

**IN THE GENERAL DIVISION OF
THE HIGH COURT OF THE REPUBLIC OF SINGAPORE**

[2026] SGHC 199

Originating Application No 1001 of 2025 (Summons No 401 of 2026,
Summons For Order To Release Debt No 7 of 2025)

Between

DZE

... Claimant

And

DZD

... Defendant

Originating Application No 1300 of 2025
(Summons No 320 of 2026)

Between

DZD

... Claimant

And

DZE

... Defendant

Originating Application No 1316 of 2025
(Summons No 321 of 2026)

Between

DZD

... Claimant

And

DZE

... Defendant

JUDGMENT

[Arbitration — Award — Recourse against award — Setting aside]
[Agency — Ratification — Acts]

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DZD

v

DZE

[2026] SGHC 199

General Division of the High Court — Originating Application Nos 1300 and 1316 of 2025, Originating Application No 1001 of 2025 (Summons No 401 of 2026), Originating Application No 1001 of 2025 (Summons For Order To Release Debt No 7 of 2025), Originating Application No 1300 of 2025 (Summons No 320 of 2026), Originating Application No 1316 of 2025 (Summons No 321 of 2026)

Andre Maniam J

20 August 2026

6 October 2026

Judgment reserved.

Andre Maniam J:

Introduction

1 The defendant (“Shipowner”) obtained an *ad hoc* arbitration award (“Award”) against the claimant (“Trader”).¹ The Shipowner’s claim in the arbitration was for demurrage, after the Shipowner’s vessel had carried goods which the Trader had bought and sold.²

¹ Affidavit of Trader’s Ms Z dated 28 November 2025 filed in OA 1316 (“Trader’s Z-1”) at para 2 and Tab 1; Affidavit of Shipowner’s Mr L dated 8 December 2025 filed in OA 1300 (“Shipowner’s L”) at para 25 and Tab 8.

² Shipowner’s L at paras 7–8.

2 Accordingly, the Shipowner made a “without notice” application to enforce the Award: Originating Application No 1001 of 2025 (“OA 1001”). By an order of court dated 19 September 2025, HC/ORC 5614/2025, the Shipowner was granted permission to enforce the Award. Towards satisfying the Award, the Shipowner obtained a further enforcement order, HC/ORC 6342/2025, attaching a debt owed to the Trader, namely the balance in one of the Trader’s bank accounts.

3 The arbitration was based on a purported arbitration agreement in a purported charterparty between the Shipowner and the Trader.³ The Trader did not participate in the arbitration,⁴ but in these court proceedings the Trader contended that there was no charterparty between the Trader and the Shipowner, and no arbitration agreement between the Trader and the Shipowner.⁵

4 By Originating Application No 1316 of 2025 (“OA 1316”) the Trader applied to set aside the arbitration award on the basis that there was no arbitration agreement between it and the Shipowner, and so:

(a) under Art 34(2)(a)(i) of the UNCITRAL Model Law on International Commercial Arbitration (“Model Law”), read with s 3(1) of the International Arbitration Act 1994 (2020 Rev Ed) (“IAA”), there is no valid arbitration agreement; and/or

(b) under Art 34(2)(b)(ii) of the Model Law (read with s 3 of the IAA), the award is in conflict with the public policy of Singapore.⁶

³ Shipowner’s L at paras 7–9.

⁴ Shipowner’s L at para 51; see also Trader’s Z-1 at paras 32 and 37.

⁵ Trader’s Z-1 at paras 26–31.

⁶ Trader’s Written Submissions dated 13 August 2026 (“Trader’s WS”) at para 3.

5 Relatedly, by Originating Application No 1300 of 2025 (“OA 1300”) the Trader applied to set aside enforcement order HC/ORC 6342/2025, pursuant to which the balance in one of the Trader’s bank accounts had been attached. Further, by Summons For Order To Release Debt No 7 of 2025 (“OTRS 7”) in OA 1001, the Trader applied for the release of the debt that had thus been attached.

6 The Shipowner resisted all these applications. It also applied, by Summons No 320 of 2026 (“SUM 320”), Summons No 321 of 2026 (“SUM 321”) and Summons No 401 of 2026 (“SUM 401”), for sealing, anonymisation and redaction orders in respect of OA 1300, OA 1316 and OA 1001, respectively. In this judgment, I have anonymised names and redacted identifying details, for reasons I explain below at [92].

Background

7 The Shipowner and the Trader did not deal directly with each other in concluding any charterparty, or any arbitration agreement.⁷ Rather, the Shipowner’s contention was that there was a charterparty and an arbitration agreement between them, evidenced by a clean recap (“Clean Recap”) of charterparty terms (including an arbitration agreement) which names the Trader as head charterer, the Trader’s supplier “B” as sub-charterer. The Clean Recap bears, in several places:

- (a) a signature of the Trader’s director, Ms Z;
- (b) a company stamp of the Trader; and

⁷ Trader’s Z-1 at para 8, 10 and 27.

- (c) a handwritten date.⁸

8 Upon receipt of the Clean Recap, Mr L, a general manager of the Shipowner, prepared a fixture note (“Fixture Note”) based on a reproduction of key terms from the Clean Recap,⁹ together with some additional information such as bank details for the payment of freight.¹⁰ Mr L signed and stamped the Fixture Note and emailed it to the Shipowner’s broker.¹¹

9 The Trader asserts that the purported execution of the Clean Recap was a forgery, in that:

- (a) the Trader’s director’s signature, the Trader’s company stamp and the handwritten date were images that had been pasted in the Clean Recap;¹² and

- (b) this not been done by the Trader or with its authority.¹³

10 The Shipowner counters that:

- (a) it did not matter if the purported execution by the Trader of the Clean Recap were a forgery, for there was a *deemed* arbitration agreement since the Trader had not participated in the arbitration and so

⁸ Shipowner’s L at para 45 and pp 297–306.

⁹ Shipowner’s L at para 46.

¹⁰ Shipowner’s L at para 46.

¹¹ Shipowner’s L at para 47 and p 308.

¹² Trader’s WS at para 14.

