SPC Guiding Case No. 259: [X] Environmental Research Institute, Fengtai District, Beijing v. Jiangsu [X] Steel Group Co., Ltd. (Environmental Pollution Civil Public Interest Litigation)

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

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Keywords

Civil / environmental pollution civil public interest litigation / social public interest / review of withdrawal of action

Holding

1. In an environmental civil public interest litigation case, where the plaintiff applies to withdraw the action, the people's court may grant permission by ruling only after examining and confirming that the plaintiff's litigation claims involving the social public interest — such as the defendant bearing liability for ecological environment restoration and compensation for damage — have been fully realized.

2. The phrase "the plaintiff's litigation claims have been fully realized" in Article 26 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Civil Public Interest Litigation Cases means that the plaintiff's litigation claims involving the social public interest have been fully realized.

Basic Facts

On June 28, 2018, the Ministry of Ecology and Environment reported on the problem of the accumulation of one million tons of steel slag by Jiangsu [X] Steel Group Co., Ltd. (“Jiangsu [X] Steel Group”). The steel slag storage yard within its subsidiary's plant area had not been strictly designed in accordance with the requirements of the Standard for Pollution Control on the Storage and Disposal Site for General Industrial Solid Wastes (GB18599-2001), and had not been equipped with supporting pollution prevention and control facilities, presenting a relatively high risk of environmental pollution. At the same time, Jiangsu [X] Steel Group also engaged in the discharge of air pollutants in excess of the prescribed standards.

On March 15, 2019, [X] Environmental Research Institute, Fengtai District, Beijing (“Fengtai [X] Environmental Research Institute”) brought an environmental pollution civil public interest lawsuit with the Suzhou Intermediate People's Court of Jiangsu Province, arguing that Jiangsu [X] Steel Group had polluted the environment and caused damage, and that it should bear tort liability. It requested an order that Jiangsu [X] Steel Group: 1. cease the infringement, immediately cease the discharge of soot, waste gas and other pollutants in excess of the prescribed standards, and cease the illegal acts of dumping waste slag and other waste that harm the environmental public interest; 2. apologize, and publicly apologize to the public in mainstream national media for the acts that continuously harmed the environmental public interest; 3. eliminate the danger, and take effective measures to eliminate the environmental risks to the public interest posed by the soot and waste gas to the atmospheric environment and by the waste slag to the water environment of the Yangtze River; 4. compensate for losses, and compensate for the losses caused by the loss of service functions during the period from when the environment was damaged until restoration was completed; 5. bear the inspection and appraisal costs of the case, reasonable attorney's fees, and the plaintiff's travel expenses and other expenses incurred for the litigation; and 6. bear all litigation costs of the case.

During the trial, Fengtai [X] Environmental Research Institute, on the grounds that the people's government might initiate ecological environment damage compensation work in respect of the environmental pollution involved in the case, applied to withdraw the action on April 19, 2019. After trial, the Suzhou Intermediate People's Court held that the reasons for Fengtai [X] Environmental Research Institute's withdrawal of the action did not conform to the provisions of the relevant judicial interpretation, and on October 22, 2019 rendered Civil Ruling (2019) Su 05 Min Chu No. 299-1: the withdrawal of the action by Fengtai [X] Environmental Research Institute was not permitted.

On October 17, 2019, the People's Government of Zhangjiagang City, Jiangsu Province sent a letter to the Suzhou Intermediate People's Court, stating that the Zhangjiagang Municipal People's Government, authorized by the Suzhou Municipal People's Government, was handling the ecological environment damage compensation work of Jiangsu [X] Steel Group and had already initiated ecological environment damage compensation consultation. The Suzhou Intermediate People's Court held that the result of the consultation between the Zhangjiagang Municipal People's Government and Jiangsu [X] Steel Group on the ecological environment damage compensation involved in the case might affect the trial of the case, and on October 29, 2019 rendered Civil Ruling (2019) Su 05 Min Chu No. 299-2: the litigation in this case was suspended.

Upon assessment, the amount of ecological environment damage caused by the polluting acts of Jiangsu [X] Steel Group involved in the case was RMB 40,349,639.59. On December 5, 2020, the Zhangjiagang Municipal People's Government and Jiangsu [X] Steel Group reached an Ecological Environment Damage Compensation Agreement and a supplementary agreement through consultation, and applied for judicial confirmation to the Nanjing Intermediate People's Court of Jiangsu Province (which, with the approval of the Supreme People's Court, established the Nanjing Environmental Resources Tribunal in June 2019 to centrally accept environmental and resource cases under the jurisdiction of the intermediate people's courts within Jiangsu Province). Upon examination, the Nanjing Intermediate People's Court held that the soil pollution damage caused by the steel slag involved in the case had been effectively restored, the risk of groundwater pollution had been eliminated, and the compensation for air pollution damage was in place; that the Ecological Environment Damage Compensation Agreement and the supplementary agreement involved in the case could achieve the effect of restoring the ecological environment and making good the ecological environment damage; and that the responsibility mechanism determined in the agreements could guarantee their performance. On June 4, 2021, it rendered Civil Ruling (2021) Su 01 Min Te No. 64, confirming that the Ecological Environment Damage Compensation Agreement and the supplementary agreement reached on December 5, 2020 between the Zhangjiagang Municipal People's Government and Jiangsu [X] Steel Group were lawful and effective.

