



**In the name of His Highness Sheikh Tamim bin Hamad Al Thani,
Emir of the State of Qatar**

Neutral Citation: [2026] QIC (A) 1

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

APPELLATE DIVISION

[On appeal from [2025] QIC (F) 34]

Date: 11 February 2026

CASE NO: CTFIC0042/2024

THALES QFZ LLC

Claimant/Respondent

V

ALJABER ENGINEERING W.L.L.

Defendant/Appellant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Chelva Rajah SC

Justice Helen Mountfield KC

Order

1. Appeal dismissed.
2. The Appellant is to pay the costs of the Respondent, to be assessed by the Registrar if not agreed.

Judgment

1. The Appellant ('**AlJaber**') appeals against the judgment of the First Instance Circuit (Justices Fritz Brand, Ali Malek KC, and Dr Muna Al-Marzouqi; [2025] QIC (F) 34) given on 1 August 2025, which ordered it to pay to the Respondent ('**Thales**') QAR 8,835,718.31 within 14 days together with costs.

The factual background

2. The facts and issues are set out in detail in the comprehensive and clear judgment of the First Instance Circuit. It is only necessary to give a brief outline for the purposes of the appeal.
3. AlJaber was awarded a contract by the Government of Qatar for security equipment at the New Port Strategic Food Security Facilities at Hamad Port. AlJaber entered into a sub-contract with Thales, a QFZ company and part of the major international defence and security group, for security equipment and system integration work under the main contract for a price of QAR 13,250,000.
4. The contract was awarded under a Letter of Award on 17 January 2022. A formal Agreement entitled "*Subcontract Agreement No 383/SC/010/22*" (the '**Agreement**') was then entered into on 19 April 2022 with detailed terms and conditions to which we will refer. The Agreement was expressly governed by the law of Qatar and subject to the jurisdiction of the competent courts of Qatar.
5. AlJaber was required to make an Advance Payment of QAR 1m (the '**Advance Payment**') to Thales for which Thales was to provide an Advance Payment Bank Guarantee ('**APBG**'). Thales submitted the APBG to AlJaber on 10 February 2022.

Although Thales commenced work under the Agreement, AlJaber at no time made the Advance Payment, which became due on 27 March 2022 or any of the milestone payments in respect of items of work done which became due in October and December 2022.

6. On 5 February 2023, Thales terminated the Agreement; it had not been paid any sum by AlJaber. All the sub-contractors were informed on 13 February 2023 that the main contract had been terminated. Discussions took place about payment but none was made.
7. These proceedings were commenced in October 2024 for the payment of the amounts due and damages totalling over QAR 8m; AlJaber counterclaimed for damages. In the course of the proceedings, this Court issued an injunction requiring AlJaber to withdraw a demand it had made for payment under the APBG – see [2024] QIC (F) 53 and 55.

The appeal

8. After the Court had issued its judgment, AlJaber sought permission to appeal on 31 August 2025, advancing six grounds of appeal. After directing a response from Thales, we determined by Order made on 2 November 2025 that there would be a rolled-up hearing for permission and, if granted, for the hearing of the appeal on two of the grounds advanced, grounds 2 and 4, refusing permission to allow the other grounds to proceed to a hearing before this Court.
9. On 11 December 2025 we heard oral argument. We granted permission on ground 2 but dismissed the appeal. We refused permission on ground 4. We said we would give our reasons later. We gave our decision before handing down the written reasons for the decision we had reached to avoid delay in enforcing the judgment. AlJaber has persisted without any justification in failing to pay Thales any of the sums due. We wished to ensure that there could be no grounds for further delay in payment or enforcing the judgment of the First Instance Circuit.

Ground 2: Failure to account for the contractual mechanisms in relation to Advance Payment

10. The First Instance Circuit held that the amounts that should have been paid by AlJaber to Thales were four specific amounts for items of works that had been approved; these totalled QAR 2,739,875.09 as set out at paragraph 112 of the judgment of the First

Instance Circuit ([2025] QIC (F) 34). It also held that the Advance Payment of QAR 1m should be paid. In addition, further amounts were due in respect of works that had not been approved as set out at paragraphs 113-128 of the same judgment.

