

**FOURTH DIVISION
MCFADDEN, P. J.,
WATKINS and PADGETT, JJ.**

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October 2, 2026

In the Court of Appeals of Georgia

**A26A0907. THE RIVER CLUB COMMUNITY ASSOCIATION, INC. v.
ESCALANTE RIVER CLUB, LLC.**

PADGETT, Judge.

The River Club Community Association, Inc. (the “Association”) brings this interlocutory appeal from the trial court’s order granting Escalante River Club, LLC’s (“Escalante”) motion to stay arbitration and denying the Association’s motion to compel arbitration. The Association claims that the trial court erred: (1) in determining the issue of arbitrability where the parties’ arbitration agreement incorporated American Arbitration Association rules, which expressly delegate the question of arbitrability; (2) in ruling that the parties’ disputes did not arise out of or relate to their broader contract; and (3) by weighing disputed facts and interpreting both the broader contract and “industry terminology” to determine whether the parties’ disputes fell within the scope of the arbitration agreement. For the reasons

that follow, we reverse the judgment of the trial court and remand the case for proceedings consistent with this opinion.

We review the grant or denial of a motion to compel arbitration de novo to determine whether the trial court’s decision is correct as a matter of law. *Milliken v. C. Merrill Constr.*, 371 Ga. App. 701, 703(1) (902 SE2d 669) (2024). Similarly, “[i]nterpretation of an arbitration agreement is a contractual matter ... subject to de novo review.” *Lowe Constr. and Dev. v. Hudgins*, 373 Ga. App. 730, 730 (909 SE2d 451) (2024).

With these standards in mind, the record shows that Escalante and the Association are parties to a Recreational Access and Amenity Easement and Cost-Sharing Agreement (the “Agreement”) related to a planned community in Gwinnett County known as The River Club. Escalante owns certain property within the community that has been developed as recreational and social facilities, including a golf course and golf practice facilities, a clubhouse, pools, tennis courts, a tennis pro shop, a fitness center, and dining facilities, among other activity space, collectively known as The River Country Club (the “Country Club”) and referred to in the Agreement as “Club Facilities.” The Association is a nonprofit corporation and mandatory owners’ association comprised of homeowners within the community,

and each member of the Association is at least a “sports member” of the Country Club.

The Agreement and its amendments set out and govern certain rights and obligations of Escalante and the Association in relation to each other. The Agreement is intended “to set forth certain operational standards in connection with” the Country Club “for the benefit of ... the Association ... and to establish a mechanism for the payment of certain costs shared with the Association.”

With respect to dispute resolution, the Agreement provides for arbitration and limits the circumstances under which the parties may seek judicial assistance.¹

Section 6.3 of the Agreement provides that:

In the event of any controversy or claim arising out of or relating to this Agreement, or breach thereof, any party may call for arbitration by written demand to the other party and thereafter all disputes arising out of or in connection with ... this Agreement or operations carried out under this Agreement, including without limitation any disputes as to [Escalante’s] ... or the Association’s failure to undertake, perform, and/or complete ... obligations under the ... provisions of this Agreement ... shall be finally settled under the Commercial Arbitration Rules of the American Arbitration Association ... by one or more arbitrators appointed in accordance with the said rules on an expedited basis. The parties will act on a reasonably timely basis to select an

¹ Escalante does not dispute that the Agreement includes a valid and enforceable arbitration provision.

arbitrator with not less than five (5) years' experience in the area of expertise on which the dispute is based (e.g.,] with respect to operational matters, ... or[] with respect to financial matters ...). The Parties agree that it is their express desire that judgment upon an award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Except as set forth in [sub-s]ection (c) [of Section 6.4] below, arbitration shall be the sole means of redress of claims or controversies arising out of, in connection with, or relating to this Agreement or any modification or extension thereof

And, Section 6.4 of the Agreement specifies only three grounds upon which a party may seek court intervention with respect to a dispute “arising out of or in connection with th[e] Agreement or the operations carried out under th[e] Agreement.” That section states:

The award of the arbitrator shall be final and binding. ... The [p]arties waive any right to appeal the arbitral award, to the extent such rights may be lawfully waived. Each party retains the right to seek judicial assistance (a) to compel arbitration, (b) to obtain interim measures of protection pending arbitration, and (c) to enforce any decision of the arbitrator(s), including the final award.^[2]

² The Agreement does not present these grounds upon which a party may seek judicial assistance as a non-exhaustive list (i.e. the enumerated grounds are not introduced or qualified by the phrase “including, without limitation”). Nor do the enumerated grounds include any effort to stay arbitration or to vacate any decision or award of the arbitrator(s).

