Peter & Kim
GLOBAL DISPUTES LAWYERS

"It is not finished until it is finished"

- Recent Singapore court cases in which an arbitral award has been set aside

Insights, 16 September 2025

EXECUTIVE SUMMARY

Singapore remains a leading arbitration hub that strongly favours finality of an arbitral award. That said, two recent decisions show clear limits to this deference when tribunals overstep procedural boundaries.

This article discusses two Singapore court cases:

- a case in which an arbitral award was set aside because the reasoning of the award did not correspond with the pleaded issues (***DOM v DON***);
- a case in which an arbitral award was set aside where the Tribunal determined issues that were not pleaded (***Wan Sern***).

These cases are reminders of the boundaries of an arbitral tribunal – arbitration, in the end, is a dispute resolution mechanism arising from the parties' contractual agreement. While tribunals have broad discretion to weigh evidence and assess damages, their decisions must remain predictable, transparent, and within the agreed scope. This article introduces each judgment and offers practical steps to help parties better protect the integrity of arbitral awards.

CASES

DOM v DON [2025] SGHC 103

Facts and Procedural Background

DOM was the main contractor for works on DON's factory. DOM claimed variation orders against DON. DON counterclaimed for defects and consultants' fees. In the arbitration, DOM was awarded around S$700,000 for its claims and DON was awarded around S$4.9 million for its counterclaims.

When awarding DON with its consultants' fees, the reasoning set out by the Tribunal was

thin. The Tribunal found that it was not necessary to have a project manager, but nonetheless still awarded the fees to DON without offering an explanation. Hence, DOM sought to set aside parts of the award, alleging breaches of natural justice and fraud.

Issues

Whether awarding consultants' fees despite finding their services unnecessary and without offering further explanation breached natural justice, and whether the tribunal failed to apply its mind to defect costs and apportionment.

Holding

The High Court partially set aside the part of the award pertaining to the consultants' fees awarded to DON. The rest of the award stood.

Reasoning

The tribunal explicitly found the three consultants' services unnecessary, yet awarded 50% of their fees to DON without further justification or inviting submissions. This approach deprived DOM of a fair opportunity to respond. It was thus held that the tribunal's reasoning had an "insufficient nexus" to the parties' arguments. In contrast, the court ruled that the tribunal's reductions on other consultants and defect costs were foreseeable and within its discretion.

WAN SERN METAL INDUSTRIES PTE LTD V HUA TIAN ENGINEERING PTE LTD [2025] SGCA 5

Facts and Procedural Background

Wan Sern subcontracted Hua Tian to supply labour for installation works under a construction subcontract. Disputes arose after Wan Sern alleged that Hua Tian's work was defective and terminated the contract with Hua Tian. Arbitration proceeded under the SIAC Expedited Procedure on a documents-only basis. Wan Sern claimed for damages arising from Hua Tian's defective works. Hua Tian counterclaimed for unpaid work under a claim referred to as the "Balance Work Counterclaim". In its original pleadings, Hua Tian only sought damages for completed works. However, in its subsequent written submissions, Hua Tian expanded this to claim for both completed and uncompleted works. This amounted to a claim for expectation damages, covering the value of uncompleted works not yet performed, which had not been previously pleaded.

The tribunal allowed most of Hua Tian's counterclaims, including the value of the uncompleted works, despite Wan Sern's objections that this element had not been pleaded.

Wan Sern applied to set aside the award, arguing that the tribunal had breached natural justice by deciding the expectation damages issue without giving it a fair opportunity to respond.

The High Court dismissed the application. Wan Sern then appealed, focusing on the tribunal's failure to engage with its objections to the unpleaded claim for expectation damages.

Issues

Whether deciding an unpleaded damages claim breached natural justice or exceeded jurisdiction.

Holding

The Court of Appeal set aside the award relating to the damages for uncompleted works (which was not pleaded by Hua Tian) for breach of natural justice.

Reasoning

The tribunal mistakenly believed Wan Sern had not challenged the claim, when in fact the tribunal failed to appreciate that the expectation damages claim was unpled and objected to in submissions. As the tribunal ruled on an issue that was outside the parties' pleadings, this deprived Wan Sern of a fair chance to respond. Especially in documents-only arbitration, pleadings are critical anchors, and tribunals must confirm whether late claims are accepted. Remission was declined given the lateness and procedural unfairness.

GENERAL OBSERVATIONS

Recent decisions of the Singapore courts confirm that while the bar for setting aside arbitral awards remains high, tribunals are expected to maintain clear procedural discipline. ***DOM v DON*** and ***Wan Sern*** both illustrate how the courts draw the line between permissible discretion and overreach.

Boundaries of the Tribunal (1) – What are the pleaded issues in dispute? Foreseeability is important to ensure procedural fairness

Both cases emphasise that parties are entitled to expect the tribunal's reasoning to be reasonably foreseeable. In ***DOM v DON***, the tribunal awarded consultants' fees after expressly finding those services unnecessary, without explanation or an opportunity to respond. Similarly, in ***Wan Sern***, the tribunal adopted an unpleaded valuation basis late in submissions without clarifying whether the issue was properly before it. These situations show that even when tribunals adopt pragmatic approaches to valuation, they must explain how their conclusions are anchored in the submissions and evidence. If the parties are left with a surprise because an issue determined was either not pleaded, or the reasoning was entirely missing, this raises concerns about procedural fairness, which the Singapore courts consider fundamental to arbitration and seek to uphold.

