

# HONG KONG CASES

1977-1979

*General Editor*

Gerard McCoy, Barrister

*Butterworths Asia*

*Hong Kong • Singapore • Kuala Lumpur*

## **The Butterworth Group of Companies**

Singapore	BUTTERWORTHS ASIA 10 Anson Road #32-01 International Plaza, Singapore 079903
Hong Kong	BUTTERWORTHS ASIA (HONG KONG) 19/F Eight Commercial Tower 8 Sun Yip Street, Chai Wan, Hong Kong Tel: 29651400 Fax: 29760840
Malaysia	MALAYAN LAW JOURNAL SDN BHD Suite 1001/02 10th Floor Wisma Hamzah Kwong Hing No 1 Leboh Ampang 50100 Kuala Lumpur
Australia	BUTTERWORTHS Sydney, Melbourne, Brisbane, Adelaide, Perth, Canberra
Canada	BUTTERWORTHS CANADA LTD Toronto and Vancouver
Ireland	BUTTERWORTH (IRELAND) LTD Dublin
New Zealand	BUTTERWORTHS OF NEW ZEALAND LTD Wellington and Auckland
Puerto Rico	BUTTERWORTH OF PUERTO RICO, INC San Juan
UK	BUTTERWORTH & CO (PUBLISHERS) LTD London and Edinburgh
USA	MICHIE BUTTERWORTH Carlsbad, California Charlottesville, Virginia

©

Butterworths Asia\*

1995

All rights reserved. No part of this publication may be reproduced or transmitted in any material form or by any means, including photocopying and recording, or storing in any medium by electronic means and whether or not transiently or incidentally to some other use of this publication, without the written permission of the copyright holder, application for which should be addressed to the publisher. Such written permission must also be obtained before any part of this publication is stored in a retrieval system of any nature.

\*Butterworths Asia is a division of Reed Elsevier (Singapore) Pte Ltd.

ISSN 0218-7809

Typeset by Butterworths Asia, Superskill Graphics  
and Corporate Press

Produced by Mandarin Offset Ltd  
Printed and bound in Hong Kong

## *General Editor*

Gerard McCoy, Barrister

## *Associate Editors*

Grenville Cross QC

Ruy Barretto, Barrister

Michael Ozorio, Barrister

Mohan Bharwaney, Barrister

Susan Kwan, Barrister

Peter Garland, Barrister

Malcolm Merry, Barrister

Aarif Barma, Barrister

Andrew Cheung, Barrister

Peter Ng, Barrister

Joseph Fok, Barrister

Anderson Chow, Barrister

Teresa Cheng, Barrister

David Fitzpatrick, Barrister

Patrick WS Cheung, Barrister

Andrew Byrnes, Hong Kong University

Johannes Chan, Hong Kong University

## *Reporters in this volume*

Christina Choi, Barrister

Ernest WH Cheung, Barrister

Charles P Chiu, Barrister

TC Chong, Barrister

Lindy Course, Barrister

Gary Kwan, Barrister

Osmond Lam, Barrister

Julia Lau, Barrister

Lawrence Law, Barrister

Cindy Lee, Barrister

Rebecca MK Lee, Barrister

Richard Leung, Barrister

Raymond Leung, Barrister

PY Lo, Barrister

Timon Shum, Barrister

Suzanne Sim, Barrister

KW Tang, Barrister

Jennifer Tsang, Barrister

Dominic Yeung, Barrister

Stephen Law Shing

Alexander Wong

## **Butterworths Asia**

Managing Editor: Anthony P Kinnear (Hong Kong)

Deputy Managing Editor: Zarinah Marican

Editors: Noorunnisa Ibrahim Kutty, Teoh Swee Leng, Bala Shanmugam,  
Sharon Kaur

## ACKNOWLEDGMENT

The publishers are grateful to and acknowledge the significant contribution and support of the Hong Kong Superior Court Judgments Database project, directed by the four members of the Faculty of Law, whose names are mentioned below. The judgments database project (1989–1994) was funded primarily by the University of Hong Kong's Conference and Research Grants Committee with assistance from the Department of Professional Legal Education, at the Faculty of Law. The Faculty members responsible for the project are (in alphabetical order) Andrew Byrnes, Lecturer, Department of Law; Rick Glofcheski, Lecturer, Department of Law; Gary N Heilbronn, Senior Lecturer, Department of Professional Legal Education; and Sarah Nield, Senior Lecturer, Department of Professional Legal Education (until 1992). The project administrator is James Garritty, Research Officer, Faculty of Law.

