



GRACE CHOW 周昭雯大律師

Call: 2000 (HK)

PROFILE

Grace Chow has a broad civil practice with an emphasis on insolvency law, commercial law, public law/judicial review and human rights.

Early on in her practice, she has appeared led and unled in a number of high profile cases involving shareholders disputes seeking unfairly prejudicial relief and/or just and equitable winding up, claims for breach of joint venture agreements and fiduciary duties between two then leading Karaoke outlet operators as well as the enforcement of an international arbitration award of over US\$260M which was contested all the way to the Court of Final Appeal. She has considerable experience in the winding-up of companies (both private and publicly-listed companies), the reinstatement of companies and staying of winding-up proceedings.

Apart from insolvency and bankruptcy work, she acts and advises in land, banking and employment disputes. She also accepts instructions from Legal Aid to act for and advise legally-aided clients.

In recent years, she regularly advises and appears for the Government, particularly in judicial review cases (involving torture claimants and asylum seekers/refugees and other immigration matters such those seeking work or dependency visas) and has the privilege of being led by and working closely with well-known local senior counsel as well as eminent London Queen's Counsel renowned in the areas of constitutional and administrative law, public international law and human rights.

CONTACT

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PRACTICE AREAS

- Public Law / Judicial Review
- Discrimination
- Employment
- Company
- Insolvency
- Property & Conveyancing
- Arbitration
- Mental Health

EDUCATION

2001 Master of Law (First Class Honours), Downing College, University of Cambridge

2000 Postgraduate Certificate in Laws, University of Hong Kong

1999 Bachelor of Laws (First Class Honours), University of Hong Kong

PUBLICATIONS AND ARTICLES

- Contributing Editor of *Company Law In Hong Kong Practice and Procedure* (Sweet & Maxwell)

SCHOLARSHIP AND PRIZES

- 2001 - 2002 Hong Kong Middle Temple Advocacy Scholarship
- 2000 - 2001 College Prize in Law, Downing College, University of Cambridge
- 2000 - 2001 Elected to Title of Scholar, Downing College, University of Cambridge
- 1999 - 2000 Cambridge Overseas Trust Scholarship
- 1999 - 2000 British Chevening Postgraduate Scholarship
- 1998 - 1999 Baker & McKenzie Scholarship
- 1998 - 1999 Dean's Honour List, University of Hong Kong
- 1998 - 1999 Grand Finalist, University of Hong Kong Faculty of Law's Compulsory Moots
- 1996 - 1997 Hong Kong Bank One Year-Exchange Scholarship to the University of Toronto

SELECTED CASES

PUBLIC LAW / JUDICIAL REVIEW

- *Q, R & Tse Henry Edward v Commissioner of Registration* [2019] HKCFAR 295 (appeared on behalf of the Commissioner of Registration to resist an application for judicial review challenging the requirement for female-to-male transgender persons to undergo sex assignment surgery in order to change the gender entry on the HKID card from female to male as unconstitutional)
- *QT v Director of Immigration* [2018] HKCFA 28 (challenge to the Director of Immigration's refusal to recognize a partner to a same-sex civil partner as a "spouse" under his dependant policy on grounds of sexual orientation discrimination and *Wednesbury unreasonableness*)
- *GA v Director of Immigration* (2014) 17 HKCFAR 60 (Court of Final Appeal) (claim by mandated refugees and screened-in torture claimants that they had a right to work and not permitting them to work would constitute inhuman and degrading treatment)
- *Ghulam Rbani v Secretary for Justice* (2014) 17 HKCFAR 138 (Court of Final Appeal) (applicability of the *Hardial Singh* principles to the power of the Director of Immigration to detain pending his decision whether to make a removal order against an overstayer who had made a CAT claim, exclusion of the right to rely on Article 5(1) of the Hong Kong Bill of Rights by persons not having the right to enter and remain in Hong Kong by reason of s.11 of the Hong Kong Bill of Rights Ordinance, Cap.383)
- *C v Director of Immigration* (2013) 16 HKCFAR 280 (Court of Final Appeal) (challenge to the Director of Immigration's decision to remove without having independently assessed whether that person is a refugee who has a well-founded fear of persecution even though Hong Kong is not a party to the 1951 Convention Relating to the Status of Refugees)
- *Ubamaka v Secretary for Security* (2012) 15 HKCFAR 743 (Court of Final Appeal) (challenge to the deportation order made on the grounds that the return the applicant to his home country would subject him to double jeopardy and torture or inhumane treatment, validity and scope of s.11 of the Hong Kong Bill of Rights Ordinance, Cap.38, applicability of Article 3 of the Hong Kong Bill of Rights in expulsion cases and what must be established to fall within Article 3)
- *Ram Chander v Director of Immigration*, [2018] HKCA 585 (appeared on behalf of the Director of Immigration upon the invitation of the Court of Appeal to respond to an appeal against the refusal of leave to apply for judicial review by a non-refoulement claimant who was not permitted to raise a subsequent claim under Article 2 of the Hong Kong Bill of Rights)
- *Hashimi Habib Halim v Director of Immigration*, HCAL 251/2015 (appeared on behalf of the Director of Immigration to resist an application for leave to judicial review the Director's refusal to recognize the applicant as a "stateless person")
- *Hui Wing Kit v Director of Immigration*, [2016] 3 HKLRD 80 (appeared on behalf of the Director of Immigration in a challenge to the Director of Immigration's decision to remove an illegal immigrant who claimed to be stateless; the extent of the duties owed by the Director in effecting removal)