On October 24, 2024, the Association filed a demand for arbitration against Escalante in accordance with the Agreement and the American Arbitration Association’s Commercial Arbitration Rules (“AAA rules”). The Association claimed in its demand that Escalante was in breach of its obligations under the Agreement by failing to maintain the Country Club to the standards required by the Agreement and by imposing a new 20 percent service charge on food and beverages in violation of the Agreement.³

³ The Association claimed that Escalante’s actions and inactions violated Sections 4.1 and 4.6 of the Agreement. Those sections, as amended, provide in relevant part:

4.1 Maintenance and Operation. [Escalante] shall operate the Club as a “private club” as the term “private” is explained by this Article IV. Subject to force majeure, [Escalante] shall maintain the [Country Club] at all times in a condition comparable to or better than the historical conditions of the Club. The Country Club shall be open six (6) days per calendar week (... includ[ing] Saturdays and Sundays), subject to closure during one of these six (6) days as a result of (i) force majeure, (ii) maintenance or repairs, (iii) seasonal closings, or (iv) Member sponsored outings and tournaments ... so long as such outings and tournaments do not displace prime weekend tee times for Full Members based on historical Club usage. [Escalante] may not terminate or materially impair the rights of the Sports Members from using [a designated part of the Country Club] other than ... for nonpayment of Club Charges or in connection with discipline or expulsion for improper conduct.

...

In response, Escalante filed a declaratory judgment action and motion to stay arbitration in the trial court. Escalante asked the trial court to “resolv[e] the parties’ rights under the ... Agreement” and “confirm [Escalante’s] obligations under the ... Agreement” by adopting its position that the Association did not have the contractual rights it claimed to have or the right to demand arbitration. Escalante argued that it “has the contractual right to dictate the manner, means, and systems ... by which [it] provides services” at the Country Club, that it “has fully complied with [its] contractual obligations[,]” and that the “Agreement does not permit” imposition of the obligations the Association claims exist under the Agreement. Escalante explicitly asked the trial court to “confirm[] that [its] interpretation of the ... Agreement is correct and that the Association[’s] ... interpretation is incorrect.” The Association thereafter moved to compel arbitration and stay the litigation.

After a hearing, the trial court granted Escalante’s motion to stay arbitration and denied the Association’s motion to compel arbitration. The trial court concluded—without reference to the Agreement’s incorporation of AAA rules—

4.6 No Assessments. Members shall not be subject to capital or operating assessments related to the costs and expenses of constructing or operating the [Country Club], unless such assessments are approved by a majority of the Members in writing. ... [Escalante] can, at any time, make improvements to the [Country Club], provided, however, that such improvements shall be at [Escalante’s] sole expense. [Escalante] shall be responsible for all deficits.

that the threshold question of arbitrability was to be decided by it, rather than an arbitrator, because the Agreement “lacks a delegation provision.” And on the issue of arbitrability, the trial court further concluded that because the Association’s claims “concern the services and operations of the [Country] Club and not the physical maintenance of the [Country] Club” and because it defined the “service charge” as distinct from an “operating assessment[],” the Association’s claims do not arise from or relate to the Agreement and thus fall outside the scope of the Agreement’s arbitration clause. This appeal followed.

1. The Association first contends that the trial court erred in holding that the parties’ arbitration agreement “lacks a delegation provision” and that therefore, the threshold question of arbitrability was for the court, rather than an arbitrator, notwithstanding that the parties’ arbitration agreement incorporated AAA rules, which expressly delegate the question of arbitrability to the arbitrator. We agree that the trial court erred in holding that the Agreement lacked a delegation provision and in determining the issue of arbitrability itself.

As we have previously observed, “there are three types of disputes concerning arbitration: (1) the merits of the dispute; (2) whether the parties agreed to arbitrate the merits; and (3) who has the primary power to decide whether the parties agreed to arbitrate the merits.” *Burke Moore Law Group v. Drew Eckl & Farnham*, 374 Ga.