¹³ Trader’s WS at para 56; Affidavit of Trader’s Ms Z dated 7 August 2026 filed in OA 1316 (“Trader’s Z-3”) at paras 10, 15 and 22–23.

the Trader had not – in the arbitration – denied the existence of an arbitration agreement;¹⁴ and

(b) in any event, there was *in fact* an arbitration agreement between the Shipowner and the Trader, for:

(i) the Trader (despite its denials) had *executed* the Clean Recap, or had authorised this to be done by whoever had done so;

(ii) the Trader, by paying freight to the Shipowner, had *ratified* any unauthorised execution of the Clean Recap; or

(iii) the Trader, by paying freight to the Shipowner, had *created* a charterparty between them, with an arbitration agreement.¹⁵

11 Having considered the parties' submissions, I allow OA 1316 and set aside the Award pursuant to Art 34(2)(a)(i) of the Model Law as there is no valid arbitration agreement between the parties, as analysed below.

¹⁴ Shipowner's Written Submissions dated 13 August 2026 ("Shipowner's WS") at para 37.

¹⁵ Shipowner's WS at paras 38–47.

Was there a valid arbitration agreement between the Shipowner and the Trader?

Was there a deemed arbitration agreement between the Shipowner and the Trader?

In the case of a non-participating respondent, would an arbitration agreement be deemed to exist?

12 The Trader says it only came to know of the arbitration some three days before the merits hearing,¹⁶ whereas the Shipowner says it had notified the Trader of the arbitration earlier than that.¹⁷ On either party's case, the Trader knew of the arbitration before the merits hearing, but it did not participate in the arbitration.

13 The Shipowner contends that since the Trader did not participate in the arbitration, the Trader did not – in the arbitration – dispute the Shipowner's assertion in the arbitration that there was a valid arbitration agreement between them.¹⁸ The Shipowner says those circumstances give rise to a *deemed* arbitration agreement between it and the Trader, and the Trader cannot now contend to the contrary.¹⁹

14 For this, the Shipowner relies on s 2A(6) of the IAA:

Definition and form of arbitration agreement

2A.—(1) ...

(6) Where in any arbitral or legal proceedings, a party asserts the existence of an arbitration agreement in a pleading, statement of case or any other document in circumstances in

¹⁶ Trader's Z-1 at para 33.

¹⁷ Shipowner's L at paras 12–22; Shipowner's WS at paras 26–27.

¹⁸ Shipowner's WS at para 28.

¹⁹ Shipowner's WS at para 37.

which the assertion calls for a reply and the assertion is not denied, there is deemed to be an effective arbitration agreement as between the parties to the proceedings.

15 The Shipowner cites *Vitol Asia Pte Ltd v Machlogic Singapore Pte Ltd* [2021] 4 SLR 464 (“*Machlogic*”), where the High Court held (at [53]) that the applicant had asserted the existence of an arbitration agreement twice in the course of the arbitration, but the respondent had failed to deny that assertion; accordingly, s 2A(6) of the IAA operated to deem that there was an effective arbitration agreement as between the parties (at [68]).

16 The respondent in *Machlogic* had, however, participated in the arbitration, whereas the Trader in the present case was a non-participating respondent. The Shipowner does not regard that to be a relevant distinction; I disagree.

17 It is settled that a respondent who believes that the arbitration tribunal has no jurisdiction is not obliged to participate in arbitration proceedings. The respondent may wait to see if an award is made against it and apply to set it aside, or to resist enforcement, as held by the Court of Appeal in *Rakna Arakshaka Lanka Ltd v Avant Garde Maritime Services (Pte) Ltd* [2019] 2 SLR 131 (“*Rakna*”) at [73]–[77].

73 ... The law does not compel a respondent against whom arbitration proceedings have been started to take part in those proceedings and defend his position. If the respondent believes that the arbitration tribunal has no jurisdiction, for one reason or another, he is perfectly entitled to sit by and do nothing in the belief that either the proceedings will not result in a final award against him or that, if an award is made, he will have valid grounds to resist enforcement. Such a respondent may therefore let the opportunity to challenge the tribunal’s jurisdiction afforded to him by Art 16 go unutilised. ...

74 ... if the respondent is found to have a valid objection to the tribunal’s jurisdiction, should that objection be disregarded because of Art 16(3)? In the absence of a clear duty on the

respondent to participate in the arbitration proceedings imposed either by the Model Law or the IAA we find it difficult to conclude that a non-participating respondent should be bound by the award no matter the validity of his reasons for believing that the arbitration was wrongly undertaken. The *Astro Nusantara* ([42] *supra*) case is a prime example of a situation in which it would have caused injustice to enforce the award granted by the tribunal against the 6th to 8th respondents in the case. This is because those respondents were never parties to the subscription and shareholders' contract that the dispute arose out of, much less to the arbitration agreement in that contract. In our view, neither Art 16(3) nor s 10 should be construed so as to prevent a respondent who chooses not to participate in an arbitration because he has a valid objection to the jurisdiction of the tribunal from raising that objection as a ground to set aside such tribunal's award.

75 ... a respondent who chooses not to participate is not in any way contributing to any wastage of costs – that is entirely a matter for the claimant. We see no reason why such a respondent should not be allowed to apply to set aside the award after it has been made, if indeed the Tribunal had no jurisdiction to make that award.

.....

77 We are of the view that the preclusive effect of Art 16(3) does not extend to a respondent who stays away from the arbitration proceedings and has not contributed to any wastage of costs or the incurring of any additional costs that could have been prevented by a timely application under Art 16(3). Such a party does not owe the other party any duty to participate especially when such participation may be inconsistent with his position that he is not subject to the jurisdiction of the tribunal. When a justifiably non-participating party is confronted with an award, he would be entitled to avail himself of all remedies that the law gives him. We also mention that giving Art 16(3) preclusive effect in such circumstances would mean putting an “innocent” respondent to the additional cost of having to defend against enforcement of the award in, potentially, many jurisdictions as he would not have been able to procure the setting aside of the award by the supervisory court.

[emphasis added in underline]

18 The Shipowner's contention that a respondent must participate in the arbitration and dispute the existence of an arbitration agreement, or be faced

with a deemed arbitration agreement that it cannot challenge thereafter, is plainly contrary to the Court of Appeal’s decision in *Rakna*.

