

Case 4630672471

Court	Circuit type	Case No.	Judgment pronounced	Judgment issued
Riyadh Court of Appeal	General	4630672471	–	January 23, 2025

Facts¹

The hearing was opened, attended by the attorneys of the plaintiff [the respondent in the arbitration] and the defendant [the claimant in the arbitration], whose details are recorded in the system.² When asked about her client's action, the plaintiff's attorney stated that the substance of the action is recorded in the system, and she sent the details in the chat box, as follows:

With reference to the action registered under No. [...] and filed by my client, [...], against the defendant, [...], we clarify the following:³

[First:]

On March 6, 2024 (25/8/1445H), an arbitral award was issued between my client, [...], and the defendant, [...]. The subject matter of the dispute was the adjudication of an attorney fee agreement. The operative part of the award provided as follows:

First: The respondent is ordered to pay the claimant overdue monthly installments under the general contract prior to termination in the amount of SAR 45,000 (forty-five thousand Saudi riyals).

Second: The respondent is ordered to pay the claimant SAR 35,000 (thirty-five thousand riyals), representing deferred fees relating to labor cases.

Third: The respondent is ordered to pay the claimant SAR 54,426 (fifty-four thousand four hundred twenty-six Saudi riyals), representing 20 percent of the amounts adjudged in favor of the respondent in Case [...] bearing No. [...], in which he is a plaintiff.

1 This is an unofficial English translation of the judgment from Arabic, prepared by the SCCA team.

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.

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

Fourth: The respondent is ordered to pay the claimant SAR 18,048 (eighteen thousand forty-eight Saudi riyals) in relation to the case filed by [...] Law Office against the defendant [...].

Fifth: The respondent is ordered to pay the claimant SAR 10,892 (ten thousand eight hundred ninety-two Saudi riyals) in relation to [...] in Mecca Province against the defendant [...].

Sixth: The respondent is ordered to pay the claimant SAR 6,819 (six thousand eight hundred nineteen Saudi riyals) in relation to [...] in Mecca Province against the defendant [...].

Seventh: All other claims are rejected.

The arbitral tribunal, in section (2) of the reasoning of the award, stated the following:

The claimant sought payment of the remaining monthly installments under the contract following its termination in the amount of SAR 35,000 (thirty-five thousand Saudi riyals). The contract provides: "It was agreed between: 1- [the claimant's name] Law Office, Law License No. [...], represented in the signing of the contract by the lawyer [...])."

This entails the following problems:

(1) She is not a licensed lawyer as described in the contract, but rather a trainee lawyer under another lawyer, namely [...], according to Trainee Identification Certificate No. [...]. Accordingly, the contract contained inaccurate statements, contrary to Rule 19 of the Rules of Professional Conduct of Lawyers, which provides, "The lawyer shall be trustworthy and honest, and act with integrity regarding his clients," and Rule 18, which provides, "The lawyer shall not deceive or exploit the ignorance or trust of his client in any way."

This misrepresentation constitutes deception against the respondent pursuant to Article 61 of the Law of Civil Transactions, which provides, "Deception is the use of fraudulent means by a contracting party to induce the other party to conclude a contract that he would not have concluded otherwise." The article further provides, "Non-disclosure shall be deemed a deceptive act if it is done to intentionally conceal a matter that had it been known to the deceived party he would not have concluded the contract."

Under Article 63 of the same law, “the deceived party may not demand nullification of the contract, unless it is established that the other contracting party knew or should have known of the deceptive act.”

(2) Pursuant to Article 3 (10) (b) of the Implementing Regulations of the Code of Law Practice, training under a lawyer requires that the supervising lawyer must have practiced the profession for not less than five years. With regard to the claimant, he has not completed the period that would enable him to supervise training in accordance with statute, based on the year of his license, which is [...].

Further, Article 3 (1) (g) provides that a trainee cannot plead cases or provide legal advice except as an agent of the supervising lawyer. Given that the claimant is not qualified to supervise training, as he has not completed the statutorily mandated period, the trainee’s agency to plead on the claimant’s behalf is defective.

