Japanese Court Enforces a Singaporean Judgment Ordering the Payment of Child Living Expenses

I. Introduction

Foreign family law decisions can be recognized, and where necessary, enforced in Japan if they meet the prescribed requirements for this purpose. Prior to 2018, it was an establish practice to apply the same recognition and enforcement regime used for civil and commercial matters to foreign family law decisions. However, discussions existed in literature regarding whether constitutive family law judgments and decrees should be recognized following the choice of law approach, or whether the specific characteristics of foreign family law decisions might justify exceptions, such as the non-application of certain recognition requirements (see Mario Takeshita, "The Recognition of Foreign Judgments by Japanese Courts" 39 *Japanese Annual of International Law* (1996) 59-61).

Since 2018, the applicable regime has been significantly clarified, effectively putting an end to much of the prior academic debate on the subject. This development stems from the introduction of new provisions on the recognition and enforcement of foreign family law decisions in the Act No. 20 of 2018, which amends the procedural acts applicable to family law cases as it will be outline below (English translation can be found in 62 *Japanese Yearbook of International Law* (2019) 486. See also Prof. Yasuhiro Okuda's translation in 50 *ZJapanR/J. Japan.L* (2020) 235).

This Act, which came into force on 1 April 2019, also introduces new detailed rules on international jurisdictional in family law disputes (for details, see Yuko

Nishitani, “New International Civil Procedure Law of Japan in Status and Family Matters” 62 *Japanese Yearbook of International Law* (2019) 141; Yasuhiro Okuda, New Rules on International Jurisdiction of Japanese Courts in Family Matters, 50 *ZJapanR/J. Japan.L* (2020) 217).

Nonetheless, it has to be acknowledged that, in the context of the recognition and enforcement of foreign family law decisions, several issues remain open. In addition, since the entry into force of the new law, there have been relatively few reported cases that provide clear guidance on the application of the legal framework. In this respect, the Chiba District Court’s judgment of 19 July 2024 presented here, concerning the enforcement of a Singaporean divorce judgment component ordering the payment of child living expenses, offers valuable insights.

II. Facts

The case concerns X’s (ex-wife, Plaintiff) request for an enforcement judgment under Article 24 of the Civil Enforcement Act (CEA) to enforce a portion of a Singaporean judgment rendered in November 2010, requiring the Y (ex-husband, the Defendant) to pay, *inter alia*, living expenses for two of their three children until they reached the age of majority, along with accrued interest. X initiated the enforcement action in 2019. By the time of the action, one child had already attained the age of majority under Singaporean law (21 years), while the other reached the age of majority during the pendency of the case.

The parties in the case married in Japan in the early 1990s, where they lived and had two sons. In 1997, the Y relocated to Singapore, followed by the rest of the family in 1998. While living in Singapore, they had their third child, a daughter. In March 2007, X initiated divorce proceedings before Singaporean courts, with Y participating by appointing legal counsel and responding to the proceedings.

In accordance with Singapore’s two-step divorce process, the court issued a provisional judgment in October 2008 dissolving the marriage. The court then proceeded to address ancillary matters, including custody, guardianship, visitation, living expenses, and the division of joint assets. During these proceedings, Y permanently left Singapore and returned to Japan in June 2010. Following his departure, Y ceased to participate in the proceedings, and his legal counsel was subsequently granted permission to withdraw from representing him.

In November 2010, the Singaporean court issued a final judgment granting X sole custody and guardianship of the children, ordering the payment of living expenses, and dividing the couple's joint assets. Prior to the hearing, a notice was sent to Y's last known address, which he had provided during the proceedings. However, the judgment, as well as the summons for appeal, was not served on Y, leading to the expiration of the appeal period without the judgment being challenged.

In 2019, X sought enforcement of the Singaporean judgment as indicated above. Before the Court, the parties disputed most of the recognition requirements (article 118 of the Code of Civil Procedure [CCP]). Y also challenged enforcement by raising a defense based on the existence of a ground for an objection against civil execution, notably the fact that the limitation period for the claims related to the payment of living expenses under the foreign judgment had expired. Finally, Y argued that X's request to enforce the foreign judgment constituted an abuse of right or a violation of the principle of good faith.

III. Ruling

In its judgment rendered on 19 July 2024, the Chiba District Court largely dismissed Y's arguments and granted X's application, with two exceptions: the court rejected X's claim for living expenses claim for the children beyond the age of 21. It did not also allow the enforcement of the portion of accrued interest on the living expenses, which the Court found to be extinguished under Singaporean statute of limitations.

