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Case Comment

THE ARBITRABILITY OF SOLICITOR-AND-CLIENT COSTS ASSESSMENT DISPUTES

Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP [2025] 1 SLR 849

This case comment examines the Singapore Court of Appeal's reservations in *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 regarding the arbitrability of solicitor-and-client costs assessment disputes, particularly in light of the court's long-standing supervisory jurisdiction over such disputes. Nevertheless, this case comment respectfully argues that such disputes are arbitrable. Firstly, solicitor-and-client costs assessment disputes are fundamentally *inter partes* in nature. Secondly, the court's supervisory jurisdiction over costs assessment, while inherent, is limited. Finally, recognising the arbitrability of such disputes is also consistent with Singapore's long-standing pro-arbitration policy.

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I. Introduction

1 It is trite law that the court exercises inherent supervisory jurisdiction[2] over solicitors as officers of the court.[3] This inherent jurisdiction also extends to assessment of solicitor-and-client fees, *inter alia*, including the determination of whether such costs were reasonably incurred and whether they were reasonable in amount.[4] In this respect, concerns may arise regarding the arbitrability of solicitor-and-client costs assessment disputes because such disputes may properly fall within the court's supervisory jurisdiction rather than be referred to arbitration as a *private* means to resolve disputes. Also, this kind of dispute often engages ethical considerations, as an allegation that a solicitor charges excessive fees may in substance amount to an allegation of their professional misconduct.[5] Where a dispute is characterised as non-arbitrable, the related arbitration agreement cannot be given effect.[6]

2 In *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP*[7] ("*Lun v Dentons*"), the first Singapore case that addressed the arbitrability of solicitor-and-client costs assessment disputes, the Singapore Court of Appeal ("CA") expressed its reservations over the subject-matter arbitrability of such disputes given the court's protective and supervisory functions.[8] Ultimately, the CA left the question open for future determination as it was not the crux of the case.[9]

3 This comment respectfully argues that solicitor-and-client costs assessment disputes are, in principle, arbitrable. Firstly, such disputes concern the quantification and reasonableness of fees as between a solicitor and their client under a retainer. As such, this *inter partes*

2 In this article, the term "supervisory jurisdiction" is adopted for analytical convenience, namely the court's power to hear and determine solicitor-and-client costs assessment disputes. In fact, although the phrases "supervisory jurisdiction" and "supervisory powers" are sometimes used interchangeably, they are theoretically distinct. To clarify, "jurisdiction" refers to the court's inherent *substantive* authority to hear and determine a matter, whereas "power" refers to the court's incidental *procedural* mechanisms to effectuate its jurisdiction. See Marcelo Rodriguez Ferrere, "The Inherent Jurisdiction and its Limits" (2013) 13(1) *Otago Law Review* 107 at 111.

3 As stated in s 82(1)(*a*) of the Legal Profession Act 1966 (2020 Rev Ed), a person "duly admitted as a lawyer (NP) or an advocate and solicitor" is an officer of the Supreme Court.

4 *Menzies v Oakwood Solicitors Ltd* [2024] 1 WLR 4745 at [1].

5 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [18] and [61].

6 Gary B Born, *International Commercial Arbitration* (Kluwer Law International, 2021) at para 6.01.

7 [2025] 1 SLR 849.

8 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [59].

9 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [62].

nature makes such disputes suitable for resolution by private arbitration. Secondly, the court should exercise its inherent supervisory jurisdiction over solicitors only where necessary, and due respect ought to be accorded to party autonomy where the parties have expressly agreed to submit costs assessment disputes to arbitration. Thirdly, broader pro-arbitration considerations, including Singapore's strong pro-arbitration policies and its commitment to minimal curial intervention, further support the conclusion that such disputes can be referred to arbitration.

4 This comment proceeds as follows: Part II[10] sets out the factual background of *Lun v Dentons* and analyses the reasoning of both the Assistant Registrar ("AR") in HC/BC 123/2024[11] ("BC 123") and the CA. Part III[12] articulates the author's view that such disputes are arbitrable. Part IV[13] concludes.