19 This contention is also contrary to the wording of s 2A(6) of the IAA (set out above at [14]) pursuant to which a deemed effective arbitration agreement arises only where the assertion that there is an arbitration agreement is made “in circumstances in which the assertion calls for a reply”. Where a respondent does not participate in the arbitration, any assertion in the arbitration that there is an arbitration agreement is *not* made “in circumstances in which the assertion calls for a reply”, for the respondent is not obliged to *participate* in the arbitration, let alone obliged to *dispute that assertion* in the arbitration.

Would an arbitration agreement be deemed to exist, without its existence (or otherwise) having to be independently established?

20 Furthermore, the Court of Appeal in *Cheung Teck Cheong Richard v LVND Investments Pte Ltd* [2021] 2 SLR 890 (“*Richard Cheung*”) held that the deeming provision in s 4(6) of the Arbitration Act (Cap 10, 2002 Rev Ed) (“AA”) “does not have the effect of deeming there to be an arbitration agreement when there is no such agreement between the parties” (at [130]). Rather, *Richard Cheung* at [121] states that:

... if s 4(6) of the AA applies, it only has the effect of deeming an existing arbitration agreement to be formally valid and therefore effective despite not being in writing. It does not have the effect of deeming there to be an agreement between the parties when such an agreement does not otherwise exist, nor does it deem any such agreement to meet the definition of s 4(1) of the AA if it does not otherwise satisfy the requirements stated therein. [Emphasis added in underline]

21 Section 4(6) of the AA provides that:

Where in any arbitral or legal proceedings, a party asserts the existence of an arbitration agreement in a pleading, statement

of case or any other document in circumstances in which the assertion calls for a reply and the assertion is not denied, there shall be deemed to be an effective arbitration agreement as between the parties to the proceedings.

22 The wording of s 4(6) of the AA is identical to that of s 2A(6) of the IAA, as noted in *Richard Cheung* at [67]. The Court of Appeal in *Richard Cheung* at [122]–[129] considered the High Court’s decision in *Machlogic*, and at [128] stated that the reasons canvassed in *Richard Cheung* in relation to s 4(6) of the AA appeared to the court to apply with equal force to s 2A(6) of the IAA. Accordingly, the Court of Appeal expressed the view that “when s 2A(6) applies, it is intended to simply deem that an arbitration agreement, independently established, would be effective for the purpose of the IAA even if it was not in writing.”

23 As *Richard Cheung* concerned the AA rather than the IAA (although the deeming provisions are worded identically) the Court of Appeal stated at [129] that it would leave the interpretation of s 2A(6) of the IAA for a definitive determination when the issue is squarely before the court with the benefit of the parties’ arguments.

24 Counsel for the Shipowner submitted that *Machlogic* is still good law (as it had not been overruled by the Court of Appeal in *Richard Cheung*); however, counsel has put forward no arguments on why s 2A(6) of the IAA should be interpreted differently from how s 4(6) of the AA had been interpreted in *Richard Cheung*.

25 With respect, *Machlogic* is the decision of a court of coordinate jurisdiction that is not binding on me. The deeming provisions in the AA and IAA are worded identically, and I respectfully agree with the Court of Appeal’s provisional view that the reasons it gave in *Richard Cheung* in relation to s 4(6)

of the AA apply with equal force to s 2A(6) of the IAA (*Richard Cheung* at [129]). Accordingly, I hold – contrary to *Machlogic* – that s 2A(6) of the IAA “does not have the effect of deeming there to be an arbitration agreement when there is no such agreement between the parties” (*Richard Cheung* at [130]). It follows that the Shipowner cannot rely on s 2A(6) of the IAA to deem into existence an arbitration agreement. Instead, whether there is in fact an arbitration agreement remains to be “independently established” (*Richard Cheung* at [128]).

26 For the above reasons, the Shipowner cannot rely on s 2A(6) of the IAA to deem that there is an arbitration agreement between the Shipowner and the Trader in the present case.

Had the Trader executed the Clean Recap, or authorised whoever had done so, to do so?

Who executed the Clean Recap in the name of the Trader?

27 The Trader’s director, Ms Z, says that her signature appearing in the Fixture Note relied upon by the Shipowner is not her “authorised signature” (a sample of which she exhibited).²⁰ Further, she says that while her signature appearing in the Clean Recap bears some similarity to her signature (albeit that it is not her “authorised signature”), she had never signed, nor affixed the Trader’s company stamp, on the document(s).²¹

28 In response, the Shipowner’s general manager, Mr “L”, says that he had prepared the Fixture Note (in Microsoft Word) from a pdf Clean Recap that he had received (which bears Ms Z’s signature), and that is how Ms Z’s signature

²⁰ Trader’s Z-1 at para 28 and Tab 9.

²¹ Trader’s Z-1 at paras 12–16.

appeared on the Fixture Note – it was not because Ms Z had signed the Fixture Note.²² That begs the question: how did Ms Z’s signature appear in the Clean Recap?

29 Ms Z says that her signature, the Trader’s company stamp and a handwritten date were all images that had been pasted onto the Clean Recap by someone unauthorised (not her, and not the Trader).²³ The Trader also adduced expert opinion that the signature, stamp, and date in the Clean Recap were three individually selectable objects that had been electronically pasted as separate elements in the pdf document.²⁴

30 Further, Ms Z says that the handwritten date on the Clean Recap is not in her handwriting.²⁵ This too is corroborated by expert opinion that there is no evidence to indicate that the writer of the normal specimen handwriting (provided by Ms Z) wrote the questioned handwriting (the handwritten date in the Clean Recap).²⁶

31 The Shipowner does not challenge the Trader’s assertion that that the signature, stamp, and date on the Clean Recap have been electronically pasted in the pdf document. However, the Shipowner contends that the Trader (or

²² Shipowner’s L at paras 45–47 and pp 296–320.

²³ Affidavit of Trader’s Ms Z’s affidavit dated 28 January 2026 filed in OA 1316 (“Trader’s Z-2”), paras 11–15.

²⁴ Affidavit of Expert Mr “K” dated 2 June 2026 filed in OA 1316 (“Expert K”) at p 22 (para 4).

