



**Asia-Pacific
Economic Cooperation**

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An Overview of Korean Civil Litigation, Alternative Dispute Resolution and Execution Proceedings

Submitted by: Korea



JAPAN 2010

**Workshop on Enforcing Contracts
Seoul, Korea
21-22 June 2010**

An Overview Of Korean Civil Litigation, ADR and Execution Proceedings



2010. 6. 21.

The Supreme Court of Korea

Director of Civil affairs/Judge YunSeek Hahn

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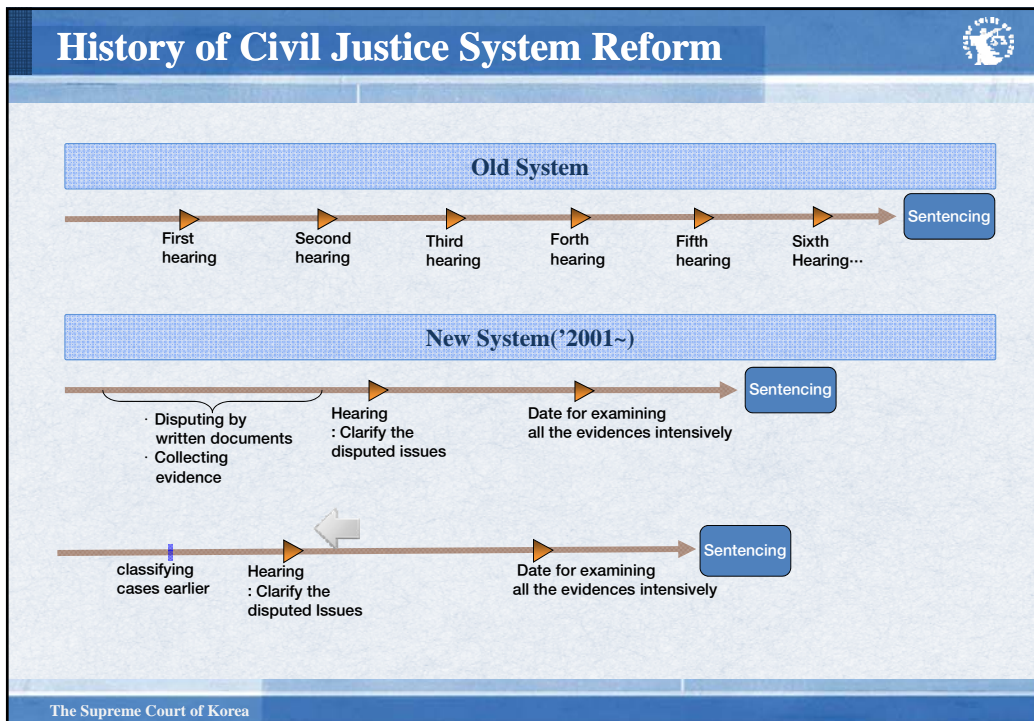
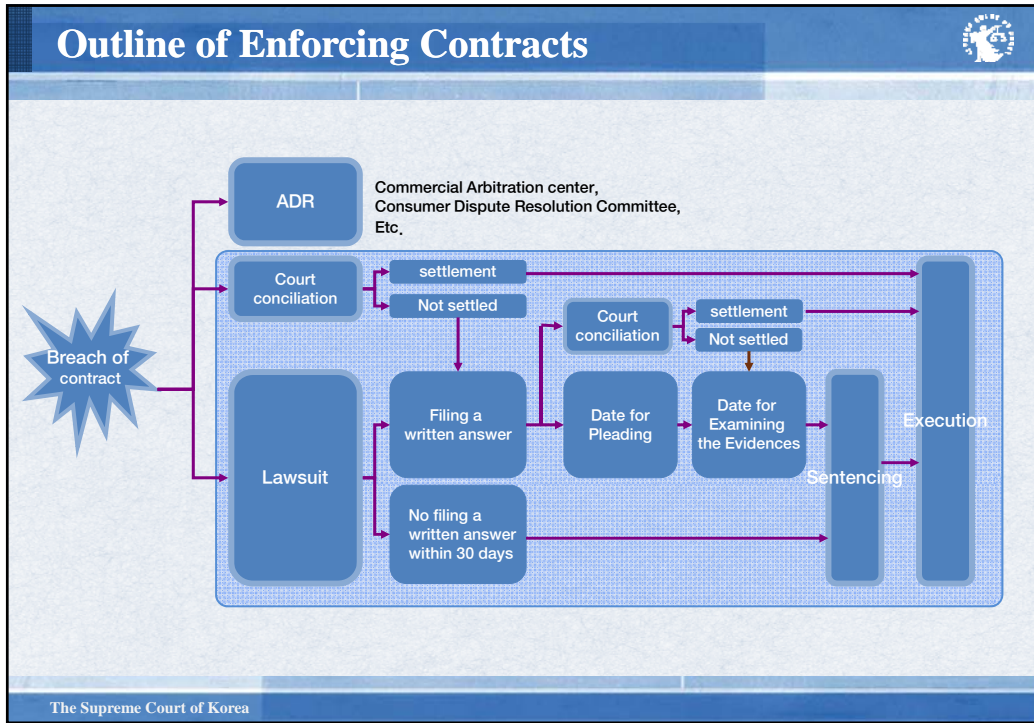


