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: [2024] QIC (A) 12

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

APPELLATE DIVISION

[On appeal from [2024] QIC (F) 25]

Date: 1 December 2024

CASE NO: CTFIC0073/2023

WAQAR ZAMAN

Claimant/Respondent

V

MEINHARDT BIM STUDIOS LLC

1st Defendant/1st Appellant

AND

MEINHARDT SINGAPORE PTE LIMITED

2nd Defendant/2nd Appellant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Sir William Blair

Justice Chelva Rajah SC

Order

1. The appeal is dismissed.

2. Subject to any submissions that the Appellants may make within 7 days, any costs incurred by the Respondent are to be paid by the Appellants in such amount as may be agreed or, in default of agreement, in such amount as assessed by the Registrar.

Judgment

1. The Appellants appeal with the permission of this Court from the judgment of the First Instance Circuit (Justices George Arestis and Helen Mountfield KC, with Justice Fritz Brand dissenting; [2024] QIC (F) 25) given on 23 June 2024, holding that the Respondent ('**Mr Zaman**') was entitled to QAR 612,000 (together with interest and costs) for unpaid wages and other emoluments.

The factual background

2. Mr Zaman was employed by the Second Appellant ('**Meinhardt Singapore**') from 12 May 2016 until 31 January 2021. From 31 January 2021, his employment was transferred to the First Appellant ('**Meinhardt Qatar**'), a company wholly-owned by Meinhardt Singapore, which was incorporated in the QFC on 9 August 2020 (Meinhardt Singapore and Meinhardt Qatar, collectively known as '**Meinhardt'**); this transfer appears to have been done informally as the only document in relation to this was Mr Zaman's letter of resignation sent to Meinhardt Singapore. He was employed in various roles culminating in becoming a director of a business information modelling studio.

3. Meinhardt BIM Studios LLC ran into financial difficulties in 2021; Mr Zaman claimed he had not been paid his full contractual salary since September 2021.

4. On 2 August 2022, Mr Zaman wrote to Mr Mohammad Omar Shahzad, the director of and in effective charge of Meinhardt Qatar, tendering his resignation from Meinhardt Qatar and agreeing to serve a 3-month notice period with his last day of work being 31 October 2022. In these proceedings brought by Mr Zaman, he contended that, as his resignation had not been accepted, he continued to work at Meinhardt Qatar's office until 30 November 2022 and thereafter from other premises until April 2023.

5. As we set out in more detail below, there was an exchange of email correspondence between the parties in September and October 2023, which Meinhardt contended amounted to a waiver of any claims against it.

6. On 30 November 2023, Mr Zaman brought the present claim against Meinhardt for unpaid salary for a period of 11 months until November 2022, 4 years unpaid annual leave, 4 years unpaid air tickets, and other expenses and benefits; he also sought damages for mental stress, suffering, and inconvenience.

The proceedings before the First Instance Circuit

7. Meinhardt Singapore challenged the jurisdiction of the Court. In a judgment of 14 February 2024 ([2024], QIC (F) 5), the First Instance Circuit (Justices George Arestis, Fritz Brand and Helen Mountfield KC) dismissed the application and ordered the matter to proceed to trial, stating that the issue of jurisdiction might be reconsidered at trial after the full determination on the facts.

8. At the trial, Meinhardt was represented by the Dr Thani Bin Ali Al Thani law firm. Mr Zaman appeared in-person without legal representation. The issues were:

    i. Should the question of jurisdiction be revisited?

    ii. Was the claim time-barred under article 10 of the Labour Law (Law No. 14 of 2004)? Article 10 provided that:

> *All the claims filed by Workers or their heirs claiming rights arising from the provisions of this Law or from the Employment Contract shall be promptly heard and be exempted from the judicial fees. Taking into account the provision of Article 113 of this Law, a lawsuit claiming the rights arising from its provision or from the Employment Contract shall lapse after the elapse of one year from the date of the expiration of the contract.*

iii. Had Mr Zaman waived his claim?

9. In its judgment, the First Instance Circuit decided in short order that:

   i. All the claims turned on issues that related only to Meinhardt Qatar. It was, therefore, not necessary to revisit the issue of jurisdiction.

   ii. The claim against Meinhardt Qatar was brought under the law of the QFC and not under Qatari national law. The time bar defence under article 10 of the Labour Law did not assist Meinhardt Qatar.

