محكمة قطر الدولية
ومركز تسوية المنازعات

QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

Case Digest

January 2023 - June 2023

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FOREWORD

I am delighted to be able to present the first biannual Qatar International Court and Dispute Resolution Centre ('**QICDRC**') Case Digest. The QICDRC is producing – both from the Civil and Commercial Court (the '**Court**') and the Regulatory Tribunal – a significant corpus of jurisprudence in an ever-expanding number of areas. By way of example, at the time of writing in October 2023, the QICDRC in 2023 alone has issued over 25% of the total judgments issued since the very first of the Court's judgments way back in 2009. This significant growth is very pleasing and demonstrates that the QICDRC is seen as an efficient, cost-effective, and just forum at which to litigate disputes.

The QICDRC is going through a program of reform and modernization, and this is one of the key innovations that I hope will help to improve the service that we provide all our court-users, be they lawyers, litigants, or interested observers. This publication will review and summarise a selection of judgments/decisions that have the widest public application. Each case digest will be broken into two parts: "Facts" and "Held". It will be possible for readers quickly to identify the key facts of each case, and, more importantly, what the Court/Regulatory Tribunal decided in each particular case and its reasoning. Helpfully, at the head of every case summary will be keywords to enable readers to scan should they wish to do so. Each edition of this Case Digest will cover the preceding two quarters of the year. The Case Digest will increase openness and transparency with regard to the work of the QICDRC. I ought to note that the case summaries are just those – summaries – they are not the judgments/decisions themselves, and only the judgments/decisions may be relied upon as authority. If there is any inconsistency between the summaries and the judgments themselves, the judgments prevail.

I hope that this Case Digest increases public engagement with the QICDRC, and most of all, is of use to anyone interested in the work of the QICDRC. I also wish to record my thanks to our inaugural Law Clerk, Leyan AlMaqousi and our talented senior marketing professional Omar Ashour, for their superb work in helping put this first edition together.

Umar Azmeh

Registrar, QICDRC

October 2023

Bank Audi Company LLC v Abdulla Ahmed Al-Semaitt [2023] QIC (F) 1

Coram: Justices Lord Hamilton, Fritz Brand, and Ali Malek KC

Date: 23 January 2023

Keywords: Banking; Financial Services; Guarantees; Summary judgment; Service; Exceptional circumstances

Facts

The Claimant Bank had granted a loan to a company called Classical Palace Trading & Decorating ('**Classical Palace**') in 2018. The Defendant in these proceedings had provided a personal guarantee to the Claimant, jointly and severally guaranteeing the payment of all sums owed by Classical Palace to the Claimant. The Bank obtained a judgment in 2020 against Classical Palace under the loan agreement in the sum of QAR 6,477,518.50, along with a pre-judgment interest of OAR 923,046.40 ([2020] QIC (F) 19). Classical Palace failed to satisfy this judgment, and therefore, the Bank commenced proceedings against the Defendant under the personal guarantee.

The Claimant had attempted to serve the Defendant with the papers for the claim by handing them to the Defendant's assistant at the registered business address of his company. The Defendant filed no defence to the claim, and the Claimant applied for summary judgment. The application for summary judgment had been filed by fax. The question for the Court was whether, taking account of the service provisions in article 18.3 of the Court's Regulations and Procedural Rules (the '**Rules**'), service of the Claim Form had been properly made.

Held

There was no evidence that the Defendant's assistant had been authorised to accept service of the Claim Form, and article 18.3 of the Rules did not make any provision for the service of documents to an individual at their place of business. It was clear in this case that the Defendant was attempting to frustrate service of proceedings, and it cannot be in the interests of justice that a person against whom proceedings are sought should be able to frustrate those proceedings by deliberately and persistently obstructing service on him. The Court had the power under article 18.3.5 of the Rules retrospectively to validate non-compliant service. That power would only be exercised in exceptional circumstances. The Court was satisfied that the Defendant must have been made aware of the service of the Claim Form at his place of business, given that he was a director of the company registered at that address, and that he must have also been familiar with the terms of the personal guarantee given that he had signed it.

Against that background, communications had taken place between the Defendant and the Claimant's lawyer on the one hand, and the Registrar and the Defendant's lawyer on the other hand - on each occasion, the subject matter was how the Defendant might be served with the Claim Form. Those communications did not bear fruit. The Court concluded that the Claimant took reasonable, if not exhaustive steps to affect service in accordance with article 18.3.5 of the Rules. In the circumstances of this case, the Court made an order retrospectively validating the non-compliant service of the Claim Form, and the Claimant's summary judgment application succeeded.

