



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

Neutral Citation: [2023] QIC (A) 7

IN THE QATAR FINANCIAL CENTRE
CIVIL AND COMMERCIAL COURT
APPELLATE DIVISION

[On appeal from [2022] QIC (F) 7 & [2022] QIC (F) 17]

Date: 30 July 2023

CASE NO: CTFIC0007/2022

ARWA ZAKARIA AHMED ABU HAMDIEH

Claimant/Respondent

v

LESHA BANK LLC

Defendant/Appellant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Ali Malek KC

Justice Dr Muna Al-Marzouqi

Order

1. The Respondent shall pay the Appellant QAR 270,400 within 28 days of this Order.

Judgment

Introduction

1. On 17 May 2023, we allowed an appeal by the Appellant (the '**Bank**') against judgments given by the First Instance Circuit ([2022] QIC (F) 7 and [2022] QIC (F) 17) in favour of the Respondent ('**Ms Hamdieh**') and set both judgments aside. Our order ([2023] QIC (A) 1) also provided that the Court would give directions in relation to the assessment of costs both in this Court and before the First Instance Circuit. In an Order dated 17 May 2023 we directed that the Bank should be awarded its costs reasonably incurred before the First Instance Court and this Court.
2. In accordance with our directions, written submissions were served sequentially by the parties with the Bank serving a short response.
3. The Bank claimed QAR 351,575.50 by way of costs comprised of the following:
 - i. QAR 67,500 incurred in the First Instance Proceedings when the Hamad Alyafei Law Firm ('**Al Yafei**') had represented the Bank between 20 February 2022 and 25 May 2022.
 - ii. QAR 112,575.50 between 25 May 2022 and the conclusion of the proceedings before the First Instance Circuit when Badri and Salim El Meouchi LLP ('**Badri**') represented the Bank.
 - iii. QAR 135,000 for the appellate proceedings before this Court.
 - iv. QAR 36,500 in respect of the assessment of costs.
4. The applicable principles are set out in article 33 of the Regulations and Procedural Rules of the Court (the '**Rules**') and in number of reported costs assessments including

Daman Health Insurance (Qatar) LLC v Hammad Shawabkeh [2017] QIC (C) 1. In the context of these proceedings, we will consider in particular proportionality, the conduct of the parties, the extent of the success of the party claiming costs, the amount involved, the importance of the case to the parties and the complexity of the issues. No party is entitled to recover more than has in fact been paid to the relevant lawyers.

5. We will consider each of the four claims in turn as Ms Hamdieh contests each.

The costs in respect of instructing Al Yafei before the First Instance Circuit

6. The claim was contested on the basis that the work was done under a retainer, the amounts were not apportioned correctly, the necessary documents had not been provided, and there was no proof the Bank had paid Al Yafei.

7. The findings of fact we make are:

- i. The fees incurred until 28 February 2022 were incurred under a retainer dated 11 March 2021 at a monthly fee of QAR 40,000 and after 1 March 2022 under a retainer dated 27 April 2022 (but signed on 17 May 2022) at a monthly fee of QAR 45,000. The monthly fee covered all expenses and court fees. The 2021 retainer covered any civil and criminal case filed in the name of the Bank and against the Bank up to 25 lawsuits per month; if there were more than 25 lawsuits, then an amount of QAR “1,800 monthly per additional lawsuit” would be charged. The 2022 retainer covered the cases the firm was handling under the 2021 retainer and 10 new cases.
- ii. Annexed to the 2021 retainer were the firm’s standard conditions which provided that a letter of engagement was to be provided for each case and that applicable hourly charging rates would be applied. The 2022 retainer made provision for hourly rates which included an hourly rate per partner of QAR 2,100 and for an associate of QAR 1,450 per hour; the managing partner and senior associates were charged at a higher rate. It appears that these rates were for work not covered by the retainer.

