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: [2025] QIC (F) 9

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

FIRST INSTANCE CIRCUIT

Date: 17 February 2025

CASE NO: CTFIC0047/2024

ZIA UR REHMAN

Applicant

v

FORVIS MAZARS LLC

Respondent

JUDGMENT

Before:

Justice Fritz Brand

Justice Helen Mountfield KC

Justice Dr Muna Al-Marzouqi

Order

1. The Respondent's challenge to this Court's jurisdiction is dismissed.

2. The provision in the Employment Contract between the parties that "*the provisions of this contract are governed by the Qatari Law No 14 of 2004*" is declared to militate against article 2(4) of the Qatar Financial Centre Employment Regulations (as if force at the time) and is invalid and unenforceable.

3. The Respondent's counterclaim for damages is dismissed.

4. The Respondent is directed to pay the reasonable costs incurred by the Applicant in these proceedings, to be assessed by the Registrar if not agreed between the parties.

Judgment

Introduction

1. The Applicant, Mr Zia Ur Rehman, is a Pakistani national and resident in the State of Qatar. The Respondent, Forvis Mazars LLC, is an international entity that is registered and licensed to render auditing, accounting, tax, and advisory services in the Qatar Financial Centre (the '**QFC**'). It is common ground that the Applicant was employed by the Respondent as an auditor from 5 February 2020, and that he formally resigned from that position on 8 May 2022 with effect from 31 July 2022.

2. Legal proceedings between the parties commenced on 5 April 2023 when the Respondent filed a complaint against the Applicant before the Department of Labour Relations of the State of Qatar whereby it, inter alia, claimed payment in the sum of QAR 700,000 as compensation for the losses it allegedly suffered due to the Applicant's violations of the non-compete clause in the employment contract (the '**Employment Contract'**) between the parties. Upon failing to settle the resulting dispute between the parties, the matter was referred to the Labour Dispute Settlement Committee (the '**Qatari Labour Court**') pursuant to article 115 of the Labour Law (Law No. 14 of 2004) of the State of Qatar.

3. Given that the dispute arises between a foreign national and a legal entity registered in the QFC, any contractual dispute between them as to violation or otherwise of a non-

compete clause would normally fall within the jurisdiction of this Court. The issue before us on this application was originally whether this jurisdiction was capable of being ousted, and was indeed ousted, by a term of the Employment Contract. However, before this case came on for a hearing before this Court, the Qatari Labour Court concluded that the relevant contractual clause was a choice of law clause, not a choice of jurisdiction clause, and that jurisdiction over the dispute rested with this Court. The issues before this Court, therefore, became whether the relevant choice of law clause could be applied in this Court, and if so, what the consequence was.

The relevant contractual terms

4. The provisions in the Employment Contract which turned out to be pivotal to the dispute are, first, those contained in the non-compete clause 6, which reads as follows:

> *Sixth:*
>
> *A) Non-compete Covenant*
>
> *For a period of two years after the date of termination with the First party, the Second Party will not directly or indirectly engage in any business that competed with the First party. This covenant shall apply to the state of Qatar.*
>
> *The Second party agrees that for a period of two years following the termination of their employment for whatever reason, they shall not, either personally, or as an employee, consultant, or agent for any other entity or employer, carry on business in competition with the First party within the State of Qatar.*
>
> *B) Non-Solicitation of Clients*
>
> *The Second party agrees that for a period of two years following the termination of his employment for whatever reason, he will not, either personally, or as an employee, consultant or agent for any other entity or employer, seek to solicit or carry out any work of the same nature for any client or customer of the First party with which the Second party has any contact or dealings whilst employed by the First party.*
>
> *C) Non-Solicitation of Employees*
>
> *The second party will not have the right for a period of two years following the termination of his employment at work as an employee or consultant for any of the clients of the first party.*
>
> *The Second party agrees that for a period of two years following the termination of his employment for whatever reason, he will not, either personally, or as an employee, consultant or agent for any other entity or employer, solicit or engage or employ any employee of the First party with whom the Second party had dealings whilst employed with the First party.*

5. Second, those contained in clause 7 (d) under the rubric "General Provisions," which reads in relevant part:

> *The provisions of this contract agreement are governed by the Qatari Labor Law No 14 of the year 2004… and as such constitute the basis to resort to in the event of a dispute arising between the parties …*

The parties' contentions

6. One of the defences raised by the Applicant in the Qatari Labour Court was that, since the matter is reserved for the jurisdiction of this Court pursuant to the QFC Employment Regulations, the Qatari Labour Court has no jurisdiction to determine the dispute.

