



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: [2021] QIC (A) 4**

**(On appeal from [2020] QIC (F) 17)**

IN THE CIVIL AND COMMERCIAL COURT  
OF THE QATAR FINANCIAL CENTRE  
APPELLATE DIVISION

3 March 2021

**Case No. CTAD0001/2021 (on appeal from Case No 3 of 2020)**

Between:

NASCO QATAR LLC

**Respondent/Claimant**

v

MISR INSURANCE (QATAR BRANCH)

**Applicant/ Defendant**

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**JUDGMENT**  
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**Before:**

Lord Thomas of Cwmgiedd, President

Justice Frances Kirkham

Justice Fritz Brand

## ORDER ON PERMISSION TO APPEAL

1. Permission to appeal against the decision of the First Instance Circuit of the Civil and Commercial Court is refused.

## JUDGMENT

1. In a written Application made on 27 January 2021, the Applicant seeks permission to appeal from the judgment of the First Instance Circuit (Justice Bruce Robertson, Justice Arthur Hamilton and Justice Rashid Al Anezi) given on 29 November 2020, reported at [2020] QIC (F) 17. In its judgment the First Instance Circuit gave judgment ordering the Applicant to pay the Respondent (1) QAR 644, 216.88 as the balance of commission due, (2) QAR 51,537 in respect of pre-judgment interest on that sum, (3) interest on QAR 644, 216.88 from the date of the judgment until payment at the rate of 4% per annum and (4) costs.
2. The Respondent is an insurance broker and intermediary licenced and regulated by the QFC. It had placed applications for insurance on behalf of its clients with insurance companies including the Applicant. The Applicant is an insurance company operating in Qatar but outside the QFC. It is not in dispute that such a broker and intermediary would generally be entitled to payment of a commission by the insurer.
3. The Respondent sought payment of QAR 644, 216.88 being the balance due in respect of insurance placed by it with the Applicant on behalf of Darwish Holdings which had first engaged the Respondent in 2010. Although in the course of the dealings between the parties the Applicant had made payments to the Respondent, a part of the balance claimed related to insurances placed with the Applicant more than 6 years before the proceedings were commenced on 10 February 2020. The Applicant advanced three defences to the claims: (1) there was no contract as the terms were not sufficiently agreed for there to be a contract under the QFC Contract Regulations; (2) payment of the commission would be illegal and contrary to *Ordre Publique*; (3) a significant part

of the amount claimed was time barred under Article 108 of the QFC Contract Regulations as there had been a breach of the obligations to pay more than 6 years before the proceedings were commenced.

4. The First Instance Court found against the Applicant on each of these.
5. The Applicant advances three grounds of appeal:
  - (1) There was no contract between the parties as the offer sent by the Respondent was too vague and the parties had left too many uncertainties for there to be a concluded contract. In particular it was not clear whether the commission rates applied to initial or renewal policies; the Applicant had not accepted the offer in terms which showed it intended to be legally bound; there were essential terms such as the time of payment which had not been agreed.
  - (2) Enforcement of any agreement would be contrary to *Order Publique*.
  - (3) The court was wrong in its approach to the issue of limitation as it should not have adopted the analogy of a current account in banking as applicable to a running account between an insurance intermediary and an insurer.
6. The Respondent in its submission contend we should refuse permission.
7. In our judgement there are no substantial grounds for considering that the decision of the First Instance Circuit was erroneous and would result in substantial injustice, as set out in Article 35 of the Qatar Financial Centre Civil and Commercial Court Regulations and Procedural Rules and paragraph 27 of *Leonardo v Doha Bank Assurance Company* [2020] QIC (A) 1.
8. On the first ground of appeal, we consider that the First Instance Circuit carefully examined the evidence in the light of the requirements of the Contract Regulations. It concluded that the offer made and the contract formed as a result of the acceptance of

the offer were sufficiently certain as to the obligations and other terms between the Respondent as an insurance intermediary and the Applicant as an insurer. We cannot see any basis on which the conclusion of the First Instance Circuit can be said to be erroneous.

9. On the second ground of appeal,

(1) the First Instance Court took into account the requirements of the principles of legality and *Ordre Public* by inquiring into the compliance by the Respondent with the law and the licence requirements in Qatar.

(2) It asked the Applicant to identify the facts and matters relied upon by the Applicant for contending that the Respondent was not duly authorised under other relevant law and that it would in consequence be unlawful for the Applicant to pay the Respondent the commission due.

(3) Despite the request by the First Instance Circuit that the Applicant should identify the facts and matters relied on so that the First Instance Circuit could apply the law, the Applicant did not identify any facts to the First Instance Circuit. Nor did the Applicant make use of the opportunity in its notice of appeal to address its failure before the First Instance Circuit by setting out for this court the facts relied on so that this court could consider the application of the law to those facts.

(4) There was nothing in the evidence to show that on the facts of this case there was any breach of any licensing requirement or any other facts that would have made the contract illegal or which would have made it contrary to *Ordre Public* to pay the Respondent the commission due.

10. On the third ground of appeal,

- (1) the issue that arose for the purposes of determining the limitation issue under Article 108 of the Contract Regulations, given the way the claim was formulated as a claim for breach of contract, was when the breach in failing to pay occurred. It was the Applicant's case that the commission became payable immediately it was earned in respect of each transaction and there was a breach when the amount due was not paid immediately.
- (2) The Respondent contended that, on the way the contract was agreed and operated, there was a running account between the Applicant and the Respondent; and that a breach in respect of the payment obligation occurred only in the event of a failure to pay the balance due when payment of the balance was requested.
- (3) The court determined that the agreement provided for a running account and that the commission did not become payable when it was earned.
- (4) There can be no doubt that the principles set out in the judgment relating to the position on a current account of a customer with a Bank are generally recognised principles of banking law applicable in Qatar and not simply principles of English law.
- (5) The questions which arise on this application are whether the First Instance Circuit was right in (a) determining that there was a running account between the Applicant and the Respondent and (b), in the absence of any specific provision in the Contract Regulations in respect of a running account, in applying the principles applicable to a current account between a customer and a bank to the running account between the parties.
- (6) We cannot discern any arguable basis to challenge the finding on the evidence that there was a running account between the parties;

(7) On the basis of that finding it was not arguably erroneous to apply the principles applicable in Qatar to a current account between a customer and a bank to the running account between the Applicant and the Respondent.

11. The application for permission to appeal against the decision of the First Instance Circuit is accordingly refused.

By the Court,



Lord Thomas of Cwmgiedd

President of the Court



Representation:

The Applicant was represented by the Law Office of Riad Rouhani, Doha, Qatar.

The Respondent was represented by John & Wiedeman LLC, QFC, Doha, Qatar.