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Court closes book on Banpu dispute

Miner will pay B2.7bn to jilted plant partner

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The Supreme Court brought a decade-long dispute to a close yesterday, ordering Banpu Plc to pay 2.7 billion baht to Siva Nganthavee over activities that negatively affected Thai-Lao Lignite Co's (TLL's) involvement in the Lignite Hongsa coal-fired power plant project in Laos.

The penalty was lower than what was anticipated by securities brokers like Capital Nomura Securities (CNS), and they are now betting that Banpu's stock will rebound in the light of the ruling.

The dispute between Banpu, Thailand's biggest coal miner, and Mr Siva over the US\$3.71-billion Hongsa project in Laos now has a clear conclusion.

The fine was calculated by adding the 1.5 billion baht in principal to an annual interest rate of 7.5% from July 2007 until yesterday.

Banpu chief executive Somruedee Chaimongkol said the company will comply with the verdict and pay the fine as soon as possible.

The fine will not affect the group's balance sheet, as it is relatively small compared with the company's cash flow of 32 billion baht a year.

"Everybody is glad to see an end to the litigation," Mrs Somruedee said.

"Now it's time for us to go on developing our business."

The project started operations in July 2015 and now has a capacity of 1,878 megawatts, some of which is channelled to Thailand via the Electricity Generating Authority of Thailand (Egat).

The project began during 2009-10 with a total development cost of \$3.71 billion, under a joint venture between Banpu, holding 40%, Ratchaburi Electricity Generating Holding Plc (Ratch) 40% and the Laotian government 20%.

Chairman Chanin Vongkusolkit said Banpu has emphasised business transparency, which is essential for the company to invest overseas.

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SOMRUEDEE
CHAIMONGKOL
Chief executive, Banpu

Mr Siva could not be reached for comment yesterday.

Mr Siva's TLL was granted a concession by the Laotian government to develop the Hongsa project in 1994, and in 2005 it brought in Banpu as a partner. In September 2006, Laos notified TLL that it was scrapping the contract, and two months later it awarded a new concession to Banpu.

Mr Siva argued that Banpu used information gained from their partnership to "misinform" the Laotian government, leading to the termination of the contract. Mr Siva, who sought damages of 63.5 billion baht from Banpu based on lost earnings, is expected to appeal the judgement to seek even higher compensation.

He brought the Laotian government into the legal battle too, as he sought US\$57 million in compensation after it "improperly terminated" its power development agreement with the company in 2006.

The case between TLL and Laos has been in arbitration since 2007 after Mr Siva earlier won the case in a Kuala Lumpur court. That verdict was overturned by the Malaysia High Court.

BEHIND A DECADE-LONG DISPUTE

The dispute between Banpu and Mr Siva over the Hongsa coal-fired power plant project continued after the Appeal Court overturned the Civil Court's ruling ordering Banpu to compensate the plaintiff.

The Appeal Court ruled in 2012 that Banpu, one of Asia's largest coal producers, could proceed with its power plant venture with the Laotian government legally and



The Hongsa coal-fired power plant in Laos, central to the dispute.

was not required to pay compensation to Mr Siva and TLL.

In 2013, the Civil Court ordered Banpu to pay over 31 billion baht in damages to Mr Siva for “deception” in its partnership to develop a coal mining and power plant project in Hongsa, Laos.

Banpu appealed the verdict and filed a lawsuit in Civil Court seeking damages of 4 billion baht from Mr Siva.

The 1,878-megawatt Hongsa coal-fired power plant opened in the fourth quarter of 2015 and commenced full operations last year.

LOWER THAN EXPECTED

Nalinrat Vorrakiat, an analyst at Asia Plus Securities, said Banpu is expected to generate lower profit this year based on an assumption of how the company along with its subsidiaries, Banpu Power Plc and Banpu International Ltd, will be

equally liable for the 1.5 billion baht with an annual interest of 7.5% applied since 2007.

Of the 1.5 billion baht, Banpu Power will be responsible for an amount worth 900 million baht, which will be recorded as a one-time expenditure for this year, since the company had not prepared any loss reserve previously, Ms Nalinrat said.

Such financial burden is projected to reduce Banpu’s profit by 15.7% for this year, in which full-year profit is expected at 4.8 billion baht.

Based on the discounted cash flow method, Banpu’s stock is seen at 33.20 baht per share, Ms Nalinrat said, while the stock is recommended as a buy due to how the company’s profit is expected to rebound in the second half following the resolution of the case.

CNS analysts view the saga as “lightly positive”, as they expected Banpu to have

to pay compensation worth 3.3 billion baht, including annual interest charged for 11 years.

The source of funds is anticipated to derive from Banpu’s existing cash on hand, which totals more than 20 billion baht, or cash flow from business operations, CNS said, noting that there is no need for the company to seek loans or raise capital for compensation payment.

Banpu shares are projected to have a slight upside gain in the short run, since concerns over the case have eased, CNS said.

The company’s earnings for 2018 are projected at 6.73 billion baht, down 35% year-on-year, with a share price of 24.25 baht, according to CNS.

BANPU shares closed yesterday on the Stock Exchange of Thailand at 22.90 baht, down 30 satang, in trade worth 10 billion baht.