

# The valuation of actions for the purposes of ascertaining the Court of Cassation's Jurisdiction

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The Court's decision in Appeal No.159-2012 determines the issue of what value should be taken into account in deciding whether it has jurisdiction to hear an appeal in cases where the lower courts have issued judgments for amounts other than those pleaded by the Claimant and the Claimant has not appealed those amounts.

## **THE CIVIL PROCEDURE LAW (AS AMENDED)**

Article 173 states:

*"The parties may appeal on cassation against judgments passed by the courts of appeal if the value of the action exceeds Dhs 200,000, or if it is of an unquantified value..."*

Article 48 states:

*"The value of the action shall be quantified as of the day it is brought, and in any event the quantification shall be made on the basis of the last claim made by the parties."*

## **CASE HISTORY**

An employee filed a claim against his employer in the Labour Summary Court of First Instance for AED 96,261 and an air ticket to his home country. During the course of these proceedings, he amended his statement of claim so as to seek AED 841,833. The Labour Summary Court only having jurisdiction to hear claims under AED 100,000 referred the matter to the Labour Plenary Court of First Instance. The Labour Plenary Court of First Instance issued a judgment for AED 25,740 in favour of the employee.

The employer appealed seeking to overturn the decision of the Court of First Instance and seeking to have the case dismissed for lack of merit. The employee did not appeal the decision. The Court of Appeal amended the lower Court's award to AED 19,108, otherwise upholding the latter's decision.

## **THE COURT OF CASSATION**

The employer appealed to the Dubai Court of Cassation to overturn the Court of Appeal's decision. Although, no arguments were raised by the employee contesting the jurisdiction of the Court of Cassation, the Court said that the admission of appeals was a matter of public policy and therefore it could determine the issue of jurisdiction on its own motion.

The Court dismissed the appeal without considering its merits on the grounds that the value of the action

did not exceed AED 200,000. The relevant amount for the purposes of establishing whether the Court had jurisdiction was not AED 841,833, being the employee's final request for relief, but rather the appealed amount. The Court had particular regard to the fact that the employee had not appealed the decision of the Court of First Instance. The Court reasoned that since the employee did not appeal the judgment of the Court of First Instance, this should be construed as an implicit acceptance of this judgment on the part of the Claimant.

Although the decision in Appeal No.159-2012 is difficult to reconcile with a literal interpretation of Article 48 above, it represents a common sense approach as to which claims may or may not be appealed to the Court of Cassation. In a case where the Claimant has not appealed the decision of the lower courts, the relevant consideration in determining the value of an action is not the initial amount sought in the Statement of Claim, but the value of the judgement of the relevant lower Court that has not been appealed by the Claimant. In cases where the Court of First Instance and the Court of Appeal have issued judgements for less than AED 200,000, the decision in Appeal No.159-2012 has the welcome effect of preventing Claimants from relying on inflated amounts in their Statement of Claim to satisfy the AED 200,000 threshold.

### **PRACTICE NOTE**

A Statement of Claim filed at a court of first instance seeking a sum in excess of AED 200,000 may still enable the Court of Cassation to refuse jurisdiction on appeal. Claimants appealing to the Court of Cassation should ensure that the last demand made by them during the course of the appeal proceedings is in excess of AED 200,000.

An appellant should ensure that all amounts potentially claimable are included in the appeal application to the Court of Appeal and the Court of Cassation so as to satisfy the AED 200,000 threshold, even if a portion of this amount has minimal prospects of being awarded by the Court. This is because in such cases the Court of Cassation will consider the merits of the appeal, even if it later decides that a sum of less than AED 200,000 should be awarded.