SPP Guiding Case No. 207: Litigation Supervision Case of Zhi Moulan v. the Natural Resources and Planning Bureau of a City in Shandong Province (Registration of Homestead Land Use Rights)

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Supreme People's Procuratorate Guiding Case No. 207 (Batch 51, 2024)

Keywords

Supervision of effective administrative judgments; homestead land use right registration; interested relationship; protection of the right to sue; administrative protest.

Holding

Where a person who is not a member of the collective economic organization of the village occupies rural homestead land on the basis of jointly obtaining house ownership through inheritance and membership of the collective economic organization, and the real estate registration authority's issuance of a collective land use certificate based on the application of the relevant rural collective economic organization member infringes upon the person's lawful rights and interests, the person shall be an interested party as prescribed by law. Where an effective administrative ruling of the people's court dismisses the lawsuit on the ground that the counterpart is not a member of the collective economic organization to which the land involved belongs and therefore has no right to obtain the homestead land use right, the people's procuratorate shall supervise in accordance with law.

Basic Facts

Zhi Mutang and Li Mouying were villagers of a certain village in a certain city, Shandong Province. During their lifetimes, they had three sons and one daughter: Zhi Mudai, Zhi Muzhu (formerly known as Zhi Murui), Zhi Mulai and Zhi Mulan. Zhi Mulan moved her household registration out of the village on July 6, 1998.

The collective land use certificate of the homestead land involved was originally registered under the name of Zhi Mutang. After Zhi Mutang's death, Zhi Muzhu obtained the house and the homestead land use right involved by inheritance in November 2015, and on this basis filed a land registration application with a municipal land and resources bureau (now the municipal natural resources and planning bureau), providing a certificate issued by the village committee of the village and a house inheritance agreement. The municipal natural resources and planning bureau issued a collective land use right certificate to Zhi Muzhu.

Zhi Mulan, believing that the administrative registration act of the municipal natural resources and planning bureau infringed upon her lawful rights and interests, filed an administrative lawsuit with a district people's court on October 12, 2018, requesting the revocation of the collective land use right certificate issued by the municipal natural resources and planning bureau to Zhi Muzhu in accordance with law.

On April 25, 2019, the district people's court rendered an administrative ruling, holding that rural collective land use rights are identity-based and welfare-based, that Zhi Mulan was not a member of the collective economic organization to which the land involved belonged, and therefore had no right to sue over the change of the relevant land use certificate, and ruled to dismiss Zhi Mulan's lawsuit. Zhi Mulan, dissatisfied with the first-instance ruling, applied to a municipal intermediate people's court for retrial. On June 4, 2020, the municipal intermediate people's court rendered a retrial ruling, dismissing Zhi Mulan's retrial application.

Procuratorate Performance of Duties

Source: https://www.danyoungcpa.com/spp-guiding-case-207-china/

Source of the case. Zhi Mulan applied to a district people's procuratorate for supervision. After review, the district people's procuratorate requested a municipal people's procuratorate to protest on June 22, 2021.

Investigation and verification. After reviewing the case file materials and inquiring of the parties, the procuratorate retrieved the original archives of the land registration involved, and found that the main basis for the municipal natural resources and planning bureau's issuance of the collective land use certificate to Zhi Muzhu was the house inheritance agreement, which expressly stated that there were five heirs of the house on the homestead land involved, but did not expressly state that the house was to be inherited by Zhi Muzhu alone, and all heirs had not reached a division agreement on the estate, nor was there any content indicating that other heirs expressly waived the right of inheritance.

Supervision opinions. The municipal people's procuratorate held upon review that, in accordance with the Several Opinions of the Ministry of Land and Resources, the Office of the Central Leading Group for Rural Work, the Ministry of Finance and the Ministry of Agriculture on the Confirmation, Registration and Certification of Rural Collective Land, "a member of the peasant collective who already owns one homestead, or a rural or urban resident who is not a member of the peasant collective, who occupies rural homestead land by inheriting a house, may apply for registration and certification in accordance with the provisions, and the collective land use certificate shall be annotated in the remarks column: 'the right holder is the lawful heir of the original member of the peasant collective's residence.'" Although Zhi Mulan was not a villager of the village at the time of the lawsuit, she was a lawful heir of Zhi Mutang, a villager of the village, and enjoyed a lawful right of inheritance in the house on the homestead land involved, and should be an interested party in the homestead land involved. Zhi Mulan, believing that the municipal natural resources and planning bureau's act of issuing the collective land use certificate involved to Zhi Muzhu based on the house inheritance agreement infringed upon her lawful right of inheritance, filed a lawsuit with the people's court, which fell within the scope of acceptance of administrative litigation. The district people's court's ruling to dismiss the lawsuit on the ground that Zhi Mulan was not a member of the collective economic organization to which the land involved belonged and could not obtain the land use right involved, and therefore had no right to sue, was clearly erroneous in its application of law. The municipal natural resources and planning bureau's issuance of the collective land use certificate to Zhi Muzhu based on the house inheritance agreement stamped with the seal of the village committee lacked sufficient main evidence for its determination of facts.

