

Case 4530325161

Court	Circuit type	Case No.	Judgment pronounced	Judgment issued
Riyadh Court of Appeal	General	4530325161	–	October 23, 2023

Facts¹

The hearing was convened, and the aforementioned parties were present.

When the plaintiff [the claimant in the arbitration] was asked about his claim, he stated as follows:

The first party, [...], and the second party, [...], entered into an agency contract, and based on [...]. The subject matter of the contract does not relate to international commerce.²

The arbitral award has been deposited as No. [...] dated . . .

An arbitral tribunal was appointed, consisting of:

[...]

[...]

[...]

This tribunal considered the dispute with the defendant and rendered its award ruling, “The defendant [...] is ordered to pay SAR 479,894 (four hundred seventy-nine thousand eight hundred ninety-four Saudi riyals).”

We were notified of the arbitral award on October 8, 2022 (12/3/1444H). The statutory time limit for filing an annulment action against the award has expired, and it is noted annulment action has been filed by the defendant. Therefore, I request the termination of the arbitration proceedings. This is my claim.

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

² Identifying information in this judgment has been redacted to protect personal and sensitive data.

When the above was presented to the defendant [the respondent in the arbitration] and he was asked whether he had filed an annulment action, he said, “I have not filed an annulment action, and the statutory period for doing so has expired.”³

When asked about the deposit of the arbitral award, the plaintiff said, “I request an extension to ask the arbitral tribunal regarding this matter.”

The Circuit decided to adjourn the hearing to review the arbitral award, pending the submission and verification of the deposit number.

In a subsequent hearing, attended by the plaintiff’s attorney and by the defendant personally, the plaintiff was asked about his request in this action. He stated: “I request a ruling to uphold the arbitral award and order its enforcement. The award was deposited . . . after having been rendered on October 8, 2022 (12/3/1444H).”

Upon reviewing the attached award, it was found to be undated. When the plaintiff’s attorney was asked about this, he referred to the document attached to the case file, which contains the text of the award dated October 8, 2022 (12/3/1444H). Upon reviewing the said document, it was found to be a consent award, whereas the initial award attached to the case was different, undated, and contained a different text.

The plaintiff’s attorney was also asked about the education and university degree of the presiding arbitrator, to which he responded, “I will provide this information in the next hearing.” Accordingly, the hearing was adjourned.

In a subsequent hearing, attended by the plaintiff’s attorney and by the defendant personally, the plaintiff’s attorney stated, “The presiding arbitrator does not hold a university degree in law, Sharia, or legal studies from the Kingdom of Saudi Arabia or from his home country.”

When this was presented to the defendant, he concurred with the statement of the plaintiff’s attorney that the presiding arbitrator does not hold a university degree in law, Sharia, or legal studies from the Kingdom of Saudi Arabia or from his home country.

In a subsequent hearing, attended by the plaintiff’s attorney and by the defendant, both parties were asked if they had any further submissions; they responded that they had nothing further to add.

At a subsequent hearing, the case being ready for determination, the Circuit rendered its judgment.

3 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.

Reasoning

Upon reviewing the case, the arbitration submission agreement between the parties, and the award rendered in the merits of the case, the plaintiff requests the enforcement of the arbitral award deposited with this Court after the expiration of the statutory period for filing an annulment action. The subject matter of the case is non-commercial, and this Court has jurisdiction over this case pursuant to Article 8 (1) of the Arbitration Law.

Both parties have acknowledged that the presiding arbitrator does not meet the requirements stipulated in Article 14 (3) of the Arbitration Law.

Article 50 (1) (e) of the Arbitration Law [permits an annulment action], “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 [an action to annul the award may be admitted].”

It cannot be argued in response to this provision that no annulment action was filed within the statutory period pursuant to the text of the article, which provides:

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

...

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.

One of the conditions for the enforcement of an arbitral award is that it must not violate public policy in the Kingdom, as provided in Article 55 (2) (b), and the manner in which the award was issued constitutes a violation of the Arbitration Law.

Moreover, Chapter 7 of the Arbitration Law, “Authority and Enforcement of Arbitration Awards,” stipulates in Article 52: “Subject to the provisions of this Law, an arbitration award rendered in accordance with this Law shall have the authority of a judicial ruling and shall be enforceable.”

The arbitral award was rendered by a presiding arbitrator who did not meet the requirements of Article 14 (3) of the Arbitration Law, which stipulates:

An arbitrator shall satisfy the following conditions:

...

3. Be a holder of at least a university degree in Sharia or law. If the arbitration tribunal is composed of more than one arbitrator, it shall be sufficient that the chairman of the tribunal meets such requirement.

Therefore, the manner in which this award was issued constitutes a violation of the Arbitration Law rather than conforming with it. Accordingly, the Circuit concludes that the application for enforcement of the arbitral award must be rejected, as per the ruling below.

Ruling

The Circuit rules to reject the application for enforcement of the arbitral award. The plaintiff was informed of his right to appeal this judgment before the Supreme Court within thirty days from the date of its issuance.

God grants success. May and prayer be upon His Servant and Messenger Muhammad and upon all his family and companions.