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 (A) 2

IN THE QATAR FINANCIAL CENTRE

CIVIL AND COMMERCIAL COURT

APPELLATE DIVISION

[On appeal from [2024] QIC (F) 42]

Date: 13 January 2025

CASE NO: CTFIC0035/2024

DEVISERS ADVISORY SERVICES LLC

Claimant/Applicant

V

FARWIN FAROOK MUHAMMED

Defendant/Respondent

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Justice Frances Kirkham CBE

Justice Sir William Blair

Order

1. Permission to appeal is refused.

2. The Applicant is to pay the Respondent any costs incurred, to be determined by the Registrar if not agreed.

Judgment

1. The Applicant ('**Devisers**') seeks by an application made on 20 November 2024, permission to appeal from the judgment of the First Instance Circuit (Justices George Arestis, Fritz Brand and Dr Yongjian Zhang) [2024] QIC (F) 42) given on 26 September 2024 dismissing the claims of Devisers to be entitled to retain QAR 37,500 and ordering Devisers to pay the Respondent in respect of the counterclaim QAR 32,500 with interest and costs.

Factual Background

2. Devisers advises and assists those who seek visas to the United Kingdom and other states. On 17 January 2022, Devisers entered into an agreement with the Respondent (the '**Agreement**') under which Devisers undertook to advise and assist the Respondent's wife in obtaining entry to the United Kingdom through an Innovation Business Visa for a fee of QAR 37,500 which the Respondent paid to Devisers on the same day. The terms of the Agreement provided:

> *5. If the client revokes the agreement or changes his/her mind… Devisers shall nevertheless be deemed to have performed its service satisfactorily.*
>
> *6. If the visa application is refused due to any error by the applicant-like but not limited to- any false/incorrect information provided by the applicant for the application purposes OR if the immigration authorities make an enquiry to any authority about the applicant and the authority does not reply …OR if the applicant fails to give a correct reply to questions in the official interview related to the visa application. In all these cases applicant will not be refunded any charges paid to us.*
>
> *7. … If the application remains unsuccessful without falling under clause no. 6 of the agreement, any payment received will be repaid in 2 weeks.*

3. The Respondent's wife failed to obtain an English language certificate, which is an essential requirement for a Business Innovation Visa. On 11 March 2023, the Respondent told Devisers that he no longer wished to continue with the visa application. In those circumstances:

    i. The Respondent took the position that, as the application had failed for reasons other than those contemplated in clause 6 of the Agreement, the sum of QAR 37,500 became repayable.

    ii. Devisers contended that the Respondent's wife had failed to take the necessary training courses, and the Respondent was in breach of the Agreement.

4. An attempt was made at mediation, during the course of which the Respondent made an offer to Devisers. What happens in a mediation is confidential and must never be revealed to the Court.

5. Before the commencement of litigation, the Respondent made an open tender offering to permit Devisers to retain QAR 5,000 to compensate it for the work it had done.

6. Devisers then brought proceedings on 1 September 2024, claiming to be entitled to retain QAR 37,500. The Respondent counterclaimed, and the proceedings were assigned to the Small Claims Track. Both parties were self-represented. The First Instance Circuit decided, on the papers and without a hearing, that it was not necessary to determine which party was in breach of the Agreement, as it could determine the dispute between the parties on the assumption that the Respondent was in breach and Devisers was entitled to rely on clause 5 of the Agreement.

7. The First Instance Circuit, following the decision of this Court in *Manan Jain v Devisers Advisory Services LLC* [2024] QIC (A) 2 ('***Jain***'), held that, under article 107 of the QFC Contract Regulations 2005 ('**QFC Regulations**'), the sum Devisers sought to retain was grossly excessive. It reduced the sum Devisers was entitled to retain under clause 5 of the Agreement to QAR 5,000 to recompense it for the work done. The Court noted that Devisers had an opportunity to put forward a case as to why it should be

entitled to recompense in a greater sum but had failed to do so, insisting that it was entitled to the full amount.