Fadi Sabsabi v Devisers Advisory Services LLC [2023] QIC (F) 4

Coram: Justices Her Honour Frances Kirkham CBE, Fritz Brand, and George Arestis

Date: 25 January 2023

Keywords: Costs; Litigants-in-person; Parties not revealing legal representation

Facts

Mr Sabsabi filed an original claim against Devisers Advisory Services LLC ('**Devisers**'), to which Devisers responded with a counterclaim. In the initial proceedings, the Court ruled in favour of Mr Sabsabi, dismissing Devisers's counterclaim. Throughout the proceedings, Mr Sabsabi had not disclosed the presence of legal representation. It was only after the Court's judgment that he submitted invoices from the Sharq Law Firm, revealing his legal representation for the first time. Mr Registrar Christopher Grout assessed and awarded Mr Sabsabi costs totaling QAR 70,000. Devisers filed an application to review the assessment, arguing that (i) no costs should have been awarded, and (ii) in any event, the figure was disproportionate.

Held

The Court carefully examined the Registrar's decision and found several inconsistencies and omissions. One significant lapse was the lack of clear reasoning behind the Registrar's decision to award Mr Sabsabi QAR 70,000. The Court also emphasised that it was incumbent upon parties to disclose their legal representation to allow for an equitable and transparent cost risk assessment during the litigation process. Devisers had operated under the assumption that Mr Sabsabi was not legally represented, thus significantly affecting their risk calculation in regard to legal costs. The Court held that Devisers should not bear the burden of legal costs as the costs were in respect of the Sharq Law Firm and not in respect of any other expenses incurred by Mr Sabsabi as a litigant-in-person. The Court set aside the Registrar's award of QAR 70,000 by way of costs in favour of Mr Sabsabi and ruled that Mr Sabsabi was not entitled to any costs relating to the original litigation or the costs-assessment stage. The First Instance Circuit ordered Mr Sabsabi to pay Devisers QAR 10,000 to cover the costs it itself had incurred before the Court on this review.

Mieczyslaw Dominik Wernikowski v CHM Global LLC [2023] QIC (C) 1

Coram: Mr Registrar Christopher Grout

Date: 2 February 2023

Keywords: Costs; Litigants-in-person; Hourly rates

Facts

The Claimant, a former employee of the Defendant, made a successful claim for unpaid salary in the sum of QAR 33,000. The Appellate Division later refused the Defendant's application for permission to appeal. The Claimant and the Defendant were subsequently unable to agree on what amounted to the Claimant's "*reasonable costs*," particularly in relation to the hourly rate that he was able to claim as a litigant-in-person.

Held

The Court identified that the primary issue was to determine the appropriate compensation for a litigant-in-person for the time spent on their case, "*for raising and pursuing his action.*" The Court's Regulations and Procedural Rules (the '**Rules**') provided no clear method for such calculations. By drawing an analogy with the Civil Procedure Rules in England and Wales (CPR 46.5), the Court acknowledged that a litigant-in-person should be entitled to some form of compensation for their time. The Court deemed it inappropriate to use the Claimant's professional hourly rate or previous employment rate as the basis for this calculation. Instead, considering the local economic environment and similar cases, the Court established an hourly rate of QAR 100.00 (approximately USD 27.00) as fair compensation per hour for a litigant-in-person.

Khadija Al-Marhoon v Ooredoo Group Company [2023] QIC (F) 5

Coram: Justices Fritz Brand, Helen Mountfield KC, and Dr Muna Al-Marzouqi

Date: 15 February 2023

Keywords: Employment, Unfair dismissal; Absence without leave; QFC Employment Regulations 2020; Racial discrimination; Moral damages

Facts

The Claimant, a long-term employee of the Defendant, made a claim alleging wrongful dismissal, racial discrimination, unpaid notice period, and procedural improprieties in her termination process. The Claimant was absent from work without leave for 7 consecutive days, and did not respond to the Defendant's communications to her to justify her absence. The Defendant issued a dismissal letter on 8 December 2021, but backdated the Claimant's termination to 17 October 2021. In the main, the Claimant alleged that she had been unfairly dismissed without notice in the absence of a disciplinary hearing for being absent without leave for more than 7 consecutive days; disciplinary hearings were generally required in the HR Policy unless deemed to be unnecessary, notwithstanding article 24 (i) of the QFC Employment Regulations 2020 which prescribed summary dismissal in those circumstances. The Defendant's HR Policy had not been disclosed to its employees, and this included the Claimant.

