

Library of Selected Cases from the Chinese Court



China Institute of
Applied Jurisprudence *Editor*

Selected Cases from the Supreme People's Court of the People's Republic of China

Volume 1



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This series focuses on telling Chinese legal stories in Chinese voices, vividly and intuitively demonstrating the concept, achievements and real-world experience of socialist rule of law with Chinese characteristics. In addition, it is intended to further comparative research on Chinese and foreign cases, promote international legal exchanges, and contribute Chinese judicial wisdom and judicial experiences to global governance.

The cases presented in the series are strictly selected by the trial departments of the Supreme People's Court from their concluded cases, which include guiding cases of the Supreme People's Court; cases deliberated on by the Judicial Committee of the Supreme People's Court; and cases discussed at the Joint Meetings of Presiding Judges from the various tribunals. These cases are of great significance in terms of revealing or clarifying the application of legal rules, establishing new methods of adjudication, and filling in legal loopholes or gaps. The writers are the presiding judges for the respective cases, and possess substantial experience in making judicial decisions. Their familiarity with the facts of the case, legal thinking and reasoning, the decisional methodology and the application of the law makes them ideally suited to conveying to readers the legal processes, legal methodology and ideology in an intuitive, clear, and accurate manner.

This series aims to: a) improve the guiding case system and promote consistency regarding the applicable standards of law; b) contribute to a harmonious society by employing judicial rationality; and c) share China's judicial wisdom with the rest of the world and foster international legal exchanges.

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China Institute of Applied Jurisprudence
Editor

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Republic of China

Volume 1

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Preface

Sitting at the top of the judicial hierarchy in this country, the Supreme People's Court of the People's Republic of China has adjudicated a great number of vital and hard cases each year, which has greatly exerted enormous influence on the rule of law in China and contributed Chinese judicial wisdom to the world. In order to give full play to the legal value and social functions of the Supreme People's Court cases, to achieve the goal of "serving the trial practices, serving economic and social development, serving legal education and legal scholarship, serving international legal exchanges among Chinese and foreign legal communities, and serving the rule of law in China", the China Institute of Applied Jurisprudence, on approval of the Supreme People's Court, has made a decision of editing "Selected Cases from the Supreme People's Court of the People's Republic of China" in both Chinese and English languages since 2018 for domestic and overseas distribution.

The selected cases in the series are strictly sifted by the trial departments of the Supreme People's Court from their adjudicated cases, which include the guiding cases of the Supreme People's Court, the cases deliberated by the Judicial Committee of the Supreme People's Court, and the cases discussed at the Joint Meetings of Presiding Judges from various tribunals. These cases are of typical significance in revealing or clarifying the application of the legal rules, establishing new methods of adjudication, filling in legal loopholes or gaps. The writers are the presiding judges of these selected cases, who are experts in the trials at the Supreme People's Court. They have possessed profound legal attainments and rich experience in making judicial decisions. Their familiarity with the facts of the cases, legal thinking and reasoning, the decisional methodology, and the application of laws has enabled them to convey to readers the legal processes, legal methodology and ideology in an intuitive, clear, and accurate manner.

The selected cases from the Supreme People's Court of the People's Republic of China are subdivided into four sections: (a) Cases by Justices (judges next to the Chief Justice in the court hierarchy), which are cases that have exerted profound influence throughout the country and the world; (b) Selected Judicial Opinion(s), which is (are) the excellent judgment documents that the Supreme People's Court has heard and which has (have) aroused widespread concern in the whole society

this year and affected the legal development of China; (c) “Hot Cases”, which are the edge-cutting and hard cases that have aroused great concern of the public, to function a role of early warning or predicting the legal issues in the hot spots; and (d) “Representative Cases”, cases involving criminal, civil, commercial, intellectual property, and administrative law, to reflect the latest endeavor and adjudication of the Supreme People’s Court in various fields.

By modeling upon the layout and design of the case systems at home and abroad, the editors, for the convenience of the readers, take into account the reading habits of readers of different legal systems and use subtitles to identify accurately the core legal issues and highlights of the case. The case layout includes such elements as **Title, Subtitle, Rule, Case Information, Essential Facts, Issue(s), Holding, and Comment on Rule** for reading or retrieval.

Through the publication of the series of Selected Cases from the Supreme People’s Court of the People’s Republic of China, we hope to achieve the following objectives: (a) to improve the guiding case system and promote the uniformity of the applicable standards of law. Through systematically editing and publishing the classic cases adjudicated by the Supreme People’s Court every year, we hope to guide the trial practices of people’s courts at all levels to unify judicial standards, to restrain the judicial discretions, to treat like cases alike, to promote justice, to maintain legal unity, to establish the authority and confidence among the public of the people’s courts, and to prevent effectively various legal risks; (b) to promote a harmonious society by imparting the judicial rationality. By way of these cases, people can be informed of adjudicative methodology and ideology as well as authoritative positions held by the Supreme People’s Court toward the newer, challenging, and complex issues in the current economic, cultural, scientific, and social life so as to promote the rule of law, display fairer concept of justice, and show due respect toward law; and (c) to contribute to the world China’s judicial wisdom and help promote the international legal exchanges.

