THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

In the name of His Highness Sheikh Mohammad Bin Rashid Al Maktoum, Ruler of Dubai

IN THE COURT OF FIRST INSTANCE

Before Justice Sir John Chadwick

Between:

ANNA DADIC

Claimant

and

(1) DUBAI INTERNATIONAL FINANCIAL CENTRE AUTHORITY

(2) DUBAI INTERNATIONAL FINANCIAL CENTRE

(3) THE STATE OF THE UNITED ARAB EMIRATES

Defendants

Hearing: 19 September 2011

Parties: The Claimant, Ms Anna Dadic, did not appear

Mr Graham Lovett of Clifford Chance for the Defendants

Dubai International Centre Authority and Dubai International Financial Centre

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JUDGMENT

Revised from transcript and approved

1. By an Order made on 2 June 2011, I struck out Ms Dadic's claims in CFI 017/2011, 018/2011 and 019/2011 as an abuse of the Court's process. I stayed all proceedings in relation to claims CFI 008/2011, 009/2011, 010/2011, 014/2011, and 016/2011 pending the judgment of Justice David Williams in proceedings CFI 026/2010 and his decision in relation to the application made by notice CFI 026/2011 issued in those proceedings. I directed that Ms Dadic be entitled to make an application upon seven days' notice for the discharge or variation of that Order.

2. On 14 July 2011, Ms Dadic made an application, reference 041/2011, in which she stated that she intended to apply for "final agreed orders" - a draft of the Orders sought being attached to that application - in all the matters to which I have referred. The application notice states that it is brought pursuant to paragraph 9 of the Order made on 22 June 2011, The application notice extends over some 31 pages; but there is no indication in that notice as to the basis upon which it is said that the Order of 22 June 2011 was not properly made. Ms Dadic relies only on what she describes as "final agreed orders". Those are orders which she asserts were agreed by the Defendants. There is no material which supports her assertion that any such orders were agreed by the Defendants. Ms Dadic has not appeared today to pursue her application 041/2011. The position, therefore, is that my Order of 22 June 2011 stands.

3. The reasons which led me to make that Order were given orally and in open court on 22 June 2011. Subsequently, my judgment was transcribed. The transcription, as revised and approved, was issued on 17 July 2011. After describing the claims made by Ms Dadic in the proceedings that were before me, I said this, at paragraphs 22 and 23 in the revised transcript:

> "22 I have reached the conclusion that the appropriate course is to stay all proceedings in CFI 008/2011, CFI 009/2011, CFI 010/2011, CFI 014/2011 and CFI 016/2011 pending the judgment of Justice David Williams in CFI 026/2010 and application 026/2011. The reason for imposing the stay in those proceedings pending that judgment is that, if I were now to seek to determine whether or not the claims in proceedings CFI 008/2011, CFI 009/2011, CFI 010/2011, CFI 014/2011 and CFI 016/2011 have any prospect of success, I would be trespassing upon the matters which Justice David Williams will need to decide when considering whether to grant permission for Ms Dadic to proceed with her judicial review claims in CFI 026/2010. The allegations in the later proceedings overlap those in CFI 026/2010. That can be seen from a comparison of Part C in the Particulars of Claim in CFI 008/2011, with paragraphs 4.7 in a document described as 'Further Specific Particulars' filed in CFI 026/2010 in or about March 2011. The coincidence of language suggests that the word processor has done its work by simply pasting into Part C of the Particulars of Claim in CFI 008/2011 passages which have been lifted from those 'Further Specific Particulars' in CFI 026/2010. So those matters ought to await the determination of Justice David Williams of the applications in CFI 026/2010 which are before him.

