SPP Guiding Case No. 231: Administrative Public Interest Litigation by the People's Procuratorate of Dongcheng District, Beijing and the Beijing Military Procuratorate of the PLA Urging Protection of the Lumi Granary

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SPP Guiding Case No. 231 (Procuratorial Example No. 231)

Keywords

Administrative public interest litigation; protection of cultural relics in military compounds; obligation of repair; military-local procuratorial coordination.

Holding

With respect to situations where immovable cultural relics within a military compound have been seriously damaged or face a serious risk of damage, military procuratorial organs shall, in accordance with the law, urge the competent military cultural relic authority to perform its cultural relic protection duties, and supervise the cultural relic user to implement its obligation of repair and maintenance. Where guidance and assistance from local administrative organs are genuinely needed, the military procuratorial organ may transfer the leads to the local procuratorial organ, and the local procuratorial organ shall, together with the military procuratorial organ, urge the local administrative organ and the competent military cultural relic authority to perform their cultural relic protection supervision and administration duties in accordance with the law.

Basic Facts

Lumi Cang (the Lumi Granary) was the granary for storing the salary grain of Beijing officials during the Ming and Qing dynasties. Its construction began in the 40th year of the Jiajing reign of the Ming dynasty, with a history of more than 460 years. It is a precious physical resource for the study of the ancient granary system and granary architecture, and is also of important value for the study of the history of the Chinese Grand Canal. In 1984 it was verified and published as a municipal-level protected cultural relic site of Beijing. Four granary buildings remain, three of which are used by a certain military unit as warehouses. Owing to improper repair and a lack of proper maintenance, the historical appearance has been impaired and there is a risk of damage.

Judgment

Discovery of leads. In July 2022, the Beijing Military Procuratorate of the People's Liberation Army conducted lead screening on the protection of immovable cultural relics within military compounds and discovered a public interest litigation lead of damage to Lumi Cang. In accordance with the relevant provisions of the departments concerned of the Central Military Commission and the National Cultural Heritage Administration on strengthening the protection of immovable cultural relics within military compounds, military cultural relic user units bear the obligation of repair and maintenance of immovable cultural relics, and the military facility administration department is the competent military cultural relic authority. The Beijing Military Procuratorate urged the military facility administration department to perform its cultural relic administration duties in accordance with the law, and supervised the Lumi Cang user unit in carrying out cultural relic repair and protection. During the rectification, the military facility administration department conducted a comprehensive assessment of the damage and considered that the repair of Lumi Cang was highly difficult and required substantial funds, and that the user unit lacked professional capacity for cultural relic repair. It therefore applied to a higher level for special funds for the restoration of Lumi Cang.

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After coordination, the military unit allocated part of the Lumi Cang protection funds from its barracks administration standard funds and project funds, but this was insufficient for effective protection. Upon comprehensive assessment, the Beijing Military Procuratorate considered that the military unit could not independently complete the cultural relic protection and repair work, and needed guidance and assistance from the locality. Pursuant to the Law of the People's Republic of China on the Protection of Cultural Relics, local people's governments at all levels are responsible for cultural relic protection within their administrative areas, and immovable cultural relics within military compounds shall be subject to the routine cultural relic protection supervision of local governments. The Beijing Military Procuratorate accordingly transferred the leads to the Beijing Municipal People's Procuratorate, which assigned the case to the Dongcheng District People's Procuratorate of Beijing.

Filing and investigation. After receiving the leads, the Dongcheng District People's Procuratorate, together with the Beijing Military Procuratorate, conducted verification of the protection of Lumi Cang. Pursuant to Article 8 of the Law of the People's Republic of China on the Protection of Cultural Relics (as amended in 2017), the Dongcheng District Culture and Tourism Bureau bears the supervision and administration duty for cultural relic protection; pursuant to the provisions of the Regulations of Beijing on the Protection of Famous Historical and Cultural Cities, the Jianguomen Sub-district Office of the Dongcheng District People's Government of Beijing bears responsibility for cultural relic safety protection and repair administration. On September 5, 2022, upon approval by the Beijing Municipal People's Procuratorate, the Dongcheng District People's Procuratorate separately filed cases against the Dongcheng District Culture and Tourism Bureau and the Jianguomen Sub-district Office.

After filing, the procuratorial organ conducted on-site inspection and retrieved archival materials such as the Lumi Cang cultural relic census registration form, further ascertaining the damage: some granary buildings were used for stacking miscellaneous items, many building components of the roofing and roofs were seriously decayed and weathered, and the building main body was at risk of damage; improper repair had caused wall burial and door and window blocking, impairing the historical appearance of the cultural relics.

