

# HONG KONG CASES

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*General Editor*

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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 Court Divorce Jurisdiction
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
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
MP	Miscellaneous Proceedings
MR	Master of the Rolls
n	note
NSW	New South Wales
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(s)	paragraph(s)
RSC	Rules of the Supreme Court
r(r)	rule(s)
reg(s)	regulation(s)
s(s)	section(s)
sub-s(s)	subsection(s)
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:

A & E	Adolphus & Ellis; 1834-1840
AC	Law Reports, Appeal Cases (HL and PC); since 1890
All ER	All England Law Reports; since 1936
Ad & El	Adolphus & Ellis; 1834-1840
B & S	Best & Smith; 1861-1871
BWCC	Butterworths Workers' Compensation Cases (UK); 1907-1949
CB(NS)	Common Bench, New Series; 1856-1865
Can B Rev	Canadian Bar Review; since 1923
Ch	Law Reports, Chancery Division; since 1890
Ch App	See LR Ch Appeals
Ch D	Law Reports, Chancery Division, 45 volumes; 1875-1890
CLR	Commonwealth Law Reports; since 1903
CPD	Common Pleas Division; 1875-1880
Car & K	Carrington & Kirwan; 1843-1853
Co Rep	Coke; 1572-1616
Cowp	Cowper; 1774-1778
Cox CC	Cox's Criminal Cases; 1843-1941
Cr App R	Criminal Appeal Reports (HL and CA(UK)); since 1908
Crim LR	Criminal Law Review; since 1954
DLR	Dominion Law Reports; since 1912
De G & J	De Gex & Jones, temp Cranworth, Chelmsford & Campbell; 1857-1859
De GM & G	De Gex, Macnaghten & Gordon; 1851-1857
Doug	Douglas; 1778-1785
East	East's Term Reports; 1800-1812
ER	English Reports; 1220-1865
H & N	Huristone & Norman, 7 volumes; 1856-1862
HKC	Hong Kong Cases

# Abbreviations

HKDCLR	Hong Kong District Court Law Reports
HKLJ	Hong Kong Law Journal
HKLR	Hong Kong Law Reports
Hag Ecc	Haggard (Ecclesiastical); 1827-1833
JC	Justiciary Cases (Sc); since 1916
JP	Justice of the Peace and Local Government Review; since 1837
KB	King's Bench
LGR	Local Government Reports; since 1903
LJ P & M	Law Journal Reports, New Series Probate and Matrimonial; 1831-1949
LJ Ch	Law Journal Reports, New Series Chancery; 1831-1949
LR Eq	Equity cases, 20 volumes; 1866-1875
LR Exch	Exchequer Cases; 10 volumes; 1865-1875
LR HL	Eng & Irish Appeals and Peerage Claims (HL); 7 vols; 1866-1875
LT	Law Times Report; 1859-1947
Ll LR	Lloyd's List Law Reports; 1919-1950
Lloyd's Rep	Lloyd's List Law Reports; since 1951
M & G	Manning & Granger; 1840-1844
M & W	Meeson & Welsby; 1836-1847
Mood CC	Moody; 1824-1844
NI	Northern Ireland Law Reports; since 1925
NZLR	New Zealand Law Reports; since 1883
OLR	Ontario Law Reports; 1901-1931
P	See "Law Reports"
P & D	See "Law Reports"
Price	Price Practice Cases; 1830-1831
QB	Law Reports, Queen's Bench Division; 1891-1900, and since 1952
QB	Queen's Bench Reports (Adolphus and Ellis, New Series), 18 volumes; 1841-1852
QBD	Law Reports, Queen's Bench Division; 1875-1890
RPC	Reports of Patent Cases; since 1884
SASR	South Australian State Reports; since 1921
SC	Session Cases (Sc); since 1906
SJ	Solicitors' Journal; since 1857
SRNSW	State Reports New South Wales; since 1901
Stark	Starkie; 1814-1823
Str	Strange, J (ed by Nolan); 1716-1749
Sty	Style; 1646-1655
TLR	Times Law Reports; 1884-1952
Salk	Salkend; 1689-1712
Term Rep	Term Reports (By Dunford & East); 1785-1800
VLR	Victorian Law Reports, Australia; 1875-1956
VR	Victorian Reports; since 1957
Vern	Vernon; 1681-1720
WIR	West Indian Reports; since 1959
WLR	Weekly Law Reports; since 1953

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Injunction – Action should be taken against Attorney General – Bailiff a Crown servant – Injunction against Crown servants unavailable – O 17 procedure more appropriate – Crown Proceedings Ordinance (Cap 300) ss 13, 16 – Rules of the Supreme Court O 17

