



Ben Beaumont

YEAR OF CALL: 1978



Ben has an international practice encompassing all areas of alternative dispute resolution. Building on his construction experience he has represented clients both contractors and employers, thereafter his instructions widened to include all aspects of international trade.

He regularly serves as an arbitrator, adjudicator and mediator.

If you would like to get in touch with Ben please contact the clerking team:

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ARBITRATION

Over the last 20 years Ben has been appointed an arbitrator in more than 190 disputes both domestic and international. He has also been appointed as an adjudicator of more than 20 occasions. He has acted for parties in arbitrations in various locations including UAE, Hong Kong, Singapore, Vietnam, France, United

Kingdom and the United States. His expertise lies in contract analysis and the variations to those contracts whether oral or written.

He is also regularly instructed to advise on matters relating to tax and offshore corporations. He acted for a Taxpayer and won a costs order against the HMRC as well as a large repayment. He acted for a former POW imprisoned in Taiwan who attempted to obtain the fullest level (of five) of apology from the Japanese Government. He also advised on an appeal against a conviction for manslaughter.

NOTABLE CASES

Administrative law. Compulsory purchase. Costs order

Tong Tim Nui v Hong Kong Housing Authority [1999] HKCA 490

Court of Appeal

Acting for appellant.

Appeal against order for costs against appellants based upon unreasonable behaviour of the authority. Costs order set aside.

Appeal allowed

Administrative law

Hong Kong Housing Society v Tang Kar Hung [2000] HKCA 321

Court of Appeal

Acting for applicant seeking leave to appeal to the Court of Final Appeal. Application granted. Order 14 is a final judgment and the right of appeal is automatic.

Arbitration: indemnity costs

China Xinxing Corporation v Mid-Point Development Ltd [1993] HKCFI 142

Acting for plaintiff/claimant. Award issued in favour of the plaintiff. Defendant issued a summons to challenge in time. Defendant did not file any evidence or detail within summons. Defendant did not appear at hearing. Application for indemnity costs for the plaintiff granted.

Arbitration, technical misconduct not found.

James Humphrey v Dua Contractors & Co limited [1997] HKCA 644

Acting for appellant contractor. Whether arbitrator technically misconducted himself in failing to adopt the correct rules and procedures. He did not. Appeal dismissed.

Arbitration: Section 44 of the Arbitration Ordinance where an award may be refused if the person against whom it is invoked proves that he was unable to present his case.

Shenzhen ACG industrial imp and Exp Corp v Authority property Ltd [1997] HKCFI 341

Acting for appellant. Award issued in favour of the defendant. Appellant alleged unable to put its complete case to arbitral tribunal. The appellant not present but legally represented at tribunal. The appellant alleged threats of kidnapping. Court found complete case was submitted to tribunal, appeal rejected.

Construction: breach of regulations concerning dangerous place of work

Role of expert witness

R v Kai Tai Construction Engineering Co Limited [1996] HKCFI 65

Acting for appellant. Appeal from magistracy

Prosecution called an expert witness whose evidence was relied on by the judge was an employee of the Labour Department. Appellant argued that expert could not be independent. Court agreed. Appeal allowed, conviction quashed.

Construction: claims for delay and or breaches of contract

Chung Fai Engineering Co v Maxwell Engineering co Ltd [2001] HKCA 434

Court of Appeal. Acting for plaintive/ appellant

Economic duress. Was there evidence for the judge at first instance to find that the defendant was not guilty of such delay as would justify the termination of the contract. Not for Court of Appeal to interfere with findings of fact. Appeal dismissed.

Crime

R v Hung Hak Sing [1995] HKCA 436

Court of Appeal

Acting for appellant.

Meaning of "a view to dishonest gain". Accused acting out of friendship, No thought of gain.

Appeal allowed conviction quashed.

Crime trafficking in dangerous drugs

Immunity and accomplice evidence

R v Lam Ching Ko and another [1996] HKCA 298

Court of Appeal

Acting for appellant

Evidence against appellant depended almost entirely upon accomplices given immunity.

Nine week trial. After seven weeks and accomplices completed their evidence radical amendments made to

2nd charge. Were appellants Given a fair trial? Appellants did not give evidence. Only defence was cross-examination for inconsistencies. Statements not given to the jury. General pressure from judge to speed cross-examination.

Incorrect direction as to character.

Appeals allowed conviction quashed.

Crime trafficking in dangerous drugs

HKSAR v Wong Yat Hing [1998] HKCA 253

Court of Appeal

Acting for appellant

Challenges to summing up. No requirement for summing up to detail every inconsistency. Appeal dismissed.

Crime: assault occasioning actual bodily harm

HKSAR v Cheng Chun Ming [1999] HKCFI 658

Acting for appellant against conviction

Various conflicts and discrepancies in the evidence not addressed adequately in the judgment. Appeal allowed conviction quashed.

Crime false accounting

HKSAR v Lo Jock Huen [1999] HKCA 333

Court of Appeal

Acting for appellant

Creation of an invoice to facilitate letter of credit. Invoice suggested supply of goods when no goods supplied.