10. Thus, the principal issue for the decision was the contention of Meinhardt Qatar that Mr Zaman had waived his claim in a series of emails in which he had agreed not to claim unpaid salary and other benefits. Mr Zaman denied this. He contended that his emails were induced by the threat of legal action against him, which he characterised as blackmail. He maintained he had not waived his claim.

11. The First Instance Circuit ordered witness statements to be served prior to the hearing. This was not done. Accordingly, it was ordered no witness evidence would be heard by the Court.

12. The hearing took place on 28 April 2024. As the First Instance Circuit made clear, there was no evidence of blackmail, and the issue as to whether there had been a waiver had to be determined on the documentation without any consideration of the allegations of blackmail. In the result, the First Instance Circuit concluded by majority

that Mr Zaman had not waived his claim; there had not been an unconditional waiver, and in any event, the emails made clear any agreement on his part was subject to a written agreement. The draft written agreement sent by Meinhardt was not acceptable to him, and there was, therefore, no waiver. In his dissenting judgment, Justice Brand concluded that Mr Zaman had accepted that he had misconducted Meinhardt's affairs, sought to mitigate his conduct, and waived his right to claim in his email of 25 September 2023. That waiver had not been conditional and was not subject to it being agreed in writing.

13. The First Instance Circuit awarded Mr Zaman the amounts due for unpaid salary and some other benefits in the total amount of QAR 612,000 and interest from 30 November 2022. The claim for the further sums pleaded was dismissed as they were not supported by any evidence. There was no award of damages for stress and distress as no legal basis for such a claim was put forward.

The appeal

14. Meinhardt appealed on the issues of jurisdiction, time bar, and waiver. At the appeal hearing, Meinhardt were represented by Mr Ayman Hantish of the Dr Thani Bin Ali Al Thani law firm. Mr Zaman was represented by Ms Danah Mohammed of Al Marri & El Hage Law Office, who appeared *pro bono* on his behalf. Mr Zaman had also notified the Court that he wished to appeal against the dismissal of other claims, but this was rightly not pursued before us; the First Instance Circuit had made it clear that there was no basis for further claims.

15. It was contended towards the close of the hearing of the appeal by the advocate representing Meinhardt before us that the law firm had not received notice from the Court of the hearing date and had not received the submissions that Mr Zaman had served on the Court and on Meinhardt’s legal representatives; the notification of the date of the hearing had only been given to Meinhardt. On this basis, it was contended that Meinhardt’s advocate should be given time to make further submissions in writing after the hearing. We rejected that application. We are satisfied that the law firm representing Meinhardt had been notified of the hearing date and had been sent Mr Zaman’s submissions by email. The Registry also ensured that all the relevant information was provided to Meinhardt. Furthermore, the issues in the appeal were

clear as they were the same as they had been before the First Instance Circuit. There was no indication that there were other points to be made, and if so, these should have been encompassed within the written argument and in oral submissions to the Court, which had been properly prepared and presented to the Court during the hearing. Further written submissions would simply have increased the costs and time for the appeal. We regret the need to have had to make these observations.

16. We, therefore, deal with each of the three issues that were before the First Instance Circuit and before us in turn:

Jurisdiction

17. It is not necessary for us to consider the issue of jurisdiction, as no claim arises which involves Meinhardt Singapore. Although some of the claims, at first sight, might have appeared to cover the time during which Mr Zaman was employed by Meinhardt Singapore, Meinhardt Qatar did not at any time dispute its obligations and responsibilities for those claims, presumably as they were transferred to it when Mr. Zaman's employment was transferred. To the extent that these claims are recoverable, they are recoverable against Meinhardt Qatar.

Time bar

<u>Mr Zaman brought his claim within the year</u>

18. As we have set out, Meinhardt Qatar contended that the limitation period under article 10 of the Labour Law (Law No. 14 of 2004) applied, and the claim was time-barred. It was contended on behalf of Mr. Zaman that no such defence arose in respect of his employment by Meinhardt Qatar. He had brought his claim within a year, and, in any event, the limitation period did not apply to those employed by QFC companies under the terms of QFC employment law.