Held

The Court found that the Defendant had wrongfully backdated the Claimant's termination without rational justification, and breached procedural requirements under article 15(5) of the QFC Employment Regulations 2020 (the '**Regulations**') as the Defendant ought to have had in place and made known to all its employees a non-discrimination and equality policy as mandated by article 15 of the Regulations. Furthermore, the Court held that the Claimant had been unlawfully dismissed in the absence of a disciplinary hearing, notwithstanding article 24(i) of the Regulations, as the Defendant company had chosen to provide this additional employee protection in its HR Policy, which was incorporated into the Claimant's contract.

However, it dismissed allegations of racial discrimination and found the Claimant's repeated absences were unrelated to any alleged mistreatment. The Court concluded that a fair hearing would most likely have resulted in a dismissal with a three-month notice period. Regarding compensatory damages, the Court ordered the Defendant to pay QAR 494,679.00 for lost wages and notice period, plus 5% annual interest from 14 December 2021. An additional QAR 15,000.00 was awarded in moral damages for the Defendant's failures to consider her grievances and to comply with the requirements of the contract of employment. Lastly, the Court emphasised that the Defendant's

conduct could result in additional regulatory penalties and directed that the Registrar forward the judgment to the QFC Employment Standards Office for potential further enforcement action.

Devisers Advisory Services LLC v Muhammad Zahid [2023] QIC (F) 6

Coram: Justices Sir Bruce Robertson, George Arestis, and Dr Rashid Al-Anezi

Date: 19 February 2023

Keywords: Breach of contract; Specific performance

Facts

The Claimant is an immigration consultancy firm that offers services for people wanting to go to the UK. Devisers entered into an agreement with the Defendant to secure a Tier 1 Entrepreneur Visa for him and his wife. The agreement was made on 3 February 2019, with initial and later payments totaling QAR 40,750.00. The Claimant later changed the visa type to an Innovator Visa, a suggestion accepted by the Defendant. The Defendant complained about the progress of the matter and asked for a refund. Legal proceedings initiated by Devisers aimed to compel the Defendant to supply necessary documents and enforce compliance with the agreement's terms (which, inter alia, noted that once payment had been made, there could be no refunds). In response, the Defendant filed a counterclaim demanding a refund, arguing that most documents had been provided and that no substantial progress had been made in three years.

Held

The Court dismissed Devisers's claims for specific performance, deeming them unjustifiable due to the time-lapse and changed circumstances of the agreement. On the Defendant's counterclaim, the Court noted that both parties had explicit obligations under the original visa agreements and found that Devisers had failed to uphold its responsibilities, particularly considering the lack of evidence from their representative, Mr Nadeem Butt, who had dealt with the Claimant at the relevant time. From the evidence presented, it was evident that the Claimant had an obligation to ensure the implementation of the agreements. However, it failed to do so, and given the unusual circumstances, they should not keep the funds they were paid for achieving this goal. The Court thus granted the Defendant's counterclaim for a refund, ordering Devisers to return QAR 40,750.00 within 14 days, along with 5% annual interest from the judgment date.

Rudolfs Veiss v Prime Financial Solutions LLC [2023] QIC (F) 8

Coram: Justices Lord Hamilton, Fritz Brand, and Helen Mountfield KC

Date: 2 April 2023

Keywords: QFC Companies Regulations 2005; Directors; Indemnities; Criminal prosecution; Regulatory investigations

Facts

The Claimant was an erstwhile employee and director of the Defendant company. During that period, Mr Veiss was subject to regulatory and criminal proceedings arising from allegations concerning his conduct during the time he was with the Defendant, specifically accusations of forgery. He was acquitted of this charge by the Qatari criminal courts. The central issue was concerning article 91 of the Defendant's articles of association (which were the model articles of association in the QFC Companies Regulations 2005), namely whether the Claimant was entitled, by virtue of the Defendant's articles of association or otherwise, to be indemnified by the Defendant from the costs of defending the regulatory and criminal proceedings, including by bringing an appeal against a Qatar Financial Centre Regulatory Authority decision.