(3) This is reinforced by Clause 3 of the contract, which provides, “The second party undertakes to issue a lawful power of attorney to the first party—or whoever represents him—authorizing him to plead and defend on behalf of the second party, [...], and represent him.” Valid representation on behalf of another as an agent of the claimant is representation that complies with the applicable statutes and regulations.

Moreover, the respondent contracted with “[the claimant’s name] Law Office, Law License No. [...],” meaning that the claimant acted in his capacity as the owner of a law office rather than personally, which obligates him to comply with statutes and regulations when delegating to others. This is supported by Article 11 (2) of the Implementing Regulations of the Code of Law Practice, which provides, “The lawyer shall practice the profession personally and shall not delegate on behalf of his client in any matter assigned to him or any part thereof, unless expressly provided in the power of attorney instrument.”

As it is evident that the claimant was negligent in this regard, and pursuant to the concept derived from Article 27 of the Code of Law Practice, which provides, “A client shall be entitled to dismiss his lawyer; however, he shall pay all the fees agreed upon if it is established that such dismissal was without valid cause, except where the competent court decides otherwise with respect to such dismissal or to the full payment of the fees,” the tribunal finds that the dismissal was for a legitimate reason.

Your Honors, in view of the aforementioned reasons upon which the arbitral tribunal based its award and other reasons, it is evident that the termination of the contract issued by my client, the respondent in the arbitration, was for a legitimate reason.

Accordingly, where the legitimacy of the termination has been established pursuant to the applicable statutory provisions, the other party is not entitled to the fees stipulated in the contract. Nevertheless, the arbitral tribunal's arbitral award is contradictory, as it confirmed the legitimacy of the termination and then awarded case fees to the defendant.

Furthermore, the arbitral tribunal failed to consider the violations mentioned above, as well as the complaint currently under review before the General Directorate of Law Practice under No. [...], filed by my client against the defendant, which includes all the violations committed by the defendant, including the attendance of trainee lawyers at hearings and the deception perpetrated against my client.

Accordingly, upon examining the arbitral award and its reasoning, the contradiction in the award becomes evident. It is established that contradiction in the reasoning of a judgment leads to its invalidity, particularly where it constitutes a violation of the provisions of Sharia and public policy.

Second:

The statement of defense submitted by my client in the arbitration proceedings contained several requests, but the arbitral tribunal dismissed all the requests. Review of the arbitral tribunal's reasoning for dismissing all of my client's requests shows that the tribunal justified its decision as follows:

(1) Regarding the plaintiff's request for compensation in Case No. [...], against [...], relating to the Zakat assessment for the year 2019, the tribunal rejected this request on the basis that Rule 16 of the Code of Professional Conduct of Lawyers provides that a lawyer shall exercise due diligence and reasonable effort in performing his work, in accordance with the scope of the contract and principles of the profession, and shall not promise a specific outcome. Given that the defendant had filed an objection before the Tax Dispute and Violation Appellate Committee, and that the request was submitted without substantiation, the tribunal concluded that this request should be rejected.

Your Honors, in view of the application of the provisions referenced in the reasoning for rejecting this request, it is evident that such application was incorrect and cannot be relied upon.

The defendant undertook improper procedural actions which demonstrate a deficiency in the defendant's legal qualification. If the case had been struck off, the defendant should have requested reconsideration of the struck-off case or filed the case anew. This procedural step was not taken by the defendant, which resulted in the lapse of the statutory time limit for cases under consideration by the Zakat, Tax, and Customs Committees, which resulted in my client being compelled to pay SAR 134,019 (one hundred thirty-four thousand nineteen Saudi riyals). This constitutes an error that necessitates compensation by the defendant, as the elements of tort liability are satisfied.

(2) Regarding the plaintiff's request for compensation in Case No. [...], the arbitral tribunal likewise rejected the request, reasoning that Article 13 [of the Code of Law Practice] provides, "a lawyer may choose whatever strategy he may deem appropriate for defending the interests of his client and, in so doing, shall not be questioned in connection with the content of his written or oral arguments." The tribunal further stated that the request was also submitted without substantiation.

