



MIKE S K LUI 呂世杰大律師

Call: 2006 (HK)

PROFILE

Mike has a broad civil commercial advisory and litigation practice. He has a particular strength in written and oral advocacy, appearing at all levels of courts and tribunals.

In commercial litigation, he is often instructed in complex, high value cases involving contract claims, shareholders disputes, duties of directors, civil fraud, trust, injunction, insolvency and champerty issues. Familiar with securities law and regulation, he often acts for and advises listed companies and the Securities and Futures Commission.

In public law litigation, he has considerable experience in judicial reviews on matters of public significance. He has been appointed as Counsel for Commission of Inquiry, and often as legal adviser to statutory and disciplinary tribunals.

In tax litigation, he acts for the Revenue and taxpayers (including multinational corporations and high net worth individuals) in matters of profits tax and salaries tax, appearing often before the Board of Review and the Courts.

In employment litigation, he acts for employers and employees in a wide spectrum of disputes raising issues of defamation, discrimination (disability, sex, race and family status), confidentiality obligations, restrictive covenants, employee compensation and wrongful termination. He often acts for and advises the Equal Opportunities Commission.

In land litigation, he acts in matters of conveyancing, estate agency, New Territories land and Chinese customary law, tenancy, construction, building and planning. His clients include the Government, the Housing Authority and developers.

CONTACT

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SECRETARY

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PRACTICE AREAS

- Commercial
- Company
- Civil Fraud / Asset Recovery
- Injunction / Contempt
- Securities & Regulation
- Equity / Trust
- Restitution / Unjust Enrichment
- Banking / Finance
- Insolvency
- Public Law / Judicial Review
- Tax / Revenue
- Property & Conveyancing

- Building / Construction
- Employment
- Discrimination
- Confidentiality / Privacy
- Defamation / Media
- Conflict of Laws
- Planning
- Commission of Inquiry / Inquest

EDUCATION

2005 Master of Law, University of Cambridge
 2003 Bachelor of Laws (First Class), University of Hong Kong
 1993 - 2000 La Salle College

SCHOLARSHIP AND PRIZES

2005 Bar Scholarship
 2004 Cambridge Chevening Scholarship

SELECTED CASES

COMMERCIAL

- *G H Property Holdings Ltd v Able Profit Investment Ltd* [2018] HKCFI 2480
(shares sale; foreign illegality in contract performance contract; conflict of laws)
- *Hong Kong Zhixin Financial News Agency Ltd v China Maple Leaf Education Systems Ltd*, HCA 2973/2016
(share options granted by a listed company; specific performance and damages)
- *China Construction Realty Ltd v Lucky Dragon Ltd & Ors*, HCA 1237/2012, 1.11.17
(sale of shares; Cap.219 s.60 and conspiracy)
- *Tin Lik v Deutsche Bank AG*, HCCL 17/2011, 15.2.16; CACV 145/2016, 23.6.17
(REIT listing; commercial fraud in rental income; restitution)
- *Echelles Riffaud SA v Secretary for Justice*, HCA 1841/2011, 10.5.16
(Government purchase of fire-fighting equipment; sale of goods; latent defects)

COMPANY

- *Asia Cement Corporation v China Shanshui Investment Co Ltd*, HCMP 1958/2017
(board refusal to register shareholder; third party priority interests)
- *Asia Cement Corporation & Ors v Tianrui Group Co Ltd & Ors*, HCMP 1268/2017
(unfair prejudice petition in respect of a listed company)
- *Re Ting Wai Monastery Ltd*, HCMP 2013/2016, 6.7.17
(rectification of company records; forgery of signatures of former directors)
- *China Shanshui Cement Group Ltd & Ors v Zhang Caikui & Ors*, HCA 2880/2015
(breach of duties by former directors of a listed company; conspiracy)
- *Siberian Mining Group Co Ltd v Cheung Keng Ching & Ors*, HCA 706/2010
(breach of duties by and investment negligence of a list company director)
- *Re MyWay Ltd* [2008] 3 HKLRD 614 (CFI)
(statutory derivative action)