Decision

The Court determined that the Claimant was entitled to an indemnity from the Defendant in relation to the criminal proceedings to the extent allowed by article 91 of the Defendant's articles of association. It was emphasised that other QFC regulatory provisions, particularly those related to professional indemnity insurance, were irrelevant to the central issue. The Court noted that article 91 of the articles of association created an indemnity obligation, subject to certain limitations. This was acknowledged by the Defendant. These limitations encompassed the indemnity's application only during the Claimant's directorship, its association with activities relevant to his roles, and its exclusion for cases involving fraud or dishonesty, in line with article 61 of the QFC Companies Regulations 2005. Ultimately, the Court concluded that article 91 entitled the Claimant to an indemnity for defending proceedings connected to his activities during his directorship, except in cases of fraud or dishonesty. Any potential complexities arising from mixed allegations of negligence and fraud were not addressed, as they were irrelevant to the current proceedings. The Claimant was acquitted of an allegation of dishonesty and was therefore entitled to the indemnity. The question of whether the Claimant was entitled to an indemnity in relation to ongoing QFCRA regulatory proceedings was deferred until the conclusion of those proceedings.

John Fredy Garcia Hernandez v The London Language Factory Limited QFC Branch [2023] QIC (F) 13

Coram: Justices Fritz Brand, George Arestis, and Dr Rashid Al-Anezi

Date: 9 April 2023

Keywords: Employment; Breach of contract; Lawful termination; Unlawful termination; QFC Employment Regulations 2020

Facts

The Claimant, a Colombian national, was employed by the Defendant, a UK-registered company with a branch in Qatar. The employment started on 24 November 2021, and was set to continue until 30 June 2023. However, the employment was abruptly terminated due to the Defendant losing business contracts with BAE Systems ('**BAE**') and BEA Systems Strategic Aerospace Services Ltd ('**BSL**'), both of which were terminated without notice. Thus, due to the contract cancellations, the Defendant could no longer offer the Claimant the position for which he was employed, and only offered the Claimant an amount of QAR 3,402.72 as compensation. Thereafter, the Claimant wrote a letter to the Defendant through his legal representative to which the Defendant responded by offering compensation in the sum of QAR 20,416.00, representing his salary between 7 December 2021 and 11 January 2022, with an additional amount in lieu of a two-week notice period. The question for the Court was whether the Defendant was entitled to terminate the employment contract in accordance with the terms of that contract. Two critical clauses in the employment contract came into focus: clause 3, allowing termination if the employee is, "*not capable of carrying out the work for which he has been employed*," and clause 11.4, permitting termination due to specific changes in business conditions.

Held

The Defendant's defence against the Claimant's compensation claim was based on two clauses within the employment contract. First, clause 3 outlined a probationary period of three months during which the employer could terminate the contract with two weeks' written notice if the employee was deemed, "*not capable of carrying out the work for which he has been employed,*". However, this clause did not appear to apply directly to the situation, as the Claimant had not started work, and his termination was not based on a demonstration of incapacity.

Second, the Defendant relied on clause 11.4, which allowed for termination with one month's notice and a single cash allowance of GBP 1,000 under certain circumstances, including changes in the business scope or redundancy. The Defendant argued that the cancellation of contracts for which the Claimant was employed to facilitate language

training to members of the Qatari Armed Forces constituted a change in business scope, resulting in the Claimant's position becoming redundant. The Court agreed with the Defendant's reliance on clause 11.4, stating that the cancellation of the contracts indeed fell within the scope of this clause, justifying the termination of the Claimant's employment contract. Consequently, the Claimant was entitled to one month's notice or salary in lieu thereof, along with the salary owed to him until 12 January 2022.

Justice Dr Rashid Al-Anezi, in his partially dissenting opinion, based his partial dissent on the doctrine of "*clausula rebus sic stantibus*", which only allows for contractual amendments of this nature where there are significant, unforeseeable changes in circumstances. His view was that the termination of the two contracts did not fulfill these criteria and that therefore the Claimant's contract had been unlawfully terminated. The Claimant was therefore also entitled to damages for unlawful dismissal.

A v B [2023] QIC (F) 16

Coram: Justices Dr Rashid Al-Anezi, Ali Malek KC, and Dr Muna Al-Marzouqi

Date: 1 May 2023

Keywords: Arbitration; Jurisdiction; Law No. 2 of 2017.