On June 25, 2021, the municipal people's procuratorate lodged a protest with the municipal intermediate people's court.

Supervision results. On November 17, 2021, the municipal intermediate people's court rendered an administrative ruling, holding that the protest opinions put forward by the procuratorate were established and were adopted by the court, and ruled to revoke the original ruling and order the district people's court to continue the trial.

On September 26, 2022, the district people's court rendered an administrative judgment, holding that although Zhi Mulan was not a villager of the village, she was one of the statutory heirs of Zhi Mutang, a villager of the village, and had an interested relationship with the homestead land involved, and had plaintiff standing. The evidence provided by the municipal natural resources and planning bureau showed that Zhi Muzhu obtained the sued land use certificate by inheritance, but the inheritance agreement merely listed the heirs of the house on the homestead land and did not state that the house should be inherited by Zhi Muzhu. Therefore, the municipal natural resources and planning bureau failed to fulfill its duty of care in reviewing the village committee's certificate and the house inheritance agreement, and the issuance of the certificate lacked sufficient evidence. It ruled to revoke the collective land use certificate issued by the municipal natural resources and planning bureau to Zhi Muzhu.

The municipal natural resources and planning bureau and Zhi Muzhu, dissatisfied with the first-instance judgment, appealed. On March 6, 2023, the municipal intermediate people's court rendered an

administrative judgment, affirming the first-instance judgment's reasoning and result. The second-instance court held that, in accordance with Article 6 of the Several Opinions of the Ministry of Land and Resources, the Office of the Central Leading Group for Rural Work, the Ministry of Finance and the Ministry of Agriculture on the Confirmation, Registration and Certification of Rural Collective Land (Guo Tu Zi Fa [2011] No. 178), rural or urban residents who are not members of the peasant collective and occupy rural homestead land by inheriting a house may apply for registration and certification in accordance with the provisions, and the collective land use certificate shall be annotated in the remarks column: "the right holder is the lawful heir of the original member of the peasant collective's residence." In this case, although Zhi Mulan was not a member of the collective economic organization of the village, she could be registered as the right holder of the homestead land use right involved by obtaining an inheritance share in the house on the homestead land involved. The first-instance court's determination that Zhi Mulan had an interested relationship with the homestead land involved and had plaintiff standing was well-founded in law. Article 14 of the Detailed Rules for the Implementation of the Interim Regulations on Real Estate Registration provides: "Where a party applies for registration after acquiring real estate by inheritance or bequest, it shall submit death certification materials, a will or an agreement among all statutory heirs on the distribution of the real estate, and materials on kinship with the decedent, or may submit notarized materials or effective legal documents." The real estate registration authority shall review in accordance with law whether the materials submitted by the applicant are complete and comply with the statutory form, and decide on handling real estate registration matters within the scope of its authority. In this case, the inheritance agreement involved did not expressly state that the house should be inherited by Zhi Muzhu; in the absence of a division agreement among all heirs on the estate and of an effective legal document confirming that other heirs had lost the right of inheritance or expressly waived it, some heirs could not apply to register the collective land use certificate of the land involved in their own names. Therefore, the collective land use certificate issued by the municipal natural resources and planning bureau to Zhi Muzhu lacked sufficient main evidence and should be revoked in accordance with law.

Guiding Significance

Where a person who is not a member of the collective economic organization files an administrative lawsuit concerning homestead land registration based on house inheritance, and the people's court rules to dismiss the lawsuit on the ground that the plaintiff has no interested relationship with the sued homestead land registration act, the people's procuratorate shall supervise in accordance with law. The right to sue is the right of citizens, legal persons and other organizations to seek judicial relief in accordance with law. The Administrative Litigation Law of the People's Republic of China provides that the counterpart of an administrative act and other citizens, legal persons or organizations with an interested relationship in the administrative act have the right to file a lawsuit. A "married-out woman" who inherits a house on rural homestead land may, in accordance with the principle of integrating the house and the land, occupy the homestead land and undergo confirmation registration during the natural subsistence of the house, becoming the right holder of the homestead land. An administrative organ's issuance of a land use certificate only to members of the collective economic organization infringes upon the lawful rights and interests of the "married-out woman." Where the people's court dismisses the lawsuit on the ground that the "married-out woman" has no interested relationship with the sued homestead land registration act, the people's procuratorate shall supervise in accordance with law, effectively protecting the right to sue while correcting the erroneous registration act through substantive trial, and safeguarding the homestead land use rights enjoyed by "married-out women" and other persons who are not members of the collective economic organization by inheriting a house.

Relevant Legal Provisions

Paragraph 1 of Article 25 of the Administrative Litigation Law of the People's Republic of China; Article 1 of the Provisions of the Supreme People's Court on Several Issues Concerning the Trial of Administrative

Cases Involving Rural Collective Land; the Several Opinions of the Ministry of Land and Resources, the Office of the Central Leading Group for Rural Work, the Ministry of Finance and the Ministry of Agriculture on the Confirmation, Registration and Certification of Rural Collective Land.

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