²⁵ Trader’s Z-2 at para 15; Trader’s Z-3 at para 23.

²⁶ Affidavit of Expert Ms “C” dated 2 June 2026 filed in OA 1316 (“Expert C”) at pp 22–23.

someone authorised by the Trader) must have done so, notwithstanding Ms Z's denial of this.²⁷

32 The Shipowner does not suggest that there was any reason why the pdf Clean Recap had to have electronically pasted images of Ms Z's signature, the Trader's company stamp and a handwritten date, rather than a wet-ink signature, an actual application of the Trader's company stamp and a wet-ink handwritten date. If Ms Z were the person who had pasted these elements in the Clean Recap, she could instead have actually signed the document, applied the Trader's company stamp, and written the date on the document. The fact that the handwritten date is not even in Ms Z's handwriting suggests that she was not the one who pasted these elements in the Clean Recap: it would be more natural for her to have written the date on the document, than to paste an image of someone else's handwritten date. The fact that the electronically pasted signature image is of Ms Z's casual signature rather than her "authorised signature" (which is also how she signed her affidavits) further supports what Ms Z's account.

33 The picture which emerges is that someone other than Ms Z pasted these elements in the Clean Recap, to give the impression that Ms Z had signed the document, the Trader's company stamp had been applied on the document, and Ms Z had written the date on the document.

34 The identity of the person who electronically pasted these elements onto the document remains a matter of some mystery.

²⁷ Shipowner's WS at paras 45–46.

35 The expert opinion obtained by the Trader states that one Mr “C” might have electronically pasted the signature, stamp and date in the Clean Recap, for his name appears: (a) as “Author” in the “PDF Document Information”, and (b) in the extreme memory profile (or XMP) “dc:creator” metadata.²⁸

36 The Shipowner filed an affidavit from Mr C in response to this. In its original form, the affidavit was filed on 17 June 2026.²⁹ Of its original contents, five paragraphs and related exhibits were later struck out (a matter that I address below at [81]–[86]). A finalised draft of Mr C’s affidavit (without what has been struck out) is attached to a solicitor’s affidavit filed on 4 August 2026.³⁰

37 Mr C says he worked for a ship broker that had been involved in arranging the fixture of the Shipowner’s vessel.³¹ He denied having electronically pasted Ms Z’s signature, the Trader’s company stamp and the handwritten date in the Clean Recap.³²

38 Mr C says his company had acted for the Trader and its supplier B (which he described as the Trader’s “sister company”) in obtaining the fixture of the Shipowner’s vessel.³³ However, Mr C’s assertion that he had acted for the Trader and B was based not on instructions received from the Trader and/or B directly, but rather instructions from one Mr P (whom Mr C says represented

²⁸ Expert K at pp 21 and 23 (paras 3 and 5).

²⁹ Affidavit of Shipowner’s Mr C dated 12 June 2026 filed in OA 1316 (“Shipowner’s C-1”).

³⁰ Affidavit of Shipowner’s Mr C exhibited in Affidavit of Deborah Koh Leng Hoon dated 4 August 2026 filed in OA 1316 (“Shipowner’s C-2”).

³¹ Shipowner’s C-2 at paras 5–6.

³² Shipowner’s C-2 at para 3.

³³ Shipowner’s C-2 at para 6.

both the Trader and B).³⁴ Mr P, however, did not provide evidence in these proceedings, nor was any documentary evidence put forward to substantiate that Mr P was authorised to act for the Trader and/or B.

39 Mr C admits having prepared the first draft of the Clean Recap.³⁵ On 6 April 2023, he sent it to Mr P and others in Mr P's company, as well as to the email addresses of the ultimate supplier, and the loading agent (but not to the Trader, or B), with the message:³⁶

Please find attached Clean recap and all vessel certificates of [the Shipowner's vessel]. Please advise to get it sign and stamp from charts on each page mentioning the date too."

40 Mr C says he then amended the first draft of the Clean Recap to reflect revised laycan dates, to provide for consecutive voyages to be made, and to correct some typographical errors he had spotted.³⁷ Mr C says he sent the second draft of the Clean Recap concurrently to the Shipowner's agent for approval, and also to Mr P for the charterers' signature and stamp.³⁸ The correspondence by which Mr C sent Mr P the second draft of the Clean Recap, and that second draft itself, are however not exhibited to Mr C's affidavit.

41 Mr C says he subsequently received the executed Clean Recap, signed, stamped and dated, from Mr P.³⁹ That correspondence by which Mr C received the Clean Recap from Mr P was likewise not exhibited to Mr C's affidavit.

³⁴ Shipowner's C-2 at para 6.

³⁵ Shipowner's C-2 at para 8.

³⁶ Shipowner's C-2 at para 8 and p 11.

³⁷ Shipowner's C-2 at para 9.

³⁸ Shipowner's C-2 at para 9.

³⁹ Shipowner's C-2 at para 10.

42 On 8 April 2023, Mr C forwarded the signed, stamped and dated Clean Recap to the Shipowner’s agent, under cover of an email stating:⁴⁰

Please find attached sign and stamp FN of charts [*sic*], please advise to return it back with owners['] sign and stamp. Also please advise owners to mention there [*sic*] bank account details in the FN.

The attachment to that email was the Clean Recap bearing the electronically pasted elements of Ms Z’s signature, the Trader’s company stamp and a handwritten date.⁴¹

43 The gist of Mr C’s evidence is that he did not electronically paste those elements in the Clean Recap. He received the Clean Recap back from Mr P with those elements already in place. On that premise, Mr P may have electronically pasted those elements in the Clean Recap, or someone from Mr P’s company may have done so, or some third party may have done so before Mr P sent the Clean Recap back to Mr C.

44 If, contrary to his denial, Mr C was the one who electronically pasted those elements in the Clean Recap, he does not claim to have been authorised by the Trader to do so, and there is nothing to show that he had such authority (which the Trader denies)⁴². Indeed, it appears from his email sending the first draft to Mr P asking Mr P “to get it sign and stamp from charts [*sic*] on each page mentioning the date too” (see [39] above) that Mr C was looking to Mr P to get the Clean Recap signed, stamped and dated by the charterers; Mr C was not intending to do this himself.