CIVIL FRAUD / ASSET RECOVERY

- *Daily Tone Ltd & Ors v Oriental Alliance Inc & Ors*, HCA 1946/2014 (claim against ex-directors of companies in liquidation for fund misappropriation)
- *Re Joint Silver Ltd*, HCCW 1/2016 & HCMP 552/2016 (shareholder disputes; advised on potential claims of a company in liquidation)
- *China Construction Realty Ltd v Lucky Dragon Ltd & Ors*, HCA 1237/2012, 1.11.17 (see case description under the “Commercial” category)
- *Tin Lik v Deutsche Bank AG*, HCCL 17/2011, 15.2.16; CACV 145/2016, 23.6.17 (see case description under the “Commercial” category)
- *Long Hai Hong v Chan Yu Lydia & Ors*, HCMP 3179/2013, 10.8.16 (forgery and theft of shares; rectification of share register)
- *Yang Liang Yan v Yeung Hoi Yin & Anor*, HCA 1743/2012 (joint property investment; breach of contract and trustee duties; assets recovery)
- *A-One Investments Ltd v Chau Cham Wong Patrick*, HCCL 28 & 32/2009 (claim against ex-directors of companies in liquidation for misappropriation of funds; fraudulent preferences and Cap.219 s.60)

INJUNCTION / CONTEMPT

- *HJ InnoXcell Ltd v Teh Boon Khuan* [2019] HKCFI 730 (injunction re delivery up of company property and documents)
- *Re Chau Cham Wong Patrick, a Bankrupt* [2016] 2 HKLRD 278 (CFI) (Mareva injunction sought by trustees in bankruptcy against third parties)
- *Popular E-Learning (HK) Ltd & Anor v Fok Wai Ping & Ors*, HCA 579/2014 (injunction; misappropriation of trade secrets and confidential information)
- *Taihan Global Holdings Ltd v Lau Siu Ming & Ors*, HCA 1687/2011 (Mareva injunction with pending criminal case and ongoing CCB investigation)
- *Re Karson Oten Fan, Karno (in bankruptcy)*, HCMP 1101/2011, 29.11.11 (injunction against third parties; ancillary disclosure orders)
- *Kwok Ping Sheung Walter v Sun Hung Kai Properties Ltd & Ors*, HCA 857/2008, 23.5.08; [2009] 2 HKLRD 11 (CA) (injunction re removal of listco chairman and executive director)

SECURITIES & REGULATION

- *SFC v Chiu Duncan & Ors*, HCMP 458/2018 (disqualification claim against listco directors; SFO s.214)
- *SFC v Chin Jong Hwa & Ors*, HCMP 891/2014 (disqualification and compensation claim against listco directors; SFO s.214)
- *SFC v Yeung Chung Lung & Ors*, HCMP 205/2013, 17.2.17 (disqualification and compensation claim against listco directors; SFO s.214)
- *SFC v Kenneth Cheung Chi Shing & Ors* [2012] 2 HKLRD 325 (CFI) (disqualification and compensation claim against listco directors; SFO s.214)
- *SFC v Fan Di & Ors*, HCMP 1761/2009, 24.5.11; [2018] HKCFI 346 (disqualification claim against listco directors; SFO s.214)

EQUITY / TRUST

- *Tin Lik v Deutsche Bank AG*, HCCL 17/2011, 15.2.16; CACV 145/2016, 23.6.17 (see case description under the “Commercial” category)
- *Re Chau Cham Wong Patrick, a Bankrupt* [2016] 2 HKLRD 278 (CFI) (see case description under the “Injunction / Contempt” category)
- *Yang Liang Yan v Yeung Hoi Yin & Anor*, HCA 1743/2012 (see case description under the “Civil Fraud / Asset Recovery” category)
- *Re Karson Oten Fan, Karno (in bankruptcy)*, HCMP 1101/2011, 29.11.11 (see case description under the “Injunction / Contempt” category)
- *Mak Kang Hoi v Ho Yuk Wah David* (2007) 10 HKCFAR 552 (recovery of investment monies conditional on listing in a reasonable time)
- *Kao, Lee & Yip (a firm) v Donald Koo Hoi Yan & Ors*, HCA 8847/1993, 7.6.07 (breach of fiduciary duties; former law firm partner; assessment of damages)

RESTITUTION / UNJUST ENRICHMENT

- See selected cases under the “Equity / Trust” category

BANKING / FINANCE

- *Bank of China (Hong Kong) Ltd v Certain Aim Ltd*, HCMP 1272/2007, 27.6.17 (mortgage action; charges and variation of loan agreement and estoppel)
- *Bank of China (Hong Kong) Ltd v Twin Profit Ltd & Ors* [2010] 2 HKLRD 1065 (CFI); CACV 94/2010, 10.2.11 & [2011] 3 HKC 59; FAMV 4/2012, 24.5.12 (mortgage action; interpretation of the Merger Ordinance)
- *Bank of China (Hong Kong) Ltd v Nam Tai Electronics Inc. & Tele-Art Inc. (in liquidation)* [2009] 2 HKLRD 33 (CFI) (liquidation; mortgage account; unlawful assignment)

