

**Katowice Appellate Court judgment
dated 25 October 2005
Case No. I ACa 1174/05**

Summary by arbitraz.laszczuk.pl:

Individual members of a partnership failed to pay instalments under a finance leasing agreement. The leasing company had assigned part of the partners' debt to the leasing company (in the amount of a loan) to a bank. The trustee of the leasing company in bankruptcy filed a claim in arbitration against the partners, which issued an award against the partners in 2002.

The partners filed a petition with the Katowice Regional Court to set aside the award on grounds of violation of public policy, alleging that the leasing company had no standing to sue because its claim had been assigned to the bank, and that the partners were justified in withholding payment of leasing instalments because in light of the assignment of the claim against them they were unsure whom to pay.

The court denied the petition, finding that the arbitration award was consistent with the evidence before the arbitration court. The claim sought by the leasing company excluded the amount of the claim under the loan that was assigned to the bank, and if the debtors were unsure whom to pay they could have paid the instalments in question into a judicial escrow.

The appellate court denied the appeal.

Excerpts from the text of the court's ruling:

When considering the petition, the court is authorized only to assess whether the arbitration award being challenged is affected by the violations set forth in Civil Procedure Code Art. 712 §1, and thus, in this case, violation of the rule of law or principles of social coexistence. Only then may an allegation of violation of substantive law provide a valid basis for setting aside an arbitration award, if such violation also constitutes an infringement of the principles of the rule of law.