Facts

The parties entered into a contract, the dispute resolution clause of which was governed by Law No. 2 of 2017, known as the Law of Arbitration in Civil and Commercial Matters (the '**Arbitration Law**'). Neither party was established within the Qatar Financial Centre. In this case, the Claimant highlighted a discrepancy between the Arabic and English versions of Law No. 2 of 2017. The contract provided for a Competent Court in accordance with article 1 of Law No. 2 of 2017:

The Civil and Commercial Arbitration Disputes Division of the Court of Appeal, or the First Instance Chamber Circuit of the Civil and Commercial Court of the Qatar Financial Centre, based on the agreement of the parties.

The key point of contention was a missing comma in the Arabic version of the law, which resulted in a difference in interpretation compared to the unofficial English translation. In the Arabic version, the phrase "*based on the agreement of the parties*" appeared without a comma, whereas the unofficial English translation included the comma. The Claimant argued that this discrepancy meant that neither the Court of Appeal of the State of Qatar nor the Qatar Financial Centre Civil and Commercial Court could be considered the default Competent Court. Therefore, according to their interpretation, the parties had the option to choose the Qatar Financial Centre Civil and Commercial Court as the Competent Court.

Held

The Court determined it could not appoint an arbitrator based on article 1 of the Arbitration Law, which designates the Court of Appeal of the State of Qatar as the default for arbitration issues. Jurisdiction for this Court would require a mutual agreement between parties A and B, which was not present. Thus, the matter falls under the jurisdiction of the Court of Appeal of the State of Qatar.

Arwa Zakaria Ahmed Abu Hamdieh v Lesha Bank LLC [2023] QIC (A) 1

Coram: Lord Thomas of Cwmgiedd, President, and Justices Ali Malek KC and Dr. Muna Al-Marzouqi

Date: 17 May 2023

Keywords: Appellate Division; Employment; QFC Employment Code 2010; No Objection Certificate; QFC Employment Regulations 2020; QFC Immigration Regulations 2006; Sponsorship; Moral Damages; Causation; Judicial Bias; Immigration Law; Labour Law

Facts

The Claimant was employed by the Defendant (the '**Bank**') in Qatar as its head of legal and compliance, along with as its board secretary. On 17 June 2021, the Claimant's employment with the Bank was terminated, and from that date until 22 September 2021, the Claimant served her notice period. She purported to have further employment with a non-QFC company, which would commence after her notice period with the Defendant ended.

On 30 August 2021, the Bank wrote to the Claimant regarding the transfer of her employment, and she replied that she would update them as and when she had updates from her new employer. On 3 September 2021, the Claimant's Qatar Identity Card ('**QID**') expired, and on 22 September 2022, the Bank again wrote to the Claimant seeking an update; the Claimant requested that the Bank send her its Computer Card and Company Registration document. The Bank responded to this request by asking the Claimant for the corresponding documents belonging to her new employer, which the Claimant stated she would send once she received them. She further told the Bank that her transfer to her new employer could not happen with an expired QID and that therefore the Bank should renew that document. The Bank replied that an employment transfer could be done with an expired QID and that they were not responsible for its renewal. This disagreement continued for several weeks.

On 8 November 2021, the Bank wrote to the Claimant to state that she must, by the following day, provide it with clear information concerning her immigration status and, failing that, it would cancel her visa. On 23 November 2021, the Bank again wrote to the Claimant, stating that failing the provision of documentation concerning her transfer, it would cancel her visa. On 16 December 2021, the Claimant wrote to the Bank accusing it of refusing to cooperate in the transfer of her employment and of filing a notice to block her transfer, and asked for a no-objection certificate ('**NoC**'). The Bank denied that it was not cooperating and that it had filed any notice to block her transfer. On 21 December 2021, the Bank stated that the NoC was ready, and sent the Claimant a soft copy on 22 December 2021. In February 2022, the Claimant again asked for the

Computer Card of the Bank along with the NoC. The Bank maintained that it required the new employer's Computer Card to share its own. On 20 February 2022, the Claimant lodged a claim against the Bank.