- iii. The fees paid to the firm by the Bank for the cases handled by Al Yafei for the relevant months were: QAR 40,000 for February 2022 and QAR 45,000 for March, April and May 2022, together with further relatively small amounts for other work.
8. The contentions of the parties in relation to the apportionment of the work done under the retainer can be summarised:
 - i. The Bank contended that it should be entitled to recover by way of costs half of the 2022 retainer fee for 3 months as the case had occupied 50% of the firm's time during that 3 month period when the firm had 12 other cases on going for the Bank.
 - ii. Ms Hamdieh contended that the fee that the Bank was entitled to recover should be based on the monthly fee per case handed and the work should not be charged after 24 April 2022 as the last work handled by the firm was 24 April 2022. Calculated in this way, the amount which should be allowed for costs, taking the 2021 retainer into account, was QAR 4,000. Ms Hamdieh also queried the amount paid by the Bank in respect of the fees.
9. We have not been provided with any information about the hours worked. From the court records, it must have included seeking information from the Bank about the claim made on 20 February 2022 by Ms Hamdieh, her summary judgment application made on 24 February 2022, drafting the response to the application (7 March 2022), the statement of defence (21 March 2022), the short submission to the Court in response to the directions made by the Court on 6 April 2022, attendance at the hearing on 25 April 2022, and receipt of the judgment on 12 May 2022.
10. We have not been provided with any information as to the way in which Al Yafei apportioned the time between the various cases in which that firm represented the Bank or the details of the other cases.

11. It is well known that a Bank often distributes its litigation work on the basis of highly competitive fees which take into account the likelihood that most of the cases will be straightforward and the expectation of the firm undertaking the litigation work that it will receive significant non-contentious work. No provision was made in the retainer for more difficult cases. It does not appear to us that the difficulties in the claim were realised during the time Al Yafei were engaged. In the circumstances we must proceed on the basis that the fee which the Bank was charged for this case was the standard fee for the cases covered by the retainer which we will take to be the additional fee for cases over 25 per month – QAR 1,800. We will apply this for 3 months. We have little doubt that Al Yafei spent much more time on the case than such a fee would indicate, but as the agreement in the retainer gave the Bank such an advantageous rate and the Bank cannot recover more than it has contractually agreed to pay, Ms Hamdieh has the benefit of this.

12. We therefore order that the Bank be paid by way of costs **QAR 5,400** for the work done by Al Yafei.

The costs in respect of instructing Badri before the First Instance Circuit

13. The claim for the work done by Badri before the First Instance Circuit was contested on the basis that the documentation did not prove the amount due or the amounts which had been paid, that the case was not complex, and far more lawyers in the firm were engaged than was necessary. Ms Hamdieh submitted that a total of 80-100 hours was all that was necessary for the First Instance and Appellate hearing and this should be paid for at the rate of QAR 360 per hour.

14. The findings of fact we make are:

- i. Badri were engaged on terms set out in an email of 25 May 2022 for a lump sum fee of QAR 65,000 exclusive of expenses. The scope of the work covered by the lump sum fee was defined by reference to an email quotation dated 24 May 2022 (which quoted a much higher fee). That email set out hourly rates for partners at QAR 1,250, and associates and junior associates at QAR 600. The scope of the work included seeking

permission to appeal from the judgment given on 12 May 2022, and other work up to the hearing on 27 June 2022.

- ii. Badri provided an invoice which showed that, in part of the period covered by the lump sum fee, nine fee earners had worked on the case for a total of 180.17 hours for which a charge was made and a total of 68.49 hours for which no charge was made. Applying the agreed charging rates for the hours which were charged, the total amount would have been QAR 128,111.50 which was discounted by 66.43% to reach the amount of the lump sum fee of QAR 65,000. There was also included within this lump sum fee 248.66 hours which at the specified hourly rates amounted to QAR 193,110.50.
- iii. After the hearing before the First Instance Circuit on 27-28 June 2022 and the filing of an application for permission to appeal on 4 July 2022, Badri were subsequently engaged under further terms set out in an email of 8 July 2022 which provided:

Having completed the scope of work as defined in our fee quotation of 24 May 2022 (the "fee quotation") we thought it would be useful to agree on our fees for the next step if the proceedings. In this respect we suggest charging any upcoming and subsequent work from now on a time spent basis (subject to the general terms and condition of our firms fees as are detailed here in) once the judgement is issued and we have better visibility as to the expected scope of work, we may of course then provide you with a specific fee quotation for such scope.

The hourly rates were the same as those set out in the email of 24 May 2022, which were said to be a 40-50% reduction on the usual hourly rates.

- iv. Three fee notes totalling QAR 47,575.50 were submitted for the period of the engagement under the email of 8 July 2022: (i) QAR 10,637.50 (for the period 18 to 19 July 2022), (ii) QAR 13,200.50 (for the period 5 August to 31 August 2022), and (iii) QAR 23,737.50 (for the period 1 to 30 September 2022).

