FEBRUARY 2026

DENIS CHANG'S CHAMBERS

Issue No. 14

By **James Wood** and **Justin W.T. Lam**

TABLE OF CONTENTS

Court of Appeal clarifies copyright protection for architectural works and construction drawings
Sky King Machinery Engineering Ltd v. China Harbour Engineering Company Ltd [2026] HKCA 11 — **1**

Articles of Association prevail over internal policies: Court upholds directors' authority to bind the company
Jiang Saizhen v. China Come Ride New Energy Group Ltd and Another [2026] HKCFI 553 — **2**

Court of Appeal confirms that only instruments that relate directly to real property are registerable under the Land Registration Ordinance
Smart Edge Limited (Receivers and Managers Appointed) v HG Property Investment HK [2026] HKCA 149 — **3**

Recognition of overseas court appointed receivers
Cosimo Borrelli & Ors v Herbert Smith Freehills Kramer and China National Gold Group Hong Kong Ltd [2026] HKCFI 1250 — **4**

DENIS CHANG'S CHAMBERS

Authors

James is a seasoned advocate with over 25 years' experience. He is particularly recognised for his expertise in restructuring and insolvency cases, and commercial fraud and financial disputes, including disputes involving asset tracing and recovery.

Before joining the Bar, James was a financial services and disputes lawyer with Freshfields, Goldman Sachs, O'Melveny & Myers, and most recently a Solicitor Advocate and Partner at Lipman Karas (Karas So in association with Mischon de Reya).

His cases are usually substantial in value and cross-border in nature, involving legal proceedings in forums around the world. He has been recommended in Chambers & Partners & Legal 500. He is qualified to practice Hong Kong, English and BVI law.

View James's profile

James Wood

Barrister at Denis Chang's Chambers
Call: 1996 (Commonwealth, Ontario), 2019 (HK), 2025 (BVI)

Justin was called to the Bar in 2024 after his completion of pupillage with Mr. Earl Deng, Mr. Thomas WK Wong, Mr. Martin Wong and Mr. Tony Li SC.

Before commencing pupillage, Justin completed his LLM at the London School of Economics and Political Science, focusing on corporate and commercial law.

Justin is fluent in English, Cantonese and Mandarin. He is developing a broad practice and accepts instructions in all areas.

View Justin's profile

Justin W.T. Lam

Barrister at Denis Chang's Chambers
Call: 2024 (HK)

Case 1

Court of Appeal clarifies copyright protection for architectural works and construction drawings

Sky King Machinery Engineering Ltd v. China Harbour Engineering Company Ltd [2026] HKCA 11

Date of Judgment: 2 February 2026
Coram: Hon Barma and Chow JJA, Mimmie Chan J

The Court of Appeal dismissed the Defendant's appeal against a judgment which found that it had infringed copyright in respect of construction drawings and installations relating to a public fill sorting facility in Tseung Kwan O. The Court affirmed that the Plaintiff was the owner of the copyright in the relevant construction plans and installations, which the Defendant had used without authorisation in a subsequent government project. The Court of Appeal upheld the trial judge's findings as to the originality of the Plaintiff's works, and confirmed that there is no requirement of "artistic quality" for works of architecture to qualify for copyright protection under Hong Kong law.

The Court of Appeal made several key findings on the law. Firstly, it confirmed that, for copyright to subsist in construction drawings and installations, the works must be original; however, there is no requirement of "artistic quality" for a work of architecture to qualify as an "artistic work" under section 5(b) of the Copyright Ordinance (Cap. 528). Upon examining the legislative history, the Court of Appeal held that the omission of any reference to "artistic character or design" in the current legislation indicates that even utilitarian or temporary structures are capable of attracting copyright protection as works of architecture, provided they are original.

Secondly, the Court of Appeal upheld the trial judge's approach to the issues of authorship and ownership, affirming that the individual who creates the work is the author, and where the work is created by an employee in the course of employment, the employer is the first owner of the copyright, absent any agreement to the contrary. The Court further clarified that statutory presumptions of authorship and ownership, such as the appearance of names on published plans, are rebuttable by evidence of actual creation and instruction. Finally, an individual who merely acts as a "scribe" does not attain the status of joint author.