7. The Respondent's answer to the jurisdictional challenge relied mainly on the proviso in article 8 (3)c/3 of the QFC Law (Law No. 7 of 2005) as mirrored in rule 9.1.3 of the Court's Regulations and Procedural Rules (the '**Rules**') which bestowes jurisdiction on this Court in "*Civil and commercial disputes arising between entities established in the QFC and contractors therewith and employees thereof unless the parties agree otherwise".*

8. As the basis for its reliance on the proviso from the normal presumption of this Court's jurisdiction, which appears from the part emphasised in paragraph 7 above, the Respondent relied on clause 7(d) of the General Provisions in the Employment Contract.

9. While the matter in the Qatari Labour Court was still pending, the Applicant brought an application in this Court for a declaration that clause 7(d) of the Employment Contract is invalid for being in conflict with the provisions of article 2(4) of the QFC Employment Regulations, which provide that:

> *(4) Subject to Article 25A, [* which finds no application in this case*] no laws, rules and regulations of the State relating to employment shall apply to employees whose employment is governed by these Regulations.*

10. The Respondent in turn challenged the jurisdiction of this Court on two grounds: first, that the dispute was pending in the Qatari Labour Court, and second, that the parties

have opted out of the jurisdiction of this Court as contemplated in the proviso to rule 9.1.3 of the Rules in terms of clause 7(d) of the Employment Contract.

11. In the event the case in this Court was referred to a hearing. However, before the date scheduled for that hearing, the Qatari Labour Court gave judgment upholding the Applicant's jurisdictional challenge, essentially on the basis that clause 7(d) of the General Provisions of the Employment Contract amounted to a choice of law provision, and that it cannot be construed as an agreement to opt out of the jurisdiction conferred on this Court as contemplated by rule 9.1.3 of the Rules.

12. Following that judgment, the Respondent amended its Response and Counterclaim. The import of the amendments was mainly to transfer its claim for damages in the sum of QAR 700,000, allegedly resulting from the Applicant's contraventions of the non-compete provisions in clause 6 of the Employment Contract, for determination by this Court.

13. After the Applicant submitted his Reply to the Amended Response and Counterclaim, the parties agreed that the matter should be determined on the papers before us without the hearing of any evidence or argument.

Discussion

14. The first issue for determination arises from the Applicant's challenge that the choice of law clause – clause 7(d) of the Employment Contract – is invalid for being in contravention of article 2(4) of the QFC Employment Regulations.

15. The Applicant's contentions based on article 2(4) are supported by the following statements of this Court in *Chedid & Associates Qatar LLC v Said Bou Ayash* [2014] QIC (F) 2, in paragraphs 8 and 9:

> *8. It is plain that the intention of the QFC Employment Regulations is not only that they should apply to the employment of persons by QFC entities, such as the Claimant, but that they should do so to the exclusion of non QFC law. (emphasis added). Article 2(5) of the Regulations states: "No laws, rules and regulations of the State relating to employment shall apply to Employees whose employment is governed by these Regulations".*

> *9. … The conduct of the Claimant's business is governed by the QFC Law and QFC Regulations. It was therefore, in our view, not open to the Claimant to include in the offer a stipulation that the applicable law was to be Qatar Labor Law. That was contrary to the mandatory terms of the QFC Employment Regulations, and in particular Article 2(5). Thus from the start the employment of the Defendant by the Claimant was, in our view, governed exclusively by the QFC Employment Regulations.*

16. More recently, the sentiments thus expressed were endorsed by the Appellate Division of this Court in *Waqar Zaman v Meinhardt BIM Studios LLC* [2024] QIC (A) 12, when it said:

> *20. In any event, the QFC Employment Regulations 2020 apply by virtue of article 2 to all employees of QFC entities; the article also expressly provides (save in respect of certain categories relating to retirement and pensions referred to in article 25A) that "no laws, rules and regulations of the State relating to employment shall apply to Employees whose employment is governed by these Regulations."*
>
> *21. By the express provisions of the QFC Law (Law No. 7 of 2005) and in particular article 9 (Power to make regulations), Schedule 2 (Regulations), and article 18 (Interaction with other laws), the Regulations made for the QFC apply to those employed by QFC entities and the corresponding Qatari national laws are made inapplicable (emphasis added). The contention made by Meinhardt that the provisions of the Labour Law (Law No. 14 of 2004), particularly the limitation period under article 10, is wrong. The argument, based on the hierarchy of laws, that Regulations of the QFC cannot amend the Labour Law was plainly misconceived. This is because the effect of the provisions of the QFC Law set out above is to make express provision for the QFC Employment Regulations 2020 to apply in place of the Labour Law, and thus the hierarchy of laws is respected.*

17. In line with these authorities, we find that clause 7(d) of the Employment Contract is in direct conflict with article 2(4) of the QFC Employment Regulations. It follows that in our view, the Applicant is entitled to the declaration to that effect that he seeks.