II. Main discussion of *Lun v Dentons* on arbitrability of solicitor-and-client costs assessment disputes

A. Facts

5 *Lun v Dentons* began with disciplinary charges against a solicitor, which eventually evolved into a dispute over professional fees. The applicant, Mr Clarence Lun Yaodong ("Mr Lun") faced disciplinary charges for acting as the supervising solicitor of two practice trainees without the requisite qualification.[14] To defend himself in proceedings before the Disciplinary Tribunal and the Court of Three Judges ("C3J"), he instructed a team of solicitors from the respondent law firm, Dentons Rodyk & Davidson LLP ("Dentons") led by Mr Mark Seah[15] ("Mr Seah"). Ultimately, Mr Lun was suspended from practice for 18 months.[16]

6 Following the completion of his suspension and return to practice, Mr Lun disputed both Dentons' entitlement to its fees and the claimed quantum of fees in the C3J Proceedings.[17] Dentons consequently

10 See paras 5–15 below.
11 Referring to an assistant registrar's decision in HC/BC 123/2024 where Mr Clarence Lun Yaodong ("Mr Lun") applied for a stay of costs assessment proceedings pending arbitration.
12 See paras 16–42 below.
13 See paras 43–44 below.
14 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [5].
15 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [6] and [10].
16 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [11].
17 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [11].

applied to the General Division of the High Court in BC 123 to assess the bills of costs on a by-consent basis.[18] Mr Lun, in response, sought a stay of proceedings under s 6 of the Arbitration Act 2001[19] ("AA"), contending that the validity of the Letter of Engagement ("LOE") was itself in dispute and should be further referred to arbitration pursuant to cl 42 of Dentons' Terms of Business (incorporated in the LOE), which provided:[20]

> *Except for disputes concerning the amount or non-payment of part or all of our bills*, any dispute arising out of or in connection with this engagement, including any question regarding its existence, validity or termination, shall be referred to mediation at the Singapore Mediation Centre. If the dispute cannot be resolved within 3 months of its reference to mediation, then either party may refer the dispute to arbitration in Singapore in accordance with the Arbitration Rules of the Singapore International Arbitration Centre applicable at the date of reference. [emphasis added]

B. Assistant Registrar's analysis in BC 123

7 The AR dismissed the stay application on three grounds:[21]

(a) Firstly, as the arbitration agreement contained a clear carve-out, the dispute in question concerned the amount of Dentons' fees and entitlement to those fees, and thus fell outside the scope of the arbitration agreement. Further, even if the dispute was referred to arbitration, there was no doubt that a solicitor-and-client relationship existed and that the work had been completed. The dispute therefore concerned the proportionality of the costs and the further taxation or assessment of those costs, which was likewise carved out from the arbitration agreement;

(b) Secondly, the procedure for the assessment of costs constituted a form of judicial control over, or oversight of, the professional fees charged by a solicitor, particularly where such fees gave rise to ethical issues;[22] and

18 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [2] and [14].

19 Arbitration Act 2001 (2020 Rev Ed) s 6(1).

20 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [2] and [15].

21 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [17]–[19].

22 The Singapore Court of Appeal further observed that the Assistant Registrar appeared to have proceeded on the basis that disputes concerning the taxation or assessment of solicitor-and-client costs were not arbitrable. See *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [18].

(c) Thirdly, the AR considered Mr Lun's prior decision to seek court assessment of Dentons' bills inconsistent with his later claim that he had been unaware of the dispute resolution clause at the time.[23]

C. The Court of Appeal's analysis

8 On appeal, while the central issue in *Lun v Dentons* was whether the validity of the LOE constituted an essential element to stay the costs assessment procedure,[24] the CA nonetheless expressed its reservations on the arbitrability of solicitor-and-client costs assessment disputes.[25]

9 The CA began by first reviewing Singapore's established framework of arbitrability that the presumption in favour of enforcing arbitration agreements was not definite.[26] Public policy may still render certain disputes non-arbitrable even if they fall within the scope of the clause.[27] Further drawing on *Tomolugen Holdings Ltd v Silica Investors Ltd*[28] ("*Tomolugen*") and *FamilyMart China Holding Co Ltd v Ting Chuan (Cayman Islands) Holding Corporation*,[29] the CA distinguished between subject-matter non-arbitrability (where the dispute itself cannot be arbitrated) and remedial non-arbitrability (where only certain remedies lie beyond the tribunal's powers).[30] If only the latter is engaged, it is permissible for the substantive dispute to be referred to arbitration.[31]

10 Against this doctrinal backdrop, the CA then turned to comparative authorities. It considered the English case of *Assaubayev v Michael Wilson & Partners Ltd*[32] ("*Assaubayev*") and the Hong Kong case of *Fung Hing Chiu Cyril v Henry Wai & Co*[33] ("*Fung Hing Chiu*