# TABLE OF ABBREVIATIONS

List of abbreviations used in this volume (excluding reports):

A	High Court Action
ACJ	Acting Chief Justice
A-G	Attorney General
AR	Application for Review
Adm	Admiralty Action
App	Appendix
art	article
Aust	Australia
CA	Court of Appeal
CA	Civil Appeal Number in references to unreported cases (eg CA 2/92)
CC	High Court Criminal Case
CJ	Chief Justice
Cap	Chapter (as in Chapter Number of an Ordinance)
Crim App	Criminal Appeal
Comm L	Commercial List
Con L	Construction List
ch	chapter (as in chapter number of a book)
cl(l)	clause(s)
DC	District Court
DCA	District Court Action
DJ	District Judge
DPP	Director of Public Prosecutions
EC	European Communities
ECC	Economic Compensation Case
ECHR	European Court of Human Rights
ECJ	Court of Justice of the European Communities
EEC	European Economic Communities
Ed	Edition
Ex Ch	Court of Exchequer Chamber
exh	exhibit
fn	footnote
HC	High Court
HL	House of Lords
HMSO	Her Majesty's Stationery Office
J(J)	Justice(s)
J(J)A	Justice(s) of Appeal
LT(A)	Labour Tribunal (Appeal)
LC	Lord Chancellor
Ld T(A)	Lands Tribunal (Appeal)
MA	Magistracy Appeal
MCA	Magistracy Criminal Appeal
MP	Miscellaneous Proceedings
MR	Master of the Rolls
n	note
NSW	New South Wales

## Abbreviations

---

O	Order (of the Rules of the Supreme Court)
PC	Privy Council
PRC	People's Republic of China
PCA	Privy Council Appeal
Pt	Part
para	paragraph
RSC	Rules of the Supreme Court
r(r)	rule(s)
reg	regulation
s	section
sub-s	subsection
Sch	Schedule
UN	United Nations
Uncitral	United Nations Commission on International Trade Law
VP(P)	Vice-President(s)
WCC	Workers' Compensation Case

### List of abbreviations of law reports:

AC	Law Reports, Appeal Cases (HL and PC); since 1890
Ad & El	Adolphus and Ellis's Reports, King's Bench and Queen's Bench, 12 Vols, 1834–1842
All ER	All England Law Reports; since 1936
App Cas	Law Reports, Appeal Cases, House of Lords, 15 vols; 1875–1890
B	Barber's Gold Law (South Africa)
B & C	Barnewall and Cresswell's Reports, King's Bench, 10 Vols, 1822–1830
B & S	Best and Smith' Reports, Queen's Bench, 10 vols; 1861–1870
BWCC	Butterworths' Workmen's Compensation Cases; 1907–1949
Bing	Bingham's Reports, Common Pleas, 10 Vols, 1822–1834
CB	Common Bench Reports, 18 Vols, 1845–1856
CCC	Canadian Criminal Cases
CLR	Commonwealth Law Reports; since 1903
CLY	Current Law Yearbook, 1947–(current)
Ch	Law Reports, Chancery Division; since 1890
Ch App	Law Reports, Chancery Appeals, 10 vols; 1865–1875
Ch D	Law Reports, Chancery Division, 45 vols; 1875–1890
Co Inst	Coke's Institutes
Cox CC	EW Cox's Criminal Law Cases; 1843–1945
Cr App R	Criminal Appeal Reports (HL and CA(UK)); since 1908
Crim LR	Criminal Law Review; since 1954
De GJ & Sm	De Gex, Jones and Smith's Reports, Chancery, 4 vols; 1862–1865

