

Defense of a Sovereign in Debt Restructuring

A sovereign nation that had issued bonds internationally and in Japan, defaulted on all its foreign debt as a result of a combined severe recession and various strategies employed against the sovereign by international vulture funds. Some of Japan's major banks filed a lawsuit against the sovereign seeking redemption of the defaulted sovereign bonds for bondholders in Japan. The banks owned no bonds themselves, but claimed that their standing to sue derived from their role as bond management companies. Many of the sovereign's other defenses against international bondholders' litigation ended in somewhat notorious failures, but the lack of class action laws in Japan meant that the standing of the banks as the chosen plaintiffs in the litigation was potentially a live issue.

KLO was engaged to represent the sovereign in Japan, as part of an umbrella network of firms defending the sovereign, coordinated by a lead firm in New York. The case required significant international research and international coordination from KLO, while highlighting our ability to focus such a dispute through narrow channels of novel and complex strategic and tactical Japanese legal procedures.

In the first trial and on first appeal, KLO successfully argued that the standing of the plaintiff banks ought not be granted. The Supreme Court granted plaintiff eligibility, and sent the case back to the court of first instance. Well after the bond default was being reported to have been ended by payments to the principal bondholders in other countries, KLO continued to work for a fair result for the sovereign in Japan, through a combination of intense legal effort and practical negotiations.

Locations in which this case decision was published or cited:

- Hanrei Times 1428 p. 35
- Japanese Supreme Court Civil Case Report (Saiko Saibansho Minji Hanreishu) Vol. 70 No. 5 p. 1157
- Japanese Court Website: http://www.courts.go.jp/app/hanrei_jp/detail2?id=85927