

JUDGMENT SUMMARY

Neutral Citation	[2022] ADGMCFI 0005
Case Number	ADGMCFI-2022-178
Name of Case	Laila Abdulla Hassan Abdulla Belhoush v Abu Dhabi Commercial Bank
Judge	Justice Kenneth Hayne
Date Issued	14 September 2022
Catchwords	Small Claims Division. Appeal to Commercial and Civil Division. Application to extend time for appeal.
Cases Cited	–
Legislation and Authorities Cited	ADGM Court Procedure Rules 2016 - Rules 205(3) and 205(5)
Executive Summary	<p>This judgment considers an appeal filed out of time to the Abu Dhabi Global Market Court of First Instance (Commercial & Civil Division) from a decision of the Court of First Instance (Small Claims Division) concerning an application to set aside a previous default judgment. The Court ultimately dismissed the appeal, finding no persuasive explanation for the delay and no identifiable question of law as required for an appeal from the Small Claims Division.</p>
Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial and Civil Division) concerns an application by Ms Laila Belhoush (the “Applicant”) for an extension of time to appeal an Order made on 30 June 2022 (the “Order”) by the Court of First Instance (Small Claims Division). That Order dismissed the Applicant’s earlier application to set aside a default judgment entered against her on 13 April 2021.</p> <p>The original proceedings began on 22 February 2021 when Abu Dhabi Commercial Bank (the “Bank”) sued the Applicant for USD 60,891 owed on two loans it had made to the Applicant. On 13 April 2021, the Bank was granted default judgment (the “April 2021 Judgment”). Following this, the Bank commenced enforcement proceedings in the Abu Dhabi Judicial</p>

	<p>Department in June 2021, leading to enforcement and detention orders in September 2021 and October 2021, respectively.</p> <p>About a year after the Bank started enforcement, on 14 June 2022, the Applicant applied to set aside the April 2021 Judgment. This application was dismissed on 30 June 2022. The Applicant filed her Notice of Appeal against this dismissal almost a month later, which was beyond the 14-day time limit specified by Rule 205(5) of the ADGM Court Procedure Rules 2016 (the “CPR”). Consequently, her appeal was treated as an application for an extension of time to appeal.</p> <p>Analysis</p> <p>The Court considered the Applicant's request for an extension of time. The Applicant filed material asserting she had repaid the loans in full, producing her own statement of loan amortisation that she claimed showed payment of the principal, but it did not account for interest which she acknowledged the loans bore.</p> <p>The Court noted that the Applicant's application to set aside the April 2021 Judgment was filed long after it was entered and enforcement had begun, and her appeal was also filed out of time.</p> <p>The Court stated that it would not be inclined to grant an extension without a persuasive explanation for the delay in appealing or without the Applicant showing a clearly arguable case that there was an error of law in the decision refusing to set aside the April 21 Judgment. The Applicant provided neither; she offered no explanation for the delay and pointed to no error of law.</p> <p>Crucially, Rule 205(3) of the CPR states that appeals from the Small Claims Division can only be brought on a question of law. The Applicant's material focused solely on the factual assertion that she had repaid the loans, not on any question of law. Therefore, her proposed appeal would raise no question of law and would be incompetent. The Court found this incompetence reason enough to refuse the extension, reinforced by the lack of explanation for delay and failure to show a legal error. Her proof of payment was also found not to be persuasive as it ignored interest.</p> <p>Conclusion</p> <p>For these reasons, the Applicant's application for an extension of time was dismissed. The Applicant was ordered to pay the Bank'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.