23 The Singapore Court of Appeal further observed that the Assistant Registrar may have accepted Dentons' submission that Mr Lun had waived his right to rely on the dispute resolution clause by repeatedly directing Dentons to have its costs assessed. See *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [19].
24 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [32].
25 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [59].
26 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [54]; *Tomolugen Holdings Ltd v Silica Investors Ltd* [2016] 1 SLR 373 at [75].
27 *Tomolugen Holdings Ltd v Silica Investors Ltd* [2016] 1 SLR 373 at [75].
28 [2016] 1 SLR 373.
29 [2024] Bus LR 190.
30 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [55].
31 *Tomolugen Holdings Ltd v Silica Investors Ltd* [2016] 1 SLR 373 at [98]–[100]; *FamilyMart China Holding Co Ltd v Ting Chuan (Cayman Islands) Holding Corporation* [2024] Bus LR 190 at [70] and [75].
32 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058.
33 *Fung Hing Chiu Cyril v Henry Wai & Co* [2018] HKCFI 31.

Cyril"), both of which upheld the arbitrability of solicitor-client costs assessment disputes.[34]

11 In *Assaubayev*, the appellants instructed a BVI-incorporated entity pretending to be an English solicitor[35] under two retainers that empowered the company to refer disputes to the London Court of International Arbitration under the UNCITRAL Rules.[36] The appellants later sought to set aside one retainer and have the bills assessed before the Senior Courts Costs Office, while the company applied to stay those proceedings on the basis that it had already commenced arbitration to recover its fees.[37] One of the issues before the English Court of Appeal was whether to deny the stay application and instead exercise its inherent supervisory jurisdiction.[38] While recognising the court's inherent supervisory jurisdiction over solicitors and the extension of that jurisdiction to costs assessment,[39] Christopher Clarke LJ held that the mere existence of supervisory jurisdiction did not render the dispute non-arbitrable, and the reasonableness of costs thus fell within the arbitrator's competence-competence.[40] The arbitrator's inability to exercise every supervisory or remedial power of the court was insufficient to refuse a stay, and granting a stay did not involve any cession of judicial authority as the arbitrator was simply performing the function conferred by the parties' agreement.[41]

12 The same tension resurfaced before the Hong Kong High Court in *Fung Hing Chiu Cyril*. In that case, the High Court reaffirmed the reasoning in *Assaubayev*.[42] Justice Mimmie Chan held that the disputes regarding professional fees and taxation fell within arbitration agreements and were capable of arbitration.[43] Referral to arbitration does not strip the court's supervisory power and the parties' right will not be affected as an arbitral tribunal may apply the same taxation principles and grant appropriate relief to independently assess the reasonableness

34 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [56]–[57].
35 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [1]–[4] and [15].
36 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [6]–[8].
37 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [13]–[14].
38 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [27].
39 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [28]–[31].
40 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [68].
41 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [28]–[31].
42 *Fung Hing Chiu Cyril v Henry Wai & Co* [2018] HKCFI 31 at [26].
43 *Fung Hing Chiu Cyril v Henry Wai & Co* [2018] HKCFI 31 at [26].

or recoverability of the solicitor's costs.[44] The court also emphasised an international obligation to uphold and enforce arbitration agreements.[45]

13 Having considered the comparative authorities, the CA still expressed its principal concern that recognising the dispute as arbitrable might exclude the court's supervisory jurisdiction to assess solicitors' costs and undermine a client's right of recourse to the courts for that purpose.[46]

14 The CA highlighted the distinctive functions of the court's supervision over costs assessment:

(a) Firstly, the court's intervention in regulating the solicitors' practice and the client's right to refer the bill of costs to assessment protect the client by recognising the unequal relationship between the client *vis-à-vis* their solicitors.[47]

(b) Secondly, as claims of overcharging often carry allegations of professional misconduct, judicial costs assessment procedures not only protect the client, but also shield solicitors by reducing the risk of unwarranted disciplinary exposure.[48] Accordingly, solicitors have an obligation to remind their clients of their right to have their bill of costs taxed under the law and that any failure or omission to do so is at their peril.[49]

15 Notwithstanding these observations, the CA confined its reservations to the present context of the case and left open the question of whether the court's supervisory role in protecting clients could be subordinated to arbitration.[50]

44 *Fung Hing Chiu Cyril v Henry Wai & Co* [2018] HKCFI 31 at [26].
45 *Fung Hing Chiu Cyril v Henry Wai & Co* [2018] HKCFI 31 at [33].
46 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [59].
47 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [60].
48 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [61]; *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] 4 SLR 1184 at [32].
49 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [61]; *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] 4 SLR 1184 at [33].
50 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [62]–[63].

