

Case 4630902266

Court	Circuit type	Case No.	Judgment pronounced	Judgment issued
Jeddah Court of Appeal	Civil	4630902266	–	April 12, 2025

Facts

On Tuesday, September 6, 2023 (6/2/1445H), a hearing was convened in the presence of the attorneys of the appellant and the appellee to consider the case remanded to the Circuit pursuant to the Supreme Court's Annulment Decision No. [...] dated June 18, 2023 (29/11/1444H).¹ The said decision states:

The Circuit ruled to accept the annulment in form and, on the merits, to set aside the judgment issued by the First Civil Circuit of the Jeddah Court of Appeal dated November 8, 2022 (14/4/1444H), and to remand the case to the originating court for reconsideration without being bound by its prior ruling.

The present case was accordingly referred to this Circuit in relation to an action for annulment of an arbitral award filed by the plaintiff [...] [the respondent in the arbitration], a Saudi national, holder of National ID No. [...], against the defendant [the claimant in the arbitration], a Saudi national, holder of National ID No. [...].² The action concerns the arbitral award issued by a tribunal composed of arbitrators [...], [...], and [...] in the arbitration case initiated by [...] against [...].

The arbitral award, dated July 31, 2022 (2/1/1444H), concerned a lease contract concerning an endowment property and ordered as follows:

First: Rescission of the development and investment contract concluded between the claimant and the respondent on March 1, 2015 (13/5/1436H), effective from September 17, 2020 (30/1/1442H), due to the respondent's failure to perform its contractual obligations in accordance with Clause 4 (8) of said contract.

Second: Ordering the respondent to pay SAR 550,000 to the endowment [...] under Deed No. [...] dated February 28, 2009 (3/3/1430H), for distribution to the beneficiaries of the endowment as part of its proceeds.

¹ Identifying information in this judgment has been redacted to protect personal and sensitive data.

² 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.

Third: Ordering the respondent to pay SAR 9,039,033 to the endowment [...] under Deed No. [...] dated February 28, 2009 (3/3/1430H), to be deposited with the General Commission for the Guardianship of Trust Funds for Minors and Their Counterparts as fair rental value for reconstruction of the new building in accordance with the plans and engineering drawings approved by the Municipality of Jeddah Governorate, as detailed in the reasoning.

Fourth: Ordering the respondent to deliver to the administrator of the endowment [...] under Deed No. [...] dated February 28, 2009 (3/3/1430H) the endowed land free of occupants, and further ordering the respondent to deliver to the administrator of the endowment all engineering plans, drawings, and permits relating to the new building, including demolition permits.

Fifth: Ordering the respondent to pay SAR 386,825 to the endowment under Deed No. [...] dated February 28, 2009 (3/3/1430H), representing arbitration costs incurred by the endowment.

Sixth: Dismissal of all other claims of both parties.

The Supreme Court cassation decision set out the substantive ground for annulment, as follows:

As to the merits, upon the Circuit's review of the case file and its annexes, it became apparent that the arbitral tribunal notified the respondent of the award on August 1, 2022 (3/1/1444H), while the applicant for annulment filed the action before the Court of Appeal on October 27, 2022 (2/4/1444H). This indicates that the action was filed after expiry of the statutory time limit prescribed in Article 51 (1) of the Arbitration Law. Notwithstanding this, the Circuit accepted the action in form without stating the legal basis for doing so.

Upon questioning the appellant's attorney as to whether he had previously filed his application within the statutory period and submitted supporting evidence through the "Case Requests" system, he requested an adjournment for that purpose. The hearing was accordingly adjourned.

At a subsequent hearing convened with the attorneys of both the appellant and appellee present, the plaintiff's attorney was asked to clarify the basis of his request for adjournment. He submitted a memorandum, as follows:

Subject: Explanatory memorandum in Case No. [...], dated October 27, 2022 (2/4/1444H), filed by the plaintiff [...], National ID No. [...], against the defendant, National ID No. [...].

