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Xiamen Dayang Handicrafts Co., Ltd. v. Xiamen City Huanghe Technology and Trade Co., Ltd.

Citation: The Supreme People's Court's Civil Judgment No. Minsanzhongzi 8/2003

Date of judgment: July, 2004

Procedural history

The Xiamen Dayang Handicrafts Co., Ltd. (Dayang) sued the Xiamen City Huanghe Technology and Trade Co., Ltd. (Huanghe) in the Fujian Province Higher People's Court with direction for a patent licensing contract dispute. It was decided in the first-instance judgment that Dayang had acted in breach of the contract. Dayang appealed to the Supreme People's Court.

Issue

Whether the patent licensing contract in suit fell within the circumstance of “illegally monopolizing technology or impeding technological progress” as prescribed in the Contract Law and whether this would render the contract invalid?

Facts

Huanghe (Party A) and Dayang (Party B) concluded a contract for patent technology cooperation and for licensing to exploit a patented technology, in which it was agreed that Party B exploited Party A's patented technology of a machine for cutting, compressing and forming stone material, for making “HUANGHE” brand NEW-668 type stone plate compressing forming machine. Under the contract, Party B would pay Party A RMB 500,000 yuan as down payment within ten days from the date of the conclusion of the contract.

After the contract was concluded, Dayang failed to make the down payment under the contract.

The first-instance court held that said contract concluded between Dayang and Huanghe was valid, and should be protected under the law. Dayang's failure to make the down payment as required under the contract constituted a breach thereof.

Dayang argued in its appeal that Huanghe licensed its patent with a purpose of coercive sale of, at a high price, non-indispensable equipment for exploiting the patented technology. It was an act of "illegally monopolizing technology or impeding technological progress", and the contract for patent technology cooperation and for licensing to exploit the patented technology concluded between the two parties was null and void.

Rule of law

Article 329 of the Contract Law *Any technology contract that illegally monopolizes technologies, impedes technological progress, or infringes another party's technical achievements is null and void.*

Reasoning

Under Article 329 of the Contract Law, by act of "illegally monopolizing technology or impeding technological progress" was meant that a technology recipient was required to accept additional conditions unnecessary for exploiting a technology, including, among other things, buying technology, service, raw material, equipment or product or employ people that the technology recipient did not need; and unreasonably restricting the technology recipient from freely choosing raw material, spare parts or equipment from different sources.

The machine for forming stone material under the patent licensing contract in suit was a piece of special equipment containing the patented technology, and it was necessary for Dayang to buy the machine in order to exploit the technology. Under said contract, the equipment used for exploiting said patented technology included the main machine, special die and belt for setting up the needed production line. The patent exploitation license Dayang obtained from Huanghe was not for making the patented product (i.e. stone cutting, compressing and forming machine), but making and

marketing the end product of stone material using said patented product. Accordingly, it was not contrary to the law provisions to have agreed in the patent licensing contract that the technology licensor would provide the special equipment needed for executing the contract.

Holding

Dayang’s assertion that the contract in suit was null and void on the ground that it “illegally monopolized technology or impeded technological progress” was untenable; hence, the contract in suit was valid, and Dayang’s failure to make the down payment under the contract was a breach of said contract.