

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

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

17 June 2015

CASE NO: 02/2015

CHEDID & ASSOCIATES QATAR LLC

Applicant

v

SAID BOU AYASH

Respondent

JUDGMENT ON COSTS

Members of the Court:

**President Phillips
Justice Dohmann
Justice Scott**

ORDER

- 1. The Claimant's liability in respect of the Defendant's original claim for legal fees be reduced by 55%, and the Claimant do pay US\$ 82,118.93 in relation to the Defendant's costs of the trial.**
- 2. The Claimant do pay the Defendant US\$ 65,366.38 in relation to the Defendant's costs of the appeal.**
- 3. The Claimant do pay the Defendant interest at the rate of 5% on the costs awarded from the date of this judgment until payment.**
- 4. There is no order in relation to the submissions made by the parties with regard to costs.**

JUDGMENT

1. This judgment deals with costs, both of the proceedings before the First Instance Circuit and of the proceedings before this Court.

Proceedings before the First Instance Circuit

2. The Claimant sought permission to appeal against the Costs Judgment of the First Instance Circuit dated 20 January 2015. In our judgment of 3 May 2015 we refused permission to appeal against the Costs Judgment but held that we would review the apportionment of costs made by the First Instance Circuit *in the light of our judgment on the substantive appeal*. The apportionment made by the Court of First Instance was intended to reflect, taking a broad approach in accordance with the invitation of the parties, the extent to which the Defendant had added to the costs of the proceedings by raising issues on which the Defendant had not succeeded. The Defendant had succeeded before the Court of First Instance on the "duress" issue, on the "uncertainty of the agreement" issue, and on the interpretation of Article 107. We differed from the Court of First Instance in relation to these issues, resolving them in favour of the Claimant.
3. It is for this reason and for this reason alone that we have found it necessary to review the apportionment made by the First Instance Circuit. The written submissions made to us by the parties are not relevant to the task of re-

apportionment in so far as they range beyond the effect on apportionment of our decision in relation to these issues.

4. Adopting, at the invitation of the parties, the same broad approach as the First Instance Circuit we have determined that the Claimant's liability in respect of the Defendant's claim for legal fees should be reduced by 55%, rather than by 40% as determined by the First Instance Circuit, resulting in the sum of US\$ 82,118.93, which includes expenses (which we have not further reduced) of US\$ 3,300.

Proceedings before the Court of Appeal

5. Our starting point is that we should apply the principle that "costs follow the event". Both the Claimant's substantive appeal and its costs application have been dismissed, which means that *prima facie* the Defendant should be awarded his reasonable costs. Again, however, justice demands that the Claimant's liability in costs should be reduced to reflect the fact that the Claimant has succeeded in reversing in its favour the decision of the First Instance Circuit in relation to the three issues referred to in paragraph 2 above. The Claimant also claims credit in relation to our observations on severability, but we do not consider that this had a significant impact on costs. Our task then is first to determine what costs were reasonably incurred by the Defendant and then to apportion these to reflect the Claimant's success on the three issues.

6. The Defendant has put before the Court his liability in relation to costs and expenses of the appeal. These are profit costs of US\$ 136,437 and disbursements in the sum of US\$ 5,366.38. The Claimant claims to have incurred liability of QAR 325,500 in relation to legal fees and US\$ 7,841 in relation to disbursements. We consider that the costs claimed by the Defendant are disproportionate for the preparation and delivery of a single day's submissions in relation to matters already canvassed in the Court below. We consider US\$ 80,000 to be the maximum sum which should reasonably have been incurred in relation to the appeal.
7. Bearing in mind that a day's hearing would have taken place in any event, we consider that the Claimant's liability in respect of the Defendant's reasonable costs of the appeal should be reduced by 25% to reflect the issues upon which the Claimant succeeded, resulting in the sum of US\$ 60,000. There is no reduction with regard to the expenses claimed in the sum of US\$ 5,366.38, which fall to be added.
8. For the reasons given in paragraph 64 of our judgment of 3 May 2015, we order interest at the rate of 5% on the costs awarded from the date of this judgment.
9. We make no order in relation to the submissions made by the parties with regard to costs.

By the Court,



Lord Phillips of Worth Matravers
President of the Court

Representation:

The matters relating to the apportionment of costs and the costs of the appeal were determined on the written submissions filed by Badri and Salim Elmeouchi Law Firm (for the Applicant) and Brown Rudnick LLP (for the Respondent) without the need for a further oral hearing.

