MASSACHUSETTS SUPREME JUDICIAL COURT

TAL Financial Corp. v. CSC Consulting, Inc.

446 Mass. 422 (2006) · Decided March 31, 2006

SUMMARY

The Massachusetts Supreme Judicial Court held that the party challenging a contractual liquidated-damages provision bears the burden of proving that it is unenforceable. Applying the governing liquidated-damages principles, the court concluded that the provision at issue was grossly disproportionate to anticipated damages and constituted an unenforceable penalty. The court affirmed the damages and costs award, but vacated the award of attorney's fees.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Greaney, J.
JURISDICTION	Massachusetts
DECIDED	March 31, 2006
DISPOSITION	other
PROCEDURAL POSTURE	Cross appeals from a Superior Court bench-trial judgment involving lease damages, liquidated damages, attorney's fees, and costs; the Supreme Judicial Court transferred the case on its own motion.
STANDARD OF REVIEW	The court accepted factual findings supported by credible evidence and reviewed the legal enforceability of the liquidated-damages clause and the reasonableness of attorney's fees as legal questions; the attorney's-fee determination is ordinarily discretionary but was reviewed as a matter of law under the circumstances presented.
PRECEDENTIAL VALUE	Published precedential opinion of the Massachusetts Supreme Judicial Court.
PARTIES	TAL Financial Corp. v. CSC Consulting, Inc.

TOPICS

liquidated damages · breach of contract · waiver of breach · remedies · commercial litigation

PRACTICE AREAS

contract law · commercial litigation · remedies · appellate procedure

QUESTIONS PRESENTED

1. Whether the Superior Court correctly calculated the remaining contract damages under the lease.
2. Whether the lease's provision requiring payment of the present value of future rent plus eighteen percent of acquisition costs was an enforceable liquidated-damages clause or an unenforceable penalty.
3. Which party bears the burden of proving that a contractual liquidated-damages provision is unenforceable.
4. Whether TAL was entitled to recover attorney's fees and costs under the lease.
5. Whether TAL waived its right to enforce automatic twelve-month extensions of the lease schedules by treating the lease as terminated and demanding damages.

HOLDINGS

1. The party challenging enforcement of a contractual liquidated-damages provision bears the burden of proving that the provision is unenforceable.
2. The lease provision requiring the present value of future rent plus eighteen percent of acquisition costs was unenforceable because it was grossly disproportionate to a reasonable estimate of anticipated damages and operated as a penalty.
3. TAL waived its right to enforce additional twelve-month extensions of schedules one and two by advising CSC that it was in default, demanding return of the equipment, and treating the schedules as terminated while seeking damages.
4. The proper contract-damages award was $9,471, representing the unpaid monthly payments remaining on schedules two and three after crediting CSC for payments made.
5. TAL was not entitled to recover attorney's fees because, as a matter of law under the circumstances, the fees sought were not reasonable within the meaning of the lease.

KEY QUOTATIONS

> *"The burden of proof regarding the enforceability of a liquidated damages clause, therefore, should rest squarely on the party seeking to set it aside."* (430)

> *"Generally, a liquidated damages provision will be enforced when, at the time the agreement was made, potential damages were difficult to determine and the clause was a reasonable forecast of damages expected to occur in the event of a breach."* (432)

> *"Conversely, "[liquidated damages will not be enforced if the sum is 'grossly disproportionate to a reasonable estimate of actual damages' made at the time of contract formation.""* (432)

FACTUAL BACKGROUND

TAL leased computer hardware, telephone equipment, software, and furniture to Onward Technologies under a master lease and three schedules. CSC later acquired Onward and assumed its lease obligations, but equipment and furniture were discarded or lost, and CSC eventually stopped making payments. TAL claimed additional rent, liquidated damages equal to eighteen percent of acquisition costs, attorney's fees, and costs; CSC disputed the lease extensions and challenged the liquidated-damages provision as an unenforceable penalty.

PROCEDURAL HISTORY

After a bench trial, the Superior Court awarded TAL $9,471 in contract damages, $17,499 in attorney's fees, and $1,000.91 in costs, while holding the lease's liquidated-damages provision unenforceable. TAL appealed the damages calculation and liquidated-damages ruling, and CSC cross-appealed the attorney's-fee and cost award. The Supreme Judicial Court vacated the attorney's-fee award and affirmed the remaining portions of the judgment, with the judgment modified accordingly.

DISPOSITION

other

CASES CITED

- Honey Dew Assocs., Inc. v. M & K Food Corp., 241 F.3d 23, 27 (1st Cir. 2001)
- Town Planning & Eng'g Assocs., Inc. v. Amesbury Specialty Co., 369 Mass. 737, 744 (1976)
- Hastings Assocs., Inc. v. Local 369 Bldg. Fund, Inc., 42 Mass. App. Ct. 162, 173 (1997)
- Kelly v. Marx, 428 Mass. 877, 879-881 (1999)
- Lynch v. Andrew, 20 Mass. App. Ct. 623, 628 (1985)
- Kaplan v. Gray, 215 Mass. 269, 270-273 (1913)
- A-Z Servicenter, Inc. v. Segall, 334 Mass. 672, 676 (1956)
- Buster v. George W. Moore, Inc., 438 Mass. 635, 655-656 (2003)
- Coggins v. New England Patriots Football Club, Inc., 397 Mass. 525, 539 (1986)
- Dalton v. American Ammonia Co., 236 Mass. 105, 107 (1920)
- Hill v. Metropolitan Dist. Comm'n, 439 Mass. 266, 275 (2003)
- Dynamic Mach. Works, Inc. v. Machine & Elec. Consultants, Inc., 444 Mass. 768, 773-774 (2005)
- McCarthy v. Tobin, 429 Mass. 84, 88 (1999)
- Realty Developing Co. v. Wakefield Ready-Mixed Concrete Co., 327 Mass. 535, 537-538 (1951)
- Canavan's Case, 432 Mass. 304, 308 (2000)
- Northern Assocs., Inc. v. Kiley, 57 Mass. App. Ct. 874, 879 (2003)
- Cargill, Inc. v. Beaver Coal & Oil Co., 424 Mass. 356, 363 (1997)
- Stowe v. Bologna, 417 Mass. 199, 204 (1994)
- Lattuca v. Robsham, 442 Mass. 205, 211 (2004)
- Chisholm v. Reitler, 143 Colo. 288 (1960)
- Clampitt v. A.M.R. Corp., 109 Idaho 145, 149 (1985)
- Pav-Saver Corp. v. Vasso Corp., 143 Ill. App. 3d 1013, 1019 (1986)

- Rodriguez v. Learjet Inc., 24 Kan. App. 2d 461, 464-465 (1997)
- Shallow Brook Assocs. v. Dube, 135 N.H. 40, 50 (1991)
- Metlife Capital Fin. Corp. v. Washington Ave. Assocs. L.P., 159 N.J. 484, 496 (1999)
- P.J. Carlin Constr. Co. v. City of N.Y., 59 A.D.2d 847, 848 (N.Y. 1977)
- Illingworth v. Bushong, 297 Or. 675, 690 (1984)
- Chamberlain Livestock Auction, Inc. v. Penner, 462 N.W.2d 479, 484 (S.D. 1990)
- Wassenaar v. Panos, 111 Wis. 2d 518, 526 (1983)