INSOLVENCY

- *Re Yueshou Environmental Holdings Ltd*, HCCW 142/2013, 16.7.14 (petition for winding up of a listed company)
- See also selected cases under the “Civil Fraud / Asset Recovery” category

PUBLIC LAW / JUDICIAL REVIEW

- *Cheung Yuen Ni v Chief Executive in Council* [2019] HKCFI 1290 (legality of decision under the Road (Works, Use and Compensation) Ordinance)
- *Building Authority v Appeal Tribunal (Buildings) & Ors* [2019] 1 HKLRD 512 (legality of slope investigation order; construction of Government lease)
- *Tung Chun Co Ltd v Town Planning Board* [2018] 3 HKLRD 466 (legality of height restriction imposed on outline zoning plan)
- *Chung Chiu v Secretary for Justice* [2018] 3 HKLRD 323 (constitutionality of provisions on duration of residence and HKPR requirements for electors in rural representative elections)
- *Wong Ho Tong v Director of Lands* [2018] HKCA 330 (amenability of decisions applying squatter control policy to judicial review)
- *Director of Agriculture, Fisheries and Conservation v Administrative Appeals Board & Ors* [2017] 2 HKLRD 349 (CFI); *尹照華 v Director of Agriculture, Fisheries and Conservation* [2017] 5 HKLRD 141 (CA) (eligibility of vessels to register under the Fisheries Protection Ordinance)
- *Wong Chi Fung v Secretary for Justice* [2016] 3 HKLRD 835 (CFI) (constitutionality of provisions on minimum age in LegCo candidature)
- *Keen Lloyd Holdings Ltd & Ors v Commissioner of Customs and Excise & Anor* [2016] 2 HKLRD 1372 (CA) (constitutionality of warrantless search; cross-border investigation of smuggling)
- *Chau Tsun Kiu v Secretary for Justice* [2014] 5 HKLRD 414 (CFI) (legal entitlement of candidates to free postage in LegCo elections)
- *Wong Hin Wai v Secretary for Justice* [2012] 4 HKLRD 70 (CFI) (legality of restrictions on persons with unserved sentence in LegCo candidature)
- *Technic Investment Co Ltd & Anor v Appeal Tribunal (Buildings) & Anor* [2012] 3 HKLRD 245 (CFI) (legality of actions under enforcement policy re unauthorised building works)
- *Chan Yu Nam & Anor v Secretary for Justice* [2010] 1 HKC 493 (CFI); [2012] 3 HKC 38 (CA); CACV 2&3/2010, 21.10.11; FAMV 39/2011, 18.1.12 (constitutionality of corporate voting in LegCo elections)
- *Tsui Kin Kwok Johnnie v Commissioner of Police*, HCAL 50/2009, 26.2.10; CACV 38/2010, 28.3.11 & 20.7.11 (legality of disciplinary proceedings; change of law)
- Appeared in appeal on public watercourse matters under Land Drainage Ordinance.
- Appeared in appeals on local fishery practices under Fisheries Protection Ordinance.

TAX / REVENUE

- *D4/17 (2018-2019)* 33 IRBRD 96 (profits tax; Cap.112 s.70A; meaning of “statement” and “omission in respect of”)
- *KWP Quarry Co Ltd v Inland Revenue Board of Review & Anor*, HCAL 102/2016, (2017-2018) 32 IRBRD 227 (profits tax; deductibility of expenses; threshold of arguability for leave purposes)
- *CIR v Perfekta Enterprises Ltd* (2016-17) 31 IRBRD 101 (BoR); (2016-17) 31 IRBRD 595 (CFI); [2018] HKCA 301, 373, 544; [2018] HKCFA 55; [2019] HKCFA 25 (profits tax; change of intention from investment to development)
- *D25/15 (2016-17)* 31 IRBRD 270 (profits tax; interposition of entities; source; deductibility of expenses)

- *D23/15* (2016-17) 31 IRBRD 199
(profits tax; excluded fixed assets subject to leases; deductibility of expenses)
- *D14/15* (2016-17) 31 IRBRD 44
(profits tax; source)
- *D15/14* (2015-16) 30 IRBRD 1
(profits tax; source; specified capital expenditure; depreciation allowances)
- *CIR v Good Mark Industrial Ltd*, DCTC 1003/2013, 29.11.13
(tax recovery actions; striking out; applicability of Cap.112AY and Cap.112BR)
- *D39/12* (2012-13) 27 IRBRD 824
(profits tax; disposal of listed shares; sale of capital assets or trade)
- *Canray International Ltd & Ors v CIR* [2012] 4 HKLRD 792 (CFI)
(delay in issuing determination; constitutionality of profits tax assessments)
- *Kam Kiu (Hong Kong) Ltd v CIR*, HCAL 61/2009, 31.8.09
(legality of the Commissioner's decisions on purchase of tax reserve certificates)

