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 (A) 9

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

APPELLATE DIVISION

Date: 1 October 2023

CASE NO: CTFIC0019/2021

FADI SABSABI

Claimant/Respondent

v

DEVISERS ADVISORY SERVICES LLC

Defendant/Appellant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Chelva Rajah SC

Justice Ali Malek KC

ORDER

1. The Respondent shall pay the Appellant QAR 67,000 within 28 days of the date of this judgment.

JUDGMENT

Background

1. In a judgment dated 31 July 2023 ([2023] QIC (A) 6), we allowed the appeal of the Appellant ('**Devisers**') and held that it should have been entitled to make representations to the First Instance Circuit in respect of the amount of costs to be paid by Mr Sabsabi in respect of the Review before the First Instance Circuit, having succeeded in the Review of the costs assessment by Mr Registrar Grout.

2. We refused permission to appeal in respect of the costs incurred by Devisers in the costs assessment before Mr Registrar Grout.

3. We considered it in the interests of justice that, instead of remitting the matter to the First Instance Circuit to make an assessment, we would consider ourselves the amount of costs that should have been awarded in respect of the Review, and whether we should make any Order as to the costs of the appeal and, if so, in what amount.

4. We directed:

    i. Within 14 days from the date of this judgment, Devisers makes its submissions on (a) the amount it should have been awarded on costs incurred before the First Instance Circuit and (b) whether we should make any Order as to the costs of the appeal and if so the amount. It must attach to the submissions supporting documentation (including invoices) substantiating the sum claimed.

    ii. Mr Sabsabi may within 14 days thereafter respond to the submissions made by Devisers.

    iii. The parties submissions are limited to a maximum of two pages of size A4 paper (font minimum 12 point;1.5 line spacing).

5. Written submissions were served. The submissions made on behalf of Devisers complied with our direction. Those served on behalf of Mr Sabsabi did not. As we explain, we set the limit to try and contain the expenditure of costs in this case which

were out of all proportion to the sums in issue. We have considered the submissions made by Mr Sabsabi on this occasion despite the fact that they were in breach of the Order, but have added to the costs payable to Devisers by Mr Sabsabi the sum of QAR 2,000 as a reasonable and proportionate part of the QAR 5,000 incurred by Devisers' lawyers in reviewing the non-compliant submission. For the future, if the Court orders a limit to the length or word count of a submission, the Registry will ordinarily return the submission if there is a breach; the party must in those circumstances forthwith refile a compliant submission. The Court may disallow the costs of preparing a non-compliant submission.

6. Devisers claimed:

    i. QAR 55,000, being the full costs incurred in the Review before the First Instance Circuit.

    ii. QAR 47,333, as 2/3^{rds} of the QAR 71,000 that it had incurred on the appeal to this Court from the Review before the First Instance Circuit as it had succeeded only on ground 2.

    iii. QAR 30,000 for the costs that it had incurred in this costs assessment.

7. The applicable principles are set out in article 33 of the Qatar Financial Centre Civil and Commercial Court Regulations and Procedural Rules (the '**Rules**') and, presently, in a number of reported costs assessments including *Daman Health Insurance (Qatar) LLC v Hammad Shawabekh* [2017] QIC (C) 1. In these proceedings, we will have particular regard to proportionality. We were referred in the submissions made by those representing Mr Sabsabi to the Civil Procedure Rules and costs decisions of the Courts of England and Wales. There may be exceptional circumstances where it may be necessary to have regard to those Rules or those cases, but ordinarily it is not. If a party considers that there are exceptional circumstances, they must be identified. This was plainly a case where it was wholly unnecessary to refer to the Civil Procedure Rules and decisions given in England and Wales. This Court applies the principles set out in article 33 of the Rules and the decisions of this Court. The Court intends to issue a

Practice Direction before the year end in respect of costs so that it will ordinarily be unnecessary for the parties to look further than the Practice Direction.

8. It may be helpful to set out the sum at issue in the litigation and the sums incurred by way of costs:

    i. The claim brought by Mr Sabsabi in the proceedings in which he succeeded was for QAR 65,000 (the fee paid to Devisers), and reimbursement of expenses incurred in the sum of US $9,549 (QAR 34,768), a total of just under QAR 100,000.

    ii. The amount claimed by Mr Sabsabi for costs before Mr Registrar Grout was QAR 110,000. Mr Registrar Grout awarded him costs in the sum of QAR 70,000. This Order was set aside by the First Instance Circuit which determined no award was to be made to Mr Sabsabi as he had acted as a litigant-in-person and not disclosed the legal assistance he was receiving.

    iii. The amount claimed to have been incurred by Devisers as the costs of the assessment before Mr Registrar Grout was QAR 80,000, but no express application was made for these costs before the First Instance Circuit. That Court therefore made no Order as to those costs and we refused permission to appeal.

    iv. The amount awarded by the First Instance Circuit in respect of the costs of Devisers before it was QAR 10,000 which it ordered Mr Sabsabi to pay. The Court said that Devisers had claimed QAR 45,000 (see paragraph 25 of the judgment of the First Instance Circuit [2023] QIC (F) 4).

    v. Mr Sabsabi quantified the costs incurred in the application before this Court as QAR 35,648.