With due respect to Your Honorable Circuit, and in my capacity as attorney for the appellant pursuant to Power of Attorney No. [...] dated September 20, 2020 (3/2/1442H), I submit the following statement of defense in aforementioned case:

First: Submission of evidence establishing that the plaintiff filed the annulment action within the statutory time limit

In compliance with Your Honorable Circuit's request at the hearing convened on August 21, 2023 (6/2/1445H) to provide evidence that the annulment action was filed within the prescribed period, we confirm that the plaintiff did indeed file the action within the statutory period, as follows:

On August 1, 2022 (3/1/1444H), we were notified of the arbitral award issued by the arbitral tribunal. (See Exhibit No. 1: Acknowledgment of Receipt of the Award).

On September 26, 2022 (30/2/1444H), we filed the annulment action before the Court of Appeal. (See Exhibit No. 2: Statement of Claim to the Court of Appeal).

On September 28, 2022 (2/3/1444H), the annulment action was referred to the Civil Circuit of the Court of Appeal and registered under Case No. [...]. (See Exhibit No. 3: Referral of the Statement of Claim to the Court of Appeal).

On October 11, 2022 (15/3/1444H), the first hearing before the Court of Appeal was scheduled, and subsequently rescheduled to September 29, 2022 (3/3/1444H). At the scheduled time, we logged in via the Microsoft Teams link provided; however, neither the members of the Circuit nor the court clerk appeared, and no other party joined the session. It later became apparent, upon review of the Najiz electronic portal, that the hearing had proceeded in our absence and that our non-attendance had been recorded. The Circuit then ordered the request to be archived and terminated. (See Exhibit No. 4: Hearing Appointment).

On October 1, 2022 (5/3/1444H), an email was sent to the Circuit explaining the technical malfunction encountered during our attempt to attend the hearing. (See Exhibit No. 5: Email to the Circuit).

On October 3, 2022 (3/7/1444H), a ticket was submitted to the Court of Appeal through the electronic system requesting reconsideration of the case registered under No. [...]. (See Exhibit No. 6: E-Ticket to the Court of Appeal).

An email was sent to the Beneficiary Services Department at the Jeddah Court of Appeal, explaining the circumstances surrounding our inability to attend the hearing. The Department responded, advising that a new application be submitted in light of the developments during the struck-off hearing that resulted in the termination of the case. (See Exhibit No. 7: Email to the Beneficiary Services Department; Exhibit No. 8: Response from the Beneficiary Services Department).

The Court of Appeal was subsequently attended in person, where we submitted a written petition explaining the procedures and circumstances that prevented our attendance at the hearing due to reasons beyond our control. (See Exhibit No. 9: Petition to the Civil Circuit).

In light of the foregoing, it is evident to Your Honors that the plaintiff had previously filed an annulment action against the arbitral award before the Court of Appeal within the statutory time limit prescribed by Article 51 of the Arbitration Law. The failure to attend the hearing was due to a technical malfunction that prevented our appearance from being recorded.

Second: Violation of the arbitration clause and rules relating to public order

Pursuant to the directions of the Court of Appeal, the case was registered under No. [...] dated October 27, 2022 (2/4/1444H). The First Civil Circuit of the Court of Appeal ruled to accept the annulment action and declared the arbitral award dated July 31, 2022 (2/1/1444H) null and void, on the grounds that the arbitration clause was invalid as it violated public order and was impermissible in family matters, contrary to Article 2 of the Arbitration Law.

Furthermore, the administrator of the endowment failed to obtain authorization from the competent court, in violation of Article 223 (2) of the Law of Civil Procedure.

In light of the foregoing, it is clear to Your Honorable Court that the arbitral award was issued in violation of public order, and therefore warrants annulment pursuant to Article 50 (2) of the Arbitration Law, which provides that the competent court shall, of its own initiative, annul an award if it violates the provisions of Sharia, public order in the Kingdom, or the agreement of the parties, or if the subject matter is not arbitrable.