The Claimant's case was:

i. Although an NoC is no longer a formal legal requirement, as the Bank had lodged an objection to the Claimant's transfer with the Ministry of Labour, an NoC was required.

ii. The Ministry of Labour required the Bank's Computer Card in order to verify the signature on the NoC; the Bank had no right to impose a condition on the provision of its own Computer Card.

iii. It was the Bank's responsibility to renew her QID as sponsorship could only be transferred with a valid QID.

The First Instance Circuit gave summary judgment in favour of the Claimant ([2022] QIC (F) 7), holding, inter alia, (i) that the Bank did owe the Claimant obligations concerning the transfer of her sponsorship and those obligations were based on article 10 of the QFC Employment Code 2010 (the '**Code**'; article 10: "*employers must take all steps necessary to permit their employees, whether sponsored or not, to transfer to another employer in the State*…"); (ii) the Bank should provide its Computer Card to the Ministry of Labour; (iii) the Bank should provide an NoC to the Ministry of Labour; and (iv) the Bank should facilitate the renewal of the Claimant's QID.

Subsequently, following a trial of the matter, the First Instance Circuit held ([2022] QIC (F) 17) inter alia: (i) article 10 of the Code was binding on the Bank; (ii) that the Bank was in culpable breach of its duty under article 10 (failure to renew the Claimant's QID and failure to provide the Computer Card); (iii) causation was established in that had it not been for the Bank's culpable breach, the Claimant would have been able to take up her new employment; and (iv) damages were to be assessed for the salary and benefits that the Claimant would have earned from her new employer during the period of her loss, and as such direct evidence was not available due to confidentiality according to the Claimant (the Claimant stated that her new employer refused to allow her to tender the contract in Court as part of her claim), the Court determined damages on the basis of her former contracts (NB the Bank contended throughout that the Claimant did not in fact have further employment and had fabricated this for the purposes of the litigation). The Court awarded the Claimant QAR 640,000 by way of damages and QAR 50,000 by way of moral damages.

The Bank applied for permission to appeal in respect of both judgments.

Held

The Appellate Division granted the Bank permission to appeal both judgments, allowed the Bank's appeal and set aside the decisions of the First Instance Circuit.

The Appellate Division noted that there were four key issues to decide on appeal:

i. Whether the First Instance Circuit was wrong to grant the application for summary judgment as there were disputes of fact.

ii. Whether the First Instance Circuit was wrong to find that the Bank was in breach of article 10 of the Code.

iii. Whether there was material before the First Instance Circuit that enabled it to award damages for loss of earnings.

iv. Whether the Bank received a fair hearing.

Issue 1

The Appellate Division was of the view that summary judgment was inappropriate in this case as there were disputes of fact that needed to be resolved by oral evidence. The Court should not resolve disputed issues of fact and reject evidence unless it is clear that evidence is manifestly false in the sense of being contrary to contemporary documents or the likely probabilities. This was not the case in this matter.

Issue 2

The Court summarised the position concerning article 10 of the Code: (i) the Code was expressed to be a guideline; (ii) it was drafted in 2010 and reflected practices at the time; (iii) it did not reflect the amendment made to the labour laws in 2020, particularly articles 21 and 39 of the Immigration Law (No. 21 of 2015) and article 65 of the Executive Regulations to the Immigration Law concerning the removal of the NoC requirement when transferring to non-QFC employment; and (iv) the Employment Standards Office Commissioner, who gave unchallenged evidence before the First Instance Circuit, clearly expressed that the Code dealt with procedures prior to 2020.

The Court stressed that, following changes made to the labour laws in 2020, the involvement of the (former) employer in the transfer process is very limited, that the transfer process occurs on a government portal operated by the Ministry of Labour which does not require a valid (unexpired) QID, and that the employee and future employer are those who conduct this process (i.e. the consent of the ex-employer is not necessary when the application for transfer to a non-QFC entity is made through the Ministry of Labour portal. The Court concluded that the First Instance Circuit was therefore wrong to consider article 10 of the Code as a source of current duty on the

part of the Bank. Since 2020, there had been no requirements for an NoC, Computer Card, or a valid QID in the context of a transfer of sponsorship to a non-QFC entity, and therefore the Bank was never in breach of article 10 of the Code interpreted in light of the law as it was after 2020.

