
J.Y. Interpretation No. 185 (January 27, 1984)*

Remedies against Judgments that Rely upon Precedents Declared Unconstitutional Case

Issue

What are the effects of the Interpretations made by the Judicial Yuan? What remedies may be available against judgments relying upon precedents declared unconstitutional?

Holding

Pursuant to Article 78 of the Constitution, the Judicial Yuan is vested with the power to interpret the Constitution and to make uniform interpretations of statutes and administrative regulations. The Interpretations made by the Judicial Yuan shall be binding upon every government institution and person in the country, and each government institution shall follow these Interpretations when handling relevant matters. Precedents inconsistent with these Interpretations shall, of course, be null and void. Where a statute or regulation, or the interpretation of a statute or regulation, applied in a final judgment is declared inconsistent with the Constitution by an Interpretation made by the Judicial Yuan upon a petition filed by the aggrieved party of the judgment, the Interpretation is grounds for a retrial or an Extraordinary Appeal, and this should no longer be considered a mere different view on the construction of laws. Any part of the Administrative Court Precedent 62-P'an-610 (1973) that is inconsistent with this Interpretation shall no longer be applied.

* Translation by Chi CHUNG, based upon the previous translation by Wellington L. KOO

Reasoning

[1] Pursuant to Article 78 of the Constitution, the Judicial Yuan is vested with the power to interpret the Constitution and provide uniform interpretations with respect to statutes and ordinances. The intent of Article 78 of the Constitution is to have the Judicial Yuan assume the responsibility of clarifying and enunciating the correct meaning of the Constitution and statutes and ordinances. The interpretations thus rendered shall be binding upon every institution and person in the country, and each institution shall abide by the meaning of these interpretations in handling relevant matters. Previous precedents that are inconsistent with these Interpretations shall, of course, be null and void.

[2] According to Article 171, Paragraph 1 and Article 172 of the Constitution, a statute is null and void if it is inconsistent with the Constitution, and a regulation is null and void if it is inconsistent with the Constitution or a statute. In the case of a final judgment in which a statute or regulation, or the interpretation of such statute or regulation, applied in such judgment is alleged to be inconsistent with the Constitution and is later considered inconsistent with the Constitution by an Interpretation made by this Judicial Yuan upon the petition made by an interested person, grounds for filing a retrial or an extraordinary appeal with respect to such final judgment then arise. It is expressly stipulated in the Code of Civil Procedure, the Code of Criminal Procedure and the Administrative Litigation Act, and further developed by Interpretations Nos. 135 and 177 of Judicial Yuan, that if the application of laws in rendering a final judgment is manifestly erroneous or unlawful, the aggrieved party is entitled to file for retrial, extraordinary appeal or other legally-prescribed remedy. Therefore, based upon the Interpretation by the Judicial Yuan, the party aggrieved by a judgment is entitled to seek a retrial or other legally-prescribed remedy after the announcement of said Interpretation.

[3] Administrative Court Precedent 62-P'an-610 (1973) states that, "Article 24

of the Administrative Procedure Act provides that a party is entitled to file for a trial with respect to the judgment rendered by this Yuan if any of the circumstances listed under Subparagraphs of Article 496 of the Code of Civil Procedure exists. However, the phrase “an apparent error in the application of law” as referred to in Article 496, Paragraph 1, Subparagraph 1 of the Code of Civil Procedure refers to the situations in which the laws applied in the rendition of the judgment in question are inconsistent with the prevailing laws that should have been applied to the case or were applied inconsistently with J.Y. Interpretations or previous precedents. Differences in legal opinions, even if the plaintiff for a retrial presents argument thereto, cannot be considered apparent errors in the application of law for which a re-trial should be granted.” If the laws or previous precedents applied in rendering a final judgment are found to be inconsistent with the Constitution by an Interpretation by the Judicial Yuan upon a petition made by individual persons, then there exists grounds for a retrial or extraordinary appeal with respect to such final judgment. The party aggrieved by such final judgment may file for a retrial on the grounds of such Interpretation, and the competent court may no longer hold that the Interpretation presents differences in legal interpretations instead of an apparent error in the application of law and thereby refuse to apply the Interpretation. Any part of the aforementioned Precedent of the Administrative Court inconsistent with this Interpretation shall cease to be applied.

Background Note by Chi CHUNG

The petitioner for this J.Y. Interpretation No. 185, an individual person, filed a petition for Constitutional Interpretation on October 11, 1983. The petitioner argued that the legal effects of constitutional interpretation do not take place on the date of announcement of the J.Y. Interpretation but rather on the date on which the relevant statute was enacted. J.Y. Interpretation No. 185 was

announced on January 27, 1984.

Subsequent J.Y. Interpretation No. 188, announced on August 3, 1984, upon a petition made by the Control Yuan, is related to J.Y. Interpretation No. 185. The holding of J.Y. Interpretation No. 188 is that a uniform interpretation made by the Judicial Yuan with respect to any statute or regulation based upon a petition by a central or local government agency to resolve any difference in opinion held by such agencies on the application of such statute or regulation while discharging its duties shall become effective on the date on which the Interpretation was made, unless otherwise expressly stated therein. Such Interpretation shall bind both the cases giving rise to such difference in opinion and other similar cases dealt with by all other government agencies. If a final judgment, however, has been made with respect to the case that gives rise to such difference in opinion and the viewpoint expressed by the court on the application of any statute or regulation is held by Judicial Yuan Interpretation to be inconsistent with the intent of such statute or regulation, the Judicial Yuan Interpretation may, of course, be invoked to support a motion for a retrial or an extraordinary appeal.