Upon review of the reasoning of the judgment, it is apparent that the Circuit addressed the issue of the arbitral award's violation of public order, as

reflected in the grounds of the annulment judgment. The Circuit examined this issue, verified it, and questioned the defendant accordingly, before concluding that the arbitral award was null and void. We maintain and rely on all arguments set out in the statement of claim in the annulment action, as recorded in the judgment.

Third: Filing of the annulment action and its compliance with the requirements requested by the Circuit

We clarify that, in ruling to annul the arbitral award, the Court of Appeal adopted a precautionary approach in anticipation of a possible objection by the defendant that the statutory time limit for objection had expired. The Court addressed this in its reasoning, stating:

Since the plaintiff filed the annulment action within the statutory time period as indicated above, it is therefore accepted in form.

The Circuit thus relied on the fact that the action had originally been filed within the prescribed time limit. It appears that the Circuit was mindful of the potential implications arising from reopening the case and accepting the objection seeking annulment on October 27, 2022 (2/4/1444H). However, it did not elaborate further on this point in its annulment judgment due to the legal grounds on which it relied. This omission ultimately led the Supreme Court to overturn the judgment. We reiterate that the annulment action was in fact filed prior to the expiry of the statutory deadline, as expressly acknowledged by the Circuit in its judgment.

Finally, we emphasize that the judgment declaring the arbitral award null and void was based primarily on its violation of public order. This is a matter that the Circuit may rule upon of its own motion, without any objection from the parties. Accordingly, the observation made by the Honorable Justices of the Supreme Court does not affect the nullity of the arbitral award, particularly as the Circuit expressly addressed this matter in its reasoning, examined it thoroughly, and questioned the defendant, with no contrary evidence emerging. It is further noted that the Court reviewed only the appeal and the appellee's statement of defense, without considering subsequent submissions.

Requests:

In light of the foregoing grounds, and the exhibits attached to this memorandum, or any other reasons deemed appropriate by Your Honors, we respectfully request that the [Court rules as follows]:

First: Urgently, to order the suspension of enforcement of the arbitral award issued by the arbitral tribunal.

Second: On the merits, to rule that the arbitral award is null and void for violating public order for the reasons stated above, or for any grounds that the Court may raise of its own motion.

The foregoing was presented to the defendant's attorney, who requested additional time to review the submission and its attachments and to prepare a response. The hearing was accordingly adjourned.

At a subsequent hearing, attended by the counsel for both the plaintiff and the defendant, the defendant's attorney was asked to address the matter. He submitted a memorandum, which provides as follows:

In my capacity as attorney for the defendant, and in response to the submission filed by the counsel for the plaintiff at the previous hearing (held on August 30, 2023 [15/2/1445H]), I submit the following:

First: Concerning the first annulment action referred to by the plaintiff, registered under No. [...]:

(1) This action has already been adjudicated by the First Civil Circuit of Your Honorable Court, which ruled to terminate the request. This was due to the plaintiff's non-appearance, as evidenced by the attached judgment deed. (See Exhibit No. 1).

(2) The plaintiff alleges in his submission (which is the subject of this response) that he encountered a technical issue while attempting to attend the hearing held on September 29, 2022 (3/3/1444H). We have no knowledge of the validity of this assertion and do not consider it necessary to respond to it. It is a matter between the plaintiff and Your Honorable Court, particularly as the documents submitted in support are, in part, undated and otherwise consist of unsubstantiated assertions and scattered papers through which he seeks to distract Your Honors.

(3) Even assuming, for the sake of argument, that the plaintiff did file the first annulment action within the statutory time limit, he failed to rely on this fact

in the second annulment action (the present case) to substantiate his right to seek annulment of the arbitral award. Accordingly, the plaintiff must be deemed to have abandoned the first action. As reflected in Sharia principles: “Whoever abandons his claim is deemed to have relinquished it.”

Second: Concerning the second annulment action (the subject of the present case), registered under No. [...]:

(1) As appears from the case file, the plaintiff was notified of the arbitral award on July 30, 2022 (3/1/1444H), whereas he filed the present annulment action on October 27, 2022 (2/4/1444H)—that is, after the expiry of the statutory time limit. Accordingly, the plaintiff’s right to seek annulment of the arbitral award has lapsed.

