

RECHTSPRECHUNG / JURISPRUDENCE

Request for the Inspection of the Accounting Books by a Shareholder and a Quota Holder Judgment of the Supreme Court, 1 July 2004

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Article 293-6 of the Commercial Code provides for one of the rights of minority shareholders – the right to inspect and copy accounting books and financial documents. Shareholders with more than 3% of the issued shares are eligible. Article 293-7 which follows sets out grounds on which the company is entitled to refuse the request of the shareholder. The case law requires that the reason for the request be specific and the document to be inspected be specified (Judgment of the Takamatsu High Court, September 29, 1986, subsequently upheld by the judgment of the Supreme Court, November 9, 2000).¹ The Law on Limited Liability Companies has similar provisions (a quota of 10% or more is required).

Since allowing access to these documents may entail serious consequences for the company, the court had to strike a balance between the protection of the minority shareholders' rights and the protection of the interests of the company. The court tended to be fairly strict in allowing inspections. The above-mentioned case law is a good example of such an approach. At the lower court level, there have been cases where the request of a shareholder was rejected on the ground that it was not made in order to conduct an investigation for securing and exercising shareholders' rights, or it was made by a shareholder who was simultaneously involved in concurrent business which are the statutory grounds for rejection of the request by the company (Art. 293-7, paras. 1 and 2).

This is the first case where the Supreme Court ruled in detail on the requirements for the request of a shareholder (quota holder) to inspect and copy accounting books (the above-cited Supreme Court judgment of 2000 merely upheld the high court judgment in several lines) and ruled in favour of the shareholder (and the quota holder).

In the present case, the plaintiff (the *jokoku* appellant) inherited shares of several companies (4 joint stock companies and a limited liability company – the defendants and *jokoku* appellees) held by the deceased. The deceased had held between 21% and 46% of the shares of the joint stock companies and 38.4% of the equity of the limited liability company. The shares are now held by the inheritance estate; the plaintiff is

1 For the comments on this case, see S. IWAHARA, in: Jurisuto No.1056 (1994) 155-158.