Before addressing each of the issues raised, the court first outlined the general applicable principles, citing relevant Supreme Court cases where available. Although these parts are crucial, they will be omitted from the summary for brevity.

1. Whether the foreign judgment can be deemed final [Article 118, first sentence of the CCP]

According to the court, under Singaporean law, a judgment becomes effective on

the date it is issued, and an appeal must be filed within 28 days from the judgment date, regardless of whether the judgment is served. The court observed that since no summons for an appeal was served within this period, the foreign judgment should be deemed final.

2. Whether the foreign court had jurisdiction [Article 118(1) of the CCP]

The court first noted that the foreign lawsuit involved X seeking divorce and addressing ancillary matters with Y. The court, then categorized the case as "personal status" case, and assessed the indirect jurisdiction of the foreign court by reference to the Japanese rules of direct jurisdiction in personal status cases as set out in the Personal Status Litigation Act (PSLA), article 3-2 *et seq*. For the court, article 3-2(i) of the PSLA allows that an action concerning personal status be filed with the Japanese courts when the defendant has domicile in Japan, and that jurisdiction is determined at the time the lawsuit is filed (article 3-12 of the CCP). Applying this test to the case, the court found that, at the time the foreign proceeding was initiated, both parties were domiciled in Singapore, and concluded that the Singaporean court had jurisdiction over the matter. Furthermore, the court considered that there were no circumstances suggesting that it would be unreasonable, on the basis of the principle of *jori* (*naturalis ratio*), to recognize the foreign judgment issued by the foreign court.

3. Whether the procedure leading to the foreign judgment violates public policy (the lack of service of the foreign judgment on Y) [Article 118(3) of the CCP]

The court admitted that the foreign judgment was not served on Y, and that he was not aware of it within the appeal period. However, the court determined that, based on Y's conduct during the proceedings, he had voluntarily waived his right to be informed of the judgment's issuance. According to the court, Y knew a judgment on ancillary matters would be delivered and had the opportunity to receive it through proper procedures. The court also found that, while Y was not aware of the judgment within the appeal period, he had been given procedural safeguards and ample opportunity to become informed. Therefore, the court concluded that the lack of service of the foreign judgment did not violate the fundamental principles of Japanese procedural public policy.

4. Whether the content of the foreign judgment violates [substantive] public policy (the amount of living expenses for the children) [Article 118(3) of the CCP]

The court held that the foreign judgment's calculation of the children's living expenses was based on a reasonable evaluation of the parties' financial capacity, rejecting Y's argument that the calculation was unrelated to his financial situation or had punitive elements. The court further stated that the amount stipulated in the foreign judgment was not excessive or inconsistent with Japanese public policy, given the actual living expenses of the children. Moreover, the court emphasized that Y's challenge, based on his decreased or absent income was not accepted by the foreign court, would constitute a prohibited review of the merits under Article 24(4) of the CEA.

5. Whether reciprocity is established (Art. 1118(4) of the CCP)

For the court, the requirements for recognizing a foreign judgment in Singapore are based on English common law, which broadly aligns with the conditions outlined in Article 118 of the CCP. Thus, the court determined that reciprocity exists between Singapore and Japan.

6. The applicability of the statute of limitations on the claim for living expenses under the foreign judgment

The court confirmed that the party opposing enforcement of a foreign judgment could raise in the exequatur proceedings defenses based on the extinction or modification of claims that occurred after the judgment was rendered. The court then determined that Singaporean law was applicable to the defense of extinctive prescription. Thereafter, the court compared the Singaporean limitation periods (12 years for claims based on the judgment and 6 years for interest) with Japan's shorter periods (5 years or 10 years for claims confirmed by a final judgment). The court found that applying Singapore's longer limitation periods did not manifestly violate Japan's public policy, upholding the validity of living expense claims filed within the 12-year period. However, it ruled that interest claims

accrued before October 2013 had been extinguished due to the expiration of the 6-year limitation period.

7. Abuse of Rights or Violation of the Principle of Good Faith

The court addressed Y's argument that X's attempt to enforce the foreign judgment constitutes an abuse of rights or a violation of good faith. The court rejected this claim, stating that enforcing a judgment in accordance with the law does not breach the principle of good faith or constitute an abuse of rights. In addition, the court found no evidence to support Y's argument.

