

Jose-Antonio Maurellet SC

BA Jurisprudence (Law), University of Oxford (St. Edmund Hall)
(1999)
PCLL, University of Hong Kong (2000)

Email Address: bowie@dvc.hk

Year Of Call:

2000 (Hong Kong)
2016 (Hong Kong Inner Bar)
Law Society of England & Wales (non practising)
Registered Practitioner (Part II) of the Dubai International Finance
Centre Courts
Singapore International Commercial Court, Registered Foreign
Lawyer

Practice Area:

Company and Insolvency Law, Commercial Law, Arbitration



Jose-Antonio Maurellet S.C. is a Hong Kong born Eurasian. He is an English, Cantonese and French native speaker. He also can speak some Mandarin. Jose read law at St Edmund Hall, Oxford University. He was called to the Hong Kong Bar in 2000 and to the Inner Bar in 2016.

His practice is largely commercial with an emphasis on company and insolvency law. He has advised and acted in numerous shareholder disputes, winding up petitions, and applications arising out of liquidations of companies (for example applications for provisional liquidators, S.221 examinations, unfair preference proceedings). He has also appeared in schemes involving privatizations (Re eContext and Re Wheelock Properties) as well as creditors schemes (Re Kaisa Group Holdings).

He also regularly acts in disputes arising from banking/financial services, in particular alleged mis-selling of financial products. He has previously acted for the Securities and Futures Commission as well as the Listing Division of the Stock Exchange of Hong Kong. He has appeared before the Listing Appeals Committee as well as the Takeovers and Mergers Panel.

Mr. Maurellet is also an accredited mediator and is listed on the HKIAC List of Arbitrators. He has sat on occasions as part of three person panel HKIAC Arbitration. He is a committee member of HK45 (HKIAC).

He is a Contributing Editor of the Hong Kong Civil Procedure ("the White Book") since 2003, a Consultant Editor of the Hong Kong Law Reports and Digest and a Contributing Editor of "Company Law in Hong Kong".

Directory Quotes

"Jose-Antonio Maurellet of Des Voeux Chambers is "efficient and always practical" and highly regarded by sources, who view him as someone who "knows everything about liquidation and bankruptcy." He also acts prominently on banking and securities matters."

Chambers & Partners 2016 (Commercial Dispute Resolution)

"Sources say that Jose-Antonio Maurellet of Des Voeux Chambers is "an excellent junior, with prodigious output and good advocacy skills," and "a very clever, very effective advocate." He works on company and insolvency matters, and is also an experienced handler of securities and banking disputes."

Chambers & Partners 2015 (Asia Pacific Guide)