9. Those representing Mr Sabsabi put forward a claim for QAR 50,844 for the costs incurred on the appeal and subsequently. There is no basis for such a claim. We will take into account in the award of costs to Devisers the failure of one ground of appeal and the costs incurred by Mr Sabsabi in relation to that ground.

The costs of the review before the First Instance Circuit

10. On behalf of Devisers, it was said that a total of 34 hours was spent in the Review proceedings. The work had been done by a senior associate with supervision (18% of the total hours). The charge rates for the associate in 2022 were QAR 1,030.94 and for the partner QAR 1,771.25; in 2023 the rates were QAR 1,880 and QAR 3,230, respectively. We were told that an additional 10 hours were spent, but these have not been claimed as there was a fixed fee arrangement.

11. In assessing the costs of the Review, we have had regard to the fact Devisers was successful on the Orders it sought. As the Order against Devisers made by Mr Registrar Grout was substantial, and an important principle involved, Devisers was entitled to devote resources which were reasonable and proportionate to the sums and principles in issue. We consider that in the circumstances, the appropriate Order is that Devisers should be paid by Mr Sabsabi QAR 40,000 by way of the costs incurred.

The costs of the appeal to this Court

12. On behalf of Devisers, it was said that a total of 28 hours had been spent on the appeal to this Court. The work had been done by a senior associate under supervision (11% of the total hours). The charge rate for the associate was QAR 2,300 and the partner, QAR 3,506.

13. It is said that time was incurred in (i) ascertaining the provenance of the figure of QAR 45,000 that was the figure said to have been claimed by Devisers as the costs before the First Instance Circuit as referred to by the First Instance Circuit in its judgment, in contradistinction to the figure of QAR 55,000 actually incurred by it, and (ii) in research on the case law.

14. In our view, taking into account the partial success of the appeal, the costs incurred by Mr Sabsabi on the ground on which Devisers failed, the nature of the appeal on the ground on which it was successful and the proportionality of the costs to the sum in issue, we consider that we should order QAR 17,500 to be paid by Mr Sabsabi.

The costs of the costs assessment before this Court

15. On behalf of Devisers, it was said that a total of 21 hours had been incurred in the preparation of the costs assessment before this Court, with the work being done by a senior associate under supervision (11% of the total hours). We note that Devisers' lawyers initially quoted a fixed fee of QAR 20,000, but incurred more time and obtained the agreement of Devisers to an increase of the fixed fee to QAR 30,000.

16. As we have set out, we had expressly ordered a two-page submission to curtail the expenditure on costs which was on the figures provided to us during the proceedings already huge. Our objective was to make a summary assessment of the amount that should be paid in respect of the costs of the Review and of the appeal. The production of a two-page submission and the supporting documents should have been related to the proportionality of the sums in issue and the nature of the summary assessment we would undertake. The work should have been related to the fixed fee originally agreed which was itself difficult to justify as a reasonable and proportionate amount in respect of which a Court would order recovery. We consider that the amount which should have been incurred and which it is just to order Mr Sabsabi to pay in respect of the costs of the cost assessment is QAR 7,500 to which we add the sum of QAR 2,000 as a reasonable and proportionate part of the further costs incurred by Devisers in their review of the non-compliant submission as we have explained above.

Conclusion

17. In summary, the total sum that Mr Sabsabi must pay is QAR 67,000. This must be paid within 28 days of the date of this judgment.

18. The proportionality of costs is a serious concern in cases where the sums in issue are not that large. The Court expects that in future those representing the parties in such cases will appreciate that it is in the interests of their clients who will seek to recover costs from the other party to have regard to the sums in issue when agreeing fees and spending time in working on the case.

By the Court,

[signed]

Lord Thomas of Cwmgiedd, President

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

Representation:

The Appellant/Defendant was represented by Eversheds Sutherland (International) LLP (Doha, Qatar).

The Respondent/Claimant was represented by the Rashid Raja Al-Mari Law office (Doha, Qatar)

DIGITALLY SIGNED AND VERIFIED
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