Boundaries of the Tribunal (2) – Procedural clarity is all the more important in a documents-only arbitration

Wan Sern highlights that in expedited and documents-only arbitrations, pleadings become the critical reference point. Without oral hearings to test and clarify whether a claim has been accepted into the scope of submissions, tribunals must take extra care to confirm whether late-raised issues are in play.

In short, these two decisions reflect a consistent approach by the Singapore courts. While tribunals are given wide latitude in evaluating evidence and determining remedies, this

discretion must be exercised within the procedural boundaries agreed by the parties. Where tribunals stray into unpleaded issues or adopt reasoning that lacks a clear connection to the parties' submissions, the courts will not hesitate to intervene. The emphasis remains on ensuring process integrity rather than correcting substantive outcomes.

PRACTICAL TAKEAWAYS AND RISK MITIGATION

Singapore courts will set aside an arbitral award if it is found that procedural boundaries have been overstepped. With that in mind, how can parties to an arbitration, especially a party expecting an enforceable award for the claims it raised, avoid or reduce the risk of an arbitral award being set-aside for these reasons? The authors provide a few practical suggestions as below.

a. Check whether the issues in dispute correspond to the parties' list of issues (if there is one)

Parties should consider agreeing on a list of issues at an appropriate juncture in the proceedings. This would help the tribunal understand the boundaries of its mandate, and to organise and assess the parties' arguments accordingly. Whether the list appears in a procedural order, a Scott Schedule, a Terms of Reference, or in a separate Agreed Issues document (which could be prepared and submitted by the parties prior to the hearing), it provides a common reference point for the tribunal and the parties.

In the absence of such an issues list, parties should still ensure that their key arguments and requested reliefs are clearly pleaded in their written submissions. If there is any mismatch between what is pleaded and what the tribunal has to determine, it is important to raise this concern during the arbitration. Doing so protects the parties' right to be properly heard and reduces the risk of setting-aside and enforcement issues later on.

b. Review carefully whether there are newly raised claims and key issues in the closing submissions

When new arguments or claims arise late in the process, especially in written submissions, counsel should record their objections formally. ***Wan Sern*** demonstrates how failing to clarify the treatment of unpleaded claims can undermine the enforceability of the award.

c. Quantum in construction disputes: Provide the Tribunal with calculation tools, so that the reasoning in the award has sufficient nexus to the claims pursued

For construction professionals, it is worth considering offering multiple quantum options for the Tribunal. This not only refers to multiple figures under various scenarios, but also offering the Tribunal with a calculation tool (for instance, in spreadsheet format) with which the Tribunal could carry out calculations. It would be advisable if this calculation tool could be jointly agreed by the quantum experts on both sides, and be provided with a manual for the Tribunal to use. Otherwise, if after the hearing the Tribunal were to instruct the Parties to carry out certain calculations, this would potentially reveal the Tribunal's views too prematurely; at the same time, if the Tribunal has no such calculation tool, the Tribunal

might be stuck with rendering a decision on quantum. This calculation tool would enable the Tribunal to rule on quantum without having to pave its own road – it could utilize the tools offered to them by the parties. This would avoid or reduce the risk of parties being later surprised.

These calculation tool, of course, should still be based on evidence and reasonable quantum expert evidence. In ***DOM v DON***, the tribunal's approach to applying unexpected percentage reductions highlights the importance of providing consistent and well-supported documentation. This illustrates the importance of pre-emptively guiding the tribunal with workable and supported valuation frameworks.

While parties may be concerned about the cost of additional expert work, many quantum experts are already accustomed to presenting more than one model or preparing such a calculation tool. Doing so may help avoid later surprises in the award and can preserve finality by anchoring the tribunal's reasoning in the party's own submissions.

FINAL REFLECTIONS

These recent decisions highlight that Singapore remains firmly committed to respecting the finality of arbitration, but only where the process is predictable and bound by the parties' consent.

For construction disputes, where claims are often fragmented across multiple defect allegations, valuation approaches, and counterclaims, the risk of inadvertent overreach is especially acute. By combining disciplined pleadings, clear procedural agreements, careful documentation, and transparent machinery for assessing quantum, parties and their counsel can preserve the efficiency of arbitration while minimising the risk of partial or total annulment.

AUTHORS

MINO HAN
Partner, Peter & Kim

GLEN TEO
Intern, Peter & Kim

ABOUT PETER & KIM

Peter & Kim is a specialist arbitration firm with offices in Geneva, Zurich, Sydney, Seoul, Perth and Singapore. We support clients globally through a cohesive cross-border team structure offering a depth of common and civil law expertise that is grounded in decades of combined experience at partner level in international arbitration proceedings (including ISDS cases) and in advising and representing commercial and government clients in arbitration-related proceedings before State Courts.

Peter & Kim is recognised as a global leader devoted to the highest standard of legal expertise in international arbitration.