

Legal Effect Identification of Minors' Online Game Recharge: Analysis of Case Liu Mou 1 v. Guangzhou Aijiuyou

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Abstract

Game recharge is a new type of consumer behavior. Minors are not mature enough, often lacking sufficient judgment and self-control, and do not have adequate spending power. In minors' online games, a large amount of recharge can often easily cause controversy. This article from "Liu Mou 1 v. Guangzhou love nine game information technology limited company network service contract dispute case" studied the minors' game top-up behavior of a legal nature, legal effect, and the corresponding legal consequences.

Keywords

Minors, online game top-up behavior, legal effect, and corresponding legal consequences.

1. Basic Case

On April 5, 2018, Plaintiff Liu Mou1 (born on May 12, 2008) registered and authenticated the Nine Games account with ID 99×××32 through his father Liu Mou2's (born on September 12, 1964) name, ID number, and cell phone number. On November 4, 2018, Plaintiff Liu Mou1 took advantage of Liu Mou2's inattention to play Fifth Personality on Liu Mou2's cell phone, and played Fifth Personality from 9:00 a.m. From 9:15 a.m. to 19:51 a.m., for the nickname "Ah Ying does not like to eat watermelon" "stupid is not a dead pig" game character successively to love nine games game platform recharged 20,240 yuan, used to buy the account of the 12-month membership service twice, and recharged the U point 20,000 yuan. 20000 yuan. Because LiuMou1 deleted the payment feedback information, LiuMou2 did not find LiuMou1's recharge behavior. The morning of Tuesday, November 6, LiuMou2 found that its balance and payroll account is missing a lot of money, after checking the details, and found that the payee is love nine games company, LiuMou2 is sure that LiuMou1 use its account to pay immediately after the payment with the love of the nine games information technology limited company (later referred to as ""). (later referred to as "Love Nine Tour Company ") customer service contact, request a refund, and LiuMou1's situation, LiuMou1 game account situation, game recharge situation, and other related circumstances to inform the Love Nine Tour Company, but the Love Nine Tour Company replied with a text message reply that the recharged and purchased props can not be refunded. Subsequently, Liu Mou 2 and the Love Nine Tour Company, through QQ communication, Love Nine Tour Company has been replied to let Liu Mou 2 wait, but on January 2, 2019, Love Nine Tour Company replied that the game's registration information for adults, refused to refund. Love nine games company staff sent a text message on January 26, 2019, said the user in the feedback and then by the minors again recharge, indicating that the parents have the responsibility of poor supervision, and the two recharge the remaining props are not left, and the fifth personality has a large number of gift records, so maintain the conclusion of no refund. The account in question still has 1770 U points (balance of 177 yuan), and 240 yuan membership fees have not been consumed, and the unconsumed virtual currency can be fully refunded.

The plaintiff claimed online game is the essence of service, recharge and purchase game props belong to the contract behavior, LiuMou1 in his father LiuMou2 unknowingly recharge and

purchase game props, without LiuMou2, LiuMou2 refund claim is the essence of non-recognition of the minors civil behavior, non-recognition of the validity of the contract legal consequences of the pending to be null and void, love nine game company should be refunded. The defendant love nine games company argued that the defendant completed the game recharge service, and no fault in the service process; According to the game login behavior and recharge behavior records, does not meet the characteristics of minors' game; LiuMou1's legal agent LiuMou2 on the Alipay account password negligent supervision, the occurrence of the litigation behavior bears great responsibility. LiuMou1's claim lacks a factual and legal basis; please dismiss the court according to the law.

2. The Problem of Sorting

What is the legal effect of minors' online game recharge behavior? Does it need the legal representative's retroactive recognition?

If the minor's online game top-up behavior is invalid, should the game operator refund the top-up money? How to refund?

Should the guardian of the minor bear the corresponding responsibility due to insufficient supervision?

