



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

**Neutral Citation: [2023] QIC (A) 12**

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

**[On appeal from [2023] QIC (F) 40]**

**Date: 10 October 2023**

**CASE NO: CTFIC0044/2023**

**MARILON QFZ LLC**

**Claimant/Appellant**

**v**

**DALBA ENGINEERING & PROJECTS CO LIMITED**

**1<sup>st</sup> Defendant/1<sup>st</sup> Respondent**

**AND**

**IYAD SHAMMA**

**2<sup>nd</sup> Defendant/2<sup>nd</sup> Respondent**

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## JUDGMENT

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**Before:**

**Lord Thomas of Cwmgiedd, President**

**Justice Dr Hassan Al-Sayed**

**Justice Ali Malek KC**

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**Order**

1. Permission to appeal refused.
2. No order as to costs.

**Judgment**

1. The Applicant (**‘Marilon’**) seeks permission to appeal by an application made on 26 September 2023 from the judgment of the First Instance Circuit (Justices Dr Rashid Al-Anezi, Fritz Brand and Yongjian Zhang; [2023] QIC (F) 40) given on 31 August 2023 striking out the claim on the grounds that as between the First Respondent (**‘Dalba’**) and the Applicant, all the matters set out in the claim were res judicata and directing Marilon to file a new claim if it wished to pursue a claim against the Second Respondent (**‘Mr Shamma’**).
2. As is set out in the judgment of the First Instance Circuit, Dalba had brought proceedings against Marilon. Summary judgment had been given on 7 December 2022 ([2022] QIC (F) 27). This Court refused permission to appeal on 4 July 2023 ([2023] QIC (A) 7). The judgment is presently in the enforcement process of the Court.
3. The First Instance Circuit concluded that the matters which were the subject of the proceedings brought by Marion was an attempt to relitigate as between Marilon and

Dalba that what had been decided in the earlier proceedings. Its detailed reasons for doing so were set out in its judgment.

4. We have carefully considered the grounds Marilon has set out for seeking permission to appeal, particularly in light of the procedure adopted before the First Instance Circuit. The proceedings were referred to the First Instance Circuit by the Registrar of his own motion. The First Instance Circuit then determined the matter, as it was in their view a clear case, without finding it necessary to ask Marilon for any submissions on the issue of *res judicata*.
5. Although a party ought to be given the opportunity to put forward submissions on a course that a Court is proposing to take which has not had been canvassed in the papers and submissions before the Court, no injustice has been caused in this case as Marilon has had that opportunity in the application to this Court to put forward all the arguments open to it in respect of the course taken by the First Instance Circuit. Having carefully considered all the matters set out in the application, we can find no basis for considering that there are any grounds for appealing against the judgment.
6. Although *res judicata* often gives rise to questions of some difficulty, this was a clear case. There was no doubt that these proceedings were well within the established principles applied by common law jurisdictions and those applied in the State of Qatar as set out in the judgment of the First Instance Circuit. In addition, as regards article 300 of the Qatari Code of Procedure (Civil and Commercial Procedure Law, No. 13 of 1990), the judgment of the Qatari Court of Cassation 2016/136 makes clear that the principles set out by the First Instance Circuit were correctly summarised. Similarly, the First Instance Circuit applied principles which were entirely in line with the general principles set out in Part VIII of the European Law Institute/UNIDROIT Model European Rules of Civil Procedure. There may well be cases where this Court will have to consider further the ambit of principles of *res judicata* applicable in this Court, but this clear case is not the case in which it is either necessary or desirable to do so. The judgment of the First Instance Circuit was clearly right for the reasons set out in its judgment.

7. The application is accordingly refused. As no costs will have been incurred by the Respondents in the application to this Court, it is not necessary for us to make any order as to costs.

**By the Court,**



**[signed]**

**Lord Thomas of Cwmgiedd**

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

**Representation**

The Claimant/Appellant was represented by Mr Mohsin Al-Haddad of Mohsin Al-Haddad Legal Consultants and Advocate of Excellence (Doha, Qatar).

The Defendants/Respondents did not appear and were not represented.