- v. The Bank paid the fees under the agreement for a lump sum fee of 25 May 2022, and the subsequent three invoices.

15. Some allowance has to be made for the hours initially worked in Badri familiarising themselves with the on-going case; that would not be an amount recoverable by way of costs. However, even making this allowance, we have no doubt that the hours which we consider reasonable and appropriate for a case of this importance and complexity and which were worked under the retainer of 25 May 2022 were far greater than the amount covered by the lump sum fee. The Bank had negotiated a very favourable fee. It is entitled to full recovery of costs in the sum **QAR 65,000**.

16. The fee charged for the period 8 July 2022 to 30 September 2022 was for a period during which the parties were waiting for the second judgment which was given on 25 September 2022. However, work was necessary in relation to an application for a stay of the first judgment, dealing with the renewal of Ms Hamdieh's QID, and after 25 September 2022 in considering the judgment. The rates the Bank had negotiated were reasonable for a case of this importance to the parties and of the complexity then appreciated. We consider therefore that the amount that should be recovered by way of costs for July, August and September 2022 is an additional **QAR 35,000**.

17. We therefore consider the amount that should be awarded to cover Badri's fees in relation to the First Instance Circuit should be a total of **QAR 100,000**.

The costs in respect of instructing Badri to bring the appeal before the Appellate Division

18. The claim for the costs incurred in bringing and conducting the appeal were contested on the same basis as that we have summarised under the claim for the fees in respect of the hearing before the First Instance Circuit.

19. The findings of fact we make are:

- i. On 25 September 2022, the First Instance Circuit gave its second judgment. On 26 September 2022 Badri agreed to seek a stay, seek

permission to appeal and to conduct the hearing of the appeal on a time spent basis at the rates previously agreed up to a cap of QAR 135,000.

- ii. The fee notes show that the time spent on the work on the appeal was vast; for example, in the period from 1 February 2023 to 2 April 2023, over 600 hours were spent which at the charging rates set out exceeded QAR 600,000.
- iii. The amounts were paid by the Bank to Badri.

20. We have again no doubt that the hours which we consider reasonable and which were worked under this agreement were far greater than the amount covered by the cap. A notable portion of the time spent was spent because of the way in which Ms Hamdieh conducted the litigation particularly in relation to the arrangements for the appeal. Although the Bank did not succeed on all the issues it raised, it succeeded on the main issues. Looking at the history of the appeal and the way it developed, the Bank had in fact negotiated a cap that was in the result very favourable to it. It is entitled to full recovery of **QAR 135,000** by way of costs.

The costs in respect of instructing Badri for the assessment of costs

21. The claim for the costs of the costs assessment was contested on the basis that the Bank was not entitled to recover legal fees for costs assessments and the amount claimed was excessive.

22. We make the following findings of fact:

- i. On 25 May 2023, it was agreed that Badri would put forward their submissions for a costs assessment for the Bank on an all-inclusive fee of QAR 36,500, excluding attendance before the Court and on the understanding that there would be only email exchanges with Ms Hamdieh; the agreement noted that this was charged on the same hourly rates as set out in the earlier agreements, which were 40-50% below their usual rates.

- ii. Fee notes for the period from 17 May 2023 to 31 May 2023 which showed that 42.09 hours had been spent which amounted at the agreed rates to QAR 45,325. The Bank paid the all-inclusive fee.
- iii. We have not been provided with the fee notes for the time spent in replying to the submission of Ms Hamdieh.

23. The preparation of the submission on costs was thorough and detailed. Experience of the way in which Ms Hamdieh contested matters had shown that this was necessary. The response to Ms Hamdieh's submission required further work. We consider that an award of **QAR 30,000** by way of costs is appropriate.

Conclusion

24. We therefore have concluded that the Bank is entitled to its costs in the sum of **QAR 270,400**. The Bank asked that the costs be paid within 10 days. We consider that 28 days is more reasonable and we so direct.

By the Court,



[signed]

Lord Thomas of Cwmgiedd, President

A signed copy of this Judgment has been filed with the Registry.

Representation

The Claimant was self-represented.

The Defendant was represented by Ms Chadia El-Meouchi, Ms Carrine Farran and Ms Grace Alam (Badri and Salim El Meouchi Law Firm LLP, Beirut, Lebanon).