
J.Y. Interpretation No. 741 (November 11, 2016)*

Scope of Original Cases Eligible for Extraordinary Remedies under Interpretations Declaring Laws Unconstitutional but Valid for a Prescribed Period of Time Case

Issue

When an individual person petitions this Court for an interpretation of the Constitution and this Court declares a statute or regulation that has been applied by the court of last instance in its final judgment or ruling to be unconstitutional but invalid only after the expiration of a prescribed period of time, may the petitioner rely on the Interpretation announced by this Court to seek a retrial of the case or other redress? May the Prosecutor General rely on the Interpretation rendered by this Court to make an extraordinary appeal?

Holding

When this Court, upon a person's petition for an Interpretation of the Constitution, declares a statute or regulation that has been applied by a court of last instance in its final judgment or ruling unconstitutional but invalid only after expiration of a prescribed period of time, the petitioner may rely on the Interpretation rendered by this Court to seek a retrial of the case or other redress. The Prosecutor General may rely on the Interpretation rendered by this Court to make an extraordinary appeal. The purpose of this is to protect the rights and interests of the petitioner for a constitutional interpretation. The same also applies to the original cases that led to the constitutional interpretations that were made before J.Y. Interpretation No. 725. Thus, J.Y. Interpretation No. 725 is thereby

* Translation and Note by Chi CHUNG

supplemented.

Reasoning

[1] When the litigating parties are uncertain about an Interpretation rendered by the Constitutional Court as applied by a court of last instance in its final judgment or ruling and petition for supplementary interpretation, the Constitutional Court should consider whether there exist legitimate grounds, and, if there are legitimate grounds, it should consider the case on its merits rather than dismiss the petition as a matter of procedure (*see* J.Y. Interpretation No. 503). The petitioner in this case concerning urban renewal appealed to the Supreme Administrative Court, which, as the court of last instance, applied J.Y. Interpretation No. 725 (hereinafter referred to as the disputed Interpretation) in its final ruling. The disputed Interpretation does not explicitly define the phrase “petitioner’s case for which he or she is requesting an interpretation of the Constitution”. Therefore, this Court ruled favorably in regard to the petition for a supplementary interpretation.

[2] J.Y. Interpretations Nos. 177 and 185 allow petitioners for constitutional interpretations to rely on the constitutional interpretations that rule in their favor when seeking a retrial or extraordinary appeal. As J.Y. Interpretations Nos. 177 and 185 did not clearly set out whether a constitutional interpretation declaring a statute or regulation unconstitutional but invalid only after a prescribed period affects the disposition of the case for which the petitioner sought a constitutional interpretation, the disputed interpretation supplements J.Y. Interpretations Nos. 177 and 185 as follows: “When this Court, upon a person’s petition for a constitutional interpretation, declares a statute or regulation that has been applied by a court of last instance in its final judgment or ruling unconstitutional but invalid only after the expiration of a prescribed period of time, the petitioner may rely on the interpretation rendered by this Court to seek a retrial of the case or

other redresses. The Prosecutor General may rely on the Judicial Interpretation to make an extraordinary appeal. The relevant courts may not dismiss such a retrial or extraordinary appeal for the reason that the disputed statute or regulation is still in effect. If a specific remedy is announced in the Judicial Interpretation for the case for which the petitioner sought a constitutional interpretation, such announcement should be followed. If no such announcement is made, then the relevant courts should wait for the promulgation of a new statute or regulation and make the judgment or ruling in accordance with that new statute or regulation after it takes effect. J.Y. Interpretations Nos. 177 and 185 are thereby supplemented.”

[3] When this Court declares a statute or regulation unconstitutional, the petitioner may rely on the constitutional interpretation rendered by this Court to seek a retrial of the case for which the petitioner sought a constitutional interpretation, or the Prosecutor General may file an extraordinary appeal or take other legal actions. The purpose of granting remedies in the case for which the petitioner sought a constitutional interpretation is to protect the rights and interests of petitioners and to recognize their contributions to upholding the Constitution (*see* the Reasoning part of the disputed Interpretation). This purpose does not differ depending on whether the unconstitutional statute or regulation becomes invalid immediately or after the expiration of a prescribed period of time. The disputed Interpretation, therefore, announced that when a statute or regulation applied by a court of last instance in its final judgment or ruling becomes invalid after the expiration of the prescribed period of time, the petitioner may seek a retrial and other forms of redress for the case for which the petitioner sought a constitutional interpretation. Although the disputed Interpretation did not explicitly define the phrase “the case for which the petitioner sought a constitutional interpretation”, the Holding part of the disputed Interpretation stated that “this Court, at the request of an individual applying for

a constitutional interpretation, declares that the statute or regulation applied by a court of last instance in its final judgment or ruling becomes invalid after the expiration of the prescribed period of time.” Therefore, all cases giving rise to Judicial Interpretations that declare a statute or regulation applied by a court of last instance in its final judgment or ruling invalid after the expiration of a prescribed time period should be given a retrial or other remedy. In addition, the disputed Interpretation sets out a systematic rule that applies to all Judicial Interpretations made by this Court that declare a statute or regulation invalid after the expiration of a prescribed period of time, including Judicial Interpretations that were made before J.Y. Interpretation No. 725. All of these petitioners for such Judicial Interpretations may seek redress in the cases for which the petitioner sought a constitutional interpretation, so that the rights and interests of the petitioners for J.Y. Interpretations will be protected. The disputed Interpretation does not limit itself to the petitioner for the disputed Interpretation; rather, it enables all petitioners for Judicial Interpretations to obtain the redresses that they deserve after the statute or regulation was declared unconstitutional and invalid following the expiration of the prescribed period of time. The aforementioned understanding is consistent with the right to litigate protected by the Constitution, and it recognizes the petitioners’ contributions to upholding the Constitution. J.Y. Interpretation No. 725 is, hereby, supplemented. Of course, courts still must review whether the petitioners satisfy the relevant filing deadlines and whether other procedural requirements for retrial have been met, as well as judge whether the petitioners’ cases have merit.

