



Consistently delivering
outstanding service to our clients

Kwa Kim Li
Managing Partner

ABOUT US

Lee & Lee was founded by Mr. Lee Kuan Yew, Mr. Lee Kim Yew and Ms. Kwa Geok Choo on 1 September 1955.

While Mr. Lee Kuan Yew went on to become the Prime Minister of Singapore, Mr. Lee Kim Yew and Ms. Kwa Geok Choo took over the reins of the fledgling law practice and turned it into one of the largest law firms in Singapore.

Today, Lee & Lee is one of Singapore's most established and leading law firms with a staff of over 200 persons comprising lawyers, paralegals and other support staff.

Our clients include major financial institutions, public listed companies and multinational corporations.

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FIRM UPDATES

LEE & LEE CONGRATULATES OUR CONSULTANT, JUSTICE (RET'D) GOH JOON SENG, FOR BEING AWARDED THE MERITORIOUS SERVICE AWARD

Lee & Lee is proud and honoured to announce that our Consultant, Justice (Ret'd) Goh Joon Seng, was recently awarded the Meritorious Service Medal (*Pingat jasa Gemilang*) during the National Day Awards 2016.

The Meritorious Service Medal is awarded to persons who have performed service of conspicuous merit for Singapore, characterized by resource, devotion to duty, and long service marked by exceptional ability, merit, and exemplary conduct.

These attributes were epitomized by Justice (Ret'd) Goh's many years of distinguished service in our nation's highest offices.

Prior to his retirement from the Supreme Court Bench in 2000, Justice (Ret'd) Goh served as a Judge of the Supreme Court for nearly 10 years.

After his retirement from the Bench, Justice (Ret'd) Goh continued to serve in various distinguished postings. Locally, Justice (Ret'd) Goh served (among other appointments) as the Chairman of Presidential Council for Religious Harmony since 2005, a Member of the Council of Presidential Advisers since 2008, and the Chairman of the Criminal Law Advisory Committee (Hearing) since 2010.

Internationally, Justice (Ret'd) Goh served with great merit as well. He served as the Chairman and Director of the Board of the Singapore International Arbitration Centre from 2004 to 2009. He also became a member of the Permanent Court of Arbitration at The Hague from 2003 to 2010. Further, he was elected by the United Nations General Assembly as a Member of the United Nations Administrative Tribunal, from 2005 to 2009.

We are honoured to continue to have one of the finest sons of Singapore in our Firm as a Consultant, and wish to use this opportunity to extend our heartiest congratulations to Justice (Ret'd) Goh.

RECENT APPOINTMENTS

Our Firm is delighted to be awarded retainers to provide legal services to: -

- (a) The Council for Estate Agents (CEA); and
- (b) Tripartite Alliance Limited (TAL).

LEGAL UPDATES

LEE & LEE SUCCESSFULLY DEFENDS CLIENTS AGAINST DEFAMATION AND CONSPIRACY SUIT IN SINGAPORE'S HIGH COURT

In the recent High Court case of *Qingdao Bohai Construction Group Co, Ltd and others v Goh Teck Beng and another* [2016] 4 SLR 977, our firm successfully defended two individuals in a defamation/conspiracy suit launched by five plaintiffs (comprising of three companies and two key management personnel who were all part of a large real estate and construction group). The Plaintiffs' claim amounted to more than S\$21 million.

The plaintiffs had alleged that the defendants were responsible for posting various online articles that were defamatory of the plaintiffs, and which damaged the plaintiffs' reputation and business dealings. In support, the plaintiffs produced, as part of their evidence, video and audio recordings allegedly showing that the second defendant had admitted to publishing the online articles.

Our team, led by the Head of our Litigation and Dispute Resolution department Mr Quek Mong Hua, and assisted by our associates Mr Anthony Wong and Ms Teo Wei Ching, successfully persuaded the Court after a hard-fought 12.5 days' trial that the defendants were not liable for defaming the plaintiffs.

Accordingly, the Court dismissed all of the plaintiffs' claims and awarded costs to the defendants.

For additional information, please contact our [Mr. Quek Mong Hua \(quekmonghua@leenlee.com.sg\)](mailto:quekmonghua@leenlee.com.sg) or [Mr. Anthony Wong \(anthonywong@leenlee.com.sg\)](mailto:anthonywong@leenlee.com.sg).

CHANGES TO SINGAPORE'S COPYRIGHT REGIME

The Ministry of Law and the Intellectual Property Office of Singapore have recently announced that they are reviewing Singapore's copyright regime to ensure that the rights covered therein are reasonable, clear, and capable of being efficiently transacted. They announced their proposed changes, and invited public feedback on the same, in a public consultation in August 2016.

