

**Polish Supreme Court judgment**  
**dated 28 April 2000**  
**Case No. II CKN 267/00**

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

Grzegorz M., a tenant of state-owned agricultural land, commenced an *ad hoc* arbitration against the landlord, the Agricultural Property Agency, seeking a declaration that he had properly reduced rent payments by setting off the agency's debts under claims he had allegedly acquired from third-party creditors. The arbitration court issued a partial award in 1996 and a final award in 1997 in favour of the tenant, finding that the agency had assumed the debts in question by taking over the state-owned agricultural operations under the Act on Administration of Agricultural Property of the State Treasury dated 19 October 1991.

The province court granted the agency's petition to set aside the award, holding pursuant to unpublished Supreme Court precedent that the setoff was improper under the Civil Code and that it violated public policy.

On appeal, the appellate court held that if the award violated substantive law, the violation did not rise to the level of a violation of public policy, and it modified the judgment accordingly and denied the agency's petition to set aside the award.

On cassation appeal, the Supreme Court held that according to the specific law under which the Agricultural Property Agency assumed title to state-owned agricultural properties, debts assumed by the agency could be set off against debts owed to the agency only if the debts arose out of the operations of the same agricultural property, which was not the case here. While the arbitral tribunal is not ordinarily bound by provisions of substantive law, in this case the sole task of the tribunal was to resolve this specific legal issue, which it failed to do correctly. The Supreme Court ultimately found that the awards violated public policy, including constitutional property rights. The judgment below was vacated and the case remanded to the appellate court.

Excerpts from the text of the court's ruling:

**1. Mere incorrect interpretation of substantive law by the arbitration court may not justify granting a petition to set aside the arbitration award. It will be otherwise if the arbitration award, in violating specific norms of substantive law, at the same time violates the rule of law. This has to do with an instance in which ... the violation of substantive law by the arbitration court results in a resolution that violates the leading legal principles in force in the Republic of Poland.**

**2. The arbitration court's not being bound by provisions of substantive law derives primarily from the fact that resolution of a matter is typically entrusted to arbitrators because of their special knowledge, e.g. in the field of construction (in construction cases) or concerning commercial practices (in cases related to international transactions)—where such specialized knowledge is more important than knowledge of the substantive legal norms of a specific legal system. In such cases, the arbitrators' legal intuition may be sufficient.**