Whereas the First Instance Circuit found that, as a matter of law, the Claimant required a valid QID to complete her transfer of sponsorship and therefore the Bank should have renewed her QID, this was mistaken in two respects, namely (i) that the Ministry of Labour never asked the Claimant for a valid QID when she had applied for a transfer of sponsorship, even though she had applied with an expired QID, and (ii) that the responsibility for applying for a QID is with the employee's current or prospective employer and not its former employer. The Bank as a former employer was not entitled lawfully to seek renewal. The second breach by the Bank under article 10 found by the First Instance Circuit was a failure to provide its Computer Card, and this related to verifying the signature on the NoC. Under the reforms enacted in 2020, an NoC is no longer required, and therefore there is no requirement for the provision of a Computer Card.

Issue 3

The Bank's challenge concerning damages raised the issues of whether the First Instance Circuit was correct to award damages for loss of earnings and moral damages. On the first point, there was an important point of principle because the Claimant had no claim for damages at all given that she was unable to provide any evidence to support this head of loss (i.e. a contract with her new employer; again noting that the Bank disputed that there was any new employer in the first place). The Court reached the figure of QAR 640,000 for loss of earnings relying on salaries of the Claimant's previous employments. The First Instance Circuit did not apply any recognised measure of damage calculation and based its figure on a discretionary and uncertain approach to damages. The Court has no power to exercise distributive justice and if damages cannot be proved, only nominal damages will normally be awarded for breach of contract.

Issue 4

The Court also examined the final head of the Bank's appeal, namely that it did not receive a fair and impartial hearing, and that there was a degree of bias in the First Instance Circuit's decisions.

The Court held that allegations of bias are serious and should only be made where there is positive and cogent evidence to support them; and that they should be brought promptly and to the attention of the Court as soon as grounds for the application are known. Having examined the transcript, the Court held that the allegations were

without foundation and were meritless, and that they should not have been made. The Court further noted that there are duties upon advocates appearing before this Court and that lawyers owe special duties to the Court that override duties to their clients, which involve assisting the Court to reach the right result in each case, even where that assistance may be against their own client's case.

Jean-Marc Mantegani v Qatar Financial Centre Regulatory Authority [2023] QIC (RT) 1

Coram: Sir William Blair, Chairman, and Justices Sean Hagan and Dr Muna Al-Marzouqi

Date: 17 May 2023

Keywords: Regulatory Tribunal; Anti-money laundering; Counter financing of terrorism; Anti-Money Laundering and Combating Terrorist Financing Rules 2019; MLROs; Customer due diligence

Facts

The case involved Jean-Marc Mantegani, who served as the Money Laundering Reporting Officer ('**MLRO**'), Chief Operations Officer, and Head of Compliance at Horizon Crescent Wealth LLC ('**HCW**'). Mr Mantegani was charged with multiple counts of failing to meet Anti-Money Laundering and Counter Financing of Terrorism ('**AML/CFT**') requirements. As a result, the Qatar Financial Centre Regulatory Authority ('**QFCRA**') imposed a financial penalty on him and prohibited him from any future roles within the QFC indefinitely. Mr Mantegani appealed this decision, arguing that he did not contravene any AML/CFT requirements. He further claimed that the former CEO of HCW, who he said acted as the "*acting MLRO*," should be held responsible. Additionally, he cited article 209 of the Qatar Civil Code, arguing for HCW's exclusive liability to the QFCRA, and claimed financial hardship.

Held

The Regulatory Tribunal upheld the decision made by the QFCRA. The Tribunal noted that the Appellant did not dispute the facts presented in the Decision Notice regarding HCW's AML/CFT deficiencies, but instead focused on his role. The Appellant admitted to relying entirely on the former CEO for AML/CFT matters, including customer due diligence and risk assessments. He also claimed ignorance of AML/CFT issues due to his lack of a compliance background. The Tribunal emphasized that the Appellant's role as MLRO carried personal responsibilities and that he could not delegate these responsibilities to others. The Appellant cited article 209 of the Qatar Civil Code, which he believed absolved him of liability. The Tribunal clarified that this provision was not applicable to this case, as the QFC laws took precedence over it and that it pertained only to civil liability between employees and employers and not to regulatory responsibility under QFC Law No. 7 of 2005. They also cited AML/CFTR 1.2.1 and AML/CFTR 2.2.2, which impose personal responsibility on senior management for ensuring compliance with AML/CFT requirements.

