



ANTHONY CHAN 陳浩淇大律師

Call: 2005 (HK)

PROFILE

Anthony Chan has a broad civil litigation and advisory practice with an emphasis on public law and commercial law.

In his public law practice, Anthony has substantial experience in constitutional and administrative law litigations, civil liberty cases, town planning, judicial reviews generally and election petitions. Recent notable cases include advising the LegCo President on measures to resolve the filibustering of the election of the House Committee Chairman and acting for the Government in the Small House Policy case and the Co-location arrangement case. Other highlights include representing the Bar in the constitutional challenge against the supplementary occupation rule and appearing for the LegCo President and members in the series of oath-taking cases and filibustering cases.

Anthony's commercial practice encompasses property disputes (compulsory sale, adverse possession and encroachment), shareholders' disputes, insolvency matters and general contractual disputes. Anthony's private client work include acting for family members and the committees in mental health and related proceedings (such as asset recovery and statutory will) and advising high net worth individuals on succession planning. Other areas of expertise include conflict of laws, breach of confidence (trade secrets), regulatory and disciplinary matters, building appeals, matrimonial finance and contempt of court proceedings. He also has a substantial construction and arbitration practice.

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PRACTICE AREAS

- Public Law / Judicial Review
- Property & Conveyancing
- Building / Construction
- Arbitration
- Injunction / Contempt
- Commercial
- Banking / Finance
- Restitution / Unjust Enrichment
- Securities & Regulation
- Insolvency
- Company
- Confidentiality / Privacy
- Conflict of Laws

- Mental Health
- Probate / Succession
- Family / Matrimonial
- Planning

APPOINTMENTS AND PUBLIC OFFICE

- Temporary Deputy Registrar, High Court (July 2019, July 2020)
- Member of Barristers Disciplinary Tribunal Panel (1 July 2018 to present)
- Member of Committee on Constitutional Affairs & Human Rights, Hong Kong Bar Association (March 2017 to present)
- Lecturer (Non-Clinical), Department of Professional Legal Education, University of Hong Kong (2015 to present)
- Member, Election Nomination Advisory Committee (2015-2016)

EDUCATION

2004 LLM (Merit), University College London, University of London
 2003 PCLL, University of Hong Kong
 2002 LLB (Hons), University of Hong Kong
 1992 - 1999 Diocesan Boys' School

SCHOLARSHIP AND PRIZES

Bar Scholarship (2004)
 Middle Temple Advocacy Scholarship
 Temple Chambers Pupillage Award
 John Griffiths Prize in Advocacy
 Deacons Cup & Prize, University of Hong Kong Mooting Competition

SELECTED CASES

PUBLIC LAW / JUDICIAL REVIEW

Constitutional challenge / judicial review

- *Kwok Cheuk Kin v. Direction of Lands* [2020] 1 HKLRD 988; [2019] 2 HKC 538
Systemic constitutional challenge against the Small House Policy: whether the discriminatory policy and practices are protected by article 40 of the Basic Law, which guarantees the protection of lawful and traditional rights of the indigenous inhabitants of the New Territories (led by Benjamin Yu, SC and with Mok Yeuk-Chi).
- *Sixtus Leung v. Secretary for Justice* [2019] 1 HKLRD 292; [2019] 1 HKC 104
Constitutional challenge against the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Ordinance (Cap 632) (led by Benjamin Yu, SC and Abraham Chan, SC).
- *Leung Sze Ho Albert v. Bar Council* [2016] 5 HKLRD 542 (CA)
Constitutional challenge to the Bar's supplementary occupation rule as contrary to the freedom of choice of occupation guaranteed by article 33 of the Basic Law (led by Benjamin Yu, SC and with Abraham Chan).
- *Leung Kwok Hung v. President of the Legislative Council (No.2)* (2014) 17 HKCFAR 841

The definitive judgment on costs in contested applications for leave to apply for judicial review at CFI, CA and CFA levels (led by Benjamin Yu, SC).