⁴⁰ Shipowner’s C-2 at pp 142 and 146.

⁴¹ Shipowner’s C-2 at p 151.

⁴² Trader’s Z-3 at paras 10, 15 and 22–23.

45 If instead Mr P, or someone from his company, or some third party, electronically pasted those elements in the Clean Recap, there is nothing to show that that person had such authority (which the Trader denies)⁴³. Indeed, there is nothing to show that the Trader, or B, knew of the existence of the Clean Recap which named them as head charterer, and sub-charterer, respectively.

46 On the evidence, the Trader thus contends that the Clean Recap was not executed by the Trader or by anyone authorised by it to do so. The Trader thus submits that the Clean Recap was a forgery, in that it purported to have been executed by the Trader, when that was not so.

47 On the other hand, the Shipowner contends that the Trader's payment of freight to the Shipowner indicates that the Trader had contracted with its supplier, B, on free on board ("FOB") terms, pursuant to which – as between B and the Trader – the Trader was responsible for arranging the carriage of the goods. The Shipowner thus submits that the Trader must have chartered the Shipowner's vessel, notwithstanding what the Trader says about the execution of the Clean Recap.⁴⁴

48 Although the Shipowner's submission is premised on the sale contract between the Trader and B being an FOB contract, that sale contract is not in evidence before the court. The Trader had focused on proving that it had not executed the Clean Recap and did not exhibit the sale contract between the Trader and B. On the Shipowner's part, it did not seek to obtain the sale contract from the Trader, whether by request or application to court. Nor did the Shipowner apply for the Trader's Ms Z to be cross-examined.

⁴³ Trader's Z-3 at paras 13–14.

⁴⁴ Shipowner's WS at paras 40–42.

Was the sale contract between the Trader and B an FOB contract, and if so, was the Trader necessarily the charterer?

49 It should first be noted that the Trader and B were not the only parties who had dealt in the goods: there was a string of contracts. The ultimate supplier of the goods (named in the bill of lading as “shipper”)⁴⁵ sold the goods to B, B sold the goods to the Trader, and the Trader sold the goods to the end buyer (named in the bill of lading as “consignee”). There is no evidence that the bill of lading was transferred to B or the Trader. There were thus three sale contracts in relation to the goods:

- (a) between the ultimate supplier (shipper) and the Trader’s supplier B;
- (b) between B and the Trader; and
- (c) between the Trader and the end buyer (consignee).

50 Just looking at the string of contracts, one cannot deduce whether each sale contract was on FOB terms or otherwise. The Shipowner however argues that because the Trader was the one (out of the four parties who dealt in the goods) who paid freight to the Shipowner, the Trader must have contracted with B on FOB terms, and therefore the Trader must have chartered the Shipowner’s vessel.⁴⁶

51 It is, however, possible that *all* three sale contracts were on FOB terms. If so, it would not follow that B, the Trader and the end buyer had each chartered the Shipowner’s vessel. Only one of them would have had to do so.

⁴⁵ Shipowner’s C-2 at para 11 and p 162.

⁴⁶ Shipowner’s WS at paras 40–42.

52 It is also possible that *none* of the sale contracts was on FOB terms, and likewise it is possible that any of the four parties (including the ultimate supplier) may have arranged the contract of carriage.

Did the Trader's payment of freight to the Shipowner mean that the Trader was the charterer?

53 The Trader's payment of freight to the Shipowner should be viewed in the above context, and with regard to the following chronology:

- (a) the Clean Recap is dated 8 April 2023;⁴⁷
- (b) on 8 April 2023, the Shipowner used the Clean Recap to prepare the Fixture Note, but the Shipowner backdated the Fixture Note to 7 April 2023;⁴⁸
- (c) the vessel arrived at the load port on 12 April 2023 and loading took place between 19 and 29 April 2023;⁴⁹
- (d) the Shipowner issued a freight invoice addressed to the Trader, dated 25 April 2023;⁵⁰
- (e) the bill of lading was issued on 29 April 2023;⁵¹
- (f) the vessel sailed from the load port on 30 April 2023;⁵²

⁴⁷ Shipowner's L at para 45 at pp 296–306.

⁴⁸ Shipowner's L at para 46.

⁴⁹ Shipowner's L at para 48 and p 322.

⁵⁰ Shipowner's L at para 50 and p 331.

⁵¹ Shipowner's C at para 11 and p 162.

⁵² Shipowner's L at para 48 and p 322.

- (g) the vessel arrived at the discharge port on 3 May 2023;⁵³
- (h) on 4 May 2023, B sent a copy of the Shipowner's freight invoice to the Trader, and the Trader paid the amount in question to the Shipowner, whose bank details were stated on the invoice;⁵⁴ and
- (i) the goods were discharged between 6 and 28 May 2023.⁵⁵

54 Although the Shipowner says the freight invoice was issued "to" the Trader,⁵⁶ it does not say to whom it had sent the freight invoice, nor does it exhibit any such communication. In particular, there is no documentary evidence of the Shipowner sending the freight invoice directly to the Trader. Although the invoice was addressed to the Trader, the Trader's address was not stated in the invoice; instead, the vessel was named, together with the load port and discharge port.

55 From the messages exchanged between B and Ms Z on 4 May 2023, it appears that the Trader received a copy of the invoice from B that day, *ie*, B must somehow have received a copy of the invoice earlier.

56 Ms Z explains that:

- (a) the Trader had not paid freight because it was a party to the charterparty with the Shipowner;

⁵³ Shipowner's L at para 49 and p 326.

⁵⁴ Trader's Z-2 at paras 20–22 and p 14.

⁵⁵ Shipowner's L at para 49 and pp 326–329.

⁵⁶ Shipowner's L at para 50.

- (b) the Trader paid freight as it was asked to do so by its supplier, B – on 4 May 2023, B had asked the Trader to make a portion of the payment of goods to a certain bank account, which Ms Z understood was meant to cover freight;
- (c) B had asked the Shipowner to bill the Trader directly so that the Trader could make payment on B's behalf; and
- (d) the Trader was never the charterer, nor did it enter into the Clean Recap (or Fixture Note) with the Shipowner.⁵⁷

57 Nothing in the circumstances of the case makes Ms Z's explanation unbelievable. It is noteworthy that the Trader paid freight to the Shipowner just after the vessel had arrived at the discharge port, and before the goods were discharged.

