

Case law

Case Details

National ID: 3-2-1-45-15

Member State: Estonia

Common Name: link

Decision type: Supreme court decision

Decision date: 13/05/2015

Court: Supreme Court

Subject:

Plaintiff: Swedbank AS

Defendant: Deivi Vaht and Sergey Simonenko

Keywords: consumer rights, unfair terms

Directive Articles

Unfair Contract Terms Directive, [Article 2, \(a\)](#) Unfair Contract Terms Directive, [Article 3, 1.](#)

Headnote

A standard term by which a bank extends the limitation period of claims arising from loan contracts from three years to five years is void because it causes a significant imbalance in the parties' rights and obligations arising from the contract to the detriment of the recipient of the loan.

Facts

In 2004 and 2005, the plaintiff and the defendants (as consumers) signed two loan agreements by which the plaintiff undertook to grant the defendants a sum of money.

The defendants did not fulfil their obligations in conformity with the contract. Therefore, on September 28th 2010 the plaintiff cancelled the contract. On January 15th 2014, the plaintiff filed an action in court.

According to Estonian law, the right to require performance of an act from another person expires within the term provided by law (limitation period). The obligated person may refuse to perform the obligation after expiry of the claim. The limitation period for a claim arising from a transaction is three years. However, the law allows by agreement of the parties to extend a limitation period up to ten years.

According to the plaintiff's standard terms, the limitation period for claims arising from loan contracts was 5 years.

The defendants claimed that the standard term extending the limitation period was an unfair standard term and, hence, void. The statutory limitation period of three years should be applied and thus the right to claim performance from them had expired.

Legal issue

The court found that the standard term in question is unfair and void because it causes a significant imbalance in the parties' rights and obligations arising from the contract. The imbalance is to the detriment of the defendants.

According to the court, it can be said that loan contracts grant greater rights to lenders than to recipients of loans (consumer credit contract being an exception). This is also true in the present case where, according to the contract and the plaintiff's general terms, the plaintiff's only obligation was to pay out the loan, draw up and send to the defendants a loan repayment plan and keep the contract confidential. It does not appear from the contract that any monetary claims would be possible against the plaintiff where in practice the extended limitation period could be applicable. On the other hand the contract includes numerous possible monetary claims against the defendants where the extended limitation period could be applicable.

Therefore the standard term in question does not guarantee a balance in the parties' rights arising from the contract. Extending the limitation period from three to five years is a significant extension which makes the standard term unjust and void.

Decision

Is a standard term in contracts concluded with consumers by which a bank extends the limitation period of claims arising from loan contracts by two years unfair and thus void?

URL: [N/A](#)

Full text: [Full text](#)

Related Cases

No results available

Legal Literature

No results available

Result

The plaintiff's action was left unsatisfied.