



SINGAPORE

Equity in The Market Place: Reviewing The Use of Unconscionability to Restrain Calls on Performance Bonds

Wednesday, 16 November 2016, 5.00 - 7.30pm

1 Marina Boulevard, NTUC Centre, Level 9 Room 903, Singapore 018989

About this Seminar:

Unconscionability as a distinct ground for restraining calls on performance bonds is part of Singapore law. While the Singapore judges have articulated the policy reasons for restraining performance bond on this ground, they have thus far not explained the doctrinal basis for the unconscionability exception. This point is important because it would impact on the issue of whether the unconscionability exception may be contractually excluded by the parties. This seminar will explore the doctrinal basis for restraining a performance bond on the basis of unconscionability and whether the recent Singapore Court of Appeal's decision to allow for the contractual exclusion of unconscionability as a ground for restraint rests on sound foundation.

In addition, the present speaker surveyed all the reported and unreported case law for the past fifteen years on alleged unconscionable calls to see whether the usual criticism levelled against the unconscionability exception as being undesirable, uncertain and ultimately, weakening the integrity and utility of performance bonds in the commercial context are justified. The results of this survey will be explored in this seminar. Beyond an examination of the case law, a survey of leading construction law practitioners in Singapore in both local and international law firms was also conducted to obtain qualitative data on the unconscionability exception. The resultant picture that emerges from this study is that while unconscionability in relation to performance bonds does import a degree of uncertainty, it seems to be workable in the context of Singapore, at least in the view of the practitioners. However, the survey response shows that the trend among the larger law firms in Singapore appears to be that their clients are now excluding unconscionability from the terms of performance bonds. If this trend continues, this may spell the demise of the unconscionability exception to calls on performance bonds.

Seminar Programme:

5.00 - 5.30pm	Registrations & Networking for Delegates
5.30 - 5.45pm	Opening Remarks by Chairperson: <i>Mr. Rob Palmer – Hon. Treasurer, Society of Construction Law (Singapore); Partner, Ashurst LLP</i>
5.45 - 7.00pm	Equity in The Market Place: Reviewing The Use of Unconscionability to Restrain Calls on Performance Bonds <i>Prof Tang Hang Wu – Professor, School of Law, Singapore Management University</i>
7.00 - 7.30pm	Q&A Session

About the Speaker:

Prof Tang Hang Wu – Professor, School of Law, Singapore Management University

Tang Hang Wu is a Professor at the School of Law, Singapore Management University and a consultant at TSMP Law Corporation where he co-heads the Trusts and Private Wealth practice. Prior to this, he taught at the Faculty of Law, National University of Singapore for twelve years. Hang Wu has published widely and his work has been relied on by all levels of the Singapore courts, the Royal Court of Jersey, the Caribbean Court of Appeal, law reform committees in the Commonwealth, major textbooks and law journals. Hang Wu advises members of Singapore's legal profession and relevant government ministries on complex legal issues pertaining to restitution, property, trusts and charities and often acts as Counsel before the Singapore court on such issues. He has also given expert evidence on areas of his research interest in litigation in Singapore, United States and Indonesia.

About the Chairperson:

Mr. Rob Palmer – Honorary Treasurer, Society of Construction Law (Singapore); Partner, Ashurst LLP

Rob Palmer is a Partner in the dispute resolution team in Ashurst's Singapore office. Based in Southeast Asia since 2003 (Singapore, Jakarta and Bangkok), he is listed in legal directories as one of Singapore's leading construction lawyers. Rob has a particular focus on dispute resolution in international energy, construction and infrastructure projects, and has conducted arbitrations under the rules of all the major arbitral institutions. He has also drafted and negotiated construction contracts for major projects in the transport, utilities, power and oil & gas sectors.

Rob is qualified in New Zealand, New South Wales and England, and is a Fellow of the Chartered Institute of Arbitrators, the Singapore Institute of Arbitrators and the Australian Centre for International Commercial Arbitration. He also sits as arbitrator and is a member of the panel of arbitrators of the ACICA, the KLRCA, the TAC, and BANI.

