



GLUCK V ENDZWEIG AND EVERTOP LTD

[2026] EWCA Civ 145

KEY TAKEAWAYS:

1. An "unlimited amendment clause" in an arbitration agreement could not be rendered enforceable by the default provisions in section 57 Arbitration Act 1996.
2. The unlimited amendment clause could not be given effect to in a valid arbitration agreement because it was repugnant to the need for a final and binding award.

ISSUE

Whether it was possible to interpret an arbitration agreement to give effect to its provisions both that the agreement would amount to an enforceable arbitration agreement and that the arbitrators could amend, add to and change any award they made at any time, either as a matter of interpretation or under section 57 Arbitration Act 1996.

FACTUAL BACKGROUND

This case concerned an award of a Beth Din (sometimes referred to as a Beis Din) Chosen Mishpot (the Jewish Rabbinical Court for civil and financial disputes) of the Union of Orthodox Hebrew Congregations in London pursuant to section 66 Arbitration Act 1996. The arbitration clause was contained in a share purchase agreement (see right). The Appellant (Mr Gluck) sold a 50% shareholding in a company to the Respondent company (Evertop Ltd), with the purchase price guaranteed by the Respondent (Mr Endzweig). A dispute arose regarding reductions in the instalments payable and two arbitrators were appointed pursuant to the arbitration clause. A further 'arbitration agreement' was made by the parties, appointing two Rabbis as arbitrators and recording that the deed would 'be valid according to the Arbitration Act...' and the Beth Din had the authority to 'amend and add to and change the Judgement they have given at any time'.

SHARE PURCHASE AGREEMENT ARBITRATION CLAUSE

22.2 Each party irrevocably agrees that any dispute or claim that arises out of or in connection with this agreement or its subject matter or formation (including non-contractual disputes or claims) shall be finally resolved by arbitration by the Beth Din in accordance with the rules and procedures of the Beth Din, and judgment upon the award rendered by the Beth Din may be entered in any court having jurisdiction thereof.

ARBITRATION ACT 1996
SECTION 57

(1) The parties are free to agree on the powers of the tribunal to correct an award or make an additional award.

(2) [If or to the extent there is no such agreement, the following provisions apply.](#)

(3) The tribunal may on its own initiative or on the application of a party -

(a) correct an award so as to remove any clerical mistake or error arising from an accidental slip or omission or clarify or remove any ambiguity in the award, or

(b) make an additional award in respect of any claim (including a claim for interest or costs) which was presented to the tribunal but was not dealt with in the award.

These powers shall not be exercised without first affording the other parties a reasonable opportunity to make representations to the tribunal.

(4) Any application for the exercise of those powers must be made within 28 days of the date of the award or such longer period as the parties may agree.

(5) Any correction of an award shall be made within 28 days of the date the application was received by the tribunal or, where the correction is made by the tribunal on its own initiative, within 28 days of the date of the award or, in either case, such longer period as the parties may agree.

(6) Any additional award shall be made within 56 days of the date of the original award or such longer period as the parties may agree.

(7) Any correction of an award shall form part of the award.

FIRST AND SECOND AWARDS
MADE BY THE BETH DIN

Hearings took place before the Beth Din and an award, referred to as a Psak, was made confirming that the Respondents were [entitled to a price reduction](#) under a schedule of the share purchase agreement.

The Beth Din directed that there should be a further hearing to calculate the rate of the reduction. A further award was made at that subsequent hearing, with the Beth Din holding that the Respondents should [pay a reduced sum of £429,228.03](#) to the Appellant.

ORDER OF HHJ PELLING KC
8 NOVEMBER 2024

A [without notice application](#) by the Appellant seeking an order under [section 66 Arbitration Act 1996](#) for [permission to enforce the award](#) and for a judgment to be entered in the terms of the award was granted by order of HHJ Pelling KC.

THIRD AWARD
MADE BY THE BETH DIN

The Beth Din issued an [amended award](#), reducing the sum payable to a total amount of [£258,974.85](#).

JUDGMENT OF HHJ KEYSER KC
[2025] EWHC 798 (Comm)

The Respondents applied to [set aside the order](#) made by HHJ Pelling KC pursuant to [CPR 62.18\(10\)](#), on the basis that the second award was [not final](#) as it was [being reviewed by the Beth Din](#) and because the Appellant had breached his duty of full and frank disclosure.

[HHJ Keyser KC granted the application to set aside](#) the enforcement order, holding that the parties had conferred on the tribunal a power to amend its award [broader than the power envisaged by the default provisions of section 57 Arbitration Act 1996](#) (see left) and which was not subject to any deadline.

The Appellant appealed against HHJ Keyser KC's judgment on **two grounds**:

(1) the judge erred in concluding that an agreement giving the tribunal a power of correction that was not subject to any time limit at all was within the scope of section 57(1) Arbitration Act 1996; and

(2) the judge erred in holding that an agreement that the tribunal should have a power to alter its award that went beyond a power of correction was within the scope of section 57(1) Arbitration Act 1996.

INTERPRETATION AND s57

Dingemans LJ (with whom Phillips and Lewis LJ agreed) did not accept that HHJ Keyser KC's attempt to deal with the "**unlimited amendment clause**" in the arbitration agreement and the submissions in respect of the phrase "**unless otherwise agreed by the parties**" in **section 58(1) Arbitration Act 1996**, by saying that the arbitrators could declare themselves **functus officio**, was a sufficient answer to the problem.

The Court of Appeal held that the **default provisions in section 57 Arbitration Act 1996 were not able to render the unlimited amendment clause in the arbitration agreement enforceable**, by saving it from the fundamental vice that any award made by the Beth Din could always be amended, added to, and changed by the Beth Din, whenever it chose to do so.

The court held that the unlimited amendment clause was **repugnant** to the basis of the parties' agreement.

The parties intended to have an arbitration agreement so that disputes could be "**finally resolved by arbitration by the Beth Din...**". Therefore, the unlimited amendment clause was repugnant to the arbitration agreement because it **prevented finality** and **prevented the Beth Din from making an enforceable award**.

The court did not accept that the agreement could exist as a contract made outside of the Arbitration Act 1996. As a result, **the default provisions in section 57 applied** and the default **time limits** for corrections or additions to the award had not been complied with.

WRONG TO SET ASIDE THE ORDER?

The Court of Appeal **unanimously allowed the appeal**, restoring the order made by HHJ Pelling KC.

The court held that HHJ Keyser KC was **wrong to set aside the order** as the second award was valid and enforceable on its terms.

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