

Kraków Court of Appeal judgment
dated 3 October 2014
Case No. I ACa 881/14

Summary by arbitraz.laszczuk.pl:

A sole trader, J.K., entered into a lease with a limited-liability company, the operator of a shopping centre, for commercial premises at the shopping centre. J.K. invested everything he owned in making improvements to the shop, but fell behind in his rent. The landlord took back the premises, including the improvements, and then commenced arbitration against J.K. before the Court of Arbitration at Polish Confederation Lewiatan for unpaid rent under the lease. J.K. counterclaimed for over PLN 340,000 as reimbursement for the improvements he had made to the space. The arbitral tribunal issued an award in favour of the landlord for over PLN 200,000 and denied the tenant's counterclaim in its entirety.

The tenant applied to the Kraków Regional Court to set aside the award as against public policy, alleging *inter alia* that the arbitral tribunal had ignored the evidence he presented, had erroneously ascribed certain testimony to the wrong witness, and had failed to recognize that the lease agreement was a contract of adhesion which had been imposed on him without the ability to negotiate the terms. The regional court found that the tenant had failed to demonstrate that the award violated any fundamental principle of the Polish legal system, as the tenant clearly failed to perform his obligation to pay rent under the lease. He was aware of the provisions of the lease when he signed it, and failed to prove that the landlord made any misleading representations apart from the lease. The regional court denied the petition accordingly.

On appeal, the Kraków Court of Appeal upheld the factual findings of the regional court. The court found that as a professional, the tenant was held to a high standard of care and could not show that he had been unfairly induced into signing the lease. The tenant was allowed to present his evidence, but the arbitral tribunal was not required to agree with it. The errors in identity of witnesses in the award were immaterial to the result in the case. The award of rent due under the lease did not violate any principle of the Polish Constitution or other fundamental principle of the Polish legal system. The court of appeal did find that

the amount of trial costs awarded by the lower court (over PLN 7,000) was too high, and amended the judgment to cut the trial costs at the first instance by PLN 6,000, but otherwise denied the appeal.

Excerpts from the text of the court's ruling:

1. The state court considering a case seeking to set aside an arbitration award cannot re-examine the merits of the dispute. ... Treating the scope of review by the state court differently would undermine the autonomy of arbitration, which would place it in a kind of protectorate of the state court system, thus distorting not only the ideals on which the functioning of arbitration is based but also the intention of the Parliament, which in modifying the rules for its functioning limits the scope of intervention by the state court system to exceptional instances expressly stated in the law.

2. The state court is not entitled to review whether the arbitration court properly determined the facts and properly evaluated the evidence. This falls within the bounds of the resolution on the merits of the asserted claims.