

# Supreme Court's JUDGMENT

delivered in Stockholm on 1 July 2025

Case no.  
T 607-24

## **PARTIES**

### **Appellant**

BML Group Ltd, C-34836  
Betsson Experience Centre  
Ta' Xiex Seafront  
Ta' Xbiex, Xbx 1027  
Malta

Counsel: Attorneys E.F. and B.J.H. and lawyer E.O.

### **Respondent**

P.L.

Counsel: Jur.dr J.H.

## **THE MATTER**

Invalidity of legal acts, etc.

**RULING APPEALED**

Judgment of the Svea Court of Appeal, Patent and Market Court of Appeal, of 2023-12-21 in case PMT 4156-21

---

**JUDGMENT**

The Supreme Court modifies the judgment of the Patent and Market Court of Appeal only in so far as P.L.'s claim for damages is dismissed (para. 2 b of the judgment of the Patent and Market Court of Appeal). Otherwise, the judgment of the Patent and Market Court of Appeal is affirmed.

The Supreme Court orders BML Group Ltd to pay P.L. for his costs of litigation incurred in the Supreme Court in the amount SEK 718,750, of which SEK 468,750 pertains to counsel fees, and interest in accordance with Section 6 of the Interest Act from the date of this judgment.

**CLAIMS IN THE SUPREME COURT**

BML Group Ltd has requested that the Supreme Court dismiss P.L.'s claims and release the company from the obligation to compensate him for costs of litigation incurred in the Patent and Market Court as well as the Patent and Market Court of Appeal. BML Group has further requested that P.L. be ordered to compensate BML Group for costs of litigation incurred in these instances.

P.L. has opposed modification of the judgment of the Patent and Market Court of Appeal.

BML Group and P.L. have requested compensation for costs of litigation incurred in the Supreme Court.

## REASONS FOR THE JUDGMENT

### Background

1. BML Group provides gaming services over the internet under the *Betsson* mark. The company conducts operations from Malta.
2. P.L. resides in Sweden and, from 2009 to 2014, was a customer of BML Group. He played computer-simulated slot games which the company offered on its internet casino, primarily a digital variant of the type of slot games referred to as one-armed bandits. On 16 January 2012, at BML Group's initiative, he became a VIP customer.
3. In October 2014, BML Group blocked P.L. as a customer following his request therefor. He sought medical help and, in December 2014, was diagnosed with a gambling addiction.
4. The total amount P.L. played for (turned over) amounted to nearly EUR 15 million, and his aggregate net loss equalled nearly SEK 8 million.
5. P.L. brought an action in the Patent and Market Court and requested that the BML Group be ordered to pay him nearly EUR 16 million. The action was based, in brief, on BML Group's knowledge of P.L.'s gambling habit and thereby his gambling addiction, and subjected him to intrusive marketing. He argued principally on the basis that the company had made an undue profit, that the transactions were to be rescinded in accordance with Section 33 of the Contracts Act or set aside in accordance with Section 36, and that he was caused mental suffering. Initially, his claim included damages in accordance with Section 37 of the Marketing Act (2008:486) (*cf.* Section 46 a of that act and Chapter 1, Sections 3 and 4 of the Patent and Market Courts Act (2016:188)).

6. The Patent and Market Court dismissed the action.

7. The Patent and Market Court of Appeal has modified the judgment and ordered BML Group to pay P.L. EUR 527,395, equal to the net loss incurred by P.L. after he became a VIP customer. According to the court, BML Group had been aware, in any case from this point in time, that P.L. had grave gambling problems. The court also took into account the fact that BML Group used intrusive marketing for a type of gambling which is associated with significant risk. In an overall assessment of the circumstances, the court was of the opinion that, with this knowledge, it would be inequitable to assert the legal acts against P.L. and that they were thus void in accordance with Section 33 of the Contracts Act. Accordingly, the consideration, i.e. P.L.'s net loss, would be returned.

