



محكمة قطر الدولية
ومركز تسوية المنازعات
QATAR INTERNATIONAL COURT
AND DISPUTE RESOLUTION CENTRE

**In the name of His Highness Sheikh Tamim Bin Hamad Al Thani,
Emir of the State of Qatar**

[2022] QIC (A) 4 (on appeal from [2022] QIC (F) 5)

IN THE QATAR INTERNATIONAL COURT

APPELLATE DIVISION

Case No. CTAD0002/2022 (on appeal from Case No. CTFIC 00019/2021)

Date: 22 June 2022

Between:

FADI SABSABI

Claimant/ Respondent

v

DEVISERS ADVISORY SERVICES LLC

Defendant/Applicant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Helen Mountfield QC

Justice Ali Malek QC

ORDER ON PERMISSION TO APPEAL

1. Permission to appeal against the judgment of the First Instance Circuit of the Qatar International Court is refused.

JUDGMENT

1. In a written Application made on 12 May 2022, the Applicant sought permission to appeal from the judgment of the First Instance Circuit (Justice Frances Kirkham, Justice George Arestis and Justice Fritz Brand) given on 12 April 2022, [2022] QIC (F) 5.
2. The First Instance Circuit found that the Applicant (a company incorporated in the Qatar Financial Centre and licensed to render professional consulting services relating to visa applications) had made a representation in Qatar to the Respondent as to the length of the residency requirements in the United Kingdom which were required if the Respondent and his family would be entitled to apply for United Kingdom citizenship. The representation was made by two employees, Mr Nadeem and Mr Luqman. In reliance on the representation the Respondent had entered into a written agreement with the Applicant dated 16 December 2019 (“the Agreement”) under which he agreed to pay them QAR 75,000 for services relating to a United Kingdom visa application. When the Respondent discovered that the representation was untrue, he set aside the Agreement. He was entitled to do so as the representation made prior to the making of the Agreement was material, untrue and misleading. The Court held that the Respondent was entitled to set aside the Agreement, to recover the sum of QAR 65,000 which he had paid under the Agreement and to recover the expenses of U.S. \$3,177 and U.S. \$6,372 which he had incurred. The counterclaim made by the Applicant for the balance of the sum due under the Agreement was dismissed. The Applicant was ordered to pay the Respondent the reasonable costs of the proceedings to be assessed by the Registrar if not agreed. At the trial neither party was legally represented. The jurisdiction of the Court was not in dispute.

3. The Applicant, on the basis of submissions made by legal representatives, sought permission to appeal against the judgment of the First Instance Circuit on two grounds:

(1) The Court had in effect reversed the burden of proof when finding that a representation had been made and was untrue. The Applicant had not made a representation; it had expressed an opinion. There had been no evidence as to the length of the residency required by UK law and therefore nothing to show that the statement, if an opinion had been negligent, or, if a representation, had been untrue.

(2) The Court had acted with procedural unfairness as it had wrongly permitted the Respondent to adduce the evidence of a witness, Mr Kamal Fadlelmola, on which the Court had subsequently relied.

The Applicant also sought a stay of execution.

4. In its written application the Applicant requested an oral hearing of this application on the basis that “the matter relates to complex issues of a legal and factual nature”. We disagree and note that the Applicant in its attached Notice of Appeal requested permission to appeal on paper. It is appropriate and proportionate to deal with the matter on paper.

5. In our judgement there are no substantial ground for considering that the judgment of the First Instance Circuit was erroneous, nor is there a significant risk that the judgment would result in serious injustice, as set out in Article 35 (2) of the Qatar Financial Centre Civil and Commercial Court Regulations and Procedural Rules and paragraph 27 of *Leonardo v Doha Bank Assurance Company* [2020] QIC (A) 1.

Ground 1

6. It is evident from the First Instance Circuit’s judgment that it carefully considered the evidence adduced by the Respondent. It comprised some documentation and the oral evidence of the Respondent and Mr Kamal Fadlelmola. The First Instance Circuit found that the Respondent was a credible witness and that the account of what he had been

told by the Applicant in Qatar as to the length of the residency requirements was borne out by an email and WhatsApp messages sent by the Respondent to which the Applicant had not replied. The Applicant had not called any evidence to rebut the evidence of the Respondent as to what he had been told as to the length of the residency requirements. There is no material before us to show that the decision of the First Instance Circuit was in any way erroneous in the findings it made as to what the Respondent was told and in the finding it made that it was a clear representation as to the length of the residency requirements in the UK.

7. The Respondent also gave evidence as to what he had subsequently been told by an employee of the Applicant in London as to the length of the residency required in the UK; this showed that the representation made to him in Qatar prior to the making of the agreement was incorrect. He also gave evidence that he had been told by a lawyer in London that the representation made to him by the Applicant in Qatar was incorrect. The Applicant called no evidence to contradict that evidence.
8. Although the First Instance Circuit made clear that there was no evidence as to what the length of the residency requirement in the UK actually was, the evidence given by the Respondent that the representation made to him by the Applicant in Qatar was materially incorrect was not contradicted by any evidence called by the Applicant. In our judgement the court was in the circumstances entitled to make the findings it did in relation to the untruth of the representation on the evidence before it. In the light of the evidence adduced by the Respondent, the Applicant could have called evidence from Mr Nadeem who was still in the Applicant's employment. It chose not to do so. Therefore there was no evidence to contradict the evidence adduced by the Respondent which the First Instance Circuit held was credible. In summary we see no basis for contending that the decision below was wrong.

Ground 2

9. The Applicant contended that the First Instance Circuit should not have permitted the Respondent to adduce the evidence of Mr Fadlilmola as the Respondent had not complied properly with the directions of the court as to the service of witness statements and those directions had not been varied. The First Instance Circuit should therefore

have upheld the objection made by the Applicant and not permitted the evidence of Mr Fadlelmola to be adduced.

10. We see no basis on which it can be contended that the First Instance Circuit was not entitled in the exercise of its discretion to allow the Respondent to adduce the evidence, even if there had been a failure to comply fully with the directions made. The Appellate Division of the Court will not interfere with a case management decision of this nature unless plainly wrong in the sense of being outside the ambit of where reasonable decision makers might disagree. The Applicant had a full opportunity to challenge that evidence. There was nothing that began to show that there was any unfairness. Furthermore, as the First Instance Circuit found that the Respondent was an honest witness and his account was supported by the documentation referred to at paragraph 6 above, even if this ground of appeal had any merit (contrary to our view), then it would have made no difference to our decision. There was sufficient other evidence as we have set out, that made it clear that there was no basis on which the decision of the First Instance Circuit could be said to be wrong.

Conclusion

11. The application for permission to appeal against the decision of the First Instance Circuit is accordingly refused. Therefore there is also no basis to stay the execution of the decision of the First Instance Circuit.

By the Court,

[signed]

Lord Thomas of Cwmgiedd
President



A signed copy of this judgment has been filed with the Registry

Representation:

The Defendant / Applicant was represented by Eversheds Sutherland (International) LLP, QFC, Doha, Qatar.

The Claimant / Respondent represented himself.