

Adverse Possession: Practical Tips & Latest Legal Development (IO of Kam Luk Building v. 吳靜燕 [2022] HKCA 1896)

by
Mr. Dicky Cheung,
Barrister, Garden Chambers



Mr. Dicky Cheung read law at the University of Hong Kong and was called to the bar in 2017. He joined Garden Chambers in the following year.



His practice is focused on commercial, company and contractual litigation. He has represented listed companies, state-owned banks (overseas and PRC), and high net worth individuals in handling complex commercial, corporate and civil litigation with securities, trusts and probate at issues, involving overseas parties and complicated transactions.

Dicky also frequently represents professionals, including insurance agents, estate agents, optometrists etc., in disciplinary proceedings, and their appeal and judicial review proceedings.

Dicky is fluent in Putonghua and regularly handles PRC-related cases and parties.

The Speaker acted for the successful appellant (the Incorporated Owners of a building) in its appeal, IO of Kam Luk Building v. 吳靜燕 [2022] HKCA 1896, against a trial judge's refusal to order vacant possession for a part of staircase (being common parts of the building) occupied by a squatter. This case turns onto intriguing issues of law such as:

1. What if the squatter occupied the common parts on the strength of a licence given by a director of the first owners?
2. What if the person giving the licence actually had no authority or capacity to do so? Does it alter the intention and adversity of the possession of the squatter?
3. What if the squatter is a co-owner of the building? Can he adversely possess common parts to which he also owns?

The Court of Appeal allowed the appeal on points of law which are of general importance and also, quite rarely, on facts. The Speaker will share his insight and experience in the trial and subsequently successful appeal.

The **PROFECTIONAL** Company[®]

Professional Services to the Perfection

Telephone: +852 3118 2371 | Facsimile: +852 3118 2372
Email: info@profectional.com | Website: <http://www.profectional.com>
Address: P.O. Box 9993, General Post Office, Hong Kong

KORNERSTONE

Training. Makes a difference.

Telephone: +852 2116 3328 | Facsimile: +852 2116 3571
Email: enquiry@kornestone.com | Website: <http://www.kornestone.com>
Address: 15/F, Hip Shing Hong Centre,
55 Des Voeux Road Central, Central, Hong Kong

The Speaker will also give out practical tips for practitioners, in particular:

- The statutory origin and elements of adverse possession
- Pre-action consideration & case preparation
- Evidence (incl. expert evidence)
- Expedited procedure (O. 113, RHC)
- Equitable defences of laches, acquiescence & estoppel
- Special cases
 1. Licence not granted by capable grantor
 2. Valid licence at first, but later revoked
 3. Squatter granted a lease to a tenant
 4. Multistorey building (common parts) by co-owner
 5. Vertical surface
 6. T'so T'ong land
- Particular intricate sections in the Limitation Ordinance

Scan to Calendar



Code:	EVT000000381	Level:	Intermediate
Date:	24 March 2023 (Friday)	Language:	English
Time:	14:30 - 17:45 (Reception starts at 14:00)	Accreditation(s):	LSHK 3.0 CPD Points
Venue:	<i>Option of:</i> (1) Online via Zoom; <i>or</i> (2) Kornerstone Institute 15/F, Hip Shing Hong Centre 55 Des Voeux Road Central Central, Hong Kong	Request for Rerun:	Please Contact Us for Details



The **PROFECTIONAL** Company[®]

Professional Services to the Perfection

Telephone: +852 3118 2371 | Facsimile: +852 3118 2372
Email: info@profectional.com | Website: <http://www.profectional.com>
Address: P.O. Box 9993, General Post Office, Hong Kong

KORNERSTONE

Training. Makes a difference.

Telephone: +852 2116 3328 | Facsimile: +852 2116 3571
Email: enquiry@kornerstone.com | Website: <http://www.kornerstone.com>
Address: 15/F, Hip Shing Hong Centre,
55 Des Voeux Road Central, Central, Hong Kong