3. Legal Analysis

3.1. The legal nature of minors' online game top-up behavior

According to article 19 of the civil code, restricted civil capacity refers to minors over eight years of age, the implementation of civil legal acts by their legal representatives, or by their legal representatives agree, after the recognition; However, can independently implement the civil legal acts of pure gain or civil legal acts appropriate to their age and intelligence. LiuMou1 is 10 years old at the time of the love long game platform recharge, and belongs to the limited capacity for civil behavior. Restricted capacity for civil behavior for network recharge behavior constitutes a network service contract, which refers to the network service provider to the consumer to provide access to the consumer and the Internet to connect the intermediary services or provide content services contract. The network service legal relationship is generally established with the user registration. User registration is essentially a process of concluding a service contract. Love Nine Game Company's business scope for the use of information network business game products (including network game virtual currency issuance), LiuMou1, in its platform registration and recharge behavior constitutes a network service contract.

3.2. The legal effect of minors' online game recharge behavior

3.2.1. The legal effect of the online game recharge behavior of people without civil behavior ability

According to Article 20 and Article 144 of the Civil Code, minors less than eight years old are incapable of civil behavior, and civil legal acts performed by incapable persons are invalid. The act of online game recharge performed by a person with no civil capacity is invalid.

3.2.2. The legal effect of the online game top-up behavior of the person with limited capacity for civil behavior.

The legal effect of online game recharge behavior of people with limited civil capacity should be divided into two categories to explore, one is above sixteen years old, with their own labor income as the main source of living of minors, according to the provisions of article 18 of the civil code, minors above sixteen years old, with their own labor income as the main source of living, as a person with full capacity for civil behavior. Adults are persons of full civil capacity

and can independently implement civil legal acts. It means that if it is a minor over sixteen years old, with their own labor income as the main source of living, to carry out online game recharge is a valid civil legal act.

There is also a category is more than eight years old minors online game recharge behavior of the legal effect of the academic community on the limitation of civil behavior capacity of people online game recharge behavior of the main views are as follows:

(1) Effective saying

Some scholars believe that the game recharge behavior belongs to the e-commerce transaction behavior, has the special characteristics of an electronic contract, in the network environment, to completely confirm the transaction object at the other end is too costly, and the person with full capacity for civil behavior is too large. When minors with limited civil behavior get hold of their guardian's online bank payment password and complete the transaction payment and other behaviors, it should be regarded as their guardian's own behavior. Some scholars also believe that if the e-commerce website and the game operator have done the necessary duty of care, and the guardian of the minor with restricted civil behavior has not properly kept the online bank payment password and has not done the duty of supervision to the minor, the game recharge behavior of the minor with restricted civil behavior should be considered as a valid behavior. In addition, there are scholars believe that minors with limited civil behavior in the transaction of misrepresentation of age and identity of the relative in the transaction mistakenly believe that the other party is a person of full civil capacity, the actual existence of fraud, in this case, the civil law act should be recognized as effective.

(2) The validity of the said is to be determined

As the existing law does not have clear and specific provisions regarding the game recharge behavior, most scholars believe that the restriction on the civil behavior of minors' large game recharge behavior is still applicable to the existing legislative provisions. Minors with limited civil behavior, their contracting capacity is restricted, if the large amount of game top-up behavior is considered to be an effective behavior, it will change the relevant provisions of the existing legislation on the contracting capacity of minors with limited civil behavior capacity, which will easily affect the whole civil law system. At the same time, the scholars of the doctrine of "validity to be determined" believe that minors with civil capacity are immature in mind and have insufficient level of cognition, and that the act of large-value game top-up often exceeds the scope of their behavioral and cognitive capacity, and should obtain the consent and recognition of their legal representatives in order to be permitted by the law [1].