Continuing Professional Development



Practice Area: Construction
 Training Level: General
 Public CPD Points: 1.5



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REGISTRATION CLOSING DATE: 9 November 2016	FEES (includes refreshments & materials, if any)
SCL (Singapore) Members	S\$35.00
Guests of SCL(S) Members, Members of international SCLs, Members of: Chartered Institute of Arbitrators (Singapore) Ltd (CIArb), Chartered Institute of Building (CIOB), Lighthouse Club (Singapore) (Lighthouse), Royal Institution of Chartered Surveyors (RICS), Singapore Contractors Association Ltd (SCAL), Singapore Institute of Architects (SIA), Singapore Institute of Arbitrators (SIArb), Singapore Institute of Building Ltd (SIBL), Singapore Institute of Surveyors and Valuers (SISV), Society of Project Managers (SPM), Tunneling and Underground Construction Society (Singapore) (TUCSS), Full Time Students & Faculty of NUS Faculty of Law, Marine Offshore Oil & Gas Association (MOOGAS)	S\$70.00
Others	S\$90.00

Please return the registration form below, together with your cheque, if applicable, made payable to "Society of Construction Law (Singapore)", "Society of Construction Law (Singapore), 6 Eu Tong Sen Street, #05-07, Clarke Quay Central, Singapore 059817" or Fax to (65) 31273797.

REGISTRATION, REFUND & CANCELLATION POLICY

- Places are limited and can only be allocated in order of priority upon receipt of registration and any payment due.
- We regret that we generally do not issue invoices or accept payments at the event.
- Refunds for cancellation are not possible after the registration closing date.
- We reserve the right to refuse to register or admit any participant, and to cancel or postpone the event.
- I fully consent to the collection, use and disclosure of my personal data as appears in this form by SCL (Singapore) for the purposes set out on our website

For further enquiries, please contact the SCL (SINGAPORE) SECRETARIAT
 Tel & Fax: 31273797 (no 6 prefix required) E-mail: secretariat@scl.org.sg
 You may also register online for this event on our website at www.scl.org.sg

REGISTRATION FOR SCL (SINGAPORE) MEMBERS & THEIR GUESTS (Please use 1 form per Member)

Name: _____ NRIC/Passport No.: _____ SCL Membership No.: _____
 Tel: _____ Fax: _____ E-mail: _____

- I will be attending and I enclose my payment of \$35.00. (A valid email address is required for confirmation of registration.)
 Check if CPD points are required AAS no. _____ (for practicing lawyers requiring SILE CPD points)
 Please reserve _____ seats for my guests and I enclose payment of \$70.00 per guest. My guest(s) are:

Name(s)	Organisation	Check if CPD Points are required	AAS No.	Email

I enclose a cheque for SGD _____ made payable to "Society of Construction Law (Singapore)".

REGISTRATION FOR NON-SCL (SINGAPORE) MEMBERS (Please use 1 form per registrant.)

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Name (Dr/Mr/Mrs/Miss/Mdm): _____

Name and Address of Organisation: _____

Position in Organisation: _____ NRIC/Passport No: _____

Membership No: _____ (Mandatory to process registration. Please check with your respective membership body.)

- Check if CPD points are required AAS no. _____ (for practicing lawyers requiring SILE CPD points)

Tel: _____ Fax: _____ E-mail: _____
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SILE Attendance Policy

Participants who wish to claim CPD Points are reminded that they must comply strictly with the Attendance Policy set out in the CPD Guidelines. This includes signing in on arrival and signing out at the conclusion of the activity in the manner required by the organiser, and not being absent from the entire activity for more than 15 minutes. Participants who do not comply with the Attendance Policy will not be able to obtain CPD Points for attending the activity. Please refer to www.sileCPDcentre.sg for more information.