

JUDGMENT SUMMARY

Neutral Citation	[2023] ADGMCFI 0012
Case Number	ADGMCFI-2020-015
Name of Case	AC Network Holding Limited & Others v Polymath Ekar SPV1 & Others
Judge	Justice William Stone SBS KC
Date Issued	7 June 2023
Catchwords	Application for permission to appeal.
Cases Cited	Racing Partnership Ltd v Done Bros Ltd [2021] Ch 233
Legislation and Authorities Cited	ADGM Court Procedure Rules 2016 – Rules 7, 8, 206(2) and 208(4)
Executive Summary	<p>This judgment grants permission to appeal to the Court of Appeal. The Court granted permission to appeal on all grounds sought by the Claimants, despite the Defendants' procedural objection that the application was out of time. The Court dismissed the procedural objection, clarifying that previous orders ensured the time for appeal commenced only after all related judgments, including costs, were finalised. The substantive grounds for appeal centre on the Court's previous findings regarding the Fifth Defendant's liability in the tort of unlawful means conspiracy and the Court's approach to precedent from the English Court of Appeal. The Court found that the issues raised were significant and appropriate for appellate consideration in the ADGM jurisdiction.</p>
Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) judgment concerns an application for permission to appeal to the ADGM Court of Appeal. The Claimants sought leave to appeal against part of the judgment dated 7 February 2023 wherein the Court declined to make any finding of liability against the Fifth Defendant, Mr Hashemi, for the sums ordered to be paid against the First to Fourth Defendants, and further against the Court’s decision dated 7</p>

	<p>April 2023 in declining to make an order for costs against the Fifth Defendant in addition to the costs order against the First to Fourth Defendants.</p> <p>The case had involved three prior judgments: a merits judgment (15 November 2022), a quantum judgment (7 February 2023), and a costs judgment (7 April 2023).</p> <p>The Defendants opposed the Claimants' application for permission to appeal on two grounds that: (i) it was out of time (a procedural objection); and (ii) the proposed grounds lacked substance.</p> <p>Analysis</p> <p>The Court dismissed the Defendants' procedural objection. It noted its earlier Order of 23 November 2022, which stated that the time period for any appeal would commence from the date of the final order disposing of the proceedings, including costs, allowing for a cumulative appeal. The Court found that the time extension granted via the Order of 8 May 2023 (extending time to 12 May 2023) applied to any appeal in the case, not just a costs appeal as the Defendants contended. The Claimants' application, filed on 12 May 2023, was therefore deemed within time.</p> <p>The Claimants' proposed grounds for appeal focused on the Court's handling of the case against Mr Hashemi. These included:</p> <ul style="list-style-type: none"> (i) an alleged error by the Court in failing to find Mr Hashemi liable for the tort of unlawful means conspiracy, arguing that liability does not require knowledge that the acts constituted a breach of contract; (ii) an argument that the Court should have followed specific English Court of Appeal authority, such as <i>Racing Partnership Ltd v Done Bros Ltd</i> [2021] Ch 233, which the Claimants argued was contrary to the Court's approach; (iii) a submission that the Court erred in law by holding it was not bound by decisions of the English Court of Appeal; and (iv) an alleged error in declining to award costs against Mr Hashemi personally, notwithstanding that it had declined to find that Mr Hashemi had incurred personal liability in unlawful means conspiracy. <p>The standard for granting permission to appeal is whether the appeal has a real prospect of success or there is some other compelling reason for it to be heard pursuant to Rule 208 of the ADGM Court Procedure Rules 2016.</p> <p>Conclusion</p> <p>The Court concluded that the statutory benchmark was clearly met. It found that the issues raised regarding the tort of unlawful means conspiracy, the differing judicial treatments of this tort in English law, and the issue of stare decisis in relation to English Court of Appeal decisions were significant and appropriate for appellate consideration in the ADGM jurisdiction.</p>
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	Therefore, the Court granted permission to appeal on all grounds set out by the Claimants. The costs of the permission application are to be determined in the appeal, except for the costs associated with the Defendants' unsuccessful procedural objection, for which no order as to costs was made.
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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.