MARCH 2026

DENIS CHANG'S CHAMBERS

DCC COMMERCIAL DIGEST

Issue No. 15

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Case 1

The Court of Appeal reinstates Mareva injunctions against 3 individuals freezing assets of an alleged fraudulent scheme at a lower monetary ceiling, cautioning the need to provide credible evidence as to quantum

TW Recovery Limited (In Creditors' Voluntary Liquidation) & Ors v. Choi Chak Man & Ors [2026] HKCA 361

Date of Judgment: 2 March 2026
Coram: Hon G Lam JA and DHCJ Keith in Court

The appeal arose after the first instance judge discharged Mareva (freezing) injunctions against 3 individuals (D8-D10) in a large representative claim by about 1,300 principally Taiwan based investors who alleged a large fraudulent Ponzi-style scheme against corporate and individual defendants. The investors alleged that they were induced to invest in high return, capital protected products that were operated via a group of corporate and individual defendants.

The original plaintiffs obtained ex-parte proprietary injunctions against a number of corporate defendants and Mareva injunctions against 3individual defendants (D8-D10). After the inter partes hearing, the first instance judge continued the proprietary injunctions against the corporate defendants and discharged the Mareva injunctions against the 3 individual defendants (D8-D10).

The judge gave the following reasons for discharging the Mareva injunctions:

Firstly, the plaintiffs had not established a good arguable case as to the quantum to be frozen. The sums transferred by the victims amounted to about US$212.8m. However, this could not be adopted as the ceiling for the Mareva injunctions as many investors had already received purported 'returns' or 'commissions' and the evidence then before the court did not allow the judge to fix an appropriate ceiling for the Mareva injunctions.

Secondly, the plaintiffs had failed to disclose all legal defences at the ex-parte stage, notably, the "double actionability" (a rule relevant to extra-territorial torts) and the extent of some investors' involvement in the distribution.

The plaintiffs appealed. In the interim period, many of the plaintiffs assigned their claims to a company, TWR, which was substituted as the lead plaintiff. TWR produced consolidated financial schedules setting out aggregated transfers and estimates for the proposed ceiling for a Mareva injunction.

On the first issue of quantum, the Court of Appeal held that where the order seeks to freeze assets to secure effective enforcement of the judgment to be obtained, the plaintiffs were required to advance credible evidence-based basis for the monetary ceiling. The court must guard against over-broad or speculative freezes and should also be pragmatic. However, the evidence for quantum at an interlocutory stage need not be perfect or precise; an approximate, transparent, and evidence-linked schedule can suffice where it gives the court a reasonable basis on which to calibrate a ceiling.

The Court of Appeal concluded that there was a good arguable case that a large-scale fraudulent scheme had been operated and that there was a real risk of dissipation by the individual defendants. It found that the new consolidated schedules and supporting material provided a sufficiently credible evidential basis to sustain a worldwide freeze and exercised its discretion to reduce the monetary ceiling to US$150 million.

On the second issue of non-disclosure, the Court of Appeal found that they did not amount to grounds to discharge the Mareva injunctions.

With regard to the non-disclosure of double actionality as a potential ground of defence, it held that the first instance judge was entitled to treat the point as potentially material, but concluded that the plaintiffs had not willfully suppressed a meritorious defence that would have deprived the judge of jurisdiction to grant interlocutory relief. None of the defendants had in response raised any issue of double actionability in their pleadings filed shortly before the hearing before the judge. None of them had suggested that applying Taiwanese law would produce a different outcome.

With regard to the non-disclosure of evidence of some investors' involvement in distribution, the Court of Appeal accepted that the defendants pointed to evidence suggesting that some investors had acted as distributors or received commissions. It held that these matters had been sufficiently disclosed for interlocutory purposes and did not show deliberate or material concealment that would justify discharging Mareva injunctions.

The key practical consequences of the decision are twofold.

1. First, it reiterated that Mareva injunctions require an evidence-based case on both liability and quantum and further clarified that approximate schedules showing the basis of the estimate of the size of the plaintiffs' claim may be adequate at the interlocutory stage.

2. Second, it reiterated the importance of full and frank disclosure in ex-parte applications whilst it also emphasized that there are degrees of relevance and there is a need to preserve a due sense of proportion. The court may look to whether or not the non-disclosure was deliberate or intentional.

Case 2

Competition Tribunal dismisses the Commission's claim against the Harbour Plaza 8 Degrees Hotel for price fixing facilitation

Competition Tribunal v. Gray Line Tours of Hong Kong Ltd. & Ors [2026] HKCT 1

Date of Decision: 4 March 2026
Coram: Hon Harris J, President of the Competition Tribunal in Court

Both Gray Line and Tink Labs supplied tourist attraction tickets in Hong Kong. Gray Line sold tickets to attractions such as Hong Kong Disneyland and Ocean Park through tour counters located inside hotels. On the other hand, Tink Labs provided “handy” smartphones placed in hotel rooms, through which guests could purchase attraction tickets. Both companies therefore competed for hotel guests as customers.