III. Discussion on arbitrability of solicitor-and-client costs assessment disputes

16 It is clear from the facts in *Lun v Dentons*, that the solicitor-and-client costs assessment dispute could not be referred to arbitration because the parties' arbitration agreement expressly excluded such disputes from its scope.[51] Nevertheless, in the absence of an express carve-out, can solicitor-and-client costs assessment disputes be referred to arbitration?

17 Under Singapore's arbitrability framework, the general presumption of enforcing arbitration agreements may be rebuttable if:[52]

(a) the legislative intent indicates that a particular category of dispute is reserved for judicial determination; and

(b) the submission of such disputes to arbitration would offend underlying considerations of public policy.

18 As regards the first limb, Pt 9 of the Legal Profession Act 1966 does not expressly preclude parties from submitting such disputes to arbitration.[53] Nor does the legislative history of either the AA or the International Arbitration Act 1994[54] ("IAA") suggest any intention to exclude such matters from the scope of arbitration.[55] Indeed, no general statutory prohibition against arbitration exists.[56]

19 Turning to the second limb, the concept of public policy is inherently flexible but, for that very reason, must be applied with restraint. It cannot be invoked expansively or relied upon merely as a convenient

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51 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [53].

52 *Tomolugen Holdings Ltd v Silica Investors Ltd* [2016] 1 SLR 373 at [76]; *Larsen Oil and Gas Pte Ltd v Petroprod Ltd* [2011] 3 SLR 414 at [44].

53 See, generally, Pt 9 of the Legal Profession Act 1966 (2020 Rev Ed).

54 2020 Rev Ed.

55 Nothing in the Final Report on the Review of Arbitration Laws suggests that solicitor-and-client costs assessment disputes were intended to be expressly excluded from arbitration in Singapore. Instead, the Report identifies generally non-arbitrable matters such as issues of citizenship or legitimacy of marriage, the grant of statutory licenses, the validity of registration of trade marks, patents or copyrights, the winding-up of companies, bankruptcy proceedings and the administration of estates. See Review of Arbitration Laws, LRRD No 3/2001 at para 2.37.17.

56 As Judith Prakash J stated in *Aloe Vera of America, Inc v Asianic Food (S) Pte Ltd* [2006] 3 SLR 174 at [72]: "[N]o specific subjects have been identified by statute as being or as not being arbitrable." See also Darius Chan, Paul Tan & Nicholas Poon, *The Law and Theory of International Commercial Arbitration in Singapore* (Academy Publishing, 2022) at para 2.130, and Fabien Gélinas & Leyla Bahmany, *Arbitrability: Fundamentals and Major Approaches* (Kluwer Law International, 2023) at paras 75–76.

basis to resist arbitration.[57] Ultimately, the precise boundaries of public policy fall to be delineated by the courts through principled development on a case-by-case basis.[58]

20 In this context, the relevant question is whether solicitor-and-client costs assessment disputes may engage public interests of such a nature as to be in the contour of exclusive judicial jurisdiction. This section argues that such disputes are fundamentally *inter partes* in nature and therefore remain capable of being referred to arbitration. Also, given the limited scope of the courts' supervisory jurisdiction and broader public policy considerations, it is respectfully submitted that such disputes should be regarded as arbitrable.

A. The **inter partes** *nature of solicitor-and-client costs assessment disputes*

21 When determining the arbitrability of a dispute, Singapore courts commonly consider whether the dispute affects third-party interests or engages public rights, which are generally considered unsuitable for resolution through private means of arbitration.[59]

22 In *Lun v Dentons*, as noted by the AR in BC 123, a critical question regarding the arbitrability of solicitor-and-client costs assessment disputes is that such disputes may involve ethical (public policy) issues because "an allegation that a solicitor's fees are excessive may often *carry* an allegation of professional misconduct" [emphasis added].[60]

23 The CA further cited the High Court's observations in *Law Society of Singapore v Andre Ravindran Saravanapavan Arul*[61] ("*Andre*") that taxation by court provides the best means for an aggrieved client to determine the proper fee for the actual work done by his lawyer, and for the lawyer to avoid facing a disciplinary charge for allegations of overcharging.[62] In *Andre*, the High Court stated as follows:[63]

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57 See Review of Arbitration Laws, LRRD No 3/2001 at para 2.37.17.

