

## Case 4630585826

Court	Circuit type	Case No.	Judgment pronounced	Judgment issued
Riyadh Court of Appeal	Civil	4630585826	–	December 26, 2024

### Facts

A hearing was convened in the presence of [...], in his capacity as attorney for the plaintiff [the respondent in the arbitration] / [...] and [...], and [...], in her capacity as attorney for the defendant [the claimant in the arbitration] / Company [...].<sup>1</sup>

Upon questioning the plaintiff's attorney regarding the claim, he submitted as follows:

Subject: Annulment action against the arbitral award in Case No. [...].

The Presiding Judge and Members of the Eighth Civil Circuit of the Court of Appeal in Riyadh,

Objector: [...]

Address: Riyadh

Represented by attorney [...], License No. [...]

Respondent: [...]

Commercial Registration No. [...]

Address: Riyadh

With the highest appreciation and respect, I submit this petition to Your Honors on behalf of [...], pursuant to Power of Attorney No. [...], objecting to the award issued by the arbitral tribunal as follows:

Facts:

The claimant [...] filed the above claim against my client before an arbitral tribunal composed of Dr. [...], the presiding arbitrator (appointed arbitrator);

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<sup>1</sup> Identifying information in this judgment has been redacted to protect personal and sensitive data. Editorial insertions in square brackets have been made by the SCCA team for clarity or completeness and do not appear in the original Arabic text.

arbitrator [...], appointed by the claimant; and arbitrator [...], appointed by the defendant.

The arbitral tribunal issued its award dated February 8, 2022 (7/7/1443H), the conclusion of which provides:

First: Termination of the contract concluded between the parties titled “[...],” dated April 6, 2017 (9/7/1438H).

Second: The defendant [...] shall pay SAR 1,250,000 to the plaintiff [...], Commercial Registration No. [...].

Third: All other claims are dismissed.

The award was subsequently endorsed with an enforcement title by the [Enforcement] Court.

On February 15, 2023 (24/7/1444H), the claimant’s attorney submitted a request to the arbitral tribunal to correct the award, upon the request of the Enforcement Court, as follows:

First: Correction of the defendant’s name to read [...].

Second: Addition of the defendant’s National Unified No. [...].

On March 25, 2023 (3/9/1444H), the tribunal issued the corrected award, the conclusion of which provides:

First: The defendant [...], National Unified No. [...], shall pay SAR 1,250,000 to the plaintiff [...], Commercial Registration No. [...].

Second: The defendant [...], National Unified No. [...], shall return a promissory note referred to in Clause 4 (3) of the contract.

Third: All other claims are dismissed.

However, this correction decision is void because (1) it contradicts the correction request submitted by the claimant; (2) it omits the “First” order of the conclusion of the original award [termination of the contract] without legal justification; and (3) it introduces a new order [promissory note return] not requested by the parties, thereby exceeding the tribunal’s authority in correction.

Article 47 (2) of the Arbitration Law provides:

The rectification shall be issued by the arbitration tribunal in writing and both parties shall be notified of the same within 15 days from its date of issuance. If the arbitration tribunal exceeds its power in rectification, the decision of the tribunal may be nullified by an action for nullification subject to the provisions of Articles 50 and 51 of this Law.

Article 50 (1) (g) provides that annulment of an arbitration award shall not be permitted:

If the arbitral tribunal fails to observe the conditions required for the award in a manner that affects its substance, or if the award is based on void arbitration proceedings that affect it.

Article 51 (1) further provides:

An action for nullification of the arbitration award shall be filed by either party within 60 days following the date of notification of said party of the award; and such action is admissible even if the party invoking nullification waives his right to do so prior to the issuance of the arbitration award.

Additionally, my client had previously requested recusal of the arbitrator appointed by the first party [...], who had declared no relationship with the parties (as evidenced in the minutes of the first hearing), whereas it later appeared that he acted as the claimant's attorney under a notarized power of attorney.

Requests:

Based on the foregoing, my client respectfully requests that [the Court]:

First: Accept the annulment action in form as filed within the statutory time limit.

Second: Issue a judgment declaring the arbitral award null and void.

The annulment action was presented to the defendant's attorney, who requested additional time to submit a response. The Court granted this request.