Expertise

Selected Cases

Company and Insolvency

- Re AGI Logistics [2016] 5 HKLRD 737 (HK approach to post winding up petition payments from a company's Bank , whether a "disposition")
- Re Lucky Resources [2016] 4 HKLRD 301 (winding up on the basis of arbitral award with no leave to enforce obtained)
- Re G Limited [2016] 1 HKLRD 167 (parallel petitions, assistance to and recognition of foreign liquidators)
- Re Cheung Siu Kin [2015] 5 HKLRD 923 (transaction at undervalue / unfair preference)
- Re First China Financial Network Holdings Ltd [2015] 5 HKLRD 530 (S.214(2)(d) of the Securities and Futures Ordinance disqualification of director)
- Re Bank of East Asia [2015] 4 HKC 137 (Inspection of records under S.740 of the New Companies Ordinance, whether proper purpose)
- MF Global (No 4) [2015] 2 HKLRD 325 & [2015] 2 HKC 424 (whether ad valorem duty payable by S. 193 PL's continuing to act after a winding up order). Decision below reported at [2012] 5 HKLRD 486.
- Securities and Futures Commission v. Ernst & Young [2014] 3 HKC 406 (S.185 of the SFO, whether reasonable excuse, and legal impediments under PRC law)
- Re China Medical Technologies Inc [2014] 2 HKLRD 997 (ancillary winding up of foreign company pursuant to S.327 of the Companies Ordinance, existence of the 3 core requirements)
- Re Masterwise & Anon [2014] 1 HKLRD 1129 (S.152FA, whether records of a subsidiary of a "specified corporation" covered, whether directors should pay costs of successful applicant)
- Wong Ming Bun v. Wong Ming Fan [2014] 1 HKLRD 1108 & [2014] 4 HKC 316 (whether applicable law is that of the place of incorporation or rather the lex fori which governs whether a derivative action is available in Hong Kong)
- Re Pedagogic [2014] 1 HKLRD 613 & [2014] 2 HKC 388 (stay of S.228A voluntary winding up)
- Re Grand China [2013] 4 HKLRD 1 (practice and procedure regarding adjournment of petitions)
- Securities and Futures Commission v. Ernst & Young [2013] 6 HKC 156 (Notices issued under S.183 of the Securities and Futures Ordinance, whether cross examination in the interests of justice)
- Re Piper Jaffrey Securities [2013] 2 HKLRD 835 (how wound up brokerage should deal with unclaimed delisted shares)
- Re Sumore Corporation [2013] 1 HKLRD 153 (whether liquidators biased and whether removal justified)
- AR Evans v. Novel [2012] 4 HKLRD 511 (statutory derivative action, whether specified corporation, scope of 168A proceedings v. derivative proceedings)
- Re Opes Asia Development Ltd [2012] 4 HKLRD 12 (inspection under the then S. 152 FA of the Companies Ordinance in the context of a listed company and need to be registered shareholder to have locus)
- Re Gottinghen [2012] 3 HKLRD 453 & [2012] 3 HKC 299 (principles on winding up of solvent unregistered foreign companies)
- Re MF Global (No. 2) [2012] 3 HKLRD 56 & [2012] 4 HKC 333 (principles regarding interim payment of provisional liquidators fees, as well as their agents)
- Eastman Chemical v. Heyro Chemical Ltd [2012] 2 HKLRD 135 (injunction to restrain proceedings on the grounds of ongoing winding up petition)
- Re Starbay International [2012] 1 HKLRD 508 & [2012] 1 HKC 274 (consequences upon a conversion from compulsory winding up to a creditors voluntary winding up)
- Re Applied Development [2011] 5 HKLRD 241 & [2011] 5 HKC 361, (application by shareholder for inspection of records of company pursuant to s 152 FA of the Companies Ordinance and whether it applies to subsidiary of company)
- Re Mandarin [2011] 3 HKC 215 & [2011] 2 HKLRD 1003 (leave to convene meeting when allegation of quasi partnership/wrongdoing by majority)
- Re Wheelock Properties [2010] 4 HKLRD 587 & [2006] 6 HKC 106 (privatisation scheme of listed company post PCCW decision)
- Koide v. Koide [2010] 4 HKLRD 121 (injunction to restrain change of legal representative in WOFE)
- Re UPT [2009] 5 HKLRD 740 (leave to appeal S.221 order out of time)

- *Chu v. Tsang* [2009] 5 HKLRD 105 (power of board used for improper purposes)
- *Yau v. Italina* [2009] 1 HKLRD 307 (application by shareholder seeking consolidated accounts)
- *Re Lee Siu Fung* [2009] 1 HKC 181 (striking out bankruptcy extension)
- *Re Sweetmart* [2008] 2 HKC 252 (unfair preference in winding up proceedings)
- *Re TS Wong* [2008] 5 HKLRD 469 (distribution order for insolvent brokerage)
- *Re UDL Holdings* [2006] 3 HKLRD 84 (leave to modify Scheme of Arrangement)
- *Re F&S Express Ltd* [2005] 4 HKLRD 743 (statutory derivative action)
- *Muir v. Huge Returns* [2005] 1 HKLRD 317 & [2004] 4 HKC 626 (injunction to restrain resolution based on shareholders agreement)
- *Re Kenworth* [2005] 2 HKLRD 97 (construction of terms of scheme of arrangement)
- *Re Luen Yick Water* [2005] 2 HKLRD E4 (appeal by liquidator of decision made by the committee of inspection)
- *Re Luen Cheong Tai* [2004] 1 HKLRD 735 (validation order)
- *Re Wing Fai Construction Company Ltd* [2004] 3 HKC 393 (S.221 examination order)