The case made by AlJaber on this ground of appeal

11. It was contended by AlJaber that the First Instance Circuit was wrong in its decision that the sums due for items of works that had been approved should not be discounted to take account of the provisions in the Agreement that provided for the deduction of the Advance Payment from the milestone payments of items of work done. It was said that the Agreement had been clear that the Advance Payment was to be repaid by way of deduction from the milestone payments for such items. The First Instance Circuit had not allowed for this and had not addressed this contention in its judgment.
12. The relevant terms had been set out in the Letter of Award where provision was made for repayment of the Advance Payment at paragraph 5(i):

*The Contractor shall make an Advance Payment to the Subcontractor for an amount of QAR1,000,000 of the total Subcontract Price payable 45 days from the date of the Subcontractor commercial invoice along with the Advance Payment Bank Guarantee from a reputable bank in Qatar. The Subcontractor shall ensure that the Advance Payment Bank Guarantee is valid and enforceable until Advance Payment has been repaid in full. **The Advance Payment shall be repaid through percentage deductions in Payment Certificates, the deduction shall be made at the amortization rate of 15% of the amount of each payment certificate.** (emphasis added)*

13. Attached to the Letter of Award was Appendix A which contained a Bill of Quantities which set out the description of the individual items of works and the amount to be paid for each; it totalled QAR 19,867,231, to which a discount of QAR 6,617,231 was applied, giving a total of QAR 13,250,000 set out in the Letter of Award.
14. It was contended by AlJaber that it was therefore necessary when looking at the amount to be paid as provided for in Appendix A to the Letter of Award to deduct from each payment for items of works an amount that represented a proportion of the Advance Payment. Even though AlJaber had not made the Advance Payment, the amount due on each of the interim payment had to take into account that the amount due must reflect the repayment of a part of the Advance Payment.

15. The amount to be deducted from each payment had not been specified; however, as the whole of the QAR 1m had to be repaid, the proper way to do so was to calculate the percentage of the total contract price, less the Advance Payment, that was to be paid. The amount ordered was QAR 6,106,220; if QAR 1m, which represented the Advance Payment was left out of account, the applicable percentage was 41% or QAR 416,858 and the amount ordered to be paid should therefore be reduced by that amount.

Should AlJaber be entitled to advance this ground of appeal?

16. As we observed during the course of argument before us, this submission was not addressed in the First Instance Circuit's judgment. It was submitted by Thales that the reason was that this point had not been pleaded and therefore AlJaber could not raise this point on appeal. AlJaber, however, contended that this point had been raised at the trial both in opening and in the cross-examination of Mr Perry, the principal witness called by Thales. AlJaber was correct in submitting that this point had been raised, at least orally, and after the parties had considered the recording of the trial, it was accepted that the issue had been raised. As it was a point of law which had been raised at trial and was not being raised for the first time before this Court, we considered we should hear argument on it and granted permission for this ground to be advanced and determined by us on its merits.

The provisions of the Agreement

17. The contention made by AlJaber was premised on the Letter of Award which contained the provisions on which it relied for its submission as to the interaction of the Advance Payment and milestone payments. However, it is necessary to consider whether these terms were carried into the formal Agreement. That Agreement, which superseded the Letter of Award and therefore contained the terms which governed the relationship between the parties at the time of termination, set out at condition 16.9 of the Particular Conditions, the specific terms as to the Advance Payment:

The Contractor shall make an Advance Payment to the subcontractor for an amount of QAR 1,000,000 of the total Subcontract Price payable 45 days from the date of the Subcontractor commercial invoice along with an Advance Payment Bank Guarantee from a reputable bank in Qatar.

The Subcontractor shall ensure that the Advanced Payment Bank Guarantee is valid and enforceable until Advance Payment has been repaid in full.

The Advance Payment recovery is included in the Project Payment Milestones in Schedule 7 Annexure 1.

18. Schedule 7, Annexure 1, set out the payments (described as project payment milestones) to be made, beginning with the Advance Payment of QAR 1m and then setting out specific amounts that were to be paid for each item; each item corresponded with the list in Appendix A to the Letter of Award. When added to the QAR 1m, these items totalled QAR 13,500,000.
19. Thus, although in most respects the terms of condition 16.9 reflect the Letter of Award, there was a significant difference in that the last sentence of condition 16.9 made clear that the sums set out in Schedule 7, Annexure 1, were sums which had been calculated on the basis that each sum payable was the sum payable after deducting amounts for the recovery of the Advance Payment. The Agreement set out the precise figures to be paid on each item towards the repayment of the Advance Payment; it replaced the provision that had been made in the last sentence of paragraph 5(i) of the Letter of Award and the amount in Appendix A to the Letter of Award. If all the sums set out in Annexure A to Schedule 1 had been paid, then the amount paid would have amounted to QAR 12,500,000, which, when the Advance Payment was added, would have amounted to the full contract price of QAR 13,500,000.
20. Thus, when the First Instance Circuit ordered payment for the items in Annexure A to Schedule 1 in respect of the items of approved works, that was correct as it took repayment of the Advance Payment into account, in accordance with the terms of the Agreement as formally made which governed the contractual relationship between the parties from the time it was agreed until the time of termination.
21. Quite apart from the plain wording of the Agreement, the evidence showed that at all material times for the duration of the Agreement, until the time of its termination, AlJaber accepted the amounts of the invoices were the sums due, both in the correspondence and at a meeting on 11 December 2022 as addressed in paragraph 88 - 110 of the judgment of the First Instance Circuit. These amounts had been calculated in accordance with the Agreement as formally made. When AlJaber agreed to these amounts, it plainly understood the amounts allowed for the repayment of the Advance

