



ADGM COURTS

محاكم سوق أبوظبي العالمي

14 September 2022 11:11 AM



In the name of

**His Highness Sheikh Mohamed bin Zayed Al Nahyan**

President of the United Arab Emirates/ Ruler of the Emirate of Abu Dhabi

**COURT OF FIRST INSTANCE  
COMMERCIAL AND CIVIL DIVISION  
BETWEEN**

**LAILA ABDULLA HASSAN ABDULLA BELHOUSH**

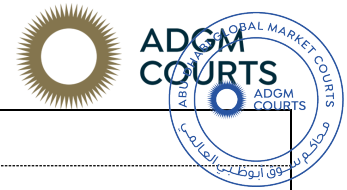
Appellant

and

**ABU DHABI COMMERCIAL BANK**

Respondent

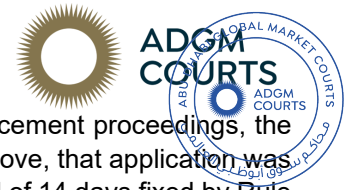
**JUDGMENT OF JUSTICE HAYNE**



<b>Neutral Citation:</b>	[2022] ADGMCFI 0005
<b>Before:</b>	Justice K M Hayne
<b>Decision Date:</b>	14 September 2022
<b>Hearing Dates:</b>	No hearing
<b>Decision:</b>	<ol style="list-style-type: none"> <li>1. The Appeal be treated as an application for extension of time within which to appeal and be dismissed.</li> <li>2. The Appellant to pay the Respondent's costs to be assessed summarily if not agreed.</li> </ol>
<b>Date of Order:</b>	14 September 2022
<b>Decision under appeal:</b>	
<b>Court of First Instance Division</b>	Small Claims
<b>Date of Decision</b>	30 June 2022
<b>Before:</b>	The Honourable Lord McGhie
<b>Date of Order:</b>	30 June 2022
<b>Catchwords:</b>	Small Claims Division; Appeal to Commercial and Civil Division; Application to extend time for appeal
<b>Legislation Cited:</b>	ADGM Court Procedure Rules 2016, rule 205(3) and (5).
<b>Case Number:</b>	ADGMCFI-2022-178
<b>Parties and representation:</b>	Ms Laila Abdulla Hassan Abdulla Belhoush, Appellant Ms Shaikha Saeed Alshehhi, Abu Dhabi Commercial Bank for the Respondent

## JUDGMENT

1. Laila Abdulla Hassan Abdulla Belhoush ("**the Applicant**") seeks to appeal against an order made on 30 June 2022 dismissing an application to set aside judgment entered in favour of Abu Dhabi Commercial Bank ("**the Bank**") on 13 April 2021. The Notice of Appeal was filed out of time and is to be treated as an application for extension of time within which to appeal against the order refusing to set aside the judgment that had been entered.
2. It is useful to begin by setting out the history of the proceedings in the Court that leads to the Applicant seeking an extension of time within which to appeal against the refusal to set aside the April 2021 judgment.
3. On 22 February 2021, the Bank began a proceeding in the Small Claims Division claiming USD 60,891 from the Applicant as the amount owed to the Bank in respect of two loans it had made to the Applicant. The Bank sought, and was granted, default judgment.
4. In June 2021, the Bank commenced enforcement proceedings in the Abu Dhabi Judicial Department which, in September 2021, made an enforcement order and, in October 2021, made a detention order.



5. On 14 June 2022, about a year after the Bank had commenced its enforcement proceedings, the Applicant applied to have the April 2021 judgment set aside. As noted above, that application was dismissed on 30 June 2022. Almost a month later, and beyond the period of 14 days fixed by Rule 205(5) of the ADGM Court Procedure Rules ("CPR"), the Applicant filed a Notice of Appeal against the order refusing to set aside the April 2021 judgment.
6. On 8 August 2022, I gave directions for the parties to file material supporting or opposing the application to extend the time within which to appeal against the refusal to set aside the April 2021 judgment and I ordered that the application be determined on the papers.
7. The Applicant filed a statement in support of the application for an extension of time in which she sought to demonstrate that she had repaid the two loans in full. She asserted that she had paid the agreed repayment instalments as and when they fell due and produced a statement of loan amortisation which she had prepared and which, it was alleged, showed that the total of instalments paid equalled the whole of the principal amount borrowed. But this statement took no account of interest. And the Applicant did not dispute that the loans she had obtained from the Bank bore interest.
8. The Applicant's application to set aside the April 2021 judgment was filed long after the judgment had been entered (and only after steps had been taken to execute the judgment). Her appeal against the refusal to set aside the April 2021 judgment was also filed out of time. I would not be minded to extend the time for instituting an appeal unless the Applicant provided some persuasive explanation for why (having waited as long as she had to challenge the judgment) she did not seek to appeal within time. And even if there were some satisfactory explanation for the failure to file an appeal in time, I would not be minded to extend time without her showing that she had a clearly arguable case that there had been some error of law in refusing to set aside the April 2021 judgment. The Applicant does neither. She provides no explanation for delay. She points to no error of law. She says only that she has paid the Bank all that she owes but, as has already been noted, provides no persuasive proof that she has done this.
9. Rule 205(3) of the CPR provides that "No appeal may be brought against any judgment or order given or made in the Small Claims Division except on a question of law." In the material she has filed, the Applicant does not identify any question of law that she says arises. Instead, her material is directed only to the factual assertion that she has paid enough in instalments to repay the principal of each loan and the interest that has accrued on each loan. Because her appeal would raise no question of law it would be incompetent. That is reason enough to refuse her application to extend the time for instituting the appeal. The other circumstances I have mentioned serve only to reinforce that conclusion.
10. The Applicant's application will be dismissed. The Applicant must pay the Bank's costs of the application to be assessed summarily if not agreed.

Issued by:

Linda Fitz-Alan

Registrar, ADGM Courts  
14 September 2022