Commercial

- *Chang Pui Yin v Bank of Singapore* [2016] 5 HKC 329 (mis-selling, breach of advisory duty)
- *Re Chau Cham Wong Patrick* [2016] 2 HKLRD 278 (mareva injunction, effect of delay, whether real risk of dissipation shown)
- *John Li Kwok Heem v Standard Chartered Bank* [2016] 1 HKC 535 (claim based on 'mis-selling' of Madoff related funds)
- *Re the Estate of Lim Por Yen* [2016] 1 HKLRD 678 (discovery in the context of probate proceedings)
- *Re Estate of Kwok Wing Fai* [2016] 1 HKC 364 (approach to testamentary intention, passing over)
- *Elco Holland v. Airwell* [2015] 5 HKC 375 (implied term by reason of business efficacy)
- *Chan Sang v Chan Kwok* [2015] 3 HKLRD 131 (common intention constructive trust)
- *Koo v. Commissioner of Inland Revenue* [2014] 6 HKC 389 (proper scope of judicial review in challenge to additional assessment to tax)
- *Chiu Luen Public Light Bus v Persons Unlawfully Occupying* [2014] 6 HKC 298 (injunction on basis of public nuisance arising out of 'occupy central')
- *JSC Bank v Abyazov* [2014] 5 HKC 209 (when appropriate to make injunctive orders in aid of foreign proceedings under s.21M of the High Court Ordinance)
- *T v TS* [2014] 4 HKLRD 772 & [2014] 6 HKC 247 (stay in favour of arbitration, whether arbitration clause 'spent')
- *Melco Crown v Wong Yam Tak* [2014] 3 HKLRD 267 (irregular judgment in the context of substituted service)
- *Maeda Corporation v. HKSAR* [2014] 1 HKLRD 1 (leave to appeal arbitration award)
- *Wang v. GEM Global* [2013] 16 HKCFAR 785 (conditional leave to the Court of Final Appeal, whether to order payment into Court as condition)
- *Liu Wai Keung v. Liu Wai Man* [2013] 5 HKLRD 9 (whether constructive trust, whether S.20(1)(b) of the Limitation Ordinance applies)
- *Konwall Construction v. Strong Progress* [2013] 3 HKLRD 503 (approach to contractual interpretation and implied terms)
- *Re Loo Che Chin* [2013] 2 HKLRD 739 & [2013] 6 HKC 303 (when an executor under a will can be passed over)
- *LaiJian Ping v. ABN Amro* [2013] 3 HKC 571 (relevance of mirror counterclaim for purpose of security for costs)
- *Tele-Art Inc. v. Bank of China* [2012] 5 HKLRD 399 & [2013] 2 HKC 203 (circumstances when mortgagee can withhold security for future costs)
- *R v. F* [2012] 5 HKLRD 279 (leave to set aside arbitral award)
- *Secretary for Justice v. Carson Yeung* [2012] 3 HKLRD 491 & [2012] 6 HKC 91 (Restraint Order: whether need for cap, relevance of full and frank disclosure)
- *Asia Pac v. Shearman & Sterling* [2012] 3 HKLRD 321 (whether assignment created new cause of action, effect on time bar)
- *Eastman v. Heyro* [2012] 3 HKLRD 307 (mareva injunction, whether real risk of dissipation and relevance of low standards of commercial morality)
- *AR Evans Capital Partners v. Novel Alternative Investment* [2012] 2 HKLRD 251 (meaning of "ordinary residence" for the purpose of security for costs)
- *Golden Garden Management Ltd. v. Grand TG Gold Holdings Ltd.* [2012] 1 HKLRD 934 & [2012] 3 HKC 228 (use of "on or

before" in promissory note)

