No execution of a Baltimore expired money judgment, even if previously given full faith and credit in Greece

Creditors in international business transactions need to follow a three step plan in order to secure the satisfaction of their claims: Secure an enforceable judgment in their jurisdiction; declare the latter enforceable in the country of the judgment debtor; and proceed swiftly or at least timely to execution measures. Practice shows that the problems are usually appearing in steps 1 or 2. A recent ruling of the Greek Supreme Court demonstrates that potential pitfalls are to be expected even beyond.

THE FACTS

The parties are a Greek [GR] and an American company [US]. Following litigation before the courts of Baltimore, Maryland, US was in possession of an enforceable money judgment against G issued in October 1999. US moved to recognize the above judgment in Greece. Its application was successful, and no appeal was lodged by GR against the judgment of the Athens Court of 1st instance [Nr. 4138/2002, unreported].

For reasons not clarified in the ruling, US entered the enforcement stage only in June 2013, i.e. nearly 14 years after the Baltimore court had issued its judgment. Soon afterwards, i.e. early July same year, US rushed to the Baltimore court's clerk, requesting the judgment's renewal. The clerk granted the request late July. January 2014 GR filed an application to revoke the renewal which was sustained. In particular, the Baltimore court considered the request for renewal as inadmissible, because it was not filed timely, i.e. within 12 years following the judgment's date of entry, in accordance with Rule 2-625 Maryland Rules, Title 2. Civil Procedure–Circuit Court.

Nevertheless, US moved ahead with enforcement in Greece. As it was to be

expected, GR applied for stay of execution, which was however dismissed by the Athens 1st Instance Court [Nr. 6235/2015, unreported]. US appealed successfully [Athens CoA Nr. 3074/2016, unreported].

THE RULING

The reasoning of the Supreme Court's ruling may be summarized as follows:

- An expired foreign judgment previously declared enforceable in Greece does not affect the exequatur proceedings ex post.
- The judgment debtor may however file an application for reversal or request the court to confirm the foreign judgment's lack of enforceability in the state of origin. If enforcement has already begun, the judgment debtor may file an application for stay of execution.
- The validity and enforceability of the foreign judgment are examined in accordance with the law of the country of origin, i.e. the country where the judgment was rendered.
- The domestic judgment, i.e. the one issued in the exequatur proceedings, does not replace the original enforceable title; moreover, it simply extends its enforceability in the country of destination. If the foreign judgment is no longer enforceable in the country of origin, execution may not begin in the country of destination.
- If execution may not take place for the main claim, it is equally forbidden for subsequent claims included in the foreign judgment, such as interest claims.
- The fact that Greek law provides for a longer limitation time (20 years) may not lead to the assumption that the same rule should apply for the foreign judgment, simply because it has been recognized by a Greek court of law.
- There's no contradiction between the fact that the recognition of the foreign judgment in Greece is final and conclusive, and the fact that the US judgment may not be enforced due to its expiry pursuant to the rules of the law of origin.

AREIOS PAGOS Nr. 767/2019, unreported.

COMMENTS

I start with the provision which was the game-changer in the ordinary process of execution:

RULE 2-625. EXPIRATION AND RENEWAL OF MONEY JUDGMENT: *A money judgment expires 12 years from the date of entry or most recent renewal. At any time before expiration of the judgment, the judgment holder may file a notice of renewal and the clerk shall enter the judgment renewed*.

US showed negligence and paid for it. It is somehow questionable, why the clerk at the Baltimore court decided to grant renewal: The wording of the rule is clear and the maths could be done easily even by a child in elementary school.

The ruling of the Supreme Court is in line with standard case law in the country, which covers all foreign judgments irrespective of their origin.