- *Lai Man Lok v. Director of Home Affairs* [2017] 3 HKLRD 338
Whether the decision to remove the applicant from an invitation-only area violated his right to freedom of the person and freedom of lawful expression, assembly and demonstration; common law right to exercise “self-help” to remove trespassers and prevent unlawful obstruction of due execution of lawful duties (led by Victor Dawes, SC).
- *Tang Hoi Sang v. Director of Lands* [2017] 4 HKC 230
Whether short term tenancies over Government land are amenable to judicial review. Whether squatters have legitimate expectation to continue occupying Government land.
- *Hung Hing v. Director of Lands* [2015] 5 HKLRD 516 (CA)
Whether the decision to refuse to sell Government land to applicants for small houses to provide for vehicular access to the proposed small houses is amenable to judicial review.
- *Reid v. Municipal Services Appeals Board* [2014] 1 HKLRD 513
Whether it is lawful for the Liquor Licensing Board to impose an additional condition to a liquor licence that liquor sold on licensed premises must be consumed on those premises.
- *Wu Yuk Wah Ben v. Director of Hong Kong Observatory* [2013] 2 HKLRD 1068 (CA)
Judicial review concerning the decision to construct a radar station in Tuen Mun (led by Lisa Wong, SC).
- *Chau Tam Yuet Ching v. The Director of Lands* [2013] 3 HKLRD 169 (CA); HCAL 66/2012, 18.7.2012
Whether the Director’s decision to terminate Government Land License for breach is amenable to judicial review (led by Johnny Mok, SC).
- *Koon Ping Leung v. The Director of Lands* [2012] 2 HKC 329
Judicial review challenging the small house policy’s restriction on applications by indigenous inhabitants based overseas.
- *Christopher Wong & Ors. v. Director of Lands* HCAL 95, 97-99/2010, 24 September 2010
Judicial review on land resumption, on the right to a home (led by Benjamin Yu, SC and with Stewart Wong).

Legislative Privilege

- Advised the LegCo President on whether, and if so, what measures may be taken to resolve the impasse to legislative business caused by the filibustering of the election of the House Committee Chairman (led by Lord Pannick, QC).
- *Kwok Cheuk Kin v President of LegCo* [2019] HKCFI 1482
Constitutional challenge against LegCo’s resolution to lower the quorum of a meeting of the Committee of the Whole Council (led by Wong Yan Lung, SC).
- *Chief Executive & Secretary for Justice v. President of the Legislative Council* [2016] 6 HKC 417
Whether the oath of office taken by 2 elected persons contravened article 104 of the Basic Law and whether the President has the power to allow them to retake oath (led by Jat Sew-Tong, SC).
- *Chief Executive & Secretary for Justice v. President of the Legislative Council* [2016] 6 HKC 144
Interim injunction to restrain 2 elected persons from retaking the oath of office (led by Jat Sew-Tong, SC).
- *Leung Kwok Hung v. President of the Legislative Council* (2014) 17 HKCFAR 689; [2013] 2 HKC 580 (CA)
Judicial review arising from the President’s decision to close the debate of the Legislative Council (Amendment Bill) 2012 which was deliberately prolonged by legislators employing filibustering tactics. The issue raised was the court’s power – under the doctrines of separation of powers and legislative privilege – to intervene in the President’s decision made in the legislative process (led by Benjamin Yu, SC in the CFA and led by Jat Sew-Tong, SC in the CA).
- *Cheng Kar-Shun & Anor v. Hon. Li Fung Ying & Ors* [2011] 2 HKLRD 555; [2009] 4 HKC 204; [2009] 14 HKPLR 626
Judicial review concerning decisions made by the Select Committee on the Leung Chin Man affair. The issue was whether the court has jurisdiction to inquire into the internal working of the Legislative Council (led by Lord Lester of Herne Hill, QC).
- *Tsang Kwong Kuen v. Chairman of the Finance Committee* HCAL 44/2015, 31.5.2017
Whether the court should intervene and adjudicate on the decision of the Chairman of the Finance Committee not to ask a member to withdraw from the voting of funding concerning the development in Kwu Tung North and Fanling North area.
- *Wong Yuk Man v. Ng Leung Sing* HCMP 3217/2015, 22.1.2016 (CA); [2015] 5 HKLRD 606 (CFI)
Whether the court should intervene and adjudicate on the decisions of the Chairman of the Finance Committee to stop dealing with further motions from members of the committee and put the funding proposal to a vote.