ER	English Reports, 178 volumes; 1220–1865
F 2d	Federal Reporter, Second Series (USA), 1924–(current)
FSR	Fleet Street Reports
Fam	Family Division; 1972–(current)
Fam Law	Family Law
HKDCLR	Hong Kong District Court Law Reports
HKLJ	Hong Kong Law Journal
HKLR	Hong Kong Law Reports
HKTC	Hong Kong Tax Cases
IR	Irish Reports; since 1892
Irish LTR	Irish Law Times Reports; 1867–
JP	Justice of the Peace
KB	Law Reports, King’s Bench Division, 53 vols, 1901–1952
LGR	Local Government Reports; 1902–(current)
LJCP	Law Journal, Common Pleas; 1831–1875
LJKB	Law Journal, King’s Bench; 1831–1946
LJQB	Law Journal, Queen’s Bench; 1831–1846
LJR	Law Journal Reports, 1947–1949
LRPC	Law Reports, Common Pleas, 10 vols; 1865–1875
LT	Law Times Reports, 177 vols, 1859–1947
Lloyd LR	Lloyd’s List Law Reports; 1919–1950
Lloyd’s Rep	Lloyd’s List Law Reports; since 1951
M & S	Maule & Selwyn’s Reports, King’s Bench, 6 Vols, 1813–1817
Mac & G	Macnaghten and Gordon’s Reports, Chancery, 3 vols; 1849–1852
My & Cr	Mylne and Craig’s Reports, Chancery, 5 vols, 1835–1841
NYS	New York Supplement, 1888–1938
NZLR	New Zealand Reports, 1883–(current)
P	Law Reports, Probate, Divorce and Admiralty Division; 1891–1971
P & CR	Planning (Property) and Compensation Reports, 1950–(current)
QB	Law Reports, Queen’s Bench Division; 1891–1900, and since 1952
QBD	Law Reports, Queen’s Bench Division; 1875–1890
Qd R	Queensland Reports, 1958–(current)
R & IT	Rating and Income Tax Reports, 53 Vols, 1924–1960
RPC	Reports of Patent Cases, 1884–(current)
RRC	Ryde’s Rating Cases, 1956–(current)
RTR	Road Traffic Reports; 1970–(current)
Sa	South African Law Reports, since 1947
SLT	Scot’s Law Times; 1893–(current)
Sol Jo	Solicitor’s Journal; since 1856
Stra	Strange’s Reports, 2 vols; 1716–1747

## Abbreviations

---

TLR	The Times Law Reports, 71 volumes; 1884–1950 The Times Law Reports; since 1951
TR	Taxation Reports
Taunt	Taunton's Reports, Common Pleas, 8 vols; 1807–1819
VLR	Victorian Law Reports, Vols 11–29; 1885–1904
Ves Jun	Vesey Jun's Reports, Chancery, 19 vols; 1789–1817
Ves Sen	Vesey Sen's Reports, 2 Vols, 1747–1756
Wils	G Wilson's Reports, King's Bench and Common Pleas, fol, 3 Vols, 1772–1774
WIR	West Indian Reports, 1958–(current)
WLR	Weekly Law Reports; since 1953
WR	Weekly Reporter, 54 vols; 1852–1906
WWR	Western Weekly Reports (Canada)

---



## TABLE OF CASES REPORTED

The mode of citation of cases reported in this volume of *Hong Kong Cases* is [1977-1979] HKC (page).

	Page		Page
<b>A</b>		Chan Yat Fai; R v .....	[HC] 575
Administrator in Hong Kong of The Catholic Mission of Macao v Hong Kong and Shanghai Banking Corp & Ors (No 1) .....	[HC] 398	Chan Yuk King; R v .....	[HC] 396
Administrator in Hong Kong of The Catholic Mission of Macao v Hong Kong and Shanghai Banking Corp & Ors (No 2) .....	[HC] 405	Chang Chen Feng & Ors; R v [DC]	511
Amor Live Holdings Ltd & Anor v Tse Pak Kan & Ors .....	[DC] 369	Chau Man; R v .....	[CA] 426
Attorney General; Khan v .....	[CA] 63	Cheng Pak Chang; R v .....	[CA] 132
Attorney General; Moon Yik Co Ltd & Anor v .....	[HC] 433	Cheng Tsui; Sung Hing Chuen v .....	[DC] 560
<b>B</b>		Cheong Yip Finance (Hong Kong) Ltd v Moscow Narodny Bank Ltd .....	[CA] 59
Bank Negara Indonesia; Hong Kong And Kowloon Wharf And Godown Co Ltd v .....	[CA] 1	Cheung Fat Fan & Anor v Commissioner of Rating and Valuation .....	[Ld T] 547
Boulter v Boulter .....	[HC] 282	Cheung Kung Leung v Chinachem Investment Co Ltd .....	[HC] 474
Boulter; Boulter v .....	[HC] 282	Cheung Ting Wai; R v .....	[CA] 102
<b>C</b>		Cheung Yuet & Anor v Incorporated Owners Of Oriental Gardens .....	[CA] 168
C v C .....	[HC] 363	Chinachem Investment Co Ltd; Cheung Kung Leung v .....	[HC] 474
C; C v .....	[HC] 363	Chu Chan Po Kee Grace v The Hong Kong Chinese Bank Ltd (Chan Sik Nin, third party) .....	[HC] 376
Chan Cheng Siu Kun v Chan King Kan .....	[HC] 359	Chu Chuen; R v .....	[HC] 516
Chan Fuk Sang & Anor; Shek Kam Tin v .....	[CA] 178	Chung Cho Hin; R v .....	[HC] 309
Chan Kam t/a Kam Shing Construction Co v Lee Lok & Ors .....	[DC] 439	Collector of Stamp Revenue; Hutchison International Ltd v .....	[DC] 384
Chan King Kan; Chan Cheng Siu Kun v .....	[HC] 359	Commissioner of Inland Revenue; Lam Ying Bor Investment Co v .....	[CA] 43
Chan Man (Administrator of the Estate of Chan Tak, deceased) v Lam Chau Shing & Ors .....	[HC] 489	Commissioner of Rating and Valuation; Cheung Fat Fan & Anor v .....	[Ld T] 547
Chan Shuen; Lee Hoi Pang v ..	[DC] 310	Commissioner of Rating and Valuation; Cross-Harbour Tunnel Co Ltd v .....	[Ld T] 81
Chan Tim Wo (London Star Insurance Co Ltd, third party); Shuai David v .....	[HC] 551	Commissioner of Rating and Valuation; Trustees of the Church of England in the Diocese of Victoria v .....	[Ld T] 523

