

Statement by the Group of Attorneys and Plaintiffs

The Supreme Court Failed a Constitutional Judgment in a Constitutional Suit regarding the Lawsuit against Nuclear Reactor Suppliers.

January 30, 2019

1. About Dismissal of Final Appeal

The Supreme Court stated, "The civil case is permitted only to appeal to the Supreme Court under Article 312 paragraphs 1 or 2 of the Civil Procedure Act, and the reasons for this appeal are stipulated in the sections mentioned above. The decision to dismiss the request was made because it apparently does not fall under the basis for the call.

Article 312, paragraph 1 of the Civil Procedure Act stipulates that "the appeal can be made when the decision is due to misinterpretation of the constitution or any other violation of the constitution." That means, in this case, we can appeal. The main points of contention are that the provision defining the Liability Concentration System under the Act on Compensation for Nuclear Damages violates the no-nukes rights based on Articles 13 and 25 of the Constitution, and Article 29 paragraph 2 of the Constitution specifying the property right. The appeal against violation of these issues hasn't changed from the first trial, and there is no doubt that this case is a constitutional case. Nevertheless, the Supreme Court has ruled out because the reason for this adjudication does not fall under the grounds of Article 312, paragraphs 1 or 2 of the Civil Procedure Act. It does not even show evidence that it is not a constitutional lawsuit. It escaped from making judgment.

2. About the Supreme Court Decision not to Accept the Appeal

In response to the petition for the appeal, the Supreme Court has decided not to recognize it as to be accepted under Article 318 (1) of the Civil Procedure Act". The same clause stipulates that "for cases that are deemed to contain important matters concerning the interpretation of laws and regulations ... the court can accept cases".

The most important reason for the petition for acceptance of the appeal is the dispute over the interpretation of the wording "to preserve one's obligatory right" as a requirement for the exercise of a creditor subrogation right under Article 423 of the Civil Code. And there is a strong thesis about this issue, and we have developed a claim following this theory. Therefore, this case is "a case deemed to contain important matters concerning the interpretation of laws

and regulations," and whether the Supreme Court adopts these theories is a severe concern for the people.

Nevertheless, the Supreme Court has ruled out the petition, stating only the conclusion that "it cannot be accepted" without giving any reason.

3. Illegal Supreme Court Decision

As mentioned above, the Supreme Court avoided the constitutional judgment even though this case is a clear constitutional lawsuit.

The Supreme Court did not face the problem, even though many people were deprived of their no-nukes rights by the Fukushima nuclear accident and endangered life. Not one of the four judges have dismissed the apparent constitutional violation of the concentration system and avoided the constitutional judgment, and have confirmed the mistake of the legal interpretation of the original decision. The Supreme Court decision can only be described as an overly biased interpretation far from public opinion.

Furthermore, as is evident from recent news reports, the defendants, in this case, GE, Toshiba, and Hitachi, have all suffered setbacks with the nuclear business and have decided to withdraw substantially.

It has been proved that their dreams are far from reality such as the execution of atomic power business, even nuclear reactor manufacturers who receive unreasonable protection from the government under the Act on Compensation for Nuclear Damages with two contradictory goals of "protecting victims" and "sound development of nuclear power business."

It is not the content of the court's decision that we are strongly concerned about it. The biggest problem is that the court in charge of jurisdiction has illegally abandoned its duties. Recently, democracy is said to be collapsed in Japan, but if the court has such an attitude, how can the people protect their human rights? The Supreme Court has to defend human rights, as Article 81 of the Constitution prescribes that "the Supreme Court is the final court having the authority to decide whether any law, order, rule or disposition conforms to the Constitution." It is the last fortress of protection of human rights. This Supreme Court ruling pointed out to us the dire situation of the fundamental human rights crisis.

A sound society can not be realized without sharing such facts with all the people.

Therefore, the statement from us, the plaintiffs and the group of attorneys, is to continue to fight for the realization of no-nukes rights.