

HONG KONG / JUDGMENT

RE LAW KAR HUNG

COURT

Court of First Instance

DECIDED

18 July 2007

CASE / FILE NUMBER

HCB17645/2002

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bjbj HCB 17645/2002 IN THE HIGH COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION COURT OF FIRST INSTANCE BANKRUPTCY PROCEEDINGS NO. 17645 OF 2002

Re: Law Kar Hung

Coram : Before Master J. Wong in Court Date of Hearing : 12 June 2007 Date of Decision : 18 July
2007

D E C I S I O N

Application

1. This is an application for suspension of automatic discharge of the bankruptcy upon 2 grounds under section 30A(4)(c) and (d) of the Bankruptcy Ordinance (Cap. 6). that the bankrupt has failed to co-operate in the administration of his estate; that the conduct of the bankrupt, either in respect of the period after the commencement of the bankruptcy, has been unsatisfactory;

Background

2. On 2 December 2002, upon the self-petition of Mr. Law Har Hung (the Bankrupt), this Court made a bankruptcy order against him. Under the present bankruptcy legislation, after a period of 4 years from the bankruptcy order, the Bankrupt should be discharged on 1 December 2006. However, shortly before that date, on 2 November 2006, Mr. Fred Lee and Ms. Chow Wai Lan Christine, the trustee-in-bankruptcy (the Trustees) took out a summons to oppose the discharge.

3. On 30 November 2006, the summons was heard and adjourned to a date to be fixed by this Court pending determination of a few test cases heard by the Hon Kwan J. In the meantime, an interim order was made to suspend the discharge. The learned Judge handed down her detailed decisions on 9 January 2007.
4. Upon further consideration and investigation into the matter, the Trustees continued to pursue the matter although they decided to drop the complaint against the Bankrupt for unsatisfactory conduct before commencement of the bankruptcy. The summons was then restored before me to be argued.
5. Briefly, the Trustees complained that the Bankrupt failed to:
 - (a) submit his 1st and 2nd annual statements on time, and indeed by a delay of 19 and 7 months respectively, and
 - (b) inform his new employment commencing in February 2005 until an interview held on 12 December 2005.
6. To these complaints, the Bankrupt did not dispute with the Trustees. However, he attempted to offer explanations and mitigating factors.
2. I was unemployed since October in 2001. I did report to the officer of the Trustee in the first appointment. Therefore, I was not necessary to repay the money monthly from the said period. Due to my innocence of the laws, I did not report my short termed jobs accordingly. It is surely not because of my dishonesty to hide my income away from the creditors and trustee.
3. Until the 29th day of July, 2005, I did receive the first demand letter together with the form of indebted payment to request me to repay the debt. I then filled in the said enclosed form and returned the same on the 3rd August, 2005. From the February 2005, I was fortunate to find a long term job and earned HK\$18,000 in monthly salary. I then saved HK\$3,000 per month for the preparation of repay my debt. After I had reported to the trustee the above situation, the trustee requested me to repay HK\$6,000 per month. I immediately repaid HK\$30,000 to the trustee. The trustee did also promise me I could repay all the debts before the date of release of the Bankruptcy Order in this action in condition that I should repay HK\$500 more per month. From that period, I repaid my monthly debt as requested punctually and reported to the trustee whenever I would change my job accordingly. Lastly, I repaid all the residue of my debt in the sum of HK\$20,140 on the 30th day of November, 2006. (Affidavit of the Bankrupt sworn on 2 April 2007)

Ruling

7. Having considered the evidence authorities and submissions, I am satisfied that the Trustees have made out his case and the Bankrupt's discharge should be deferred for a period of 3 months. Hence, the Bankrupt should only be discharged as from 2 March 2007. My reasons appear in below.
- (a) To start with, ignorance of the laws certainly does not amount to a defence to the complaints made by the Trustees. Further or in the alternative, as a matter of evidence, on balance, I accept the Trustees case that the Bankrupt knew or should have known his obligation to submit timely annual statements as well as to report duly his employment status from time to time.
- (b) I find the explanations of the Bankrupt unsatisfactory. After February 2005, he got the new job for HK\$18,000 per month. Thereafter he voluntarily saved HK\$3,000 per month for the contribution. However, he did not report the same to the Trustees. It is contradictory and difficult to be believed. No doubt, the Bankrupt admitted that he had to contribute if he earned more. It was to be decided by the Trustees, not himself. By saving HK\$3,000 on one's own volition, but without informing the Trustee for the same, makes such behaviour strange and unreasonable in the circumstances.
- (c) Having said the above, I am also aware that the Bankrupt has quickly and fully remedied his unsatisfactory conducts by resubmitting the annual statements and paying up all the contributions as directed by the Trustees. Hence, in this respect, the creditors have not suffered any real prejudice. Costs
8. Mr. E. Gopaoco, solicitor for the Trustees, indicated that he would make no application for costs against the Bankrupt in any event. As such, I make an order nisi that there be no order as to costs. (Jack Wong) Master of the High Court Mr. E. Capaoco of Messrs. Lee & Chow for the Trustee. Mr. Law 1udk 1udk (#p# @@&LH7 hsvg 3nzpW hsvg & 6" Normal.dot setup Microsoft Word 9.0 Judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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