App. 810, 821(4) (914 SE2d 333) (2025) (punctuation omitted). With respect to the “who” question, as a general rule, “[c]ourts should not assume that the parties agreed to arbitrate arbitrability, and in the absence of an agreement to the contrary, issues of substantive arbitrability are for a court to decide.” *Brown v. RAC Acceptance E.*, 303 Ga. 172, 175(2)(a) (809 SE2d 801) (2018) (citation modified). However, “[a]rbitration agreements ... often contain what is known in arbitration law as a ‘delegation provision’—that is, an agreement to arbitrate threshold issues concerning the arbitration agreement[,]” which issues include “disputes about the validity, enforceability, [and] arbitrability or scope” of the arbitration agreement. *Brown*, 303 Ga. at 175–76(2)(a) (punctuation omitted). And “where there is clear and unmistakable evidence that the parties wanted an arbitrator to resolve the dispute about arbitrability,” this Court “must give effect to the parties’ agreement.” *Id.* at 175(2)(a) (punctuation omitted).

In giving effect to the parties’ agreement, we adhere to state contract law principles, determining first whether the agreement’s language is “plain, unambiguous, and capable of only one reasonable interpretation.” *H & E Innovation v. Shinhan Bank of Am.*, 343 Ga. App. 881, 885(1) (808 SE2d 258) (2017). Where, however, we find an agreement’s language to be ambiguous, we apply the appropriate and familiar rules of construction. See *Emory Healthcare v. Farrell*, 359 Ga. App. 621,

624 (859 SE2d 576) (2021). And in the particular context of arbitrability, “[a]ny doubts concerning the scope of arbitrable issues should be resolved in favor of arbitration, whether the problem at hand is the construction of the contract language itself or an allegation of waiver, delay, or a like defense to arbitrability.” *Ga. Kenworth v. Smith*, ____ Ga. App. ____ (932 SE2d 791, 794) (2026) (punctuation omitted). See also *Epps v. Rockmo Ent.*, 357 Ga. App. 774, 778(3) (849 SE2d 510) (2020) (“Georgia has a clear public policy in favor of arbitration.” (punctuation omitted)).

Here, Section 6.3 of the Agreement plainly and unambiguously states that

[i]n the event of any controversy or claim arising out of or relating to this Agreement, or the breach thereof, any party may call for arbitration ... and thereafter all disputes arising out of or in connection with ... this Agreement or the operations carried out under [it], ... shall be finally settled under [AAA rules].

Contrary to Escalante’s repeated characterization in its brief to this Court, that language is not a meaningless “passing reference” to AAA rules. “As a matter of contract law, incorporation by reference is generally effective to accomplish its intended purpose where,” as here, “the provision to which reference is made has a reasonably clear and ascertainable meaning.” *Walls v. Atl. Realty Co.*, 186 Ga. App. 389, 390(1) (367 SE2d 278) (1988) (punctuation omitted). Moreover, this particular language providing for arbitration under AAA rules, as we have acknowledged many

times, accomplishes incorporation of AAA rules into the Agreement and we routinely recognize the authority granted to arbitrators by those rules. See, e.g., *Epps*, 357 Ga. App. at 780(3) (acknowledging incorporation of AAA rules into parties' agreement); *Cash In Advance of Fla. v. Jolley*, 272 Ga. App. 282, 283, 286 (612 SE2d 101) (2005) (reversing trial court's denial of motion to compel arbitration and giving effect to arbitration agreement's incorporation by reference of AAA rules); *Doman v. Stapleton*, 256 Ga. App. 383, 384, 390(2) (568 SE2d 509) (2002) (recognizing that where parties agreed to submit any dispute "to binding arbitration under the [AAA]," their agreement incorporated AAA rules, including rule providing that "[t]he arbitrator shall have the power to rule on his or her own jurisdiction, including an objection with respect to the existence scope or validity of the arbitration agreement"). See also Am. Arbitration Ass'n, Commercial Arbitration Rules and Mediation Procedures Rule 1(a) (2013) ("[t]he parties shall be deemed to have made these rules a part of their arbitration agreement whenever they have provided for arbitration by the [AAA] under its Commercial Arbitration Rules").⁴

Nor may we cast aside or ignore the parties' agreement to incorporate AAA rules into the Agreement, for "[i]t is a cardinal rule of contract construction that a

⁴ This Court may take judicial notice of AAA rules. *Milliken*, 371 Ga. App. at 704(1)(a).

court should, if possible, construe a contract so as not to render any of its provisions meaningless and in a manner that gives effect to all of the contractual terms.” *Forsyth County v. Waterscape Serv.*, 303 Ga. App. 623, 631(2)(a) (694 SE2d 102) (2010) (punctuation omitted). Stated otherwise, “the words of a contract must mean something[,]” and here, they mean that AAA rules are part of the contract. *Atlanta Hospitality Inv. v. Holiday Hospitality Franchising*, 379 Ga. App. 777, 779(2)(b) (931 SE2d 193) (2026) (punctuation omitted).