The series are to be published in Chinese and English languages, orienting at telling Chinese law stories in Chinese voice, vividly and intuitively demonstrating the concept, achievements and experience of socialist rule of law with Chinese characteristics, furthering comparative research on Chinese and foreign cases, promoting international legal exchanges, and contributing Chinese judicial wisdom and judicial experiences to the global governance.

Editorial Board
December 2018

Editorial Instructions

As a great many laws and regulations and other legal texts are covered in this volume, and most often they are used in their simpler form, three types, namely laws, regulations, and judicial interpretations or other normative documents, are classified for easy reading or retrieval.

Laws (Statutes Enacted by the National People’s Congress)

Constitutional Enactments

The Organic Law of the Local People’s Congress and Local People’s Governments of the People’s Republic of China (Rev. 2015)

Hereinafter referred to as “Organic Law of Local Congresses and Local Governments”; adopted at the Second Session of the Fifth National People’s Congress on July 1, 1979, publicized by Order No.1 of the Chairman of the Standing Committee of the National People’s Congress on July 4, 1979, implemented on January 1, 1980; amended for the first time in accordance with the Decision on Revising Certain Provisions of the Organic Law of the Local People’s Congresses and Local People’s Governments of the People’s Republic of China, adopted at the Fifth Session of the Fifth National People’s Congress on December 10, 1982; amended for the second time in accordance with the Decision on Revising the Organic Law of the Local People’s Congresses and Local People’s Governments of the People’s Republic of China, adopted at the Eighteenth Session of the Standing Committee of the Sixth National People’s Congress on December 2, 1986; amended for the third time in accordance with the Decision on Revising the Organic Law of the Local People’s Congresses and Local People’s Governments of the People’s Republic of China, adopted at the Twelfth Meeting of the Standing

Committee of the Eighth National People's Congress on February 28, 1995; amended for the fourth time in accordance with the Decision on Revising the Organic Law of the Local People's Congresses and Local People's Governments of the People's Republic of China adopted at the Twelfth Meeting of the Standing Committee of the Tenth National People's Congress on October 27, 2004; and amended for the fifth time in accordance with Decision on Revising the Organic Law of the Local People's Congresses and Local People's Governments of the People's Republic of China, on Revising the Election Law of the National People's Congress and Local People's Congresses of the People's Republic of China, and on Revising the Law of the People's Republic of China on Deputies to the National People's Congress and to the Local People's Congresses at Various Levels, adopted at the Sixteenth Meeting of the Standing Committee of the Twelfth National People's Congress on August 29, 2015.

The Law of the People's Republic of China on Legislation (Rev. 2015)

Hereinafter referred to as "Legislation Law"; adopted at the Third Session of the Ninth National People's Congress on March 15, 2000, revised at the Third Session of the Twelfth National People's Congress on March 15, 2015, in accordance with the Decision on Revising the Legislative Law of the People's Republic of China.

Anti-Terrorism Law of the People's Republic of China (Rev. 2018)

Hereinafter referred to as "Anti-Terrorism Law"; adopted at the Eighteenth Session of the Standing Committee of the Twelfth National People's Congress on December 27, 2015, and amended in accordance with the Decision on Revising the Border Health and Quarantine Law of the People's Republic of China and Five Other Laws adopted at the Second Session of the Standing Committee of the Thirteenth National People's Congress on April 27, 2018.

Administrative Enactments

Land Administration Law of the People's Republic of China (Rev. 2004)

Hereinafter referred to as "Land Administration Law"; adopted at the Sixteenth Session of the Standing Committee of the Ninth National People's Congress of the People's Republic of China on June 25, 1986; revised in accordance with the Decision on Amending Land Administration Law of the People's Republic of China; revised and adopted at the Fourth Session of the Standing Committee of the Ninth National People's Congress of the People's Republic of China on August 29, 1998, implemented as of January 1, 1999; revised at the Eleventh Session of the Standing Committee of the Tenth National People's Congress on August 28, 2004.

The Environmental Protection Law of the People’s Republic of China (Rev. 2014)

Hereinafter referred to as “Environmental Protection Law”; adopted at the Eleventh Session of the Standing Committee of the Seventh National People’s Congress on December 26, 1989, revised at the Eighth Session of the Standing Committee of the Twelfth National People’s Congress on April 24, 2014.

Law of the People’s Republic of China on Administrative Reconsideration (Rev. 2017)

Hereinafter referred to as “Administrative Reconsideration Law”; adopted at the Ninth Meeting of the Standing Committee of the Ninth National People’s Congress on April 29, 1999, publicized by the Presidential Order No. 16 of the People’s Republic of China; implemented on October 1, 1999; the first revision made in accordance with the Decision on Amending Certain Laws at the Tenth Meeting of the Standing Committee of the Eleventh National People’s Congress on August 27, 2009, the second revision made in accordance with the Decision on Amending Eight Laws of the People’s Republic of China at the Twenty-Ninth Meeting of the Standing Committee of the Twelfth National People’s Congress on September 1, 2017.

