

Case law

Case Details

National ID: 32 Cdo 191/2014

Member State: Czechia

Common Name: link

Decision type: Supreme court decision

Decision date: 29/09/2015

Court: Supreme Court of the Czech Republic

Subject:

Plaintiff: Mgr. T. M. (a natural person)

Defendant: Českomoravská stavební spořitelna, a.s., (a legal person, a joint-stock company)

Keywords: abusive language, consumer, credit agreement, financial services, good faith, language, nullity, proportionality, terms & conditions

Directive Articles

Unfair Contract Terms Directive, [link](#) Unfair Contract Terms Directive, [Article 3, 1.](#) Unfair Contract Terms Directive, [Article 4, 1.](#) Unfair Contract Terms Directive, [Article 4, 2.](#)

Headnote

An arrangement on evaluation number in the building savings contract (i.e. specific type of a mortgage in Czech Republic), as one of the conditions for granting a building savings loan, is not unclear or difficult to understand if the evaluation number is determined by a mathematical formula and if the terms used in the formula are defined in the contract.

Facts

The plaintiff demanded that the defendant pay him the sum of CZK 62,000 with a proposal to determine that the contractual arrangements regarding the obligation to achieve a so-called evaluation number is invalid. He argued that if this condition would not be required by the defendant to grant a building savings loan, he would not have to pay the amount of CZK 121,968 representing interest on the bridging loan. It has been partly offset by CZK 46,530 CZK. The difference between CZK 121,968 and CZK 46,530 represents the amount for which the plaintiff was not given any compensation.

Participants concluded a building savings contract, of which the Terms and Conditions contained three conditions for the granting of the loan - (i) expiration of at least 24 months after the conclusion of the contract, (ii) saved at least 35% of the target amount and (iii) achievement of an evaluation number of at least 64. These conditions had to be fulfilled cumulatively. The term "evaluation number" had been defined in the Terms and Conditions separately by a mathematical formula.

The District Court and subsequently the Regional Court in the appeal procedure decided that the arrangement on evaluation number as one of three prerequisites for the allocation of the target amount, ie. granting of a building savings loan, can not be regarded as an invalid agreement. Both courts stated that this arrangement on evaluation number is clearly formulated as a mathematical formula using terms whose meaning is defined in the Terms and Conditions.

The plaintiff appealed to the Supreme Court claiming that the contractual arrangement on evaluation number is not in conformity with Directive 93/13/EEC and contrary to the requirement of good faith, as it causes a significant imbalance in the parties' rights and obligations arising under the contract, to the detriment of the consumer.

Legal issue

The court in its decision identified with the decision of the Appellate Court and concluded that the plaintiff failed to challenge the legal conclusion of the appellate court that the arrangement on the requirement of the evaluation number as a precondition for granting the building savings loan is invalid.

Decision

Is an arrangement on evaluation number in the building savings contract (i.e. specific type of a mortgage in Czech Republic), unclear or incomprehensible, and thus contrary to the requirements of Directive 93/13/EEC?

URL: http://www.nsoud.cz/Judikatura/judikatura_ns.nsf/WebSearch/5BF83A4729ABC473C1257F09002039BA?openDocument&Highlight=0,

Full text: [Full text](#)

Related Cases

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Member State: European Union

National ID: C 484/08

Common Name: N/A

Directive Articles: Unfair Contract Terms Directive, [Article 4, 2.](#)

Decision Date: 03/06/2010

Legal Literature

No results available

Result

The appeal was rejected. No party was obliged to pay the costs of the proceedings.