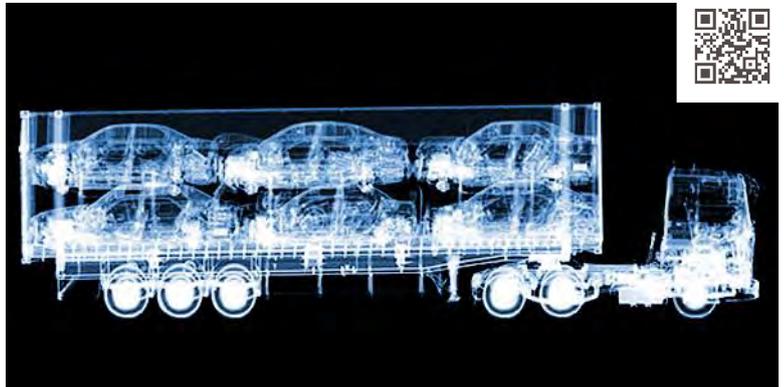


Forfeiture Hearing: Property Seized Connected with Criminal Activities

by
Ms Cherry Hui,
Barrister-at-Law,
Former Deputy Magistrate



Ms Cherry HUI was admitted to practice as a Barrister of Hong Kong High Court in 1999. In her private practice, she was involved in a wide variety of criminal cases.

Having got her law degree, Ms HUI took on a new challenge and worked as a part-time lecturer in Hong Kong for over ten years. Her major responsible subjects were business law, criminal law and advocacy. In those years, she developed her interest in being a lecturer to convey her knowledge to young people.

In 2008, Ms HUI took on an entirely new role, as she was appointed as a Deputy Special Magistrate. The appointment gave her an opportunity to gain valuable experience. In 2011, Ms HUI was appointed as a Deputy Magistrate for 39 months until she finished her appointment and resumed her practice in November, 2014. She enjoyed being a Deputy Judicial Officer for that period and the experience gained will definitely be beneficial to her coming challenges.

In Hong Kong, forfeiture occurs when the court decides to seize a person's property because it was believed to be connected with a crime. Applicant has to prove the articles in question are liable to forfeiture. Claimant has to prove he is a person who is/would have been entitled to make a claim. Claimant **"has the evidential burden to try and satisfy the Court that he is an innocent party and is not a party to the wrong-doing which led to the contravention."** Both parties are **"with the onus of proving on balance of probability"**.

In Dah Sing Bank Limited's case (HCMA 54/2014), the court cited Cherry's judgment: **"..... 31. In my view, the appellant company, being a well-established bank, should have been aware of the seriousness of using a goods vehicle for the purpose of smuggling, but it simply did not care about the use and purpose to which the hired-out vehicle would be put. If the appellant merely relied on the contractual provisions, it has in my view not taken reasonable precautions to prevent smuggling activities. The appellant did not testify or call any witness, and there is no evidence to show that it had carried out regular inspections or examinations to prevent smuggling activities from taking place. The vehicle was altered as a result of the appellant's negligence. In my view, even though the appellant has had clauses in the hire purchase agreement which govern National Express International Limited, it has still failed to prove on a balance of probabilities that it is wholly innocent."**

Scan to Calendar



Forfeiture Hearing can be complicated. This meeting will consist of two parts:

- Part 1, will be a talk on the law and procedure relating to the Forfeiture Proceedings;
- Part 2, to share her experiences and explain our case development.

Code:	EVT000000068	Level:	Intermediate
Date:	26 June 2015 (Friday)	Language:	English
Time:	14:30 - 17:45 (Reception starts at 14:00)	Accreditation(s):	LSHK 3.0 CPD Points (LSHK Allocated Number: 20151175)
Venue:	Kornerstone Institute 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong Kong	Request for Rerun:	Please Contact Us for Details



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