



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: [2022] QIC (F) 26

IN THE QATAR INTERNATIONAL COURT
FIRST INSTANCE CIRCUIT

Date: 7 December 2022

CASE NO: CTFIC0027/2022

HYPERNYM LLC

Claimant

v

MEHMOUD UL HASSAN LODHI

Defendant

JUDGMENT

Before:

Justice Frances Kirkham

Justice Fritz Brand

Justice Ali Malek KC

ORDER

1. In terms of article 134(2) of the QFC Companies Regulations 2005, the Claimant is hereby authorised to take transfer of the Defendant's 20% shareholding in Hypernym LLC against payment to the Defendant of the sum of QAR 2,000.
2. The Claimant is entitled to recover from the Defendant such reasonable costs, if any, it has incurred in raising and pursuing this action, to be assessed by the Registrar if not agreed.

JUDGMENT

1. The Claimant, Hypernym LLC (the "**Company**") is a company registered in the Qatar Financial Centre and represented herein by two of its members and directors, Mr Marah Al Khateeb and Mr Omar Kashef. The Defendant, Mr Mehmoud Ul Hassan Lodhi, is a 20% shareholder in the Company. His present whereabouts is to the Claimant unknown. It is described by the Claimant's representatives as "*between Pakistan and Dubai running his own business since 2021*".
2. The claim is in substance for relief under article 134(2) of the QFC Companies Regulations 2005, the full text of which is quoted later herein, essentially authorising this Court to make an order to: "*(B) Provide for the purchase of the shares of any member of the company or by the company itself; or (E) Make such order as the QFC Civil and Commercial Court thinks fit*".
3. The background facts giving rise to the claim, as stated rather tersely on behalf of the Claimant, are the following:
 - a. The Defendant, who is no longer willing to engage with or be involved with the Claimant, still has a 20% shareholding in the Company.
 - b. In consequence, he is required to co-operate in obtaining the Company Regulations Extract (CR Extract) of the Company by, *inter alia*, providing a copy of his passport.

- c. Without the CR Extract, the Company is not able to open a bank account and receive money from its clients, and in consequence it is unable to pay the salaries of its employees in Qatar or transfer money to its vendors.
- d. Despite numerous requests to do so, the Defendant has simply refused to provide the Claimant with a copy of his passport since February 2022, which has left the Claimant in an untenable position and caused it to launch these proceedings on 24 July 2022.
- e. On 26 July 2022, the Claimant sent the Claim Form and enclosed documents to the Defendant at his work email address under cover of the following email:

Dear Mehmoud, kindly note that we, Hypernym LLC Qatar, has raised a case against you as you are not co-operating with us. Unreachable and caused damages financially and operationally to the company. Kindly find the letter of issue attached along with the claim form. All documents are as attached.

4. No response was received from the Defendant. In the event the matter was allocated by the Registrar to the Small Claims track in the terms of Practice Direction No.1/2022. The members of the Court sought further particulars regarding service upon the Defendant whereupon an affirmed witness statement was filed on behalf of the Claimant in, *inter alia*, the following terms:

After raising the case, we tried to contact him many times and we got no reply, our CEO Mr Hasham Bin Zafar contacted him over the phone but Mehmoud Lodhi was keep declining the call. Then our vice president, Mr Basel Shalaby contacted him over the phone and he answered, our VP informed him that we need his passport copy and we need his co-operation in order to complete the company documents and to be legally able to perform in the State of Qatar. Also, Mr Basel Shalaby has informed Mehmoud Lodhi about the raised case where Mehmoud still has an access to his work email to check the case. However, he closed

the line and refused to contribute totally and after that he closed his mobile number and we were not able to reach him at all.

We as employees of Hypernym do not know exactly how to solve this issue which is negatively affects us physically, financially and psychologically. As we may lose our jobs and company may close if this issue is not solved.

5. In a subsequent statement it was again confirmed by the Claimant's representative that when Mr Basel Shalaby spoke to the Defendant on his Pakistani phone number,

he totally refused to co-operate and he said he is not going to provide us anything and not to call him again. Since then, his phone number is closed and we were not able to reach him again.

6. The Court has sent the Defendant emails to keep him informed about the progress of this case.

7. We accept that the Claimant has done all it reasonably could to bring its claim to the notice of the Defendant and in the circumstances, we are satisfied that the claim has come to the notice of the Defendant and that he decided not to participate. We accept that the Claimant has effected service of these proceedings on the Defendant. In the normal course the next step would be for the Claimant to bring an application for summary judgment under Article 22.6 of the Regulations and Procedural Rules. But, this is a matter allocated to the Small Claims track and is therefore to be determined on the material filed and served by the parties without an oral hearing. Moreover, we find that, on the face of it, the Defendant has had every opportunity to present any possible defence he wanted to raise and has failed to do so. Hence, we decided that the case is ripe for hearing and that we should determine it now.

8. Although we had to decide the matter without the benefit of legal argument, this disadvantage was mitigated by a helpful memorandum from the deputy CEO and legal officer of the Qatar Financial Centre Authority ("QFCA") produced at our invitation, as to how the matter might be resolved. In the memorandum, for which we wish to

convey our gratitude, several solutions were suggested. These included: (a) voluntary winding up by resolution of the company under article 58 of the QFC Insolvency Regulations; (b) winding up by the Court under article 77 of the Insolvency Regulations; or (c) intervention under article 134 of the Companies Regulations.

9. Article 134 provides:

134 Minority Protection: unfair prejudice

(1) A Member of a Company may apply to the QFC Civil and Commercial Court on the ground that the Company's affairs have been conducted in a manner which is unfairly prejudicial to the interests of some part of the Members (including at least himself) or that any actual or proposed act or omission by the Company (including an act or omission on its behalf) is or would be so prejudicial.

(2) Pursuant to such application the QFC Civil and Commercial Court may make an order to:

(A) require the Company to refrain from doing or continuing an act complained of by the applicant or to do an act which the applicant has complained or has omitted to do;

(B) provide for the purchase of the Shares of any Member of the Company or by the Company itself;

(C) authorise proceedings to be brought in the name and on behalf of the Company by such person or persons and on such terms as the QFC Civil and Commercial Court may direct;

(D) regulate the conduct of the Company's affairs in the future; or

(E) make such an order as the QFC Civil and Commercial Court thinks fit.

10. The submission in the memorandum on behalf of the QFCA is that, although these provisions appear under the rubric of “Minority Protection”, the wording of the article is wide enough to cover a situation such as this where the unfair prejudice is caused by the acts or omissions of a minority shareholder. We agree with submission. Likewise, we find the suggestion by the QFCA of intervention by this Court under this article an appropriate course of action. Unlike winding up, it will allow the Company to continue with the operation of its affairs, as it is entitled to do.
11. On the facts established by the Claimant, we find that the Defendant has been conducting himself in a manner which is unfairly prejudicial to the interests of the Company and its members. We conclude that the scope of article 134 is sufficient to include acts or omissions by a member of a company which are unfairly prejudicial to the company or other members. The jurisdictional requirements for intervention by this Court as formulated in article 134(1) have therefore been met. Accordingly, we find that the Claimant is entitled to the relief in the terms set out above.

By the Court,



[signed]

Justice Fritz Brand

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

Representation:

The Claimant was self-represented.

The Defendant was unrepresented.