



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) 2

IN THE QATAR FINANCIAL CENTRE
CIVIL AND COMMERCIAL COURT
APPELLATE DIVISION

[On appeal from [2022] QIC (F) 27]

Date: 4 July 2023

CASE NO: CTFIC0017/2022

DALBA ENGINEERING & PROJECTS CO LIMITED

Claimant/Respondent

v

MARILON QFZ LLC

Defendant/Applicant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Dr Hassan Al-Sayed

Justice Ali Malek KC

ORDER

1. Permission to appeal is refused.
2. The application for a stay is refused.
3. The Applicant is to pay to the Respondent the Respondent's costs incurred on the application for permission to appeal, to be assessed by the Registrar if not agreed.

JUDGMENT

1. The Applicant ('**Marilon**') seeks permission by an application made on 23 February 2023 to appeal against the judgment of the First Instance Circuit (Justices George Arestis, Fritz Brand, and Dr Rashid Al-Anezi) given on 7 December 2022 ordering Marilon to pay the Respondent ('**Dalba**') USD 200,000 and costs. It also seeks a stay of execution.
2. Dalba, a company based in Brazil, claimed it had entered into a contract with Marilon, a company registered in the Qatar Free Zones Authority ('**QFZA**') for the supply to it of bitumen for a total of USD 400,000. Dalba paid Marilon \$200,000, but no bitumen was delivered. Dalba claimed the repayment of \$200,000 and \$300,000 by way of compensatory damages.
3. The First Instance Circuit found that the claim was served on Marilon which did not respond. Dalba then issued an application for summary judgment and Marilon again did not respond.
4. The First Instance Circuit, in granting the application for summary judgment for USD 200,000, held:
 - i. On 1 May 2021, a contract was entered into between Marilon and Dalba for the supply of a quantity of bitumen for USD 400,000. Dalba was to pay 50% in advance.

- ii. On 4 May 2021, Dalba paid Marilon USD 200,000.
 - iii. Dalba made repeated demands for the supply of the bitumen; Marilon sought extensions of time for delivery, but none was ever delivered.
5. The claim for compensatory damages was dismissed as there was no evidence to support the claim.
 6. Marilon seeks permission to appeal out of time on the basis that neither the claim nor the application was ever served on it.

The requirements as to service

7. In the application for permission, Marilon relies on detailed provisions as to service and procedure set out in the national Qatari Procedure Law rather than the procedural law set out in the Qatar Financial Centre Civil and Commercial Court Regulations and Procedural Rules (the ‘**Rules**’) which is applicable to cases in this Court.
8. The QFZA came under the jurisdiction of this Court by an amendment to article 44 of Law No. 34 of 2005. This provided:

The Civil and Commercial Court established in the Qatar Financial Centre pursuant to the Law of the Qatar Financial Centre, as referred to herein, shall have jurisdiction to adjudicate all disputes and civil and commercial suits between Registered Companies in the Free Zones, and between the Authority and individuals and Registered Companies in the Free Zones, or between Registered Companies in the Free Zones as one party and between individuals residing in the State or companies or entities established outside the Free Zones as the other party, whatever the nature of the legal relationship which is the subject matter of the dispute, unless the parties agree to settle the dispute by alternative means.

9. It follows, therefore, that service must be made under article 18 of the Rules and not under the national procedure law. Article 18 of the Rules permits postal service by recorded or registered post but does not permit electronic service, save when the President has permitted other service. A Practice Direction (No. 2 of 2021) permits electronic service of a Claim Form, but only when the Registrar or a Judge is satisfied that electronic service is likely to be received by the other party and is reasonable in all the circumstances.

Our conclusion

10. In its judgment the First Instance Circuit stated that service of the claim and of the summary judgment application was made by email. This was doubtless an error because the statement of Dalba's legal adviser made on the application for summary judgment is that the claim and the application had been served by mail, a term that can be used for both post and email.
11. However, it is clear that the claim and the application were served by post. We were provided with the receipts for delivery which showed that these documents were served by recorded delivery. The enforcement application was also served in a similar way. These were all permissible methods under article 18 of the Rules.
12. In addition, on 9 April 2023, a person from Marilon's office spoke to the Registrar and confirmed that it received the judgment (pursuant to the enforcement process).
13. There is therefore no basis on which it can be contended by Marilon that the claim and the application was not served. The First Instance Circuit considered the evidence that showed there was a contract, that payment had been made by Dalba, and that the bitumen had not been delivered. There is nothing in the application made by Marion that in any way casts doubt on this conclusion.
14. The application for permission is refused and the application for a stay is accordingly refused.
15. In addition, the application was out of time and no basis was in any event advanced for extending the time.

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 self-represented.

The Defendant was represented by Abdullah MA Al-Mutawa of the Al-Mutawa Law Firm (Doha, Qatar).