SPC Guiding Case No. 256: Enforcement Case of Chongqing [X] Industrial Co., Ltd., Chongqing [X] Construction Engineering Co., Ltd., and Pan [X]

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

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Keywords

Enforcement / enforcement implementation / large number of parking spaces / priority to property owners / separate-lot auction

Holding

When a people's court disposes of a large number of parking spaces planned within a building zoning for parking automobiles, it may, in accordance with Article 276 of the Civil Code of the People's Republic of China, first satisfy the needs of the property owners of the community while lawfully safeguarding the lawful rights and interests of creditors, and, by comprehensively considering factors such as the nature of the parking spaces involved, the parking-space ratio of the community and the lawful rights and interests of the parties, formulate a feasible disposal plan such as separate-lot auction.

Basic Facts

In a sales contract dispute between Chongqing [X] Industrial Co., Ltd. and Chongqing [X] Construction Engineering Co., Ltd. and Pan [X], the Chongqing Pilot Free Trade Zone People's Court rendered Civil Judgment (2021) Yu 0192 Min Chu No. 442 on January 7, 2021: Chongqing [X] Construction Engineering Co., Ltd. (“Chongqing [X] Construction”) shall pay Chongqing [X] Industrial Co., Ltd. (“Chongqing [X] Industrial”) RMB 4.3305 million for goods (same currency hereinafter) plus corresponding capital occupation fees of RMB 1.2669 million; and Pan [X] shall bear joint and several guarantee liability for the above debts of Chongqing [X] Construction. Because the judgment debtors Chongqing [X] Construction and Pan [X] failed to perform the obligations determined in the effective legal instrument within the time limit, the enforcement applicant Chongqing [X] Industrial applied to the Chongqing Pilot Free Trade Zone People's Court for compulsory enforcement on March 18, 2022.

During the enforcement, the Chongqing Pilot Free Trade Zone People's Court first sealed a total of 73 parking spaces registered in the name of the judgment debtor Pan [X] in a certain community in Jiangbei District, Chongqing. The community where the parking spaces involved are located was completed in 2004 and has five residential buildings with a total of 445 housing units; the ratio of housing to parking spaces is approximately 1:0.3. The 73 parking spaces involved are all parking spaces planned within the building zoning for parking automobiles, and the spaces are in a state of being leased and used by lessees. The parking spaces involved were purchased by the judgment debtor Pan [X] in a single transaction in 2009. Pan [X] is not currently a property owner of the community. After the parking spaces were sealed, the judgment debtor still failed to perform its obligations, and Chongqing [X] Industrial applied to the Chongqing Pilot Free Trade Zone People's Court for disposal.

In accordance with the legislative spirit of Article 276 of the Civil Code, and in order to first satisfy the needs of property owners while ensuring that the parking spaces involved could be smoothly sold at auction, the Chongqing Pilot Free Trade Zone People's Court decided to prefer separate-lot auction over overall auction between the two disposal methods for the parking spaces, and further refined the specific implementation plan. Specifically: (1) the auction was conducted for property owners of the community, with each owner

allowed to bid for only one parking space; if any parking spaces remained unsold, a further auction was conducted for unspecified bidders; (2) a property owner who was a lessee of a parking space and met the bidding qualifications enjoyed a preemptive right to purchase the leased parking space under equal conditions.

Judgment

On June 15, 2022, the Chongqing Pilot Free Trade Zone People's Court rendered Enforcement Ruling (2022) Yu 0192 Zhi No. 737-8, auctioning the 73 parking spaces. During the auction for property owners of the community, 61 of the parking spaces involved were sold at an average transaction price of RMB 85,300, and the remaining parking spaces were all sold during the auction for unspecified bidders at an average transaction price of RMB 84,600. After the transactions were completed, the people's court issued auction transaction confirmation rulings and assistance enforcement notices, completing the title transfer procedures for the corresponding parking spaces. After deducting the corresponding taxes and fees, the auction proceeds were paid in full to the enforcement applicant.

Reasoning

The key to lawfully and properly enforcing this case lay in how to dispose of the large number of parking spaces involved.

First, the disposal of parking spaces should first satisfy the needs of property owners. Article 276 of the Civil Code provides: “Within a building zoning, the parking spaces and garages planned for parking automobiles shall first satisfy the needs of the property owners.” This provision reflects the legislative value orientation of giving priority protection to the rights and interests of property owners. This judicial disposal involved a large number of parking spaces, and a reasonable disposal plan should be formulated in accordance with the above legislative spirit and by comprehensively considering factors such as the nature of the parking spaces involved, the parking-space ratio of the community and the lawful rights and interests of the parties. It was necessary both to maximize the value of the property and lawfully safeguard the lawful rights and interests of creditors, and to implement the spirit of the relevant provisions of the Civil Code and lawfully safeguard the lawful rights and interests of a large number of property owners of the community.

Second, with respect to the question of whether the parking spaces involved should be auctioned as a whole or in separate lots. In this case, the ratio of housing to parking spaces in the community was approximately 1:0.3, parking spaces were tight, and the parking spaces to be auctioned were all in a state of being leased and used by property owners of the community. From the perspective of first satisfying the needs of property owners, separate-lot auction was appropriate for the disposal of the parking spaces involved. If overall disposal were adopted, usually only one bidder would successfully bid, and even if that bidder were a property owner, it would be difficult to safeguard the preemptive purchase rights of a large number of parking-space lessees, and the demand of a large number of property owners without parking spaces to purchase parking spaces would be difficult to satisfy.

Third, with respect to the scope and order of bidders. The requirement in Article 276 of the Civil Code to “first satisfy the needs of the property owners” includes not only the rights of property owners to preemptive purchase, preemptive lease and preemptive use of parking spaces, but also the implication that, when the reasonable needs of property owners are not satisfied, the parking spaces may not be arbitrarily disposed of to third parties other than property owners. Of course, on the basis of “first satisfying the needs of the property owners,” the sale of parking spaces to third parties other than property owners should be permitted, which both facilitates the lawful safeguarding of the lawful rights and interests of the winning parties and avoids unnecessary impact on the rights and interests of the judgment debtors. Therefore, in the specific auction process, property owners of the community participated in bidding first; after the auction process concluded, for any parking spaces that remained unsold, bidding was conducted again for unspecified bidders other than property owners, thereby protecting the lawful rights and interests of the property owners

of the community, the winning parties and the judgment debtors in a balanced manner.

Relevant Legal Provisions

Article 276 of the Civil Code of the People's Republic of China

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