SHIPPING & INTERNATIONAL TRADE | RESTRUCTURING & INSOLVENCY | INTERNATIONAL ARBITRATION

Singapore High Court Refuses Back Door Appeal Against Arbitral Institution's Administrative Decision

Introduction

In *DMZ v DNA* [2025] SGHC 31 ("***DMZ v DNA***"), the Singapore High Court ("**Court**") held that proceedings commenced by the claimant ("**OA 1050**") seeking review of an administrative decision made by the Singapore International Arbitration Centre ("**SIAC**") were bound to fail. The decision is worthy of note as a rare instance of judicial authority considering the relationship between arbitral institutions and the parties to the arbitrations they administer, as well as the supervisory court's role in overseeing institutional arbitrations.

The defendant was successfully represented by a cross-disciplinary team from Rajah & Tann Singapore, namely our Shipping & International Trade partners Ting Yong Hong, Wu Junneng and Nathanael Lin with support from Restructuring & Insolvency Deputy Head Chua Beng Chye.

Background

In *DMZ v DNA* [2025] SGHC 31, the parties had entered four sale contracts containing materially identical arbitration clauses, which provided for disputes to be referred to SIAC for arbitration in accordance with the sixth edition of the Arbitration Rules of the SIAC ("**SIAC Rules**"). After a dispute arose, the defendant filed a Notice of Arbitration ("**NOA**") with SIAC on 24 June 2024, seeking to consolidate all arbitrations commenced pursuant to the NOA ("**Arbitrations**"). SIAC issued a letter stating that the Registrar of SIAC ("**Registrar**") deemed the Arbitrations to have commenced on 3 July 2024 ("**First Decision**").

In its response to the NOA, the claimant asserted that the defendant's claims were time-barred based on the 3 July 2024 commencement date. The defendant then requested the Registrar to correct the commencement date of the Arbitrations to 24 June 2024 on the basis that the NOA had at least substantially complied with the SIAC Rules. After hearing submissions from both parties, the Registrar ultimately revised the commencement date to 24 June 2024 ("**Second Decision**").

The claimant filed OA 1050 to challenge the Second Decision, arguing that:

1. The Second Decision was in breach of Rule 40.1 of the SIAC Rules, which states that "the decisions of the President, the Court and the Registrar with respect to all matters relating to an

arbitration shall be conclusive and binding upon the parties and the Tribunal". The First Decision was therefore "conclusive and binding", and the Registrar had no power to review it.

2. Alternatively, the Second Decision was made arbitrarily, capriciously and/or unreasonably. The Registrar had therefore exercised the discretion conferred upon him in a manner that was ultra vires and/or in breach of the SIAC Rules.

Accordingly, the defendant sought declarations that the commencement date of the Arbitrations was 3 July 2024 and that the Second Decision was unlawful or in breach of the SIAC Rules, among other matters.

For completeness, the defendant was a company subject to winding up proceedings in Hong Kong, which had obtained recognition from the Singapore courts and was therefore subject to a court-ordered moratorium against legal proceedings. The decision in *DMZ v DNA* arose in relation to the claimant's application for leave ("**OA 1222**") to continue OA 1050 against the defendant.

Decision of the Court

The Court refused leave to the claimant to continue OA 1050 against the defendant on the basis that OA 1050 was legally unsustainable on two main grounds.

To begin with, the Court had no jurisdiction to review the Registrar's decision.

1. While the Court accepted that the relationship between arbitral institutions and the parties is contractual in nature and SIAC was contractually obliged to comply with the SIAC Rules, the claimant's reliance on the SIAC Rules was ultimately self-defeating. Clause 40.2 of the SIAC Rules states that "the parties waive any right of appeal of review in respect of any decisions of the President, the Court and the Registrar to any State court or other judicial authority". OA 1050 was effectively a backdoor appeal against the Registrar's decision, which was not permitted.

2. The Court did not in any event have the power to intervene in the arbitration by granting declarations even if the Registrar had acted in breach of the SIAC Rules. The policy of minimal curial intervention meant that the Court could only intervene in circumstances expressly provided in the International Arbitration Act 1994 ("**IAA**"). Nothing in the IAA permitted the Court to intervene in the arbitration to review the Second Decision.

3. However, that is not to say that the claimant would be entirely without redress if the Registrar had acted in breach of the SIAC Rules. In this regard, the Court noted that Art 34(2)(a)(iv) of the UNCITRAL Model Law on International Commercial Arbitration (which has force of law in Singapore by virtue of section 3 of the IAA) provides that an award may be set aside where the arbitral procedure was not in accordance with the agreement between the parties. The Registrar's determination of the commencement date of the Arbitrations was arguably part of this procedure.

In any event, there was no merit to OA 1050. The Court rejected the claimant's argument that the Registrar could not review its own decisions.

1. Rule 40.1 stated that the Registrar's decision was conclusive and binding upon the *parties and tribunal*. Nothing in Rule 40.1 prohibited the Registrar from reviewing his own decisions.

2. Moreover, the determination of the commencement date was an administrative decision. A court or a tribunal – as the master of its own internal procedure – would be entitled to reconsider administrative or procedural decisions. There was no reason why an arbitral institution would not be entitled to do the same.

3. The Court also noted the absurdity of a situation where the Registrar makes an error in determining the commencement date or had done so without fully appreciating all the facts (and without having heard parties' submissions on the point) but is then precluded from changing his mind. This would force the Registrar to persist in a course of conduct which would breach natural justice. Moreover, if the claimant was correct, parties could only challenge the Registrar's decision by applying to court, which would likely lead to significant delay to the arbitration.

Ultimately, the Court not only dismissed OA 1222 but awarded costs on an indemnity basis, having found that it had been brought in breach of the parties' agreement to arbitrate and was therefore an abuse of process.

Concluding Remarks

In *DMZ v DNA*, the Court reaffirmed the commitment of the Singapore courts to the policy of minimal curial intervention to ensure the autonomy and efficiency of the arbitral process.

More interesting perhaps, *DMZ v DNA* is rare judicial authority discussing the nature of the relationship between arbitral institutions and the parties as well as the nature of determinations made by such institutions in administering arbitral proceedings. The key takeaways are:

1. Institutional arbitration rules give rise to contractual obligations between the arbitral institution and parties which both the arbitral institution and parties must observe.

2. However, to the extent that the institutional rules give arbitral institutions wide discretionary powers in administering the arbitration and/or provide that parties waive their rights to appeal or seek review of determinations by arbitral institutions, the courts will give effect to such provisions.

3. Even in the exceptional case where an arbitral institution fails to comply with the agreed procedure, the Singapore Courts have no power to interfere in the arbitral process. To the extent that a party suffers prejudice as a result of wrongful conduct by an arbitral institution, its redress lies in applying to set aside the award within the statutory framework set out in the IAA.

It is also submitted that, to the extent there are any ambiguities in the institutional rules, a court is likely to give significant deference to the arbitral institution's own interpretation of such rules.

For other recent developments touching on the intersection between insolvency and arbitration, please see our February 2025 article titled "Melding Oil and Water: SIAC Consults on Draft Insolvency Arbitration Protocol" and our September 2024 article titled "Issues in Cross Border Insolvency: Court Addresses Carve-Out for Arbitration Proceedings, Protocol for Inter-Court Communication and Draft Judicial Insolvency Network Guidelines".

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