(2) As to the plaintiff’s argument that the arbitral award is invalid, we wish to inform Your Honors that the defendant had previously filed Case No. [...] on January 13, 2019 (7/5/1440H) before the General Court, seeking payment of overdue rent owed by the plaintiff. [In those proceedings,] the plaintiff invoked the arbitration clause contained in Clause 14 of the lease agreement concluded between him and the claimant and requested referral of the dispute to arbitration. The Circuit accordingly upheld that request and dismissed the case due to the existence of an arbitration clause. (See Exhibit No. 2: Copy of Judgment).

This demonstrates a clear inconsistency in the plaintiff’s position, as he now challenges recourse to arbitration despite having previously relied on it. The plaintiff appears to invoke legal rules selectively in a manner that serves his interests while disregarding their broader application.

The plaintiff has thus returned before this Court to challenge the very mechanism—arbitration—that he himself initially insisted upon.

Requests:

In light of the foregoing, the defendant respectfully requests that Your Honors rule as follows:

First: Primarily, to dismiss the plaintiff’s action on the basis that the statutory time limit for filing an annulment action has expired, and uphold the arbitral award.

Second: Alternatively, to order the issuance of the enforcement formula for the arbitral award.

When the foregoing was presented to the plaintiff, he requested additional time to respond, noting that the submission raised several defenses requiring reply. The hearing was accordingly adjourned.

At a subsequent hearing, convened at 8:00 a.m. [...] in the presence of counsel for both the plaintiff and the defendant, the respondent was asked to address the matter following the time previously granted. His attorney submitted a memorandum, which provides as follows:

With due respect and appreciation to Your Honorable Circuit, and in my capacity as attorney for the respondent pursuant to Power of Attorney No. [...] dated September 20, 2020 (3/2/1442H), I submit the following in response to the claimant's statements at the previous hearing:

First: Establishing that the plaintiff filed the annulment action within the statutory time limit

In our previous submission, we presented the relevant facts with objectivity and neutrality. However, the defendant now seeks to cast doubt on the supporting documents, with the apparent aim of preventing the plaintiff from presenting his case, believing that by doing so, he can revive the effect of an arbitration clause that is contrary to public order.

This argument is based on the defendant's reliance on the first judgment issued by Your Honorable Circuit, in which the plaintiff was unable to attend the hearing due to technical issues. Those circumstances were fully explained and supported by documentary evidence submitted to Your Honorable Circuit. The plaintiff complied with the Your Honorable Circuit's directions after reviewing the matter and corresponding with the Beneficiary Services Department of the Jeddah Court of Appeal.

Accordingly, the claimant's assertion that the supporting attachments are undated or misleading is unfounded and amounts to an unsupported allegation that serves only to prolong the proceedings without benefit.

The documents submitted with our previous memorandum have acquired evidentiary weight, having been relied upon by the Circuit in accepting our annulment action in judgment Deed No. [...] dated November 8, 2022 (14/4/1444H). The Circuit treated the present action as a continuation of the earlier action. As such, the documents cannot be dismissed on the basis of mere

doubt or speculation. Any challenge to their authenticity would amount to an allegation of forgery, for which the burden of proof lies with the individual making that allegation. If the defendant claims they are forged, he should expressly state so.

Second: With respect to the first annulment action as addressed in the judgment issued by Your Honorable Circuit in the second action:

It appears that the Honorable Justices of the Supreme Court may not have taken note of the reference contained within the judgment, which states on page 6, lines 34–35, immediately prior to the reasoning section:

The Circuit also notes that the plaintiff had previously filed an annulment action before this Circuit, registered under Case No. [...] dated September 28, 2022 (2/3/1444H), which was terminated due to his non-appearance. He then filed the present action, and for the avoidance of doubt, this has been recorded.