Having established that the Agreement, in fact, incorporated AAA rules, we look to those rules to determine whether they provide clear and unmistakable evidence that the parties delegated the question of arbitrability to the arbitrator. Under Rule 7(a) of the AAA, “[t]he arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement or to the arbitrability of any claim or counterclaim.” Am. Arbitration Ass’n, Commercial Arbitration Rules and Mediation Procedures Rule 7(a) (2013). We find the language of Rule 7(a) to be plain and unambiguous in its meaning that the arbitrator shall have the power to rule on the arbitrability of any claim. And we thus hold, as an apparent matter of first impression and as have the vast majority of federal courts to consider the issue, that the parties’ incorporation of Rule 7(a) into the Agreement constitutes clear and unmistakable

evidence that they intended for an arbitrator, and not a court, to resolve the issue of arbitrability.⁵ See *Web IV v. Samples Constr.*, 349 Ga. App. 607, 612–13(1)(a) (824 SE2d 107) (2019) (acknowledging the Eleventh Circuit’s holding that “when the parties incorporate the rules of the [AAA] into their contract, they clearly and unmistakably agree that the arbitrator should decide whether the arbitration clause applies” and finding that the parties’ use of incorporation language similar to that used here was “further support” for the conclusion that the parties intended for an arbitrator to resolve the issue of whether one party waived its right to compel arbitration by failing to comply with conditions precedent to arbitration (citing *U. S. Nutraceuticals v. Cyanotech Corp.*, 769 F3d 1308, 1311(III) (11th Cir. 2014))).⁶ See also *JPay v. Kobel*, 904 F3d 923, 937–38(II)(B)(1) (11th Cir. 2018) (by incorporating AAA

⁵ Additionally, we find further evidence of the parties having clearly and unmistakably delegated the question of arbitrability in Section 6.4 of the Agreement, which provides the exhaustive, and not illustrative, bases upon which a party may seek judicial assistance. Those bases are: to compel arbitration, to obtain interim protection pending arbitration, and to enforce the decision of the arbitrator. If all threshold matters were *not* delegated to the arbitrator, that list would include a motion to stay arbitration; it does not, and that omission is consequential, albeit not in the way recognized by the trial court. See *H&E Innovation*, 343 Ga. App. at 886–87(1) (“under the ‘expressio unius est exclusio alterius’ rule of construction, the express mention of one thing in a contract implies the exclusion of another” (punctuation omitted)).

⁶ While we are not bound by federal decisions, due to the similarities among Georgia and federal arbitration law, we may refer to federal law when interpreting state law. *Web IV*, 349 Ga. App. 609(1).

rules, the agreement “clearly and unmistakably give[s] the arbitrator power to rule on his own jurisdiction, thus delegating questions of arbitrability to the arbitrator”); *Bossé v. New York Life Ins. Co.*, 992 F3d 20, 29(II)(A)(1) (1st Cir. 2021) (“incorporation of the AAA arbitration rules constitutes clear and unmistakable evidence of the parties’ intent to delegate arbitrability”); *Blanton v. Domino’s Pizza Franchising*, 962 F3d 842, 846(II), 851(III)(B) (6th Cir. 2020) (noting that “every one of our sister circuits to address the question—eleven out of twelve by our count—has found that the incorporation of the AAA [r]ules ... provides ‘clear and unmistakable’ evidence that the parties agreed to arbitrate ‘arbitrability’[,]” and concluding the same); *Dish Network v. Ray*, 900 F3d 1240, 1248(II)(B) (10th Cir. 2018) (“incorporation of the AAA rules provides clear and unmistakable evidence that the parties intended to delegate all issues of arbitrability”); *Arnold v. HomeAway*, 890 F3d 546, 551–52(II)(A) (5th Cir. 2018) (“We have held that, generally, stipulating that the AAA [r]ules will govern the arbitration of disputes constitutes ... ‘clear and unmistakable’ evidence” that the parties have agreed to arbitrate threshold questions); *Simply Wireless v. T-Mobile US*, 877 F3d 522, 528(II) (4th Cir. 2017) (“We agree with our sister circuits and ... hold that, in the context of a commercial contract between sophisticated parties, the explicit incorporation of [rules empowering arbitrator to determine arbitrability] serves as ‘clear and unmistakable’ evidence of

