewage treatment project and the monthly satisfaction of the pledgee's claim, the Huiyang District People's Court would deduct in installments, in four monthly installments, a total of RMB 9.67 million of receivable project payment from the bank account of Huizhou [X] Purification and pay it to Huizhou [X] Industrial; Huizhou [X] Industrial agreed to waive the recovery of interest and to lift the freeze on the bank account under Huizhou [X] Purification's name and the sealing of the immovable properties under Qiu [X]yan's name.

## Judgment

In October 2023, Huizhou [X] Industrial received the final payment, the settlement agreement was fully performed, and the case was closed as fully enforced.

## Reasoning

In this case, the main property of the judgment debtor was located in another locality and involved a livelihood project. In order to ensure the smooth and proper advancement of the enforcement work, the superior people's court should strengthen overall coordination.

First, where enforcement by the people's court of the place where the property subject to enforcement is located is more conducive to advancing the enforcement work, the case may be enforced by the people's court of the place where the property subject to enforcement is located. For a case in which the property subject to enforcement is located in another locality, in order to more effectively advance the enforcement work and safeguard the lawful rights and interests of the winning party, the common superior people's court may be requested to designate the people's court of the place where the property subject to enforcement is located to enforce the case. In this case, after docketing enforcement, the Huicheng District People's Court discovered that all the property subject to enforcement was located in Huiyang District, and accordingly requested the Huizhou Intermediate People's Court to designate enforcement. Based on the consideration of conserving judicial resources and improving enforcement efficiency, the Huizhou Intermediate People's Court designated the case to be enforced by the Huiyang District People's Court.

Second, where the property subject to enforcement involves a livelihood project, the people's court should handle the matter properly. In this case, during enforcement, the Huiyang District People's Court discovered that the project payment subject to enforcement involved a local sewage treatment project, and compulsory

enforcement might affect the progress of the sewage treatment project, thereby affecting the normal lives of local residents and even the ecological environment. The Huiyang District People's Court gave full play to the advantages of the court of the locality: on the one hand, it actively coordinated with the housing and urban-rural development department to cooperate with the court in advancing the enforcement of the case funds; on the other hand, it organized negotiation among the parties and the pledgee on several occasions, explained the law and reasoned with them, guided the parties to seek a balance of interests, and ultimately reached a settlement agreement for installment payment of the project funds.

Through designated enforcement and active coordination with the relevant parties, this case both maximally safeguarded the lawful rights and interests of the enforcement applicant and won development space for the judgment debtor enterprise, while also safeguarding the smooth advancement of the relevant livelihood project, achieving a good enforcement effect.

## Relevant Legal Provisions

Article 235 of the Civil Procedure Law of the People's Republic of China (Article 231 of the Civil Procedure Law of the People's Republic of China as amended in 2021 applied in this case)

Paragraph 2 of Article 74 of the Several Provisions of the Supreme People's Court on the Enforcement Work of People's Courts (Fa Shi [1998] No. 15, amended in 2020)

Articles 1 and 8 of the Several Provisions of the Supreme People's Court on Enforcement Settlement (Fa Shi [2018] No. 3, amended in 2020)

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