Criminal Enactments**The Criminal Law of the People’s Republic of China (Rev. 2017)**

Hereinafter referred to as “Criminal Law”; adopted at the Second Session of the Fifth National People’s Congress on July 1, 1979, by No. 5 Chairman Decree of the Standing Committee of the National People’s Congress on July 6, 1979, and implemented as of January 1, 1980; revised at the Fifth Session of the Eighth National People’s Congress on March 14, 1997, announced by the Presidential Order No. 83 of the People’s Republic of China on March 14, 1997; Amendment to the Criminal Law of the People’s Republic of China on December 25, 1999; Amendment to the Criminal Law of the People’s Republic of China (II) on August 31, 2001; Amendment to the Criminal Law of the People’s Republic of China (III) on December 29, 2001; Amendment to the Criminal Law of the People’s Republic of China (IV) on December 28, 2002; Amendment to the Criminal Law of the People’s Republic of China (V) on February 28, 2005; Amendment to the Criminal Law of the People’s Republic of China (VI) on June 29, 2006; Amendment to the Criminal Law of the People’s Republic of China (VII) on February 28, 2009; Amendment to the Criminal Law of the People’s Republic of China (VIII) on February 25, 2011; Amendment to the Criminal Law of the People’s Republic of China (IX) on August 29, 2015; Amendment to the Criminal Law of the People’s Republic of China (X) on November 4, 2017.

Civil and Commercial Enactments

The Trademark Law of the People’s Republic of China (Rev. 2013)

Hereinafter referred to as “Trademark Law”; adopted by the Twenty-fourth Session of the Standing Committee of the Fifth National People’s Congress on August 23, 1982; first revision in accordance with the Decision on Revising the Trademark Law of the People’s Republic of China of the Thirtieth Session of the Standing Committee of the Seventh National People’s Congress on February 22, 1993; second revision in accordance with the Decision on Revising the Trademark Law of the People’s Republic of China of the Twenty-fourth Session of the Standing Committee of the Ninth National People’s Congress on October 27, 2001; third revision in accordance with the Decision on Revising the Trademark Law of the People’s Republic of China of the Fourth Session of the Standing Committee of the Twelfth National People’s Congress on August 30, 2013.

The Patent Law of the People’s Republic of China (Rev. 2008)

Hereinafter referred to as “Patent Law”; adopted by the Fourth Session of the Standing Committee of the Sixth National People’s Congress on March 12, 1984, implemented as of April 1, 1985; first revision in accordance with the Decision on Revising the Patent Law of the People’s Republic of China of the Twenty-seventh Session of the Standing Committee of the Seventh National People’s Congress on September 4, 1992; second revision in accordance with the Decision on Revising the Patent Law of the People’s Republic of China of the Seventeenth Session of the Standing Committee of the Ninth National People’s Congress on August 25, 2000; third revision made in accordance with the Decision on Revising the Patent Law of the People’s Republic of China of the Sixth Session of the Standing Committee of the Eleventh National People’s Congress on December 27, 2008.

General Principles of Civil Law of the People’s Republic of China (Rev. 2009)

Hereinafter referred to as “General Principles of Civil Law”; adopted on April 12, 1986, by the Fourth Session of the Sixth National People’s Congress, implemented as of January 1, 1987; revised at the Tenth Session of the Meeting of the Eleventh National People’s Congress on August 27, 2009.

The Company Law of the People’s Republic of China (Rev. 2018)

Hereinafter referred to as “Company Law”; adopted by the Fifth Session of the Standing Committee of the Eighth National People’s Congress on December 29, 1993; revised in accordance with the Decision on Revising the Company Law of the People’s Republic of China by the Thirteenth Session of the Standing Committee of the Ninth National People’s Congress on December 25, 1999; revised in accordance with the Decision on Revising the Company Law of the People’s Republic of China by the Eleventh Session of the Standing Committee of the Tenth National People’s Congress on August 28, 2004; revised by the Eighteenth Session of the Standing Committee of the Tenth National People’s Congress on October 27, 2005; revised in accordance with the Decision on Revising Seven Laws Including

the Law of the People’s Republic of China on Protection of Marine Environment by the Sixth Session of the Standing Committee of the Twelfth National People’s Congress on December 28, 2013; revised in accordance with the Decision of the Standing Committee of the National People’s Congress on Revising the Company Law of the People’s Republic of China at the Sixth Session of the Standing Committee of the Thirteenth National People’s Congress of the People’s Republic of China on October 26, 2018.

