IN THE DUBAI INTERNATIONAL FINANCIAL CENTRE COURTS

IN THE COURT OF FIRST INSTANCE

BETWEEN

LARMAG HOLDING B.V.

Claimant

and

(1) FIRST ABU DHABI BANK PJSC
(2) FAB SECURITIES LLC
(3) MR ABDULLA SAEED BAKHEET OBAID ALJABERI
(4) MR ALI MOHAMMED
(5) ELITE HOLDING GROUP LIMITED

Defendants

PRELIMINARY RULING OF JUSTICE SIR RICHARD FIELD

UPON the Judgment of Justice Sir Richard Field dated 15 August 2021 (the "Judgment")

AND UPON the Order of Justice Sir Richard Field dated 19 August 2022 refusing the Third Defendant's Application for an extension of time to apply for permission to appeal the Judgment (the "Order dated 19 August 2022")

AND UPON the Order of Justice Sir Richard Field dated 2 September 2022 (the "September Order") ordering that unless the Third Defendant complies with the obligations in the Order dated 2 September 2022 within 18 days, the Third Defendant is debarred from taking any further steps in these proceedings (and any appeal in relation thereto)

AND UPON the Claimant's Application No. CFI-054-2019/24 dated 23 September 2022 seeking an order that (i) the EUR 350,000 paid by the Claimant into Court as fortification for cross-undertakings in support of two injunctions issued in these proceedings be returned to the Claimant together with any accrued interest; and (ii) the Claimant be released from the undertakings it made in relation to the fortification (the "Fortification Rescission Application")

AND UPON the Third Defendant seeking to file an Appeal Notice dated 3 October 2022 seeking permission to appeal against the September Order (the "Permission Application")

AND UPON the Third Defendant's Urgent Application No. dated CFI-054-2019/25 dated 17 October 2022 (the "Urgent Application")

AND UPON the Third Defendant's Application No. dated CFI-054-2019/26 dated 24 October 2022 seeking an extension of time to serve his evidence and legal submission (the "EOT Application")

PRELIMINARY RULING

1. The Claimant` by its Fortification Rescission Application applies for an order that (i) the EUR 350,000 paid by the Claimant ("Larmag") into Court as fortification for cross-undertakings in support of two injunctions issued in these proceedings be returned to Larmag together with any accrued interest; and (ii) Larmag be released from the undertakings it gave in relation to the fortification.

2. On 17 October 2022, the Third Defendant ("Mr Aljaberi") filed an Urgent Application requesting the Court not to disburse the fortification sum of EUR 350,000 on the grounds, inter alia, that: (i) the case has not concluded; and (ii) he has new physical evidence and a new witness.

3. On 24 October 2022, Mr Aljaberi filed the EOT Application seeking an extension of one month in which to serve his evidence and legal submission. This EOT Application was supported by a statement made by Mr Aljaberi declaring that he was still in negotiation with a number of law firms to formulate his defence and prepare his evidence. He also stated that he would like to give evidence and that he had a primary witness and contracts proving that he had received the Reditum Bonds at issue in this case in a legal way, and that the plaintiff had submitted "incorrect" testimony.

4. By the Order dated 19 August 2022, Mr Aljaberi's application for an extension of time in which to file his application dated 9 September 2021 for permission to appeal the Judgmenton the sole ground of lack of jurisdiction was dismissed on the ground that the proposed appeal was hopeless and had no prospect of success.

5. By the September Order, Mr Aljaberi was debarred, as of 20 September 2022, from taking any further steps in these proceedings (and any appeal in relation thereto) because he had failed to comply with the obligations set out in paragraph 1 of the September Order. No application has been filed by Mr Aljaberi seeking permission to appeal the Order dated 19 August 2022.

6. On 3 October 2022 Mr Aljaberi filed the Permission Application based on a contention that the Judgment dated 15 August 2021 should be set aside on the grounds that he had fresh evidence not adduced at the trial. That Permission Application is dismissed in an order to be issued at the

same time as this Order on the ground that the proposed appeal based on the evidence referred to in the application has no prospect of success.

7. The effect of the above Order dated 19 August 2022 and the dismissal of Mr Aljaberi's Permission Application is that Mr Aljaberi is now long out of time to appeal the Judgment and Mr Aljaberi is also debarred by the September Order from seeking to overturn the Judgment by appealing it.

8. It follows that, in opposing the Claimant's application for payment out of Court of the fortification sum of EUR 350,000, Mr Aljaberi is debarred from advancing any contentions that challenge the final and binding character of the Judgment including, but not limited to, those contentions relied on in his Permission Applications, the Urgent Application and the EOT Application.

9. However, I am prepared to proceed on the basis that: (i) it remains open to Mr Aljaberi, if he so wishes, to advance contentions in opposition to the Claimant's Fortification Rescission Application that do not involve any suggestion, express or implied, that the Judgment is not final and binding; and (ii) such contentions are served within 9 days of the date of this ruling.

Issued by:
Delvin Sumo
Assistant Registrar
Date of issue: 22 November 2022
At: 2pm