the parties' intent to arbitrate arbitrability”), overruled in part on other grounds by *Henry Schein, Inc. v. Archer & White Sales*, 586 US 63, 68(II) (139 SCt 524, 202 LE2d 480) (2019); *Brennan v. Opus Bank*, 796 F3d 1125, 1130(II)(B) (9th Cir. 2015) (holding that “incorporation of the AAA rules constitutes clear and unmistakable evidence that contracting parties agreed to arbitrate arbitrability”); *Fallo v. High-Tech Inst.*, 559 F3d 874, 878(II) (8th Cir. 2009) (same); *Contec Corp. v. Remote Solution Co.*, 398 F3d 205, 208 (2d Cir. 2005) (same). But cf. *Milliken*, 371 Ga. App. at 705(1)(a)(i) (holding that incorporation of AAA construction rule, which provided only that the arbitrator “shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope, or validity of the arbitration agreement,” did not provide evidence of a clear and unmistakable intent for the arbitrator to decide the issue of whether a party had waived the right to arbitration through its conduct).

Moreover, in light of the plain language of the Agreement and the incorporated AAA rules that clearly and unmistakably delegate the issue of arbitrability to the arbitrator, it matters not that the question here may be characterized as one of substantive, rather than procedural, arbitrability. See *Web IV*, 349 Ga. App. at 609–11(1)(a) (noting that “procedural arbitrability” which grows out of the dispute is generally for the arbitrator, while substantive arbitrability, unless delegated, is for the

trial court). See also *Brown*, 303 Ga. at 175–77(2)(a), (b) (substantive arbitrability issue of conduct-based waiver had been delegated and was properly referred to arbitrator). Simply put, the parties’ effective incorporation of the AAA rules here provides clear and unmistakable evidence that they delegated the question of arbitrability and placed it within the exclusive authority of the arbitrator.⁷ See generally *Brown*, 303 Ga. at 172–73(1), 175–76(2)(a) (where contract defined claims subject to arbitration as including “disputes about ... arbitrability or scope of” arbitration agreement or broader consumer rental agreement, parties delegated threshold questions, including conduct-based waiver, to arbitrator).

Having so ruled, we are nonetheless compelled to express a final, related observation on the issue. We note that in its brief, Escalante misstates previous holdings of this Court in support of its assertion that “[t]his Court has repeatedly held that arbitration agreements referencing AAA rules *did not* constitute clear and unmistakable delegation of substantive questions of arbitrability.” For instance, our

⁷ By holding as we do today, we note that our decision is based on the facts of this case involving two business entities that entered into one controlling contract, as amended, and that are seeking interpretation of and relief under that contract. We express no opinion on whether incorporation of AAA rules into an arbitration agreement under substantially dissimilar facts or among different types of parties asserting different types of claims would likewise yield a conclusion that incorporation of AAA rules constituted clear and unmistakable evidence of the parties’ intent to delegate the question of arbitrability.

decision in *Panhandle Fire Protection v. Batson Cook Co.*, 288 Ga. App. 194 (653 SE2d 802) (2007), made no determination whatsoever on the issue of whether incorporation of AAA rules constituted sufficient evidence of delegation. Rather, in that case, there were two competing versions of a subcontractor agreement, one with an arbitration clause incorporating AAA rules and one without an arbitration clause, which agreement instead provided that disputes were to “be handled in a Florida court.” *Panhandle Fire Protection*, 288 Ga. App. at 195 (punctuation omitted). We simply noted that because the record before us required remand for the trial court to determine which of the two agreements the parties assented to, the proponent of arbitration could not show by clear and unmistakable evidence that the parties had delegated the issue of arbitrability. *Id.* at 198(1)(b). It was not a case where, as here, it was undisputed that the parties had entered into an agreement with an arbitration provision. Additionally, in *Atlanta Concorde Fire Soccer Ass’n v. Graham*, 355 Ga. App. 228, 233(5) (843 SE2d 889) (2020), our conclusion that there was “no clear and unmistakable evidence” that the parties delegated arbitrability was based on the appellants not being a party to the arbitration agreement at issue; it was not a conclusion that flowed from, or had any connection to, the agreement’s incorporation of AAA rules by reference. Nor do the other decisions of this Court cited by Escalante stand for the proposition it claims. See *Epps*, 357 Ga. App. at 777(1)

