

In Ufa, the invaders of the company Vinka were shown the door.



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Why did the victory of the South Korean company in the extended litigation with minority shareholders become a precedent?



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Two months ago, the Arbitration court of Republic of Bashkortostan satisfied the claims of the South Korean company Tera Resource Co Ltd on the exclusion of Keriat Oil Ltd (UK) and Canadian companies JAV International Ventures Ltd and Oliver Petroleum Ltd from the shareholders of Ufa JSC Joint Russian-Canadian venture Vinka. So a decisive end was marked to the lingering litigation of the main shareholder of the Bashkir geological exploration company (the Korean

company owns 70% of the authorized capital of Vinka) with minority shareholders.

The corporate conflict started back in 2010, when the General Director of JSC Vinka, appointed by JAV International Ventures Ltd, did not hand over documents from the register of shareholders of the company to the new CEO (appointed by Tera Resource Co Ltd). The arbitration court of the Republic of Bashkortostan, based on the materials of the case, concluded that "the Defendants began to take illegal actions aimed at seizing corporate control in the company and withdrawing assets from it in their favor."

In 2013, the Korean company restored the legal register of shareholders, but it did not stop the Defendants. The decision of the Arbitration court states: After the courts resolved the dispute in the case in which the claims of minority shareholders on the shares of the plaintiff were found groundless, they did not stop performing similar actions. On the contrary, in 2016 the Defendants had another illegitimate Annual General Meeting of shareholders, made up the Protocol of the meeting, which reflected incorrect information that three of them own 100% of the Vinka shares and appointed at this meeting their own General Director Veretentsev A.P and Registrar of the Company. On the basis of this Protocol false information about General Director and Registrar of the Company was entered to the Unified State Register of Legal Entities. After that A.P. Veretentsev, not properly performing the duties that are assigned to the head of the company by law, made a number of actions to withdraw from JSC Vinka key assets in favor of the Defendants and persons under their control, acting with obvious intentions to damage the company and caused significant harm.

Here's just one example. The decision of the Arbitration court of the Republic of Bashkortostan states that during the corporate seizure of the joint-stock company, the funds due to it on transactions with contractors (from the sale of oil, etc.) were transferred in favor of the company controlled by the Defendants, LLC "Ufatrade". In this way, at least 24.5 million rubles of income were siphoned off from the Vinka. While the costs associated with the preparation of oil for its sale to contractors (bringing crude oil to the state of commodity) were attributed to the JSC. After the exclusion of false information regarding Veretentsev A.P. from the state register, counterparties filed the claims against Vinka in

connection with default of obligations under service contracts. Depriving the company of oil revenues and embezzling them, the Defendants burdened the company with debts.



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The court came to the conclusion that "the actions of the Defendants on the loss of the register of shareholders, unfair initiation of the conflict in order to seize corporate control, falsification of minutes of General meetings and data of Unified State Register of Legal Entities, illegal appointment of the Director for the purpose of withdrawal of assets in favor of the Defendants are a gross violation of their duties, it prevent the continuation of the company's activities and violate the trust between the shareholders".

As a result of illegal actions of the Defendants, Vinka lost the opportunity to work normally and develop. In 2016, it was planned to drill new horizontal wells, which would allow expanding the scope of the company's oil production activities, but it did not happen due to the seizure of corporate control. The company, even after the restoration of legal corporate control by the Plaintiff, continues to face third-party claims and is forced to carry out extensive work to restore accounting and lost documentation. Moreover, as follows from the case files, after Defendants lost corporate control over the company in 2017, they blocked its economic activity for a long time by filing numerous obviously unjustified claims against the company and demanding illegal interim measures

in the courts. These actions have led to the impossibility of holding annual meetings of shareholders, the failure of the additional share issue aimed at improving the financial situation, the refusal of the investor from the investment to the Company.

Only from October 2017 to August 2018, the Defendants filed five lawsuits in which they sought interim measures. "In all these cases, the Defendants acted in concert, implemented a single procedural strategy for each case, took a common position and acted together, – says the the court decision – And each time Defendats based their position on deliberately false arguments that they own 100% stake in Vinka. As a result, the company has been artificially involved in continuous litigation from 2013 to the present time. From the case files it follows that there are over 35 (!) legal cases involving the company, arising as a result of the corporate conflict initiated by the Defendants, 23 of which are claims of minority shareholders and their affiliates, none of which was satisfied by the courts. At the same time, only during the last two years, unjustified interim measures against the Company were taken at least seven times at the claims of the Defendants, all of them were subsequently canceled. All this, of course, interfered and continues to interfere with the normal operation of Company"

The court considered that the claim is subject to satisfaction in connection "with proof of the facts of gross violation by Defendants of the duties in relation to Company and facts of causing it damages".

– I think this decision will put an end to the long-running conflict between the main shareholder of JSC Vinka and minority shareholders. It reflects all the positions of the parties and the court has given an objective assessment to them, which will eliminate the possibility of procedural cancellation of the decision, – commented **the lawyer of the Bashkir specialized Bar Igor Ermolaev.**



– How do I assess the fact that the people who seized the company were winners in the initial stage of litigation? It happened due to the fact that our courts rarely delve into the problem and act formally. But any statement about the falsification of documents shows the presence of internal conflict. And a serious one. And it is necessary to ask a simple question: for what it was made and what will follow further? The decision of the Arbitration court of Bashkortostan can be called a precedent in this category of cases. Disputes about the exclusion of shareholders are rarely considered. Here, in addition to the law, there is a lot of social impact, even universal. Much attention is paid to the problem of causing losses to the company and blocking its activities. This is the job of the court – to analyze why certain actions were committed, with what intent. Unfortunately, such approach is still rare, but the the first step is the hardest. The decision gives hope that there will be more analytical approach and less formalism in our courts.

Especially for ProUfu.ru the article was prepared by Gulnara MAVLIEVA.