58 Darius Chan, Paul Tan & Nicholas Poon, *The Law and Theory of International Commercial Arbitration in Singapore* (Academy Publishing, 2022) at para 2.130.

59 *Tomolugen Holdings Ltd v Silica Investors Ltd* [2016] 1 SLR 373 at [71]. See also Gary B Born, *International Commercial Arbitration* (Kluwer Law International, 2021) at para 6.01.

60 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [61].

61 [2011] 4 SLR 1184.

62 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [61].

63 *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] 4 SLR 1184 at [41].

> … The opinion of another solicitor (called as an expert witness for the Law Society) on the matter, regardless of how eminent he may be, would ultimately still be a personal opinion and, thus, would not have the same degree of objectivity as a taxation done by the court. Further, it can be invidious for a solicitor to give expert evidence on the monetary value of another solicitor's professional services. …

24 However, in the author's view, these considerations do not necessarily preclude the arbitrability of solicitor-and-client costs assessment disputes. There are mainly two grounds: firstly, the consideration that genuinely raises ethical (or public policy) concerns – namely, disciplinary proceedings against the solicitor – should not be conflated with the costs assessment process;[64] and secondly, the nature of costs assessment disputes remains *inter partes*.

25 Costs assessment proceedings and disciplinary proceedings charging solicitors are *distinct* and *sequential*. The analysis might initially begin with the AR's observation in BC 123 as mentioned at para 22 of this case comment. At this stage, the ordinary meaning of "*carry*" may denote "having something as a consequence or result".[65] In the present context, this suggests that an allegation of professional misconduct founded on overcharging is *consequential* upon a prior determination that the fees were excessive.

26 This *sequential* relationship could also be inferred from *Andre*. In that case, the High Court stated: "Instead, the Law Society should advise or require the aggrieved party to have the bill taxed *first*."[66] [emphasis added].

27 Here, the word "*first*" reiterates the two-stage inquiry inherent in solicitor-and-client costs assessment disputes:

(a) *firstly*, the determination of the fees properly payable; and

(b) *secondly*, the disciplinary assessment of the solicitor's professional conduct.

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64 The author is grateful for the anonymous reviewer mentioning a further elaboration on this point.

65 See definition of "carry" in Oxford Learner's Dictionaries <https://www.oxfordlearnersdictionaries.com/definition/english/carry_1?q=carry> (accessed 22 June 2026).

66 *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] 4 SLR 1184 at [41].

28 Now, the question of whether such disputes are arbitrable concerns only the first stage of the inquiry. This is because the second stage engages the public regulation of the legal profession,[67] which is inherently non-arbitrable and remains exclusively within the statutory framework involving the Law Society, the Disciplinary Tribunal, and, ultimately, the C3J.[68] It is therefore at the second stage that ethical (public policy) interests to uphold the integrity and standing of the legal profession might *directly* arise. By contrast, the first stage does not itself engage such concerns because it is confined to determining the amount of fees properly payable. The outcome of the first stage may, as contemplated in *Andre*, subsequently assist the Law Society in deciding whether an overcharging complaint warrants investigation[69] and, if so, whether disciplinary proceedings should be pursued.

29 Alternatively, the High Court's concern in *Andre*, as mentioned at para 23 of this case comment, does not establish that such disputes are inherently incapable of determination by arbitration. In *Andre*, the High Court noted the objectivity of judicial taxation and highlighted the personal and potentially invidious nature of expert evidence given by one solicitor on the value of another solicitor's services.[70] Nevertheless, a properly constituted tribunal is capable of providing an *equally* objective assessment of the reasonableness of the fees. Firstly, an arbitral tribunal need not be composed of solicitors, it may instead comprise full-time arbitrators, academics or other suitably qualified professionals. More importantly, even where the tribunal is composed of solicitors, they do not act as fellow practitioners engaged as experts to express personal opinions on the value of their peers' work. Rather, they act as independent and impartial adjudicators, bound to observe procedural fairness and to determine the solicitor-and-client costs assessment disputes by applying the relevant principles to the evidence and submissions of both parties.

30 Having established that the first stage does not inherently engage public interest concerns, the analysis now turns to the nature of solicitor-and-client costs assessment disputes that further confirms the arbitrability of such disputes. The core of such disputes remains the quantification and reasonableness of the fees charged. They stem from the contract of retainer which allocates rights and liabilities between the

67 *Deepak Sharma v Law Society of Singapore* [2016] 4 SLR 192 at [62]–[64].
68 See, generally, Pt 7 of the Legal Profession Act 1966 (2020 Rev Ed).
69 *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] 4 SLR 1184 at [41].
70 *Law Society of Singapore v Andre Ravindran Saravanapavan Arul* [2011] 4 SLR 1184 at [41].

parties.[71] The parties with real interest in such disputes are the solicitors and the clients, and the resulting award affects only their respective rights without determining or prejudicing the rights of third parties.

