

28th LAWASIA Conference 2015

Real Estate Transaction in Hong Kong-Cross-Border Issues

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A. From government land to individual ownership

a. Government Land

- Conditions of Sales by public auction
- Condition of Grant
- Conditions of Exchange
- Private Land Owner Re-development

A. From government land to individual ownership

b. Developer

- Occupation Permit
- Consent Scheme
- Non-Consent Scheme (Usually coming from redevelopment)
- Certificate of Compliance

B. Old Law land

- a. Chain of Title from Government
Lease to current owner**
- b. Encumbrances including:**
 - Deed of Mutual Covenant
 - Occupation Permit
 - Consent Scheme
 - Non-consent Scheme (Usually coming from redevelopment)
 - Certificate of Compliance

b. Encumbrances including:

- Preliminary Sale and Purchase Agreement
- Formal Sales and Purchase Agreement
- Assignment
- Mortgage
- Discharge of Mortgage/Release
- Second Mortgage
- Order/Letter of Compliance
- Long lease (3 years or above)

C. Small House Policy

- Indigenous Villages claimed title derived from the Ching Emperor
- Colonial Gov recognized the land title
- Small House Policy (only to male descendants)
- 700 sq. ft. x 3 stories
- Section 7(1) of Hong Kong Reunification Ordinance

D. Incorporation of owners and management committee

- Building Management Ordinance (Cap. 344)
- Formation of Owners Corporation (OC)
- Compulsory Public Liability Insurance
- Management Company
- Deed of Mutual Covenant
- Case law on liability of all owners

E. Cross-border issues Between Hong Kong and Mainland China

- a. Registration of documents Vs Registration of Title**
 - Been discussed for over 30 years
- b. Wong Chim-Ying v Cheng Kam-Wing ([1991] 2 HKLR 253)**
 - Resulting Trust
- c. Registration gives priority**
- d. All instruments affecting land must be registered**

E. Cross-border issues Between Hong Kong and Mainland China

- d. Title guaranteed by solicitors in Hong Kong**
- e. Completion by way of solicitor's undertaking**
- f. Professional Service by lawyer Vs Estate Agent**
- g. Property prices e.g. a residential house on the peak of about 10,000 per sq. ft. (inclusive of garden) USD200 million USD20 million per sq. ft.**

Q & A



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PLEASE NOTE

The law and procedure on this subject are very specialised. This article is a general explanation for your reference only and should not be relied on as legal advice for any specific case. If legal advice is needed, please contact our solicitors.

請注意

本題目之法律及程序十分專門。此文章只屬一般性之解釋，供你參考，而不應被依賴為關於任何特定事件之法律意見。如需法律意見，請與我所律師聯絡。

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