Invoice not supplied for accounting purposes.

The discounting bank has to have been shown or could have been shown to be at risk. No evidence of risk. *R v Mallett 1978 1 WLR 820* considered. Distinguished. Wording differed. Key test "what do you need this for"? It was required for the accounting purposes of discounting bank. Appeal dismissed.

Evidence, Hearsay notice

Cheung Shing Yuk Tong Co Ltd v Hip Hing Construction Co Ltd

[1996] HKCFI 416

Acting for defendant/applicant. Notice of hearsay served late. Order 38 of the rules of the Supreme Court considered. Court considered there was a residual discretion to admit a hearsay notice served late. Court distinguished *Ford v Lewis 1971 1 WLR 623*. Applicant's request for leave granted.

Labour tribunal and errors of law by the presiding officer.

Setyoningsih Sulis v Cheng Yin Ching [1993] HKCFI 251

Acting for appellant claimant. Presiding officer failed to take account of a breach of regulations by employer. Further the contract required that the employer give receipts for wages. No receipts given. Appeal allowed, Claims to be met in full.

Labour Tribunal and security for costs order.

Ellen Alagahit v Wong Fung Lan [1996] HKCFI 38

Acting for claimant/appellant. Claimant domestic worker who claimed wrongful termination. The presiding officer at the Labour tribunal permitted the claimant to proceed but issued a security for costs order against her.

Such an order may be granted subject to certain conditions being met. The conditions were not met. Order 23 rules of the Supreme Court had no application to labour tribunal proceedings. An order for security costs is not a procedural matter. Appeal allowed.

Summary judgment Order 14, challenge as to legality of loan agreement

Wong Man Pan [2001] HKCFI 1024

Acting for appellant. Order 14 judgement in favour of defendant. Appellant argued cogent issues relating to legality of the loan agreement should be fully argued at trial. Expert report produced as to legality. Sufficient doubt as to legality raised to permit successful appeal and disputes should go to trial. Appeal allowed.

BACKGROUND

Ben left school at 17. He became a bricklayer's assistant, graduating up to become a steel fixer at which he worked for two-and-a-half years before becoming a shuttering carpenter.

He started work as a building contractor, finally building six houses adjacent to Clapham Common, while reading for the Bar. At this time he also worked with Rusheen Wynne Jones in various charitable/voluntary projects including the Pheantry Preservation Trust chaired by Sir John Betjeman. He worked at the free representation unit in the 70s.

PUBLICATIONS

Books & Journals:

1987 Land Development, Reading University, with Professor Neil Crosby

1994 *Chinese International Commercial Arbitration* (Simmonds and Hill) with Danny Choi, Raymond Au and the late Hans Marcus

1994 *Chinese Maritime Law and Arbitration* (Simmonds and Hill) with Professor Philip Yang

1995 *Commentary upon the Chinese Arbitration Act* (Simmonds and Hill) with Danny Choi and Professor John Luk

1999 *Arbitration Procedure in Asia* (Sweet & Maxwell)

General Editor

1989 *Arbitration & Rent Review*, 1st Edition, Estate Gazette

1993 *Arbitration & Rent Review*, 2nd Edition

2004 *Arbitration & Rent Review*, 3rd Edition With forward by Lord Bingham of Cornhill.

2018 *FIDIC Yellow Book 2017, A Commentary* (Due Dec 2018)

2019 *FIDIC Red Book 2017, A Commentary* (Due Dec 2019)

TRAINING AND SEMINARS

Ben provides training of all aspects of arbitration and mediation. He is an approved trainer for the Chartered Institute of Arbitrators. He is currently working with the UCLH palliative care team providing mediation training.

He also works as a member of the Forum for International Conciliation and Arbitration, FICA, which he founded in 1996. His first training role for FICA was to provide training for 58 persons of various professions in Zambia organised by the Law Association of Zambia and to assist the Ministry of Legal Affairs as it then was to draft a new arbitration act which was enacted in 2002.

FICA was invited to join the United Nations as an observer for UNCITRAL in 2002 and has since worked within the various working groups insisting in the production of model laws, conventions and guides. Ben was a member of the expert group directed to produce a model law on Secure Transactions from 2005 to 2007.

He has worked with the International trade Centre as a member of model contract drafting team. He is

currently a member of three working groups of the International Chamber of Commerce drafting construction related international form contracts.

He speaks regularly at conferences addressing all aspects of alternative dispute resolution.

AWARDS

Chartered Arbitrator

FIDIC President's List of Adjudicators

EDUCATION

- **London University External LLB 1960-63**
- **Council of Legal Education 1974-77**
- **Ealing Polytechnic BA Economics 1982-83**
- **Oxford Polytechnic BSc Estate Management 1985-88**

PROFESSIONAL MEMBERSHIP

- **Chartered Surveyor**
- **Fellow, Royal Institute Chartered Surveyors**
- **Fellow, Chartered Institute of Arbitrators**
- **Civil Mediation Council**

LANGUAGES

- **Some French**

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