PRC Double Interest neither Double nor Penal: Australian Courts Clear Its Name When Enforcing Chinese Judgments

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[ABSTRACT]

Recent Australian case law clarifies that the "double interest" mechanism in the People's Republic of China (hereafter 'PRC') monetary judgments functions as a compensatory post-judgment interest framework rather than an unenforceable penalty. This consolidates Australia's position as a highly attractive and creditor-friendly forum for enforcing Chinese judgments. See Zhengzhou Lvdu Real Estate Group Co v Shu [2024] NSWSC 58 (6 February 2024), Fu v Pang [2025] VSC 597 (16 September 2025), and Shanghai Chenggong Industrial Co Ltd v Zhihua Chen [2025] NSWSC 1112 (27 October 2025).

Key takeaways:

- *Australian courts have astutely recognized that PRC "double interest" does not actually double the contractual rate, but operates as an additional statutory post-judgment rate (0.0175% per day) to compensate for delayed performance.*
- *Across three recent decisions, Australian courts in New South Wales and Victoria firmly ruled that Article 264 interest under China's Civil Procedure Law is not penal, as it aims to compensate rather than punish, and it vindicates a private right and lacks a state-enforced punitive purpose.*
- *The willingness to enforce this Article 264 interest mechanism was significantly enhanced by its functional equivalence to Australia's own post-judgment interest rules under the UCPR.*

In recent decades, Australia has increasingly become a top creditor-friendly jurisdiction for PRC judgment creditors. In just two years (2024-2025), six Chinese judgments have been recognized and enforced by Australian courts,[i] mainly in two states – New South Wales and Victoria.

Like in other common jurisdictions, as previously reported, the grounds that judgment debtors frequently use in challenging such recognition and enforcement in Australia are denial of procedural fairness and natural justice, often arising from the service of process in Chinese court proceedings. See *Zhou v Jing* [2023] NSWSC 214 (procedural fairness); *Yin v Wu* [2023] VSCA 130 (natural justice).

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More interestingly, Australian courts have been dealing with a newish defense in a series of three recent cases – *Zhengzhou Lvdu Real Estate Group Co v Shu* [2024] NSWSC 58 (6 February 2024), *Fu v Pang* [2025] VSC 597 (16 September 2025), and *Shanghai Chenggong Industrial Co Ltd v Zhihua Chen* [2025] NSWSC 1112 (27 October 2025). The common issue at heart is whether the "double interest", an element commonly seen in PRC monetary judgments, is penal, and hence renders the judgments wholly or partially unenforceable in Australia.

As misleading as the term "double interest" may appear, the way Australian courts endeavor to understand a term absolutely unique in a foreign country is admirable. The courts not only correctly pointed out that "double interest" is a misnomer, as it has nothing to do with "double", but also concluded that such "double interest" is not penal in nature.

For the avoidance of doubt, the so-called "double interest" refers to the double part debt interest of the "Article 264 interest" (also known as "double part debt interest of delayed performance interest" (迟延履行利息的加倍部分债务利息 / *chiyan lvxing lixi de jiabei bufen zhaiwu liyi*), the interests payable under Article 264 of China's 2023 Civil Procedure Law (CPL) (formerly numbered Article 253 of 2017 CPL, Article 260 of 2021 CPL), which applies in in circumstances where a judgment debtor fails to pay the judgment debt within the period as specified in a judgment.

The method to calculate the Article 264 interest is governed by the 2014 Interpretation by China's Supreme People's Court (SPC) on Several Issues concerning the Applicable Law for Calculating the Interest of Debt on Delayed Performance in Enforcement Procedures" (hereinafter the "SPC Interpretation").[ii] Article 1 of the SPC Interpretation provides that Article 264 interest – delayed performance interest (the debt interest during the period of delayed performance)- is composed of the 'general debt interest' and the 'double part debt interest', the former (if any) is specified by the judgment, and the latter is calculated via the formula as follows: Double part of debt interest = the outstanding monetary debt of the debtor other than general debt interest specified by effective legal document x 0.00175 per day x delayed performance period.