I. The Outline of Enforcing Contracts in Korea


II. The History of Korean Civil justice system Reform

III. A Review of Given Case : Procedures, Time, Cost

IV. Conclusion



Case Study




Case & Assumptions

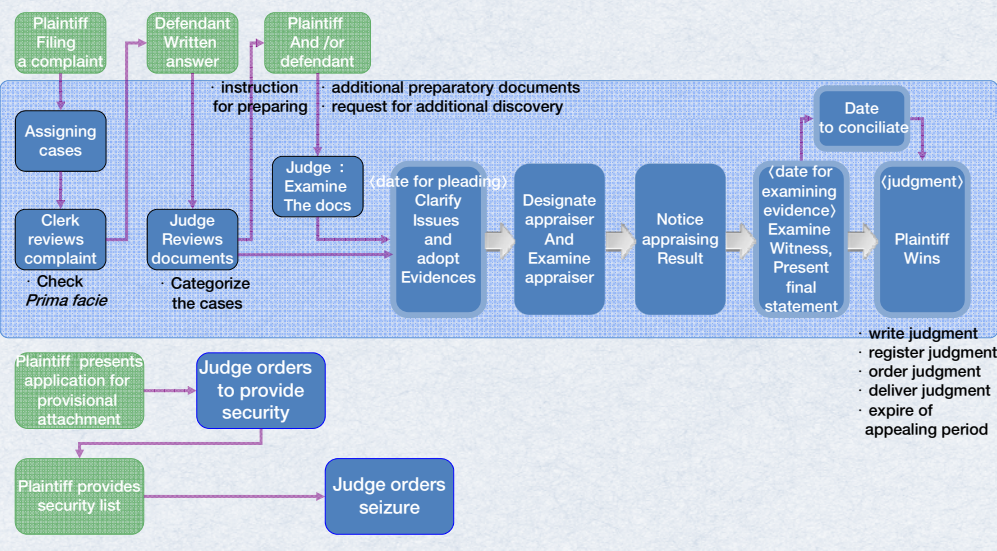
- Seller and Buyer are companies in the most populous city : Seoul
- Buyer orders custom-made goods, then does not pay
- Seller sues buyer before competent court
- Value of claim is 200% of GNI per capita : \$19,751
- Seller requests pre-trial attachment to secure claim
- Dispute on quality of the goods requires expert opinion : appraiser
- Judge decides in favor of Seller, no appealing
- Seller enforces judgment through a public sale of Buyer's movable assets

