



YVONNE CHENG SC 鄭蕙心資深大律師

Call: 1996 (HK); 1996 (England & Wales)
Inner Bar: 2013

PROFILE

Yvonne Cheng's practice spans a broad range of areas of civil and commercial law. She advises on and acts in commercial matters (such as commercial and contractual disputes), property matters (relating to issues such as ownership and other proprietary rights, tenancy, building and planning legislation), professional negligence matters, employment matters, and judicial review. She also advises on and acts in tax matters (for both the Revenue and taxpayers), including appearing in the Board of Review and in the Courts.

CONTACT

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SECRETARY

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PRACTICE AREAS

- Commercial
- Tax / Revenue
- Property & Conveyancing
- Employment
- Professional Liability
- Public Law / Judicial Review
- Planning
- Mental Health
- Rating & Valuation
- Banking / Finance
- Civil Fraud / Asset Recovery

APPOINTMENTS AND PUBLIC OFFICE

- Recorder of the Court of First Instance of the High Court (from February 2018)
- Deputy High Court Judge (December 2014 to January 2015)
- Member of the Financial Reporting Review Panel (July 2015 to July 2021)
- Member of the Securities and Futures Appeals Tribunal Panel (from April 2017)
- Non-executive Director of the Mandatory Provident Fund Schemes Authority (from October 2018)
- Chairman of the Buildings Appeal Tribunal (from December 2018)

- Vice-chairman of the Municipal Services Appeals Board (from June 2020)
- Chairman of the Copyright Tribunal (from December 2020)

EDUCATION

MA (Jurisprudence), University of Oxford

PUBLICATIONS AND ARTICLES

- Contributing editor to the Hong Kong Civil Procedure, 2001 to date

SCHOLARSHIP AND PRIZES

1996 Prize awarded by the General Council of the Bar (England & Wales) for result in Bar Finals (2nd place)
 1994 Tutorial Commendation in Law, Magdalen College, Oxford

LANGUAGES

French (working knowledge)

FURTHER INFORMATION

Acted as amicus curiae in:

- (1) *Official Receiver v. Chan Kwok Keung* [2008] 5 HKLRD 752 (CA) – whether Court had power to backdate discharge of bankrupt;
- (2) *Secretary for Justice & ors v. Yuen Oi Yee* [2006] 1 HKLRD 679 (CFI) – application brought by the Government under s.27 High Court Ordinance, Cap.4;
- (3) *Max Share Ltd and another v. Ng Yat Chi* (1997-1998) 1 HKCFAR 155 – whether bankrupt registered shareholder, holding shares on trust for another, lost right to petition for winding up and relief under s.168A of Companies Ordinance upon his trustee in bankruptcy disclaiming interest in the shares (junior counsel to Geoffrey Ma SC)

Instructed to provide joint written expert opinion (regarding legal effect of mortgage of shares) in proceedings in New York; accepted by US Bankruptcy Court, Southern District of New York: see *In re Traffic Stream (BVI Infrastructure Ltd, No.03 B 13292 (SMB) (Bankr. S.D.N.Y. 26.09.2003 and 15.03.2004) (Bernstein, CJ)*

SELECTED CASES

COMMERCIAL

- *Sina Hong Kong Ltd v. Pixel Media HK Ltd* HCA 1400/13, 11.05.2015 (CFI) – how an agreement for the sharing of revenue from internet advertising activities was to be construed
- *Goldlion Properties Ltd v. Regent National Enterprises Ltd* [2008] 3 HKLRD 104 (CA); HCMP 5723/03, 29.01.07 (CFI)– whether seller of hotel (in the control of liquidators of parent company) validly invoked clause for termination of sale
- *Mariner International Hotels Ltd v. Atlas Ltd* (2007) 10 HKCFAR 1 (CFA); CACV 291/04, 30.12.2005 (CA); HCA 10714/98, 02.08.2004 (CFI) – whether purchaser of hotel entitled to terminate contract of sale for vendor's failure to comply with conditions of contract in completing hotel and presence of unauthorised structures; involved issues relating to construction of contract and Buildings Ordinance

- *Okachi (Hong Kong) Co Ltd v. Nominee (Holding) Ltd* [2007] 1 HKLRD 55 (CA) – whether plaintiff brokerage entitled to terminate contract for sale of a share in Hong Kong Futures Exchange for purchaser's failure to make prompt applications for registration with Securities and Futures Commission and Hong Kong Futures Exchange
- *CCIC Finance Ltd v. Guangdong International Trust and Investment Corp & another (garnishee)* [2005] 2 HKC 589 (CFI) – whether garnishee order against local company, seeking to attach debts due from company to state-owned enterprise, should be made absolute when latter in liquidation under PRC law
- *Sino Billion Ltd v. Lam Chok Wai* [2003] 2 HKC 167 – whether charging orders on properties should be set aside or alternatively varied to take account of proprietary interest
- *Full Wisdom Holdings and ors v. Traffic Stream Infrastructure Co Ltd and ors* HCMP 1939/02, 28.08.2003 (CFI) – whether secured noteholders entitled to exercise rights under indenture following default by issuer of notes. Related litigation included: CACV 266/03, 27.07.2004 – circumstances in which the Court will extend time for application for leave to appeal to Court of Final Appeal; (2004) 7 HKCFAR 442 (CFA) – the Court's approach to uncontradicted expert evidence of foreign law

