

JUDGMENT SUMMARY

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| Neutral Citation | [2022] ADGMCFI 0004 |
| Case Number | ADGMCFI-2022-129 |
| Name of Case | Mussab Mubarak Abdulla Mubarak Aldarmaki v Abu Dhabi Commercial Bank |
| Judge | Chief Justice Lord David Hope |
| Date Issued | 8 August 2022 |
| Catchwords | Appeal against judgment as to small business loan. When to make jurisdiction challenge. Submission to jurisdiction by conduct. Whether grounds of appeal raise questions of law. |
| Cases Cited | Judicial Authority of Dubai International Financial Centre: Small Claims Tribunal, 7/2013, 1 October 2011 |
| Legislation and Authorities Cited | <p>ADGM Court Procedure Rules 2016 – Rules 205(3) and 311(1)</p> <p>ADGM Court, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015 – Section 16(2)</p> <p>Practice Direction 1 – Paragraph 1.3</p> <p>Practice Direction 3 – Paragraphs 3.13 and 3.14</p> |
| Executive Summary | This judgment considers the appeal process following a decision made in the Small Claims Division regarding a bank loan and the appellant's (the " Appellant ") subsequent default. Ultimately, the Court dismissed the appeal, highlighting the Appellant's submission to jurisdiction by conduct and the lack of questions of law raised by the Appellant's grounds for appeal, which were primarily factual. |
| Overall Summary | <p>Background</p> <p>This Abu Dhabi Global Market ("ADGM") Court of First Instance (Commercial & Civil Division) judgment concerns an appeal by Mr Mussab Aldarmaki (the "Appellant") against a decision of the Court of First</p> |

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| | <p>Instance (Small Claims Division) in a case brought by Abu Dhabi Commercial Bank (the “Bank”).</p> <p>The Bank filed a Claim in the Small Claims Division on 4 March 2022 for USD 98,213.92 outstanding on a small business loan with an applicable interest rate of 10.5% per annum, which the Appellant had defaulted on.</p> <p>The Appellant filed a Defence on 10 March 2022, arguing that the loan was personal, based on his salary, with a principal amount of USD 67,970 and an interest rate of 9.5% per annum. He stated that he had lost his job in January 2019 and proposed a settlement of USD 10,000. On the same day, he filed a Request for Time to Pay, admitting part of the Claim (USD 10,000).</p> <p>The Judge in the Small Claims Division directed the Appellant to file a witness statement clarifying the disputed facts. The Appellant’s witness statement disputed the amount owed and the 10.5% interest rate, reiterating that it was a personal loan guaranteed by his salary. The Bank rejected the settlement offer and maintained its position, providing documents confirming the 10.5% interest rate.</p> <p>On 20 April 2022, the Judge in the Small Claims Division entered judgment against the Appellant for the full amount claimed, plus interest and costs. The reason given was that the Appellant’s challenge was essentially limited to the interest rate dispute (9.5% vs 10.5%).</p> <p>The Judge in the Small Claims Division noted that statements of account provided regular intimation of transactions, including the 10.5% interest rate, and challenges were required within 30 days, which were not made. No documentary evidence was produced by the Appellant to support his 9.5% contention.</p> <p>The Appellant appealed this decision, filing a Notice of Appeal on 27 May 2022. An extension of time for the appeal filing was granted. The Bank opposed the appeal. The Appellant’s grounds of appeal included challenges to the ADGM Courts’ jurisdiction, arguing that the Bank failed to establish it or show an opt-in agreement. He also challenged the Bank’s failure to provide sufficient documentary proof of the loan’s nature, initial borrowing, applicable interest rate of 10.5%, and the accuracy of the outstanding amount, arguing that the Judge in the Small Claims Division relied solely on the Bank’s statements and a credit report without discharging the burden of proof or producing the key loan agreement.</p> <p>Analysis</p> <p>The Court examined the grounds of appeal. The Court noted that appeals from the Small Claims Division are limited to questions of law according to Rule 205(3) of the ADGM Court Procedure Rules 2016 (the “CPR”).</p> <p>Regarding the jurisdiction issue, which is a question of law, the Court held that challenges to jurisdiction must be raised at the outset of proceedings, specifically within 7 days of being served with the Claim in accordance with Rule 311(1)(d) of the CPR and Practice Direction 3. The Claim Form itself provided guidance on how to dispute jurisdiction within</p> |
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| | <p>this timeframe. The Appellant did not file an application to dispute jurisdiction within 7 days. Instead, he filed a Defence and a Request for Time to Pay, admitting part of the Claim. He also filed a witness statement without questioning jurisdiction.</p> <p>The Court concluded that the Appellant's conduct amounted to an acceptance of the Court's jurisdiction, constituting a request in writing for the Court to determine his response to the Claim under the Section 16(2)(e) of the ADGM Courts, Civil Evidence, Judgments, Enforcement and Judicial Appointments Regulations 2015. Therefore, the issue of jurisdiction was no longer open to challenge at the appeal stage. The Appellant's argument about lacking knowledge of ADGM rules was given no weight, as guidance was provided on the Claim Form. This ground of appeal was rejected.</p> <p>The remaining grounds of appeal all related to challenges concerning the nature of the loan, the applicable interest rate, and the accuracy of the outstanding amount. The Court found that these issues relate solely to questions of fact, not questions of law. As appeals from the Small Claims Court are restricted to questions of law by Rule 205(3) of the CPR, these grounds lay outside the scope of the appeal. These grounds were also rejected.</p> <p>Conclusion</p> <p>For these reasons, the appeal was dismissed. The Appellant was ordered to pay the Respondent's costs.</p> |
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This statement is not intended to be a substitute for the reasons of the Court or to be used in any later consideration of the Court's reasons.