

Decision of the Dispute Resolution Chamber

passed on 11 October 2023

regarding an employment-related dispute concerning
the player Jeferson Silva Santos

BY:

Philippe Diallo (France)

CLAIMANT:

Jeferson Silva Santos, Brazil

Represented by Breno Costa Ramos Tannuri

RESPONDENT:

Sanate Mes Rafsanjan, Iran

I. Facts of the case

1. On 3 August 2022, the Brazilian player Jeferson Silva Santos (hereinafter: *the Claimant* or *the Player*) and the Iranian club Sanate Mes Rafsanjan (hereinafter: *the Respondent* or *the Club*) concluded an employment contract (hereinafter: *the Contract*) valid "until the end of season 2022-2023 of Iranian professional league."

2. Art. 4 of the Contract reads *inter alia* as follows:

The total value of this contract for one Season (2022-2023) is amount of 150,000 USD net (One hundred and seventy Thousand USD) and (the tax of this contract will be paid by the club)

The amount of 20,000 USD (twenty thousand USD) in the case of head coaches satisfaction of his performance.

3. Art. 16 of the Contract reads *inter alia* as follows:

"30% of the contract, equal to the amount ofUSD (.....USD) will be paid to the player by the start of season.

10% of the contract, equal to the amount ofUSD (.....USD) will be paid to the player by the end of 10th week of the season.

10% of the contract, equal to the amount ofUSD (.....USD) will be paid to the player by the end of semi-season.

15% of the contract, equal to the amount ofUSD (.....USD) will be paid to the player by the end of 22ed week of the season.

15% of the contract, equal to the amount ofUSD (.....USD) will be paid to the player by the end of the season.

20% of the contract, equal to the amount ofUSD (.....USD) will be paid to the player by the end of the contract, regarding his excellence of performance and goodwill."

II. Proceedings before FIFA

4. On 23 August 2023, the Claimant filed the claim at hand before FIFA. A brief summary of the position of the parties is detailed in continuation.

a. Position of the Claimant

5. According to the Claimant on 18 May 2023, the Club played its last match for the 2022-2023 sporting season.

6. The Claimant states that the Respondent has failed to pay him an outstanding salary amounting to USD 6,000.

7. The Claimant also alleges that "although the head coach provided an express written statement confirming his satisfaction regarding the performance of the Player, the Club failed to pay to the Player

the amount of USD 20,000 Net

8. The Claimant filed the following requests for relief:

FIRST – To uphold the claim filed by the Player;

SECOND – To order the Club to pay the Player USD 6,000 (Six thousand US Dollars) corresponding to outstanding salaries, plus default interest at the rate of 5% per annum as from 19 May 2023 until the date of effective payment;

THIRD – To order the Club to pay the Player USD 20,000 (twenty thousand US Dollars) corresponding to the outstanding individual performance bonus, plus default interest at the rate of 5% per annum as from 19 May 2023 until the date of effective payment; and

FOURTH – To open the proceedings regarding the present dispute and notify the Club immediately (cf. Art. 21, par. 1 of the FIFA Procedural Rules).

b. Position of the Respondent

9. Despite being invited to file its position, the Respondent did not reply to FIFA.

III. Considerations of the Dispute Resolution Chamber

a. Competence and applicable legal framework

10. First of all, the Single Judge (hereinafter also referred to as *Single Judge*) analysed whether he was competent to deal with the case at hand. In this respect, he took note that the present matter was presented to FIFA on 23 August 2023 and submitted for decision on 11 October 2023. Taking into account the wording of art. 34 of the March 2023 edition of the Procedural Rules Governing the Football Tribunal (hereinafter: *the Procedural Rules*), the aforementioned edition of the Procedural Rules is applicable to the matter at hand.
11. Subsequently, the Single Judge referred to art. 2 par. 1 and art. 24 par. 1 lit. a) of the Procedural Rules and observed that in accordance with art. 23 par. 1 in combination with art. 22 par. 1 lit. b) of the Regulations on the Status and Transfer of Players (May 2023), he is competent to deal with the matter at stake, which concerns an employment-related dispute with an international dimension between a Brazilian player and an Iranian club.
12. Subsequently, the Single Judge analysed which regulations should be applicable as to the substance of the matter. In this respect, he confirmed that, in accordance with art. 26 par. 1 and 2 of the Regulations on the Status and Transfer of Players (May 2023 edition) and considering that the present claim was lodged on 23 August 2023, the May 2023 edition of said regulations (hereinafter: *the Regulations*) is applicable to the matter at hand as to the substance.

b. Burden of proof

13. The Single Judge recalled the basic principle of burden of proof, as stipulated in art. 13 par. 5 of the Procedural Rules, according to which a party claiming a right on the basis of an alleged fact shall carry the respective burden of proof.

c. Merits of the dispute

14. His competence and the applicable regulations having been established, the Single Judge entered into the merits of the dispute. In this respect, the Single Judge started by acknowledging all the above-mentioned facts as well as the arguments and the documentation on file. However, the Single Judge emphasised that in the following considerations he will refer only to the facts, arguments and documentary evidence, which it considered pertinent for the assessment of the matter at hand.

i. Main legal discussion and considerations

15. The foregoing having been established, the Single Judge moved to the substance of the matter and took note of the fact that the Claimant requests outstanding remuneration and a performance bonus.

16. The Single Judge acknowledged that no correspondence was exchanged between the parties before the filing of the claim and furthermore the Respondent failed to submit its position to the claim.

