



IN THE COURT OF FIRST INSTANCE
OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

22 January 2024
CASE No: AIFC-C/CFI/2023/0043

“ASTANA MEDICAL UNIVERSITY” NON-PROFIT JSC

Appellant

v

“ADAM AND AHMAD MARKETING CONSULTING” COMPANY

Respondent

JUDGMENT

Justice of the Court:
Justice The Rt. Hon. The Lord Faulks KC

ORDER

The application for permission to appeal is refused.

JUDGMENT

1. This is an application for permission to appeal against a decision of Justice Tom Montagu -Smith, sitting in the Small Claims Court of the Astana International Financial Centre.
2. The Claim and Counterclaim arose out of a dispute between Astana Medical University (the University) and Adam and Ahmad Marketing Consulting (the Company) in relation to various sums said to be owing pursuant to a contract dated 19th May 2021.
3. In his judgment, dated 23rd October 2023, the judge found that, in accordance with its Counterclaim, the Company was owed various sums by the University amounting in total to US\$ 66,935.87 and KZT 49,914.041
4. The judgment was based on the judge's assessment of the witnesses' oral evidence and by reference to the contract. Each side called three witnesses. It is notable that the University served witness statements, from two of its witnesses, very late. The oral evidence was clearly helpful in the judge's understanding of the circumstances in which the parties entered into the contract and those in which the University decided not to continue its relationship with the Company.
5. As the judge pointed out (at paragraph 17 of the judgment) there were, by the end of the case, relatively few issues of fact. The University's case was that the Company had not fulfilled its obligations under the contract. The judge dealt carefully and comprehensively with each of the allegations made by the University (see paragraphs 85-94 of the judgment). He rejected all of their arguments.
6. The reality was that this was intended to be a long term relationship but that new management at the University decided that the Company was not giving value, and therefore wanted to end the relationship. The judge clearly concluded that this decision did not relieve the University of its obligations to pay the company in accordance with the contract.
7. I have considered the submissions made by both parties in relation to this application and have concluded that there is no realistic chance of the Claimant succeeding in its appeal. This was a decision on the facts and significantly based on an assessment of witnesses, who gave oral evidence. Nor do I consider that there is any other compelling reason why an appeal should be heard. In those circumstances I refuse the application for permission to appeal and dismiss the accompanying application to suspend the order for payment in accordance with the judgment.

By Order of the Court,

Edward Faulk

The Rt. Hon. The Lord Faulks KC
Justice, AIFC Court





Representation:

The Appellant was represented by Mr. Serik Kuzhamkulov, advocate, Astana Advocates' Bar Association, Astana, Republic of Kazakhstan.

The Respondent was represented by Ms. Ardak Khabiyeva, legal adviser, member of the "Adilzanger" Chamber of Legal Advisers, Astana, Republic of Kazakhstan.