Election Petitions

- *Chong Wing Fai Winfield v. Cheung Kwok Kwun* [2013] 2 HKLRD 693

Whether an elector who has casted his vote after moving to a new address without reporting the change of address amounts to a material irregularity or corrupt conduct which disqualifies him from voting.

- *Chan Chi Shing v. The Revising Officer Mr. Symon Wong & Ors* HCAL 132/2010; HCAL 9/2011, 27.4.2011
Whether the Revising Officer's decision should be quashed on the basis of a material error of fact; the court's jurisdiction regarding amendment of register of voters (led by Ronny Tong, SC).

PROPERTY & CONVEYANCING

- *Secretary for Justice v. Chau Ka Chik Tso* (2011) 14 HKCFAR 889; [2011] 2 HKLRD 387 (CA)
Leading authority on the law of encroachment and adverse possession (led by Edward Chan, SC and with Mok Yeuk Chi in the CFA and with Mok Yeuk Chi in the CA).
- *Building Authority v. Appeal Tribunal (Buildings)* (2018) 21 HKCFAR 194; [2017] 4 HKLRD 510 (CA); [2016] 6 HKC 515 (CFI)
Whether, under a widely used special condition in a Government lease, the grantee's maintenance obligation extends to man-made slopes supporting the road located on Government land (led by Benjamin Yu, SC and with Mok Yeuk-Chi in the CFA and with Mok Yeuk Chi below).
- *Win Glories Ltd v. Majorluck Ltd* [2019] 5 HKLRD 471 (CA)
Whether commercial tenant's liability to pay joint charges include obligation to pay management charges.
- *Cheer Sky Ltd v. Chan Yuet Sheung* [2019] HKCFI 606
Specific performance of a provisional sale and purchase agreement.
- *Foremost Hill Ltd v. Bank of China (Hong Kong) Ltd* HCA 2555/2013, 5.4.2017
Adverse possession by a tenant in common of a multi-storey building over part of a unit exclusively possessed by another tenant in common under DMC.
- *New Mercury Holding Corporation v. Secretary for Justice* CACV 73 & 74/2014, 15.4.2014 (CA); [2013] 2 HKLRD 853 (CFI)
Construction of a widely used condition in a Government lease that imposes minimum curtilage area (led by Benjamin Yu, SC).

Compulsory sale

- *Group Leader Ltd v. Hui Sun Fat* [2016] 2 HKLRD 625 (CA)
Whether covenant prohibiting disposal of shares in land without Government approval gave rise to proprietary interest and whether the Director of Lands has locus to intervene in an application for order for sale (with Mok Yeuk-Chi).
- *Wood One Keeprich Ltd v. Sky Magic Ltd* [2018] HKLdT 29
- *Smart Value Investments Ltd v. Prottime Investment Ltd* LDCA 42000/2012, 7.6.2013

Building management

- Advising and appearing in cases before the Appeal Tribunal (Buildings).

BUILDING / CONSTRUCTION

- *Chun Wo Building Construction Ltd v. Metta Resources Ltd* HCCT 29/2013, 19.8.2016
One of the largest construction litigations in Hong Kong in recent years arising out of the construction of Tsz Shan Monastery (led by John Scott, SC and with Liza Jane Cruden and Anthony Chow). Important issues addressed include (a) whether a notice of delay is a condition precedent for EOT claim under SCC-23 (Hong Kong Standard Form); (b) architect's abdication of responsibility and how that affects the employer's defence to VO and EOT claims based on the contractor's failure to comply with formality and notice provisions; (c) diminution of contract sum for works omitted and defects.
- *Wui Fai Engineering Co Ltd v. Sanfield Building Contractors Ltd* HCCT 15/2017
A 15-day trial in respect of a formwork contract concerning a mix-used development over an MTR station (led by Victor Dawes, SC and with Peter Dong).
- *Hong Kong (SAR) Hotel Ltd v. Wing Key Construction Co Ltd* HCCT 3/2010, HCCT 57/2009, 16.5.2016
A 20-day trial of a construction dispute arising out of a hotel development project in Hong Kong. The main issue was whether the hotel developer was entitled to terminate the contract on the basis of the building contractor's repeated failure to comply with architect instructions to rectify various safety irregularities.
- *IO of Hamden Court v. Mega Miles Construction Company Ltd* [2015] 5 HKC 179
Application to set aside an arbitrator's ruling on jurisdiction. The issues raised include whether the application was out of time under article 16(3) of the Model Law and whether the arbitration clause covered disputes as to whether the contract existed (with Solomon Lam).