IV. Comments

1. Significance of the Case

The Chiba District Court judgment of 19 July 2024 is significant for its treatment of various issues concerning the recognition and enforcement of foreign family law decisions under the new legal framework. The court addressed key issues such as indirect jurisdiction, procedural and substantive public policy, reciprocity, and the ability to raise defenses during the exequatur process, including objections based on the expiration of limitation periods and the consistency of foreign law with Japanese public policy. Most of these issues are subject of ongoing academic discussion in Japan (for an overview, see Manabu Iwamoto, "Recognition and Enforcement of Foreign Decisions on Personal Status Litigation and Family Relations Cases" 62 *Japanese Yearbook of International Law* (2019) 226).

2. Personal Status Cases v. Domestic Relations Cases

Japan's legal framework for recognizing foreign judgments in general is governed primarily by domestic law. As far as foreign family law decisions are concerned, it is generally admitted that their recognition and enforcement depend on whether the family law relationship is classified as a "personal status case" or a "domestic relations cases."

“Personal status cases” generally encompass “contentious” family law disputes concerning marital or parental relationships, such as divorce, which is a quintessential example of a “personal status case”. Family law matters in this category, as determined by article 2 of the Personal Status Litigation Act (PSLA), are governed by its provisions. Given the constitutive nature, foreign judgments on personal status cases typically do not require enforcement.

On the other hand, “domestic relations cases” groups family matters that are generally “non-contentious”, although certain cases, such as claims for custody or maintenance, can be highly adversarial. These matters are governed Domestic Relations Case Procedure Act (DRCPA), which includes appended tables listing cases classified as domestic relations cases. Unlike personal status cases, some types of domestic relations cases may involve elements that require enforcement, such as the payment of maintenance or the return of a child.

From the perspective of Japanese law, maintenance cases typically fall under this category (see Manabu Iwamoto, “International Recovery of Maintenance in Japan” 65 *Japanese Yearbook of International Law* (2022) 254).

3. Applicable legal regime

In this regard, the 2018 reform brought some significant changes. Indeed, a new provision was introduced in the DRCPA (new article 79-2) and article 24 of the CEA on the enforcement of foreign judgments was modified to accommodate these changes. However, no similar provision was introduced in the PSLA, since it was considered that contentious judgments in family law matters are not different from contentious judgments in civil and commercial matters, therefore, they should be subject to the same legal regime.

Accordingly, depending on the type of case involved, foreign family law decisions can be recognized either (i) by direct application of article 118 of the CCP, when the foreign judgment in question pertains to “personal status cases”, or (ii) by *mutatis mutandis* application of article 118 of the CCP pursuant to article 79-2 of the DRCPA, when the foreign decision is rendered in a matter relating to “domestic relations cases”. The main difference between these two approaches is that, unlike foreign personal status judgments, the requirements of article 118 of the CCP would fully apply *mutatis mutandis* to foreign domestic relations

decisions, provided that doing so "is not contrary to the nature" of the decision in question (article 79-2 of the DRCPA). In other words, for foreign domestic relations decisions, the requirements of article 118 of the CCP may apply *partially,* depending on the nature of the case.

In this context, since maintenance judgments is typically classified under "domestic relations cases", their recognition is, as a matter of principle, governed by article 79-2 of the DRCPA, along with the *mutatis mutandis* application of the requirements of article 118 of the CCP. Whether recognition and enforcement of foreign maintenance judgments is subject to full or partial application of the recognition requirements under article 118 of the CCP is subject to discussion in literature. However, the general tendency among courts, as confirmed by the case presented here, is to apply all the recognition requirements.

4. Conjunction between personal status cases and domestic relations cases

A key challenge arises, however, when a foreign family law judgment combines elements of personal status (e.g., divorce) with issues categorized under domestic relations (e.g., child custody or maintenance). In this regard, while the Chiba District Court treated the foreign judgment as a single "personal status case" and applied article 118 of the CCP, without reference to Article 79-2 of the DRCPA, prevailing literature and case law suggest that each aspect should be treated separately.

Following this approach, the court should have proceeded as follows: first, it should have categorized the court order to pay child living expenses as pertaining to "domestic relations cases". Under this categorization, the court would then have needed to assess, pursuant to article 79-2 of the DRCPA, whether all the recognition requirements of article 118 of the CCP should apply *mutatis mutandis*, or only partially, depending on the nature of the case. Finally, the court should have reviewed the indirect jurisdiction of the foreign court by reference to the jurisdictional rules set out in the DRCPA (specifically, article 3-10, which governs cases relating to maintenance obligation), rather than those set out in the PSLA.

That said, it has to be acknowledged, that the court's ultimate conclusion would likely not have changed since the jurisdiction of the foreign court would also have

been justified by the jurisdictional rules included in the PSLA, which allow actions for ancillary measures, including child custody and support, to be decided by the court exercising divorce jurisdiction (article 3-4 of the PSLA).