



ADGM COURTS
محاكم السوق أبوظبي العالمي



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
SMALL CLAIMS DIVISION
BETWEEN**

CASH IN BANK PJSC
Claimant

and

JANE JO SMITH
Defendant

ORDER

JUDGE: Justice 3
DATE OF ORDER: 20 September 2022
CLAIM NO: ADGMCFI-2022-997

UPON reading the Claim filed on 24 August 2022 and the Defence filed on 31 August 2022.

AND UPON reading the Notice of Admission/ Request for time to pay filed on 31 August 2022 ("**Request**") and the Response to the Request filed on 7 September 2022

AND UPON reading the Reply filed on 19 September 2022

AND UPON noting that the Defendant's proposed payment plan set out in the Request exceeds the 3-year time limit provided for in Rule 43(1) of the Court Procedure Rules 2016

AND UPON reading the documents recorded on the Court file as having been read

IT IS HEREBY ORDERED AND DIRECTED THAT:

1. Judgment be entered for the Claimant in the amount of USD 48,000 ("**Judgment Sum**").
2. The Judgment Sum shall be payable by way of monthly instalments of:
 - a. USD 1,000 per month for six months commencing on 10 October 2022; and
 - b. thereafter by way of 21 monthly instalments of USD 2,000 per month,with each monthly instalment to be paid on or by the 10th of the month.



3. If any instalment payment under paragraph 2 remains unpaid 7 days after that amount becomes payable, paragraph 2 shall cease to have effect such that:
 - a. the amount of the Judgment Sum that remains unpaid at the time of the default shall immediately become payable; and
 - b. the Claimant shall be entitled to take enforcement action in relation to the Judgment Sum amount that remains unpaid at the time of the default.
4. Interest shall accrue on such amount of the Judgment Sum that remains unpaid at the rate of 5% per annum from 10 October 2022 until payment.
5. The Defendant shall pay the filing fees incurred by the Claimant in the amount of USD 1,440.
6. The Defendant shall pay the Claimant's fixed costs in the amount of USD 390.
7. Subject to paragraph 3, payment of the interest, fees and costs referred to in paragraphs 4 to 6 above shall fall due at the time of the last instalment payment referred to in paragraph 2(b).
8. The parties have liberty to apply.

Reasons for decision

1. The Defendant challenged the claim on various grounds. She disputed the Claimant's entitlement to items of USD 400 in the name of late charges and USD 2,600 in accrued interest. She did not dispute that there was a sum of 45,000 outstanding on the loan and it is clear that, in accordance with its normal terms and conditions, the Claimant would be entitled to levy late charges and interest as long as the loan remains unpaid. I consider that these items are properly included as part of the claim.
2. The Defendant was required to pay a fine in respect of a returned cheque. She contended that allowance should be made for this. However, I am satisfied that this was to be paid to the police authorities and not to the Claimant. In any event, it is an item quite separate from the matters which are the subject of the present claim. Accordingly, no allowance can be made for that item.
3. It appears that the Defendant was required to pay for insurance in respect of the loan. That this was for the benefit of the Claimant and not the Defendant is clear not only from the Claimant's terms and conditions but from the fact that the Defendant has not attempted to produce any documentation suggesting that she has any rights against any insurer. There is nothing in the Bank's standard terms to suggest that there was a policy which would provide a specific sum to be applied to reduce the sum due by the Defendant. On the contrary, insurance to benefit the Claimant might have been expected to cover any shortfall after the Claimant had tried to recover payment from the Defendant.
4. In these circumstances, I am satisfied that the Claimant is entitled to judgment for the full sum claimed and I award payment of that sum in accordance with the terms set out in the Order.



Issued by:

Linda Fitz-Alan
 Registrar, ADGM Courts
 20 September 2022