8. In addition, the Patent and Market Court of Appeal ordered BML Group to pay P.L. SEK 10,000 in damages for personal injury in the form of mental suffering. According to the court, there was a causal and temporal connection between the company's intrusive marketing and P.L.'s loss. BML Group was deemed to be negligent in causing P.L. mental suffering for which damages were to be paid.

### **What is at issue in the Supreme Court**

9. The case primarily concerns the question whether it would be inequitable to assert the legal act which led to gambling agreements (Section 33 of the Contracts Act).

### **Section 33 of the Contracts Act**

10. According to Section 33 of the Contracts Act, a legal act (e.g. an acceptance of a contractual bid) may not be relied upon where the circumstances in which it arose were such that, having knowledge of such circumstances, it would be inequitable to enforce the legal act, and where

the party in respect of whom such legal act was performed must be presumed to have had such knowledge.

11. The provision in Section 33 is intended for agreements which came about under unfair or otherwise improper circumstances and may be applied, for example, when a contracting party, due to illness, intoxication or other causes cannot clearly assess the purport or implications of an agreement (*cf. Förslag till lag om avtal och andra rättshandlingar på förmögenhetsrättens område, lag om avbetalningsköp m.m* [Proposal for an Act on Agreements and Other Legal Acts in the Area of Property Law, Instalment Purchases Act, etc.], 1914, p. 134). The section has primarily in view, as do the Act's appurtenant provisions, a certain legal act but allows for a broader assessment of a contractual situation and its legal and practical consequences.

12. Thus, in order to prevent the recipient of a legal act from being able to assert it against the person who undertook the legal act, Section 33 requires knowledge of the circumstances which render it inequitable to adduce it. It is insufficient that a party should have known of such circumstances.

13. It has become possible for a company to use digital solutions such as portals, platforms and apps in order to enter into agreements and manage customer relationships entirely without human involvement or to use the solutions in support of such management. The digital solutions are devised in order to be able to gather and process large quantities of information regarding and from customers. The solutions may also be designed in order to make or accept offers on the basis of the information, or to provide information and offers to the customers.

14. If a company uses such technology in order to collect and process information regarding the behaviour and preferences of certain individual

customers and uses the information as a basis for automated decisions to accept or make offers or use them in support of such decisions, this is a circumstance which entails that the company – in conjunction with the application of Section 33 of the Contracts Act – must, as a starting point, be deemed to be aware of the information to which the technology provides access and which the company uses.

### **Gambling problems and gambling addiction**

15. The expression *gambling problem* is usually used as a designation for a person who has inadequate control of their gambling when it gives rise to palpably negative consequences.

16. *Gambling addiction* (currently *gambling disorder*) is a clinical diagnosis of people in the group which has the greatest gambling problems. This involves an addiction similar to that of alcohol or drug addiction. The diagnosis, gambling disorder, is described in the *Diagnostic and Statistical Manual of Mental Disorders, DSM-5*, which is generally used within health care. The manual proceeds on the basis of nine criteria which indicate that the person has lost control of their gambling. The criteria entail that the gambler:

- is preoccupied with gambling;
- needs to gamble with increasing amounts of money in order to achieve the desired excitement;
- has made repeated unsuccessful efforts to stop gambling;
- is restless or irritable when attempting to stop gambling;
- plays to avoid thinking about his or her problems or the like;
- returns another day to win back losses;
- lies about their gambling; and
- has jeopardised or lost a significant relationship, job or the like because of gambling.

17. In order to be given a gambling disorder diagnosis, it is necessary that the person meets not less than four of the criteria during a twelve-month period. The greater the number of criteria met by the person, the greater the severity of the gambling disorder.

**Regarding regulation of the gambling market**

18. The Lottery Act of 1994 applied during the period of time relevant in the case. The act covered what is now designated as computer-simulated slot games.