Arbitration

- Arbitration between owner and main contractor arising out of refurbishment works for a commercial

building in Hong Kong.

- Arbitration between owner and main contractor arising out of defective services provided by the latter in relation to alterations and additions works for an industrial building in Hong Kong (led by leading counsel).
- Arbitration of a construction dispute relating to the Hong Kong service center of a luxury vehicle marque.
- Arbitration between architect and owner arising out of the construction of a casino in Macau (led by leading counsel).
- Arbitration between owner and main contractor arising out of a design and built contract for a townhouse in Hong Kong.
- Arbitration between main contractor and incorporated owners in respect of renovation works for a building estate in Hong Kong.
- Arbitration between main contractor and an owner in respect of renovation works for a townhouse in Hong Kong.

ARBITRATION

- International arbitration (under ICC rules) over licensing and non-competition provisions (governed by Cayman law) in a shareholders agreement relating to a major retail business in the PRC (led by leading counsel).
- International arbitration (under SCC rules) between sino-foreign joint venture partners to an electricity plant project over the failure to inject land use rights worth over RMB300 million as capital contribution.
- See also the list of arbitration cases under Building / Construction section.

INJUNCTION / CONTEMPT

Public law

- *Chief Executive & Secretary for Justice v. President of the Legislative Council* [2016] 6 HKC 144
Interim injunction to restrain 2 elected persons from retaking the oath of office (led by Jat Sew-Tong, SC).
- *Secretary for Justice v. Li Pang Kay* [2016] 2 HKLRD 882
Sharp Daily and Apple Daily criminal contempt case – report of confession likely to prejudice or interfere with pending criminal proceedings (led by Jat Sew-Tong, SC).
- *Secretary for Justice v. Ocean Technology Limited* [2010] 1 HKC 456
Citizen's Radio case, contempt of court (led by Jat Sew-Tong, SC).
- *Secretary for Justice v. Ocean Technology Limited* [2008] 2 HKLRD 82
Citizen's Radio case, civil injunction in aid of criminal law (led by Jat Sew-Tong, SC and Kevin Zervos, SC).

Private law

- *Chow Steel Industries Public Company Ltd v. Ko Sung* [2020] HKCFI 483
Whether to continue interlocutory injunction in aid of Thai proceedings for breach of confidence and unlawful use of trade secrets claims.
- *Golden Miles Group Holding Ltd v. Jacob & Co* [2018] HKCFI 441
Discharge of interlocutory injunction restraining breach of distributorship agreement; whether agreement validly terminated; whether there is any prospect of a permanent injunction given the irretrievable breakdown of relationship and complete loss of mutual trust and confidence between the parties (led by Benjamin Yu, SC).
- *SK Hynix Inc v. Vannex International Ltd* HCA 1473/2014, 10.2.2015
Injunction to restrain unlawful use of trade secrets concerning the manufacturing process of memory semiconductors. The case raised the question whether the confidential nature of information would be destroyed if a competitor could obtain the information by reverse engineering.
- *Islamic Republic of Iran Shipping Lines v. Phiniqia International Shipping LLC* HCMP 2034/2014, 24.9.2014 (CA); HCA 2368/2012, 21.7.2014
Discharge of Mareva Injunction in aid of enforcement of an English judgment.
- *Chinaplus Wines Ltd v. Berry Bros & Rudd Ltd* HCA 1818/2012, 13.12.2012
Injunction to restrain unlawful use of customer database (led by Adrian Huggins, SC).