- Francis Kwan v. Hong Kong Exchange [2012] 1 HKLRD 546 (whether constructive dismissal/interpretation of terms of compromise)
- Tele-Art Inc v. Bank of China [2012] 1 HKLRD 484 (trial of preliminary issues involving interpretation of banking documents, basis of costs to be recovered and provision for future legal expenses)
- Sim Kon Fah v. JBPB [2011] 4 HKLRD 45 (injunction to restrain use of alleged confidential information stored in ex employer's computer)
- Cido v. Woori Bank [2011] 4 HKC 430 (injunction by client to compel bank to comply with mandate)
- Wang v. Gem Global [2011] 3 HKLRD 785 (availability of market and mitigation)
- Burberry v. Polo Santa [2011] 3 HKC 466 (stay of civil proceedings on the ground pending criminal proceedings)
- TND v. Lau [2010] 5 HKLRD 330 (whether proper defendant to be representative of class)
- OTC v. Perfect Recovery [2009] 3 HKC 395 (interpretation of Transfer of Business Ordinance)
- Yip v. Wing Fai Construction Co Ltd [2009] 12 HKCFAR 800 (breach of directors duties)
- Koo v. Next Media [2009] 2 HKC 214 (offer/acceptance and unilateral contracts)
- Dynasty Line v. Lee [2009] 4 HKLRD 454 & [2009] 4 HKC 184 (service out of the jurisdiction)
- Fubon Bank v. First Prime Group Ltd & Ors [2009] 4 HKLRD 283 (interpleader)
- Voce v. Henley [2008] 5 HKLRD 429 & [2008] 6 HKC 1 (role of registered foreign lawyer)
- ABN v. Fortgang [2008] 2 HKLRD 349 (service out/submission to jurisdiction)
- Hoi Sing v. ITC Corporation Ltd [2008] 2 HKLRD 454 (strike out the action for want of prosecution/abuse of process)
- RACP v. Li Xiao Bo [2007] 2 HKLRD 331 & [2007] 3 HKC 1 (leave to directly enforce overseas a worldwide Mareva injunction order)
- Chiu v. Charter [2008] 3 HKC 245 (Small Claims Tribunal costs)

Professional Negligence

- Chan Chi Ming v. Brilliant Rise [2009] 4 HKC 458 (claim for costs against solicitor based on want of authority)
- Jopard Holdings v. Centaline Anon [2005] 1 HKLRD 317 (claim in negligence brought against estate agents)
- Susan Field v. BAL [2004] 3 HKLRD 871 (claim against investment adviser)

Memberships and Appointments

- Law Reform Commission, Access To Information sub-committee member
- Member of the Disciplinary Board Panel under the Lands Survey Ordinance (2007 - 2013)
- Panel Member of the Obscene Articles Tribunal (2004 – 2013)
- Accredited Mediator (CEDR)
- Listed on the Hong Kong International Arbitration Center
- Member of the Approved List of Arbitrators of the Chinese European Arbitration Center
- Associate Member of the Hong Kong International Arbitration Center
- Member of the Bar Council (2002-2003, 2010-2012)
- Member of the Board of Review (2011 – 2013)
- Hong Kong University, External Examiner for the PCLL "Commercial Dispute Resolution" and "Corporate and Commercial Transactions I"
- Buildings Ordinance Appeals Tribunal, Chairman (2012 – now)
- Deputy District Judge (December 2012)
- Member, Barristers Qualification Examination – Panel on Company Law (2013-)

Publications, Lectures and Talks

- Contributing Editor of Hong Kong Civil Procedure ("the White Book") since 2003

- Consultant Editor of the Hong Kong Law Reports and Digest
- Contributing Editor of "Company Law in Hong Kong"
- Contributing Editor of "Commercial Litigation in Hong Kong" with joint responsibility for the chapter on mareva injunctions

Scholarships and Awards

- Hong Kong Bar Scholarship (2000)