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: [2022] QIC (F) 11

IN THE QATAR INTERNATIONAL COURT

FIRST INSTANCE CIRCUIT

Date: 10 July 2022

CASE No. CTFIC0008/2022

FOODINO TRADING QFZ LLC

Claimant

v

NEPTUNE FOOD PACKAGING AND TRADING WLL

Defendant

JUDGMENT

Members of the Court

Justice Frances Kirkham

Justice Arthur Hamilton

Justice Fritz Brand

ORDER

1. The Defendant is to pay QAR 130,555 to the Claimant within 7 days of the date of this judgment.

2. It is declared that the Agreement between the parties dated 3 August 2021 had been validly terminated.

3. The Defendant is to pay the Claimant's reasonable costs, to be assessed by the Registrar if not agreed.

JUDGMENT

1. The Claimant ("Foodino") is a company registered in the Qatar Free Zones ("the QFZ"). Its business is that of processing and marketing distribution of nuts and related products.

2. Foodino entered into an agreement on 3 August 2021 with the Respondent ("Neptune") whereby the parties agreed that Neptune would undertake the packing of Foodino's products ("the Agreement").

3. Foodino paid Neptune QAR 130,555, that being the 50% advance payment of the Agreement price of QAR 238,385.

4. Neptune was due to deliver to Foodino 41 packages of product on 5 September 2021. However, it failed to do so. On 20 September 2021 Neptune delivered only 4 sample packages. Foodino's case is that the four samples were of poor quality and were not in accordance with the standards set out and established by the Ministry of Municipality and Environment.

5. On 23 September 2021 Foodino wrote to Neptune alleging that Neptune was in breach of the Agreement. It claimed the return of the QAR 130,555 which it had paid to Neptune.

6. Neptune did not respond to that letter.

7. Foodino's case is that it is entitled to compensation for Neptune's breach of the Agreement. Foodino claims:

   (a) A declaration that Foodino terminated the Agreement on 3 August 2021.
   (b) Payment of QAR 130,555 which Foodino had paid to Neptune.
   (c) Payment of QAR 50,000 as compensation "for the difficulties and losses sustained" by Foodino as a result of Neptune's breach of the Agreement.
   (d) An order that Neptune pay its costs of commencing proceedings and legal fees and expenses.

8. The claim form and attached documents were duly served on Neptune.

9. Neptune has not filed any defence.

10. On 3 March 2022 Foodino issued an application for summary judgment. That was duly served on Neptune. Neptune has filed no response to that application.

Jurisdiction

11. As noted above, Foodino is a company registered in the QFZ. Neptune is a company established in the State of Qatar, outside the QFZ. Article 44 of Law No. 34 of 2005 on Free Zones (as amended by Law No. 21 of 2017 and Law No. 15 of 2021) provides:

> "The Civil and Commercial Court established in the Qatar Financial Centre pursuant to the Law of the Qatar Financial Centre, as referred to herein, shall have jurisdiction to adjudicate all disputes and civil and commercial suits between Registered Companies in the Free Zones, and between the Authority and individuals and Registered Companies in the Free Zones, or between Registered Companies in the Free Zones as one party and between individuals residing in the State or companies or entities established outside the Free Zones as the other party, whatever the nature of the legal relationship which is the subject matter of the dispute, unless the parties agree to settle the dispute by alternative means."

12. Accordingly, pursuant to

    (a) Article 44 of Law No. 34 of 2005 (as amended); and
    (b) Article 9 of the Court's Regulations and Procedural Rules

    this Court has jurisdiction in respect of Foodino's claim against Neptune.

Evidence in respect of Foodino's claim

13. The Agreement contains the specifications which Foodino required for the packaging which Neptune was to use and the time limits for completion of Neptune's tasks.

14. Clause 4 of the Agreement provided that either party could terminate the Agreement on giving the other 30 days' written notice.

15. Clause 10 of the Agreement provides: "*This contract is raised on 2/8/2021 and must be valid till completion of all obligations from the date of Signature by both parties unless cancelled by either party with prior notice of 30 days."*

16. Clause 13 set out the standard of packaging which Foodino required, including that this must comply with "*Qatar food grade and MME standards*".

17. The total sum payable under the Agreement was said to be QAR 238,385. Clause (1) of the payment terms provided that 50% of that sum was to be paid in advance on signing the Agreement.

18. Foodino has provided evidence of two payments to Neptune, one of QAR 29,240 and the other of QAR 101,315, a total of QAR 130,555. These appear to represent the 50% advance payment required by the Agreement.

19. By letter dated 23 September 2021 Mr Hesham El Akkad (Foodino's General Manager) wrote to Neptune complaining (i) of Neptune's delay in providing samples, (ii) of the poor quality of the four samples which Neptune had supplied and (iii) that Neptune had provided only four not 41 samples. Foodino asked Neptune to return the money which Foodino had paid them.

20. There is no evidence of any response from Neptune.

Summary judgment

21. In its application for summary judgment Foodino sought the same relief and orders requested in its claim form, and as set out above.

22. This Court's authority to grant summary judgment is derived from article 22.6 of its Rules. This rule was amplified by way of Practice Direction No. 2 of 2019 in the following way:

> "Summary Judgment
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> …
>
> 2 In accordance with article 22.6 of the rules, the court may, if it considers that justice so requires, give summary judgment on a claim or defence or on any issue.
>
> 3 The court may give summary judgment against a defendant or a claimant on the whole or part of a claim or counterclaim or a particular issue if- (a) it considers that (i) the defendant to the claim or counterclaim has no prospect of successfully defending the claim or issue; or (ii) the claimant to the claim or counterclaim has no prospect of succeeding on the claim or issue; or (b) there is no other compelling reason why the case or issue should be disposed of at a trial."

Conclusions

23. The Court concludes that Foodino has provided sufficient evidence to demonstrate that:

(i) it paid Neptune the sum of QAR 130,555, and that Neptune failed to fulfil its obligations under the Agreement;
(ii) it is entitled to be repaid the 50% advance payment it made to Neptune; and
(iii) Neptune has failed to reimburse the money which Foodino paid.

24. The Court is persuaded that Neptune has no reasonable prospect of successfully defending Foodino's claim for reimbursement of QAR 130,555. Justice requires that Neptune be ordered, now, to pay that sum to Foodino.

25. Foodino seeks a declaration that the Agreement has terminated. As narrated in paragraph 5 above, Foodino on 23 September 2021 wrote to Neptune complaining of certain matters. In that letter it rejected all the samples delivered and described Neptune's cumulative failures as "majeure Breach items…of project terms and conditions". The Court is satisfied that, on the basis of these undisputed allegations, Foodino by that letter validly terminated the contract on the ground of material breach of contract by Neptune and it is entitled to the declaration that it seeks.

26. Foodino seeks compensation of QAR 50,000 in respect of "difficulties and losses". It has not explained the difficulties it claims to have suffered, nor has it provided any evidence of any losses. Foodino has not proved this aspect of its claim.

27. Foodino is entitled to be paid its reasonable costs of these proceedings, to be assessed by the Registrar if not agreed.

By the Court,

[signed]

Justice Frances Kirkham

A signed copy of this judgment is held with the Registry

Representation:

The Claimant was represented by Al Sulaiti Law Firm, Doha, Qatar.

The Defendant was not represented and did not participate in the proceedings.

DIGITALLY SIGNED AND VERIFIED
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