58 The Trader is not named as shipper or consignee in the bill of lading, and there is no evidence that the Trader ever became the holder of the bill of lading. Even if the Trader were the holder of the bill of lading and paid freight (on 4 May 2023), and that discharged the liability for freight under the bill of lading contract, that would not retroactively make the bill of lading holder a party to the charterparty contract that was already in existence pursuant to which the goods were loaded on the vessel (between 19 and 29 April 2023) and the vessel set sail (on 30 April 2023). There is no evidence that the Trader received the freight invoice any earlier than 4 May 2023 (by which time the vessel had already arrived at the discharge port – on 3 May 2023), and the Trader paid the Shipowner on the same day.

⁵⁷ Trader's Z-2 at paras 20–22 and p 14.

59 As a general proposition, a cargo owner (who was not the charterer) might pay freight simply to get the goods released. In that scenario, the cargo owner's payment of freight does not mean that the cargo owner was the charterer. Nor does the payment of freight make the cargo owner a replacement or additional charterer. This may be contrasted with a situation in which the person paying freight was involved in negotiations regarding the carriage of the goods, in which case payment of freight might indicate that a binding contract has been formed by conduct. In the present case, there is no evidence of the Trader being involved in any negotiations regarding the carriage of the goods.

60 Further, Ms Z's explanation (described above at [56]) suggests that the sale contract between B and the Trader was not an FOB contract. She says B had asked the Trader to make "*a portion of the payment of goods* to a certain bank account" [emphasis added],⁵⁸ which Ms Z understood was meant to cover freight,⁵⁹ *ie*, that the payment of freight to the Shipowner was part of the payment that the Trader had to make for the goods. That is quite different from an FOB arrangement under which freight would be excluded from the price of goods for the buyer would be responsible for arranging the carriage of the goods.

61 Even if, under the sale contract between B and the Trader, freight had been priced as a separate component from the cost of the goods themselves, the Trader's payment of freight does not thereby mean that the Trader was the charterer. If so, that would mean that in online sales where the goods are priced separately from shipping/delivery costs, each buyer would be a charterer or in a

⁵⁸ Trader's Z-2 at para 21.

⁵⁹ Trader's Z-2 at para 21.

contractual relationship with the shipping / delivery company, eg, DHL, Federal Express, Singapore Post. I do not accept that to be the legal position.

62 For the above reasons:

- (a) I do not find that the sale contract between B and the Trader was an FOB contract;
- (b) even if the sale contract between B and the Trader were an FOB contract, that does not mean that the Trader was the charterer of the Shipowner's vessel;
- (c) I do not find that the Trader's payment of freight means that the Trader was the charterer of the Shipowner's vessel; and
- (d) I accept the Trader's evidence that the purported execution of the Clean Recap in the name of the Trader was not done by the Trader or with the Trader's authority.

63 Thus, although the Clean Recap bears the signature of the Trader's Ms Z, the Trader's company stamp and a handwritten date (all of which were electronically pasted in the Clean Recap), it does not follow that there was thereby a charterparty, or an arbitration agreement, between the Shipowner and the Trader.

Had the Trader, by paying freight to the Shipowner, ratified any unauthorised execution of the Clean Recap?

64 In the alternative, the Shipowner contends that even if the purported execution of the Clean Recap in the name of the Trader were a forgery, the Trader had *ratified* that by paying freight, which made the Trader the

Shipowner's contract counterparty in relation to both the charterparty and the arbitration agreement in the charterparty.

65 Can a forgery, however, be ratified? It is well settled that this is not possible.

66 In *Skandinaviska Enskilda Banken AB (Publ), Singapore Branch v Asia Pacific Breweries (Singapore) Pte Ltd* [2009] 4 SLR(R) 788 at [94], the High Court accepted Dawson J's statement in *Northside Developments Pty Ltd v Registrar-General* (1990) 170 CLR 146 at 199:

... it is necessary to distinguish between forgery which involves a counterfeit signature or seal and that which does not. A *counterfeit signature or seal purports to be that which it is not, not because of any lack of authority, but simply because it is false. There is no representation that the forger is authorized to act as an agent and there is no room for the application of the indoor management rule. The forgery is truly a nullity.*

[Emphasis added]

67 It follows from a forged signature being a nullity, that ratification is not possible (Tan Cheng Han SC, *The Law of Agency* (Academy Publishing, 2nd Ed, 2017) at para 06.017):

It has been held that forgeries cannot be ratified as a forgery is a nullity. Here, however, a distinction must be drawn between those cases where a person has purported to execute a document on behalf of another, and those where the person executing the document has purported to forge the signature of another. Where a person has purported to sign on another's behalf, the issue relates to such person's authority to do so and ratification is possible where such act was not authorised. *In the case of counterfeit signatures or seals on the other hand, ratification is disallowed because such an act is regarded as a nullity, or because the forger did not purport to act on behalf of another; rather the forger is attempting to pass off his act as genuine.*

[Emphasis added]

68 Conventionally, ratification relates to a situation where a purported agent has acted without authority, but the putative principal thereafter adopts the purported agent's unauthorised act, thereby conferring authority retrospectively on the agent, and bringing the principal into a contractual relationship with the relevant third party: see Watts & Reynolds, *Bowstead and Reynolds on Agency* (Peter Watts gen ed) (Sweet & Maxwell, 23rd Ed, 2024) ("*Bowstead*") at para 2-047; *Alternative Advisors Investments Pte Ltd v Asidokona Mining Resources Pte Ltd* [2024] 1 SLR 188 at [2]. Ratification does not extend to a situation where a signature is forged. When the forger "makes no profession of being an agent", then ratification is impossible (*Bowstead* at para 2-059).

