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Reco Equipment, Inc. v. John T. Subrick Contracting, Inc. 2001 WL 789514 (Pa. Super.)

Pennsylvania Contractor and Subcontractor Payment Act does not apply to rental agreements nor does the act prevent choice of forum clauses from being enforced. A contractor entered into a rental contract with Reco Equipment, Inc., for use of a hydraulic excavator. After delivery of the machine to the construction site a dispute arose as to whether the machine supplied was the type of machine agreed upon.

Approximately a month later the contractor returned the machine and refused to pay the rental price. The parties, adhering to the contractual agreement, proceeded to litigate the dispute in arbitration and award was issued in favor of the equipment company. Reco Equipment converted the award to a judgment in Ohio, and sought to enforce the judgment in Pennsylvania.

Although the contractor fully participated and agreed to the arbitration, the contractor subsequently argued that the Ohio court lacked personal jurisdiction by application of the Pennsylvania Contractor and Subcontractor Payment Act. The contractor maintained that the Act statutorily precluded the parties from litigating the dispute in any state other than Pennsylvania, but the appellate court found otherwise.



The Superior Court of Pennsylvania, affirming the appellate court's decision, held that when § 514 of the Act referred to the "making of a contract" it was speaking about construction contracts, defined as an agreement to perform work on real property located in Pennsylvania, and not some collateral third party agreements. The Act clearly did not apply to the rental agreement at issue, because the contractor did not enter into an agreement with Reco Equipment to perform work on real property. The contractor merely agreed to lease a piece of equipment from Reco Equipment. Moreover, the fact that the contractor was under a construction contract with another party does not cause the equipment provider to fall within the ambit of the Act just because it leased equipment to the contractor.

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