17. In this context, the Single Judge acknowledged that his task was to determine, based on the evidence presented by the parties, whether the Claimant is entitled to the performance bonus claimed and additionally whether the claimed amounts had in fact remained unpaid by the Respondent and, if so, whether the latter had a valid justification for not having complied with its financial obligations.

18. As to the performance bonus, art. 4 of the Contract states that the Claimant is entitled to USD 20,000 *"in the case of head coaches (sic) satisfaction of his performance"*.

19. In this regard, the Claimant alleges that the Head Coach had provided his *"express consent"* to the payment of the amount. However, the Single Judge observed that no evidence has been provided in support of this allegation. Particularly, the document filed as Exhibit 4 corresponds to an alleged letter from the Player to the Head Coach. Thus, the Single Judge deemed that the Claimant has not met his burden of proof as to the fulfilment of the conditions for the entitlement to the performance bonus claimed.

20. As to the outstanding salaries, the Single Judge first noted that in the case at hand the Respondent bore the burden of proving that it indeed complied with the financial terms of the contract concluded between the parties.

21. Nonetheless, although the Claimant has not specified which instalment remained unpaid, the

Single Judge noted that the Respondent has neither provided any proof of payment nor any reasonable justification was presented by the Respondent for not having complied with the terms of the contract.

22. As a consequence, and in accordance with the general legal principle of *pacta sunt servanda*, the Single Judge decided that the Respondent is liable to pay to the Claimant the amounts which were claimed as outstanding under the contract at the moment of the termination, i.e. USD 6,000.
23. In addition, taking into consideration the Claimant's request, the unspecified due date of the salary as well as the constant practice of the Chamber in this regard, the Single Judge decided to award the Claimant interest at the rate of 5% p.a. on the outstanding amounts as from the date of claim until the date of effective payment.

ii. Compliance with monetary decisions

24. Finally, taking into account the applicable Regulations, the Single Judge referred to art. 24 par. 1 and 2 of the Regulations, which stipulate that, with its decision, the pertinent FIFA deciding body shall also rule on the consequences deriving from the failure of the concerned party to pay the relevant amounts of outstanding remuneration and/or compensation in due time.
25. In this regard, the Single Judge highlighted that, against clubs, the consequence of the failure to pay the relevant amounts in due time shall consist of a ban from registering any new players, either nationally or internationally, up until the due amounts are paid. The overall maximum duration of the registration ban shall be of up to three entire and consecutive registration periods.
26. Therefore, bearing in mind the above, the Single Judge decided that the Respondent must pay the full amount due (including all applicable interest) to the Claimant within 45 days of notification of the decision, failing which, at the request of the Claimant, a ban from registering any new players, either nationally or internationally, for the maximum duration of three entire and consecutive registration periods shall become immediately effective on the Respondent in accordance with art. 24 par. 2, 4, and 7 of the Regulations.
27. The Respondent shall make full payment (including all applicable interest) to the bank account provided by the Claimant in the Bank Account Registration Form, which is attached to the present decision.
28. The Single Judge recalled that the above-mentioned ban will be lifted immediately and prior to its complete serving upon payment of the due amounts, in accordance with art. 24 par. 8 of the Regulations.

d. Costs

29. The Single Judge referred to art. 25 par. 1 of the Procedural Rules, according to which "*Procedures are free of charge where at least one of the parties is a player, coach, football agent, or match agent*". Accordingly, the Single Judge decided that no procedural costs were to be imposed on the parties.
30. Likewise, and for the sake of completeness, the Single Judge recalled the contents of art. 25 par.

8 of the Procedural Rules and decided that no procedural compensation shall be awarded in these proceedings.

31. Lastly, the Single Judge concluded his deliberations by rejecting any other requests for relief made by any of the parties.

IV. Decision of the Dispute Resolution Chamber

1. The claim of the Claimant, Jeferson Silva Santos, is partially accepted.
2. The Respondent, Sanate Mes Rafsanjan, must pay to the Claimant the following amount(s):
 - **USD 6,000 as outstanding remuneration** plus 5% interest *p.a.* as from 23 August 2023 until the date of effective payment.
3. Any further claims of the Claimant are rejected.
4. Full payment (including all applicable interest) shall be made to the bank account indicated in the **enclosed** Bank Account Registration Form.
5. Pursuant to art. 24 of the Regulations on the Status and Transfer of Players, if full payment (including all applicable interest) is not made **within 45 days** of notification of this decision, the following **consequences** shall apply:
 1. The Respondent shall be banned from registering any new players, either nationally or internationally, up until the due amount is paid. The maximum duration of the ban shall be of up to three entire and consecutive registration periods.
 2. The present matter shall be submitted, upon request, to the FIFA Disciplinary Committee in the event that full payment (including all applicable interest) is still not made by the end of the three entire and consecutive registration periods.
6. The consequences **shall only be enforced at the request of the Claimant** in accordance with art. 24 par. 7 and 8 and art. 25 of the Regulations on the Status and Transfer of Players.
7. This decision is rendered without costs.

For the Football Tribunal:



Emilio García Silvero

Chief Legal & Compliance Officer

NOTE RELATED TO THE APPEAL PROCEDURE:

According to article 57 par. 1 of the FIFA Statutes, this decision may be appealed against before the Court of Arbitration for Sport (CAS) within 21 days of receipt of the notification of this decision.

NOTE RELATED TO THE PUBLICATION:

FIFA may publish this decision. For reasons of confidentiality, FIFA may decide, at the request of a party within five days of the notification of the motivated decision, to publish an anonymised or a redacted version (cf. article 17 of the Procedural Rules Governing the Football Tribunal).

CONTACT INFORMATION

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