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: [2020] QIC (F) 15

IN THE CIVIL AND COMMERCIAL COURT

OF THE QATAR FINANCIAL CENTRE

FIRST INSTANCE CIRCUIT

1 November 2020

CASE No. 2 of 2020

BETWEEN:

DENTONS & CO (QFC BRANCH)

Claimant

v

BIN OMRAN TRADING & CONTRACTING LLC

Defendant

JUDGMENT

(Concerning interest)

Before:

Justice Bruce Robertson

Justice Frances Kirkham

Justice George Arestis

ORDER

1. The Claimant is awarded pre-judgment interest at a rate of 5% in the sum of QAR 4,448.00 which the Defendant is liable to pay to it within 14 days of the date of this judgment.

2. The Claimant's claim for post-judgment interest is refused.

JUDGMENT

1. As set out in the judgment of the Court dated 25 June 2020 in these proceedings, the Claimant is a law firm operating in Qatar. Pursuant to an agreement between the Claimant and the Defendant the Claimant provided legal services to the Defendant. They invoiced the Defendant on 29 June 2017 for the sum of US$ 65,020. In September 2017, the Defendant paid US$ 32,150 towards that sum but had not paid the balance prior to the issue of these proceedings.

2. The Claimant issued these proceedings in May 2020 claiming payment of the balance of its fees, interest and costs. It issued an application for summary judgment. As regards that application, the Court's order of 25 June 2020 required the Defendant to pay (1) the Claimant the sum of QAR 118,625 within 14 days of the date of the order, and (2) the Claimant's costs in relation to its claim for the principal sum of QAR 118,625, to be assessed by the Registrar if not agreed.

3. In early September 2020 the Registrar assessed the Claimant's costs and awarded the sum of QAR 10,976.42. The Claimant then filed an enforcement application, following which it recovered the principal sum awarded by the Court in June and the costs awarded in September.

4. The Claimant also claimed interest on the amount of the unpaid fees, at the rate of 15% from 16 August 2017 until judgment, plus interest on the judgment sum, at the rate of 5%, from date of judgment until payment. In the judgment of 25 June 2020 the Court referred to the Claimant's claims for interest and stated as follows:

a. *The claim for pre-judgment interest is for a substantial sum, given the high rate of interest claimed and the period for which that claim is made. It is not in the interests of justice that summary judgment be granted in respect of this part of the Claimant's claim. The Court would need to consider the factual and legal basis for the claim for pre-judgment interest.*

b. *The Claimant also claims interest at 5% per annum on the judgment sum from the date of judgment until the date of payment. The Court is not persuaded that this claim is one which can be fairly considered on an application for summary judgment and to which the Defendant has not responded in any way. As with the claim for pre-judgment interest, the Court would need to consider the factual and legal basis for the claim for post-judgment interest.*

c. *The Claimant may need to make further submissions as regards pre-judgment and post-judgment interest if it wishes to pursue these matters.*

5. In respect of the Claimant's claim for interest, the Claimant filed submissions on 10 September and 6 October 2020. The Defendant filed its submission on 20 October 2020.

6. This judgment deals with the Claimant's claims for interest.

7. In its submission the Defendant acknowledges that they had agreed a rate for interest at 15% on unpaid invoices. It notes that, in its letter of 28 June 2020 requesting payment of the judgment sum, the Claimant had not requested payment of interest, whether pre or post judgment. The Defendant submits that the claim for interest should be denied "*on the basis that the Claimant had waived its right to the agreed interest as it never requested the payment of any interest*".

8. So far as the rate of interest is concerned, the Defendant submits that the Court has discretion as to the rate of interest to be awarded. Its case is that, if the Court awards interest, it should do so only from 7 October 2020 and at "*the minimum rate applied by banks in Qatar*" or at the "*current overnight rates and commercial lending rates in*

Qatar". The Defendant has not provided any evidence as to the rates charged by banks in Qatar.