and n.6 (although parties' agreement incorporated AAA rules, where appellants refused to abide by AAA rules or pay required fees and AAA suspended arbitration as a result, evidence was insufficient that parties intended to delegate the issue of conduct-based waiver of arbitration rights and distinguishing this Court's decision in *Web IV*);⁸ *Galindo v. Lanier Worldwide*, 241 Ga. App. 78, 83(2)(b) (526 SE2d 141) (1999) (where appellant "consistently denied" entering into lease agreement that contained arbitration provision incorporating AAA rules and appellant's actions demonstrated his objection to the arbitration, it could not be said that appellant "clearly and unmistakably agreed to submit the issue of arbitrability to the arbitrator," and remanding case to determine whether appellant entered into lease agreement); *N. Augusta Assocs. Ltd. Partnership v. 1815 Exchange*, 220 Ga. App. 790, 793(2) (469 SE2d 759) (1996) (holding that where agreement required architectural review of a claim as a condition precedent to arbitration and incorporation of AAA rules applied only to claims ripe for arbitration, the record did not show that parties

⁸ Again, in *Web IV*, we held that under the arbitration clause, the question of whether a party waived its right to arbitration by failing to satisfy a contractual condition precedent was for the arbitrator to decide and we noted, with approval, a decision of the Eleventh Circuit holding that "when parties incorporate [AAA rules] into their contract, they clearly and unmistakably agree that the arbitrator should decide whether the arbitration clause applies." *Web IV*, 349 Ga. App. at 613(1)(a).

clearly and unmistakably agreed to submit the question of whether condition precedent had been satisfied to the arbitrator).

2. The Association also maintains that the trial court erred in holding that the matter sought to be arbitrated by the Association and litigated by Escalante did not arise out of or relate to the Agreement, and that in so holding, the trial court improperly weighed disputed facts and interpreted substantive contractual rights and responsibilities under the Agreement, in violation of OCGA § 9-9-4(d). We agree.

Where we are called upon to interpret the scope of claims covered by an arbitration agreement, “we are to resolve any interpretive doubts in favor of arbitration.” *Waffle House v. Pavesi*, 343 Ga. App. 102, 108(3) (806 SE2d 204) (2017). And when confronted with the question of whether a given dispute or claim falls within the scope of an arbitration provision’s “arising out of or relating to” language, we have held that the phrase as used in contracts “does not mean proximate cause in the strict legal sense,” but instead means “almost any causal connection or relationship.” *Ga. Kenworth*, 932 SE2d at 794 (punctuation omitted). “Indeed, nothing more than a slight causal connection is required to show that a claim arose out of a ... relationship set forth in contract.” *Waffle House*, 343 Ga. App. at 108(3). Thus, a motion to compel arbitration of a “particular grievance should not be denied

unless it may be said with positive assurance that the arbitration clause is not susceptible of an interpretation that covers the asserted dispute.” *Id.* at 109(3).

We find our decision in *Lowe Construction and Development* to be especially instructive here. There, plaintiffs purchased a residential lot from Lowe Construction, executing a purchase and sale agreement that included an arbitration clause providing that “[a]ll claims arising out of or relating to this [purchase and sale] [a]greement or the alleged acts or omissions of any or all parties hereunder shall be resolved by arbitration[.]” *Lowe Constr. and Dev.*, 373 Ga. App. at 731. After Lowe Construction sold an adjacent lot to different homeowners and placed a garage and septic field intended for those different homeowners on the plaintiffs’ property, the plaintiffs sued Lowe Construction and the adjoining homeowners. *Id.* at 731. Lowe Construction moved to compel arbitration, to which the plaintiffs objected, arguing that their claims fell outside the scope of the arbitration clause. *Id.* at 731–32. The trial court denied the motion, concluding that plaintiffs’ claims related to post-sale activity and did not arise out of the purchase and sale agreement. *Id.* at 732.