23. When judgment has been given on the applications in CFI 026/2010, the application to strike out on the grounds of abuse of process now made in CFI 014/2011 under reference 032/2011 will revive. If Justice David Williams takes the view that permission to proceed with a judicial review should be granted, then it seems to me that the sensible course would be for the proceedings in CFI 008/2011, CFI 009/2011, CFI 010/2011, CFI 014/2011 and CFI 016/2011 to be joined with those judicial review proceedings so that all matters can be determined at the same time in a single set of proceedings. That observation is not intended to pre-empt consideration of the question whether, even if the judicial proceedings do proceed, there can be no private law claim in respect of the allegations made. It is intended to do no more than recognise that it will not be necessary to decide that question if the judicial review proceedings do not proceed. If the judicial review proceedings do not proceed, then the Court will be in a position, with the benefit of Justice David Williams' reasons for refusing permission to pursue the judicial review proceedings to decide whether the civil claims in CFI 008/2011, CFI 009/2011, CFI 010/2011, CFI 014/2011 and CFI 016/2011 should be struck out as having no prospect of success and so are an abuse of process."

4. At Paragraph 29 of the revised transcript, I ruled that the Defendants were to have their costs in relation to the matters struck out: that is to say, in relation to the proceedings CFI 017/2011, 018/2011 and 019/2011. I said this:

"29 The defendants are not in a position to ask me to make a summary assessment of those costs at this stage because their cost schedule includes, as well as the costs of those applications, the costs of the other applications made today. The costs of the other applications must await an adjourned hearing following the judgment of Justice David Williams. At an adjourned hearing an application for summary assessment of the costs in CFI 017/2011, CFI 018/2011 and CFI 019/2011 can be joined with any application for summary assessment of costs of the other applications if any orders for payment of those costs are made at that hearing".

5. Justice David Williams delivered judgment in CFI 026/2010 on 20 July 2011. He refused Ms Dadic permission to pursue the judicial review which was sought in those proceedings. At paragraph 50 of his judgment he said this:

"For the reasons expressed above I find that the claimant has failed to convince me that she has an arguable case that a ground of judicial review exists which would merit full investigation at trial. I find that no part of the claimant's claim is fit for further consideration as no part of it discloses an arguable case for judicial review. As observed above the claimant seeks to reopen issues that have already been dismissed twice by the Court of First Instance and unanimously by a bench of three judges in the Court of Appeal. It would be most inappropriate to allow the claimant's claim to proceed".

He recorded, at paragraph 52 of his judgment, that Ms Dadic's application for permission to proceed with judicial review proceedings was totally without merit.

6. Effect was given to Justice David Williams' decision by an Order made on 19 August 2011. On the same day, but by a separate Order, the Court directed that the costs of claim CFI 026/2010 - including the costs of the application under reference 026/2011, were to be assessed on the standard basis and paid by the Claimant within 14 days. The parties were given permission to apply within seven days to vary that Order; and it was directed that any application for that purpose be heard in the week commencing 18 September 2011.

7. Following the judgment of Justice David Williams, the Defendants, Dubai International Financial Centre and Dubai International Financial Centre Authority, made applications for the dismissal of the proceedings in CFI 008/2011, 009/2011, 010/2011, 014/2011 and 016/2011, for an order for an assessment of their costs in those proceedings and for assessment of their costs in proceedings 017/2011, 018/2011 and 019/2011. On 6 September 2011 the Court sent an email to the representatives of the Defendants and to Ms Dadic indicating that the Registry proposed to list the adjourned hearings in CFI 008/2011, 009/2011, 010/2011, 014/2011 and 016/2011 on 19 September 2011 or 21 September 2011; and asking the parties to confirm their availability for either of those dates. It appears from a note on the Court file, that, on 8 September 2011 a Court Officer attended at Ms Dadic's place of residence and handed her a copy of that email; and that she informed him that she would be contacting the Registry to discuss the matter.

8. The Defendants' representatives had indicated, by email sent on 6 September 2011, that, of the dates offered for the adjourned hearing, they would prefer 19 September 2011. The Court gave notice to Ms Dadic on 11 September 2011, that the Registry had listed the adjourned hearing for 10.00am on 19 September; that is to say, for hearing this morning. Her response to that was by email of the 12 September 2011 to the Court. She wrote:

"For the record the claimant confirms that there are no adjourned hearings in any of the proceedings before the Court".

The Court responded, by email on the same day, referring Ms Dadic to Rule 36.28 of the RDC and inviting her to make her submissions at the hearing at 10.00am on 19 September.

