

Resolution of the appellate court to the case A56-31718/2009

1

A56-31718/2009

180/2009-64926 (1)

Thirteenth Arbitration Appeal SUD191015, St. Petersburg, Suworov Ave, 50-52
<http://13aas.arbitr.ru>
POSTANOVLENIE

St. Petersburg

December 23, 2009

Case number A56-31718/2009

Resolutive of orders announced on Dec. 9, 2009 godaPostanovlenie made in full on Dec. 23, 2009 godaTrinadsaty Arbitration Appeal sudv comprising:

Presiding Serikova I.A.sudey Zheltyannikova VI, Timuhinoy IA

in the conduct of the trial transcript: Smirnova EA

examined in open court appeal (registration number 13AP-14753/2009) Deputy Public Prosecutor of St. Petersburg on the decision of the Arbitration Court of the City of St. Petersburg and Leningrad region of 18.09.2009g. the case number A56-31718/2009 (Judge Ivanilova OB) taken

at the suit of the Deputy Procurator of St. Petersburg in defense of state and public interests, in the interest of the Territorial Directorate of Federal Agency for Management of State Property in the city of St. Petersburg

to 1. Federal State Unitary Enterprise "Company. Kalinin 2. JSC Technical supervision "of the invalidation of the transaction and applying the consequences of invalidity of a void transaction

with the participation of: the plaintiff: the prosecutor Kuznetsov YV, ID number 036776 from 07.09.2009g.ot defendants: 1. Shaschenko OA by proxy from 01.07.2009g. № 22. Zueva SP by proxy from 04.09.2009g., Kukushkin, MV by proxy from 04.09.2009g.

found:

Deputy Public Prosecutor of St. Petersburg asked the Arbitration Court of St. Petersburg and Leningrad Region with an action for annulment of the contract of service number 306 from 01.08.2008. Entered into between the Federal state unitary enterprise "Zavod im. MI Kalinin (hereinafter - the Company is developed. Kalinin) and the Open Joint Stock Company "Technical supervision and use of invalidity of a void transaction, ordering the JSC Technical supervision" to bring the plant takes the premises of 2,681.7 square meters, located in the manufacturing building number 10 on the following address: St. Petersburg, ul. Ural, 1. The court of 18.09.2009g. in responding to the claim denied. Deputy Public Prosecutor of St. Petersburg made an appeal on the decision. The complainant refers to the fact that the court's findings, contained in the decision not to meet the circumstances of the case, the Prosecutor considers that the contract № 306 from 01.08.2008g.imeet shoddy nature and covers the assignment of JSC "Technical supervision" certain real property under the guise of providing services .

Plant them. MI Kalinin in the revocation on appeal objected to its satisfaction, believes the arguments of the complaint unfounded.

JSC Technical supervision "in the revocation on appeal, asked him to leave her without satisfaction, because it believes the court's decision correct. Legitimacy and validity of the contested decision updated the appellate court. As established, 01.08.2008. between plants them. MI Kalinina and JSC Technical supervision "contract of service number 306, in accordance with the terms of which the plant provides the Company for payment for temporary possession and use of 130 jobs for the placement of specialized integrated stands. At the same time jobs are in manufacturing building number 10 on the address: St. Petersburg, ul.

Ural, 1 2 nd, 3rd floor at the total area of 2681.7 sq.m. Term of contract is set up to 30.06.2009. Addressing this claim in court, Deputy Public Prosecutor of St. Petersburg believes that the treaty is a sham transaction, the deal covers a rental because the real will of the parties intended to transfer the temporary possession and use of the Company's premises. Because the property is located in the Factory of federal property, the plaintiff believes that the transfer of property made in violation of Paragraph 2 of Art. 295 of the Civil Code of the Russian Federation and 2 of clause. 18 of the Federal Law "On state and municipal unitary enterprises" without the consent of the owner of the property. The Court of First Instance dismissed the claim shall, when he came to the conclusion that the service agreement № 306 from 01.08.2008. signed for the joint production and technical activities of the defendants on the maintenance of complex technological stands, which are the property of the Ministry of Defence. The appellate court finds no reason to cancel the contested decision. The conditions of the disputed contract, the trial court found that the last entered pursuant to the modalities of work for the joint maintenance of stands of products in the technical surveillance systems 15E961, 15E601, 15E1M, 15E599, 65s19. As rightly pointed out in the decision, the court of first instance, from the conditions of contract number 306 does not mean that the premises occupied by the specialized stands, transferred to the Company in the lease. There is also no reason to believe that the transaction had a flaw - the gap will and the will. The arguments set forth in the appeal, the appellate court and updated documents in the case are not confirmed.

Since the court is not allowed any violations of substantive and procedural law, which led or could lead to a wrong decision, the appellate court finds no basis for granting the appeal.

Based on the above and guided by Articles 269-271 of the Arbitration Procedural Code of the Russian Federation, Thirteenth Arbitration Court of Appeal

RESOLVED:

The decision of the Arbitration Court of St. Petersburg and Leningrad region from 18.09.2009g. the case number A56-31718/2009 unchanged, the appeal - without satisfaction. The ruling may be appealed to the Federal Arbitration Court of the Northwest District, within two months from the date of entry regulations in force.

Presiding