	Page		Page
Cross-Harbour Tunnel Co Ltd v Commissioner of Rating And Valuation..... [Ld T]	81	Hong Kong Chinese Bank Ltd, The (Chan Sik Nin, third party); Chu Chan Po Kee Grace v ..... [HC]	376
Cunningham & Anor; R v ..... [CA]	53	Hutchison International Ltd v Collector of Stamp Revenue [DC]	384
<b>D</b>		<b>I</b>	
Dodwell Shipping Ltd; Lo Ngau v ..... [DC]	245	Incorporated Owners Of Oriental Gardens; Cheung Yuet & Anor v ..... [CA]	168
<b>E</b>		Independent Commission Against Corruption; Yee Po Land Development Co Ltd v ..... [DC]	340
Edward Wong Financial Co Ltd v Infinity Industrial Co Ltd & Anor ..... [HC]	449	Infinity Industrial Co Ltd & Anor; Edward Wong Financial Co Ltd v ..... [HC]	449
<b>F</b>		Ip Chiu & Anor; R v ..... [CA]	182
Fok Chak Chun & Anor; R v [CA]	50	<b>K</b>	
Fung Ka Shing; R v ..... [CA]	191	Khan v Attornety General ..... [CA]	63
<b>G</b>		Kwan Wong Tan and Fong (A firm); Wienerwald Holding AG v ..... [HC]	232
Gilman & Co Ltd v Yau Shun Printing Press ..... [DC]	300	<b>L</b>	
<b>H</b>		Lai Chuk Ting & Ors; R v ..... [CA]	230
Hak Kan Navigation Co SA; Tse Wong Hing (Administratrix of the Estate of Woo Ming Cham, deceased) v ..... [HC]	392	Lai Kwok Wah & Ors v Seto Sylvia ..... [CA]	144
Halim Sulman & Anor; R v .... [CA]	224	Lai Lai Yuk; R v ..... [HC]	536
Ho Shiu Sun & Anor; R v ..... [HC]	530	Lam Chau Shing & Ors; Chan Man (Administrator of the Estate of Chan Tak, deceased) v ..... [HC]	489
Ho Wai Leung; R v ..... [CA]	42	Lam Ying Bor Investment Co v Commissioner Of Inland Revenue ..... [CA]	43
Ho Yuk Lan & Anor; R v ..... [CA]	429	Law Tung Shing; R v ..... [CA]	130
Hong Kong & Shanghai Banking Corp; New Territories Housing Development Co Ltd v ..... [HC]	501	Leatra Co Ltd v Lee Kwok Wing Alfred & Anor ..... [DC]	467
Hong Kong and Kowloon Wharf And Godown Co Ltd v Bank Negara Indonesia ..... [CA]	1	Lee Hoi Pang v Chan Suen ..... [DC]	310
Hong Kong and Shanghai Banking Corp & Ors (No 1); Administrator in Hong Kong of The Catholic Mission of Macao v ..... [HC]	398	Lee Kwok Wing Alfred & Anor; Leatra Co Ltd v ..... [DC]	467
Hong Kong and Shanghai Banking Corp & Ors (No 2); Administrator in Hong Kong of The Catholic Mission of Macao v ..... [HC]	405	Lee Lok & Ors; Chan Kam t/a Kam Shing Construction Co v ..... [DC]	439