Accordingly, the Circuit safeguarded the admissibility of the action by referring to that earlier filing and treating the present action as an extension thereof. It then stated in its reasoning that the action was filed within the statutory time limit and is therefore admissible in form. Although the action may appear, at first glance, to have been filed outside the prescribed period, the Circuit did not elaborate further on this point. It is, however, inconceivable that the Circuit would have accepted the action and treated it as an extension of the earlier action without sufficient legal basis.

Those grounds are reflected in the documents we have submitted, which demonstrate our attendance at the hearing that was terminated for non-appearance, and that the failure of appearance to register in the system was due to a technical malfunction in the Najiz electronic portal. Accordingly, the Circuit was satisfied that the action had been filed within the statutory time limit and expressly held as much in its reasoning:

Since the plaintiff filed the annulment action within the statutory time period as indicated above, it is therefore accepted in form.

Third: As to the confirmation of the Family Court's ruling that the arbitration clause violates public order due to its inadmissibility in disputes relating to endowments

The respondent filed a compensation claim against the claimant before the Jeddah Family Court with jurisdiction over endowment matters, registered under Case No. [...] dated December 7, 2022 (13/5/1444H). The Family Court subsequently issued Judgment No. [...] dated January 16, 2023 (23/6/1444H), dismissing the claim for lack of jurisdiction.

The Family Court's reasoning was grounded in the inadmissibility of arbitration in disputes relating to endowments. It stated:

Since the defendant is an (endowment), the matter may not initially be heard before an arbitral tribunal, pursuant to Article 2 of the Arbitration Law, which provides that: "The provisions of this Law shall not apply to family-related disputes or to matters not subject to reconciliation."

On that basis, the Family Court concluded that the General Court has exclusive jurisdiction over the dispute, particularly given that the endowment investment contract had not been authorized by the Family Court. The judgment of the First Circuit of the Jeddah Court of Appeal likewise addressed the annulment of the arbitral award in detail, grounding its reasoning in the applicable statutory framework, namely the Law of Civil Procedure and the Arbitration Law. Neither of these laws confers jurisdiction on arbitral tribunals to adjudicate disputes concerning endowment contracts, nor to rule on their termination or rescission—especially where such contracts were concluded without the required prior authorization of the competent court. (Attached: Copy of the Family Court Judgment Deed No. [...] dated January 16, 2023 [23/6/1444H]).

Fourth: As to proof that the defendant previously filed a case before the General Court

The plaintiff's reliance on the arbitration clause to seek dismissal of the claim constitutes a procedural right available to any litigant and forms part of the defenses and objections that may be raised in the course of litigation. However, the fact that the presiding judge of the Circuit before the General Court dismissed the case due to the existence of the arbitration clause does not, in itself, establish the validity of that clause or its compliance with applicable laws and regulations.

On the one hand, such a ruling does not constitute a determination of the clause's validity. On the other, the claimant's [defendant] recourse to the General Court to resolve the dispute may be interpreted as an implicit

acknowledgment of the invalidity of the arbitration clause, as evidenced by his initiation of proceedings before the General Court rather than before an arbitral tribunal. Accordingly, this conduct supports our position and reinforces the arguments advanced in the annulment action—namely, that the arbitral award violates public order.

This position was affirmed by Your Honorable Court when it accepted the annulment action and set aside the arbitral award for violating public order and the applicable statutory framework, in accordance with the established legal maxim: “What is founded upon a void basis is itself void.” Consequently, the arbitration proceedings initiated by the defendant are null and void, as they are predicated on an invalid arbitration clause. Any acts or outcomes arising therefrom are likewise void and without legal effect.

Finally, the defendant’s accusation that the plaintiff has acted inconsistently or manipulated the laws and regulations to serve his interests is firmly rejected. Rather, it is the defendant who has deliberately contravened the applicable legal framework and engaged in misrepresentation. He represented that he possessed authority to conclude a 15-year contract concerning the endowment property and was authorized to demolish and substitute that property. These representations were reflected in contractual documents drafted by a legally trained professional—who now appears as counsel for the defendant in this case while continuing to defend and legitimize those actions.

