Honeywell Intl. Inc. v ARC Energy Servs., Inc.
2017 NY Slip Op 05686
Decided on July 13, 2017
Appellate Division, First Department
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Decided on July 13, 2017
Sweeny, J.P., Mazzarelli, Webber, Kahn, Kern, JJ.

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[*1]Honeywell International Inc., Plaintiff-Appellant,

v

ARC Energy Services, Inc., Defendant-Respondent, National Oilwell Varco, Defendant.

Miranda Sambursky Slone Sklarin Verveniotis LLP, Mineola (Neil L. Sambursky of counsel), for appellant.

Callahan & Fusco, LLC, New York (Christopher L. Parisi of counsel), for respondent.

Order, Supreme Court, New York County (Charles E. Ramos, J.), entered July 8, 2016, which granted defendant ARC Energy Services, Inc.'s (ARC) motion to dismiss the complaint as against it on the ground of forum non conveniens, and order, same court and Justice, entered December 27, 2016, which upon granting leave to reargue, adhered to the July 8, 2016 decision, unanimously reversed, on the law, with costs, and the motion to dismiss denied.

Plaintiff and defendant ARC entered into a services agreement which included an explicit choice of law and forum provision selecting New York law and New York courts. Supreme Court erred in considering ARC's forum non conveniens argument.

"[W]here a party to a contract has agreed to submit to the jurisdiction of a court, that party is precluded from attacking the court's jurisdiction on forum non conveniens grounds" (*Sterling Natl. Bank v Eastern Shipping Worldwide, Inc.*, 35 AD3d 222, 223 [1st Dept 2006]; *see also National Union Fire Ins. Co. of Pittsburgh, Pa. v Worley*, 257 AD2d 228, 232 [1st Dept 1999]). Moreover, the services agreement satisfied the requirements of NY General Obligations Law §§ 5-1401 and 5-1402, and therefore, the court did not have discretion under CPLR 327(b) to consider the forum non conveniens argument.

THIS CONSTITUTES THE DECISION AND ORDER

OF THE SUPREME COURT, APPELLATE DIVISION, FIRST DEPARTMENT.

ENTERED: JULY 13, 2017

CLERK

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