

**Polish Supreme Court judgment**  
**dated 27 November 2007**  
**Case No. IV CSK 239/07**

**Summary by arbitraz.laszczuk.pl:**

Tadeusz N. entered into two tenancy agreements in 1994 with the Agricultural Property Agency, for several hundred hectares of farmland, for a period of 10 years, with an option for renewal on terms to be agreed, and with an arbitration clause. The tenant sought to buy out the land, but the agency refused and proposed extension of the tenancy as to some of the plots. When the parties could not agree on the terms for extension of the tenancy, the tenant filed a claim in arbitration in 2003 seeking an award extending the tenancy. An *ad hoc* arbitration panel granted the relief and ordered the extension of the tenancy as to the whole of the property. The agency filed a petition with the regional court seeking to set aside the award, alleging that the award violated public policy, including property rights and freedom of contract, because the parties did not agree on the terms for extension of the tenancy. The regional court held that the arbitration court was authorized to interpret the parties' intent, and denied the petition. The appellate court reversed and set aside the award, holding that the award violated public policy, including constitutional property rights, because the parties never agreed on the terms for extension of the tenancy, which was a condition for extension, and the agreement had to be in writing. The Supreme Court denied the cassation appeal.

**Excerpts from the text of the court's ruling:**

**1. The arbitration court's "replacement" of the parties in submitting declarations of will to extend tenancy agreements must be regarded as an action contrary to the rule of law. This type of ruling, absent a very clear contractual provision authorizing a ruling in this respect, conflicts with one of the fundamental principles of civil law: the principle of the autonomy of persons under the civil law, and included therein, the principle of freedom of contract.**

**2. Violation of the rule of law need not ... involve violation of principles arising under the Polish Constitution. The same result occurs if the arbitration court violates a fundamental principle of civil law.**

**3. Issuance of an enforcement clause for an arbitration award or confirmation of its effectiveness does not exclude the possibility to review whether the award violates the rule of law or principles of social coexistence in a proceeding to set aside the award.**