Issuance of procuratorial recommendations. On October 8, 2022, the procuratorial organ issued a procuratorial recommendation to the Dongcheng District Culture and Tourism Bureau, recommending that it perform its cultural relic protection supervision and administration duty in accordance with the law, guide and assist the cultural relic user unit in fulfilling its cultural relic repair obligation, and strengthen the adaptive reuse of the cultural relics; and issued a procuratorial recommendation to the Jianguomen Sub-district Office, recommending that it perform its cultural relic safety protection responsibility in accordance with the law, assist the cultural relic user unit in carrying out repair, eliminate safety hazards, strengthen routine inspection, and further promote the adaptive reuse of the cultural relics.

Rectification. The Dongcheng District People's Procuratorate and the Beijing Military Procuratorate organized a working meeting on "promoting the protection of immovable cultural relics within military compounds through rule of law" with the Dongcheng District Culture and Tourism Bureau, the Jianguomen Sub-district Office, the military facility administration department and the Lumi Cang user unit, to jointly agree on the repair and protection of Lumi Cang. The military facility administration department allocated routine management funds from the barracks administration funds for the periodic maintenance of Lumi Cang; the user unit vacated two of the granary buildings and handed them over to the local government for planning and administration. The Jianguomen Sub-district Office commissioned relevant units to formulate a repair plan and guided the military unit in carrying out the repair. The Dongcheng District Culture and Tourism Bureau arranged part of the cultural relic repair funds in accordance with fiscal policies and existing funding channels, and guided the improvement of the repair plan and the implementation of the repair project. In October 2023, the repair project was completed. The Dongcheng District Culture and Tourism Bureau and the Jianguomen Sub-district Office simultaneously formulated an adaptive reuse plan, and while preserving the original granary building structure, converted it into the Lumi Cang Hutong Museum open to the public,

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displaying the Grand Canal history, grain transport history and granary history of the Beijing area through the three elements of "lu" (salary), "mi" (rice) and "cang" (granary), achieving effective use of the cultural relics.

On this basis, the Dongcheng District People's Procuratorate, the Beijing Military Procuratorate and the Dongcheng District Culture and Tourism Bureau jointly signed the Agreement on Coordinated Promotion of the Protection of Immovable Cultural Relics within Military Compounds in Dongcheng District, establishing a long-term coordination mechanism for the protection of immovable cultural relics within military compounds.

Reasoning

In handling public interest litigation cases concerning the protection of immovable cultural relics within military compounds, military procuratorial organs shall, in accordance with the law, urge the competent military cultural relic authority to supervise cultural relic user units in implementing their obligation of repair and maintenance, and where guidance and assistance from local administrative organs are genuinely needed, may transfer the leads to the local procuratorial organ and jointly carry out the relevant work. Immovable cultural relics within military compounds are an important component of China's historical and cultural heritage and shall be protected in accordance with the law. Where cultural relics within a military compound are seriously damaged or face a serious risk of damage, the military procuratorial organ shall urge the competent military cultural relic authority to perform its cultural relic administration duties, and supervise and coordinate cultural relic user units in implementing their obligation of repair and maintenance. Where guidance and assistance from local administrative organs are genuinely needed, the military procuratorial organ may, in accordance with the Opinions on Strengthening Coordination in Public Interest Litigation between Military and Local Procuratorial Organs, transfer the leads to the local procuratorial organ. The local procuratorial organ shall, together with the military procuratorial organ, urge the local administrative organ and the competent military cultural relic authority to perform their cultural relic protection supervision and administration duties in accordance with the law, and jointly achieve effective protection of the cultural relics within the military compound. At the same time, attention shall be paid to promoting the adaptive reuse of cultural relics, so as to give effective play to the public cultural service and social education functions of cultural relics.

Relevant Legal Provisions

The second and third paragraphs of Article 8, the first and second paragraphs of Article 21 and Article 26 of the Law of the People's Republic of China on the Protection of Cultural Relics (as amended in 2017; now the second and third paragraphs of Article 9, the first, second and sixth paragraphs of Article 32, and the second paragraph of Article 38 of the 2024 revision).

The fourth paragraph of Article 25 of the Administrative Litigation Law of the People's Republic of China (as amended in 2017).

Article 12 of the Regulations for the Implementation of the Law of the People's Republic of China on the Protection of Cultural Relics (as amended in 2017).

Articles 13, 67 and 75 of the Rules for Handling Public Interest Litigation Cases by People's Procuratorates (effective 2021).

The second, third and fourth paragraphs of Article 5 and Article 14 of the Regulations of Beijing on the Protection of Famous Historical and Cultural Cities (effective 2021).

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