

HONG KONG / JUDGMENT

OFFICIAL RECEIVER AND ANOTHER v. CHOY BING WING

COURT

Court of First Instance

DECIDED

4 December 2007

CASE / FILE NUMBER

HCMP1095/2007

Source: legalref.judiciary.hk · Research copy typeset by Esheria. Not court-issued or certified.

bjbj HCMP1095/2007 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION COURT OF FIRST INSTANCE MISCELLANEOUS PROCEEDINGS NO. 1095 OF 2007

IN THE MATTER of Order 31, Order 50 Rule 9A and Order 88 of the Rules of the High Court (Cap.4A) and IN THE MATTER of: the Charging Order Absolute dated the 24th day of March 2003 made in Bankruptcy Proceeding No. B242 of 1992; and the Charging Order Absolute dated the 24th day of October 2005 made in Bankruptcy Proceeding No. B242 of 1992; and

- (3) the Charging Order Absolute dated the 24th day of October 2005 made in High Court Action No. 667 of 2003 and IN THE MATTER of:
- (1) All that piece or parcel registered in the Land Registry as 4/114th parts or shares of and in Inland Lot No. 7011 and 4/114th parts or shares of and in Section 3 of Inland Lot No. 8 known as 18th Floor, Hong Kong Jewellery Building, Nos. 178-180 Queen s Road, Central, Hong Kong (18th Floor HK Jewellery Building Property); and
- (2) All that piece or parcel registered in the Land Registry as 14/2000th parts or shares of and in New Kowloon Inland Lot No. 5603 known as Flat 2A, 6th Floor, Merry Court, Nos. 4-6 Fessenden Road, Kowloon (Flat 2A Property); and
- (3) All that piece or parcel registered in the Land Registry as 93/11,832nd parts or shares of and in Inland Lot No. 8618 known as Shop 4, Ground Floor, Fook Sing Court, No. 378 Queen s Road Central, Hong Kong (Shop 4 Property)
-

BETWEEN OFFICIAL RECEIVER and Trustee of Bankrupt NG YAT CHI (Discharged) 1st Plaintiff
STEPHENSON HARWOOD & LO 2nd Plaintiff and CHOY BING WING Defendant

Before : Hon Chu J in Chambers Date of Hearing : 4 December 2007 Date of Decision : 4 December 2007

DECISION

1. In this matter, Mr Choy, the defendant, had, on 29 November 2007, issued a summons which is returnable today. In that summons, three matters were sought but they can be conveniently grouped into two.
2. The first is an application that I should disqualify myself from dealing with these proceedings together with an application for an adjournment for the matter to be heard by a judge accepted by both sides. The second application is for specific discovery of what is said to be crucial evidence.
3. Dealing with the first application, as I understand it, Mr Choy's grounds are these. First, I had been involved in the hearing of an appeal brought by him on the applications of sections 83 and 84 of the Bankruptcy Ordinance in connection with HCB242 of 1992. This appeal was decided against Mr Choy. On this basis, he considered that I should disqualify myself from dealing further with these proceedings since these proceedings are, one way or the other, connected with HCB242/1992.
4. While I understand the points that Mr Choy was making, I am unable to agree that this is a ground which, under the law, enables the court to grant a recusal or to disqualify a judge from dealing with a case. Judge's duties are to adjudicate cases and invariably they would have decided cases in favour of one party or against another party. The fact that a judge had decided against one party in one case or in an application, without anything more, will not disqualify that judge from dealing further with that party or the case in future proceedings.
5. Mr Choy also made the application for disqualification on the basis that there had been, in his view, judicial misbehaviour and cheatings. Therefore, he considered that the judge hearing this matter should be agreed by him beforehand. Quite apart from whether the allegations of misbehaviour or cheatings are or are not substantiated a matter which, in my view, is not necessary to go into at all -- I have to point out that I am not aware of the a litigant having a right to choose or nominate a judge. This is not a right recognized either by the Bill of Rights Ordinance or the Basic Law or the International Covenant of Civil Rights and Liberties. Hence, this does not provide a proper basis for the disqualification application.
6. Mr Choy had made reference to Reyes J in his submissions. This hearing was initially listed before Reyes J. Mr Choy had written several letters to the court objecting to Reyes J presiding over the hearing. Eventually the case was listed before myself instead of Reyes J.

Mr Choy made the point that I should adopt the same approach. But there are fundamental differences. In the letters Mr Choy wrote to the court, he had pointed to the fact that Reyes J, when he was practising at the Bar, had acted for one of the opposite parties in the litigations that Mr Choy was involved in. That, in my view, would provide a clear basis for understanding why Reyes J did not preside over this hearing. It does not mean that another judge, certainly not in a case like the present, should step down from hearing the case when there is no proper legal ground for doing so.

7. As for the second application in Mr Choy's summons for specific discovery, the summons did not specify discovery of what materials. But, in Mr Choy's submission today, he indicated that the materials that he sought discovery related to what he called judicial cheatings and deceptions. Nevertheless, whether in the affirmation filed by Mr Choy or in his oral submissions today, he had not given the details or the type of materials that he sought to discover. Neither had he indicated the direct relevance of the matters to the issues before this court. In my view, there are no proper details to justify the application. In these circumstances, the court cannot grant the application. Neither can the court accede to Mr Choy's request to adjourn the matter to enable him to conduct what he considered to be the necessary or relevant discovery. 8 For these reasons, the summons that Mr Choy took out has to be dismissed. I will reserve the question of costs to be dealt with at the conclusion of the hearing. (C Chu) Judge of Court of First Instance High Court Mr Sanjay Sakhrani instructed by Messrs St 1udk 1udk H I J K L M N O P Q R S T U V &`#\$ r p# (#p# r p# &ob, &ob, Normal.dot setup Microsoft Word 9.0 Judiciary Hong Kong Title Microsoft Word Document MSWordDoc Word.Document.8

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE https://legalref.judiciary.hk/lrs/common/ju/ju_frame.jsp?DIS=59739

CASE PAGE <https://chat.esheria.ai/case-law/hong-kong/official-receiver-and-another-v-choy-bing-wing-2007>

Prepared on 29 October 2026 · Esheria