In 2016, Gray Line became concerned that Tink Labs was discounting attraction tickets below Gray Line’s prices. Gray Line approached certain hotels, including the Hotel, to complain about the undercutting. Subsequently, arrangements were made at some hotels under which Gray Line’s ticket prices were communicated to Tink Labs through hotel staff. Tink Labs then agreed to match Gray Line’s prices. Hotel personnel acted as intermediaries, passing pricing information between the two competitors and assisting in monitoring compliance.

The Competition Commission brought proceedings alleging a contravention of the First Conduct Rule in section 6 of the Competition Ordinance, which prohibits agreements, concerted practices, or decisions with the object or effect of preventing, restricting, or distorting competition in Hong Kong. Gray Line admitted liability. Tink Labs received leniency. The case proceeded against the Hotel and its manager on the basis that they had facilitated the anticompetitive conduct.

The Tribunal reaffirmed that proceedings under the Competition Ordinance are punitive in nature and attract the criminal standard of proof: contraventions must be established beyond reasonable doubt.

The Tribunal found that the arrangement between Gray Line and Tink Labs constituted horizontal price-fixing. Agreements between competitors to fix or align prices are among the most serious forms of anti-competitive conduct and are typically regarded as restrictions “by object.” The Tribunal confirmed that the price-matching arrangement was anti-competitive by object, meaning no detailed analysis of market effects was required.

The Commission argued that by intentionally transmitting pricing information and assisting in the implementation of the arrangement, the Hotel and its manager were parties to an anti-competitive agreement or concerted practice within the meaning of section 6.

The Hotel and its manager contended that they were not competitors in the relevant market and had merely facilitated the arrangement between others.

The Tribunal found that the Hotel and its manager were aware of the arrangement and had intentionally assisted in passing pricing information between Gray Line and Tink Labs. The Tribunal indicated that it would have found a contravention for the relevant period had section 6 extended to pure facilitation.

However, the Tribunal held that section 6 does not extend to standalone facilitation. A key factor in this conclusion was the structure of the Competition Ordinance. Section 91 creates liability for persons “involved in” a contravention, including those who aid, abet, counsel, or procure another to contravene a competition rule. The Tribunal reasoned that this specific statutory provision for accessorial liability demonstrates that facilitation is to be pursued under section 91, not by stretching section 6 to cover non-parties who merely assisted in the anticompetitive conduct.

The Tribunal further distinguished European Union case law, such as AC-Treuhand, in which facilitators were held liable under EU competition law. It emphasized that the Hong Kong statutory framework differs materially because it contains an express involvement provision. As a matter of statutory interpretation, the existence of section 91 meant that facilitation should be addressed through that route.

Because the Commission had pleaded the case only under section 6 and not under section 91, the Tribunal concluded that the legal basis for liability was not made out. Accordingly, the application against the Hotel and its manager was dismissed. The Tribunal ordered costs against the Commission.

The case therefore provides important guidance on the proper framing of enforcement actions and marks a notable development in Hong Kong competition jurisprudence.

Case 3

"Voluntary payment" into Court granted: A proactive gambit pending appeal

CS v HKR [2026] HKCFI 1611

Date of Decision: 19 March 2026
Coram: Hon Mimmie Chan J

This decision arises from an unusual application in arbitration-related proceedings. The plaintiff had previously obtained leave to appeal to the Court of Appeal against a decision refusing it leave to appeal a first award on liability and quantum (the "1st Award"). Pending those appeals, the tribunal issued a second award (the "2ndAward") dealing with interest and costs, consequential upon the findings in the 1st Award.

The plaintiff had already paid the full amount of the 1st Award as a result of the threat of statutory demands and to avoid any potential winding-up proceedings. Fearing similar enforcement action on the 2nd Award, the plaintiff took the initiative to apply for a "Voluntary Payment Order", seeking permission to pay the interest awarded under the 2nd Award into Court, to be held pending the final determination of its appeals against the 1st Award and any consequential amendments to the 2nd Award.

The defendant opposed the application, contending that: (i) there was no challenge to the 2nd Award; (ii) the Court lacked jurisdiction to make such an order; and (iii) the defendant should not be hampered in its choice of enforcement methods, including enforcement outside Hong Kong.