# Table of Cases Reported

	Page		Page
Lee Shek Leung; Wing Cheung Shing Co Ltd v ..... [CA]	175	R v Chau Man ..... [CA]	426
Lee Shek Tang; R v ..... [HC]	319	R v Cheng Pak Chang ..... [CA]	132
Lee Tang Hop Wo; Lee Yuen Sam v ..... [HC]	444	R v Cheung Ting Wai ..... [CA]	102
Lee Yuen Sam v Lee Tang Hop Wo ..... [HC]	444	R v Chu Chuen ..... [HC]	516
Leung Hin Kwong; R v ..... [CA]	157	R v Chung Cho Hin ..... [HC]	309
Leung Kwan Fu & Ors; R v ... [HC]	494	R v Cunningham & Anor ..... [CA]	53
Lim Tit Seng; R v ..... [CA]	409	R v Fok Chak Chun & Anor... [CA]	50
Lo Ngau v Dodwell Shipping Ltd ..... [DC]	245	R v Fung Ka Shing ..... [CA]	191
Lo Wing Cheong; R v ..... [CA]	160	R v Halim Sulman & Anor .... [CA]	224
<b>M</b>		R v Ho Shiu Sun & Anor ..... [HC]	530
Man Wing Hing; R v ..... [CA]	416	R v Ho Wai Leung ..... [CA]	42
Modern Terminals (Berth 5) Ltd v States Steamship Co ..... [HC]	194	R v Ho Yuk Lan & Anor ..... [CA]	429
Moon Yik Co Ltd & Anor v Attorney General ..... [HC]	433	R v Ip Chiu & Anor ..... [CA]	182
Moscow Narodny Bank Ltd; Cheong Yip Finance (Hong Kong) Ltd v ..... [CA]	59	R v Lai Chuk Ting & Ors ..... [CA]	230
<b>N</b>		R v Lai Lai Yuk ..... [HC]	536
New Territories Housing Development Co Ltd v Hong Kong & Shanghai Banking Corp ..... [HC]	501	R v Law Tung Shing ..... [CA]	130
Ng Tat Shing & Anor; R v .... [CA]	71	R v Lee Shek Tang ..... [HC]	319
Ng Ying; R v ..... [CA]	57	R v Leung Hin Kwong ..... [CA]	157
Ngai Sum Tin; R v ..... [HC]	293	R v Leung Kwan Fu & Ors .... [HC]	494
<b>P</b>		R v Lim Tit Seng ..... [CA]	409
Poon Wing Kong & Ors; Pun Jong Sau & ORS v ..... [HC]	210	R v Lo Wing Cheong ..... [CA]	160
Pun Jong Sau & Ors v Poon Wing Kong & Ors ..... [HC]	210	R v Man Wing Hing ..... [CA]	416
Pun Ying Chau; R v ..... [HC]	545	R v Ng Tat Sing & Anor ..... [CA]	71
Puttock & Anor; R v ..... [CA]	37	R v Ng Ying ..... [CA]	57
<b>R</b>		R v Ngai Sum Tin ..... [HC]	293
R v Chan Yat Fai ..... [HC]	575	R v Pun Ying Chau ..... [HC]	545
R v Chan Yuk King ..... [HC]	396	R v Puttock & Anor ..... [CA]	37
R v Chang Chen Feng & Ors ..... [DC]	511	R v Sin Yiu Kong ..... [HC]	526
		R v Siu Hei Nam & Ors ..... [CA]	421
		R v Siu Hua Petroleum Co Ltd ..... [HC]	533
		R v Siu Wing Shing ..... [HC]	581
		R v Tang Fuk Chiu ..... [DC]	345
		R v Tsang Cheung Keung ..... [HC]	519
		R v Tsang Hon Sum ..... [CA]	435
		R v Tsang Po Man ..... [HC]	461
		R v Tsui Chung Leung ..... [CA]	419
		R v Wong Shing ..... [HC]	464
		R v Yuen Yu Kin ..... [HC]	335
		Re Cheng Kam Shui & Ors .... [HC]	265

