

A Review of the Taiwanese Court's Ruling on Ad Hoc Arbitral Awards

Helena Hsi Chia Chen^{*}

Abstract

In the Jin Cheng Feng case, the Taiwan High Court's decision to deny the enforceability of awards made in ad hoc arbitration is inconsistent with the Taiwan Arbitration Act and related regulations. The court cited irrelevant precedents and reached a controversial conclusion that not only discourages parties from choosing ad hoc arbitration in Taiwan, but creates unnecessary obstacles that may hinder future requests for the same treatment from PRC courts for arbitral awards made in Taiwan (in both institutional and ad hoc arbitration), and those made in Hong Kong and foreign countries.

I. Introduction

Of all the recent judgments and rulings issued by Taiwanese courts regarding arbitral awards, *Jin Cheng Feng Construction Co Ltd v National Taiwan University Hospital Bei-Hu Branch*¹ (the 'Jin Cheng Feng case') has drawn the most widespread concern. It is the first case in which a party has moved for compulsory execution in a Taiwanese court of a domestic ad hoc award. The

^{*} FCIArb; Chairperson of Mainland China Affairs Committee of Chinese Arbitration Association, Taipei (CAA); Listed on the Panels of Arbitrators of CIETAC, SIAC, KLRCA and CAA; Vice- chairperson of Mediation Center of CAA; Associate Mediator of Singapore Mediation Centre; Admitted to Taiwan, the State of New York and PRC bars; National Taiwan University (PhD Candidate); Peking University (PhD, 2001). Email: helena@mail.fblaw.com.tw.

¹ The final ruling on the Jin Cheng Feng case is Taiwan High Court Civil Ruling 99 *Fei Kang Zi* No 122 (2010).