“Double Interest” Not Double

The term “double interest” is “something of a misnomer”, indicated the Supreme Court of New South Wales (the “NSW Supreme Court”) in *Zhengzhou Lvdu Real Estate Group Co v Shu*, a case where a judgment of Zhengzhou Intermediate People’s Court of Henan Province (hereinafter the “Zhengzhou Judgment”) for RMB 318,827,295.13 was ruled enforceable.

Like a koala bear is not a bear, the double interest is not double. By nature, it is an “additional” interest, in addition to general debt interest specified by judgment (if any), when the judgment debt was not paid within the period specified in the judgment.

In the Zhengzhou Judgment, the judgment debtors – both the borrower and the guarantor- were found liable for the all the payment obligations, i.e. 1) to repay to the lender (judgment creditor) the principal of the loan in the amount of CNY 170 million and its interest (based on principal of CNY 170 million, calculated on an annual interest rate of 12% for the period between 12 June 2019 and 11 May 2020; and calculated on an annual interest of 18% for the period from 12 May 2020 until the date when the debt is fully repaid) within ten days after this judgment takes effect; and 2) to pay the Article 264 interest, if the payment obligation is not performed within the period specified in this judgment, which is “within ten days after this judgment took effect on 20 September, 2020” (at [42]-[43]).

Clearly, Article 264 (formerly Article 253 of 2017 CPL) does not double the interest rate provided for under the Loan Agreement (which was 12% per annum from the date of the advance until the date of maturity, and then 18% per annum from the date of default until repayment). Instead, there is “double” interest only in the sense that, from the date when the judgment debt was required to be paid until the date of actual payment, there is a second interest rate applicable, in addition to the contractual interest rate of 18% which was found to apply in the Zhengzhou Judgment (at [65]).

Given the calculation method above, Article 264 Interest is calculated based on “the “outstanding monetary debt of the debtor other than general debt interest specified by effective legal document” is, in this case, the amount of the principal (CNY 170 million). The rate of Article 264 interest is a statutory rate, set at

0.0175% per day (around 6.3875% per annum). The "delayed performance period" starts from 29 September 2020 (ten days after this judgment took effect on 9 September) until repayment.

"Double Interest" Not Penal

In *Zhengzhou Lvdu Real Estate Group Co v Shu,* the NSW Supreme Court considered whether "Double Interest" could be regarded penal in nature, but did not reach any determination, given that "it is the Defendant who bears the burden of showing that any element of the Zhengzhou Judgment is penal in nature and that "no evidence and no submissions have been advanced to this effect" (at [68]).

Similarly, in *Fu v Pang*, the Victoria Supreme Court reviewed an application to enforce a Chinese judgment of Qingxiu District People's Court of Nanning City, Guangxi Zhuang Autonomous Region, and this time, the defendant did seek to persuade the court that the double interest was penal in nature.

With detailed reasoning, however, the Victoria Supreme Court rejected the defendant's submission and concluded it is not penal, ruling that

"there is no public interest element. The double part interest arises out of the exercise of a private right and it has no connection with the state, nor is the plaintiff here acting as a common informer. There is no basis on which it can be concluded that the payment of the extra interest component is imposed for public purposes to punish the defendant for non-compliance with the judgment, rather than being an additional compensation for the plaintiff for the detriment of being kept out of the judgment sum." (at [30])

Just one month later, in *Shanghai Chenggong Industrial Co Ltd v Zhihua Chen*, where two PRC judgments were enforced, the NSW Supreme Court reached the same conclusion. In this case, the double interest is the only issue that the defendant disputed, and the court held firmly that Article 264 interest is not penal.

As the NSW Supreme Court revealed, the question at heart is the purpose and nature of Article 264 interest: "does it punish for non-compliance with Court orders, or is it more appropriately considered a legislated post-judgment interest

rate?" (at [18]) The court opined the correct answer is the latter.

To start with, it is not akin to a contractual penalty by any comparison. There are also no authorities decided after *Schnable v Lui* [2002] NSWSC 15 that punitive damages will always be considered penal in Australian law. In other words, punitive damages are not necessarily penal.

