

*By Jack Wass (Stout Street Chambers, New Zealand)*

The enforcement of judgments from Chinese courts continues to generate controversy in common law countries. In *Hebei Huaneng Industrial Development Co Ltd v Shi*, the New Zealand courts have been faced with the argument that because Chinese courts are not independent of the political arms of government, they do not qualify as “courts” and their judgments are not entitled to recognition.

In 2020, the High Court rejected this argument in a jurisdictional context: see our report [here](#) and the issue has also arisen in the United States. The issue arose again, in the same case, on an application for summary judgment by the plaintiff judgment creditor. Here the argument received more traction from a different judge of the same court.

The judges at both stages recognised that there were two ways to look at allegations that courts lacked impartiality and independence: the first is to assess whether the courts, as a general matter, possess the characteristics of judicial bodies whose decisions are entitled to recognition; the second is to assess whether the absence of independence resulted in a breach of natural justice in the circumstances of the actual case.

Both approaches present the court with a potentially invidious inquiry, but the clear message from the judges in both decisions is that a defendant has a better chance of showing that justice was not done in an individual case than convincing the court to condemn an entire judicial system. With the application for summary judgment rejected, the case will now go to trial; this will not be the last word on the enforcement of Chinese judgments in New Zealand.