- *Commissioner of Registration v Registration of Persons Tribunal* [2015] 2 HKLRD 369 (appeared as Amicus Curiae, whether a person born in the UK to parents who were HK permanent residents and previously had been issued a HK permanent identity card before 1997 has a right of abode in Hong Kong after 1997 under Article 24 of the Basic Law, applicability of Article 5 of the Chinese Nationality Law, burden of proof)
- *ST v Betty Kwan* [2014] 4 HKLRD 277 (Court of Appeal) (the requirements of procedural fairness and when an oral hearing should be afforded in the determination of a CAT petition)
- *Saeed v Director of Immigration* [2012] 3 HKLRD 541 (Court of Appeal) (validity and lawfulness of removal order against illegal immigrant)
- *A v Director of Immigration* [2009] 3 HKLRD 44, [2008] 4 HKLRD 752 (validity of removal order, lawfulness of the Director of Immigration's unpublished detention policy under Article 5 of the Hong Kong Bill of Rights, claim for damages for unlawful detention/false imprisonment)
- *Cheng's Educational Fund Ltd v Secretary for Education and Manpower*, HCAL 61/2004 (challenge to the tightened criteria for aided primary schools to operate Primary 1 class and decision not to allow the Applicant to operate Primary 1 class)
- *Lam Yuet Mei v Permanent Secretary for Education and Manpower*, HCAL 36/2004 (challenge to the removal of the school from the primary one admission school list and to cease to provide grants to it)

DISCRIMINATION

- *Q, R & Tse Henry Edward v Commissioner of Registration* [2019] HKCFAR 295 (appeared on behalf of the Commissioner of Registration to resist an application for judicial review challenging the requirement for female-to-male transgender persons to undergo sex assignment surgery in order to change the gender entry on the HKID card from female to male as discriminatory)
- *QT v Director of Immigration* [2018] HKCFA 28 (challenge to the Director of Immigration's refusal to recognize a partner to a same-sex civil partner as a "spouse" under his dependant policy on grounds of sexual orientation discrimination and *Wednesbury* unreasonableness)
- *Fok Chun Wa v Hospital Authority* (2012) 15 HKCFAR 409 (constitutional challenge by women from the Mainland who were married to Hong Kong residents to charge them non-eligible persons' fees for obstetric services in public hospitals, justification for discriminatory treatment, margin of appreciation)

EMPLOYMENT

- *GA v Director of Immigration* (2014) 17 HKCFAR 60 (Court of Final Appeal) (claim by mandated refugees and screened-in torture claimants that they had a right to work and not permitting them to work would constitute inhuman and degrading treatment)
- *Aguilar Joenelyn Elmedorial v Director of Immigration*, CACV 225/2012, FAMV 47/2013 (challenge to the refusal to grant permission to the applicant to work as a domestic helper in Hong Kong because of criminal conviction whilst working for her previous employer, eligibility criteria of "no known record", the threshold for the court's review of the decision of the Director of Immigration)