19. The First Instance Circuit found that Mr Zaman's employment continued until 30 November 2022. This is what Mr. Zaman had pleaded in his Claim Form. That was not challenged in the defence served by lawyers on behalf of Meinhardt; the defence simply asserted he had resigned on 1 August 2022 but did not put forward any plea as to when the employment expired. The date of resignation is not the relevant time under article 10 of the Labour Law; the relevant time is the date of the expiration of the

employment contract. That expired when Mr Zaman ceased to work for Meinhardt Qatar. There was no challenge to the date given in the claim form as to the date he ceased working. As the claim was brought on 30 November 2023, the claim was not barred, even if article 10 was applicable. We agree with this conclusion.

Applicability of a one-year time bar

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. 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.

22. The QFC Employment Regulations 2020 contain no period within which claims must be brought other than the period in Article 54, which provides:

> ***Limitation period***
>
> *The right of the Employee to claim compensation for disability or death shall expire one (1) year from the date of the medical report confirming the disability resulting from the injury or from the date of the death of the Employee*.

23. This is very similar to the provision in article 113 of the Labour Law No 14 of 2004:

The right of the Worker to claim compensation for disability or death shall be prescribed by the lapse of one year from the date of the final medical report including the occurrence of the disability resulting from the injury, or confirmation of the occurrence of the disability as a result of one of the occupational diseases recorded in Schedule 1, attached to this Law, or as from the date of the death.

24. It is, therefore, clear that it was expressly decided that for the QFC, the position with respect to employees of QFC entities would be different as regards the general limitation period for the bringing of claims; there was to be no one-year time bar except in the case of disability or death neither of which apply in the present case. The limitation period is, therefore, contained in the general law of the QFC set out in article 108 of the QFC Contract Regulations 2005, which does not operate as a bar in this case.

Had Mr Zaman agreed to forgo or waived his claims for salary and other benefits?

25. We, therefore, turn to the issue that was the only relevant issue before the First Instance Circuit and the only arguable issue before this Court – the issue of whether Mr Zaman had agreed to waive his claims for salary and other benefits. As we have set out, this question turns on the documentary evidence as the parties did not put any witness evidence before the First Instance Circuit. No application was made to put any evidence before us, as there was no basis for making such an application based on this Court's case law.

<u>The relevant emails</u>

26. The relevant documentation is as follows:

    i. After his resignation, there was an exchange of emails between November 2022 and April 2023 and one meeting about the future of Mr Zaman's relationship with Meinhardt. Thereafter, little happened, save that unknown to Mr Zaman at the time, Meinhardt filed a criminal complaint against Mr Zaman for allegedly mismanaging its business.

ii. On 25 September 2023, Mr Zaman emailed Mr Shahzad (who was the sole director of Meinhardt Qatar) saying he understood Meinhardt wanted to resolve the claims against him (Mr Zaman); this had followed a meeting in which Mr Ali Abdou (the manager of Meinhardt Qatar) had outlined allegations made by Meinhardt against him. He rejected the allegations against him save for one in which he accepted he had given a contract to his partner in another company. He put forward three options "*to resolve all these in a family way*". In setting out the second option, he accepted that Meinhardt's losses could have been because of his "*bad management, inexperience, and wrong decisions*." In the third option, he stated:

> *Still, apart from all the above explanation if you feel cutting off all my salaries and end-of-service benefits and GLC payments is fair, I will happily accept and wouldn't complain to you. Please prepare and send me any documents I will sign and close this issue.*
>
> *I don't have any money to face legal action and my family cannot bear this. We have been surviving for the last year with hand-to-mouth with different ways of taking up loans, selling things, and with some freelance jobs. So cannot bear the expenses of legal.*

iii. Mr Shahzad replied on 25 September 2023:

> *Thank you for your detailed email.*
>
> *As you are aware, the company has suffered significant losses and has been in a hopeless situation. We have been trying to salvage what we can but MBS is a business saddled with huge debts, liabilities and poor reputation. In many ways the company is beyond repair.*
>
> *Under these circumstances I am under pressure to take some tough decisions so this can be a good example for others to look into.*

As you know, I would like this matter to be settled amicably. In order for me to justify this approach, I suggest we go for option 3. ....

iv. On 26 September 2023, Mr Zaman replied:

Thank you very much for your response.

I can understand and respect your decision. As stated earlier, I will follow your decision.

Please proceed with the document and send me for review and sign.

v. A draft agreement was sent to him by Mr Abdou on 15 October 2023. The recital provided:

The management of [Meinhardt Singapore] had suspicions, of violations and violations Finance. Having a criminal suspicion, disclosing company secrets and concluding contracts in the name of [Meinhardt Singapore] on incorrect papers and seals. This is what the second party acknowledged. through the email sent from him on 9/25/2023, that he established a company working in the same field and concluded a contract with his partner in that company. [Mr Zaman] wishes to Settle those violations and transgressions, in a way that preserves his status in front of his family and in front of all his friends.

