

RESEARCH ARTICLE

Trends in Environmental Litigation in China

Koji Takahashi

Special Researcher, Centre for Asian Area Studies, Rikkyo University, Japan.

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Corresponding Author: Koji Takahashi, Special Researcher, Centre for Asian Area Studies, Rikkyo University, Japan.

Abstract

Environmental issues in China have long attracted public attention, yet recent assessments suggest that significant improvements have been made. This study aims to elucidate the application of environmental law in China by reviewing and analyzing judicial decisions in environmental litigation. It focuses on a case adjudicated by the Intermediate People's Court of Changzhou City, Jiangsu Province, on 12 September 2014 (Judgment No. (2014) Chang Huan Gong Min Chu Zi No.2). On 26 February 2024, the Supreme People's Court published this decision as a reference case for future trials, recognizing its potential to exert considerable influence on environmental litigation in China from 2024 onwards. In its judgment, the court held that individuals who merely condoned pollution-causing acts, or lent their land or professional qualifications to others, could still be held liable as "polluters." Although these individuals did not directly engage in polluting activities, the court's reasoning reflects a degree of expanded interpretation beyond the literal reading of statutory provisions. This case demonstrates that China can no longer be characterized as a country where environmental degradation progresses unchecked. Rather, it reflects a legal environment in which even expansive interpretations of the law may be employed to address environmental issues effectively through judicial means.

1. Background of the Issue

Environmental problems in the People's Republic of China (hereinafter referred to as "China") have often attracted attention. For example, in 50 Chapters to Understand Contemporary China (3rd edition), edited by Kiyoshi Takai and Akira Fujino et al. (Akashi Shoten, 2008, p. 191), the authors wrote.

"In China, environmental problems have become increasingly serious, reaching a critical stage. If this situation continues, not only will people's lives be threatened, but it is feared that economic growth may also be hindered."

However, since then, China's environmental policies—including legal frameworks—have undergone significant improvements. This raises the question: how has the actual implementation of environmental law progressed in China? This

paper aims to clarify that question by examining an environmental lawsuit that was ruled on by the Changzhou Intermediate People's Court in Jiangsu Province, China, on September 12, 2014 (Case Number: (2014) Chang Huan Gong Min Chu Zi No. 2, hereinafter referred to as "the judgment").

Although this ruling dates back to September 12, 2014, it remains relevant. It is a civil public interest lawsuit in China and was published by the Supreme People's Court on February 26, 2024, as a reference case for similar lawsuits. Therefore, it is believed to have significant influence on future environmental lawsuits in China and is worth examining.

2. Overview of the Judgment

Between September 1, 2012, and December 11, 2013, Defendant A, with the consent of Company B (a materials recycling company), used Company B's

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facilities and premises to conduct “oil separation and filtration processing” activities for profit. During this time, Company C (a chemical company), knowing that A did not have the qualifications to handle hazardous waste, allowed A to use Company C’s hazardous waste disposal permit. Under Company C’s name, A illegally purchased waste oil from Company D, Company E, and others, processed it, and sold it for profit.

As a result of A’s filtration activities, the soil on and around Company B’s premises was severely polluted. On July 18, 2014, Environmental Public Welfare Association F filed a lawsuit with the People’s Court demanding that A, Company B, Company C, Company D, and Company E be held jointly liable for the damages caused by the soil pollution.

The key issue in the case was how to evaluate the facts of soil pollution. Since the parties could not agree on which organization should conduct the environmental assessment, the People’s Court designated an appraisal organization based on the Several Provisions of the Supreme People’s Court on Evidence in Civil Proceedings. Article 26 of the said Provisions states that if an agreement cannot be reached, the People’s Court shall designate the appraisal institution. Accordingly, the People’s Court appointed Company G, which is listed as a qualified appraisal organization for courts in Jiangsu Province and is authorized to evaluate environmental pollution for judicial purposes.

In environmental infringement cases, determining pollutants, assessing damage, verifying causality, and developing ecological restoration plans requires technical expertise. Thus, the People’s Court invited environmental experts to serve as people’s assessors and proposed public environmental restoration plans. On September 12, 2014, the Changzhou Intermediate People’s Court ruled.

Defendant A must pay 2,830,700 yuan into the public environmental restoration fund and 359,700 yuan

to Company F for environmental assessment costs within 90 days. Companies B, C, D, and E share joint liability. No appeal was filed, and ecological restoration was carried out.

3. Commentary on the Judgment

The legal basis for this judgment was the Tort Liability Law (enacted in 2009, repealed in 2021), particularly Articles 8 and 65. Article 8 stated that joint tortfeasors bear joint liability. Article 65 stated that those causing environmental pollution bear tort liability. The 2020 Civil Code (effective 2021) carries these same principles in Articles 1168 and 1229.

Article 8/1168 states that parties who jointly commit torts bear joint responsibility. However, in this case, only A directly polluted the environment. Companies B through E were not direct polluters—they allowed the acts or lent permits and facilities. Despite this, the court held them jointly liable, interpreting the term “polluter” broadly to include passive enablers of pollution.

This broad interpretation indicates China’s commitment to resolving environmental issues legally, even through expanded legal interpretations. Furthermore, while local residents are most affected by environmental issues, this judgment ensured that soil restoration plans were made public, public opinions were heard, and citizens were enabled to participate in environmental restoration. This inclusion of public voices is commendable.

4. References

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