

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER THE AGREEMENT ON
RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS BETWEEN THE CARIBBEAN
COMMUNITY AND THE DOMINICAN REPUBLIC AND THE UNCITRAL ARBITRATION RULES
(1976)**

MICHAEL ANTHONY LEE-CHIN

v.

THE DOMINICAN REPUBLIC

(ICSID Case. No. UNCT/18/3)

PROCEDURAL ORDER No. 7

Members of the Tribunal

Prof. Diego P. Fernández Arroyo, Presiding Arbitrator

Prof. Christian Leathley, Arbitrator

Prof. Marcelo Kohen, Arbitrator

Secretary of the Tribunal

Ms. Marisa Planells-Valero

November 3, 2021

I. THE PARTIES' POSITIONS

A. Claimant's Position

1. On October 22, 2021, the Claimant requested leave from the Tribunal to submit into the record of this arbitration “the final judgment issued by the Fourth Chamber of the Dominican Court of Original Jurisdiction regarding the Dominican Republic’s request to nullify Claimant’s title (through his companies Nagelo Enterprises, S.A. and Wilkison Company, S.R.L.) over the approximately 875,000 m2 plot of land [...] that was going to be used by Claimant as a sanitary landfill, recycling facility and, ultimately, a Waste-to-Energy Plant” (the “Judgment”).
2. The Claimant explains that although the Judgment is dated September 23, 2021, it was not until Wednesday, October 20, 2021, that the Claimant “became aware of it, through a request for information carried out by his Dominican counsel on the Dominican judicial system’s website.” The Claimant alleges that, to date, neither him nor his companies have been formally put on notice of the Judgment, and that this explains why Mr. Lee-Chin did not have the Judgment in his possession when he filed his Rejoinder Memorial on Additional Jurisdictional/Admissibility Objections on October 12, 2021.
3. The Claimant alleges, *inter alia*, that the Judgment is “critical and essential to the resolution of this arbitral proceeding” because it evidences that that “Claimant’s acquisition of the Land was valid and legal, and not fraudulent,” and that the Respondent’s “multiple efforts to challenge the legality of Mr. Lee-Chin’s purchase of the Land before the Dominican Republic’s domestic courts were nothing more than retribution for Mr. Lee-Chin’s decision to commence this investment arbitration.”

B. Respondent's Position

4. On October 28, 2021, the Respondent submitted a response to the Claimant’s request together with Annexes 1 to 3. In its response, the Respondent indicates that “it does not object in principle to the incorporation of the Judgment into the record of this arbitration” but it invites the Tribunal to take into consideration several clarifications with respect to its content and the allegations made by the Claimant as regards the Judgment. [Tribunal’s Translation].
5. The Respondent alleges, *inter alia*, that the Judgment is not final and it does not have the effect and implications intended by the Claimant. According to the Respondent, a simple reading of the Judgment makes clear that the Claimant’ allegation pursuant to which the Judgment would have declared that the acquisition of the Land “was valid and legal from the outset” and that “there was no fraud whatsoever with respect to the purchase and sale of the Land” have no legal basis. Instead, the Respondent submits, the Claimant’s Nullification Action was dismissed for lack of evidence - due to the presentation of photocopies of certain documentary evidence instead of the originals - and the Judgment is not final but is subject to domestic remedies in accordance with Dominican law.

II. THE TRIBUNAL'S DECISION

6. The Tribunal notes that the Respondent does not oppose the introduction of the Judgment into the record of this arbitration. In view of the above, the Tribunal has decided to grant the Claimant leave to introduce the Judgment into the record as Exhibit C-207.
7. The Tribunal further confirms that it has taken note of the Parties' comments on the nature and significance of the Judgment invoked by the Claimant. The Parties will have the opportunity to further comment on this issue in the oral part of the proceedings.

For and on behalf of the Tribunal,

[signed]

Prof. Diego P. Fernández Arroyo
President of the Tribunal
Date: November 3, 2021