The first and second paragraphs of the agreement then provided that the recital was an integral part of the agreement, and Mr Zaman wanted to settle the violations and transgressions he had committed whilst managing Meinhardt Qatar.

vi. Mr Zaman was invited to come to the office "*to sign and close this issue once and forever*."

vii. On 22 October 2023, Mr Zaman sent an email to Mr Shahzad and Mr Ali Abdou, which stated:

> *Dear Ali*
>
> *In response to your e-mail and provided agreement, I noticed there are many false & untrue points mentioned and I don't accept all those. I also notice that your team is still playing with the words and legal technicalities and picked partial and incomplete sentences from my e-mail and added them to the agreement. I reject this approach and do not find it any positive. From all this it seems that the company only wants to waive my rights of salaries and end-of-service benefits by playing with legal terms, this is pure blackmailing and I don't accept it.*
>
> *As I have not done anything wrong, I will not accept any false allegations. If I will also adopt this approach, then the truth is that my resignation is not accepted and my name is not removed from the company documents therefore, I am still an active employee of MBS and legally have the right to claim all salaries till date and the day my name is removed from the company documents…..*
>
> *Dear Omar,*
>
> *For the last two years I have been blindly trusting you when you mentioned multiple times that there is no conspiracy against me but here, we are now I am getting blackmailed by my own company for which I worked hard for seven years and taken additional responsibilities then defined in my appointment letter. The approach & treatment I am receiving in return is disappointing.*
>
> *Anyway, as I mentioned earlier, I respect you like an elder brother and will accept your decision, so I stand by my word and accept your decision. I would prefer to keep the relationship for my personal and professional future. From my side there is no requirement for any agreement because it's a single line commitment to you that I will not*

claim my rights if you don't want to pay, and your team will not play with the legal technicalities.

I know still, my above commitment will not be enough for your legal team therefore I have edited the agreement in the form of that I can accept to sign just to assure you that I have no intention to change my words in the future….

I don't know the legal and Arabic language therefore I have removed the Arabic side and will not sign anything I don't know.

We enquired of the parties as to whether the "*edited agreement*" referred to in the penultimate paragraph was available for the Court to see. It was not.

27. In August 2023, Meinhardt Singapore made a criminal complaint against Mr Zaman in relation to his work for Meinhardt. Although Mr Zaman sought after the conclusion of the trial before the First Instance Circuit to rely on this and a subsequent similar complaint in support of his case, the First Instance Court rightly decided not to admit the evidence.

The provisions of the QFC Employment Regulations 2020 ('the **Regulations**')

28. It is necessary, as Ms Mohammed contended, to consider these emails in light of the QFC Employment Regulations 2020 (as amended and in force at the material time), which contain stringent terms in relation to protecting the position of employees of QFC entities:

Article 8 – No waiver of minimum standards

(1) The requirements set out in these Regulations are minimum requirements and a provision in an agreement to waive any of these requirements, except where expressly permitted under these Regulations, has no effect.

(2) Nothing in these Regulations precludes an Employer from providing in any contract of employment, terms and conditions of employment that are more favourable to the Employee than those required by these Regulations.

(3) A contravention of these Regulations constitutes a contravention of a Relevant Requirement under the QFCA Rules.

Article 26 – Payment of salary

(1) Salary and other payments due to the Employee should be paid in the currency stated in the employment contract or any other currency agreed between the Employer and the Employee.

(2) The Employer shall pay the Employee his salary at least monthly.

(3) The Employer shall give to the Employee a written itemised pay statement that includes:

(A) the amount of wages or salary payable;

(B) the amount of any variable and fixed deductions, if any, from that payment; and

(C) the purposes for which they are made.

Article 36 – Compensation in lieu of leave

(1) Where an Employee's employment is terminated for any reason, the Employee shall be entitled to payment in lieu of annual leave accrued but not taken, equivalent to the Employee's salary for the leave days which he has not taken.

(2) If the Employee has taken more annual leave days than he has accrued at the termination date, a sum equivalent to the Employee's salary for the additional leave days shall be deducted from the Employee's final salary payment.