The Tribunal found that Mr Mantegani's claim of financial hardship was not backed by verifiable evidence. It concluded that the penalties were justified given his lack of

competence and poor judgement in AML/CFT compliance. Hence, the Tribunal agreed with the Respondent that the Appellant failed to ensure HCW's compliance with AML/CFT requirements. The Tribunal imposed penalties of an indefinite prohibition on future functions within the QFC and a financial penalty of USD 300,000.00, considering the seriousness of AML/CFT deficiencies, the Appellant's lack of competence and judgement, and the need for deterrence.

Bank Audi LLC v Al-Fardan Investment Company LLC and others
[2023] QIC (C) 4

Coram: Mr Registrar Umar Azmeh

Date: 8 June 2023

Keywords: Costs assessment; Costs; Reasonableness; Standard basis; Indemnity costs

Facts

In December 2016, the Third Defendant and the Claimant's General Manager had a meeting in Doha. During this interaction, they discussed an investment opportunity extended by Banque du Liban, which the Bank Audi Group was proposing to various of its clients. This prospective investment, at its core, involved a deposit of USD 20m (the '**Investment**'), which would be transferred in foreign currency from outside Lebanon.

The crux of the dispute emerged when the Third Defendant found himself unable to deal with the Investment precisely in accordance with his wishes. As a result, he lodged claims against the Claimant, asserting that it had breached the contract by not refunding him the Investment and further accused the Claimant of negligent misstatement. The Court did not find merit in any of the Third Defendant's claims against the Claimant. This culminated in the judgment dated 24 November 2022 ([2022] QIC (F) 20), which dismissed the Third Defendant's claims and stipulated that he should bear the costs incurred by the Claimant. This amount, if not mutually agreed upon by the parties, was to be assessed by the Registrar.

Held

In the costs assessment, the Claimant sought costs on an indemnity basis, which the Third Defendant challenged based on the absence of such a provision in the Court's Regulations and Procedural Rules. The Court clarified its discretion to determine appropriate costs. Reference was made to the UK's Civil Procedure Rules to elucidate the terms "*standard*" and "*indemnity*" costs, emphasising that costs must be reasonable. Indemnity costs are typically awarded in situations of legal misconduct, such as unreasonable conduct or pursuing baseless claims. Although the Third Defendant was unsuccessful in all claims, this did not warrant indemnity costs due to the absence of overtly unreasonable conduct. The Registrar, after his review, made various deductions, and determined the Claimant's reasonable costs to be QAR 1,145,472.26. The Third Defendant was ordered to pay this sum within 14 days.

Manan Jain v Devisers Advisory Services LLC QIC (F) 27

Coram: Justices Dr Rashid Al-Anezi, Fritz Brand, and Yongjian Zhang

Date: 11 June 2023

Keywords: Small Claims Track; Breach of contract; QFC Contract Regulations 2005; Force Majeure; Mistake

Facts

Manan Jain, an Indian national living in Qatar, hired Devisers Advisory Services LLC ('**Devisers**') to assist his wife in acquiring a UK Entrepreneur Visa. For this service, Mr Jain paid an upfront fee of QAR 33,000. Shortly thereafter, it was discovered that Mr Jain's wife could not move to the UK due to medical reasons. Mr Jain then sought a refund of the fee, which Devisers refused, citing clauses in the contract that stipulated that the fee was non-refundable. The key legal issues concerned whether the contract could be voided due to a "*mistake*" as per article 33 of the QFC Contract Regulations 2005, and whether the situation could qualify as "*force majeure*" under article 94 of the same Regulations.

Held

The Court ruled in favour of Mr Jain, highlighting that there was a genuine mistake regarding the possibility of performance under the contract. This mistake arose from an unanticipated obstacle – his wife's medical condition, which made her migration to the UK unfeasible. Although the contract's terms were technically executable, the real-world implications meant that its intended purpose (securing a beneficial visa for his wife) was practically impossible, thus meeting the requirement of the definition of "force majeure", as stipulated in article 84 of the QFC Contract Regulation 2005, where circumstances beyond one's control render the contract's fulfilment untenable. The Court also observed that, by the time Mr Jain sought to nullify the contract, Devisers had not yet undertaken any significant action towards its execution. Using the aforementioned rationale and drawing upon the principles of both 'mistake' and 'force majeure' from the QFC Contract Regulations 2005, the Court decided that the contract should be voided. Consequently, Devisers was directed to reimburse Mr Jain the sum of QAR 33,000 within 14 days from the date of the judgment.

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