The Commercial Banking Law of the People’s Republic of China (Rev. 2015)

Hereinafter referred to as “Commercial Banking Law”; adopted on May 10, 1995, by the Thirteenth Session of the Eighth National People’s Congress; revised on December 27, 2003, in accordance with the Decision on Revising the Commercial Banking Law adopted by the Sixth Session of the Standing Committee of the Tenth National People’s Congress; revised at the Sixteenth Session of the Standing Committee of the Twelfth National People’s Congress on August 29, 2015, in accordance with the Decision of the Standing Committee of the National People’s Congress on Revising the Commercial Banking Law of the People’s Republic of China.

The Security Law of the People’s Republic of China

Hereinafter referred to as “Security Law”; adopted on June 30, 1995, by the Fourteenth Session of the Standing Committee of the Eighth National People’s Congress.

The Contract Law of the People’s Republic of China

Hereinafter referred to as “Contract Law”; adopted at the Second Session of the Ninth National People’s Congress on March 15, 1999.

The Trust Law of the People’s Republic of China

Hereinafter referred to as “Trust Law”; adopted on April 28, 2001, at the Twenty-first Meeting of the Standing Committee of the Ninth National People’s Congress, issued by the Presidential Order No. 50 of the People’s Republic of China on April 28, 2001.

Enterprise Bankruptcy Law of the People’s Republic of China

Hereinafter referred to as “Enterprise Bankruptcy Law”; adopted at the Twenty-third Session of the Standing Committee of the Tenth National People’s Congress on August 27, 2006, to be implemented on June 1, 2007.

The Real Right Law of the People’s Republic of China

Hereinafter referred to as “Real Right Law”; adopted at the Fifth Session of the Tenth National People’s Congress on March 16, 2007, publicized by the Presidential Order No. 62 of the People’s Republic of China, implemented on October 1, 2007.

The Tort Law of the People’s Republic of China

Hereinafter referred to as “Tort Law”; adopted at the Twelfth Session of the Standing Committee of the Eleventh National People’s Congress on December 26, 2009, to be implemented on July 1, 2010.

General Rules of the Civil Law of the People’s Republic of China

Hereinafter referred to as “General Rules of the Civil Law”; adopted at the Fifth Session of the Twelfth National People’s Congress of the People’s Republic of China on March 15, 2017, to be implemented on October 1, 2017.

*Economic Enactments***Law of the People’s Republic of China against Unfair Competition (Rev. 2017)**

Hereinafter referred to as “Law against Unfair Competition”; adopted at the Third Session of the Standing Committee of the Eighth National People’s Congress on September 2, 1993, publicized by the Presidential Order No. 10 of the People’s Republic of China; revised at the Thirtieth Session of the Standing Committee of the Twelfth National People’s Congress on November 4, 2017.

The Anti-monopoly Law of the People’s Republic of China

Hereinafter referred to as “Anti-monopoly Law”; adopted on August 30, 2007, at the Twenty-ninth Session of the Standing Committee of the Tenth National People’s Congress, publicized by the Presidential Order No. 68 of the People’s Republic of China, implemented on August 1, 2008.

*Procedural Enactments***Criminal Procedure Law of the People’s Republic of China (Rev. 2018)**

Hereinafter referred to as “Criminal Procedure Law”; adopted at the Second Session of the Fifth National People’s Congress on July 1, 1979, amended for the first time in accordance with the Decision on Revising the Criminal Procedure Law of the People’s Republic of China, adopted at the Fourth Session of the Eighth National People’s Congress on March 17, 1996; amended for the second time in accordance with the Decision on Revising the Criminal Procedure Law of the People’s Republic of China, adopted at the Fifth Session of the Eleventh National People’s Congress on March 14, 2012; amended for the third time in accordance with the Decision on Revising the Criminal Procedure Law of the People’s Republic of China, adopted at the Sixth Session of the Standing Committee of the Thirteenth National People’s Congress on October 26, 2018.

Administrative Procedure Law of the People’s Republic of China (Rev. 2017)

Hereinafter referred to as “Administrative Procedure Law”; adopted on April 4, 1989, by the Second Session of the Seventh National People’s Congress; revised on November 11, 2014 in accordance with the Decision of the Standing Committee of the National People’s Congress on Revising the Civil Procedure Law of the People’s Republic of China and the Administrative Procedure Law of the People’s Republic of China; revised at the Twenty-eighth Session of the Standing Committee of the Twelfth National People’s Congress on June 27, 2017, in accordance with the Decision of the Standing Committee of the National People’s Congress on Revising the Civil Procedure Law of the People’s Republic of China and the Administrative Procedure Law of the People’s Republic of China.

Civil Procedural Law of the People’s Republic of China (Rev. 2017)

Hereinafter referred to as “Civil Procedural Law”; adopted at the Fourth Session of the Standing Committee of the Seventh National People’s Congress on April 9, 1991, publicized by the Presidential Order No. 44 of the People’s Republic of China; revised for the first time in accordance with the Decision on Revising the Civil Procedural Law of the People’s Republic of China of the Thirtieth Session of the Standing Committee of the Tenth National People’s Congress on October 28, 2007; revised for the second time in accordance with the Decision on Revising the Civil Procedural Law of the People’s Republic of China of the Twenty-eighth Session of the Standing Committee of the Eleventh National People’s Congress on August 31, 2012; revised for the third time in accordance with the Decision of the Standing Committee of the National People’s Congress on Revising the Civil Procedural Law of the People’s Republic of China and the Administrative Procedure Law of the People’s Republic of China on June 27, 2017.