We briefly summarise the major proposed changes below.

Establishing a voluntary copyright registration system: There is presently no system of copyright registration in Singapore. It has been proposed to implement a voluntary registration system to simplify the process of establishing copyright ownership, and making the process of tracing copyright ownership easier and cheaper.

Ownership of commissioned works: Creators of certain commissioned works will be given first ownership of the copyright in these works.

Duration of protection for unpublished works: The duration of copyright protection for certain unpublished works will be limited, to prevent such works from being withheld from the public indefinitely.

Right of attribution: This will allow creators and performers of a copyright work to be attributed or credited accordingly.

Relationship between creators and publishers/producers: An informational website will be established for the benefit of creators of copyright works.

Exceptions that cannot be restricted by contracts: Certain copyright exceptions, such as those relating to fair dealing, fair use, education and parallel importation, cannot be excluded by contract.

Orphan works: "Orphan" works are copyrighted works where the copyright owner is unknown. Various options will be introduced to allow persons to use orphan works.

Text and data mining: It will be permissible to allow copyrighted works to be reproduced for the purposes of data analysis, thereby benefiting companies which wish to carry out text and data mining.

Libraries and archives / museums and galleries: There will be new or amended exceptions in the Copyright Act allowing libraries, archives, non-profit museums and galleries to reproduce copyrighted works to better serve the general public.

Patent office: There will be a new exception to allow for the reproduction of certain literature for patent office functions, thereby benefiting the patent examination process.

Technological Protection Measures: These are digital locks which restrict the access or use of copyrighted works (e.g. region coding). The Copyright Act presently contains a list of exceptions where such measures may be circumvented. The list of exceptions is presently being reviewed.

A more detailed discussion on the proposed changes may be viewed on our Firm's website at:-

<https://www.leenlee.com.sg/2016/11/1627/>

For additional information, please contact our **Mr. Tan Tee Jim, S.C.** (tanteejim@leenlee.com.sg) or **Mr. Jeremiah Chew** (jeremiahchew@leenlee.com.sg).

CASE NOTES

HIGH COURT ISSUES JUDGMENT ON VALIDITY OF DISPUTE RESOLUTION CLAUSE THAT GRANTS ONE PARTY THE RIGHT TO ELECT TO ARBITRATE

The High Court recently decided in *Dyna-Jet Pte Ltd v Wilson Taylor Asia Pacific Pte Ltd* [2016] SGHC 238 that a clause granting one party the right to arbitrate disputes constituted a valid "arbitration agreement" for the purposes of Section 2A of the International Arbitration Act (the "IAA").

The case revolved around a dispute resolution clause in a contract between the plaintiff and the defendant. The clause in question provided that the plaintiff alone could elect whether or not to refer any dispute between the parties to arbitration.

Following a dispute between the parties, the plaintiff exercised its right of election by commencing an action in court against the defendant. Subsequently, the

defendant applied for an order to stay the plaintiff's action permanently, and to compel the plaintiff to arbitrate the dispute.

In the Singapore High Court, Justice Vinodh Coomaraswamy (the "Judge") dismissed the defendant's stay application, allowing the plaintiff to continue with its action in the Singapore courts.

The Judge's decision was based on two reasons. One, he found that that the dispute resolution clause (which gave only the plaintiff the right to elect whether or not to arbitrate the dispute) was a valid arbitration agreement. Two, the Judge found that the plaintiff's election not to arbitrate the dispute (by commencing the court action) rendered the parties' arbitration agreement "incapable of being performed".

In making his first finding, the Judge set out the following key principles (among others) as the state of the law in Singapore:

- (a) A contractual dispute resolution agreement that gives only one part the right to elect whether or not to arbitrate was an arbitration agreement. There was no need for both parties to have the mutual right to elect to arbitrate their dispute.
- (b) Further, a contractual dispute resolution agreement that granted a party the right to decide whether to arbitrate a dispute in the future also constituted a valid arbitration agreement.

For his second finding, the Judge held that the proviso "incapable of being performed" in Section 6(2) of the IAA referred to situations where a contingency had arisen that prevented the arbitration from being set in motion. Such contingencies could either be those that had been foreseen (and catered for) by the parties, or unforeseen.

In the Judge's view, the fact that the plaintiff had declined to arbitrate meant that the plaintiff's right to elect had been spent for that dispute, such that the parties' arbitration agreement was not "incapable of being performed". This is because the arbitration agreement was now subjected to a contingency that could no longer be fulfilled. Consequently, the Judge dismissed the defendant's stay application, allowing the plaintiff to continue its action in the courts.