Neither party has the authority to manipulate or reinterpret applicable law. The governing legal framework derives its binding force from the competent authority, and no person may contravene it. As reflected in the established legal principle: “Any condition which is not in Allah’s Laws is invalid, even if there were a hundred such conditions.”

Requests:

In light of the foregoing, and with reference to the exhibits submitted in our previous memoranda, and subject to any matters Your Honors may deem appropriate, we respectfully request the following:

First: Urgently, to order the suspension of enforcement of the arbitral award.

Second: On the merits, to rule the arbitral award null and void for violation of public order, for the reasons set out above or for any other grounds the Court may raise on its own initiative.

Upon presentation of the foregoing to the claimant's attorney, he stated:

I request time to review the memorandum and respond thereto, as it contains matters requiring reply.

Accordingly, both parties were instructed to submit any further arguments at the next hearing, and the hearing was adjourned.

At the subsequent hearing, attended by the legal representatives of both the plaintiff and the defendant, the parties were asked whether they had anything further to submit.

The claimant's attorney stated: "I rely on my previous submissions."

The respondent's attorney stated: "I have a memorandum and request that it be recorded."

Upon review, its text reads as follows:

On behalf of the defendant, and in response to the memorandum submitted by the plaintiff to Your Honors in the previous hearing (held on September 20, 2023 [5/3/1445H]), we respond as follows:

First: Concerning the first annulment action referred to by the plaintiff, registered under No. [...]

(1) This action has previously been adjudicated by the First Civil Circuit of Your Honorable Court, which ruled to terminate the request. This was due to the plaintiff's failure to attend the hearing, despite proper notification of the scheduled hearing date at which the judgment was rendered, as evidenced by the attached judgment deed. (See Exhibit No. 1).

(2) The plaintiff alleges, in the submission now under reply, that he encountered a technical issue while attempting to attend the hearing held on September 29, 2022 (3/3/1444H). We have no knowledge of the veracity of this allegation and is not required to respond to it, as it pertains to Your Honorable Court. This is particularly so given that the documents relied upon are partly undated and otherwise consist of unsupported assertions and disjointed materials that seek to confuse and mislead Your Honorable Court.

(3) Even assuming, for the sake of argument, that the plaintiff did file the first annulment action within the statutory time limit, it remains unexplained why he failed to rely on that fact in the second annulment action (the subject of the present proceedings) in order to substantiate his right to seek annulment of the arbitral award. This omission indicates that the plaintiff voluntarily abandoned

his first action. Pursuant to the established legal principle: “Whoever abandons his claim is deemed to have relinquished it.”

Second: Concerning the second annulment action (the subject of the present case), registered under No. [...]:

(1) Primarily — as a procedural defense:

We continue to maintain the same fundamental procedural defense (although it is procedural in nature, it is a defense we are entitled to invoke as a matter of law). As is evident from the case file, the plaintiff was notified of the arbitral award on August 1, 2022 (3/1/1444H), whereas he filed the present annulment action on October 27, 2022 (2/4/1444H)—that is, after the expiry of the statutory time limit. Accordingly, the plaintiff’s right to seek annulment of the arbitral award (the subject matter of this case) has lapsed.

(2) Alternatively — as a substantive defense:

(a) The defendant had previously filed Case No. [...] on January 13, 2019 (7/5/1440H) before the General Court, seeking payment of outstanding rent due from the plaintiff. In plaintiff, the claimant invoked the arbitration clause contained in Clause 14 of the lease agreement concluded between him and the claimant and requested referral of the dispute be arbitration. The Circuit accepted that request and dismissed the action on the basis of the arbitration clause (see Exhibit No. 2: Copy of Judgment), supported by the plaintiff’s own statement of defense requesting arbitration (see Exhibit No. 3: Statement of Defense).

This demonstrates the inconsistency in the plaintiff’s position, as he now seeks to challenge the validity of arbitration despite having previously insisted upon it. The plaintiff selectively relies on legal provisions that serve his interests while disregarding others. He now returns to contest the very mechanism—recourse to arbitration—that he has persistently demanded since the inception of his disputes with the defendant.

