



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 (F) 56

**IN THE QATAR FINANCIAL CENTRE
CIVIL AND COMMERCIAL COURT
FIRST INSTANCE CIRCUIT**

Date: 10 December 2024

CASE NO: CTFIC0071/2023

AMBERBERG LIMITED

Claimant/Applicant

v

PRIME FINANCIAL SOLUTIONS LLC

1st Defendant

AND

THOMAS FEWTRELL

2nd Defendant

AND

~~NIGEL PERERA~~

3rd Defendant

AND

~~SOUAD NASSER GHAZI~~

4th Defendant

AND

~~REMY ABBOUD~~

5th Defendant

AND

~~MARC REAIDI~~

6th Defendant

AND

~~INTERNATIONAL BUSINESS DEVELOPMENT GROUP WLL~~

7th Defendant

AND

~~QATAR GENERAL INSURANCE & REINSURANCE COMPANY QPSC~~

8th Defendant

JUDGMENT

Before:

Lord Thomas of Cwmgiedd, President

Order

1. The application for permission to make an application for permission to appeal from the judgment of the First Instance Circuit given on 1 September 2024, [2024] QIC (F) 39, is refused.

Judgment

Introduction

2. The Proposed Applicant (**‘Amberberg’**) seeks permission to bring an application for permission to appeal against the judgment of the First Instance Circuit (Justices Fritz Brand, Ali Malek KC and Dr Yongjian Zhang) given on 1 September 2024 striking out Amberberg’s claims against the Second and Third Defendants (the **‘Proposed Respondents’**).
3. Amberberg was on 5 June 2024 made the subject of a Litigation Restraint Order (**‘LRO’**) pursuant to Practice Direction No. 1 of 2024. Under the terms of the LRO, Amberberg is precluded from making any claims or applications – whether fresh cases or within extant cases – without permission. It therefore requires permission to make an application for permission to appeal. Such an application was made on 29 September 2024.

Background

4. On 23 May 2024, a security for costs order was made against Amberberg for the reasons set out at [2024] QIC (F) 23 – as affirmed on 21 July 2024 ([2024] QIC (F)

27) – in the sum of £144,000 payable as directed by the Registrar in three tranches in July, August and September 2024.

5. On 31 July 2024, Amberberg sought permission to make an application to seek the stay, amendment or revocation of the security for costs order. Justice Brand refused permission in a judgment given on 4 August 2024, [2024] QIC (F) 36.
6. As Amberberg had not paid any part of the sum ordered to be paid, on 2 August 2024, the Proposed Respondents applied to strike the claim out for failure to comply with the Order for security for costs. Amberberg opposed the application on a number of grounds, but principally that it should not be denied access to justice in circumstances where neither Amberberg nor its sole shareholder, Mr Veiss, was in a financial position to comply with the Order, particularly as a result of the actions of the Proposed Respondents.
7. The application by the Proposed Respondents was heard by the First Instance Circuit. It granted the application on the basis that:
 - i. When the Order for security for costs was made, it was only opposed on the basis that Amberberg through Mr Veiss always paid costs awarded against it; there had been no argument that Amberberg’s claim would be stifled if security for costs was ordered.
 - ii. In the circumstances it was therefore not open to Amberberg to say that the Order was wrongly made.
 - iii. There was no evidence of a change in the financial position of Amberberg.
 - iv. It would be wrong in principle to refuse the Order sought by the Proposed Respondents as the only beneficiary from any success in the claim would be Mr Veiss; he should not have a “*one-way bet*” by not providing security.

- v. Amberberg was taking the position that neither it nor Mr Veiss would ever be able to put up security. There was therefore no purpose in providing time to put up the security.
 - vi. In all these circumstances the only proper course was to grant the application of the Proposed Respondents.
8. In the application to be permitted to make an application for permission to appeal, Amberberg contends:
- a. That the First Instance Circuit failed in its duty to adjudicate on the application to it principally on the grounds that it failed to consider the proper principles of access to justice. Its decision denied justice to Amberberg.
 - b. It failed to apply the Overriding Objective.
 - c. It failed to consider the principle of not denying justice to Amberberg in circumstances where its impecuniosity had been caused by the Proposed Respondents.
 - d. It exercised its discretion to strike out the claim wrongly.

Conclusion

9. I refuse the application. It is an abuse of the process of the Court, and Amberberg has no reasonable grounds for making the application as there are no prospects of it successfully obtaining permission to appeal against the judgment of the First Instance Circuit.
10. In its judgment on 28 May 2024, the First Instance Circuit set out very clearly the reasons why it should exercise its discretion to order security of costs. Amberberg was legally represented at that hearing, and if it wished to contend that the decision was wrong, Amberberg should then have sought permission to appeal. No

application for permission to appeal was made. Proceedings can only properly be conducted in accordance with the Overriding Objective set out in article 4 of the Regulations and Procedural Rules of the Court if they are thereafter conducted in accordance with the decisions of the Court. This is a principle of considerable importance in the conduct of strongly contested and lengthy litigation. No argument to the contrary is one that would be considered by the Appellate Division as having any prospects of success.

11. As is accepted, the decision of the First Instance Circuit was one to be made in accordance with the proper exercise of the Court's discretion. An application for permission to appeal would therefore require a basis for arguing that the discretion had been exercised on the basis of a wrong legal principle or had failed to take into account a material matter.
12. The First Instance Court carefully considered whether there had been a change of circumstances or whether there were other good reasons for Amberberg's failure to comply with the Order or which would justify revisiting that Order or granting an extension of time. The First Instance Circuit carefully considered all the matters set out in its judgment. There is no prospect of its successfully arguing that the First Instance Circuit exercised its discretion wrongly.
13. Amberberg contended in its application that some matters it put before the First Instance Circuit were not addressed in the judgment and that was a basis for challenging the exercise of the discretion. The fact that a particular argument was not specifically addressed in the reasons given for the judgment is no basis for challenging the decision, unless it was a material matter. None of the matters set out in Amberberg's application would be considered by the Appellate Division as having any prospects of success.

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.