19. The Lottery Act proceeded on the basis of a general permit requirement for lotteries and all permits were subject to government control. In principle, only three actors could hold a lottery permit; the state, equestrian sports and the social movements. No Swedish gambling organiser held a permit to organise computer-simulated slot games (see Swedish Government Official Reports 2017:30, p. 362).

20. The act was applicable to games organised in Sweden, but did not prevent games which were organised abroad to be open via the internet. Swedish consumers were not prohibited from participating in such foreign lotteries. On the other hand, it was punishable in Sweden to promote lotteries organised abroad.

21. The Lottery Act contained no express rule according to which social and health considerations would be taken into account in the gambling operations. Instead, the system was such that regulations regarding gambling responsibility were incorporated in the decisions and instructions which were issued together with the permits. Nor did the act originally contain any special requirements regarding the marketing. The provisions regarding marketing were conditions in the granted permits. The conditions could contain prohibitions against marketing of token gaming machines,

while marketing lotteries and betting could occur provided that it was especially moderate. It could also be stated that the marketing was to be socially responsible and could not be aggressive or intrusive. (See Government Bill 2016/17:8, p. 27.)

22. Requirements pertaining to the marketing of games was also developed in parallel with the Lottery Act. In 2013, the Swedish Gambling Association Ethics Council adopted guidelines for responsible marketing of gambling which prescribe restrictiveness in matters of advertising to vulnerable and exposed groups in society (see Government Bill 2016/17:8, pp. 21 and 28). According to the recommendation of the European Commission on consumer protection in conjunction with online gambling from 2014, marketing should not target vulnerable groups.

23. An express requirement of moderation in marketing of gambling was implemented in 2016 in the Lottery Act.

24. The Gambling Act (2018:1138), which replaced the Lottery Act in 2019, entails a pervasive reregulation of the conditions for the Swedish gambling market. The previous prohibition for parties other than the state, equestrian sports and social movements from conducting gambling operations was replaced by a licensing system. The intention was that everyone who is active on the Swedish gambling market was to possess a licence, and that actors operating without a licence would be shut out. The Gambling Act has a broader territorial purview than the Lottery Act, and covers all games provided in Sweden, including games organised abroad but which target the Swedish market over the internet.

25. According to the Gambling Act, a licence holder has a far-reaching obligation to protect the players from excessive gambling and there are requirements for moderation in marketing of games. As part of this gambling responsibility, the licence holder's possibilities to offer or pay bonuses is



limited. If games serving the public good are not involved, bonuses may only be paid on the first occasion on which a player plays any of the licence holder's games. The reason for this limitation is that bonus offers entice players with problems to continue their gambling and maintains the gambling in a manner which may be deemed unhealthy (see Government Bill 2017/18:220, p. 155).

### **The assessment in this case**

26. The Parties have not developed how contract formation between BML Group and P.L. was arranged and the specifics thereof. It is evident that P.L. opened a gambling account with BML Group and that he made deposits on the account. Money has been withdrawn from the gambling account for each game, and money was deposited when he won. BML Group has also deposited money on the game account in the form of bonuses and gifts. The situation is to be perceived such that BML Group and P.L., not later than when he opened the game account, entered into a type of framework agreement for future gambling and that the individual games entailed a legal act with contractual effect within the context of this framework agreement. The legal act has occurred, without any human involvement, by means of automated decisions from the BML Group's side.

27. What has emerged is that BML Group had collected extensive and detailed information regarding P.L.'s gambling. The information was available and searchable for the BML Group. Ingrid Munck, former professor with an emphasis on statistics and with many years' experience in the gambling industry, has explained that it is normal that gaming companies, by means of digital solutions, have total insight and control over the data regarding the customers' gambling. The information is used to develop and tailor products and to test how the customer can be enticed to play. The analysis which she made of P.L.'s gambling data also shows that

there is a clear correlation between his gambling and BML Group's marketing to him in the form of, among other things, bonuses and gifts.

