SPP Guiding Case No. 206: Litigation Supervision Case of a Villagers' Committee v. a Real Estate Registration Center of a City in Heilongjiang Province (Administrative Registration)

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Supreme People's Procuratorate Guiding Case No. 206 (Batch 51, 2024)

Keywords

Supervision of effective administrative judgments; protection of reliance interests; exclusion from the time limit for filing a lawsuit; administrative protest.

Holding

In judging whether a lawsuit has exceeded the statutory time limit for filing and whether there are circumstances of missing the time limit for reasons not attributable to the party, full consideration shall be given to whether the administrative counterpart has actively exercised the right to sue and whether there is a justifiable reason for missing the time limit. Where a citizen, legal person or other organization asserts its rights by applying for administrative reconsideration and the administrative organ promises to correct the error on its own, the period during which the citizen, legal person or other organization waits for the administrative organ to correct the error on its own falls under "other circumstances of missing the time limit for filing not attributable to the party itself" as prescribed by paragraph 1 of Article 48 of the Administrative Litigation Law of the People's Republic of China, and shall be excluded from the time limit for filing the lawsuit.

Basic Facts

In 2006, a certain villagers' committee signed a joint operation agreement with a certain company. In 2012, the company, on the pretext of building a factory under joint operation, applied to the directly subordinate branch of the former municipal land and resources bureau of a certain city in Heilongjiang Province for the circulation procedures of the collective land use right of a certain village's land, and the municipal people's government issued to the company Collective Land Use Certificate No. 20120180. In 2016, the city established a municipal real estate registration center to undertake the real estate registration duties. In May 2017, the villagers' committee discovered that the company had forged application materials to handle land registration. In July 2017, the villagers' committee applied to the Heilongjiang Provincial People's Government for administrative reconsideration, requesting the revocation of the land use certificate. Afterwards, the villagers' committee withdrew the administrative reconsideration application.

In April 2019, the villagers' committee filed an administrative lawsuit with a district people's court against the municipal real estate registration center, requesting the revocation of Collective Land Use Certificate No. 20120180. On April 25, 2019, the district people's court rendered an administrative ruling, holding that the directly subordinate branch of the former municipal land and resources bureau had handled the Collective Land Use Certificate for the company in 2012, that the villagers' committee filed the lawsuit in April 2019, that more than five years had elapsed since the administrative act was taken, and that the villagers' committee's lawsuit was not accepted. The villagers' committee appealed to the municipal intermediate people's court. On July 24, 2019, the municipal intermediate people's court rendered an administrative ruling, holding that the villagers' committee claimed to have learned in May 2017 that the directly subordinate branch of the former municipal land and resources bureau had handled the Collective Land Use Certificate for the company in 2012 and that the company had committed fraud in handling the land use certificate. The villagers' committee applied to the Heilongjiang Provincial People's Government for administrative

reconsideration in 2017 and then withdrew the administrative reconsideration application, and the Heilongjiang Provincial People's Government issued a Decision on Termination of Administrative Reconsideration on August 14, 2017. The villagers' committee filed the lawsuit in April 2019, which exceeded the statutory time limit for filing, and the first-instance court's ruling not to accept the lawsuit complied with legal provisions. It ruled to dismiss the appeal and uphold the original ruling. The villagers' committee applied to the Heilongjiang Provincial Higher People's Court for retrial, and the Heilongjiang Provincial Higher People's Court ruled on March 25, 2020 to dismiss the retrial application.

Procuratorate Performance of Duties

Source of the case. The villagers' committee applied to a municipal people's procuratorate for supervision. After lawful acceptance and review, the municipal people's procuratorate requested the Heilongjiang Provincial People's Procuratorate to protest.

Investigation and verification. After reviewing the file and going to the municipal real estate registration center for investigation and verification, the procuratorate ascertained: 1. On August 4, 2017, the directly subordinate branch of the former municipal land and resources bureau issued a Letter of Commitment to the villagers' committee, stating: "Our branch did have certain problems in handling land registration and certification for the company ... It is decided that, in accordance with the relevant provisions of the Detailed Rules for the Implementation of the Interim Regulations on Real Estate Registration, within 10 working days of receiving the provincial government's Decision on Termination of Administrative Reconsideration, it will report to the higher level for correction in accordance with law, and complete the matter within six months." Afterwards, the villagers' committee withdrew the administrative reconsideration application with the Heilongjiang Provincial People's Government, and the administrative reconsideration procedure was terminated. 2. On December 9, 2018, the directly subordinate branch of the former municipal land and resources bureau issued a Letter of Reply, stating: "... it has formally reported to the municipal bureau to recommend the revocation of Collective Land Use Certificate No. 20120180 in accordance with law." 3. On August 7, 2019, the municipal natural resources and planning bureau issued a Reply on the Application of a Certain Village, stating: "On August 4, 2017, the directly subordinate branch of the former municipal land and resources bureau issued a Letter of Commitment to correct the registration act on its own. Later, due to personnel changes and institutional reform, land registration was unified under the real estate registration center. On December 5, 2018, our bureau, in accordance with the opinions of the national inspection bureau, decided to revoke the original land registration certificate. However, because the laws and regulations on land registration were abolished after unified real estate registration, and the laws and regulations on real estate registration contain no legal provisions on the revocation of real estate registration, the relevant real estate registration has not been revoked to date. The litigation time of your village has been delayed due to the above reasons."

