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

IN THE CIVIL AND COMMERCIAL COURT
OF THE QATAR FINANCIAL CENTRE
APPELLATE DIVISION

6 December 2018

CASE No: 12 of 2018

NETWORKS ELECTRICAL AND MECHANICAL CONTRACTING COMPANY

Applicant

v

TAKAFUL INTERNATIONAL COMPANY (QATAR BRANCH)

Respondent

JUDGMENT

Before:
Lord Thomas of Cwmgiedd, President
Justice Frances Kirkham
Justice Arthur Hamilton

ORDER

1. The Application seeking Permission to Appeal is refused.

JUDGMENT

1. The Applicant seeks permission in a written application made on 30 September 2018 to appeal from part of the judgment of the First Instance Circuit of the Court (Justice Robertson, Justice Arestis, Justice Blair) given on 12 August 2018. In that part the Court dismissed the claim of the Applicant for QAR 3,000,000 in respect of the Respondent's alleged failure to renew the Contractors All Risks policy of insurance (CAR policy) which the Applicant had obtained from the Respondent.

2. The CAR policy was in respect of a contract the Applicant had made with the Qatar General Electricity and Water Corporation (KAHRAMAA). It ran for the period 20 August 2014 to 19 August 2017. The policy expressly provided:

> *"any extensions of the period of insurance are subject to the prior written consent of the insurers"*

3. KAHRAMAA extended the contract with the Applicant subsequent to the expiry of the policy. The Applicant then requested on 30 August 2017 that the Respondent extend the policy. The Respondent declined to do so; it had in January 2017 decided to cease doing insurance business in Qatar.

4. The Applicant contended that the failure to renew put it in breach of its contract with KAHRAMAA which required a CAR policy to be held by it for the extension period. It contended that it was entitled to compensation from the Respondent on the basis of the Respondent's negligence and other breaches of duty in ignoring policy renewal requests and failing to inform the Applicant that it had ceased to do business in Qatar in January 2017. The contention has been advanced in three different ways.

5. The first way, as advanced in the claim, was that the Applicant was entitled to compensation for the failure to renew, such damages being calculated by reference to the price of the CAR policy or the contract price with KAHRAMAA. At the hearing before the First Instance Circuit of the Court, the Applicant stated that it could not pursue the claim for QAR 3,000,000 in this way.

6. A second way was then advanced at the hearing. It was contended that the Applicant should be entitled to some compensation for the Respondent's failure to notify the Applicant in advance of its withdrawal from providing insurance in Qatar so that it could obtain a CAR policy in respect of the contract with KAHRAMAA.

7. The First Instance Circuit of the Court decided that this way of advancing the claim had no legal or practical basis. The primary ground upon which the Court decided the issue was that the Respondent was not by the express terms of the policy bound to renew the CAR policy. The Court also held that there was no evidence before the Vourt that the Applicant had been unable to obtain substitute insurance by reason of the Respondent's failure to give advance notice that it was ceasing to do business in Qatar. There appears to be no challenge to the correctness of this part of the Court's decision, but even if there had been, it would fail as it is difficult to discern any basis on which it could be argued that the decision was wrong.

8. In the Application for Permission to Appeal, the Applicant advances a third way for contending it is entitled to compensation. It contends that it is a "rule" in the insurance market that the insurer which had issued a CAR policy should continue to provide the insured under the CAR with insurance from the date of the project start until the contract was fully performed, including any extension period. It is argued that the Respondent must either extend the existing CAR policy or, if it cannot, provide a CAR policy through new insurers. The Applicant also contends that it has been unable to find replacement cover; that it could not have sought renewal until KAHRAMAA had extended the contract. It seeks permission to adduce evidence to support this way of advancing the claim.

9. The Applicant has not submitted any statement or report setting out the evidence that it seeks to adduce to show there was such a "rule" in the insurance market; nor does it put

forward any explanation as to why such evidence was not put before the First Instance Circuit of the Court. Nor has the Applicant attempted to explain or quantify any loss it has suffered. In those circumstances, this third way of advancing the claim is not supported by any material that would enable the appeal to be advanced. There is therefore no reasonable prospect that the appeal would succeed. The application for permission is refused.

10. There is another reason why there would in any event be no reasonable prospect that the appeal would succeed. The terms of the CAR policy granted to the Applicant were clear; the Respondent was not under any obligation to renew the CAR policy. If the Applicant had wanted to provide for an extension period, it was open to the Applicant to have negotiated a contract which would have provided for that. Any "rule" in the market would have been overridden by the express term of the CAR policy which the Applicant agreed when it took out the policy.

By the Court,

Lord Thomas of Cwmgiedd
President

Representation:
The Applicant was represented by Mr Ahmad Osman.
The Respondent was represented by Mr Majid Nasser and Mr Ahmed Rabah.
The Application for Permission to Appeal was determined on the papers.

DIGITALLY SIGNED AND VERIFIED
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