28. The investigation provides sufficient support for the notion that BML Group had access to and used the collected information regarding P.L. in such a way that the company, by application of Section 33 of the Contracts Act, must have been aware of P.L.'s gambling behaviour.

29. In December 2014, P.L. was diagnosed with a gambling addiction (currently gambling disorder). In light of the reported gambling data and what P.L. has stated, there is no doubt that he had long met the criteria for gambling addiction.

30. Most of these criteria indicate that gambling has negative consequences for the gambler, such as the fact that he or she suffers from abstinence, lies regarding their gambling and thereby jeopardises work opportunities and relationships. The gambling data to which BML Group had access does not in and of itself provide any direct information regarding the consequences gambling had for P.L. Accordingly, the company cannot be deemed to have been aware that P.L. met the medical criteria for the gambling addiction diagnosis.

31. On the other hand, it is apparent from BML Group's gambling data that P.L. gambled considerably large sums and that he often played a conspicuous number of games per day and thereby committed a large amount of time to his gambling. It is also apparent that, over time, he wagered greater amounts per game. In addition, he deposited funds on his game account several times a day and thereby attempted to win back his losses. The Patent and Market Court of Appeal found that it could be shown that P.L.'s gambling data thereby constituted a clear indication that he had lost control of his gambling, in any case starting when he became a VIP customer. Accordingly, commencing at this time, the BML Group must be

deemed to have had knowledge that P.L. had serious gambling problems. Based on the manner in which the claim is formulated, there is no cause for the Supreme Court to consider whether BML Group already possessed such knowledge.

32. During the relevant period of time, BML Group continued to target P.L. with marketing in the form of e-mails and text messages. This involved newsletters and general advertising as well as, to a large extent, offers targeting P.L. directly regarding bonuses and similar which required playing within a certain time frame in order to be used. Such offers have also been sent by employees at the BML Group who stated that they were P.L.'s contact persons. The marketing must be characterised, as it was by the Patent and Market Court of Appeal, as clearly intrusive. This has involved encouragement to gamble which targeted a person who, due to grave gambling problems, was in an extremely vulnerable position and who, in practice, lacked sufficient possibilities to resist it.

33. From a dependence perspective, the type of game BML Group offered and P.L. played is, as is apparent from the investigation, one of the riskiest types of games, which BML Group must have known. It may be noted that, during the relevant period of time, it cannot have been deemed to be generally acceptable and permissible to offer in Sweden games of this type, even though there were no specific sanctions for those who offered the game from abroad. Nor were bonuses an accepted form of marketing for games for money. Currently, it is possible to obtain a licence for commercial, computer-simulated slot games, but the games are constrained by rules regarding gambling liability, and the possibility to offer bonuses is highly limited.

34. The conclusion is that the circumstances are such that it would be inequitable, with knowledge of them, to adduce the games P.L. engaged in

once he became a VIP customer and of which the BML Group must be deemed to have possessed knowledge. Accordingly, pursuant to Section 33 of the Contracts Act, the relevant legal acts on the part of P.L. cannot be asserted.

35. Thus, the consideration shall be returned in such a manner as found by the Patent and Market Court of Appeal. In this context, the BML Group has not shown that the company incurred any expenses to be taken into account.

36. There is insufficient support for the assertion that BML Group is to be ordered to pay damages to P.L. for mental suffering.

37. In summary, the judgment of the Patent and Market Court of Appeal shall be modified only in so far as P.L.'s claim for damages for mental suffering is dismissed. Otherwise, the judgment is affirmed.

38. In light of this outcome, BML Group shall compensate P.L. for his costs of litigation incurred in the Supreme Court. The claimed amount is reasonable.

---

Justices of the Supreme Court Dag Mattsson, Eric M. Runesson, Stefan Reimer, Jonas Malmberg (reporting Justice) and Katrin Hollunger Wågnert participated in the ruling.  
Judge referee: Malin Falkmer.