TAX / REVENUE

- *The Commissioner of Inland Revenue v. Right Margin Ltd* [2017] 5 HKLRD 398 (CFI) – whether proper questions of law raised for appeal under s.69 Inland Revenue Ordinance
- *KWP Quarry Co Ltd v. Inland Revenue Board of Review* HCAL 102/16, 10.10.2017 (CFI) – whether proper question of law raised for appeal under former s.69 Inland Revenue Ordinance
- *Good Mark Industrial Ltd v. CIR* [2015] 2 HKLRD 16 (CA) – whether application to correct assessment under s.70A Inland Revenue Ordinance validly made
- *Aviation Fuel Supply Company v. Commissioner of Inland Revenue* (2014) 17 HKCFAR 872; CACV 150/11, 04.12.2012 (CA); HCIA 6/09, 08.07.2011 (CFI) – whether sum received from Airport Authority on termination of business assessable to profits tax
- *Fuchs, Walter Alfred Heinz v. Commissioner of Inland Revenue* (2011) 14 HKCFAR 74 (CFA); [2010] 4 HKC 1 (CA); HCIA 1/08, 26.06.2008 (CFI) – whether payments received on termination of employment assessable to salaries tax
- *Commissioner of Inland Revenue v. Sawhney, Subhash Chander* [2006] 3 HKLRD 21 (CFI) – whether gains realised by taxpayer in exercising rights to acquire shares after termination of employment assessable to salaries tax; construction of s.11C Inland Revenue Ordinance, Cap.112
- *Commissioner of Inland Revenue v. Chu Fung Chee* [2006] 2 HKLRD 718 (CFI) – profits tax – whether costs paid to Barristers' Disciplinary Tribunal and Bar Council were deductible expenses
- *Commissioner of Inland Revenue v. Yung Tse Kwong* [2004] 3 HKLRD 192 (CFI) – whether payments received on termination of employment assessable to salaries tax

RATING & VALUATION

- *The Commissioner of Rating and Valuation v. CLP Power Hong Kong Ltd* (2017) 20 HKCFAR 168; CACV 202/15, 02.02.2016; LDGA 241/04 & LDRA 365-369/04, 24.04.2013 and 03.01.2014 – how the rateable value of tenement for the generation, transmission and distribution of electricity was to be ascertained

PROPERTY & CONVEYANCING

- *Real Estate Developers Association of Hong Kong v. Building Authority* (2016) 19 HKCFAR 243 – legality of Building Authority's policy requiring particulars of ownership in submission of building plans for approval
- *International Trademart Co Ltd v. Club Regency Ltd* HCA 1243/08, 25.07.2008 (CFI) – whether private club entitled to exercise option to renew lease of its premises; urgent injunctive relief to restrain club from remaining on premises and accepting further bookings and reservations from third parties
- *Ying Ho Co Ltd and others v. The Secretary for Justice* (2004) 7 HKCFAR 333 (CFA); CACV 291/02, 31.07.2003 (CA); HCA 10834/98, 04.03.2002 (CFI) – whether the Government was entitled to withhold approval for master layout plan on the grounds that the height of the developer's proposed building exceeded intended statutory limits; whether the Government or the developer was in breach of the lease conditions
- *Director of Lands v. Yin Shuen Enterprises Ltd and anor* (2003) 6 HKCFAR 1 (CFA) – whether compensation payable on resumption of land should reflect "hope" value

PROFESSIONAL LIABILITY

- *Keep Point Development Ltd v. Chan Chi Yim & ors v. Full Country Development Ltd & another* (2003) 3 HKCFAR 160 (CFA); CACV 1027/00, 20.12.2001 (CA); [2000] 3 HKLRD 166 (CFI) – the correct principles for

assessment of damages in a case of solicitors' negligence

PUBLIC LAW / JUDICIAL REVIEW

- *Wise Union Industries Ltd v. Hong Kong Science and Technology Parks Corp* [2009] 5 HKLRD 620 – challenge to legality of decision by statutory body to reject applications for grant of industrial site
- *The Democratic Party v. The Secretary for Justice* [2007] 2 HKLRD 804 (CFI) – challenge to constitutionality of provisions of the Companies Ordinance, Cap.32
- *Raza & others v. Chief Executive-in-Council & others*, CACV 218/05, 19.07.06 (CA); [2005] 3 HKLRD 561 (CFI) – challenge to legality of levy imposed on employers of foreign domestic helpers
- *Chan Shu Ying v. Chief Executive of the HKSAR* [2001] 1 HKLRD 405 (CFI) – challenge to constitutionality of creation of District Councils and abolition of Provisional Urban and Regional Councils

PLANNING

- *Turbo Top Ltd v. Town Planning Board*, HCAL 23 & 52/11, 21.11.2011 (CFI) – challenge to legality of restrictions imposed by Outline Zoning Plan on a site

MENTAL HEALTH

- *Lam San Keung v. Beauti-Rich International Enterprise Ltd* HCA 2390/12, 29.09.2017 (CFI) – whether sale of property vitiated by reason of incapacity of vendor
- *Probus Ltd v. Treble & Triple Ltd* CACV 270/10, 12.01.2012 (CA); HCA 2723/08, 17.11.2010 (CFI) – whether alleged incapacity of company director a defence to claim for breach of contract against company