29. The stipulation in article 8 is that a provision in an agreement to waive any of the minimum requirements has no effect. However, this does not prevent parties from reaching a binding agreement to settle a dispute regarding such requirements.

Considering the purpose of the Regulations, it does however follow, in our view, that if a dispute arises between an employee and the employer in the QFC in respect of wages and other benefits such as holidays, a clear and unequivocal agreement to settle the dispute is necessary, if the employee is to waive any of the entitlements due to the employee under the contract of employment.

Our conclusion on the waiver

30. In his concise and helpful dissenting judgment, Justice Brand concluded that Mr Zaman accepted that he had misconducted the affairs of Meinhardt and, in his email of 25 September 2023, waived his right to claim. That waiver was not conditional subject to it being agreed in writing. The contrary argument was not pleaded and was not supported by evidence. The terms of Mr Zaman's email inviting Meinhardt to "*proceed with the document and send me for review and sign*" were equally reconcilable with a written memorial of an already binding agreement. The terms of the email exchanges show that Mr Zaman had no objection to the waiver part of the draft agreement that was presented to him and that should bind him.

31. In our view, the pleading objection must be seen against the fact that waiver was an issue that arose in the emails. The question was whether a waiver was, in fact, made out, which, in the absence of any other evidence, had to be decided on the terms of the emails against the background of the case and the QFC Employment Regulations 2020. This issue arose in circumstances in which Mr Zaman was not legally represented, and it is not a matter of surprise that it only became clear at the hearing.

32. As stated above, in our view, a clear and unequivocal agreement is necessary if an employee is to waive any of the entitlements due to the employee under the contract of employment. In our judgment (agreeing with the majority of the First Instance Circuit), there was no such clear and unequivocal agreement. It is evident from Mr Zaman's email of 22 October 2023 that he did not agree to the terms of the draft agreement sent on 15 October 2023. That draft made clear that the terms included an acknowledgment by Mr Zaman of violations and transgressions whilst employed by Meinhardt. That was expressly rejected by Mr Zaman. He returned the draft and deleted that part. It may well have been open to Meinhardt to accept the terms of the

draft as amended, but it did not. It could not even produce to the Court the draft returned by Mr Zaman.

33. It was contended that Mr Zaman had earlier acknowledged what was set out in the recital to the draft agreement; we do not accept that. He had acknowledged there was one matter where he had acted wrongly; that was his entering into a contract on behalf of Meinhardt Qatar with a company he owned in partnership with another person. That was not an acknowledgment of the allegations in the draft agreement, which clearly refers to far more extensive wrongdoing than Meinhardt had alleged against him.

34. Furthermore, for the reasons we have given, any waiver on Mr Zaman's part was subject to a clear agreement of the settlement of the dispute, which would justify Meinhardt in withholding the salary and other benefits that it was otherwise bound by the QFC Employment Regulations 2020 to pay.

35. It is not necessary for us to determine in the present case whether such a settlement agreement must be in writing (as the majority of the First Instance Circuit held), though we can well understand why such a written agreement would be prudent and good practice. The provisions of article 10 of the QFC Employment Code 2010 refer to the binding effect of written settlement agreements. Although at paragraph 84 of its judgment in *Arwa Zakaria Ahmed Abu Hamdieh v Lesha Bank LLC* [2023] QIC (A) 1, this Court noted that article 10 of the QFC Employment Code 2010 was expressed to be guidance, that it was drafted in 2010 and reflected the practices at the time in relation to sponsorship and applicable to sponsorship before 2020; nonetheless, the practice in relation to recording settlement agreements in relation to pay and other benefits of employment in writing remains good practice.

Conclusion on the appeal

36. We, therefore, for the reasons we have given, dismiss the appeal on all three issues.

37. We must add one further note. We are greatly indebted to Ms Danah Mohamed for the way in which she represented Mr Zaman. She was of the greatest assistance to us by putting before us clear oral arguments in carefully prepared advocacy; she was able to answer our questions and clarify matters as regards the evidence, law, and practice. All

of this was done *pro bono*. It is, therefore, right we especially commend her for that commitment and the very considerable skill in advocacy she demonstrated before us.

By the Court,

[signed]

Lord Thomas of Cwmgiedd, President

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

Representation:

The Appellants were represented by Mr Ayman Hantish of the Dr Thani Bin Ali Al Thani Law Firm (Doha, Qatar).

The Respondent was represented by Ms Danah Mohamed of Al Marri & El Hage Law Office (Doha, Qatar).