(3) Regarding the plaintiff's request for compensation in Case No. [...], filed by my client against [...] in Dammam and [...] branch in Dammam, the tribunal rejected the request, reasoning that Article 13 provides, "a lawyer may choose whatever strategy he may deem appropriate for defending the interests of his client and, in so doing, shall not be questioned in connection with the content of his written or oral arguments." The tribunal further stated that the request was also submitted without substantiation.

(4) Regarding the plaintiff's request for compensation in Case No. [...], filed by my client against [...] branch in Mecca [and] [...] in Mecca, the tribunal rejected the request, reasoning that Article 13 provides, "a lawyer may choose whatever strategy he may deem appropriate for defending the interests of his client and, in so doing, shall not be questioned in connection with the content of his written or oral arguments." The tribunal further stated that the request was also submitted without substantiation.

(5) Regarding the plaintiff's request for compensation in Case No. [...], filed by my client against [...] in Riyadh, the tribunal rejected the request, reasoning that Article 13 provides, "a lawyer may choose whatever strategy he may deem

appropriate for defending the interests of his client and, in so doing, shall not be questioned in connection with the content of his written or oral arguments.” The tribunal further stated that the request was also submitted without substantiation.

Your Honors, upon reviewing the claim, the arbitral award, and the reasoning upon which it was based, it is evident that the award contains numerous contradictions and constitutes a clear violation of the provisions of Sharia and public policy.

Furthermore, the arbitral award erred in rejecting all requests submitted by my client in the arbitration proceedings, and the award was not founded upon clear and coherent reasoning. It is well established that reasoning is not considered sufficient by virtue of the mere inclusion of reasons in a judgment as a formality; rather, the reasons must reflect the justice of the judgment and its conformity with Sharia and statute.

Sufficient reasoning requires a presentation of the facts in a manner that enables the higher court to review the proper application of Sharia and statute, as well as respect for the rights of defense in terms of responding to and discussing the evidence submitted by the litigants. This is achieved where the reasoning addresses every material claim, objection, or defense raised during the pleadings.

It is therefore established that the arbitral award subject of the annulment action is invalid due to its clear violation of statutory provisions, pursuant to Article 50 (1) (g) of the Arbitration Law, which [permits an annulment action], “If the arbitration 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 50 (2) goes on to provide, “The competent court considering the nullification action shall, on its own initiative, nullify the award if it violates the provisions of Sharia and public order in the Kingdom or the agreement of the arbitration parties, or if the subject matter of the dispute cannot be referred to arbitration under this Law.”

Accordingly, for all the foregoing reasons, I respectfully request that Your Honors annul the arbitral award.

She added that the arbitral award had been deposited under No. [...].

When the action was presented to the defendant's attorney, she undertook to respond in the next hearing, and the hearing was therefore adjourned.

At the scheduled time, the hearing was opened, attended by both parties' attorneys. When the defendant's attorney was asked about the response she had promised during the previous hearing, she replied in the chat window as follows:

As the plaintiff's attorney has filed this claim seeking the annulment of the arbitral award forming the basis of this action for the reasons stated in the statement of claim, and as all matters contained therein were addressed in detail in the arbitral award, and as the annulment request submitted by the plaintiff does not fall within the grounds for annulment of arbitral awards exhaustively listed in Article 50 of the Arbitration Law, the annulment action must therefore be rejected and the arbitral award forming the basis of this action must be upheld and its enforcement ordered.

Accordingly, the defendant respectfully requests that the Court issue a judgment rejecting the annulment action, upholding the arbitral award forming the basis of this action, ordering its enforcement, and appending the executory formula to it.

Thereafter, both parties declared that they rely on their previous submissions, and the hearing was adjourned for deliberation.

On Monday, August 26, 2024 (22/2/1446H) at 1:30 p.m., the hearing was opened, joined by the members of the Circuit as well as the plaintiff's attorney and the defendant's attorney. After the members of the Circuit reviewed the case and the parties' submissions, and as the case was ready for adjudication, the Circuit issued its judgment.

Reasoning

As the annulment action was filed within the statutory time limit set forth in Article 51 (1) of the Arbitration Law, it is admissible in form.