# Hong Kong Cases

	Page		Page
Re Fong Ping Sum .....	[HC] 542	Tse Pak Kan & Ors; Amor Live Holdings Ltd & Anor v [DC]	369
Re Intex Garment Factory Ltd [HC]	579	Tse Wong Hing (Administratrix of the Estate of Woo Ming Cham, deceased) v Hak Kan Navigation Co SA .....	[HC] 392
Re Lui Shun Ha .....	[HC] 270	Tsui Chung Leung; R v .....	[CA] 419
Re Stonham .....	[HC] 287		
S		W	
Seto Sylvia; Lai Kwok Wah & Ors v .....	[CA] 144	Wah Sang Industrial Co; Takmay Industrial Co Ltd v .....	[CA] 115
Shek Kam Tin v Chan Fuk Sang & Anor .....	[CA] 178	Wienerwald Holding AG v Kwan Wong Tan and Fong (A Firm) .....	[HC] 232
Shuai David v Chan Tim Wo (London Star Insurance Co Ltd, third party) .....	[HC] 551	Wing Cheung Shing Co Ltd v Lee Shek Leung .....	[CA] 175
Sin Yiu Kong; R v .....	[HC] 526	Wong Chit Sen & Ors; Tse Kwong Lam v .....	[CA] 21
Siu Hei Nam & Ors; R v .....	[CA] 421	Wong Shing; R v .....	[HC] 464
Siu Hua Petroleum Co Ltd; R v .....	[HC] 533	Y	
Siu Wing Shing; R v .....	[HC] 581	Yau Shun Printing Press; Gilman & Co Ltd v .....	[DC] 300
States Steamship Co; Modern Terminals (Berth 5) Ltd v ....	[HC] 194	Yee Po Land Development Co Ltd v Independent Commission Against Corruption .....	[DC] 340
Sung Hing Chuen v Cheng Tsui .....	[DC] 560	Yeung Kam Wah v Yeung Leung Yau Lin v .....	[HC] 328
T		Yeung Leung Yau Lin v Yeung Kam Wah .....	[HC] 328
Takmay Industrial Co Ltd v Wah Sang Industrial Co .....	[CA] 115	Yuen Nip Yulandna; Yuen Yu Bui v .....	[HC] 464
Tang Fuk Chiu; R v .....	[DC] 345	Yuen Yu Bui v Yuen Nip Yulandna .....	[HC] 464
Trustees of the Church of England in the Diocese of Victoria v Commissioner of Rating and Valuation .....	[Ld T] 523	Yuen Yu Kin; R .....	[HC] 335
Tsang Cheung Keung; R v .....	[HC] 519		
Tsang Hon Sum; R v .....	[CA] 435		
Tsang Po Man; R v .....	[HC] 461		
Tse Kwong Lam v Wong Chit Sen & Ors .....	[CA] 21		

# SUBJECT INDEX

## ADMINISTRATIVE LAW

### **Certiorari**

Quashing of conviction – Guilty plea under misconception of nature of charge – Whether valid ground for order of certiorari to quash conviction – Telecommunications Ordinance (Cap 106) s 8(1)(b)

*Re Fong Ping Sum* HC 542

### **Natural justice**

Whether failure to give police officer an opportunity to be heard invalidated the order of reversion – Police Force Ordinance (Cap 232) s 25(1)

*Khan v Attorney General* CA 63

## BANKING AND FINANCE

### **Bankers' books**

Duty of confidentiality – Duty of banker to give evidence before court – Appropriate procedure for production of evidence – Subpoena duces tecum – Evidence Ordinance (Cap 8) s 20

*R v Chang Chen Feng & Ors* DC 511

### **Interest on dividends**

Interest not paid due to fault of bank – Whether such interest recoverable – Claim for interest on dividends not claim for damages – Hong Kong and Shanghai Banking Corporation Limited Ordinance (Cap 70) regs 128 & 129

*Administrator in Hong Kong of The Catholic Mission of Macao v Hong Kong and Shanghai Banking Corp & Ors (No 2)* HC 405

## BETTING, GAMBLING AND LOTTERIES

### **Keeping common gaming house**

No evidence of regular or habitual use of premises for gambling – Whether conviction sustained