The Supreme Court of Korea

Case Study



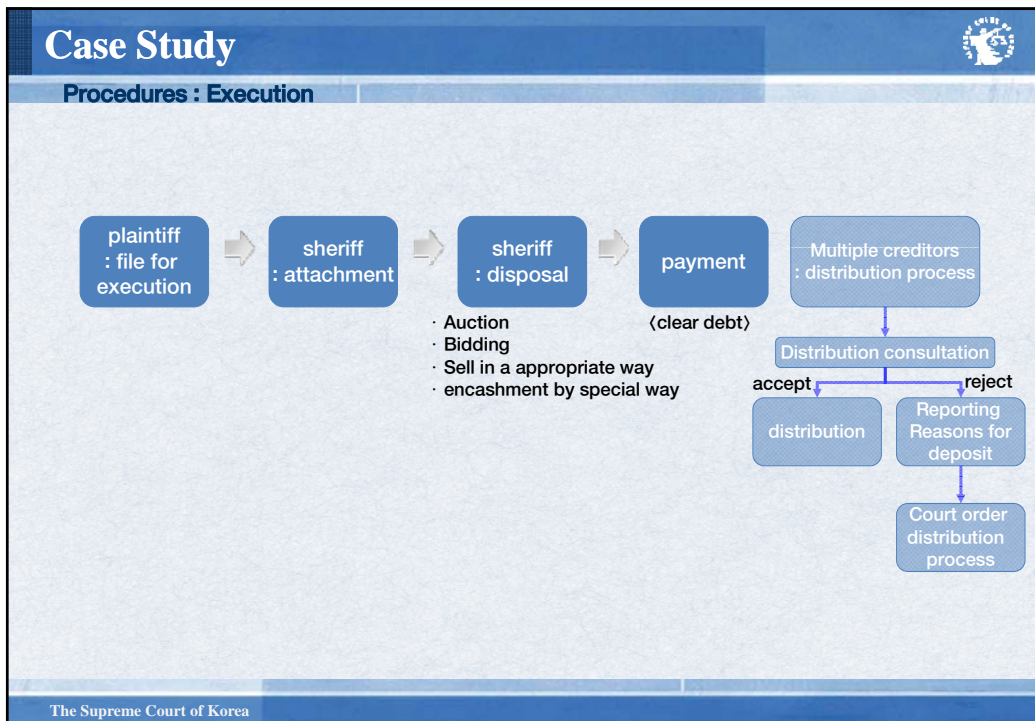
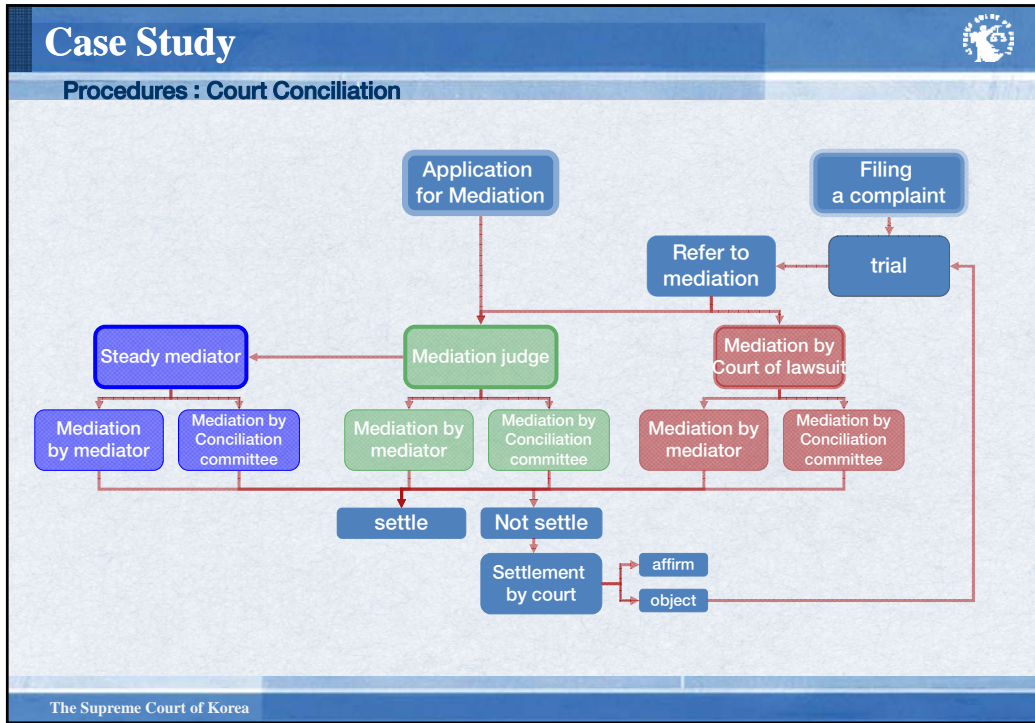
procedures




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    graph TD
      P1[Plaintiff Filing a complaint] --> A[Assigning cases]
      P1 --> D[Defendant Written answer]
      P1 --> P2[Plaintiff And/or defendant]
      A --> C[Clerk reviews complaint]
      C --> J1[Judge Reviews documents]
      D --> J1
      P2 --> J1
      J1 --> J2[Judge : Examine The docs]
      J1 --> I[instruction for preparing]
      J1 --> A2[additional preparatory documents request for additional discovery]
      J2 --> C2[Clarify Issues and adopt Evidences]
      C2 --> D2[Designate appraiser And Examine appraiser]
      D2 --> N[Notice appraising Result]
      N --> E["(date for examining evidence) Examine Witness, Present final statement"]
      E --> J3["(judgment) Plaintiff Wins"]
      J3 --> D3[Date to conciliate]
      D3 --> J3
      
      P3[Plaintiff presents application for provisional attachment] --> J4[Judge orders to provide security]
      J4 --> P4[Plaintiff provides security list]
      P4 --> J5[Judge orders seizure]
      
      J3 --- L["write judgment  
register judgment  
order judgment  
deliver judgment  
expire of appealing period"]
    
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Case Study




Time

<p style="text-align: center;">[Trial]</p> <ul style="list-style-type: none"> - from filing complaint to judgment : 163,2 days - from judgment to delivery of judgment : about 7 days - from delivery date to affirm : 14 days <p>-Total : 184,2 days</p>	<p style="text-align: center;">[Execution]</p> <ul style="list-style-type: none"> - from filing of execution to auction : 49,7days
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➡ **Total period : 233,9 days**

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Case Study




Cost

<p style="text-align: center;">[pre-trial attachment]</p> <ul style="list-style-type: none"> - Fee : 2,000won=\$1,60 - (Bond) : Return if win a case 	<p style="text-align: center;">[Trial]</p> <ul style="list-style-type: none"> - Stamp duty/fee : 116,100won=\$92,81 - Delivery : 90,600원=\$72,42 - Appraisal cost : about 2,000,000won = \$1,634,65 - (Attorney fee) 	<p style="text-align: center;">[Execution]</p> <ul style="list-style-type: none"> - (Fee for execution) : Deduct from price for sale
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➡ **Total cost : \$ 1,801,48**

The Supreme Court of Korea

Conclusion 

- ✓ Specialized commercial courts?
- ✓ Electronic filing?
- ✓ Electronic case management?
- ✓ Small claims track?
- ✓ Active case management by judges?

The Supreme Court of Korea



Thank you