69 In *Ong Han Ling v American International Assurance Co Ltd* [2018] 5 SLR 549 ("*Ong Han Ling*") an American Insurance Assurance Co Ltd ("AIA") agent sold the claimants a fictitious policy ostensibly offered by AIA. The court held (at [139]) that the agent had committed fraud by fabricating documents showing that AIA had approved the first claimant's application for a policy, rather than personally concluding a contract with him ostensibly on AIA's behalf. The AIA agent did not purport to act as an agent on behalf of AIA. Instead, she pretended that AIA had concluded a contract with the first claimant when that was not the case.

70 The court held that it did not matter whether the AIA agent had any authority to conclude the contract and bind AIA (*Ong Han Ling* at [139]) – she did not act on behalf of AIA pursuant to any such authority, but instead she had impersonated AIA (*Ong Han Ling* at [139]–[141]). It followed that the document which the agent had forged was "null" and could not be regarded as a valid acceptance of the first claimant's application for a policy. As the agent

had never purported to conclude a contract with the first claimant *on behalf of AIA*, the contract issue was resolved outside agency principles.

71 As the court decided in *Ong Han Ling*, a forged document is a nullity and does not engage agency principles such as whether an agent had authority to conclude the contract in question. Likewise, the agency principle of ratification is not engaged.

72 Even if the principle of ratification were relevant, it would not apply in the present case. *Bowstead* states at para 2-071:

In order that a person may be held to have ratified an act done without his authority, it is necessary that, at the time of the ratification, he should have full knowledge of all the material circumstances in which the act was done, unless he intended to ratify the act and take the risk whatever the circumstances may have been.

73 Here, the invoice on which the Trader paid freight to the Shipowner did not state who the parties to the charterparty were, or what the charterparty terms were.⁶⁰ All that was stated was the amount of freight payable. There was nothing to indicate that anyone had purported to conclude a charterparty in the name of the Trader. Even if the forged execution of the Clean Recap in the name of the Trader were capable of ratification, the Trader had no knowledge of it and could not have ratified it.

⁶⁰ Shipowner's L at Tab 15.

Had the Trader, by paying freight to the Shipowner, created a charterparty between them, with an arbitration agreement?

74 As a further alternative to ratification, the Shipowner contends that by paying freight to the Shipowner, the Trader had thereby created a charterparty between them, with an arbitration agreement.

75 As I had discussed earlier (see [53]–[61] above), payment of freight by a cargo owner does not mean that the cargo owner was the charterer of the vessel carrying the goods; nor does it mean that such payment of freight had made the cargo owner the charterer by a contract concluded by conduct.

76 Even if a charterparty had been formed by conduct, would that thereby incorporate an arbitration agreement?

77 An arbitration agreement is a distinct and separable agreement from the main contract. Even if a party's conduct amounts to an agreement to the carriage of goods, that does not mean there is an agreement to arbitrate. In the present case, the freight invoice made no reference to who the parties to the charterparty were, or what its terms were, nor was there any reference to "arbitration". Even if the Trader's payment of freight created a charterparty by conduct, there is nothing to show that the Trader knew that the terms of that charterparty included a stipulation for arbitration. Accordingly, no arbitration agreement would have arisen from the payment of freight.

78 For all the above reasons, there was no valid arbitration agreement between the Shipowner and the Trader.

79 The Shipowner contends that even if the Clean Recap were a forgery (in that someone had impersonated the Trader in executing the Clean Recap in the

name of the Trader), that was a matter going to the *merits* of the award rather than *jurisdiction*. I cannot accept this. First, under Art 34(2)(a)(i) of the Model Law, the lack of a valid arbitration agreement is a ground on which the court may set aside an arbitral award. Second, the Court of Appeal has expressly recognised that the lack of a valid arbitration agreement is a jurisdictional matter which can be relied on to set aside an award, or to resist enforcement: see *Rakna* at [74], citing *PT First Media TBK (formerly known as PT Broadband Multimedia TBK) v Astro Nusantara International BV* [2014] 1 SLR 372 where the sixth to eighth respondents were never parties to the contract that the dispute arose out of, or the arbitration agreement in that contract.

80 The Shipowner also contends that if the Clean Recap were forged, that would not matter as the Shipowner was not implicated in the forgery: it was an innocent recipient of the forged document, which it acted upon. It would be clear from the above analysis that I do not suggest that the Shipowner was implicated in the forgery. That, however, does not matter for present purposes. Whoever forged the Clean Recap, the consequence of that forgery is that there is no valid arbitration agreement between the Shipowner and the Trader, and that is a ground on which the Award may be set aside. There is no reason why the Award should not be set aside, and accordingly I set aside the Award.

Postscript on the evidence

81 For completeness, I would mention that the Shipowner had sought to adduce further evidence on a previous shipment, which was disallowed.

82 At a registrar's case conference on 4 June 2026, the Shipowner applied to adduce into evidence an affidavit from one Mr "G", Mr C's colleague,

affirmed on 30 May 2026.⁶¹ The affidavit described a previous shipment of the same type of goods, which also involved the Shipowner’s brokers, and the ship broker that Mr G and Mr C worked for;⁶² and a fixture note bearing Ms Z’s signature, the Trader’s company stamp, and a handwritten date (like the Clean Recap in the present case).⁶³ Mr G said that this previous shipment, like the one in the present case, also involved the Trader’s supplier B, and the Trader;⁶⁴ however, the previous shipment was on a different vessel, with a different owner, *ie*, the Shipowner and vessel in the present case were not involved in the previous shipment.

83 The assistant registrar presiding over the case conference (the “Registrar”) did not allow the Shipowner to adduce Mr G’s affidavit in evidence: she considered the evidence to have been available as early as November 2025, and if it were relevant, it should have been put in earlier.⁶⁵ The Registrar, however, allowed the Shipowner to file an affidavit from Mr C to state his position as to whether he was the person who electronically pasted the signature, stamp and handwritten date in the Clean Recap.⁶⁶

84 The Shipowner did not appeal against the Registrar’s decision disallowing Mr G’s affidavit. Instead, the Shipowner filed an affidavit from Mr C which not only stated his position as to whether he had electronically pasted the signature, stamp, and handwritten date in the Clean Recap, but also

⁶¹ Notes of Evidence (4 June 2026) (“NE”) at p 3 lines 9–27.