Payment in accordance with the terms of the formal Agreement set out in Schedule 1 Annexure A.

22. Although we granted permission for this argument to be advanced, there is on examination no merit in the contention made on this ground of appeal. It therefore fails and must be dismissed.

Ground 4: Wrongly awarding late payment damages without any proper basis

The decision of the First Instance Circuit

23. Thales claimed it was entitled to compensation for late payment of the monies due, as AlJaber had the use of the monies and Thales should be compensated for not having had the use of the monies as part of its working capital.
24. The First Instance Circuit held that Thales was entitled to such compensation under article 268 of the Qatar Civil Code (Law No. 22 of 2004), which provides:

If the subject matter of the obligation is an amount of money, and the obligor fails to pay such amount upon being notified to do so and provided that the obligee can prove that it incurred damage due to such non-payment, the court may require the obligor to pay indemnity, subject to the requirements of justice.

25. The First Instance Circuit held that the amount that should be awarded should be calculated on the basis it set out at paragraph 152 of the judgment:

The Claimant submits that a fair award for this loss of time-use is QAR 500,000. Having regard to the facts that (i) the aggregate amount of QAR 6,106,325.50, which the Court found to be owing, would attract interest of QAR 305,326.45 per annum if calculated at a rate of 5%; and (ii) this amount had been due for more than two years, the Court agrees with the contention that QAR 500,000 is fair compensation for the actual financial detriment suffered by the Claimant, such as foregone investment returns or additional financing costs.

The submission of AlJaber

26. AlJaber submitted that no award should have been made for damages for late payment as Thales had not proved the loss incurred as a result of late payment as is required under article 268. In addition, AlJaber referred the Court to the observations it had made in *Arwa Zakaria Ahmed Abu Hamdieh v Lesha Bank LLC* [2023] QIC (A) 1 as to the need to prove damages.

The principles upon which the Court will award damages for the loss of use of money where payment is not made

27. In this Court, particularly in claims arising out of Islamic Finance, where no claim is made for interest, the Court will on general principles award compensation for loss of the opportunity to use the funds which have not been paid or which should have been paid. An example is the decision of this Court in *Daruna For Real Estate Brokerage Co. LLC and Sheikh Nasser bin Abdulrahman bin Nasser Al Thani v Lesha Bank LLC* [2023] QIC (A) 4, where the Court compensated the Claimant for the loss of investment opportunities that would have been available to the Claimant by the use of the funds if those funds had been available to be deployed elsewhere (see paragraphs 77-81 of that judgment). Another application of this principle is a case such as the present where Thales lost the opportunity to use the funds in its business for its working capital.
28. In *Daruna*, the Court made clear at paragraph 81 that the assessment of the compensation was for the Court:

The assessment is a matter for the court which is familiar with the economic circumstances and the general investment opportunities that would have been available to a prudent businessperson in the market during the relevant part of the period, taking into account the material risks. It is not necessarily a matter for specific evidence. Taking into account all the material matters in this case, we assess that amount to be QAR 400,000.
29. In such cases, where the assessment of the compensation is for the Court, the Court does not require specific evidence, as its Judges are familiar with the overall economic activity of the relevant businesses and markets and can fairly and properly make that assessment.
30. These principles accord with the principles developed by other Qatari Courts in respect of article 268 where in such cases it is for the court to make the assessment – see in particular the judgment of the Qatar Court of Appeal No. 1951 of 2022 (as affirmed by the Court of Cassation in Judgment No. 2119 of 2024) in which the court stated in respect of article 268 as follows:

The court may assess compensation as it sees fit, considering the requirements of fairness, and it is not bound by specific criteria unless the law prescribes otherwise.