Regulations**Provisional Regulations of the People’s Republic of China on Urban and Township Land Use Tax (Rev. 2013)**

Hereinafter referred to as “Provisional Regulations on Urban and Township Land Use Tax”; adopted at the Twelfth Session of the Standing Committee of the People’s Republic of China, publicized by No. 17 Decree of the State Council Order of the People’s Republic of China on September 27, 1988, implemented on November 1, 1988; for the first time in accordance with the Decision of the State Council on Revising the Provisional Regulations of the People’s Republic of China on Urban and Township Land Use Tax on December 31, 2006; revised for the second time in accordance with the Decision of the State Council on Repealing and Revising Certain Administrative Regulations on January 8, 2011; revised for the third time in accordance with the Decision of the State Council on Repealing and Revising Certain Administrative Regulations on December 7, 2013.

Administrative Measures of the People’s Republic of China for Registration of the Mining of Mineral Resources (Rev. 2014)

Hereinafter referred to as “Administrative Measures for Registration of the Mining of Mineral Resources”; publicized by No. 241 Decree of the State Council Order of the People’s Republic of China on February 12, 1998; revised in accordance with the Decision of the State Council on Repealing and Revising Certain Administrative Regulations on July 29, 2014.

Rules for Implementation of the Land Administration Law of the People’s Republic of China (Rev. 2014)

Hereinafter referred to as “Rules for Implementing Land Administration Law”; publicized on December 24, 1998, by No. 256 Decree of the State Council Order of the People’s Republic of China; revised for the first time in accordance with the Decision of the State Council on Repealing and Revising Certain Administrative Regulations on January 8, 2011; revised for the second time in accordance with the Decision of the State Council on Repealing and Revising Certain Administrative Regulations on July 29, 2014.

Implementation Regulations for the Copyright Law of the People’s Republic of China (Rev. 2013)

Hereinafter referred to as “Regulations on Implementing the Copyright Law”; publicized by No. 359 Decree of the State Council Order of the People’s Republic of China on August 2, 2002; revised for the first time in accordance with the Decision of State Council on Repealing and Revising Certain Administrative Regulations on January 8, 2011; revised for the second time in accordance with the Decision of State Council on Revising the Implementation Regulations for the Copyright Law of the People’s Republic of China on January 30, 2013.

Regulations of the People’s Republic of China on the Disclosure of Government Information (Rev. 2019)

Hereinafter referred to as “Regulations on the Disclosure of Government Information”; publicized by No. 492 Decree of the State Council Order of the People’s Republic of China at the 165th Session of the Standing Committee on January 17, 2007, implemented on May 1, 2008.

Regulations of the People’s Republic of China on the Expropriation of Houses on State-Owned Land and Compensation

Hereinafter referred to as “Regulations on the Expropriation of Houses on State-Owned Land and Compensation”; publicized by No. 590 Decree of the State Council Order of the People’s Republic of China at the 141st Session of the Standing Committee on January 19, 2011, implemented on the same date of publication.

The Provisional Regulations of the People’s Republic of China on Real Property Registration

Hereinafter referred to as “Provisional Regulations on Real Property Registration”; publicized by No. 656 Decree of the State Council Order of the People’s Republic of China at the 656th Session of the Standing Committee on November 24, 2014, implemented on March 1, 2015.

Judicial Interpretations and Other Normative Documents**Interpretation of the Supreme People’s Court on Certain Issues Concerning the Application of the Contract Law of the People’s Republic of China (I) (SPC JI [1999] No. 19)**

Hereinafter referred to as “Judicial Interpretation of Contract Law (I)”; adopted at the 1090th Session of the Judicial Committee of the Supreme People’s Court on December 1, 1999, implemented on December 29, 1999.

Interpretation of the Supreme People’s Court on the Application of Administrative Procedure Law of the People’s Republic of China (SPC JI [2018] No. 1)

Hereinafter referred to as “Judicial Interpretation of the Application of Administrative Procedure Law”; adopted at the 1088th Session of the Judicial Committee of the Supreme People’s Court on November 24, 1999; publicized as of March 8, 2000, and implemented as of March 10, 2000; invalidated as of February 28, 2018.

Interpretations of the Supreme People’s Court on Several Issues Concerning the Application of the Security Law of the People’s Republic of China (SPC JI [2000] No. 44)

Hereinafter referred to as “Judicial Interpretations of Application of the Security Law”; adopted at the 1133rd Meeting of the Judicial Committee of the Supreme People’s Court on September 29, 2000, announced on December 8, 2000, and implemented on December 13, 2000.