In 2018, Liu Mou1 was 10 years old at the time of the online game top-up consumption behavior, according to Article 19 of the Civil Code of the People's Republic of China, Liu Mou1 belongs to the person with limited capacity for civil behavior, and the implementation of civil legal acts is represented by his legal agent or with the consent or subsequent approval of his legal agent, but he can independently implement the civil legal acts of pure gain or civil legal acts that are compatible with his age and intelligence Civil Legal Acts. The act of online game top-up consumption is not an act of pure gain, and what needs to be explored mainly is whether the act is compatible with one's age, intelligence, and mental condition. According to the interpretation of the Supreme People's Court on the application of the General Principles of the Civil Code of the People's Republic of China, Article 5 stipulates that, whether the civil legal acts performed by a person with restricted capacity for civil behavior are compatible with his age, intelligence, and mental health status, the people's court may consider the extent to which the act is related to his life, whether his intelligence and mental health status can comprehend the act and foresee the corresponding consequences, and whether the subject matter, quantity, price, or the amount of the act is compatible with his age, intelligence, and mental health status. [2]The subject matter, quantity, price, or remuneration. Including the cognitive power,

discernment and understanding of minors in the judgment, and observing whether minors can recognize the nature of the legal act, understand its content and consequences, and identify the risks of the relevant transactions, is basically to confirm whether the civil acts carried out are adapted to the control of the ability of discernment, and whether they can identify and recognize the non-negligible risks arising from the acts they have carried out [3]. As far as online game recharge behavior is concerned, the State Press and Publication Administration's "Notice on Preventing Minors from Becoming Addicted to Online Games" (hereinafter referred to as the "Notice") regulates the recharge behavior of minors' games. With regard to the recharge amount of the game, the "Notice" requires that for users above the age of 8 and under the age of 16, the amount of single recharge shall not exceed RMB 50 yuan, and the cumulative amount of monthly recharge shall not exceed RMB 200 yuan. RMB; for users over 16 years old and under 18 years old, the single recharge amount shall not exceed RMB 100, and the cumulative monthly recharge amount shall not exceed RMB 400. Liu Mou¹ paid a total of RMB 20,240 to Love Nine Games on November 4, 2018, which has substantially exceeded the requirements of the Notice and is a large amount of consumption. Obviously incompatible with his age and intelligence, the validity of the civil legal act is pending.

3.2.3. Ratification by Legal Representatives

Minors with restricted civil capacity who engage in activities such as recharging or making donations that are inconsistent with their age and intellectual capacity are deemed to have entered into civil legal acts of uncertain validity. Such acts require prior consent or subsequent ratification by their legal representatives, such as parents, to be valid. When considering the consent of legal representatives for minors with restricted civil capacity who engage in uncertainly valid online game recharging activities, the consent process should fully account for the unique characteristics of online transactions. Ratification by legal representatives can be divided into prior consent and subsequent ratification. Prior consent includes express consent and implied consent. In online game recharges, express consent refers to a minor with restricted civil capacity obtaining the consent of their legal representative before making an online recharge transaction, including through communication methods such as phone calls, WeChat, Weibo, or Douyin. Implied consent refers to situations where personal basic information (such as ID numbers) and payment information are of critical importance. If a legal guardian discloses such information to a minor with restricted civil capacity, they should anticipate the possibility of the minor engaging in online transactions and should be deemed to have acknowledged the minor's online consumption behavior [4].

Ratification occurs after a minor with restricted civil capacity makes an online game recharge. Essentially, it is an expression of intent by the legal guardian, which should be made in writing or orally, either explicitly or implicitly. Explicit ratification refers to situations where, after a recharge on a game platform, the game platform or payment platform (such as WeChat or Alipay) sends a reminder, and the legal guardian, upon learning of the facts, explicitly acknowledges the minor's online recharge behavior, which constitutes explicit ratification. Implied ratification generally falls into the following categories: first, when the game platform reminds users of consumption charges or the use of membership benefits, and the legal representative, upon learning the truth, chooses to ignore it; second, when the payment platform or bank sends users notifications of balance changes via SMS or WeChat, and if the legal representative receives the notification without any response, it should be deemed as implied ratification. Third, if a minor with restricted civil capacity repeatedly and continuously uses recharges, and the legal representative discovers this but does not intervene, it is deemed to constitute ratification.

