

Assets safe from arrest in Japan and US

Sanko Steamship vessels and other assets are safe from arrest, at least in Japan and the US, following this week's twin bankruptcy filings.

But lawyers for Sanko and its creditors are still trying to work out their clients' respective rights under the mix of bankruptcy laws involved. The troubled Japanese owner is planning further filings in other jurisdictions.

Changes in Japanese corporate reorganisation law have failed to give debtors like Sanko any automatic protection outside Japan, according to a prominent Japanese maritime lawyer.

Market sources say Sanko will also be applying for court protection in several further jurisdictions including Singapore, China, and South Africa.

This week's order by a New York court recognising the Japanese main bankruptcy proceeding should speed the release of the 51,000-dwt *Sanko Mineral* (built 2008) in Baltimore. The laden vessel has waited for two months while Sanko, charterer Western Bulk Carriers (WBC) and a list of Sanko creditors and cargo interests fought the matter out.

WBC lawyer Patrick Lennon expects the ship could now sail as early as next week unless creditors Knightsbridge Tankers and Liquimar appeal the matter. WBC probably faces claims by cargo interests "in the low seven figures", Lennon reckons, and Sanko's bankruptcy means it will be unable simply to pass these on to the shipowner.

Meanwhile, Sanko's filing under Japan's corporate reorganisation law shows the limits of the alternative dispute resolution (ADR) procedure, a move short of insolvency that depends on voluntary and unanimous agreement among financiers and temporarily prohibits mortgage foreclosures.




Sanko tried to go the ADR route but that did nothing to prevent actions by non-financial creditors, including ship arrests.

According to Takayuki Matsui of Tokyo's Max Law Office, Japanese court protection is not much help outside the island nation's boundaries.

"It is my view that a foreign mortgagee or lienholder can arrest a ship of the debtor outside Japan to enforce a mortgage or lien disregarding the Japanese procedures unless such a debtor takes some special protection step in the foreign jurisdiction like chapter 15 procedures in NY [New York]," Matsui told a recent meeting of the International Bar Association in Copenhagen.

BY BOB RUST AND IRENE ANG STAMFORD AND SINGAPORE

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