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 (F) 15

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 1 May 2023

CASE NO: CTFIC0006/2023

MARK KROMBAS

Claimant

v

EPICURE INVESTMENT MANAGEMENT LLC

Defendant

JUDGMENT

Before:

Justice Fritz Brand

Justice Dr Rashid Al-Anezi

Justice Yongjian Zhang

Order

1. The Defendant's application for summary judgment is dismissed with costs.

2. The costs occasioned by the application for summary judgment are to stand over for later determination.

3. The Defendant is granted leave to amend or amplify its Statement of Defence within 14 days of this order.

4. Upon expiry of the 14-day period noted in paragraph (3), above, directions will be issued for the further conduct of the matter.

Judgment

1. The Claimant, Mr Mark Krombas, is a citizen of the United Kingdom. The Defendant, Epicure Investment Management LLC, is established and licensed to conduct business in the Qatar Financial Centre. Both parties are legally represented. It is common ground that this Court has jurisdiction to determine the dispute.

2. The Claimant's claim arises from an employment contract between the parties that was concluded on 2 September 2021. In terms of the contract, it was to endure for an indefinite period, but could be terminated on six months' notice. Acting in accordance with this provision, the Defendant gave notice of termination to the Claimant on 8 December 2022, and paid him his salary for an additional six months in lieu of notice. The Claimant concedes that he received virtually all the termination benefits to which he was entitled, with the exception of his annual bonus for 2022 in amount of QAR 300,000.00 which he now claims.

3. In answer to the claim, the Defendant filed a Statement of Defence in which it applies for summary judgment, in terms of Practice Direction No. 22 of 2019 of this Court (the '**Practice Direction**'), on the basis that the claim has no prospect of success.

4. The Claimant recognises, as he must, that the employment contract does not expressly provide for an annual bonus. His claim relies on an implied term of the employment contract. Broadly stated, his case in support of the implied term is that he was employed by the Defendant's company, the Qatar Insurance Company QSPC ('**QIC**') since 2012 in the capacity as Head of its GCC Equity Fund, and that, while so employed he received an annual bonus every year for 10 years. Although his employment contract with the Defendant was only concluded in August 2021, so the Claimant contends, he was assured by the Defendant that the new contract resulted purely from an internal reconstruction within the Qatar Insurance Company Group, that he would effectively be employed in the same capacity as manager of the GCC Equity Fund, and that he would receive the same salary and other benefits as before.

5. The Defendant's application for summary judgment rests on three bases. Firstly, that neither the employment contract nor the Defendant's human resources policy makes provision for an annual bonus. Secondly, that an annual bonus would in any event be in the discretion of the Defendant's board and that in consequence, it cannot be claimed as of right. Thirdly, that the Claimant cannot rely on the practice between him and the QIC, because the Defendant is a separate legal entity.

6. By its nature summary judgement is a drastic remedy in that it summarily closes the door on the Claimant. Hence our Practice Direction requires that it should only be granted if we are satisfied that on the papers before us that the claim as formulated in the Claimant's pleadings has no prospects of success. So, at the risk of stating the obvious, the question is not whether there is a possibility that the defences raised by the Defendant may succeed after a proper hearing at the trial. The question is whether it can be said at this early stage that the Claimant has no reasonable prospect of success after all the issues have been properly ventilated at a hearing in due course.

7. The short answer to the pertinent question thus formulated should in our view be "no". Although the Claimant may experience certain difficulties in his case, it cannot be said at this stage that the defence raised by the Defendant is unanswerable. It follows that the application for summary judgment cannot succeed. Since in all likelihood this is not the end of the matter, we find it inappropriate to discuss the respective merits of the

claim and the defence raised in any detail or to predict the outcome with any degree of certainty. Suffice it in our view to say the following.

8. As we see it, the legal position is governed by articles 52 and 53 of the Qatar Financial Centre Contract Regulations 2005. Article 52 provides that, in principle, obligations of the parties may be express or implied. In terms of article 53(1) implied obligations may, inter alia, stem from an established practice between the parties.

9. Starting from that premise, we believe the Claimant's case may derive support from two facts which appear to be common ground. Firstly, the fact that the Claimant received his annual bonus from the Defendant for the whole of 2021, although he was only employed by the Defendant from August that year. This seems to support the allegation that the Defendant regarded its contract with the Claimant as a continuation of his employment by QIC, who was his employer for the earlier part of that year. Secondly, the Claimant's case seems to derive support from the fact that in 2022 the Defendant paid an annual bonus to all employees employed within its GCC Equity Fund with the Claimant as the only exception. This seems to support the notion that the Defendant continued the same practice as the QIC by paying annual bonuses as a matter of course. In addition, it begs the question, which the Defendant may have to answer in due course, as to why the Claimant is apparently discriminated against in being treated differently from his fellow employees in the same division of the Defendant.

10. As to the costs of the summary judgment application, it can be argued that the Claimant is the successful party and that in consequence he is entitled to his costs. But since the matter will probably proceed to trial, it may transpire at that stage that the factual basis on which the application was dismissed, cannot be sustained. In this light, we adopted the cautious position by directing that these costs stand over for later determination.

By the Court,

[signed]

Justice Fritz Brand

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

Representation

The Claimant was represented by the Essa Al-Sulaiti Law Firm (Doha, Qatar).

The Defendant was represented by International Law Chambers (Doha, Qatar).

DIGITALLY SIGNED AND VERIFIED
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