

Other	Date	July 8, 2024	Court	Tokyo District Court, 40th Civil Division
	Case number	2023 (Wa) 70722		
<p>- A case in which the court ruled that the provisions to the effect that either party to a contract may cancel the contract by agreement even within the contract period are not considered to be the provisions providing that the relevant party waive the right to cancel, and admitted the cancellation of an exclusive management contract pertaining to a YouTuber couple.</p>				

Summary of the Judgment

In this case, the Plaintiffs, a YouTuber couple, demand that the Defendant, which is an entertainer management company, confirm that an exclusive management contract they concluded with the Defendant on April 16, 2022 had ended. The only issue of this case is whether the cancellation of the exclusive management contract has been established.

In this judgment, regarding the issues of waiver of the right to cancel and advisability of the cancellation of the contract, the court cited the judgment of the Second Petty Bench of the Supreme Court of January 19, 1981 and held as follows.

Article 651, paragraph (1) of the Civil Code as applied *mutatis mutandis* pursuant to Article 656 of the same Code provides that either party to a mandate contract may cancel the contract at any time, taking into account that a mandate contract is a contract based on a relationship of trust between the parties. In consideration of the aforementioned purport and purpose of the same paragraph, continuing clerical work against the will of a mandator impairs the interests of the mandator and thereby goes against the purpose of the mandate contract. Taking this into account, it should be said that if cancellation of a mandate contract by the mandator causes disadvantage to the mandatary, it is only necessary that the mandatary is compensated for the disadvantage by receiving compensation for loss or damage from the mandator under paragraph (2) of the same Article (see 1979 (O) 353, the judgment of the Second Petty Bench of the Supreme Court of January 19, 1981, *Minshu* Vol. 35, No. 1, at 1).

Therefore, it is reasonable to consider that a mandator can cancel a relevant mandate contract at any time unless there are special circumstances where the mandator is clearly found to have waived the right to cancel.

When this determination is applied to this case, according to evidence, Article 12, paragraph (2) of the contract in question (hereinafter referred to as the "Contract")

provides that either party to the contract may cancel the contract by agreement even within the contract period. However, the content of the aforementioned provisions only stipulates cancellation by agreement and cannot be considered to clearly stipulate that the Plaintiffs waive the right to cancel the Contract.

Under the aforementioned circumstances, the aforementioned special circumstances cannot be found, and it should be said that the Plaintiffs may cancel the Contract at any time pursuant to the provisions of Article 651, paragraph (1) of the Civil Code as applied *mutatis mutandis* pursuant to Article 656 of the same Code.

In response to this, the Defendant argued as follows: according to the nature and form of the Contract, the Contract is not assumed to be cancelled during the contract period; in addition, Article 12, paragraph (2) of the Contract provides for the elimination of voluntary cancellation during the contract period; therefore, there are the aforementioned special circumstances. However, the Contract was prepared merely using the Defendant's fixed format, and it does not clearly stipulate special provisions to the effect that the Plaintiffs waive the right to cancel. Therefore, it cannot be found that the Plaintiffs clearly waived the right to cancel.

For the reasons described above, in this judgment, the court upheld the Plaintiff's claim.