COMMERCIAL

- *Hu Hung Chiu v. Pacific Electric Wire & Cable Company Ltd* [2018] 5 HKLRD 767
Whether the court has jurisdiction to and should stay proceedings brought by a party pending payment of adverse costs order made in earlier proceedings (led by Victor Dawes, SC and with Peter Dong).
- *Golden Miles Group Holding Ltd v. Jacob & Co* [2018] HKCFI 441
Discharge of interlocutory injunction restraining breach of distributorship agreement; whether agreement

validly terminated; whether there is any prospect of a permanent injunction given the irretrievable breakdown of relationship and complete loss of mutual trust and confidence between the parties (led by Benjamin Yu, SC).

- *Euro Search (Hong Kong) Ltd v. Snow Lake Capital (HK) Ltd* [2018] HKCFI 402
Trial on contract to provide headhunting services; whether client unjustly enriched at the expense of the headhunter.
- *Super Speed Ltd (in liquidation) v. Bank of Baroda* [2015] 2 HKLRD 965 (CA); [2015] 4 HKC 200
Whether an increase of a company's overdraft constitutes disposition of its property.
- *SK Hynix Inc v. Vannex International Ltd* HCA 1473/2014, 10.2.2015
Injunction to restrain unlawful use of trade secrets concerning the manufacturing process of memory semiconductors. The case raised the question whether the confidential nature of information would be destroyed if a competitor could obtain the information by reverse engineering.
- *Islamic Republic of Iran Shipping Lines v. Phiniqua International Shipping LLC* HCMP 2034/2014, 24.9.2014 (CA); HCA 2368/2012, 21.7.2014
Discharge of Mareva Injunction in aid of enforcement of an English judgment.
- *Chinaplus Wines Ltd v. Berry Bros & Rudd Ltd* HCA 1818/2012, 13.12.2012
Injunction to restrain unlawful use of customer database (led by Adrian Huggins, SC).
- *Hung Fung Enterprises Holdings Ltd v. Agricultural Bank of China* [2012] 3 HKLRD 679 (CA)
Conflict of laws, whether a Hong Kong court should enforce double interest awarded by PRC court (led by Ronny Tong, SC).
- *Re Pacific Electric Wire & Cable Company Ltd* HCA 2746, 2763/2004, 10.10.2008
Jurisdiction to order costs against non-party to summary judgment application (led by Ashley Burns, SC)

SECURITIES & REGULATION

- Advising on provisions of the Securities and Futures Ordinance.

INSOLVENCY

- *Re Kwok Hiu Chun Damien (a bankrupt)* [2017] 4 HKLRD 421 (CA)
Whether section 16 of the Mandatory Provident Fund Schemes Ordinance (Cap.485) excludes a bankrupt employee's long service payment from his estate.
- *Re Chan Tin Leung* [2012] 5 HKLRD 606
Whether a debtor subject to an extant IVA has locus standi to present bankruptcy petition against himself.
- *Re Lai Ka Hing Fanco* [2008] 5 HKLRD 552
Bankruptcy petition, whether petitioner unreasonably refused offer to settle debt.
- *Fong Ching Lin v. Nan Fung Finance Ltd (No.2)* [2008] 4 HKLRD 332 (CA)
Whether a bankruptcy petition is a claim for liquidated sums for the purpose of section 22(1)(a) of the Hong Kong Court of Final Appeal Ordinance.

COMPANY

- *Moorthy Selvaraj v GMT Industrial Limited* [2019] 4 HKLRD 572
Inspection of company documents by shareholders under section 740 of the Companies Ordinance. Whether inspection to enable valuation of presently owned shares constitutes a proper purpose.
- *Re Poly Property Group Co Ltd* [2016] 4 HKC 169
Whether to grant extension of time to file return of allotment and to extinguish criminal liability for late delivery. Meaning of "accidental", "inadvertence" and "just and equitable".
- *Re China Unicom (Hong Kong) Ltd* [2016] 2 HKC 343
The first reported judgment concerning an application under the new section 316(4) of the Companies Ordinance for an order extending time for the delivery of return of allotment and to extinguish criminal liability for late delivery.
- *Peng Hui Zhou v. Hong Kong Tachibana Electronics Company Ltd.* HCMP 1080/2008, 22.9.2010
Shareholders' dispute, refusal to declare dividends, exclusion from management, dilution of shareholding (led by Rimsky Yuen, SC).
- *Chung Shan Investment & Development Company Ltd v. Pioneer Metals Holdings Company Ltd* HCMP 2104/2007, 1.8.2008
Strike out of winding up relief; application to appoint provisional liquidators (with Godfrey Lam).