Rules of the Supreme People’s Court on Evidence in Civil Procedures (SPC JI [2001] No. 33)

Hereinafter referred to as “Rules on Evidence in Civil Procedures”; adopted at the 1201st Meeting of the Judicial Committee of the Supreme People’s Court on December 6, 2001, announced on December 21, 2001, and implemented on April 1, 2002; adjusted in accordance with the Decision of the Supreme People’s Court on Adjusting Judicial Interpretations and Other Documents Cited in the Civil Procedure Law of the People’s Republic of China on December 16, 2008.

Rules of the Supreme People’s Court on Several Issues Concerning Evidence in Administrative Litigation (SPC JI [2002] No. 21)

Hereinafter referred to as “Rules on Evidence in Administrative Litigation”; adopted by the 1224th Meeting of the Judicial Committee of the Supreme People’s Court on June 4, 2002, announced on July 24, 2002, and implemented on October 1, 2002.

Interpretation of the Supreme People’s Court on Issues Relating to Application of Law to the Copyright Dispute Cases (SPC JI [2002] No. 31)

Hereinafter referred to as “Judicial Interpretation of Applicable Law to Copyright Dispute Cases”; adopted on October 12, 2002, at the 1246th Meeting of the Judicial Committee of the Supreme People’s Court; announced on October 12, 2002; implemented on October 15, 2002.

Interpretation of the Supreme People’s Court on Certain Issues Concerning the Application of Law to Trademark Dispute Cases (SPC JI [2002] No. 32)

Hereinafter referred to as “Judicial Interpretation of Applicable Law to Trademark Dispute Cases”; adopted at the 1246th Meeting of the Judicial Committee of the Supreme People’s Court on October 12, 2002, and implemented on October 16, 2002.

Interpretation of the Supreme People’s Court on Issues Concerning Applicable Laws to Construction Contract Dispute Cases (SPC JI [2004] No. 14)

Hereinafter referred to as “Judicial Interpretation of Applicable Laws to Construction Contract Dispute Cases”; adopted at the 1327th Meeting of the Judicial Committee of the Supreme People’s Court on September 29, 2004, announced on October 25, 2004, and implemented on January 1, 2005.

Interpretation of the Supreme People’s Court on Issues Concerning the Application of Law to Contract Dispute Cases Regarding the State-Owned Land Use Rights (SPC JI [2005] No. 5)

Hereinafter referred to as “Judicial Interpretation of Issues Concerning State-Owned Land Use Rights Disputes”; adopted at the 1334th Meeting of the Judicial Committee of the Supreme People’s Court on November 23, announced on June 18, 2005, and implemented on August 1, 2005.

Interpretation of the Supreme People’s Court on Several Issues Concerning the Applicable Laws to Unfair Competition Cases (SPC JI [2007] No. 2)

Hereinafter referred to as “Judicial Interpretation of the Applicable Laws to Unfair Competition Cases”; adopted at the 1412th Meeting of the Judicial Committee of the Supreme People’s Court, announced on January 12, 2007, and implemented on February 1, 2007.

Interpretation of the Supreme People’s Court on Issues Concerning the Application of the Contract Law of the People’s Republic of China (II) (SPC JI [2009] No. 5)

Hereinafter referred to as “Judicial Interpretation of Contract Law (II)”; adopted at the 1,462nd Meeting of the Judicial Committee of the Supreme People’s Court on February 9, 2009, announced on April 24, and implemented on May 13, 2009.

Interpretation of the Supreme People’s Court on Several Issues Concerning the Application of Law to Building Ownership Disputes (SPC JI [2009] No. 7)

Hereinafter referred to as “Judicial Interpretation of Building Ownership Disputes”; adopted at the 1464th Meeting of the Judicial Committee of the Supreme People’s Court on March 23, 2009, announced on May 14, 2009, and implemented on October 1, 2009.

Interpretation of the Supreme People’s Court on Certain Issues Regarding the Application of Law to Patent Infringement Cases (SPC JI [2009] No. 21)

Hereinafter referred to as “Judicial Interpretation of Applicable Law to Patent Infringement Cases”; adopted at 1,480th Meeting of the Judicial Committee of the Supreme People’s Court on December 21, 2009, announced on December 28, 2009, and implemented on January 1, 2010.

Rule of the Supreme People’s Court on Several Issues Concerning the Trial of Housing Registration Cases (SPC Rule [2010] No. 15)

Hereinafter referred to as “Regulations on the Trial of Housing Registration Cases”; adopted at the 1491st Meeting of the Judicial Committee of the Supreme People’s Court on August 2, 2010; announced on November 5, 2010; implemented on November 18, 2010.

Interpretation of the Supreme People’s Court on Certain Issues Relating to the Specific Application of Law to the Hearing of Illegal Fund Raising Cases (SPC JI [2010] No. 18)

Hereinafter referred to as “Judicial Interpretation of Applicable Law to Illegal Fundraising Cases”; adopted at the 1502nd Meeting of the Judicial Committee of the Supreme People’s Court on November 22, 2010; announced on December 13, 2010; implemented on January 4, 2011.