More importantly, Article 264 interest aims "to compensate, and not to punish", because Article 264 is triggered where there is late or deferred payment, and it is "appropriate to compensate a plaintiff for being held out of money, just the way the Uniform Civil Procedure Rules (UCPR) provides for post-judgment interest on judgment debts". (at [31])

Comments

Not long after, by following the same stance on the "non-penal" nature of Article 264 interest in *Shanghai Chenggong Industrial Co Ltd v Zhihua Chen*, the same court, the NSW Supreme Court, enforced a PRC judgment of Zhangjiagang People's Court of Jiangsu Province for RMB 24,256,223.86 and interest in *Kai Yuan v Jian Hua Zhou* [2025] NSWSC 1469 (5 December 2025).

By clearing the name of "double interest", the series of recent Australian court decisions have pointed out that the double interest is not double, but additional; and its purpose is to compensate, rather than to punish.

At the end of the day, it is practically difficult to ascertain the purpose behind remedies ordered in foreign judgments. The "compensate or punish" question matters so much that taking on one side over the other can render the part containing such interest either enforceable or unenforceable. There seems to be no room for a mixed purpose, which might as well be a third way of interpretation (if taking into account the views of China's legislature and judiciary).[iii]

Moreover, behind the "compensate or punish" question lies a further question that has yet to be fully tested: what 'penal' actually means in the rule against enforcement of a foreign penal law, when discussing the relevant jurisprudence regarding recognition and enforcement of foreign judgments.

One thing is clear though: when evaluating a foreign concept like PRC "double

interest", the existence of a similar domestic mechanism—such as Australia's statutory post-judgment interest under the UCPR—makes the concept far easier for local courts to understand and accept. Conversely, courts in jurisdictions like Hong Kong, which lack such a domestic equivalent, may find it much more challenging to conceptualize and enforce.[iv]

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[i] See *Zhengzhou Lvdu Real Estate Group Co v Shu* [2024] NSWSC 58, *Fujian Rongtaiyuan Industrial Co Ltd v Zhan* [2024] NSWSC 1318, *Yangpu Huigu Pharmaceutical Corporation Limited v He* [2025] NSWSC 28, *Fu v Pang* [2025] VSC 597, *Shanghai Chenggong Industrial Co Ltd v Zhihua Chen* [2025] NSWSC 1112, *Kai Yuan v Jian Hua Zhou* [2025] NSWSC 1469.

[ii] Interpretation by China's Supreme People's Court on Several Issues concerning the Applicable Law for Calculating the Interest of Debt on Delayed Performance in Enforcement Procedures, Fa Shi (2014) No. 8, 7 July 2014.

[iii] See Legislative Affairs Commission of the Standing Committee of the National People's Congress (ed.), *Explanation of the Civil Procedure Law of the People's Republic of China* (Beijing: Law Press China, 2nd edition, 2012), p. 590; Civil Law Office of the Legislative Affairs Commission of the Standing Committee of the National People's Congress (ed.), *Explanations of Articles, Legislative Rationale, and Relevant Provisions of the Civil Procedure Law of the People's Republic of China* (Beijing: Peking University Press, 2nd edition, 2012), p. 398; and the Official from the Enforcement Bureau of the Supreme People's Court Answers Reporters' Questions, *People's Court Daily*, 31 July 2014, available at https://www.chinacourt.cn/article/detail/2014/07/id/1354917.shtml.

[iv] See *Hung Fung Enterprises Holdings Ltd v The Agricultural Bank of China* [2012] HKCA 251, *Foshan Nanhai Branch of Industrial and Commercial Bank of China Ltd v Foshan Ruifeng Petroleum and Chemical Fuel Co Ltd* [2019] 2 HKLRD 478, *Tianjin Financial Investment Services Group v Jinan Muhe Enterprise Management Co Ltd & Ors* [2025] HKCFI 6182, *Industrial Bank Co., Ltd., Ningbo Branch v Ningbo Baifeng Mineral Processing Co., Ltd. & Ors* [2026] HKCFI 2455, and *Letui (Shanghai) Cultural Communication Co., Ltd. v.*

Shenzhen Mega Combine Technology Co.,Ltd & Ors [2026] HKCFI 3204.