Supervision opinions. The Heilongjiang Provincial People's Procuratorate held upon review: the focus of the dispute in this case was whether the villagers' committee's lawsuit exceeded the statutory time limit for filing. Paragraph 1 of Article 48 of the Administrative Litigation Law of the People's Republic of China provides: "Where a citizen, legal person or other organization misses the time limit for filing a lawsuit due to force majeure or other reasons not attributable to itself, the time missed shall not be counted in the time limit for filing." The period during which an administrative counterpart, based on reliance on the relevant state organ, waits for it to handle the relevant disputed matter shall be excluded from the time limit for filing. In this case, the Letter of Commitment issued by the directly subordinate branch of the former municipal land and resources bureau on August 4, 2017 and the Letter of Reply issued on December 9, 2018 both expressly promised to initiate the self-correction procedure, and it was not until after the second-instance ruling became effective that the municipal natural resources and planning bureau's Reply on the Application of a Certain Village expressly stated that its promise could not be fulfilled because the relevant legal provisions were abolished after unified real estate registration, and acknowledged that the litigation time was delayed

due to the administrative organ's reasons. The directly subordinate branch of the former municipal land and resources bureau and the municipal natural resources and planning bureau, as the competent authorities for real estate registration, made self-correction promises that were trustworthy and expectable to the villagers' committee; the period during which the villagers' committee waited for their handling and was thus delayed fell under the statutorily prescribed circumstance of "missing the time limit for filing for reasons not attributable to the party itself." Therefore, the period from August 4, 2017, when the branch of the former municipal land and resources bureau issued the Letter of Commitment promising self-correction, to August 7, 2019, when the municipal natural resources and planning bureau issued the Reply on the Application of a Certain Village expressly stating that self-correction could no longer be carried out, should be excluded from the time limit for filing, and the villagers' committee's lawsuit did not exceed the statutory time limit for filing. The second-instance ruling's decision not to accept the lawsuit was clearly erroneous.

Supervision results. On December 4, 2021, the Heilongjiang Provincial People's Procuratorate lodged a protest with the Heilongjiang Provincial Higher People's Court. On February 15, 2022, the Heilongjiang Provincial Higher People's Court ruled to retry the case. On February 23, 2022, the Heilongjiang Provincial Higher People's Court rendered a retrial ruling, holding that the villagers' committee had actively asserted its rights since learning of the specific administrative act; although the time of its lawsuit exceeded the statutory time limit for filing, this was based on the express commitment made by the administrative organ, which was expectable, and fell under "the citizen, legal person or other organization missing the time limit for filing for other reasons not attributable to itself" as prescribed by paragraph 1 of Article 48 of the Administrative Litigation Law of the People's Republic of China, and the time missed was not counted in the time limit for filing. Moreover, after the first-instance and second-instance judgments in this case, the villagers' committee again asserted its rights with the administrative organ, and the municipal natural resources and planning bureau again issued a reply expressly stating that the promise could no longer be fulfilled and acknowledging that the litigation time was delayed due to the administrative organ's reasons. In conclusion, the procuratorate's grounds for protest were established. It ruled to revoke the first-instance and second-instance rulings and order the district people's court to accept the case. On February 9, 2023, the district people's court rendered a judgment, holding that in the circulation declaration and review form for collective construction land submitted by the company, the official seals stamped in the villagers' committee opinion column and the township government opinion column were judicially identified as forged seals, that the preconditions for handling the certificate did not comply with legal provisions, and that the certificate issuance act was unlawful and should be revoked. It ruled to revoke Collective Land Use Certificate No. 20120180. The company appealed to the municipal intermediate people's court. On June 19, 2023, the municipal intermediate people's court rendered a judgment, holding that the registration authority's issuance of Collective Land Use Certificate No. 20120180 lacked sufficient main evidence and should be revoked in accordance with law. It ruled to dismiss the appeal and uphold the original judgment.

Guiding Significance

Where a citizen, legal person or other organization, based on good-faith reliance on an administrative organ's promise of self-correction, waits for the administrative organ to handle the relevant disputed matter, this shall be a circumstance of exclusion from the time limit for filing an administrative lawsuit. Paragraph 1 of Article 48 of the Administrative Litigation Law of the People's Republic of China provides for the system of exclusion from the time limit for filing an administrative lawsuit. As an exception to the general provisions on time limits for filing, this system reflects the balance between protecting parties' right to sue and maintaining administrative order, preventing parties from losing judicial relief channels for reasons not attributable to themselves. Where a citizen, legal person or other organization is dissatisfied with an administrative act taken by an administrative organ, it may raise the matter with the administrative organ in accordance with law. Where the administrative organ expressly refuses to correct the administrative act, the citizen, legal person or other organization shall, within the period prescribed by law, assert its rights through application for administrative reconsideration or filing an administrative lawsuit in accordance with law. In the process of

asserting rights in accordance with law before filing a lawsuit, the period during which a citizen, legal person or other organization waits for the administrative organ to handle the matter based on reliance on the administrative organ's promise of self-correction falls under the statutorily prescribed "missing the time limit for filing for reasons not attributable to itself" and is not counted in the statutory time limit for filing.

Relevant Legal Provisions

Paragraph 1 of Article 48 of the Administrative Litigation Law of the People's Republic of China.

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