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## BANKING AND FINANCE

### Credit card

Stolen card used by thief to make purchases – Whether owner of credit card to repay amount – Terms and conditions of credit card agreement – Whether terms and conditions reasonable – Bargaining power of parties

*OTB International Credit Card Ltd v Au Sai Chak Michael* CA 219

## BRIBERY, CORRUPTION AND ORGANISED CRIME

### Crown servant

Pecuniary resources and property disproportionate to official emoluments – Presumption of control of interests – Wife – Whether agent or trustee – Closeness of relationship and other circumstances – Prevention of Bribery Ordinance (Cap 201) s 10(2)

*R v Ho Shing Tuen* CA 289

### Sentencing

Order applied retrospectively – Whether ‘penalty’ within meaning of s 92 of Interpretation and General Clauses Ordinance (Cap 1) – Whether s 12(3) applicable to defendants charged before it came into force – Prevention of Bribery Ordinance (Cap 201) s 12(3) – Interpretation and General Clauses Ordinance (Cap 1) s 92

*R v Ho Shing Tuen* CA 289

## BUILDING AND CONSTRUCTION

### Development control

Whether under contract of sale purchaser could add an extra three storeys to building – Whether planned building set back from boundaries – Whether land not built upon dedicated to public – Whether vendor estopped from claiming that purchaser could not add an extra three storeys as the purchaser had bid a higher price for the land than they would otherwise have – Building (Planning) Regulations (Cap 123) reg 22(1)

*Attorney General v Moon Yick Co Ltd & Anor* CA 249

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Delivery of cargo – Loss of cargo and various expenditure incurred – When cause of action arose – Whether from date of sacrifice/expenditure or from date of adjustment of loss – Claim statute barred

*Hong Kong Island Shipping Co Ltd v Castle Insurance Co Ltd* HC 398

### Carriage of goods by sea

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*Kalimantan Timbers Co v Mighty Dragon Shipping Co SA* CA 228

## CIVIL PROCEDURE

### Amendment of writ

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*Kalimantan Timbers Co v Mighty Dragon Shipping Co SA* CA 228

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*Chan Lan v Kan Wai Yan & Anor* CA 63

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*Grefo Ltd v Mailex Ltd* CA 21

### Crown proceedings

Injunction sought against Chief Bailiff misconceived – Injunction unavailable against Crown servant – Interpleader procedure under O 17 appropriate remedy – Crown Proceedings Ordinance (Cap 300) ss 13, 16 – Rules of the Supreme Court O 17

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### Discovery

Defamation – Plea of justification – Whether adequate particulars by way of justification arose – Discovery only of documents relating to incidents by way of justification already particularized – Discovery not intended to furnish particulars of justification

*Loh Robin v Salamon & Ors* HC 383



Defamation action – Privilege – Discovery of documents in possession of third party to action – Whether third party mere witness or was actually involved in alleged wrongful tortious act

*Ho Tsui Chun v Attorney General* HC 720

### Execution of foreign judgment

Court not concerned with correctness of decision – Whether judgment obtained by fraud – Whether breach of public policy or natural justice – Whether judge gave thought to relevant considerations

*Far East Bank and Trust Co v King Poo Koo* HC 377

### Garnishee proceedings

Garnishee debt to judgment debtor disputed – Whether order should be made absolute

*Go Fun Properties & Investment Ltd v So Bik Har Winfield Constructors Corp Ltd & Anor* CA 66

Garnishee had lien over a sum of money – Whether garnishee should pay the amount into court

*MK Lam & Co (a firm) v Hong Kong Telephone Co* CA 52

### Pleadings

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*Yu Poon Yin v Winner Motor Co (A Firm)* HC 403

### Statement of claim

Amendment – Whether leave to amend could be granted – Whether meritorious defence to the action

*Kaiser Garments Ltd v Lai Shum Co* CA 245

Striking out – Judgment obtained in previous action in respect of same cause of action but against a different entity – Whether vexatious or frivolous – Whether abuse of process – Rules of the Supreme Court (Cap 4) O 18 r 19

*Numatic Engineering Ltd v Ying Hiu Tan Peter* HC 582

### Summary judgment

Amendment of statement of claim – Amendment sought after order of Registrar granting summary judgment and pending appeal – Whether open to plaintiff to rely on amendment – Rules of the Supreme Court O 14 r 1(2A), O 20 r 3

*Far East Bank and Trust Co v King Poo Koo* HC 377

## COMPANIES AND CORPORATIONS

### Winding up

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