



Leading the Way in Russian Law

Lidings secures a significant victory in the RF SCC

On the 8th of October, the Presidium of the Supreme Commercial Court of the RF satisfied the claim of Demesne Investments Limited, a subsidiary of the well-known Irish bank Anglo-Irish Bank (the state bank of Ireland, henceforth referred to as the IBRC), by recognizing in the territory of the RF the decision of the High Court of Northern Ireland, brought against the company Galfis Overseas Limited.

In Russia the matter of recognition turned into an argument between Demesne Investments Limited, Galfis Overseas Limited and several Russian companies: JSC “Vneshkonsalt”, LLC “Construction Technologies” and LLC “RLC Development”. Demesne Investments Limited was represented by Lidings.

From 2006, the IBRC financed various investment projects of the Irish businessman Sean Quinn, him being at that time the richest man in Ireland. At first this interaction proceeded successfully, the investments were funneled into various states. In Russia, the largest projects in the area of real estate began in Moscow, Kazan, and Yekaterinburg. However, in the end of 2008, Mr. Quinn stopped settling his accounts and refused to return the money to the bank. The debts of the Quinn Group to their main creditor came to an astronomical 2.8 billion euros.

Lidings, representing the interests of Demesne Investments Limited, a special financing company handling a part of the investment portfolio of the IBRC, initiated a variety of claims in Russia with the aim of returning borrowed funds and regaining control over assets. At the same time, courts in Great Britain also reviewed cases connected with the illegal withdrawal of funds by Mr. Quinn.

In March 2012, the High Court of Northern Ireland, according to the claims of the IBRC, Demesne Investments Limited and a number of other companies, made a ruling against a company under the control of Sean Quinn, Galfis Overseas Limited, which dictates that all agreements aimed at the illegal alienation of assets supposedly conducted by the companies Demesne Investments Limited and Galfis Overseas Limited, are to be accepted as null and void, having of no legal effect of consequences. Demesne Investments Limited was declared as a solely entitled to all rights purportedly assigned or transferred by the impugned transactions. It is also important to note that in 2012, according to the decision of the High Court of Belize and a number of courts in Great Britain, Sean Quinn, members of his family, and the management of Galfis Overseas Limited were barred from taking decisions as administrators and shareholders in the company. For holding the company's assets in Belize, the court took the decision to declare an independent administrator. In this fashion, by the beginning of the general judicial processes in Russia, Galfis Overseas Limited was removed from Sean Quinn's control.

However, by the time the argument was concluded in Great Britain, the situation in Russia had been complicated by the fact of a supposed transfer of rights to assets from Galfis Overseas Limited to

three Russian companies: JSC “Vneshkonsalt”, LLC “Construction Technologies” and LLC “RLC Development”. All three companies were created shortly before the completion of the aforementioned transfer of rights. To lend legality to their actions and to quickly gain real control over significant assets (estimated to value 1 billion. euros) the three Russian companies initiated bankruptcy procedures concerning the legal persons the assets were registered to.

In June 2012, based on a claim initiated by Lidings, the decision of the High Court of Ireland was recognized in the territory of the Russian Federation. At the same time, in the suits put forward by Lidings in defense of the interests of Demesne Investments Limited, the Russian courts, based on the norms of Russian rights, also recognized the agreements named in the decision of the High court of Northern Ireland as null and void. However, JSC “Vneshkonsalt”, LLC “Construction Technologies” and LLC “RLC Development” began to contest all the rulings brought forward by the court. In part, they were successful: the court ruling to recognize the decision of the High Court of Northern Ireland was revoked. The long path of contesting the revocation of the act finally led to the RF SCC.

In the court hearing, Lidings partners Andrey Zelenin and Stepan Guzey convinced the Presidium of the SCC that the refusal to recognize the decision of the High Court of Northern Ireland was unlawful and violated conformity to the application of judicial practice by arbitration courts in the RF. “The arguments of the opponents with regard to violation of public order of the Russian Federation, violation of rights to judicial protection and denial of access to justice failed to hold up to any kind of criticism from the very beginning”, comments Stepan Guzey. “None the less, the lower-level courts found them convincing in formulating court orders regarding the withdrawal of recognition”. “Among other matters, the courts did not wish to review the legal norms applicable in Northern Ireland, and also the circumstance of the deals which concerned the matter of recognizing a foreign legal act having been accepted as insignificant by Russian courts on the basis of Russian legal norms”, adds Andrey Zelenin.

This matter is of particular interest in connection with the absence of agreements between Russia and Great Britain about the mutual recognition and enforcement of judgments by state courts. The consideration of such issues represents a particular difficulty, since the fact in question is not only the validation of the absence of formal circumstances according to the RF Arbitral Procedural Code which prevent the recognition of a court ruling, but also the possibility of recognition as such on the basis of the principle of reciprocity and international politeness.

In its decision, the SCC agreed with the arguments put forward by Lidings representatives: they withdrew the court orders of the lower courts and recognized the decision of the High Court of Northern Ireland in the Russian Federation. It is expected that the full text of the SCC decision will be published shortly.

This high profile case received wide media coverage. Additional details can be found in the articles published by “[Kommersant](#)”, “[Vedomosti](#)”, “[Izvestia Tatarstana](#)” and “[Gazeta](#)”.