⁶² Draft Affidavit of Shipowner’s Mr G dated 30 May 2026 annexed to Shipowner’s Letter to Court dated 2 June 2026 (“Draft Affidavit of G”) at paras 6, 8, 10 and 12.

⁶³ Draft Affidavit of G at para 16 and Tab 3.

⁶⁴ Draft Affidavit of G at para 6.

⁶⁵ NE at p 5 lines 14–16.

⁶⁶ NE at p4 lines 25–27

addressed the previous shipment (like Mr G had) and exhibited the same documents in that regard that Mr G had exhibited to his affidavit (which had been disallowed).⁶⁷

85 At a case conference on 2 July 2026, the Registrar struck out the parts of Mr C's affidavit that were about the previous shipment. The Shipowner appealed against that by Registrar's Appeal No 178 of 2026 ("RA 178"). I heard RA 178 on 3 August 2026 and dismissed it for the following reasons:

- (a) the parts of Mr C's affidavit that had been struck out were an attempt to get around the Registrar's decision disallowing Mr G's affidavit, which the Shipowner had not appealed against;
- (b) those parts of Mr C's affidavit went beyond the scope of what had been sought and allowed, in terms of an affidavit from Mr C, *ie*, for him to state his position as to whether he had electronically pasted the signature, stamp and handwritten date in the Clean Recap, a decision that the Shipowner had not appealed against either;
- (c) there was no special case for the evidence in question being put in at this stage; and
- (d) it would not be in the interests of justice to allow that evidence to be adduced, bearing in mind the nature of the evidence, that the hearing of the matter had been vacated once, that the hearing would be vacated again if the evidence were adduced (as the Trader would want to submit the fixture note for the previous shipment for expert examination), and the prejudice which would be caused to the Trader

⁶⁷ see Shipowner's C-1.

(whose funds had been attached, and who had additionally provided security for costs).

86 To briefly elaborate, it would be of little or no assistance to the resolution of the present case merely to show that the ship broker that Mr G and Mr C worked for had, in relation to a previous shipment of goods of the same type, obtained a fixture note bearing Ms Z's signature, the Trader's company stamp and a handwritten date (like the Clean Recap in the present case). That would still beg the question as to how Ms Z's signature, the Trader's company stamp, and the handwritten date came to appear in the documents. Neither Mr G nor Mr C addressed this – other than Mr C saying that he was not the one who had executed the Clean Recap in the name of the Trader; rather, he had received that signed, stamped and dated, from Mr P.

87 Put simply, it would not help the Shipowner merely to show that several of the parties had been involved in a previous shipment where there may also have been a forged execution of documents in the name of the Trader.

Was the award in conflict with the public policy of Singapore?

88 Further or alternatively, the Trader contends that because there was no valid arbitration agreement, the Award should be set aside pursuant to Art 34(2)(b)(ii) of the Model Law for being in conflict with the public policy of Singapore.⁶⁸

89 The Trader submits that if the court were to find that there was in fact no arbitration agreement, but somehow the tribunal still had jurisdiction (for instance, if the court were obliged to deem a non-existent arbitration agreement

⁶⁸ Trader's WS at paras 72–74.

to exist), the award would nevertheless be in conflict with Singapore's public policy: awards arising from non-existent arbitration agreements should be set aside.⁶⁹

90 As I have already decided to set aside the Award under Art 34(2)(a)(i) of the Model Law on the basis that there is no valid arbitration agreement, it is unnecessary for me to decide whether the Award is also susceptible of being set aside under Art 34(2)(b)(ii) of the Model Law for being in conflict with Singapore's public policy.

91 I have decided that the deeming provision in s 2A(6) of the IAA does not operate to deem an arbitration agreement to exist, when there is in fact no arbitration agreement. This is consistent with the Court of Appeal's decision in *Richard Cheung* that the identically-worded deeming provision in s 4(6) of the AA "does not have the effect of deeming there to be an arbitration agreement when there is no such agreement between the parties" (see [20]–[26] above). Accordingly, the scenario described by the Trader does not arise: the court is not faced with having to deem an arbitration to exist (and the tribunal to have jurisdiction), when in fact no arbitration agreement exists.

Sealing, anonymisation and redaction

92 As I have found that there is no arbitration agreement between the parties, I make no order on SUM 320 in OA 1300, SUM 321 in OA 1316 and SUM 401 in OA 1001, by which the Shipowner sought sealing, anonymisation and redaction orders. Nevertheless, as there may yet be an appeal against my decision, I have, for the time being, anonymised the names of the parties and

⁶⁹ Trader's WS at para 74.

other persons involved in this matter, and redacted identifying details; I also maintain the administrative seal that the registry had put in place. The parties are at liberty to apply to vary this.

Conclusion

93 As stated above, I allow OA 1316 and set aside the Award pursuant to Art 34(2)(a)(i) of the Model Law as there is no valid arbitration agreement between the parties.

94 Consequently:

- (a) I allow OA 1300 and set aside the enforcement order obtained by the Shipowner for the attachment of a debt due to the Trader, *ie*, HC/ORC 6342/2025;
- (b) I allow OTRS 7 in OA 1001 and release the debt which was attached; and
- (c) the security for costs provided for all three matters is released to the Trader's solicitors.

95 For costs, the Trader sought \$60,000 plus disbursements in the sum of \$17,622 (including \$10,000 for expert fees).⁷⁰ The Shipowner submitted that \$40,000 in costs would be an appropriate sum. As for disbursements, the Shipowner had incurred \$7,200, which is comparable to the sum of \$7,622 claimed by the Trader (excluding expert fees).

⁷⁰ Trader's WS at para 76.

96 I agree with the Shipowner that \$40,000 would be an appropriate quantum of costs (excluding disbursements). I thus award the Trader \$40,000 in costs and \$17,622 in disbursements.

Andre Maniam
Judge of the High Court

Jeunhsien Daniel Ho and Tan Jia Xin (Wong & Leow LLC) for the
claimant in OA 1316 and OA 1300;
Tan Hui Tsing, Deborah Koh Leng Hoon and Jin Ng
(DennisMathiew) for the defendant in OA 1316 and OA 1300.