Provisions of the Supreme People’s Court on Several Issues Concerning the Trial of Administrative Cases of Government Information Disclosure (SPC JI [2011] No. 17)

Hereinafter referred to as the “Regulations on the Administrative Cases of Government Information Disclosure”; adopted at the 1505th Meeting of the Judicial Committee of the Supreme People’s Court on December 13, 2010; announced on July 29, 2011; implemented on August 13, 2011.

Interpretation of the Supreme People’s Court on the Application of the Criminal Procedure Law of the People’s Republic of China (SPC JI [2012] No. 21)

Hereinafter referred to as “Judicial Interpretation of Criminal Procedure Law”; adopted at the 1559th Meeting of the Judicial Committee of the Supreme People’s Court on November 5, 2012; announced on December 20, 2012; implemented on January 1, 2013.

Interpretation of the Supreme People’s Court on Several Issues Regarding Application of Company Law of the People’s Republic of China (III)(SPC JI [2014] No. 2)

Hereinafter referred to as “Judicial Interpretation of the Application of Company Law (III)”; adopted at the 1504th Meeting of the Judicial Committee of the Supreme People’s Court on December 6, 2010; announced on January 27, 2011; implemented on February 16, 2011; amended at the 1607th Meeting of the Judicial Committee of the Supreme People’s Court on February 17, 2014.

Interpretation of the Supreme People’s Court on Issues Regarding Application of Law to Calculation of Debt Interests during Deferred Performance Period in Enforcement Process (SPC JI [2014] No. 8)

Hereinafter referred to as “Judicial Interpretation of Calculation of Debt Interests during Deferred Performance Period”; adopted at the 1619th Meeting of the Judicial Committee of the Supreme People’s Court on June 9, 2014; announced on June 9, 2014; implemented on August 1, 2014.

Interpretation of the Supreme People’s Court on Several Issues Concerning the Application of Law in the Trial of Public Interest Litigation Cases in Environmental Law (SPC JI [2015] No. 1)

Hereinafter referred to as the “Judicial Interpretation of Public Interest Cases”; adopted at the 1631st Meeting of the Judicial Committee of the Supreme People’s Court on December 8, 2014; announced on January 6, 2015; implemented on January 7, 2015.

Interpretations of the Supreme People’s Court on Application of the Civil Procedural Law of the People’s Republic of China (SPC JI [2015] No. 5)

Hereinafter referred to as “Judicial Interpretation of the Application of Civil Procedural Law”; adopted at the 1636th Meeting of the Judicial Committee of the Supreme People’s Court on December 18, 2014; announced on January 30, 2015; implemented on February 4, 2015.

Rules of the Supreme People’s Court on Several Issues Regarding Objection to Enforcement and Reconsideration Cases (SPC JI [2015] No. 10)

Hereinafter referred to as “Judicial Interpretation of Rules Concerning Objection to Performance and Reconsideration Cases”; adopted at the 1638th Meeting of the Judicial Committee of the Supreme People’s Court on December 29, 2014; announced on May 5, 2015; implemented on May 5, 2015.

Rules of the Supreme People’s Court on Application of Laws to the Private Lending Cases (SPC JI [2015] No. 18)

Hereinafter referred to as “Rules of Applicable Law to Private Lending Cases”; adopted at the 1655th Meeting of the Judicial Committee of the Supreme People’s Court on June 23, 2015; announced on August 6, 2015; implemented on September 1, 2015.

Interpretation of the Supreme People’s Court on Several Issues Concerning the Application of the Real Right Law of the People’s Republic of China (I) (SPC JI [2016] No. 5)

Hereinafter referred to as “Judicial Interpretation of Real Right Law (I)”; adopted at the 1670th Meeting of the Judicial Committee of the Supreme People’s Court on December 10, 2015; announced on February 22, 2016; implemented on March 1, 2016.

Rules of the Supreme People’s Court on Issues Relating to the Administrative Cases Involving Granting or Affirming Trademark Rights (SPC JI [2017] No. 2)

Hereinafter referred to as “Rules on Administrative Cases involving Granting or Affirming Trademark Rights”; adopted at the 1703rd Meeting of the Judicial Committee of the Supreme People’s Court on December 12, 2016; announced on January 10, 2017; implemented on March 1, 2017.

Interpretation of the Supreme People’s Court on the Application of Administrative Procedure Law of the People’s Republic of China (SPC JI [2018] No. 1)

Hereinafter referred to as “Judicial Interpretation of Administrative Procedural Law”; adopted at the 1,726th Meeting of the Judicial Committee of the Supreme People’s Court on November 13, 2017; announced on February 6, 2018; implemented on February 8, 2018.

Opinions of the Supreme People’s Court about Implementing the Criminal Policy of Tempering Justice with Mercy (SPC JI [2010] No. 9)

Hereinafter referred to as “Lenient and Harsh Punishment Opinions”; announced by the Supreme People’s Court on February 8, 2010; implemented on February 8, 2010.