PROPERTY & CONVEYANCING

- *Joytex Development Ltd v Super Homes Ltd* [2018] HKCFI 2286 & 2686
(misrepresentation claim against developer in a pre-completion first-hand sale of The Icon, which saga led to the enactment of Cap.621)
- *Midland Realty International Ltd & Anor v Leung Mei Oi & Ors*, HCA 2688/2017
(breach of duties by estate agent; sale of commercial property by listed companies)
- *Smart Essence Development Ltd v Hong Kong Housing Authority*, HCA 450/2016, 28.4.16
(construction of DMC provisions applicable to public estates sold by LINK)
- *Lee Charles Goon Lok v Lee Kwok Ching & Ors*, HCA 2366/2015
(breach of duties of managers of land and properties in the New Territories; questions of Chinese customary law and the New Territories Ordinance)
- *Midland Realty (Comm & Ind) Ltd v NCF (HK) Ltd*, HCA 1830/2013, 22.5.15
(misrepresentation claim against estate agent in sale of commercial property)
- *Simply Power Ltd v Billy Chua & Ors*, HCA 2452/2013, 22.1.15
(misrepresentation claim against estate agent and seller of industrial building)
- *Lo Chiu Foon v Law Sui Ming*, HCA 1010/2013, 24.10.13
(conveyancing; proof of giving good title; summary judgment)
- *Kai Hing Metal Products Factory Co Ltd v Incorporated Owners of Sunderland Estate & Anor*, LDBM 339/2010, 18.10.11
(injunction against the Incorporated Owners and the Manager)
- *The Incorporated Owners of Kwai Chung Plaza v Giant Earnings Ltd & Anor*, LDBM 126/2008, 3.4.09
(irrevocable licence granted the Incorporated Owners coupled with an interest)

BUILDING / CONSTRUCTION

- Represented a developer in arbitration proceedings about hotel development in Shenzhou Peninsula in Hainan, raising issues of Hong Kong and PRC law on breach of contract, land ownership and construction matters.
- *Sun Crown Trading Ltd & Gateway International Development Ltd v Holyrood Ltd*, CACV 64/2012, 11.10.13 & 25.4.14; FAMV 27/2014, 15.10.14
(nuisance and construction works; prestigious development at the Peak)
- *Wai Ming (Ling's) Engineering Co Ltd v K.H. Foundations Ltd*, HCCT 7/2007, 6.7.12
(construction dispute re Hong Kong Housing Authority project)

EMPLOYMENT

- *Chok Kin Ming v Equal Opportunities Commission* [2019] HKCFI 755
(disciplinary sanction and breach of natural justice; gratuity payment)
- *Chok Kin Ming v Equal Opportunities Commission* [2017] 2 HKLRD 521 (CFI)
(employment contract interpretation; gratuity payment)
- *Ho Kin Man v Commissioner of Police*, HCMP 381/2010, 13.7.12; [2014] 3 HKLRD 478 (CA); FAMV 58-61/2014, 25.8.15
(change of law; reopening of disciplinary proceedings; abuse of process)

DISCRIMINATION

- *Tung Lai Lam v Chan Yick Man* [2019] HKDC 679
(disability discrimination claim by a complainant against ex-COO of EOC)

- *Haden, Francis William v Leighton Contractors (Asia) Ltd*, DCEO 16/2018
(race discrimination claim by a former employee re termination of employment)
- *Law Chi Yuen v Secretary for Education* [2016] 5 HKLRD 302 (CFI)
(disability discrimination; education entitlement of disabled students)
- *M v Secretary for Justice* [2009] 2 HKLRD 298 (CA)
(disability discrimination claim by former AO re termination of employment)
- *Sunny Tadjudin v Bank of America, National Association*, CACV 173/2009, 19.10.10
(sex discrimination claim by investment banker re payment of bonuses)
- *A v University of Hong Kong*, DCEO 4/2008
(disability discrimination claim by a university student re examination results)

CONFIDENTIALITY / PRIVACY

- *The University of Hong Kong v Hong Kong Commercial Broadcasting Co Ltd & Ors*, HCMP 2801/2015
(unauthorised publication of confidential HKU Council discussion)
- *Popular E-Learning (HK) Ltd & Anor v Fok Wai Ping & Ors*, HCA 579/2014
(see case description under the “Injunction / Contempt” category)
- Advised on disputes involving trade secrets of public institutions and companies.

COMMISSION OF INQUIRY / INQUEST

- *Inquiry into the Collision of Vessels near Lamma Island on 1 October 2012* (Junior Counsel for the Commission of Inquiry)