(See also Judgment No. 2896 of 2005)

31. The decision of this Court in *Arwa Zakaria Ahmed Abu Hamdieh v Lesha Bank LLC* [2023] QIC (A) 1 is not relevant to the assessment of compensation for loss of investment or business opportunities arising from a failure to make due or proper payment. The observations of this Court were in respect of a claim for damages for loss of earnings where the specific loss of earnings had to be proved on a balance of probabilities.

The grounds of appeal on which permission was refused

32. We briefly address the grounds of appeal upon which permission was refused, to explain this Court considered these grounds unarguable.

Ground 1: The judgment failed to comply with the Overriding Objective to treat AlJaber justly

33. Ground one of the appeal set out a number of submissions in support of the contention that the judgment did not set out AlJaber's case and did not say why it should be rejected; it was submitted that this was contrary to the Overriding Objective set out in article 4.1 of the Rules and Procedures of the Court which required the Court to explain its decision.

34. However, this ground of appeal did not set out any positive case as to what aspects of AlJaber's case it was said were overlooked or not addressed by the First Instance Court; nor did it set out what specific finding should have been different or what was incorrect in the decision. It did not identify which arguments it was said had been advanced, but which were overlooked, nor the specific part of the judgment of the First Instance Circuit which were challenged. Permission was refused as the First Instance Circuit's judgment set out with great clarity the reasons for the decision. Moreover, this ground of appeal lacked specificity (save where there was reference to other grounds of appeal) and pointed to nothing which could amount to a proper ground of appeal.

Ground 3: Wrongly awarding the amounts for non-approved work without any proper basis

35. AlJaber contended in ground 3 that the decision to award payment for works and amounts that had not been approved was made without mention or discussion of the case advanced by AlJaber in its Statement of Defence or in its submissions. AlJaber submitted that the First Instance Circuit should not have awarded anything for amounts which had not been approved by AlJaber under the mechanism for approval set out in

the Agreement. Alternatively, it submitted that the First Instance Circuit should not have awarded the full amount as Thales had failed to present evidence of the work that it claimed to have done and failed to call expert evidence to verify what had been done and which properly assessed the value of the works.

36. In our judgment, the First Instance Circuit was correct in its view that it could award payments for work that had not been approved without the contractual mechanism having been followed. It was entirely correct in holding, at paragraph 114 of its judgment, that experts were not necessary; calling expert evidence where it is not necessary simply adds to the cost of litigation and the First Instance Circuit was plainly right in reaching the decision it did without expert evidence. This ground of appeal was without merit.

Ground 5: Wrongly awarding loss of profit damages without any proper basis

37. In ground 5 of the appeal, AlJaber submitted that the First Instance Circuit was wrong to find “*deliberate default*” and it was therefore not entitled to award damages to Thales for loss of profit, as such damages were precluded by Clause 26 of the Agreement.
38. The First Instance Circuit had ample grounds on which to find deliberate default; its reasoning at paragraphs 157-158 is plainly right. There was overwhelming evidence for the finding that, not only had AlJaber made a deliberate decision not to pay, despite its promises that it would do so, but also that it knew its decision not to do so was a deliberate breach of contract.
39. The First Instance Circuit also had ample grounds to find that the loss of profit claim was proved, for the reasons it gave at paragraphs 153-162. This ground of appeal had no merit whatsoever.

Ground 6: Wrongly awarding amounts without any expert quantification

40. AlJaber contends in its sixth ground of appeal that there should have been expert evidence. At the hearing on 11 February 2025, the First Instance Circuit asked Thales how the amounts it was claiming would be established without expert evidence, and in response, Thales stated the evidence it intended to call was sufficient. We consider that the First Instance Circuit was correct in both aspects of the conclusion that it reached, namely that expert evidence was not necessary, and that it was entitled to conclude on

the basis of its assessment of the evidence of Mr Perry that the sums claimed for non-approved works were reasonable. There was no merit in this ground.

41. Accordingly, the appeal is dismissed in its entirety. It follows that AlJaber is liable to pay the sums ordered by the First Instance Circuit forthwith, and the costs incurred by Thales in bringing this claim and defending the appeal, to be assessed by the Registrar if not agreed.

By the Court,



[signed]

Lord Thomas of Cwmgiedd, President

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

Representation

The Claimant was represented by Mr Laurence Page of Counsel (4 Pump Court, London, UK), instructed by Al Tamimi & Company (Dubai, UAE).

The Defendant was represented by Mr Guillaume Hess of K&L Gates LLP (Doha, Qatar).