9. As the Defendant accepts in its submission of 20 October 2020, the parties agreed in April 2017 that the Claimant might charge interest on unpaid invoices. Clause 71 of the Terms of Business provided

> *71: Invoices We may charge you interest or a compensatory fee on any invoice not paid within one month after delivery. Interest or the compensatory fee will accrue daily on any unpaid amounts at the rate of 15 percent per annum and is payable on demand.*

10. By letter dated 16 July 2017 the Claimant sent the Defendant its invoice dated 29 June 2017 for the sum of US$ 65,020 being the agreed fixed fee in respect of the legal services provided. In September 2017, the Defendant paid US $ 32,150, i.e. 50% of the invoice. The Claimant sent emails to the Defendant, dated 31 October and 8 November 2017, asking them to pay the balance. No payment was made. It appears that the Claimant next wrote to the Defendant on 4 September 2019 stating that if the balance were not paid by 1 December 2019 the Claimant would issue court proceedings to recover this. The Claimant issued its claim in this Court on 2 February 2020.

11. The Defendant is incorrect in submitting that the Claimant had not requested payment of interest until recently. The Claimant had made clear in its claim and application for summary judgment that it sought an order for payment of interest.

Pre-judgment interest

12. In its latest submission the Claimant repeats its claim for interest at the rate of 15% per annum. However, it acknowledges that the Court has a discretion as to the rate to be awarded and the period for which interest is payable so that, if the Court were unwilling to award the interest which the Claimant claims, the Court may apply such rate of interest and for such period as it deems appropriate.

13. In exercising its discretion, the Court will take into account all the circumstances. Interest is generally awarded to compensate a party for being kept out of money rather than for damage done, such as alleged lost investment opportunities, or to punish or to call the defendant to account for his use of the money. The merits of the underlying case are not relevant to the award of interest, but delay in the prosecution of that case may well be.

14. In *Badri and Salim Elmeouchi LLP v Data Managers International Limited* [2020] QIC (F) 3 the Court declined to award interest at the rate of 12% claimed. Interest was awarded at a rate of 5%, a rate which reflected rates which banks in Qatar charged their customers.

15. Here, the parties agreed that interest or a compensatory fee, at the rate of 15% per annum, should apply to invoices unpaid after one month. The Claimant's case is that its interest claim is for being kept out of the money which the Defendant ought to have paid. It has not suggested that it has suffered any particular damage as a result of late payment of the balance of its invoice; indeed, it expressly confirms that its interest claim is not a claim for compensation for damage done as a consequence of non-payment or late payment.

16. In support of its application for summary judgment the Claimant disclosed its correspondence with the Defendant. The Claimant chased for payment between September and 8 November 2017, and then wrote again on 4 November 2019. It has not explained why it took no action during that two-year period. In its email of 4 November 2019 the Claimant threatened Court proceedings but did not commence these proceedings until February 2020. Again, that period of delay has not been explained.

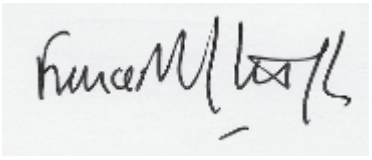
17. The rate claimed is very substantially higher than interest rates in Qatar in recent years. The Court concludes that it is not in the interests of justice to award interest at a rate of 15% per annum when commercial rates of interest have been running at much lower rates. The Court concludes that a fair rate of interest in this case is 5% per annum, that rate reflecting the average commercial banking rates in Qatar.

18. The Court also concludes that it would not be in the interests of justice to award interest or a compensatory fee for the whole of the period between September 2017, when the balance of the invoice was payable, and September 2020, when the judgment sum was paid. It considers that the Claimant probably could have taken steps to try to recover the debt within a period of about nine months from the date of its last contact with the Defendant, and concludes that an award of interest should reflect that. Accordingly, the Court awards interest on the principal sum of QAR 118,625 at 5% per annum for a nine-month period, i.e. a sum of QAR 4,448.

Post-judgment interest

19. The judgment debt was issued in respect of the principal sum which the Claimant claimed. That principal sum has been paid. The Court will not normally order payment of interest on interest. The Claimant's application for payment of post-judgment interest is refused.

By the Court,



Justice Frances Kirkham

DIGITALLY SIGNED AND VERIFIED
موقّع رقمياً ومعتمد