The grounds of appeal

8. The application for permission was made to this Court by advocates instructed by Devisers. It was contended on behalf of Devisers that the First Instance Circuit misapplied article 107 of the QFC Regulations in that it:

    i. Failed to assess the value of work undertaken and expenses incurred by Devisers in performing its obligations under the Agreement. The work done was of a different order to that undertaken by Devisers in *Jain*.

    ii. Failed to consider whether the amount paid to Devisers was "*grossly excessive*" in relation to the work performed and expenses incurred by Devisers.

    iii. Failed to reduce the sum to a "*reasonable amount*".

9. Devisers also sought to adduce evidence on appeal to the effect that it had engaged a firm to prepare a business plan to support the application of the Respondent's wife at an invoiced cost of QAR 26,631.38.

10. The Respondent responded to the application for permission, and a reply was made on behalf of Devisers.

Our conclusion

11. Article 35.1 of the Court's Regulations and Procedural Rules (the '**Rules**') makes clear that permission will only be given where *"…there are substantial grounds for considering that a judgment or decision is erroneous and there is a significant risk that it will result in serious injustice".* Both conditions set out in article 35.1 of the Rules must be satisfied.

12. We consider first whether there are grounds for considering that the judgment was erroneous. As the First Instance Circuit pointed out in its judgment, Devisers could, as an alternative to its claim to be entitled to the entire sum of QAR 37,500, have put

forward its case as to the amount it should have been entitled to retain as recompense for the work done, if the Court was to decide that article 107 of the QFC Regulations was applicable.

13. However, although it chose not to do so before the First Instance Circuit, it has sought to adduce evidence on the appeal. This Court has made it clear on a number of occasions that it is for the parties to adduce evidence before the First Instance Circuit.

14. In the present case there is no good reason why the evidence was not adduced before the First Instance Circuit. Devisers plainly had the evidence at the time of the hearing before the First Instance Circuit and could have put it before the First Instance Circuit. However, it is contended that as an unrepresented litigant, "*it was not equipped to understand the legal nuances or distinctions required to differentiate its case from Jain".* There was, therefore, a good reason why it was not adduced, and this Court should receive that evidence.

15. Devisers is a litigant that has taken part in many proceedings before this Court, both before the First Instance Circuit and the Appellate Division. It was the defendant and appellant in *Jain*. We cannot accept that it did not understand the difference on the facts between the present case and *Jain.* It was sufficiently experienced to understand what it should have put before the Court or, if it had any doubt, to have instructed advocates at that stage.

16. As there was no evidence before the First Instance Circuit to enable it to make an assessment of the amount that should be awarded to recompense Devisers for the work done other than the open offer made by the Respondent, the First Instance Circuit was entitled to proceed on the basis of that open offer. This is, therefore, not a case where there are grounds, let alone substantial grounds, for considering that the judgment was erroneous.

17. We turn to consider the second condition. As was made clear by this Court in *Hadi Jaloul v Experts Credit Solutions Consultancy LLC* [2023] QIC (A) 13, "*Where a claim is assigned to the Small Claim Track, this Court will have particular regard to the question of the significant risk of serious injustice*". The sum in issue in this case is QAR 32,500, towards the lower end of the Small Claims Track.

18. It is contended on behalf of Devisers that there is a significant risk of serious injustice, as other clients might rely on the decision of the First Instance Circuit in litigation that might be brought by other clients of Devisers.

19. We cannot accept this contention. The judgment of the First Instance Circuit does no more than apply article 107 of the QFC Regulations as interpreted in *Jain.* It is clear that in any other case where issues arise under article 107, it will be open to Devisers to contend not only that the sum it seeks to retain is not grossly excessive, but in the alternative to put before the Court evidence of the work it had done and invite the court to assess the amount, if any, Devisers should be entitled to retain to recompense it for that work. The judgment in *Jain* explains how the sum of QAR 5,000 was assessed in that case. That assessment was a decision on the facts of that case. The decision in the instant case was based on the facts of this case. It will be for a court in any further case to make its own assessment on the evidence before it in any further cases where issues under article 107 arise.

20. We, therefore, refuse permission to appeal.

By the Court,

[signed]

Lord Thomas of Cwmigedd, President

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

Representation

The Applicant was represented by Eversheds Sutherland (International) LLP, Doha, Qatar.

The Respondent was self-represented.