

HONG KONG / JUDGMENT

LAW KA YEE v. QUALITY DRIVER TRAINING CENTRE LTD

[2026] HKDC 339

COURT

District Court

DECIDED

27 February 2026

CASE / FILE NUMBER

DCPI3929/2021

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DCPI 3929/2021

[2026] HKDC 339

IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

PERSONAL INJURIES ACTION NO 3929 OF 2021

BETWEEN

LAW KA YEE

Plaintiff

and

QUALITY DRIVER TRAINING

CENTRE LIMITED

Defendant

Coram: Deputy District Judge Patrick Siu in Chambers

Date of Hearing: 16 February 2026

Date of Decision: 27 February 2026

DECISION

Introduction

The Plaintiff has obtained a monetary judgment against the Defendant, who has failed to satisfy the judgment debt or any part thereof. As part of her enforcement action, the Plaintiff made ex parte applications to a Master for issuing garnishee orders to show cause against 22 individuals.

After three rounds of requisitions, the learned Master dismissed those applications on 19 December 2025. This is my ruling on the Plaintiff's appeal against the learned Master's decision brought by her Notice of Appeal dated 23 December 2025.

Background

This case arises from a personal injuries claim. The Plaintiff obtained default judgment on liability on 14 June 2022, and the assessment of damages was conducted before HHJ Andrew Li on 30 July 2024. The background of the case can be found in the judgment of the learned Judge handed down on 12 August 2024 (see [2024] HKDC 1288).

In gist, the Defendant operated a driving school at Hoi Yuen Road, Kwun Tong. On 17 January 2019, the Plaintiff was enrolled at that driving school as a motorcycle learner. She was provided with a motorcycle for practicing but not proper personal protective equipment. Whilst the Plaintiff was driving a motorcycle at the driving school, due to lack of skill and experience, she could not handle a turn and she lost control of the motorcycle and bumped into some tires. As a result, she fell from the motorcycle and sustained serious personal injuries.

HHJ Andrew Li assessed the damages payable to the Plaintiff at \$788,436. The Defendant sought leave to appeal against the assessment, and its leave application was dismissed by the learned Judge on 15 January 2025 (see [2025] HKDC 77). The Defendant did not renew its leave application to the Court of Appeal.

As the Defendant has failed to satisfy the judgment, the Plaintiff took enforcement actions and obtained an order for examination of a director of the Defendant, Mr Law Sing Hong, and an order for Mr Law to produce documents, including the bank statements and accounts of the Defendant. The examination of Mr Law is due to take place in March 2026.

From the documents disclosed by Mr Law, it can be seen that as at 9 June 2019, the Defendant had a registered share capital of \$13,940,000 with 26 shareholders. On or around 20 January 2020, all the shares in the Defendant were transferred from those shareholders to an Ankor Driving School Limited.

The general ledger of the Defendant for the period from 1 January 2019 to 31 December 2019 reveals that on 6 September 2019 and 2 November 2019, the Defendant made payments to 24 of the then shareholders in the total sum of \$10,230,000 in accordance with their shareholding percentages, and those payments were recorded as loan to shareholders.

In discharge of her duty to make full and frank disclosure, the Plaintiff referred the learned Master to the purported audited financial statements of the Defendant for the year ended 31 December 2019. I say they are “purported” statements as they were signed off by two individuals who held out themselves as directors, but they were actually not directors of the Defendant at the material time. The following points are notable from the statements:-

In the balance sheet therein, there was no loan to shareholders listed as assets of the Defendant.

In the explanatory notes for the profit and loss figure and for related party transactions, it was stated that there was a waiver for the amount due from shareholders in the sum of \$18,457,920.

The income statement also recorded a waiver for the amount due from the former shareholders in the sum of \$18,457,920.

Notwithstanding what was stated in the aforesaid purported audited financial statements, Mr Law has produced another document which appears to be an unaudited balance sheet of the Defendant as of 31 December 2019, and in that document loan to shareholder in the sum of \$18,028,920 was recorded.

Master’s Reasons in Dismissing the Applications

The Plaintiff contended that out of the 24 then shareholders who received loans from the Defendant, 22 had their addresses in Hong Kong and hence were within jurisdiction, so the Court had sufficient foundation to issue garnishee orders to show cause against them.

While the present appeal is dealt with by way of a rehearing, it is instructive to have regard to the following reasons given by the learned Master in refusing the applications:-

Even though the audited financial statements of the Defendant for the year ended 31 December 2019 were not duly signed by directors, they were audited by certified accountants. The statements showed that the loans to the then shareholders had already been waived.

Even if there was any irregularity with the waiver in 2019, the Defendant can always ratify it, as the current management of the Defendant apparently acknowledged that the Defendant was acquired in 2020 as a shell company and they raised no objection to the waiver of loans.

It may be argued that the scheme of advancing loans to the former shareholders and then waiving them represented monies wrongfully or fraudulently transferred to them from the Defendant, but still there was no debt due from those former shareholders.

The Plaintiff thus failed to demonstrate a prima facie case of debt due or accruing due to the Defendant from those former shareholders.

