

Arbitrator misconduct

Article 20(2) of the Arbitration Law, Cap 4, provides that an arbitration award may be set aside where an arbitrator has misconducted himself or the proceedings, or when the award was improperly procured.

The Supreme Court in *P.N.P. Constructions Ltd v. 1. Makariou Charalambidi, 2. Soteriou Constructions Ltd*, Civil Appeal 34/2009, (26 June 2012) held that the legal scope of the term ‘*arbitrator misconduct*’ does not cover the legal interpretation of documents.

Initially, the Court of First Instance had found that an erroneous assessment of documents does not constitute improper behavior or misconduct since the arbitration agreement provided the arbitrator with a right to interpret documents.

The appellants lodged an appeal based on the fact that, in granting its award on the construction dispute, the arbitrator did not take into account the content of a written statement and failed to examine a defect in the building. With their appeal they were claiming that misconduct or improper behavior is not restricted to matters of objectiveness or the personal conduct of the arbitrator towards the parties but extends to the manner in which he approaches the matter in hand and the procedures he follows in dealing with it.

The Supreme Court highlighted the Courts’ reluctance to intervene in arbitration awards and dismissed the appeal stressing that the case law does not support the appellants’ argument. It added that arbitrator misconduct or improper behavior traditionally involves the bribing of an arbitrator or the presence of a personal interest of an arbitrator in the dispute but may extend to occasions of improper behavior in an ethical or deontological sense thus covering instances of erroneous admitting or not of evidence or the admitting of external evidence regarding the interpretation of a contract.

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