

SVEA COURT OF APPEAL
Department 16
Division 1601

DECISION
28 December 2007
Stockholm

Case No.
Ö 3501-07

THE FOREIGN DECISION

Arbitral award rendered in Denmark on 20 December 2006, see appendix A

CLAIMANT

1. JM

2. KM

[address omitted]

Counsel to 1 and 2:

Jur. kand. Johan Fernvall
Advokatfirman Karsten Oisen AB
P.O. Box 5097, 200 71 Malmö

RESPONDENT

FBF

[address omitted]

Counsel:

Anders Drachmann
Nordhavsvej 1, 3000 Helsingør, Denmark

MATTER

Enforcement of foreign arbitral award

DECISION OF THE COURT OF APPEAL

The Court of Appeal decides that the arbitral award rendered in Denmark on 20 December 2006 in the dispute between JM and KM on the one side and FBF *et al.* on the other side, see appendix A, may be enforced in Sweden as an unappealable judgment given by a Swedish court to the extent it relates to FBF.

MOTIONS BEFORE THE COURT OF APPEAL

JM and KM have applied that the Court of Appeal shall declare the arbitral award rendered in Denmark on 20 December 2006 enforceable in Sweden as an unappealable judgment given by a Swedish court to the extent it relates to FBF.

FBF has objected to the application.

REASONS OF THE COURT OF APPEAL

The investigation

The Court of Appeal has reviewed the file.

FBF has in support of his objections maintained that the names of the parties in the arbitral award are incorrect and that there is no such party as “Vi-Byg Totalentreprise v/[*S and FF*]”.

JM and KM have maintained that FBF at no point during the arbitration proceedings made any objections with respect to the parties of the arbitration proceedings and that he has not referenced any circumstance of such nature that would prevent the recognition and enforcement of the arbitral award in Sweden.

The conclusion of the Court of Appeal

Section 54 of the Swedish Arbitration Act (SFS 1999:116) provides that a foreign arbitral award shall not be enforced in Sweden, if the party against which the arbitral award is relied upon proves that a circumstance set out in items 1-5 of the provision is at hand.

FBF has maintained that the names of the parties in the arbitral award are incorrect. The Court of Appeal interprets the arbitral award in such a way that the counterparties are Vi-Byg Totalentreprise v/[*S and FF*] as well as FBF.

The investigation in the case has established that FBF has been duly summoned to the arbitral tribunal's oral hearing and that he was present at it. FBF has not sufficiently established that any circumstance set out in Section 54 of the Swedish Arbitration Act that would prevent the enforcement of the arbitral award against him is at hand. Having reached this conclusion, JM's and KM's application shall be granted.

HOW TO APPEAL, see appendix B

Appeals to submitted by 25 January 2008

[ILLEGIBLE SIGNATURES]

The decision has been made by: Senior Judge of Appeal C.R., Judge of Appeal M.E. and Deputy Judge of Appeal M.L (reporting Deputy Judge of Appeal). Unanimous.