As to the merits, as the plaintiff seeks through this action the annulment of the arbitral award issued in the dispute between the parties, and with reference to Article 50 of the Arbitration Law (Royal Decree No. M/34 dated April 16, 2012 (24/5/1433H)), which provides as follows:

1. An action to nullify an arbitration award shall not be admitted except in the following cases:

a) If no arbitration agreement exists, or if such agreement is void, voidable, or terminated due to expiry of its term.

- b) If either party, at the time of concluding the arbitration agreement, lacks legal capacity, pursuant to the law governing his capacity.
 - c) If either arbitration party fails to present his defense due to lack of proper notification of the appointment of an arbitrator or of the arbitration proceedings, or for any other reason beyond his control.
 - d) If the arbitration award excludes the application of any rules which the parties to arbitration agreed to apply to the subject matter of the dispute.
 - e) If the composition of the arbitration tribunal or the appointment of arbitrators is carried out in a manner that violates this Law or the agreement of the parties.
 - f) If the arbitration award rules on matters not included in the arbitration agreement. Nevertheless, if the sections of the award relating to matters subject to arbitration can be separated from those not subject thereto, then nullification shall apply only to the sections not subject to arbitration.
 - g) If the arbitration 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.
2. The competent court considering the nullification action shall, on its own initiative, nullify the award if it violates the provisions of Sharia and public order in the Kingdom or the agreement of the arbitration parties, or if the subject matter of the dispute cannot be referred to arbitration under this Law.
3. The arbitration agreement shall not terminate with the issuance of the competent court's decision nullifying the arbitration award unless the arbitration parties agree thereto or a decision nullifying the arbitration agreement is issued.
4. The competent court shall consider the action for nullification in cases referred to in this Article without inspecting the facts and subject matter of the dispute.

The grounds raised by the plaintiff in the annulment action do not fall within the circumstances exhaustively enumerated in the aforementioned article, and the Court is not permitted to examine the facts or merits of the dispute.

As the Circuit has not identified any violation of Sharia or public policy, and as the arbitral award addressed all aspects of the dispute between the parties contained in the arbitration

agreement, the Circuit concludes that the annulment action shall be accepted in form but rejected on the merits, and that the arbitral award issued by the arbitral tribunal shall be upheld and its enforcement ordered in accordance with Article 51 (2) of the Arbitration Law.

Ruling

The Circuit rules as follows:

First: The annulment action is accepted in form and rejected on the merits.

Second: The arbitral award dated December 9, 2023 (25/5/1445H) issued in the dispute between the parties is upheld, and its enforcement is ordered, insofar as it ruled:⁴

First: The respondent is ordered to pay the claimant overdue monthly installments under the general contract prior to termination in the amount of SAR 45,000 (forty-five thousand Saudi riyals).

Second: The respondent is ordered to pay the claimant SAR 35,000 (thirty-five thousand Saudi riyals), representing deferred fees relating to labor cases.

Third: The respondent is ordered to pay the claimant SAR 54,426 (fifty-four thousand four hundred twenty-six Saudi riyals), representing 20 percent of the amounts adjudged in favor of the respondent in Case [...] against [...] bearing No. [...], in which he is a plaintiff.

Fourth: The respondent is ordered to pay the claimant SAR 18,048 (eighteen thousand forty-eight Saudi riyals) in relation to the case filed by [...] Law Office against the defendant [...], No. [...].

Fifth: The respondent is ordered to pay the claimant SAR 10,892 (ten thousand eight hundred ninety-two Saudi riyals) in relation to the [...] Office case in Mecca Province against the defendant [...].

Sixth: The respondent is ordered to pay the claimant SAR 6,819 (six thousand eight hundred nineteen Saudi riyals) in relation to the [...] Office case in Mecca Province against the defendant [...].

Seventh: All other claims are rejected.

This judgment is final and not subject to challenge by any means of appeal.

⁴ The research team notes a potential typographical error in the date of the arbitral award, as the date provided by the plaintiff's attorney earlier is March 6, 2024 (25/8/1445H).

God grants success. May and prayer and peace be upon our Prophet Muhammad and upon his family and companions.