At a subsequent hearing attended by the attorneys of both parties, the defendant's attorney submitted the following response:

The request for correction of the arbitral award was submitted to add National Unified No. [...], pursuant to a request from the Enforcement Court, to enable enforcement of the award. Accordingly, the tribunal corrected the award by adding the national unified number and including the following clause:

Second: The defendant [...], National Unified No. [...], shall return a promissory note referred to in Clause 4 (3) of the contract.

In our previous submissions, we have requested the recovery of the executive instrument, and the tribunal may have taken this into account when issuing its correction decision.

In response, the claimant's attorney argued that this statement constituted an admission supporting his client's position. He reiterated reliance on prior submissions and requested annulment of the arbitral award.

The defendant's attorney, in turn, maintained her earlier position, stating:

We rely on our previous submissions.

At a subsequent hearing, convened with members of the Circuit and the attorneys for the plaintiff and defendant, the Court reviewed the arbitration case file concerning the arbitral award prior to correction, in which a previous annulment action had been filed under Case No. [...] and a judgment had been issued by this Circuit under Deed No. [...] dated April 13, 2023 (22/9/1444H) dismissing the action and upholding the award.

[In this judgment, the Court ruled to:]

First: Accept the annulment action in form but reject it on the merits.

Second: Uphold the arbitral award dated February 8, 2022 (7/7/1443H) in the dispute between [...] and [...] and execute the enforcement of the following orders:

First: Termination of the contract concluded between the parties titled "[...]," dated April 6, 2017 (9/7/1438H).

Second: The defendant [...] shall pay SAR 1,250,000 to the plaintiff [...], Commercial Registration No. [...].

Third: All other claims are dismissed.

This was the award upheld by the Circuit, after which the correction decision—the subject of the present annulment action—was issued.

Subsequently, the defendant, owner of [...], personally appeared and requested a final adjournment prior to judgment. He was informed that the Court would proceed to judgment at the next hearing unless new developments arose between the parties.

A subsequent hearing was convened on November 13, 2023 (29/4/1445H), at 12:00 p.m., before the Eighth Civil Circuit of the Riyadh Court of Appeal, attended by the members of the Circuit and the legal representatives of both parties. As the case was ready for adjudication, the Circuit proceeded to issue its judgment.

### **Reasoning**

Since the plaintiff's attorney seeks a judgment declaring null and void the correction decision issued by the arbitral tribunal on March 25, 2023 (3/9/1444H), while the defendant requests its affirmation and enforcement.

And since jurisdiction to hear this action lies with this Court pursuant to Article 8 (1) of the Arbitration Law.

And since the correction decision was issued on March 25, 2023 (3/9/1444H), and the plaintiff filed the present action on May 8, 2023 (18/10/1444H).

The action is procedurally admissible pursuant to Article 51 (1) of the Arbitration Law.

Upon review of the plaintiff's request to annul the correction decision, and considering that the original arbitral award had already been upheld and ordered to be enforced by this Circuit in Judgment No. [...] dated April 13, 2023 (22/9/1444H).

And since the arbitral tribunal exceeded its authority in correcting the award by adding a new "Second" order to the conclusion of the award—after the dispute had already been finally resolved and the award affirmed and ordered for enforcement by this Circuit—the text of the added paragraph being:

The defendant [...], National Unified No. [...], shall return a promissory note referred to in Clause 4 (3) of the contract.

And since this paragraph did not form part of the original award, and its addition in the correction decision constitutes a violation of Article 47 (2) of the Arbitration Law, which provides that if the tribunal exceeds its authority in correction, its decision may be nullified through an annulment action.

And since the plaintiff filed the annulment action within the statutory time limit.

The Circuit concludes that the correction decision of the arbitral award is null and void.

## **Ruling**

The Circuit hereby rules as follows:

First: The annulment action is accepted procedurally [in form].

Second: On the merits, [the annulment action is accepted] with respect to the correction decision of the arbitral award issued on March 25, 2023 (3/9/1444H), specifically regarding the second paragraph, which provides:

The defendant [...], National Unified No. [...], shall return a promissory note referred to in Clause 4 (3) of the contract.

[This paragraph is hereby annulled].

This judgment is appealable before the Supreme Court within 30 days from the date of notification.