In acceding to the plaintiff's application:-

1. The Court rejected the defendant's argument that there was no challenge to the 2nd Award, holding that although there was no formal challenge filed, the plaintiff's appeal against the 1st Award necessarily impacted the 2nd Award, as any variation or reduction of the principal sum would directly affect the interest awarded. The relief was expressly sought as extending to "any consequential award or order of the Arbitrator", which encompassed the 2nd Award. The Court observed that the defendant itself had not yet sought leave to enforce the 2nd Award providing a procedural context in which the plaintiff could oppose enforcement;

2. The Court confirmed its jurisdiction to make the Order. Besides acknowledging its wider case management powers under O.1B, RHC, the Court held that section 7(6) of Schedule 2 of the Arbitration Ordinance, Cap 609 which empowers the Court to order security pending challenges, was apt to preserve money payable under arbitral awards while challenges under section 4 or 5 were pending;

3. On the doctrine of severability raised by the defendant (citing *JJ Argo Industries (P) Ltd v Texuna International Ltd* [1994] 1 HKLRD 89), the Court noted that even if the interest award was partially severable, this did not preclude the making of the Order. In any event, the defendant's position would not be practically altered as the plaintiff's offer to pay the full amount into Court provided greater security to the defendant than strictly necessary; and

4. The Court found that such Order preserved the status quo pending appeal, prevented the threat of enforcement action, and ensured that neither party suffered prejudice. The defendant's concerns regarding enforcement outside Hong Kong were dismissed as academic as it remained free to pursue other enforcement remedies elsewhere.

The decision illustrates that the Court possesses broad case management powers, both statutory and inherent, to fashion pragmatic relief in arbitration-related proceedings thereby balancing the parties' interests.

Case 4

Country Garden's restructuring scheme, a substantial one in Hong Kong for a property developer, sanctioned

Re Country Garden Holdings Company Ltd [2026] HKCFI 1619

Date of Decision: 19 March 2026
Coram: Hon Linda Chan J

This was a petition to sanction a Scheme of arrangement under section 670 of the Companies Ordinance, Cap 622 presented by Country Garden Holdings Company Limited (the "Company"), a Cayman Islands incorporated company with shares listed on the Hong Kong Stock Exchange (the "HKEx"). The Company faced severe financial difficulties arising from the challenging real estate sector in Mainland China and reduced access to capital markets. As of 31 December 2024, the Company was balance sheet insolvent.

Following over 20 months of negotiations involving 13 rounds of restructuring proposals, the Company reached consensus with an ad hoc group of noteholders and a coordination committee of bank lenders. The restructuring sought to compromise USD14.54 billion of offshore indebtedness, comprising syndicated loans, bilateral loans, public notes, and convertible bonds governed by Hong Kong, New York, and English law. The Scheme was designed to reduce offshore indebtedness by over USD10 billion, lower interest rates, and extend maturities to 2027–2036. Estimated recoveries under the restructuring ranged from 17.8% to 54.0%, compared to 2.8% to 11.9% in a liquidation scenario.

The Court sanctioned the Scheme, applying the established criteria from *Re Times China Holdings Ltd* [2025] HKCFI 3937 and particularly:-

Class composition: The Court held that the division into two classes was appropriate given Class 1's unique entitlement to the security compensation amount. Applying the principle that class composition turns on legal rights rather than commercial interests (*Re Yuzhou Group Holdings Co Ltd* [2025] 1 HKLRD 69), the Court found that restructuring support agreement fees (0.05–0.10% of principal) and work fees (increasing creditor group recoveries by less than 1.73%) did not fracture classes. Following *Times China* (§§40–42), differential treatment does not create separate classes where such amounts are immaterial relative to overall recovery (here 17.8–54.0%) and are justified by legitimate commercial considerations. Compensatory payments to creditor groups that actively participate in lengthy negotiations will not automatically fracture classes provided they are proportionate and transparently disclosed.

Information provision: The Court scrutinised disclosure adequacy under section 671(3) of the Companies Ordinance, which requires an explanatory statement to "explain the effect of the arrangement or compromise". The Court found that the initial Explanatory Statement which presented five options with aggregate caps and a waterfall allocation mechanism without clear summary or monetary illustrations would not serve the statutory purpose. Following the Court's observations, flow charts and illustrative tables were included from which the Court accepted as rendering the Scheme comprehensible. Where schemes involve complex option structures, recitation of descriptive contractual terms is insufficient and genuine explanatory statement with clear illustrations is required.

Third-party releases: The Scheme contained releases of guarantors and restructuring-related parties. Applying *Times China* (§22), the Court accepted that releases of guarantors were critical to prevent "ricochet claims" that would undermine the restructuring. Third-party releases remain permissible where they are necessary for the restructuring's effectiveness, and are properly disclosed and subject to appropriate carve-outs (*Re Yuzhou* (§17)).

International efficacy: Applying *Times China* (§§46–47), the Court found the Schemes carried sufficient connection with Hong Kong: the Company was registered as a non-Hong Kong company, its shares were listed on HKEx, negotiations were conducted in Hong Kong, significant debts were Hong Kong law governed, and there were 2,425 Scheme creditors who submitted to jurisdiction by voting. As the Scheme involved New York law governed debt (representing approximately 64.5% of Existing Debts), the Company obtained Chapter 15 recognition from the New York Bankruptcy Court, as a critical step pursued in parallel, ensuring the Scheme's effectiveness in compromising New York law governed notes.