Liu Mou 1's online game recharge behavior constitutes a civil legal act of uncertain validity. Without the consent or ratification of the legal representative Liu Mou 2, and since Liu Mou 2, the legal representative of Liu Mou 1, explicitly stated during both the communication with Ai

Jiuyou Company regarding the refund process and the court proceedings that he does not ratify Liu Mou 1's large-scale payment behavior, this civil legal act is invalid.

3.3. The legal consequences of the act of online game recharge for people with limited capacity for civil behavior

3.3.1. The legal consequences of an invalid civil legal act

According to Article 157 of the Civil Code of the People's Republic of China, after a civil legal act is invalid, revoked or determined to be ineffective, the property acquired by the perpetrator due to the act shall be returned; if it cannot be returned or there is no need for it to be returned, it shall be compensated at a discounted price. According to the above provisions, after the network service contract is invalid, Love Nine Games Company should return to LiuMou1 and his guardian. LiuMou1, at the same time, should love the nine games company to return because of the recharge obtained U points, membership rights. The case of love nine game account only remaining value of 177 yuan of U points and part of the membership rights, the rest of the U points and membership rights are used by LiuMou1 online game recharge enjoyment, consumption, can not be returned, and U points as a virtual property value and entity currency can not be comparable. Therefore, how to specifically allocate the return amount of both parties also needs to be determined according to whether the parties are at fault.

3.3.2. Allocation of civil liability of the parties

According to the "Civil Code of the People's Republic of China" article 157, the civil legal act is invalid; the party at fault shall compensate the other party for the losses suffered; if all parties are at fault, they should bear the corresponding responsibility. LiuMou2, as LiuMou1's guardian, should be LiuMou1 to carry out the necessary education, supervision, and proper storage of their identity documents and account information. LiuMou1 unauthorized use of LiuMou2's identity information to register love nine game account, LiuMou2 this behavior failed to prevent, increased love nine game company on the user behavior to identify, manage the difficulty; LiuMou1 many times, long time to play the online game and use LiuMou2's account for a number of large amount of top-ups, LiuMou2 the child's behavior did not make the necessary control, failed to keep their accounts, passwords and other information; LiuMou2 in the Discovered LiuMou1 large amount of recharge did not take sufficient effective measures to prevent the virtual currency was consumed, LiuMou1 and his guardian LiuMou2 obviously to the case of loss caused by significant fault.

As a platform providing online game-related services, AIJIUYU should take measures to prevent minors from registering and spending large sums of money on its platform under the guise of other people's identities, and try its best to minimize the losses of users. However, in this case, love nine games company failed to prove that it in the user registration to take sufficient measures to ensure that the identity information provided by the registrant and the consistency of the person, LiuMou1 can successfully impersonate LiuMou2's identity information to register and recharge consumption; in the receipt of LiuMou2 on the situation of minors to recharge the situation reflected, the company also did not take the necessary measures to limit the consumption of virtual property in the case of the loss of a certain degree of fault. The company also failed to take timely measures to restrict the consumption of the virtual property in question, and was at fault for the loss in question.

4. Conclusion

Considering the reasons for the invalidity of the contract, the fulfillment of the contract, the degree of fault of both parties and the losses, the court finally ruled that AIJiuYou Company should return the remaining U-points in the account of Liu Mou1 to the value of RMB177 (at the same time, AIJiuYou Company could deduct the corresponding 1770 U-points in the account

of the case, and stop the corresponding membership rights in the account of the case), and compensate Liu Mou1 for the one-third of the value of the consumed top-up amount of RMB20063, i.e., RMB6688, for a total of RMB2,688. The value of 6,688 yuan, a total payment of 6,865 yuan, the rest of the loss is to be borne by Liu Mou1 and his guardian.

Through the analysis of this case, it can be seen that the legal effect of the minors' online game recharge determination needs to consider the behavioral ability of minors, the effectiveness of the contract, and the parents' and platform's supervision responsibility. Only within the legal framework can all parties properly deal with their responsibility, in order to effectively protect the legitimate rights and interests of minors.

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