Case 2

Articles of Association prevail over internal policies: Court upholds directors' authority to bind the company

Jiang Saizhen v. China Come Ride New Energy Group Ltd and Another [2026] HKCFI 553

Date of Judgment: 2 February 2026
Coram: Deputy High Court Judge Alan Kwong

The Court held that a company's internal policies cannot override the authority-conferring provisions set out in its articles of association.

The Plaintiff commenced proceedings against the Defendant for the sum of HK$5,830,000 pursuant to a bond purchase agreement and bond certificate. The Plaintiff had invested HK$5,500,000 to acquire the bond, the transaction having been facilitated through a securities firm and the funds paid to a subsidiary of the Defendant. The Defendant contended that the two directors who executed the bond documents lacked authority, and that the transaction was invalid for want of consideration. The Court rejected these arguments, finding that (i) the Plaintiff was a bona fide investor, (ii) the transaction was within the ordinary course of the Defendant's business, and (iii) the bond was validly issued and enforceable.

The principal issue concerning authority was whether Ms Shi and Mr Sun, as executive directors, possessed actual authority to bind the Defendant in respect of the bond issuance. The Court held that Article 101(2) of the Defendant's Articles of Association expressly conferred actual authority upon any two directors acting jointly to enter into agreements or execute documents on behalf of the company in the ordinary course of business, thereby rendering such transactions binding on the Defendant. The Court further found that the issuance of the bond was within the ordinary course of the Defendant's business as an investment holding company, and that any internal policies requiring board approval could not prevail over the Articles of Association. Accordingly, the directors' actions were valid and binding on the Defendant, and the Plaintiff was entitled to rely on the bond certificate executed by both directors.

Case 3

Court of Appeal confirms that only instruments that relate directly to real property are registerable under the Land Registration Ordinance

Smart Edge Limited (Receivers and Managers Appointed) v HG Property Investment HK [2026] HKCA 149

Date of Decision: 3 February 2026
Coram: Hon. Kwan VP, Barma JA and Au JA

In this case, the Court of Appeal confirmed that the instruments regarding the sale and purchase of shares in a company ("Holdco") that held a real property, namely the Goldin Financial Global Centre (now known as The Bay Hub), were not registrable under the Land Registration Ordinance (Cap 128) as *lis pendens* in the Land Registry because the instruments did not create an interest in land. In contrast, a sale and purchase agreement for a real property itself is a registrable instrument on the land register of the relevant property under the Land Registration Ordinance (Cap 128).

Key to the Court of Appeal's decision was the fact that if the defendant ("HG Property") wished to purchase the property itself it could have done so, but instead it chose to purchase the shares of Holdco which held the property. The decision confirms the separate legal personality of a company, that is in the sense that the property in question was owned by Holdco itself and not by its shareholders who were the counterparties to the sale and purchase agreement with HG Property. The decision thus reiterates the foundational principles of English corporate law espoused in *Salomon v Salomon* [1897] AC 22.

Case 4

Recognition of overseas court appointed receivers

Cosimo Borrelli & Ors v Herbert Smith Freehills Kramer and China National Gold Group Hong Kong Ltd [2026] HKCFI 1250

Date of Decision: 27 February 2026
Coram: Deputy High Court Judge Gary Lam

This case concerned an application by BVI Court Appointed Receivers ("Receivers") for the delivery-up of a client file held by Herbert Smith Freehills Kramer ("HSF Kramer"). The Receivers had been appointed by the BVI Court over 65% of the shares in Soremi Investments Limited ("SIL"), a BVI incorporated company, for the purpose of protecting and preserving the status quo of both SIL and SIL's 90% shareholding in Soremi SA, a Congolese company, which owns a valuable copper and zinc mine in the Republic of Congo; and also for the purpose of protecting, recovering and repatriating funds belonging to SIL that were held and were previously held in SIL bank accounts and Soremi SA bank accounts. HSF Kramer had previously represented SIL, and the Receivers were attempting to obtain SIL's client file from HSF Kramer to reconstruct SIL's knowledge and its books and records, including its legal files.