9. In those circumstances, I am satisfied that Ms Dadic has been given proper notice of the hearing this morning. She has not appeared and the Court has had no communication from her to indicate that she has been delayed or is otherwise unable to attend. I am satisfied, given the history of non-appearance in the past and her assertion that there are no hearings in these proceedings, that she did not intend to come to Court for these adjourned hearings and that, accordingly, it was appropriate to proceed in her absence.

10. I am satisfied, also, on reading the application 041/2011 (which Ms Dadic seeks to have dealt with without a hearing) that there is no reason to postpone the order that I would otherwise make pending the consideration of her application in that notice.

11. The first question, therefore, is whether the claims in CFI 008/2011, 009/2011 and 010/2011 and the related claims - or, as I described them in my earlier judgment, the ancillary claims - in CFI 014/2011 and 016/2011 should now be dismissed. In the passage from my earlier judgment to which I have already referred, I indicated that there was a substantial overlap between the assertions made in those proceedings and the contentions that were before Justice David Williams in CFI 026/2010. A more complete list would show that paragraphs 4.7 and 5 of the Specific Particulars of Claim in 026/2010 are reproduced (almost in their entirety) in Part C of each of claims CFI 008/2011, 009/2011 and 010/2011; that Part D of the Specific Particulars of Claim is almost entirely reproduced in Part D of claim CFI 008/2011; that Part D of the Specific Particulars of Claim is almost entirely reproduced in Part E of the claim in CFI 009/2011; and that Part F of the Specific Particulars of Claim is

almost entirely reproduced in Part E of claim CFI 010/2011.

12. I am satisfied that, for the reasons which Justice David Williams gave in his judgment in CFI 026/2010, there is no prospect that the claims in CFI 008/2011, 009/2011 and 010/2011 could succeed; and that accordingly the claims in CFI 014/2011 and 016/2011 would fail also. In those circumstances the claims in CFI 008/2011, 009/2011, 010/2011, 014/2011 and 016/2011 should be dismissed: those claims should be dismissed on the basis that, to pursue them, would be an abuse of process in the circumstances that these matters have already been litigated. Accordingly I make the orders sought.

13. The question, then, is whether the Defendants should have their costs of those proceedings. I am satisfied that they should have those costs and that they should have them on an indemnity basis. Ms Dadic has continued to seek to pursue claims which this Court has described, on a number of occasions now, as being totally without merit. Her action in doing so is an abuse of process and, in those circumstances, she should pay costs incurred as a result of that abuse of process on a full indemnity basis.

14. I am asked to assess those costs and also to assess the costs in claims CFI 017/2011, 018/2011 and 019/2011. Statements of Costs have been put before me which show that a very considerable amount of time has been spent by the Defendants' lawyers in these matters. In particular, a total of some 10 hours has been spent on "Attendance on others" in circumstances in which, as was explained to me this morning, those "others" are members of the attorney's firm. A total of some 81 hours has been spent on the documents. It is really that item which inflates these costs to a total of some US$47,500.

15. Given that costs are to be assessed on an indemnity basis - at least in relation to CFI 008/2011, 009/2011, 010/2011, 014/2011 and 016/2011 - the onus is on Ms Dadic to persuade the Court that that amount of time was not reasonably necessary. But she is not here to do that. In those circumstances, I am not satisfied that it would be appropriate to assume that, after investigation, she could not demonstrate that 80 hours was excessive even on the most generous approach. Accordingly. it seems to me that the assessment of costs should be referred to the Registrar in the ordinary way: I should not, at this hearing, seek to make a summary assessment in the absence of Ms Dadic. Further, in the circumstances that there will be an assessment by the Registrar of the costs in CFI 026/2010 pursuant to the Order of 19 August 2011, issued on 6 September 2011, I think it appropriate that all the costs are looked at together. Inevitably there will have been a considerable amount of overlap. Accordingly, while awarding costs as I have indicated, I decline to make a summary assessment of those costs. I refer assessment to the Registrar.

Mark Beer

Registrar

Date of Issue: 6 March 2012

At: 10am