Claim No. SCT 067/2020

THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

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

IN THE SMALL CLAIMS TRIBUNAL
BEFORE SCT JUDGE AND REGISTRAR NASSIR AL NASSER

BETWEEN

LALA

Claimant

and

IANKEN

Defendant

Hearing **: 21 May 2020**
Judgment **: 21 May 2020**

JUDGMENT OF SCT JUDGE AND REGISTRAR NASSIR AL NASSER

UPON this Claim being filed on 27 February 2020

AND UPON a Consultation being held before SCT Judge Delvin Sumo on 30 March 2020 and 4 May 2020 with the Claimant's representative and the Defendant in attendance

AND UPON the parties failing to reach a settlement at the Consultation

AND UPON a hearing being held before SCT Judge Nassir Al Nasser on 21 May 2020 with the Claimant's representative and the Defendant in attendance

AND UPON reviewing the documents and evidence submitted in the Court file

IT IS HEREBY ORDERED THAT:

1. The Defendant shall pay the Claimant the amount of AED 224,864.19 in relation to sums owed for the Loan, plus interest at the rate of 9% per annum.

2. The Claimant's claim in relation to the Credit Cards (MasterCard Gold, Visa Platinum Credit Card and ADCB Traveler World Mastercard) shall be dismissed for lack of jurisdiction.

3. The Defendant shall pay the Claimant the Court Fee in the sum of AED 11,243.20.

Issued by:
Nassir Al Nasser
SCT Judge and Registrar
Date of issue: 21 May 2020
At: 12pm

THE REASONS

Parties

1. The Claimant isLala, a bank providing financial services including credit cards and personal loans to customers (the "Claimant").

2. The Defendant is Lanken, an individual customer of the Claimant Bank (the "Defendant").

Background

3. The parties entered into a written agreement on 30 May 2017, entitled `Lala Simply life Personal Loan and Credit Card Application Form' (the "Agreement").

4. On 15 June 2017, following an Application made by the Defendant, the Claimant was approved for the sale of a Simply Life Personal Loan in the sum of AED 300,000, that was repayable in 48 monthly instalments of AED 7,329 (the "Personal Loan").

5. The Personal Loan account has been in arrears since 25 September 2019. The outstanding amount allegedly owed by the Defendant to the

Claimant in relation to the Personal Loan is in the sum of AED 224,864.19.

6. The Claimant also alleges that the Defendant was approved for the following Credit Cards:

(a) The Sale of a MasterCard Gold Credit Card with a limit of AED 6,000, which has been in arrears since 15 July 2017. The current outstanding amount allegedly owed by the Defendant to the Claimant in relation to the Master Gold Credit Card is in the sum of AED 8,542.98.

(b) The Sale of a Visa Platinum Credit Card with a limit of AED 20,400 which has been in arrears since 15 July 2017. The current outstanding amount allegedly owed by the Defendant to the Claimant in relation to the Visa Platinum Credit Card is AED 1,904.27.

(c) The Sale of Lala Traveler World Mastercard with a limit of AED 18,000 which has been in arrears since 20 June 2019. The current outstanding amount allegedly owed by the Defendant to the Claimant in relation to the ADCB Traveler World Mastercard is in the sum of AED 23,109.70.

7. Following the Defendant's failure to keep up with his repayments, the Claimant filed a claim with the DIFC Courts' Small Claims Tribunal (the "SCT") to recover the amounts on 27 February 2020 (the "Claim").

8. The Defendant filed his Acknowledgement of Service with the intention to defend part of the Claim.

Discussion

9. This Claim includes two main elements. First, it must be established that the DIFC Courts have jurisdiction over both of the Claimant's Claims, namely, the Loan Claim and the Credit Card Claims. Second, the two Claims must be assessed based on the documentary evidence provided to adjudicate whether the Defendant is in arrears and, if so, how much remains owing to the Claimant.

10. Due to the important fact that the SCT cannot give judgment on claims falling outside of its jurisdiction, I will address the SCT's jurisdiction over each claim below.

The Loan Claim

11. The Claimant argues that the Agreement between the parties was signed by the Defendant on 30 May 2017 (a copy of the Agreement was attached to the case file). The Defendant received the total sum of AED 300,000 payable in 48 monthly instalments.

12. The Defendant paid 16 out of 48 instalments and the remaining outstanding balance is AED 224,864.19.

13. The Claimant contends that the DIFC Courts and the SCT have jurisdiction over the claim as the Defendant agreed to the terms and conditions set forth in the Agreement, as presented on the Lala system, which states at Clause 18, as follows:

"the Civil Court of the Individual Emirates. The Federal Civil Courts of the United Arab Emirates, and the Courts of the Dubai International Financial Centre (including without limitation the Small Claims Tribunal of the DIFC). Shall have non-exclusive jurisdiction over all matters arising under the products' terms and conditions save that bank shall have the right to file actions in any court with jurisdiction over you or your assets."

14. I find that the parties have opted-in to the jurisdiction of the DIFC Courts pursuant to Clause 18 of the Terms and Conditions.

15. In relation to the Loan Claim, the Defendant failed to provide any defence to the claim, however, he argued at the hearing that as per his calculation the remaining balance is AED 175,000, but failed to provide evidence to support his argument. Therefore, based on the documentary evidence before me, I am satisfied that the Defendant has been in arrears since 25 September 2019, and the remaining balance of the Loan is in the sum of AED 224,864.19.

16. The Claimant also requested for post judgment interest pursuant to the DIFC Courts' Practice Direction No. 4 of 2017, which I shall award the Claimant.

The Credit Card Claims

17. In respect of the Credit Card Claims, the Claimant included only one Credit Card Application form signed by the Defendant. The Credit Card Application Form was in relation to the Lala Traveler World Mastercard.

18. In relation to the Claims for sums owed against the MasterCard Gold Credit Card and the Visa Platinum Credit Card, the Claimant failed to attach any Application Forms to the Claim Form.

19. In relation to the jurisdiction, I note that neither of the parties is a DIFC entity nor have the parties validly opted-in to the SCT's jurisdiction by way of written consent, thus, I am of the view that the SCT does not have jurisdiction over this Claim. While this is a valid argument for the Loan Claim, as per Clause 18 of the Terms and Conditions, this argument does not apply for the Credit Card Claim.

20. Therefore, I shall dismiss the Claimant's claim of the following:

(a) MasterCard Gold Credit Card in the sum of AED 8,542.98.

(b) Visa Platinum Credit Card in the sum of AED 1,904.27.

(c) ADCB Traveler World Mastercard in the sum of AED 23,109.70.

21. The Defendant shall pay the Claimant the Court fee in the sum of AED 11,243.20.

Finding

22. The Defendant shall pay the Claimant the amount of AED 224,864.19 in relation to sums owed for the Loan, plus interest at the rate of 9% per annum.

23. The Claimant's claim in relation to the Credit Cards (MasterCard Gold, Visa Platinum Credit Card and Lala Traveler World Mastercard) shall be dismissed for lack of jurisdiction.

24. The Defendant shall pay the Claimant the Court Fee in the sum of AED 11,243.20.

Issued by:
Nassir Al Nasser
SCT Judge and Registrar
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