On February 23, 2021, Fengtai [X] Environmental Research Institute applied to withdraw the action for a second time, on the grounds that the case had gone through the local ecological environment damage compensation consultation procedure and a compensation agreement had been reached.

Judgment

Given that the litigation claims of [X] Environmental Research Institute, Fengtai District, Beijing involving the social public interest had all been realized, the Suzhou Intermediate People's Court of Jiangsu Province, on June 5, 2021, rendered Civil Ruling (2019) Su 05 Min Chu No. 299: the withdrawal of the action by [X] Environmental Research Institute, Fengtai District, Beijing was permitted.

Reasoning

The focus of the dispute in this case was: whether the litigation claims of Fengtai [X] Environmental Research Institute had been fully realized, and whether its application to withdraw the action should be granted.

Article 145(1) of the Civil Procedure Law of the People's Republic of China (amended in 2017) provides: “Where the plaintiff applies to withdraw the action before judgment is pronounced, whether permission is granted shall be determined by ruling of the people's court.” In environmental civil public interest litigation, the subject matter of the litigation involves the environmental public interest, and the plaintiff's exercise of the right to withdraw the action must be premised on not harming the social public interest. Where the plaintiff applies to withdraw the action, the people's court shall examine the matter ex officio and grant permission only after confirming that the social public interest will not be harmed. In this regard, Article 26 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Civil Public Interest Litigation Cases (Fa Shi [2015] No. 1, amended in 2020) provides: “Where a department performing the duty of supervision and administration of environmental resources protection lawfully performs its supervisory duty, so that the plaintiff's litigation claims are fully realized, and the plaintiff applies to withdraw the action, the people's court shall grant permission.” During the trial of this case, Fengtai [X] Environmental Research Institute, upon learning that the people's government might initiate ecological environment damage compensation work in respect of the environmental pollution involved in the case, applied to the people's court to withdraw the action for the first time on April 19, 2019. After examination, the people's court held that the environmental pollution involved in the case had not yet been actually resolved, and there was no evidence proving that the litigation claims of the plaintiff Fengtai [X] Environmental Research Institute involving the social public interest had been fully realized; if the plaintiff were permitted to withdraw the action, the social public interest might be harmed, and therefore it ruled not to permit the withdrawal of the action.

Thereafter, the Zhangjiagang Municipal People's Government, as the government consultation work-handling body for ecological environment damage compensation designated by the Suzhou Municipal People's Government, reached an Ecological Environment Damage Compensation Agreement and a supplementary agreement with Jiangsu [X] Steel Group through consultation in respect of the pollution involved in the case. In order to safeguard the public's right to know and right to participate, the content of the agreements was publicly announced in accordance with the law. On June 4, 2021, the agreements were confirmed as lawful and effective by Civil Ruling (2021) Su 01 Min Te No. 64 of the Nanjing Intermediate People's Court. During this period, Fengtai [X] Environmental Research Institute applied to withdraw the action for the second time on February 23, 2021.

Upon examination, Jiangsu [X] Steel Group had carried out rectification of the environmental pollution involved in the case; upon appraisal and assessment and the review of the Suzhou Municipal Environmental Protection Rectification Work Leading Group, it was confirmed that the pollution had been rectified to meet the standards. In this case, the plaintiff's litigation claims against the defendant Jiangsu [X] Steel Group to cease the infringement, eliminate the danger and compensate for losses — which involved the social public interest — had all been realized after the ecological environment damage compensation consultation.

With respect to the phrase “the plaintiff's litigation claims have been fully realized” in Article 26 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Civil Public Interest Litigation Cases, it should be understood as meaning that the plaintiff's litigation claims involving the social public interest have been fully realized. In this case, the plaintiff's litigation claims requesting the defendant to bear attorney's fees, travel expenses and other expenses incurred for the litigation, as well as litigation costs, involved only the plaintiff's own interests, not the social public interest; before such litigation claims were realized, the plaintiff's application to withdraw the action constituted a disposition of its civil rights and litigation rights within the scope prescribed by law. Therefore, the grounds for Fengtai [X] Environmental Research Institute's second application to withdraw the action conformed to the provisions of law, and the people's court should grant permission.

Relevant Legal Provisions

Article 1234 and Article 1235 of the Civil Code of the People's Republic of China

Source: https://www.danyoungcpa.com/spc-guiding-case-259-china/

Article 148 and Article 153 of the Civil Procedure Law of the People's Republic of China (Articles 145 and 150 of the Civil Procedure Law of the People's Republic of China as amended in 2017 applied in this case)

Articles 22, 26 and 27 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Environmental Civil Public Interest Litigation Cases (Fa Shi [2015] No. 1, amended in 2020)

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