

Date of the judgment	11/6/2013
Case number	2013(wa)19747
Presiding Judge	Junko Kenmotsu Civil Chamber 49, Tokyo District Court
Title	Judgment concerning the case, which plaintiff bought real estate in Cambodia was organized fraud by defendants, and got compensation of damages.
Case name	Case to seek damages
Plaintiff	Woman who was 69 years old
Defendants	Universal Max Co., Ltd. FIRST Fudosan Co., Ltd. Yonezawa(Representative director of those company) Mori(Employee of Universal Max Co., Ltd.)
References	<p>【Article 719 I of the Civil Code】 If more than one person has inflicted damages on others by their joint tortious acts, each of them shall be jointly and severally liable to compensate for those damages. The same shall apply if it cannot be ascertained which of the joint tortfeasors inflicted the damages.</p> <p>【Article 429 I Companies Act】 If Officers, Etc. are with knowledge or grossly negligent in performing their duties, such Officers, Etc. shall be liable to a third party for damages arising as a result thereof.</p>
Main text of the decision	Defendants jointly and severally shall pay to the plaintiff the total of 5,115,000 yen and 5% to the same amount calculated from May 30, 2012 until completion of the payment herein.
Summary of the Reasons	<p>Specifics of the person named Okada of Umeda Corporation are unknown, reasonable inference should be that Okada acted in concert with and for the purpose of benefitting the payee. Thus, in the case herein, as stated in Acknowledged Facts, the money paid to Defendant Universal Max, a primary agent, by customers including Plaintiff is rounded up at AAP Cambodia via Defendant FIRST. In addition, in the pamphlet sent to Plaintiff, the two names i.e. Defendant Universal Max and Defendant FIRST are printed jointly, signifying that they have been integral parts of the transaction with Plaintiff. And then, these two companies as well as AAP Cambodia have been virtually controlled by Konno.</p> <p>Based on these facts, above-stated fraudulent actions and illegal solicitation by Okada judged to constitute an organized fraud, where the person named Okada who solicited Plaintiff directly, Defendant Universal Max and Defendant FIRST under Konno's control, and Defendant Mori who had been loaned to Defendant Universal Max by Konno's direction and, as an employee of Defendant Universal Max, played an important role in concluding the contract and transactions of money with Plaintiff. All of them played their respective roles, conspired together, and acted in concert.</p>

	<p>Therefore, at least, Defendant Universal Max, Defendant FIRST, and Defendant Mori, in conspiracy and in a systematic manner, conducted illegal solicitation against Plaintiff, and swindled money from Plaintiff under the pretext of purchase money. For the damage suffered by Plaintiff, they shall be liable for joint tort.</p> <p>Defendant Yonezawa was the representative director of both Defendant Universal Max and Defendant FIRST. Defendant Yonezawa's failure to correct and stop these illegal acts constitutes failure to perform duties as the representative director with knowledge or in gross negligence. Therefore, Defendant Yonezawa shall be jointly and severally liable for Plaintiff's damage with causation proximate to his failure to perform his duties.</p>
Appeal	The defendants appealed the high court, it was almost the same resulted of the direct court and the procedure of this case was finished.
Date of the judgment of the high court	2/20/2014
Case number of the high court	2013(ne)6638
Presiding Judge of the high court	<p>Takasi Saito</p> <p>Yozo Kurihara</p> <p>Shigeru Haruna</p> <p>Civil Chamber 21, Tokyo high Court</p>