Several Opinions of the Supreme People’s Court on Giving Full Play to the Role of Trial Functions and Effectively Maintaining Public Safety” (SPC JI [2015] No. 12)

Hereinafter referred to as “Opinions on the Role of the Trial Function to Safeguard the Public Safety”; announced on September 16, 2015; implemented on September 16, 2015.

Guidance of the Supreme People’s Court for the Prevention and Sanction of Sham Litigation (SPC JI [2016] No. 13)

Hereinafter referred to as “Guidance for Prevention and Sanction of Sham Litigation”; announced on June 20, 2016; implemented on June 20, 2016.

Guiding Opinions of the Supreme People’s Court on Several Issues Concerning the Transfer of Cases from Performance of Bankruptcy Review (SPC JI [2017] No. 2)

Hereinafter referred to as the “Guiding Opinions on the Transfer of Cases from Performance of Bankruptcy Review”; announced on January 20, 2017; implemented on January 20, 2017.

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Hereinafter referred to as “Rules on Causes of Action for Civil Cases”; adopted at the 1438th Meeting of the Judicial Committee of the Supreme People’s Court on October 29, 2007; announced on February 4, 2008; implemented on April 1, 2008; revised on February 18, 2011.

Interim Rules of the Supreme People’s Court on Several Issues Concerning the Participation of Technical Commissioner of Intellectual Property Courts in Litigation

Hereinafter referred to as “Interim Rules on Participation of Technical Investigation Officer in IP Court”; announced on December 31, 2014; implement on December 31, 2014.

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Bixin Jiang, Yongwei Huang and Baojian Gen

Rule

No prohibitions are contained in the current laws and regulations against the establishment of mining rights with overlapping vertical projections. With regard to some overlapping mining rights that have been established for historical reasons, the administrative agencies, under the premises of safe production, environmental protection and the conducive utility of full and effective use of different types of mineral resources, should evaluate comprehensively the formation and geological conditions of mineral resources, show due respect toward the mining intentions, mining capacity and mining technology of different mining rights holders as well as the development rules of mineral deposits, and treat them differently.

The administrative agency shall be bound by the initial administrative license for the discretion and judgment of the extension of the administrative license. Should the first license be flawed or illegal, the administrative agency shall prudently exercise its power of non-extension.

In the case that there are multiple treatments for the overlapping of mining rights and there may be multiple reconsideration conclusions, the reconsideration agency

The retrial collegiate bench: Jiang bixin, Huang Yongwei, Gen Baojian (Translated by: Zheng Daxuan; Proofread by: Zhang Hongsheng).

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shall, in making a revocation decision, fully evaluate the extent of loss of interest caused by the license revocation to the state, other people and the right holder(s), and balance the relationship between full and partial revocation, and supply full explanation or justifications for the decision.

Case Information

1. Parties

Retrial applicant (Plaintiff at trial, Appellant at the second instance trial): Chenzhou Fanlongdui Mining Co., Ltd (hereinafter referred to as “Fanlongdui Mining Co., Ltd.”)

Respondent (Defendant at trial, Respondent at the second instance trial): the Ministry of Land and Resources of the People’s Republic of China

Respondent (Third party at trial, Respondent at the second instance trial): CITIC Group Xingguang Mining Co., Ltd. (hereinafter referred to as “CITIC Xingguang Mining Co. Ltd.”) (CITIC refers to China International Trust & Investment Corporation)

2. Procedural History

First Instance: No. 839 [2015], Trial, Adm. Division, the First Intermediate People’s Court of Beijing (dated Jul. 1 of 2015)

Second Instance: No. 3209 [2016], Final, Adm. Division, the Higher People’s Court of Beijing (dated Mar. 2 of 2016)

Retrial: No. 6 [2018], Retrial, Adm. Division, the Supreme People’s Court (dated Mar. 7 of 2018)

3. Cause of Action

Administrative reconsideration of land and resources

Essential Facts

On January 16, 2006, Hunan Provincial Land and Resources Bureau issued a mining license to Chenzhou Xingguang Mining Co., Ltd. The mine name is Hongqiling Mining Co., Ltd. of Chenzhou Xingguang Mining Co., Ltd. and the mining types are tin, tungsten and arsenic. Later, Hongqiling Mining Co., Ltd. cooperated with CITIC Group to establish CITIC Xingguang Mining Co., Ltd. In November 2010 and October 2011, CITIC Xingguang Mining Co., Ltd. handled the mining license renewal registration procedure in the Ministry of Land and Resources. The validity period of the mining license lasts from October 7, 2011 to October 7, 2012.

On March 24, 2006, Chenzhou Municipal Bureau of Land and Resources issued the mining license for the “Non-ferrous Metal Mines in the Northern Fanlongdui in Suxian District”. The mining types are lead ore, zinc and silver, and the effective