31 In summary, the foregoing analysis demonstrates that solicitor-and-client costs assessment disputes are, in substance, *inter partes* disputes which do not ordinarily and necessarily implicate third-party rights or collective public interests. However, another concern arises from the court's longstanding supervisory jurisdiction over solicitors as officers of the court.

B. The court's limited supervisory jurisdiction over solicitor-and-client costs assessment disputes

32 Another critical question that the CA has expressly considered is "whether these purposes, which concern the court's supervisory jurisdiction over solicitors, can be subordinated to the private interests of the parties".[72]

33 Before addressing the above tension, it is first necessary to consider the nature of the court's supervisory jurisdiction. This jurisdiction is not a creature of statute or procedural rules, but stems from the very character of the court as a court of law.[73] It is embedded as part of the court's inherent jurisdiction in the administration of justice and may be invoked whenever necessary to ensure due process and prevent any obstruction to the stream of justice.[74] In substance, this residual jurisdiction is protective, and at times disciplinary, in nature.[75] As Sir Jack Issac Hai Jacob observes, "[I]t operates as a valuable weapon in the hands of the court to prevent any clogging or obstruction of the stream of justice."[76]

34 The author does not dispute that the court's supervisory jurisdiction over solicitors and assessment of solicitor-and-client fees is

71 Andrew Boon, *The Ethics and Conduct of Lawyers in England and Wales* (Bloomsbury Publishing, 2014) at 418.
72 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [59] and [62].
73 I H Jacob, "The Court's Inherent Jurisdiction" (1970) 23(1) *Current Legal Problems* 23 at 24.
74 *Harsha Rajkumar Mirpuri (Mrs) née Subita Shewakram Samtani v Shanti Shewakram Samtani Mrs Shanti Haresh Chugani* [2018] 5 SLR 894 at [77]; *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [31].
75 *Assaubayev v Michael Wilson & Partners Ltd* [2014] 6 Costs LR 1058 at [31].
76 I H Jacob, "The Court's Inherent Jurisdiction" (1970) 23(1) *Current Legal Problems* 23 at 52.

inherent in nature and could not be excluded. Yet, the existence of such a jurisdiction does not mean that:

(a) this inherent jurisdiction is *unlimited*; and

(b) the law *prohibits* arbitrators from determining such disputes.

35 Firstly, the exercise of the court's supervisory jurisdiction *should* occur only where *necessary*.[77] The court should take all the circumstances into consideration to ensure that justice is achieved and/or to prevent injustice or an abuse of the court's process on a case-by-case basis.[78] While supervisory jurisdiction derives its legitimacy from the rule of law, the rule of law, *vice versa,* constrains this judicial discretion so as to prevent courts from denying parties from exercising their fundamental rights and undermining fundamental common law principles.[79]

36 In the present context, referring disputes to arbitration is widely regarded as the parties' fundamental right.[80] If the parties have agreed to submit to arbitration in contracts and at this time the court insists to exercise its supervisory jurisdiction, in the author's view, this is not necessary and may otherwise paradoxically *"clog"* rather than reinforce the integrity of the legal process. On one level, this risks undermining the principle of *pacta sunt servanda,* which is common to all systems of domestic law as well as international law. On the other hand, it weakens legal certainty, particularly where commercial parties, acting as rational actors, have deliberately chosen arbitration as a "one-stop" mechanism for the resolution of all disputes arising out of their relationship.[81]

37 Secondly, even if the law is silent on whether arbitrators can determine solicitor-and-client fee disputes, it does not necessarily mean that they are *prohibited* from hearing the disputes.[82] The principal function

77 Marcelo Rodriguez Ferrere, "The Inherent Jurisdiction and its Limits" (2013) 13(1) *Otago Law Review* 107 at 132. See also Goh Yihan, "The Inherent Jurisdiction and Inherent Powers of the Singapore Courts: Rethinking the Limits of their Exercise" (2011) Sing JLS 178 at 208.

