ARB-009-2024 Narciso v Nash

This case is significant as it marks the first time the DIFC Courts has addressed a DIFC-LCIA arbitration clause following the enactment of Decree No. 34 of 2021, which restructured the landscape for arbitration in the emirate of Dubai. Decree 34, which came into effect three years ago, abolished the DIFC Arbitration Institute (DAI) and the Emirates Maritime Arbitration Centre (EMAC), transferring their rights and obligations to the Dubai International Arbitration Centre (DIAC).

The dispute arose between the Claimant, a UAE-based construction company, and the Defendant, its subcontractor, under a subcontract signed in April 2020 that included an arbitration clause governed by the DIFC-LCIA Arbitration Rules. After the Claimant terminated the subcontract in July 2021, the Defendant applied to DIAC to appoint an arbitrator, leading to a number of procedures being conducted and a parallel claim being filed in Sharjah. The DIFC Courts, following an application by the Claimant, issued an interim anti-suit injunction for Sharjah Courts to refrain from determining the proceedings.

The Defendant sought to discharge the injunction, claiming the arbitration agreement was invalidated by Decree 34.

The DIFC Courts upheld the injunction, affirming its jurisdiction as the supervisory court of the arbitral seat. The Court ruled that the arbitration agreement remained valid under Decree 34 and emphasised that the Decree did not undermine party autonomy, further reinforcing the enforceability of the original arbitration clause.