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) 36

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 2 August 2023

CASE NO: CTFIC0027/2023

ASMA ABDULAZIZ AL-SAUD

Claimant

v

DEVISERS ADVISORY SERVICES LLC

Defendant

JUDGMENT

Before:

Justice Dr Rashid Al-Anezi

Justice Fritz Brand

Justice Yongjian Zhang

Order

1. The Defendant is directed to pay an amount of QAR 30,000 to the Claimant within 14 days from date of this order.

2. In addition, the Defendant is directed to pay interest on the said amount at the rate of 5% per annum from date of this judgment to the date of actual payment.

3. The Defendant is also directed to pay to the Claimant the costs she incurred in pursuing this claim, as determined by the Registrar, unless agreed between the parties.

Judgment

1. The Claimant, Ms Asma Abdulaziz Ibrahim Abu Al-Saud, is an Egyptian national who resides in the State of Qatar. The Defendant, Devisers Advisory Services LLC, is an entity established in the Qatar Financial Centre ('**QFC**') where it conducts the business of assisting applicants for visas, inter alia, to the United Kingdom. It follows that this Court has jurisdiction to determine the dispute between the parties in terms of article 9.1.3 of its Regulations and Procedural Rules.

2. Because of the sum and issues involved, the claim was allocated by the Registrar to the Small Claims Track of this Court under Practice Direction No.1 of 2022. In accordance with this Practice Direction, we conclude that it is appropriate to determine the issues in this case on the basis of the written material before us, and without hearing oral evidence or argument.

3. On 22 November 2021, the parties entered into a written agreement. In terms of the agreement, the Defendant undertook to assist the Claimant in her application for a UK Visa, referred to as a Sole Representative of an Overseas Business Visa, against an upfront payment of an agreed fee of QAR 30,000. It is common ground that this fee was paid by the Claimant on the same day. Likewise, it is undisputed that the Claimant was specifically interested in this type of visa because it would eventually enable her to acquire residence in the UK.

4. Broadly stated, the Claimant's case is that the Defendant did very little, if anything, in the execution of its mandate under the agreement. But matters came to a head when the UK Government decided that, as from 11 April 2022, the type of visa that the Claimant wanted to apply for was no longer available. The Defendant then offered to assist the Claimant in obtaining alternative UK visas of a kind still available. However, the Claimant was unwilling to accept the offer because these alternative visas would not assist her in acquiring UK residence. In consequence, she terminated the agreement and claimed her money back.

5. The Defendant's answer to the claim is essentially that the Claimant had failed to provide it with the documentation necessary to complete the visa application, as she was obliged to do in terms of their agreement. The Defendant's answer could, at least in principle, be a good one if the visa that the Claimant sought to apply for was still available. In that situation the Defendant could argue that its performance relied on prior performance by the Claimant of her obligations under the agreement. On the basis that the Claimant had failed to render that prior performance, she would not be able to terminate the agreement because of any failure by the Defendant.

6. But we know that those are not the prevailing facts. According to the prevailing facts, the only visa that the Defendant was mandated to obtain was no longer available. Hence, performance of its mandate became practically impossible. In the result, any failure by the Claimant became irrelevant. Whatever she did or did not do would not enable the Defendant to obtain the visa for which she bargained.

7. It is true that the Defendant is not to blame in any way for the fact that the execution of its mandate became impossible. This is so because the impossibility resulted from a decision by the UK Government over which the Defendant clearly had no control. In legal terms the impossibility of performance therefore resulted from force majeure as contemplated by article 94 the QFC Contract Regulations 2005.

8. But the further legal consequence of the Defendant's obligation being extinguished through legal impossibility is that the Claimant's reciprocal obligation to pay the agreed fee became extinguished at the same time. If she had not yet paid the fee, she would be entitled to refuse to pay because the Defendant could no longer perform its agreed part

of the bargain. But as a matter of course it makes no legal difference that she had paid in advance. It simply means that she can claim her money back. In addition, she is in our view entitled to the costs she incurred in pursuing her rightful demand for repayment.

9. These are the reasons for the order we propose to make.

By the Court,

[signed]

Justice Fritz Brand

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

Representation

The Claimant was self-represented.

The Defendant was self-represented.

DIGITALLY SIGNED AND VERIFIED
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