*R v Chan Yuk King* HC 396

## BILLS OF EXCHANGE AND OTHER NEGOTIABLE INSTRUMENTS

### **Cheque**

Payment – Duty of paying bank – Bank acting as both collecting and paying bank – Paying bank exceeded customary time within which it must decide fate of cheque not presented through clearing house – Whether delay meant paying bank was liable

*Chu Chan Po Kee Grace v The Hong Kong Chinese Bank Ltd (Chan Sik Nin, third party)* HC 376

Cheque crossed 'A/C Payee Only' – Whether negotiable

*Edward Wong Financial Co Ltd v Infinity Industrial Co Ltd & Anor* HC 449

## **BRIBERY AND CORRUPTION**

### **Accepting an advantage**

In the capacity as a public servant – Money received in respect of future offence to be proved by planted evidence – Whether policemen received payment as public servants – Prevention of Bribery Ordinance (Cap 201) s 4(2)

*R v Ip Chiu & Anor* CA 182

### **Prosecution**

Evidence of allowances paid – Whether evidence from ‘expert’ witnesses with no first hand knowledge of allowances paid admissible – Whether onus on Crown to prove that no other allowances were received – Prevention of Bribery Ordinance (Cap 201) s 10(1)(b)

*R v Tang Fuk Chiu* DC 345

Evidence of official emoluments – Crown put to strict proof – Whether salary scales in Annual Estimates of Government Revenue and Expenditure admissible as evidence of official earnings – Whether estimates were ‘instruments’ – Interpretation and General Clauses Ordinance (Cap 1) s 98(2) – Prevention of Bribery Ordinance (Cap 201) s 10(1)(b)

*R v Tang Fuk Chiu* DC 345

### **Restraining order**

Revocation – Property ownership in hands of third party – Relevance of ‘material possessions’ presumptions under s 10(2) – Whether there was sufficient evidence that third party held property on behalf of accused – Prevention of Bribery Ordinance (Cap 201) ss 10(1)(b), (2) & 14C

*Yee Po Land Development Co Ltd v Independent Commission Against Corruption* DC 340

## **BUILDING AND CONSTRUCTION**

### **Deed of mutual covenant**

Illegal structures erected in breach of deed of mutual covenant – Whether tolerance by owner corporation of other illegal structures amounted to acquiescence of breach in question – Mandatory injunction could not be granted against one but not others

*Cheung Yuet & Anor v Incorporated Owners of Oriental Gardens* CA 168

### **Frustration**

Landslip caused delay in building – Whether contract frustrated – Rescission provided for in sale and purchase agreement – Vendor should have rescinded within a reasonable time of unforeseen event – Specific performance

*Cheung Kung Leung v Chinachem Investment Co Ltd* HC 474

### **Purchase of land from government**

Special condition of grant providing right of way to public – Whether compliance with special condition was dedication to public – Whether building

thereby entitled to increased site ratio and plot ratio – Building (Planning) Regulations reg 22(1)

*Moon Yik Co Ltd & Anor v Attorney General* HC 433

## **CIVIL PROCEDURE**

### **Appeal**

Quantum of damages – Payment into court – Appellant's duty to avoid revelation of such amount in appeal papers – Whether fact of payment in also to be concealed

*Shek Kam Tin v Chan Fuk Sang & Anor* CA 178

### **Joinder of parties**

Insurer – Insured was owner of vehicle driven by the tortfeasor – Plaintiff withdrew claim against owner – Whether insurer could be joined as a defendant

*Chan Man (Administrator of the Estate of Chan Tak, deceased) v Lam Chau Shing & Ors* HC 489

### **Jurisdiction**

Claim for workman's compensation – Workman employed on foreign ship and accident occurred outside Hong Kong – Employer filing defence – Whether court had jurisdiction to hear application – Whether jurisdiction point could be raised at trial though not raised in pleadings – Court had contingent jurisdiction raised by statute – Effect of s 30 of Workmen's Compensation Ordinance – Workmen's Compensation Ordinance (Cap 282) ss 9, 10 & 30

*Lo Ngau v Dodwell Shipping Ltd* DC 245

### **Pleadings**

Amendment of statement of claim – Additional claims arising from statement of claim – No requirement to amend indorsement on the writ where additional claims arose out of same facts contained in writ – Rules of the Supreme Court O 18 r 5

