

Agroland v. Raise, Supreme Court of Ukraine, 6-20750CB80, 24 March 2010

Yaroslav Petrov, Asters; Lyudmila Dudnik, Asters

Headnote

In Agroland v. Raise, the Supreme Court allowed the execution of a foreign arbitral award against a debtor's successor holding that the reorganization of a debtor company should not be a ground to dismiss a petition for recognition and enforcement of foreign arbitral award (24 March 2010)

Digest

In January 2007 Austrian company Agroland filed a petition to recognize and enforce an arbitral award rendered by International Arbitral Centre of the Austrian Federal Economic Chamber, under which the Ukrainian company Raise was ordered to repay its debt to Agroland.

In June 2008 the court of first instance dismissed the case. In July 2008 the appellate court affirmed and dismissed the appeal reasoning that Raise was not a party to the contract with Agroland under which the dispute arose. Moreover, the court emphasized the petitioner's failure to provide evidence of proper succession between the subsidiary company Raise-Agroservice, which was a party to the said contract, and Raise. The court found that Raise-Agroservice was merged with Raise and a transfer act to this effect was signed but Raise-Agroservice remained in the State Register of Legal Entities.

The Supreme Court of Ukraine reversed the lower courts decisions and held that in case of company reorganization, the rights and obligation of the reorganized company pass to the successor company when the transfer act is signed, and not when the company is removed from the State Register, as the lower courts have reasoned. Reviewing the facts of the case, the Supreme Court decided that Raise was a proper and full successor of Raise-Agroservice, and that accordingly, Raise was liable to all creditors of Raise-Agroservice. The rulings of the appellate court and the court of first instance were reversed, and the case was remanded for a new trial. *Parties: Agroland v. Raise, case no: 6-20750CB80, Supreme Court of Ukraine, Ukraine.*

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Author

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Jurisdiction

- Ukraine

Court

- Supreme Court of Ukraine

Arbitrators/Judges

- V.I. Gumenyuk, chairman
 - M.I. Balyuk, judge
- V.M. Barsukova, judge
- V.G. Danchuk, judge
- V.J. Kosenko, judge

Case date

- 24 March 2010

Case number

- 6-20750CB80

Parties

- Petitioner, Agroland (Austria)
- Respondent, Raise (Ukraine)

Key words

- Successor
- Enforcement
- Arbitration agreement
 - Ukrainian

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