The BVI Court appointed the Receivers in 2024 after, amongst other things, China National Gold Group Hong Kong Ltd ("CNG") refused to comply with HKIAC arbitral awards made in connection with a shareholders' dispute requiring CNG to transfer 65% of the shares in SIL to a company called Global Mining Development LP ("Global"). CNG also failed to return more than USD 100 million of SIL's funds that appear to have misappropriated. The dispute between CNG and Global is long-running and is summarised by Hon. Mimmie Chan J in *CNG v G and Anor.* [2024] 2 HKLRD 152 and by Hon. Eugene Fung J in *Soremi Investments Ltd v China National Gold Group Hong Kong Limited and Others* [2025] HKCFI 4514. HSF Kramer continues to represent CNG, and CNG is vigorously opposed to the Receivers obtaining a copy of SIL's client file. CNG in fact intervened in the proceedings and opposed the Receivers' application for recognition and assistance and the delivery-up of SIL's client file by HSF Kramer.

This was the first case in which the HK Court acknowledged the principles for recognition of foreign appointed receivers. Those principles were laid down in *Schemmer and Others v Property Resources Ltd. and Others* [1975] 1 Ch 273 and provide that a court can recognise and assist a foreign appointed receiver provided there is a sufficient connection between the defendant and the jurisdiction in which the receiver was appointed.

Whilst the Court considered that there was a sufficient connection between CNG (the defendant) and the BVI, it nonetheless declined to recognise the Receivers (and provide assistance) because it was not satisfied that the Receivers' appointment in the BVI was *de facto* continuing after the 65% shares in SIL were transferred to Global pursuant to a BVI Court order in July 2025 that rectified SIL's register if members. This was notwithstanding that the purposes of the appointment of the Receivers had not yet been fulfilled. The Court, however, left the door open for the Receivers to make another application for recognition and assistance in Hong Kong if their appointment was confirmed by the BVI Court and/or their powers were expanded.

The Court also permanently stayed an application brought by SIL itself (acting at the direction of the Receivers) for the delivery-up of its client file by HSF Kramer. The engagement letter between HSF Kramer and SIL contained an arbitration agreement. The engagement letter had been entered into when SIL was still controlled by CNG as a 65% shareholder. The application by SIL was brought under s.65 of the Legal Practitioners Ordinance (Cap. 159) and the Court's inherent jurisdiction. However, the Court permanently stayed SIL's application in favour of arbitration under s.20(1) of the Arbitration Ordinance (Cap. 609).

The decision raises interesting questions as to whether claims under the Legal Practitioners Ordinance and applications involving the conduct of solicitors are arbitrable as a matter of public policy. For example, in the recent case of *Gibson, Dunn & Crutcher v Sunshine Success Global Inc* [2026] 1 HKLRD 83, Hon. Queenie Au-Yeung J held that the taxation of a solicitors' costs is not arbitrable notwithstanding that the firm's engagement letter and terms of retainer contained an arbitration agreement. The different treatment between a taxation of a solicitors' bill of costs (which is not arbitrable as per *Gibson, Dunn & Crutcher*) and an application against a solicitor for the production of its client file (which is arbitrable) is something that will need to be worked out in the future.

The decision also gives rise to several other issues which will likely be litigated again in the future including the Court's jurisdiction to supervise solicitors and to order them to deliver up client documentation.

Disclaimer: *These articles do not constitute legal advice and seek to set out the general principles of the law. Detailed advice should therefore be sought from a legal professional relating to the individual merits and facts of a particular case. The photographs included in this document are for decorative purposes only and should not be taken as a depiction of any matter related to the cases summarised. The views and opinions expressed in these articles are solely those of the members authoring them and do not necessarily reflect the official policy or position of Denis Chang's Chambers, or of any other member or members of Denis Chang's Chambers.*

DENIS CHANG'S CHAMBERS

Any enquiry please contact our PD team at: pd@dcc.law

Denis Chang's Chambers

Main:
9th Floor, One Lippo Centre,
89 Queensway, Admiralty, Hong Kong
Tel : +852 2810 7222

Annex:
Room 4301, One Lippo Centre,
89 Queensway, Admiralty, Hong Kong
Tel : +852 2525 1228

www.dcc.law

Follow us on LinkedIn

Subscribe to our Email