18. This brings us to the second issue before us, namely the merits of the Respondent's Counterclaim for damages. This claim relies on the Applicant's alleged breach of the non-compete provisions in clause 6 of the Employment Contract. The enforceability of these claims is subject to the provisions of article 20 of the QFC Employment Regulations, which read as follows:

Any provision in an employee's employment contract that provides that the Employee may not work on any similar projects or for a company which is in competition with the Employer must be reasonable, must not constitute an unreasonable restraint on trade, and must be appropriate to the circumstances of the Employee's employment with the Employer.

19. Relying on these provisions**,** the Applicant's answer to the claim is broadly that (i) he did not act in contravention of the provisions of the clause, and (ii) that in as much as it is found that he did, the provisions are unreasonable and thus invalid and unenforceable under article 20 of the QFC Employment Regulations. In any event, the Applicant denies that his conduct caused the Respondent to suffer any loss.

20. Regarding the factual basis of these claims, the onus is clearly on the Respondent to establish the facts on which its claim is founded. Since the parties have agreed that the matter must be decided on the papers before us, it follows from the onus resting on the Respondent that, insofar as its version of the facts are in dispute, the Applicant's version must be preferred unless it so untenable that it can be rejected out of hand.

21. Adopting this approach, the relevant factual background can be summarised in the following way:

    i. The starting point of the Respondent's complaint is that, while the Applicant's resignation only became effective on 31 July 2022, he incorporated and registered his own company, White Space Advisory and Consulting LLC ('**White Space**') in May 2022, shortly after his notice of resignation, and that White Space was specifically registered to render the same type of advisory services as the Respondent.

    ii. The Applicant's answer to the complaint is first that although White Space was registered in May 2022, it was dormant until 1 September 2022. Second, the Applicant denies that White Space is in competition with the Respondent in that it is precluded from rendering auditing advice which is the Respondent's main business. Third, the Applicant points out that the Respondent had issued a No Objection Certificate ('**NOC**'), transferring his sponsorship to White Space, on 22 August 2022. At that time the Applicant contends, the Respondent was well aware of the business for which White Space was registered and licensed by the QFC.

iii. In light of the NOC, the Respondent quite unsurprisingly concedes in paragraph 40 of its amended Counterclaim that:

> *… it is crucial to highlight that it is not the defendant's position that the mere establishment of the claimant's company, only, constitutes violation of the non -compete clause Instead, the claimant has further violated the non- compete clause by soliciting the defendant's client, Al Meera Consumer Goods Company QPSC.*

iv. In light of the concession, we find it unnecessary to decide whether White Space is a competitor of the Respondent or whether, barring the NOC, the Applicant's employment by that company would constitute a violation of clause 6 of the Employment Contract. In short, the Respondent's complaint is not against the Applicant being employed by White Space. Nor does it contend that it has suffered any loss through such employment.

v. With regard to Al Meera Consumer Goods Company QPSC ('**Al Meera**'), the Applicant explained that his engagement by that company on 23 March 2023 resulted from an open bid on which White Space applied as a service provider, among others, including the Respondent; that Al Meera was never a client of the Respondent's external audit department where he was employed and that he therefore never interacted with Al Meera while employed by the Respondent; and that, if his engagement by Al Meera was held to be a contravention of the non-compete clause, that clause would be unreasonable.

vi. Moreover, so the Applicant explains, shortly after his contract with Al Meera, he heard from the latter that the Respondent was considering legal action against him. To avoid confrontation, so the Applicant says, he first offered to subcontract the work to the Respondent at 100% of his fee. When the Respondent refused that offer, he terminated the contract with Al Meera on 18 April 2023.

22. In view of the termination of the Al Meera contract, it is difficult to contemplate how that contract could have caused the Respondent to suffer any loss. This underscores a more general difficulty we have with the Respondent's case, which is the total lack of evidence to establish any loss suffered by it through the Applicant's conduct, let alone

the quantum of such loss. Regarding this comment, it should perhaps be pointed out that the Counterclaim brought by the Respondent is not for an injunction or a declaration that the non-compete clause is valid and enforceable. It is a claim for damages which the Respondent did not even begin to establish. Hence, we find it unnecessary to embark on an enquiry whether the non-compete clause is reasonable, which in the circumstances amounts to no more than an academic exercise.

23. Although the Respondent also relied on allegations that the Applicant acted in breach of the non-compete clause by soliciting some of its former employees, these allegations are denied by the Applicant. Absent any evidence to substantiate these allegations, that denial must be accepted.

24. In these circumstances we find that the Respondent's Counterclaim for damages must fail. As to the costs of the proceedings, the Applicant was plainly successful, and we can find no reason why costs should not follow the event. 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 Applicant was self-represented.

The Respondent was represented by the Ahmed Mohamednoor Al Mushiri Law Office (Doha, Qatar).

DIGITALLY SIGNED AND VERIFIED
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