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## Shen Jinzhao v. Shanghai Far-east Publishing House

*Citation: The Supreme People's Court's Notification No. Zhijianzi 37/2000*

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### **Procedural history**

Shen Jinzhao sued, in the Shanghai No. 1 Intermediate People's Court, the Shanghai Far-east Publishing House for the case of dispute over a publication contract. In the first-instance judgment, it was decided that the act of the Shanghai Far-east Publishing House did not constitute an infringement. Shen Jinzhao requested the Supreme People's Court for retrial of the case on the ground of infringement of the writer's copyright for the lost of his manuscripts.

### **Issue**

Whether the loss of the author's manuscripts was an infringement of his copyright?

### **Reasoning**

Manuscripts were a carrier of works, and not equivalent to the work *per se*. Damage done to it was not exactly equivalent to an infringement of the copyright in said work. Loss of the manuscripts had certain adverse impact on the rightholder's proof of his ownership and exercise of the copyright therein, but generally, it did not constitute an infringement of the copyright under the Copyright Law. The Shanghai Far-east Publishing House lost Shen Jinzhao's manuscripts when executing the publication contract, causing failure to execute the contract, so it should be liable for breach of said contract. Besides, it infringed the ownership of the manuscripts. Accordingly, it was due to have established in the first-instance judgment, that the publishing house's losing of the manuscripts was detrimental to Shen Jinzhao's legitimate rights and interests and decided that the

publishing house pay for the corresponding economic injury under the contract and on the basis of such factors as the efforts made in creating the work, type of the work in suit, and the market demands thereof.