(b) The endowment establishment deed issued by the founder expressly grants the respondent broad powers, including authority to conclude contracts and to demolish and redevelop the endowment property in a manner that maximizes its revenues for the benefit of the beneficiaries, including charitable entities and heirs. (See Exhibit No. 4: Copy of Endowment Establishment Deed).

(c) Furthermore, the deed of supervision (trusteeship deed), pursuant to which the defendant was appointed administrator of the endowment, supersedes the endowment deed and the powers conferred therein. It provides:

After reviewing the above-mentioned endowment deed and verifying its conformity with its official record [...], I have appointed the aforementioned applicant as administrator over the said endowment to preserve it and oversee its maintenance [...] etc. (See Exhibit No. 5: Copy of Trusteeship Deed).

On a natural interpretation of the issuing authority's statement in the trusteeship deed—particularly the phrase “to preserve it”—the defendant's act of concluding a long-term lease agreement with the plaintiff, including demolition, reconstruction, redevelopment, and expansion in the number of units of the endowment property, constitutes a measure taken in favor of the defendant rather than against him. The evident purpose of such action is to enhance and maximize the financial returns of the endowment, thereby serving the interests of its beneficiaries, namely charitable entities and heirs.

This also reflects implicit authorization by the issuing authority for the defendant to take such measures as he deems beneficial to the beneficiaries of the endowment property. It is also well known to Your Honors that the requirement of judicial approval for concluding such an agreement (the subject matter of the dispute) is intended to safeguard endowments and ensure the fear of Allah in their administration, which the defendant submits has been demonstrated through evidence and proof.

(d) We would also like to remind Your Honors that, at the time the endowment deed and the trusteeship deed were issued, family courts had not yet been established. Jurisdiction over such matters lay with the General Court, which issued both instruments. Accordingly, these deeds were issued with such powers by the judiciary of the General Court, which at that time exercised the jurisdiction now vested in the family courts.

Third: Concerning the additional, unfounded actions hastily filed by the plaintiff following issuance of the arbitral award, in an attempt to evade contractual obligations and avoid liability for acts he committed against the defendant and the charitable entities and heirs after demolishing the endowment property and disappearing from view

(1) The plaintiff filed Case No. [...] before the Family Court on December 7, 2022 (13/5/1444H) against the defendant, seeking an unfounded compensation claim after having demolished the endowment property and disappearing from sight (compensation for what, we do not know). The claim was dismissed by final Judgment No. [...] dated March 15, 2023 (23/8/1444H) for lack of jurisdiction, with the court holding that the matter falls within the jurisdiction of the General Court. (See Exhibit No. 6: Copy of Judgment).

(2) The plaintiff subsequently filed Case No. [...] dated March 18, 2023 (26/8/1444H) before the General Court against the defendant, seeking the same relief referred to in paragraph 1 above. The matter was decided by final Judgment No. [...] dated September 18, 2023 (3/3/1445H), which dismissed all the plaintiff's claims. (See Exhibit No. 7: Copy of Judgment).

Accordingly, it is evident that Your Honorable Court has already identified the falsity of the plaintiff's claims and his delaying tactics, which did not mislead the Court. The record reflects repeated attempts to undermine the rights of the defendant [claimant] and the beneficiaries of the endowment—namely the charitable entities and heirs—following the demolition of the endowment property more than eight years ago, and the plaintiff's subsequent disappearance. When the defendant resorted to arbitration in accordance with the plaintiff's own request, the same plaintiff returned once again to attack the defendant through this large number of unfounded claims—including the present action—in order to evade responsibility for demolishing the endowment property and the serious losses and damages resulting therefrom, which neither reason, logic, Sharia, nor law can accept.

Requests:

In light of the foregoing, the defendant respectfully requests that Your Honors rule as follows:

First: To dismiss the plaintiff's annulment action for the reasons stated above, which may be summarized as follows:

- (1) Expiry of the statutory period for filing the annulment action.
- (2) The plaintiff's proven bad-faith attempt to deliberately cause harm to the defendant and the charitable associations and heirs.

