

JUDGMENT SUMMARY

Neutral Citation	[2024] ADGMCFI 0005
Case Number	ADGMCFI-2023-021
Name of Case	Bai Mingguo v Anthony Darius Sadeghnia
Judge	Justice Stone SBS KC
Date Issued	23 May 2024
Catchwords	Material Adverse Changes. Irregularities. Company control. Whether Claimant entitled to Deferred Payment under SPA. Indemnity costs.
Cases Cited	<p>Finsbury Food Group PLC v Axis Corporate Capital UK Ltd and Ors [2023] EWHC 1559 (Comm)</p> <p>Travelport Ltd and Ors v Wex Inc [2020] EWHC 2670 (Comm)</p> <p>Akorn Inc. vs Fresenius Kabi AG, C.A. No 2018-0300-JTL</p> <p>Decision Inc Holdings Proprietary Ltd and Anor v Stephen Garbett and Anor [2023] EWHC 588 (Ch); [2023] EWCA Civ 1284</p> <p>Mannai Investment Co Ltd v Eagle Star Life Assurances Co Ltd [1997] AC 749</p>
Legislation and Authorities Cited	ADGM Court Procedure Rules 2016 – Rules 199 and 203
Executive Summary	<p>This judgment considers a dispute concerning the sale of shares in World Credit Savings Limited (“WCS”). The core issue revolves around the Defendant's failure to pay the final USD 300,000 instalment for an 80% stake in WCS. The Defendant argued that “<i>Material Adverse Changes</i>” or other “<i>irregularities</i>” justified withholding payment and filed a Counterclaim seeking dismissal of the claim and specific performance related to control of WCS. The Court ultimately ruled in favour of the Claimant, ordering the payment of the outstanding sum, dismissing the Counterclaim, and awarding the Claimant costs on an indemnity basis.</p>
Overall Summary	<p>Background</p> <p>This Abu Dhabi Global Market (“ADGM”) Court of First Instance (Commercial & Civil Division) judgment addresses a dispute between Mr Bai Mingguo, the Claimant and Seller, and Mr Anthony Darius Sadeghnia,</p>

	<p>the Defendant and Buyer, regarding the sale of 80% of the shares in World Credit Savings Limited ("WCS"). WCS is a financial services company founded by Mr Bai and regulated by the Abu Dhabi Financial Services Regulatory Authority (the "FSRA").</p> <p>Under the Sale and Purchase Agreement (the "SPA"), Mr Sadeghnia was to pay USD 1.4 million in two instalments for the shares. While the initial USD 1.1 million was paid, the second instalment of USD 300,000 (the "Deferred Payment") remains unpaid, leading Mr Bai to issue proceedings to recover this sum.</p> <p>Mr Sadeghnia defended the Claim and filed a Counterclaim, arguing that he was entitled to withhold the Deferred Payment due to alleged "<i>Material Adverse Changes</i>" ("MAC") and/or other "<i>irregularities</i>". He also sought specific performance of Mr Bai's obligation under the SPA to gain control over WCS's bank accounts and systems.</p> <p>Analysis</p> <p>The Court determined the Deferred Payment was contractually due on 5 January 2023, based on the SPA's terms and the share transfer completion date.</p> <p>The Court analysed Mr Sadeghnia's primary defence concerning MAC. Drawing on case law, the Court highlighted that establishing MAC requires a high threshold, necessitating a change with a significant detrimental effect on the company's long-term earnings potential over years, not just short-term issues.</p> <p>The Court found that the practical problems Mr Sadeghnia complained of did not meet this standard and therefore the invocation of the MAC clause failed as a matter of law. Furthermore, the SPA required formal written notice of MAC. The Court found that the WhatsApp message and email relied upon by Mr Sadeghnia were insufficient notice as required by the contract, which was fatal to the MAC defence.</p> <p>Regarding Mr Sadeghnia's Counterclaim and alleged "<i>irregularities</i>", primarily concerning a failure to transfer "<i>control</i>", the Court noted that as the 80% shareholder, Mr Sadeghnia legally possessed control under ADGM law and could exercise voting rights.</p> <p>The Court accepted Mr Bai's evidence that the lack of appropriate authorisation from the FSRA prevented him from transferring control directly to Mr Sadeghnia, who lacked approved person status.</p> <p>The Court was unconvinced that Mr Sadeghnia was locked out, suggesting issues might relate to an obligation to inject capital. The allegation that Mr Bai wrongly used WCS funds was dismissed, as the SPA explicitly allowed the Seller (Mr Bai) to transfer cash assets out before the share transfer. An allegation of breach of a non-compete clause was also dismissed due to lack of evidence.</p> <p>Conclusion</p> <p>In conclusion, the Court found Mr Sadeghnia's defence based on MAC and alleged irregularities lacked substance and did not justify withholding the payment. The Defendant's Counterclaim was dismissed. Judgment was entered for Mr Bai for the USD 300,000 with respect to the Deferred</p>
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	<p>Payment. The USD 300,000 previously paid into Court by the Defendant is to be paid to Mr Bai in satisfaction of the judgment sum. Interest was awarded at 5% per annum from 5 January 2023. The Court also awarded Mr Bai costs on an indemnity basis in the sum of AED 585,000, noting the Defendant's unreasonable delay and unsubstantiated allegations.</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.