SUPREME COURT OF ALABAMA

Regions Bank v. Baldwin County Sewer Service, LLC

106 So. 3d 383 (Ala. 2012) · No. 1101508; 1101512 · Decided September 21, 2012

SUMMARY

The Alabama Supreme Court reviewed orders concerning motions to compel arbitration in a dispute involving variable-rate demand notes, interest-rate swaps, and related financing agreements. Applying New York law, the court held that broad arbitration clauses in the credit agreements covered disputes concerning the ISDA master agreement and swap transactions, and that the ISDA agreement's merger, forum-selection, and jury-waiver provisions did not preclude arbitration. The court reversed and remanded the trial court's order.

CASE DETAILS

COURT	Supreme Court of Alabama
WRITING FOR THE COURT	Justice Murdock; Chief Justice Malone; Justice Woodall; Justice Bolin; Justice Main
JURISDICTION	Alabama
DECIDED	September 21, 2012
DOCKET	1101508; 1101512
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Direct appeal under Rule 4(d), Ala. R. App. P., from an order granting in part and denying in part motions to compel arbitration.
STANDARD OF REVIEW	The Supreme Court of Alabama reviewed the order de novo.
PRECEDENTIAL VALUE	Published Alabama Supreme Court opinion; binding precedent in Alabama.
PARTIES	Regions Bank, Morgan Keegan & Company, Inc. v. Baldwin County Sewer Service, LLC

TOPICS

arbitration · contract interpretation · commercial litigation · appellate procedure · standard of review

PRACTICE AREAS

Arbitration · Contracts · Commercial litigation · Appellate procedure

QUESTIONS PRESENTED

1. Whether the broad arbitration clauses in the credit agreements covered BCSS's claims concerning the ISDA master agreement and the 2007 interest-rate-swap agreement.
2. Whether the ISDA master agreement's merger clause prevented application of the credit agreements' arbitration clauses to disputes involving the swaps.
3. Whether the ISDA master agreement's forum-selection clause or jury-trial waiver demonstrated that the parties intended to litigate swap-related disputes in court rather than arbitrate them.

HOLDINGS

1. The arbitration clauses in the credit agreements were broad enough to cover BCSS's claims concerning the ISDA master agreement and the 2007 interest-rate-swap agreement because the clauses covered disputes arising from any financing document and the agreements defined financing documents to include hedge agreements, including interest-rate swaps.
2. The merger clause in the ISDA master agreement did not prevent enforcement of the arbitration clauses in the credit agreements against disputes involving the ISDA master agreement and the 2007 swap agreement.
3. The ISDA master agreement's nonexclusive forum-selection clause and jury-trial waiver did not override or preclude the arbitration clauses in the credit agreements.

KEY QUOTATIONS

> *"Regions presented evidence of the existence of a contract requiring arbitration of the disputes at issue."* (392)

> *"Therefore, we reverse the order of the trial court denying the motions to compel arbitration of BCSS's claims concerning the ISDA master agreement and the 2007 swap agreement and remand the case for proceedings consistent with this opinion."* (392)

FACTUAL BACKGROUND

Baldwin County Sewer Service, LLC financed debt through several variable-rate demand-note transactions secured by letters of credit and governed by credit agreements with arbitration clauses. It later entered into interest-rate-swap transactions with AmSouth Bank, later succeeded by Regions Bank, allegedly based on representations that the swaps would fix the interest rate on the debt. After BCSS received notice of substantial increases in variable interest rates, it sued Regions and Morgan Keegan, alleging that the swaps failed to provide the represented protection. The credit agreements defined financing documents to include hedge agreements, and the hedge agreements included interest-rate swaps.

PROCEDURAL HISTORY

Baldwin County Sewer Service, LLC sued Regions Bank and Morgan Keegan in the Baldwin Circuit Court over variable-rate demand notes and related interest-rate-swap transactions. The defendants moved to compel arbitration under arbitration clauses in the credit agreements. The trial court compelled arbitration of claims concerning the credit agreements but denied arbitration of claims concerning the ISDA master agreement and the 2007 swap transactions. The defendants appealed, and the Alabama Supreme Court consolidated the appeals.

DISPOSITION

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reversed_and_remanded
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REMAND INSTRUCTIONS

The Baldwin Circuit Court was directed to conduct proceedings consistent with the opinion, including compelling arbitration of BCSS's claims concerning the ISDA master agreement and the 2007 swap agreement.

CASES CITED

- Auto Owners Insurance, Inc. v. Blackmon Insurance Agency, Inc., 99 So. 3d 1193, 1195 (Ala. 2012)
- Jarecki v. Shung Moo Louie, 95 N.Y.2d 665, 669, 722 N.Y.S.2d 784, 745 N.E.2d 1006 (2001)
- General Motors Corp. v. Fiat S.p.A., 678 F. Supp. 2d 141, 148-49 (S.D.N.Y. 2009)
- Primex International Corp. v. Wal-Mart Stores, Inc., 89 N.Y.2d 594, 599-600, 657 N.Y.S.2d 385, 679 N.E.2d 624 (1997)
- Bank Julius Baer & Co., Ltd. v. Waxfield Ltd., 424 F.3d 278, 283-85 (2d Cir. 2005)
- Albany Savings Bank, FSB v. Halpin, 117 F.3d 669, 672 (2d Cir. 1997)
- MAT Movies & Television Productions GMBH & Co. Project IV KG v. RHI Entertainment Distribution, LLC, 752 F. Supp. 2d 373, 378-79 (S.D.N.Y. 2010)
- Rosenblum v. Travelbyus.com Ltd., 299 F.3d 657, 665 (7th Cir. 2002)
- WorldCrisa Corp. v. Armstrong, 129 F.3d 71, 74 (2d Cir. 1997)
- Personal Security & Safety Systems, Inc. v. Motorola, Inc., 297 F.3d 388, 396 n.11 (5th Cir. 2002)
- Patten Securities Corp. v. Diamond Greyhound & Genetics, 819 F.2d 400 (3d Cir. 1987)
- Gulfstream Aerospace Corp. v. Mayacamas Corp., 485 U.S. 271, 287 (1988)
- Citigroup Global Markets Inc. v. VCG Special Opportunities Master Fund, Ltd., No. 08-CV-5520(BSJ), slip op. at 6 n.6 (S.D.N.Y. Nov. 12, 2008), aff'd, 598 F.3d 30 (2d Cir. 2010)
- Kelso Enterprises Ltd. v. A.P. Moller-Maersk A/S, 375 F. App'x 48, 50 (2d Cir. 2010)
- Chen-Oster v. Goldman, Sachs & Co., 785 F. Supp. 2d 394, 402-03 (S.D.N.Y. 2011)
- Caiola v. Citibank, N.A., New York, 295 F.3d 312, 317 n.1 (2d Cir. 2002)