78 *UMCI Ltd v Tokio Marine & Fire Insurance Co (Singapore) Pte Ltd* [2006] SGHC 142 at [89] and [92]. See also Marcelo Rodriguez Ferrere, "The Inherent Jurisdiction and its Limits" (2013) 13(1) *Otago Law Review* 107 at 135–137.

79 Marcelo Rodriguez Ferrere, "The Inherent Jurisdiction and its Limits" (2013) 13(1) *Otago Law Review* 107 at 135.

80 *Jean Estate v Wires Jolley LLP* [2009] ONCA 339 at [8]; *Dell Computer Corp v Union des consommateurs* [2007] 2 SCR 801 at [160].

81 *Fiona Trust & Holding Corp v Privalov* [2007] EWCA 20 at [19].

82 *Jean Estate v Wires Jolley LLP* [2009] ONCA 339 at [70]. See also Gary B Born, *International Commercial Arbitration* (Kluwer Law International, 2021) at

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of the court's supervisory jurisdiction in assessing a solicitor's bill of costs, as emphasised by the CA, is the protection of the client.[83] But can arbitration, which is nevertheless an integral component of a legitimate dispute resolution framework that has been expressly recognised and supported by legislative authorities,[84] not equally fulfill this function? Arbitral tribunals are empowered to render binding decisions and grant relief that is functionally equivalent to court orders within the scope of their jurisdiction.[85] If arbitrators are capable of applying the same substantive principles governing taxation and assessment of costs, and of granting appropriate remedies accordingly,[86] the parties' substantive rights have not been undermined. Why, then, should parties be precluded from referring such disputes to arbitration if the arbitral process can achieve the same substantive outcome? Even if arbitrators cannot offer all the remedies that the court can offer, as already established in *Tomolugen*, this does not mean that the subject matter is not arbitrable.[87]

38 In this sense, the preferable view is not that the court's supervisory jurisdiction is excluded or subordinated to private interests. Rather, the court retains that jurisdiction but exercises its discretion to not intervene where the parties have agreed to resolve their dispute through arbitration. By giving effect to the parties' substantive right to arbitrate, the court recognises that arbitral proceedings are capable of adequately determining disputes concerning solicitors' costs and accords significant weight to the principle of party autonomy, the cornerstone principle of modern arbitration.

39 Finally, if an arbitral award offends public policy, *eg*, by endorsing manifestly excessive or unconscionable fees, the court can exercise its supervisory jurisdiction over the award (but not over the solicitors) to set aside the award or refuse enforcement on grounds of public policy. Parties may also apply to set aside the award. Accordingly, the court's supervisory jurisdiction does not need to operate at the outset to preclude arbitration *merely* because it possesses supervisory jurisdiction over solicitors. Rather, it may operate at the final stage as a safeguard to

para 6.02[G].

83 *Lun Yaodong Clarence v Dentons Rodyk & Davidson LLP* [2025] 1 SLR 849 at [60].

84 *Jean Estate v Wires Jolley LLP* [2009] ONCA 339 at [72].

85 See s 28 of the Arbitration Act 2001 (2020 Rev Ed) and s 12 of the International Arbitration Act 1994 (2020 Rev Ed).

86 Gary B Born, *International Commercial Arbitration* (Kluwer Law International, 2021) at para 6.02[G]; *Fung Hing Chiu Cyril v Henry Wai & Co* [2018] HKCFI 31 at [28].

87 *Tomolugen Holdings Ltd v Silica Investors Ltd* [2016] 1 SLR 373 at [100].

ensure the administration of justice, which this inherent supervisory jurisdiction is meant to preserve.[88]

C. Broader pro-arbitration policy considerations

40 Beyond issues regarding the nature of solicitor-and-client costs assessment disputes and the tension between supervisory jurisdiction and party autonomy, broader pro-arbitration policy considerations within Singapore's legal framework further reinforce the argument that solicitor-and-client costs assessment disputes should be regarded as arbitrable disputes.

41 To begin with, it is well known that Singapore has consistently adopted a strongly pro-arbitration approach grounded in the principle of party autonomy. Within this framework, the overarching policy of arbitration laws is to uphold minimal judicial intervention while ensuring certainty as to the limited circumstances in which courts may intervene.[89] Equally significant is Singapore's position as a leading global arbitration hub.[90] Commercial parties continue to select Singapore as one of their most preferred seats because of its well-established reputation for predictability, stability, and consistency in its overall arbitration framework.[91] In this sense, a restrictive conception of arbitrability, coupled with the fragmentation of disputes arising from the same retainer by separating substantive contractual issues from the assessment of fees, may weaken parties' confidence in arbitration and undermine arbitral efficiency, thereby eroding Singapore's attractiveness as a reliable and arbitration-friendly seat.

