

Adverse Possession: Squatter's Rights and Encroaching on Other's Land in Hong Kong

by

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Steven Gallagher was awarded a first class LL.B. He was called to the Bar of England and Wales in 2006. Steven teaches equity and trusts, property law, and art, antiquities, cultural heritage and the law. Steven has presented continuing professional development courses for solicitors in Hong Kong on many topics associated with property law. Steven's research interests include equity and the law of trusts, Chinese custom and law, cultural heritage law, and law and technology.

This three-hour course will consider the doctrine of adverse possession and its application in Hong Kong.

The seminar will consider why the doctrine of adverse possession continues to be recognised in Hong Kong, how the doctrine works and what a successful defence or claim based upon adverse possession will achieve. The seminar will consider the requirements to establish adverse possession including factual possession, and the evidence which will establish the intention to possess.

The seminar will consider the problems with acknowledging the paper title owner's rights in writing and the willingness to pay rent.

The seminar will consider the limitation period as against the government and leaseholders, and the respective rights that a successful party will receive against the paper title holder and others. The seminar will consider the limitations of the doctrine as asserted by one co-owner against their fellow co-owners, and particular issues with the doctrine as against land held by a Chinese customary trust (t'so and the t'ong).

The seminar will consider the associated doctrine of encroachment including how it works, what is required to establish encroachment and what the successful party will receive by way of the doctrine.

The seminar will conclude by considering the appropriate orders that successful parties will be entitled to.

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Some of the topics which will be covered in this course include:

- The origins of the doctrine;
- The elements of factual possession and intent to possess;
- Compelling evidence of factual possession (*Chang Shun Tak v Leung Sun Fat HCA 13809/1997*);
- Does willingness to pay rent evidence an intent to possess? Comparing the approach of *J.A. Pye (Oxford) Ltd v. Graham [2002] UKHL 30*, as against *Wong Tak Yue v Kung Kwok Wai [1998] 1 HKLRD 241, CFA*;
- Can possession be adverse against co-owners? (*Cheung Lai Mui v Cheung Wai Shing [2021] HKCFA 19*);
- Accumulation of time for relevant limitation periods;
- The doctrine of encroachment and its application in Hong Kong;
- Appropriate orders in successful cases *Lam Sai Man v Minloy Limited [2022] HKCA 37*.

Scan to Calendar



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|--------|--|--------------------|--------------------------------------|
| Code: | EVT000000382 | Level: | Intermediate |
| Date: | 29 March 2023 (Wednesday) | Language: | English |
| Time: | 09:30 - 12:45 (Reception starts at 09:00) | Accreditation(s): | LSHK 3.0 CPD Points |
| Venue: | Option of: (1) Online via Zoom; or (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 |



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