In gist, the learned Master was of the view that either the loans had been waived, or that the transfers were actually fraudulent transfers to the shareholders and no debt was created. In either scenario, the garnishee proceedings regime does not come into play.

Analysis

Order 49 rule 1(1) of the Rules of the District Court (Cap 336H) provides that:-

“Where a person (in this Order referred to as the judgment creditor) has obtained a judgment or order for the payment by some other person (in this Order referred to as the judgment debtor) of a sum of money amounting in value to at least \$1,000, not being a judgment or order for the payment of money into court, and any other person within the jurisdiction (in this Order referred to as the garnishee) is indebted to the judgment debtor, the Court may, subject to the provisions of this Order and of any written law, order the garnishee to pay the judgment creditor the amount of any debt due or accruing due to the judgment debtor from the garnishee, or so much thereof as is sufficient to satisfy that judgment or order and the costs of the garnishee proceedings.”

While the thresholds for granting a garnishee order nisi and a garnishee order absolute are well established, the High Court of Singapore has put it neatly in *Timing Ltd v Tay Toh Hin* [2021] SGHC 5 at §19 and it is worthwhile referring to it:-

“... The provisional garnishee order might place a tactical/evidential burden on the respondents to challenge the appellant’s prima facie case, but the assessment will ultimately be a holistic one based on the entirety of the evidence adduced.”

In other words, a judgment creditor only has to establish a prima facie case to obtain a garnishee order nisi. This may place an evidential burden on the garnishees to challenge that prima facie case, but at the end of the day, as stated in *Timing Ltd* at §16:-

“... the legal burden of proof in showing that a provisional garnishee order should be made final lies firmly on the party seeking the benefit of that garnishee order. It is for that party to establish, on balance of probabilities, that the judgment debtor does in fact own the moneys in the account for which garnishment is sought, and that a garnishment order ought to be made.”

In the present case, on the presently available materials, I am satisfied that the Plaintiff has established a prima facie case that the 22 former shareholder are indebted to the Defendant:-

The purported audited financial statements appear to suggest that the loans advanced by the Defendant to the former shareholders have been waived. However, those statements were only signed off by a Mr Liu Shing Keung and a Mr Chang Tat Chuen Richard in their alleged capacities as directors of the Defendant on 26 February 2020, but indisputably they were not actually directors of the Defendant at that material time.

The fact that the statements were not approved and signed off by the Defendant's directors does not only mean that there is a breach of the requirement under section 391(1) of the Companies Ordinance (Cap 622), but it also casts doubt on the probative value of the statements and begs the question of whether as a matter of fact the Defendant has written off those loans.

The doubt is reinforced by the fact that despite the Plaintiff's demands, Mr Law for the Defendant has not been able to produce any resolutions or other documentary evidence that would substantiate the Defendant's decision to waive those loans in 2019.

Last but not least, there is no explanation from Mr Law or the Defendant as to why the apparently unaudited balance sheet would still contain an entry of loan to shareholder in the sum of \$18,028,920, if those loans have indeed been waived.

Furthermore, even assuming that the Defendant did waive the loans to its former shareholders, there is at present no evidence showing that the waiver was executed by deed or otherwise supported by consideration. In other words, even with the waiver, the Defendant may be able to sue those former shareholders for the repayment of the loans. As the learned editors stated in Hong Kong Civil Procedure 2026 Vol 1 at §49/1/9:-

"... If the judgment debtor could sue the garnishee for the amount and recover it, it is plain that there would be an attachable debt; but this is not an infallible test."

I can understand the learned Master's suspicion that looking the transactions in the round (ie the Defendant extending loans to the then shareholders in accordance with the percentage of their shareholding, followed by a waiver of the loan and then a transfer of the shares to a new shareholder), they do seem like a scheme to reduce the capital of the Defendant. In that event, I agree with the learned Master that while the former shareholders may be liable to return the money, it cannot be said that they owe a debt to the Defendant for the purpose of garnishee proceedings. As Burrell J held in *Chung Fai Engineering Co (a firm) v Maxwell Engineering Ltd* HCA 10504 & 10631/1996 (unreported, 28 July 2003) at §9, monies wrongfully or fraudulently transferred from the judgment debtor to the garnishee cannot be construed as a debt still due.

That said, such a reduction of capital may be a criminal offence under section 212 of the Companies Ordinance, and at present there is no suggestion from the Defendant or any of the former shareholders that they were involved in a criminal scheme to defraud creditors. The available documents say the monies were transferred to the then shareholders as loans, and for present purpose I shall proceed on that basis.

If the former shareholders do wish to dispute liability and they do put forward a positive case (eg the loans have been validly waived or those were not actually loans but were part of an illegal scheme to return capital to them), then it will be for the Plaintiff to establish on balance of probabilities that those garnishees do owe those debts to the Defendant. But that will be determined at the next stage of these garnishee proceedings.

Conclusion

For the aforesaid reasons, I allow the appeal, set aside the learned Master's order dated 19 December 2025, and order that garnishee orders to show cause be granted against the 22 former shareholders of the Defendant as listed in the Plaintiff's Notice of Appeal. Costs of this appeal are reserved.

(Patrick Siu)

Deputy District Judge

Mr Kelvin Leung , instructed by How & Co, for the Plaintiff

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