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88 Marcelo Rodriguez Ferrere, "The Inherent Jurisdiction and its Limits" (2013) 13(1) *Otago Law Review* 107 at 132.

89 *COT v COU* [2023] SGCA 31 at [1].

90 In the 2025 International Arbitration Survey: "The Path Forward: Realities and Opportunities in Arbitration", Singapore continued to be ranked as one of the five most preferred arbitral seats. See School of International Arbitration, Queen Mary University of London & White & Case LLP, "2025 International Arbitration Survey – The Path Forward: Realities and Opportunities in Arbitration" <https://www.qmul.ac.uk/arbitration/media/arbitration/docs/White-Case-QMUL-2025-International-Arbitration-Survey-report.pdf> (accessed 1 March 2026).

91 In the 2025 International Arbitration Survey: "The Path Forward: Realities and Opportunities in Arbitration", one interviewee enthused that they had "never found Singapore to be unpredictable". See School of International Arbitration, Queen Mary University of London & White & Case LLP, "2025 International Arbitration Survey – The Path Forward: Realities and Opportunities in Arbitration" <https://www.qmul.ac.uk/arbitration/media/arbitration/docs/White-Case-QMUL-2025-International-Arbitration-Survey-report.pdf> (accessed 1 March 2026).

42 Furthermore, as Justice Mimmie Chan observed in *Fung Hing Chiu Cyril*, considerations of fulfilling international obligations under the Convention on the Recognition and Enforcement of Foreign Arbitral Awards[92] ("New York Convention") to recognise and enforce the arbitration agreement provide additional support for a pro-arbitration approach.[93] Although *Lun v Dentons* arose in a domestic context, such considerations would assume particular significance should similar disputes arise in an international setting.[94] This is because, under the AA, the courts *may* refuse to enforce the arbitration agreement on certain grounds.[95] By contrast, under the IAA, the courts *must* generally refer the parties to arbitration *unless* the arbitration agreement is null and void, inoperative or incapable of being performed,[96] which mirrors Article II(3) of the New York Convention.[97] This also reflects the broader international consensus favouring arbitration and cautions against an overly expansive reliance on generalised public policy concerns as a basis for determining the arbitrability of a dispute.[98]

IV. Conclusion

43 *Lun v Dentons* marks the first occasion on which the CA engaged with the arbitrability of solicitor-and-client costs assessment disputes. Although the CA ultimately left the issue open, its observations reveal an apparent tension between the court's supervisory jurisdiction over solicitors and the parties' contractual choice to resolve disputes through arbitration. This comment has argued that solicitor-and-client costs assessment disputes are *inter partes* in nature as in they are primarily concerned with the quantification and recoverability of professional fees arising from contractual retainers. Moreover, while the court's inherent supervisory jurisdiction, of course, cannot be excluded, it is not unlimited. Acting impartially and independently, arbitrators, as costs experts, can apply identical taxation principles in costs assessment disputes to protect

92 (10 June 1958) 330 UNTS 38 (entered into force 7 June 1959).

93 *Fung Hing Chiu Cyril v Henry Wai & Co* [2018] HKCFI 31 at [21] and [33].

94 The author is grateful for the anonymous reviewer mentioning a further elaboration on this point.

95 See s 6(2) of the Arbitration Act 2001 (2020 Rev Ed).

96 See s 6(2) of the International Arbitration Act 1994 (2020 Rev Ed).

97 As Article II(3) of New York Convention provides:

> The court of a Contracting State, when seized of an action in a matter in respect of which the parties have made an agreement within the meaning of this article, shall, at the request of one of the parties, refer the parties to arbitration, unless it finds that the said agreement is null and void, inoperative or incapable of being performed.

98 Darius Chan, Paul Tan & Nicholas Poon, *The Law and Theory of International Commercial Arbitration in Singapore* (Academy Publishing, 2022) at paras 2.79–2.80.

parties' substantive interests. In this sense, there is no necessity for the court to intervene at the expense of the parties' agreed right to arbitrate at the outset. Finally, in light of Singapore's long established pro-arbitration policy and commitment to minimal curial intervention, the preferable approach is to recognise the arbitrability of solicitor-and-client costs assessment disputes to sustain and promote legal certainty and support Singapore's continued position as a preferred international seat.

44 That said, the definitive position on this issue ultimately awaits clarification by the CA in appropriate future cases.