[4] The petitioner also petitions for a supplementary interpretation of J.Y. Interpretation No. 709, but the petitioner fails to point out specifically which part of Interpretation No. 709 is unclear in language or unsound in reasoning. Therefore, the application for supplementary interpretation of Interpretation No. 709 is inconsistent with Article 5, Paragraph 1, Subparagraph 2 of the

Constitutional Court Procedure Act and, therefore, it is dismissed in accordance with Article 5, Paragraph 3 of the same Act.

Background Note by the Translator

Mr. PENG and three other petitioners jointly appealed their case to the Supreme Administrative Court, but their appeal was dismissed by Judgment 100-Pan-2092 (2011). One of the four petitioners applied to this Court for Judicial Interpretation. On April 26, 2013, this Court rendered J.Y. Interpretation No. 709, declaring that Article 10, Paragraphs 1 and 2 and the first half of Article 19, Paragraph 3 of the Urban Renewal Act were unconstitutional. J.Y. Interpretation No. 709 required the relevant government agencies to review and revise such provisions within one year of the announcement of Interpretation No. 709. The petitioners instituted an action for retrial. The Supreme Administrative Court dismissed the action for retrial by Judgment 102-Pan-580 (2013) on September 12, 2013, on the grounds that the unconstitutional provisions remained valid within the one-year period prescribed by Interpretation No. 709. This Court announced J.Y. Interpretation No. 725 on October 24, 2014, and the petitioners relied upon J.Y. Interpretation No. 725 to initiate an action for retrial. The action for retrial was dismissed by the Supreme Administrative Court in Ruling 104-Ts'ai-470 (2015).

Mr. CHEN and two other petitioners appealed to the Supreme Administrative Court, but the case was dismissed in Judgment 100-Pan-2004 (2011). One of the three petitioners applied to this Court for Judicial Interpretation. This Court, on April 26, 2013, rendered J.Y. Interpretation No. 709, declaring unconstitutional Article 10, Paragraphs 1 and 2 and the first half of Article 19, Paragraph 3 of the Urban Renewal Act. J.Y. Interpretation No. 709 required the relevant government agencies to review and revise the said provisions within one year of the announcement of Interpretation No. 709. The

petitioners initiated an action for retrial. The Supreme Administrative Court dismissed the action for retrial in Judgment 102-Pan-538 (2013) on August 23, 2013, on the grounds that the unconstitutional provisions remained valid within the one-year period prescribed by Interpretation No. 709. This Court announced J.Y. Interpretation No. 725 on October 24, 2014, and the petitioners relied upon Interpretation No. 725 to initiate an action for retrial. The action for retrial was dismissed by the Supreme Administrative Court in Ruling 104-Ts'ai-546 (2015).

The Constitutional Court released J.Y. Interpretation No. 725 on October 24, 2014. It was established in J.Y. Interpretation No. 725 that when the Constitutional Court declares a statute or regulation unconstitutional, the petitioner may rely on the constitutional interpretation rendered by the Constitutional Court to seek a retrial of the original case for which the petitioner sought a constitutional interpretation, or the Prosecutor General may file an extraordinary appeal or take other legal actions. J.Y. Interpretation No. 725, however, does not state explicitly whether the petitioners for Interpretations announced before J.Y. Interpretation No. 725 could also rely upon Interpretation No. 725 to seek a retrial of the original case.

In this Interpretation No. 741, the Constitutional Court addresses the above issue and reasons as follows: The purpose of granting remedies in the case for which the petitioner sought a constitutional interpretation is to protect the rights and interests of petitioners and to recognize their contributions to upholding the Constitution. This purpose does not differ according to whether the unconstitutional statute or regulation becomes invalid immediately or after the expiration of a prescribed period of time. Nor does the holding of J.Y. Interpretation No. 725 distinguish between Interpretations made before or after Interpretation No. 725. Therefore, all cases giving rise to Judicial Interpretations that declare a statute or regulation applied by a court of last instance in its final judgment or ruling invalid after the expiration of a prescribed period of time

should be given a retrial or other remedies. In addition, J.Y. Interpretation No. 725 set out a systematic rule that applies to all Judicial Interpretations made by this Court that declare a statute or regulation invalid after the expiration of a prescribed period of time, including Judicial Interpretations that were made before J.Y. Interpretation No. 725. All the petitioners for these Judicial Interpretations may seek redress in the cases for which the petitioners sought constitutional interpretations so that the rights and interests of the petitioners for Judicial Interpretations are protected. In addition, in J.Y. Interpretation No. 741, the Constitutional Court holds that the aforementioned understanding is consistent with the right to litigate as protected by the Constitution.

