

Polish Supreme Court judgment
dated 15 February 1964
Case No. I CR 123/63

Summary by arbitraz.laszczuk.pl:

In 1947, Florian G. entered into an agreement with the existing municipal government in which he undertook to build and manage a facility for collecting stray animals and for collecting and disposing of the remains of dead animals. Once the facility was built, he undertook to transfer it to the municipality. The municipality would then lease it back to him for at least 6 years, during which time Florian G. would recoup his expenditures on the project by applying them against the rent, in the form of a schedule of rent abatements over the 6-year period. Any profit was to be invested in the project or applied toward outstanding debts. If the agreement were not performed, the municipality undertook to reimburse Florian G. for all expenditures he made in the project. The agreement included an arbitration clause.

Florian G. built the facility. It was operated by the municipality between 1947 and 1950. In 1950, the municipal government, reconstituted in a communist form as the "municipal presidium of the National Council," assumed ownership of the facility.

In 1959, Florian G. obtained an arbitration award for money damages against the State Treasury, in the form of the municipal government. The State Treasury applied to the Bydgoszcz Province Court to set aside the award as contrary to public policy. The province court found that the award violated the rule of law because it was based on false assumptions concerning performance of the agreement, unjustly awarded a substantial sum against the State Treasury, and was based on a conversion ratio for redenominated Polish currency of 100:3 instead of the legal ratio of 100:1. The province court set aside the award accordingly.

Florian G. sought review by the Polish Supreme Court. The Supreme Court found that the province court had erroneously reviewed the merits of the arbitration award as if it were considering an appeal from a judgment. Nonetheless, on the issue of violation of public policy, which was the only issue properly before the province court, the Supreme Court held

that the province court had properly set aside the award. Specifically, even though it was undisputed that the agreement was performed for three years, the arbitration court treated the agreement as never having been performed by the municipality, which violated the principle of equal treatment of the parties and thus violated the rule of law. The arbitration court's use of an improper ratio for conversion of redenominated Polish currency was contrary to the fundamental interests of the State and thus also violated the rule of law.

Excerpts from the text of the court's ruling:

1. The arbitration award in this case could be considered only under Civil Procedure Code Art. 510, and more precisely—given the lack of other allegations—from the point of view of whether the award in its substance violates the rule of law or principles of social coexistence.

2. The arbitration court considered the case as if the agreement between the parties had not been performed at all, which is clearly contrary to the state of facts..., and if that is so, the ruling by the court of first instance results in ... grossly privileging the defendant, to the detriment of the State Treasury. Such a grossly erroneous ruling violates the rule of law (Civil Procedure Code Art. 510 §1(4)).