CONFIDENTIALITY / PRIVACY

- *Step Perfect Ltd v. Gregory Goldstein* (HCA 846/2017, 16.10.2017)
Injunction to restrain disclosure of confidential information; application to stay on forum *non conveniens* and *lis alibi pendens*

- *SK Hynix Inc v. Vannex International Ltd* HCA 1473/2014, 10.2.2015
Injunction to restrain unlawful use of trade secrets concerning the manufacturing process of memory semiconductors. The case raised the question whether the confidential nature of information would be destroyed if a competitor could obtain the information by reverse engineering.
- *Chinaplus Wines Ltd v. Berry Bros & Rudd Ltd* HCA 1818/2012, 13.12.2012
Injunction to restrain unlawful use of customer database (led by Adrian Huggins, SC).

CONFLICT OF LAWS

- *Hung Fung Enterprises Holdings Ltd v. Agricultural Bank of China* [2012] 3 HKLRD 679 (CA)
Conflict of laws, whether a Hong Kong court should enforce double interest awarded by PRC court (led by Ronny Tong, SC).
- *Step Perfect Ltd v. Gregory Goldstein* (HCA 846/2017, 16.10.2017)
Injunction to restrain disclosure of confidential information; application to stay on forum non *conveniens* and *lis alibi pendens*

MENTAL HEALTH

- Advising and appearing for the Official Solicitor, committee and family members in numerous mental health proceedings.

FAMILY / MATRIMONIAL

- *Doreen Do Yee Tong v. Wesley Wei Hei Wan* [2011] 1 HKLRD 318 (CA)
Whether the Family Court has jurisdiction to determine the ownership of a property after it has given an order on ancillary relief (led by Paul Shieh, SC).

PLANNING

- *Hong Kong Sheng Kung Hui Foundation v. Town Planning Board* [2020] 2 HKLRD 895
Whether an interim stay of proceedings should be granted to prevent TPB from considering further representations under section 6F of the Town Planning Ordinance (Cap, 131) pending the resolution of the judicial review.
- *Trustees of Church of England v. Town Planning Board* [2020] HKCFI 501
Judicial review against zoning decision regarding the Kennedy Town and Mount Davis Planning Scheme Area (led by Abraham Chan, SC).

OTHERS

- *Re Simpson QC* [2019] 5 HKLRD 441
Whether, for the purpose of ad hoc admission of overseas silk, a solicitor advocate is acceptable alternative to junior counsel (led by Gladys Li SC, Stewart Wong SC and with Esther Mak)
- *Building Authority v. Appeal Tribunal (Buildings)* [2018] 1 HKLRD 186 (CA)
Adducing new evidence to demonstrate the proposed appeal raises questions of great general or public importance not caught by the Ladd v. Marshall test (with Mok Yeuk-Chi).
- *Wong Chi Ching v. BOCOM International Holdings Co Ltd* [2016] 2 HKC 584 (CA)
Whether, upon transfer of a case from the Labour Tribunal, the High Court has jurisdiction to deal with claims outside the jurisdiction of the Labour Tribunal.
- *Bank of China (Hong Kong) Ltd v. Certain Aim Ltd* [2011] 1 HKC 135
On the law concerning an application to adduce new evidence on appeal from Master to single Judge (led by Lisa Wong, SC).
- *Doreen Do Yee Tong v. Wesley Wei Hei Wan (No.2)* [2011] 2 HKLRD 278 (CA)
Whether costs of interlocutory appeals to the Court of Appeal is to be dealt with separately from the costs of the main action.
- *Fong Ching Lin v. Nan Fung Finance Ltd* [2008] 4 HKLRD 153 (CA)
Case concerning the law of discontinuation of action.