*Takmay Industrial Co Ltd v Wah Sang Industrial Co* CA 115

### **Small Claims Tribunal**

Counterclaim – Whether counterclaim must be pleaded in same way as a claim – Whether the defendant could counterclaim against agent rather than principal – Management company

*Wing Cheung Shing Co Ltd v Lee Shek Leung* CA 175

## **COMPANIES AND CORPORATIONS**

### **Winding up**

Registration of charges – Bill of sale – Whether invoices and receipts of sales of machinery a registerable charge

*Re Intex Garment Factory Ltd* HC 579

Affidavit verifying petition – Adequacy of affidavit of solicitor of petitioner  
– Companies Ordinance (Cap 32) s 178 – Companies (Winding Up) Rules (Cap 32) r 26

*Cheong Yip Finance (Hong Kong) Ltd v Moscow Narodny Bank Ltd* CA 59

## CONFLICT OF LAWS

### Bankruptcy

Defendant a debtor in possession of its own assets in proceeding analogous to bankruptcy proceedings in United States – Whether summary judgment should be entered in Hong Kong for plaintiff creditor – Whether execution should be stayed – Meaning and effect of proceedings in United States – Whether universal distribution of assets by American court should be respected

*Modern Terminals (Berth 5) Ltd v States Steamship Co* HC 194

## CONTRACT

### Employment contract

Termination clause – Payment of aggregate sum by initiator – Clause on employment contract intended to provide tenure – Whether penalty clause or genuine pre-estimate of loss

*Leatra Co Ltd v Lee Kwok Wing Alfred & Anor* DC 467

### Exemption clause

Bailment – Deviation – Excess of authority by defendant bailee – Whether exemption clause rendered inapplicable

*Hong Kong and Kowloon Wharf and Godown Co Ltd v Bank Negara Indonesia* CA 1

Construction – Whether parties could fairly be supposed to have intended that party in breach should be able to avail himself of exemption clause – Contra proferentum

*Hong Kong and Kowloon Wharf and Godown Co Ltd v Bank Negara Indonesia* CA 1

Fundamental breach – Whether exemption clause applicable

*Hong Kong and Kowloon Wharf And Godown Co Ltd v Bank Negara Indonesia* CA 1

### Hire-purchase agreement

Repudiation – Whether continued use of goods amounted to acceptance – Sale of Goods Ordinance (Cap 26) s 37

*Gilman & Co Ltd v Yau Shun Printing Press* DC 300

### Illegality

Marriage brokerage contract – Agreement promoted sex rather than marriage – Contrary to public policy – Whether marriage brokerage contract contrary to public policy and unenforceable

*Lee Hoi Pang v Chan Shuen* DC 310



## **Warranty**

Share transfer forms – Signature on transfer forms forged – Whether brokers who presented share transfer forms to bank expressly or impliedly warranted that transfer forms were genuine

*Administrator in Hong Kong of The Catholic Mission of Macao v Hong Kong and Shanghai Banking Corp & Ors (No 1)* HC 398

## **CRIMINAL LAW AND PROCEDURE**

### **Appeal**

Judge wrote judgment before hearing counsel – Whether defendant aggrieved – Whether proper weight given to address made

*R v Lai Chuk Ting & Ors* CA 230

### **Blackmail**

Demanding money with menaces – Obscure words used – Evidence required that both blackmailer and victim knew that a menace had been uttered – Whether evidence required to prove meaning of words

*R v Tsang Cheung Keung* HC 519

### **Causing obstruction on public footpath**

No evidence of ownership of machines causing obstruction – Whether charge proved – Summary Offences Ordinance (Cap 228) s 4(A)

*R v Chu Chuen* HC 516

### **Cautioned statement**

Admissibility – Recital contained to previous inculpatory statements alleged to be made by defendant – Whether statement including recital should be placed before jury

*R v Tsang Hon Sum* CA 424

### **Confession**

Whether tainted by injection given to mentally unsound person – Whether confession involuntary

*R v Lim Tit Seng* CA 409

### **Conspiracy**

Evidence of co-conspirator under immunity – Same co-conspirator later convicted of perjury in relation to trial – Effect on evidence given under immunity

*R v Cunningham & Anor* CA 53

Joint charge – Preventive Service officers protecting drug traffickers in exchange for bribes – Not all co-conspirators were public officers – Whether appropriate to prefer joint charge – One co-conspirator joined subsequently – Whether one conspiracy or two conspiracies

*R v Ng Tat Shing & Anor* CA 71