COMPANY

- *California Red Ltd v Neway Karaoke Box Ltd*, HCA 748/2008 (alleged breach of the joint venture agreement between California Red and Neway by sending out letters to record companies announcing the termination of the joint venture, injunction sought to restrain the obtaining of exclusive licences for new KTVs that are covered by existing joint promotion agreements and the making of various representations to record companies)
- *Re Chime Corp Ltd*, HCMP 4146/2001 (unfair prejudice petition, application to strike out and application to amend petition)
- *Re Weihong Petroleum Co Ltd*, HCCW 19/1998 (misfeasance proceedings against former directors, the admissibility of transcripts in private examination)

INSOLVENCY

- *Re Pets Central (HK) Limited (In Liquidation)*, HCCW 83/2012 (application for the appointment new provisional liquidators)
- *Re Celeasia Co Ltd*, HCCW 475/2005 (petition for reinstatement of company and winding up order)
- *Re Sun Honest Development (China) Ltd*, HCCW 1275/2004 (petition for reinstatement of company and winding up order)
- *Re China Million International Ltd*, HCCW 696/2004 (petition for reinstatement of company and winding up order)
- *Re TKR Finance Ltd*, HCCW 657/2004 (application for a permanent stay of winding up)
- *Wah Tat Foundation & Engineering Ltd v Kam Kin Bun & Yip Shiu Ching*, HCSD 5&6/2003 (application to set aside statutory demand)

PROPERTY & CONVEYANCING

- *Probus Ltd v Treble & Triple Ltd*, CACV 270, 271 & 272/2010, HCA 2723/2008, 167&1004/2009, (mental capacity required to enter into sale and purchase agreements, legal effect on an agency upon an agent becoming of unsound mind, measure of damages for breach of agreement)
- *Takco v Secretary for Justice*, HCAL 196/2007 (breach of tenancy agreement, whether Government was entitled to serve a Notice to Quit and to obtain vacant possession of premises, assessment of mesne profits)
- *China Weal Property Management Ltd & Anor v Golden Place Investments Ltd*, HCA 2000/2004 (claim for management fees, construction of DMC, requirement in Buildings Management Ordinance for the preparation of budgets)
- *Lam Chung Yan v Wu Yuk Ying & Anor*, HCMP 1011/2005 (vendor and purchaser summons, requisition on title, whether delay in answering requisition constituted repudiation of the sale and purchase agreement by the vendor)
- *Yeung Yin Wa & Chan Ho Chuen & Anor*, CACV 386/2004 (whether purchaser entitled to rescind sale and purchase agreement by reason of the vendor's failure to deliver keys of the property as stipulated in the agreement)
- *Tai Wai Kin v Cheung Wan Wah & Johnnie Yam*, HCMP 1858/2003 (New Territories small houses, Building Ordinance (Application to the New Territories) Ordinance Cap.121, whether requisitions satisfactorily answered, Certificate of Exemption of building works issued but not in respect of site formation and drainage works, whether Letter of Compliance and Letter of Toleration would preclude enforcement action by the Building Authority)
- *Kingdom Power Development Ltd v Dynamic Wise Trading Ltd & Anor*, DCCJ 5019/2003 (summary judgment, action for possession and trespass for occupation of staircase area not referred to in tenancy agreement)

ARBITRATION

- *Karaha Bodas Co LLC v Perusahaan Pertambangan Minyak Dan Gas Bumi Negara* (2009) 12 HKCFAR 84 (Court of Final Appeal), [2007] 4 HKLRD 1002 (Court of Appeal) and HCCT 28/2002 (Court of First Instance) (enforcement of New York Convention award of over US\$260M).

MENTAL HEALTH

- *Probus Ltd v Treble & Triple Ltd*, CACV 270, 271 & 272/2010, HCA 2723/2008, 167&1004/2009, (mental capacity required to enter into sale and purchase agreements, legal effect on an agency upon an agent becoming of unsound mind, measure of damages for breach of agreement)