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Case Study

Is the sudden case dismissal a fair outcome for a claimant's partial settlement of judicial fees?

Steering Legal handled a memorial case which established a legal principle or rule. In the case under study, our firm represented a lady in a personal status dispute which illustrated different reasonings adopted by Dubai's Court of Appeal and Court of Cassation regarding a partial payment of the judicial fee settled before the courts, and its repercussions on the final decision rendered in the matter. This judgement provides insight to the appliance of article 3, of Law No.21 for 2015 Establishing the Judicial Fees before the Dubai Courts. According to the article 3, *"no suit or appeal may be heard, or any request accepted, unless the fee due for it has been paid in full; unless a decision of exemption or complete or partial adjournment of the fee have been made by the committee according to the rules stipulated herein in this Law"*. Along the same lines, the first provision of article 5 of the same law provides that *if, during the course of a case, it appeared to the competent court that the corresponding paid fees are not commensurate with the final requested fees, or are less than the due fees, or that it was paid contrary to the provisions of this Law, the court shall issue an order to the Claimant requesting the payment of the remaining amount of the fee within a specific period. If the claimant fails to settle the amount, the court shall refuse all his claims; and if the case was adjourned for judgment, the court shall order the claimant in the judgment issued to settle the remaining amount of the fee.*

Background Facts

The decision under study is the judgment rendered by the Dubai Court of Cassation in a case in response of two appeals related to a personal status dispute. The underlying dispute is associated with



the claimant who filed a case before the Dubai First Instance Court requesting the Court to order the Respondent to pay a children maintenance along other financial claims. During the course of the dispute, the claimant discovered that her former spouse has divorced her involuntarily without her knowing. Subsequently, she amended her claims and requested the Court to order her former husband to pay spousal alimony. This added claims was the trigger for the judicial fee payment matter. Her ex-husband refrained from providing the children and spousal alimony and cancelled her residency visa and that of the children and requested her to leave the United Arab Emirates back to their home country without any consideration to the fact that they were in the middle of the academic year. The Court of First Instance issued a decision ordering the respondent to pay monthly children maintenance and responding to the rest of the claimant's orders requests. Both parties appealed the First Instance court's decision for unsatisfactory reasons. The Dubai Court of Appeal rendered a decision stipulating the annulment of the appealed judgment for unsettlement of the full judicial fee by the claimant. Both parties appealed against the Dubai Court of Appeal's ruling within the Dubai Court of Cassation.

Analysis

The Dubai Court of Cassation overturned the Court of Appeal's ruling and that by acknowledging the fact that the legitimacy of the judgment's annulment related to unsettled judicial fees amounts differs whether the claimant has not settled any of the required judicial fees, or has partially paid the amount related to it. According to the Court's judgment, the legislator has distinguished between two instances: an instance where the claimant hasn't paid any of the judicial fees, and another instance where the claimant has partially settled the judicial fees related to the ongoing case with an amount remaining unpaid. In the event of the first case's occurrence, the lawmaker considered that this would result in the Court's refusal to hear the case and the case will be subsequently dismissed. However, in the event of a partial judicial fees' payment, the Court shall not dismiss the case. If it became apparent to the Court that the claimant failed to pay the full amount of the judicial fees while the case is still ongoing, the Court shall, before proceeding with the case, order the claimant to settle the remaining amount within a deadline that the Court deems adequate. If the Claimant fails to do so, the case will be dismissed. Nevertheless, if the remainder unsettled amount was revealed to the Court at a time the case has been adjourned for judgment, in such circumstance, the Court shall issue the judgment pursuant which it shall bind the Claimant to reimburse the outstanding judicial fees.

The Court of Cassation further reasoned that the aforementioned procedural provisions are public order issues since these procedures are part of the judicial system's procedures. Therefore, the Court shall apply the above provisions by itself without being asked to by the parties.

In the course of this dispute, our firm highlighted the fact that the Court of Appeal's decision contradicts both legal texts as well as Court of Cassation's precedents. Considering that the Dubai Court of Cassation, which is additionally the foremost senior judicial authority within the Emirate of Dubai, ruled in a precedent judgment that if, during the course of an ongoing dispute, the Court discovered that the Claimant has only paid part of the judicial fees and failed to settle the full amount, the Court has the obligation to order the Claimant to settle the remainder. Moreover, our attorney provided the Court with proofs of absence of any order issued by the Court requesting the payment of the remaining amount of the fees, and that the Court of Appeal directly issued a decision pursuant



which it annulled the first-degree court's decision. On a similar note, the Court of Cassation ruled that the second-degree judgment violated both legal text (Law No. 21/2015) as well as the Dubai courts' jurisprudence.

Conclusion

We believe that the judgement under study can be classified as a cornerstone among decisions rendered in relation to the judicial fees' topic. In our opinion, this judgment may serve as a case precedent and is a pillar for any party in a legal case since the likelihood for any of the parties in any legal dispute not limited to personal status affairs, to be prone for such incident (partial or non-payment of judicial fees) is highly considerable. This judgment rendered in favour of our client marked a well-deserved victory to both our firm, as well as to the claimant who happened to be a vulnerable person seeking children alimony in a personal status dispute, and who risked to lose the case due to misapplying the relevant text of law.