We reversed, noting first that the provision at issue—“all claims arising out of or relating to the [p]urchase [a]greement or the alleged acts or omissions ... hereunder”—reflected “the broadest language the parties could reasonably use to subject their disputes to arbitration, including collateral disputes that relate to the

agreement containing the clause,” and that “nothing more than a slight causal connection is required to show that a claim arose out of a specified relationship set forth in a contract.” *Id.* at 732 (punctuation omitted). Because the dispute involved issues regarding what property was transferred, and therefore what rights were acquired pursuant to the purchase agreement, we concluded that the dispute was sufficiently connected to the purchase agreement to require arbitration. *Id.* at 732–33. We also disapproved of the trial court’s apparent acceptance of the plaintiffs’ substantive allegations as true, cautioning that “[i]n determining whether a claim is subject to arbitration, ... a trial court should not consider whether the claim [on] ... which arbitration is sought is tenable nor pass upon the merits of the dispute.” *Id.* at 733 n.4 (punctuation omitted).⁹

⁹ We find that Escalante’s reliance on our decision in *Cate v. Patterson*, 354 Ga. App. 108 (840 SE2d 489) (2020), is misplaced and unavailing. There, we affirmed a jury verdict finding an auto sales group liable on plaintiffs’ claims for libel and invasion of privacy after plaintiffs purchased a trailer from the sales group for a mistaken price and the sales group took out newspaper advertisements accusing plaintiffs of felony theft. *Cate*, 354 Ga. App. at 109–10, 112(1). While the trial court referred plaintiffs’ breach of contract claims to arbitration based upon an arbitration provision in the bill of sale, the sales group argued that the trial court erred in failing to likewise refer plaintiffs’ tort claims. *Id.* at 112–13(2). We agreed with the trial court that the provision at issue—which covered any claim “arising from or related to the transaction contemplated by” the bill of sale—did not reach the factual bases of the libel and invasion of privacy claims, as the alleged torts were not “an immediate, foreseeable result of the performance of contractual duties” within the bill of sale. *Id.* at 113–14(2).

Here, the obligations imposed upon Escalante in the Agreement are foundational to both the Association's breach of contract claims and Escalante's declaratory judgment action. Interpretation of the Agreement is a first and necessary step to resolving whether Escalante owed and breached the duties the Association claims or whether Escalante owed no such duties, as it contends. Both parties' claims, then, squarely and undeniably "relate to" the Agreement and by the Agreement's plain terms, those claims shall be settled by binding arbitration. See *Web IV*, 349 Ga. App. at 611(1)(a) (where agreement provided that all claims "arising out of or relating to" agreement will be subject to arbitration, "[a]ny dispute between the parties to the contract as to the meaning, interpretation[,] and application of the agreement is for the arbitrators" (punctuation omitted)).

Finally, we note that in its consideration of the parties' competing motions to compel and stay arbitration, the trial court undertook to interpret and define contractual terms not otherwise defined in the contract, to reference an unspecified "context" in which those terms were allegedly used, and to determine the scope of substantive rights and responsibilities under the contract, ultimately concluding that given the facts of the Association's breach of contract claim(s), the Association "had no rights" under the Agreement to remedy what it believed was a breach of the Agreement. In doing so, it improperly passed upon the merits of the parties' claims.

See *Wedemeyer v. Gulfstream Aerospace Corp.*, 324 Ga. App. 47, 51(2) (749 SE2d 241) (2013) (assuming the absence of a delegation provision, “[w]here parties have entered into a valid arbitration agreement, the trial court must determine whether the claims [are] covered by the agreement ... [b]ut in fulfilling this gatekeeping duty, the trial court shall not consider whether the claim with respect to which arbitration is sought is tenable nor otherwise pass upon the merits of the dispute” (citing OCGA § 9-9-4(d) (punctuation omitted))).

Based upon the foregoing, we reverse the trial court’s order granting Escalante’s motion to stay arbitration and denying the Association’s motion to compel the same, and remand the case with direction that the trial court dismiss Escalante’s complaint without prejudice. See *Odion v. Avesis*, 327 Ga. App. 443, 448–49(3)(d) (759 SE2d 538) (2014) (holding that where lawsuit asserted claims that were subject to arbitration provision, the trial court should dismiss the suit without prejudice).

Judgment reversed and case remanded with direction. McFadden, P. J., and Watkins, J., concur.