A more detailed discussion on the said developments can be viewed on our Firm's website at: -

<https://www.leenlee.com.sg/wp-content/uploads/2016/11/Case-Update-Dyna-Jet-Pte-Ltd-v-Wilson-Taylor-Asia-Pacific-Pte-Ltd-Final-1.pdf>

For additional information, please contact our **Mr. Christopher Tan** (christophertan@leenlee.com.sg), or **Mr. Lee Kok Thong** (leekokthong@leenlee.com.sg).

RECENT TRANSACTIONS

On 31 August 2016, the consenting owners of Harbour View Gardens entered into a conditional sale and purchase agreement for the en bloc sale of their development to RH Developments Pte Ltd for the price of S\$33.25 million. An application to the Strata Titles Board for approval to the sale will be filed soon. Our **Mr Ow Yong Thian Soo** (owyongthiansoo@leenlee.com.sg) and **Ms Sharon Tay** (sharontay@leenlee.com.sg) are representing the consenting owners in the collective sale.

Our Mr Ow Yong and Ms Sharon Tay have also acted for the Lian Beng Group in the purchase from Heartland Retail Holdings of 4 large retail properties located in mature HDB heartlands for the sum of S\$151 million. The purchase was completed on 9 November 2016.

We are presently acting for MCC Land in the sale of units in the Alps Residences, a new and highly sought-after condominium development in Tampines, with 280 units sold on the launch day itself. Our Mr Ow Yong and Ms Sharon Tay head the team of lawyers working on this project.

We are also acting for HY Realty (Dundee) Pte Ltd in the sale of units in the new development at Dundee Road known as Queens Peak, located right next to Queenstown MRT station. Over 200 units were sold in the first weekend that it was launched. Our **Ms Kwa Kim Lim** (kwakimli@leenlee.com.sg) and **Ms Bernice Gan** (bernicegan@leenlee.com.sg) are in charge of the project.

OUR SERVICES

We provide a comprehensive range of legal services to serve the differing needs of individuals and companies. Our areas of practice include banking, corporate, competition, intellectual property, litigation and dispute resolution, and real estate.

Banking The Banking and Finance team advises on the full spectrum of loan and other debt-related transactions including project, asset and asset-backed financing, financing relating to takeover offers, syndicated / club loans, cross border financing, risk and funded sub-participations, securitisations and sale of loans and receivables and security arrangements and documentation.

For more information, please contact **Louise Tan** (louisetan@leenlee.com.sg)

Corporate Our Corporate Department provides a wide range of corporate and commercial legal services to a varied clientele encompassing financial institutions and major corporations in diverse industries including private and publicly-listed corporations, both multi-national and local. In particular, the Corporate team advises on merger & acquisitions, initial public offerings, capital markets & corporate financing, as well as general corporate and commercial matters.

For more information, please contact **Adrian Chan** (adrianchan@leenlee.com.sg)

Competition Lee & Lee's Competition Practice advises and represents clients on the complete range of competition law issues. The issues principally relate to anti-competitive agreements, abuse of dominant position and mergers which have resulted, or may result, in a substantial lessening of competition in any market in Singapore. Our practice can appear before the Competition Commission of Singapore regarding such issues.

For more information, please contact **Tan Tee Jim, S.C.** (tanteejim@leenlee.com.sg) or **Mervyn Foo** (mervynfoo@leenlee.com.sg)

Intellectual Property The Intellectual Property practice group has a highly regarded expertise in all aspects of intellectual property law which ranges from trademark and service mark registrations in Singapore and throughout the world, to patent and copyright infringement actions.

For more information, please contact **Tan Tee Jim, S.C.** (tanteejim@leenlee.com.sg)

Litigation and Dispute Resolution The Litigation and Dispute Resolutions practice group has proven experience in resolving all types of disputes through mediation, arbitration or litigation. Our main practice areas include all types of commercial and contractual disputes, shareholder and corporate disputes, banking matters, professional negligence claims, insurance claims, defamation actions, matrimonial and family law matters, white collar and other criminal matters and other statutory offences.

For more information, please contact **Quek Mong Hua** (quekmonghua@leenlee.com.sg), **Lee Han Tiong** (leehantiong@leenlee.com.sg) or **Julian Tay** (juliantay@leenlee.com.sg)

Real Estate The Real Estate practice group specialises in property transactions ranging from the sale and purchase of residential properties to commercial properties such as that relating to hotels, office and shopping complexes and mixed developments.

For more information, please contact **Ow Yong Thian Soo** (owyongthiansoo@leenlee.com.sg)

If you would like to subscribe to our legal updates, case notes and newsletters, please drop us an email at leenlee@leenlee.com.sg.

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