Intelligent and honest man test: Applying the established principle that businessmen are much better placed than the Court in assessing commercial advantage (*Times China* §44), the Court declined to differ from the overwhelming majorities of creditors (representing 83.71% in value for Class 1 and 96.03% in value for Class 2) who voted in favour of the Scheme, and further held that the recovery differential (17.8–54.0% under the Scheme versus 2.8–11.9% in liquidation) strongly supported the conclusion that an intelligent and honest man might reasonably approve the Scheme.

The decision illustrates the Court's rigorous scrutiny of class composition and disclosure in restructuring schemes, yet with deference to commercial judgment where a well-negotiated compromise commands creditor majority support.

Case 5

Tort of deceit claim over name and insignia fails as composite joint ownership representation not made out

Koo Ming Kown v The Baptist Convention of Hong Kong & Ors [2026] HKCA 372 (On appeal from [2024] HKCFI 2869)

Date of Decision: 20 March 2026
Coram: Hon Au, Chow and Anthony Chan JJA

This appeal concerned a dispute over the name and insignia of "Pui Ching" (the "Name and Insignia"), involving three schools from Hong Kong, Macau and Guangzhou (the "Three Schools") that share a common historical lineage tracing back to Pui Ching College founded in Guangzhou in 1889. The plaintiff is a successful businessman and former student of the Hong Kong Pui Ching Primary School and Middle School (operated in Hong Kong) (the "Hong Kong Schools") who became a key funder of a "Campaign" — an initiative launched in February 2002 to recover and regulate the use of the Name and Insignia against alleged passing off by third parties (the "Campaign"). Between 2002 and 2014, the plaintiff made substantial monetary contributions and devoted considerable time and effort to supporting the Campaign, relying on what he alleged were ongoing representations made by the defendants.

The trial judge dismissed all the plaintiff's claims, namely (i) deceit by fraudulent misrepresentation; (ii) breach of an alleged duty to disclose or undeceive; and (iii) the contractual claim against the 1st defendant. The trial judge also upheld the defendants' limitation defence.

The plaintiff appealed on limited grounds, challenging only the rejection of the fraudulent misrepresentation claim and the limitation finding. The majority part of the judgment sought to address one core issue, namely, whether the trial judge erred in rejecting that there was an alleged representation that the Name and Insignia were jointly owned by the Three Schools (the "Representation"). On this, the plaintiff relied on 3 undisputed documents as the "high watermark" of his case: (i) a Joint Statement dated 15 August 2005; (ii) the Articles of

Association of a Working Committee which was approved on 21 October 2006 (the "Articles of Association"); and (iii) a document referred to as "Pui Ching Declaration" dated 5 December 2009 (the "Declaration") (collectively, the "Three Documents").

In finding against the plaintiff regarding this core issue and eventually dismissing the appeal, the following, amongst others, are of significance:-

Pleading of composite representations: Where a plaintiff pleads a composite representation with multiple constituents, each constituent must be clearly linked to specific events or statements. Generalised particulars across a 12-year period without distinguishing which constituent arose from which event will not suffice.

Construction of representations: Statements across documents consistently using aspirational language (e.g., "應是" / "should be") or expressed as working principles or declarations of goal, commitment or position (such as the key sentence in the Articles of Association stated that the Three Schools "應是" (*should be*) the creators and lawful owners of the trademarks and the operative text in the Declaration stated that the Three Schools "理應" (*should be*) the legal owners and users of the trademarks) do not constitute statements of fact capable of supporting a misrepresentation claim.

Joint ownership: The Three Documents could not be read in isolation, and the Court is minded to look for coherent or clear reference to joint ownership across the extensive documentary record if it had factually been agreed or represented.

While the Court found the inducement point academic as the Representation was not made out, it emphasized that the "presumption" of inducement is an inference of fact that may be drawn in appropriate circumstances, not a presumption of law that automatically operates (see *Zurich Insurance Co plc v Hayward* [2017] AC 142, at [34]) and such an inference can be rebutted by all relevant evidence, including the claimant's own testimony (see *BV Nederlandse Industrie Van Eiprodukten v Rembrandt Enterprises Inc* [2020] QB 551, at [25] and [32]).

The Court delivered a scathing critique of the plaintiff's 61-page Re-Re-Re-Amended Statement of Claim for being "heavily laden with evidence and submissions," "highly convoluted and repetitive," and contrary to elementary pleading rules. The Court noted that such pleadings could be struck out under O.18, r.19(b) – (d), RHC, sending a stark message that the norm for concise and properly particularized pleadings should always be seriously observed.

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