(3) The existence of a valid arbitration agreement reflecting the parties' contractual agreement and mutual consent to resolve disputes through arbitration.

Second: To uphold the arbitral award.

Third: To grant the arbitral award the executory formula.

Upon presentation of the foregoing to the claimant's attorney, he stated:

The latest memorandum requires a detailed response. I request that Your Honors grant me time to submit a reply before the next hearing.

He was informed accordingly and directed to address any points not previously covered. He then requested additional time for response and preparation of the case for adjudication. The Circuit, finding no need to grant further time, ordered the closure of pleadings.

Reasoning

In light of the foregoing, and upon review of the arbitral award and the cassation decision, and pursuant to Articles 2, 9, 33, 44, and 50 (2) of the Arbitration Law, and given that the plaintiff filed the annulment action within the statutory time limit as established during the hearings—and as confirmed by the cassation decision's consideration of that issue—it is established that the claimant was notified of the arbitral award on August 1, 2022 (3/1/1444H) and submitted the annulment request via the Najiz electronic portal before the Jeddah Court of Appeal under Request No. [...] on September 26, 2022 (30/2/1444H). Accordingly, the annulment request was filed within the prescribed period, prior to its expiry, and is admissible in form.

As to the merits, the plaintiff seeks annulment of the arbitral award described in the facts of this judgment. The award addressed the merits of the dispute without verifying whether the claimant, in his capacity as administrator of the endowment, was authorized to agree to an arbitration clause in accordance with the trusteeship deed. This constitutes a violation of Article 10 of the Arbitration Law.

Moreover, Article 5 of the contract between the parties provides for a term of 20 Hijri years. The arbitral tribunal did not verify whether the administrator had obtained authorization from the Family Court to lease the property for a period exceeding 10 years, as required by Article 223 (2) of the Law of Civil Procedure, issued by Royal Decree No. M/1 dated November 25, 2013 (22/1/1435H), which provides:

If interest dictates disposal of a private endowment by means of sale, exchange, transfer, pledge, borrowing, construction, purchase of a substitute, parceling,

merger, lease for more than 10 years or trading in the proceeds thereof—if the price is insufficient to buy a substitute—the administrator may do so upon the competent court permission.

Given that acts of an administrator in relation to wills and endowments requiring judicial authorization fall within the scope of family matters pursuant to Article 33 of the Law of Civil Procedure, such matters fall outside the jurisdiction of arbitral tribunals. In addition, Article 2 of the Arbitration Law excludes disputes relating to family matters from its scope of application.

Accordingly, the arbitral award is in violation of the provisions of public order within the meaning of Article 50 (2) of the Arbitration Law, which requires the court to annul an award, on its own initiative, where it contravenes Sharia principles, public order, the parties' agreement, or the limits of arbitrability.

Since the subject matter of the arbitral award falls within matters not capable of settlement by arbitration, the defendant's request for enforcement of the award must be rejected. Enforcement cannot be granted in light of Article 55 (2) (b) of the Arbitration Law.

Ruling

The Court rules as follows:

First: To accept the annulment action filed by the claimant in form and on the merits.

Second: To annul the arbitral award dated July 31, 2022 (2/1/1444H) concerning the lease of an endowed property, which orders as follows:

First: Rescission of the development and investment contract concluded between the claimant and the respondent on March 1, 2015 (13/5/1436H), effective from September 17, 2020 (30/1/1442H), due to the respondent's failure to perform its contractual obligations in accordance with Clause 4 (8) of said contract.

Second: Ordering the respondent to pay SAR 550,000 to the endowment [...] under Deed No. [...] dated February 28, 2009 (3/3/1430H), for distribution to the beneficiaries of the endowment as part of its proceeds.

Third: The respondent to pay [... text of the award continues]

Third: To dismiss the respondent's request for enforcement of the arbitral award.

Issued on October 5, 2023 (20/3/1445H).