

Rita Ku

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Rita is a partner in the divorce and family team, and she is also the Regional Divisional Leader of the Dispute Resolution Team in Hong Kong.

Having practiced family law for over 18 years, Rita has extensive experience and knowledge in dealing with a wide range of family dispute cases, concerning jurisdiction, divorce, children, ancillary relief etc.

She regularly advises on various ancillary relief cases involving complex asset holdings structures, as in the Court of Appeal case of *WYSL v FHCBA ar Ors* [2019] HKEC 2379 which involved trust structures and in which the client was successful at the Court of Appeal on quantum. She has been involved in cases involving trusts for many years, including the landmark case in the Court of Appeal of *W v H and Anor* [2009] HKFLR 230 in which an HSBC trust was set aside and taken into account to provide for her client, the wife. This case is also one of the leading Hong Kong cases on the consideration of whether a husband could be said to have made a special contribution financially to the marriage.

In her work for wealthy families, Rita has dealt with a number of cases involving third parties including an application for Maintenance Pending Suit which involved third party financial assistance: *CWCC v YKOP (Maintenance Pending Suit and third parties)* [2018] HKFLR 320, and *HJFG v KCY* [2012] 1 HKLRD 95 **which is the leading case on Maintenance Pending Suit in Hong Kong** and which remains the highest interim maintenance award to date.

Many of Rita's cases involve a requirement to seek extensive discovery and she has led a number of mega financial cases often involving multiple parties some of which include BVI and Cayman litigation and many involving the PRC. **For example in *AWK v MLTH* [2016] she successfully defended the Husband's position on Wife's unreasonable request of financial disclosure.**

Many of Rita's cases involve cross border issues, particularly with the PRC, such as the leading jurisdiction case of *ML v YJ* [2010] HKEC 1924, which went to the Court of Final Appeal. This case changed the law in Hong Kong in respect of a party's ability to apply for financial provision following a foreign decree. In *CL v ZRC (Jurisdiction; forum non conveniens)* [2015] HKFLR 125, the husband was found to have a substantial connection with Hong Kong but the PRC was the more appropriate forum. She also acted for the husband's father, the patriarch from a well-known Hong Kong family, in respect of assets held in the PRC, successfully protecting those assets for the client: *DX v LN & Ors (Anti suit injunction)* [2015] HKFLR 525.

Recently Rita was in the Court of Appeal representing a husband who had moved to Singapore for work and who was at the receiving end of a Prohibition Order from the lower court. She succeeded in lifting the order on the basis that it violated his right to work and his right to movement and travel which was protected under Article 31 of the Basic Law: *CWYJ v LTYE (Prohibition Orders)* [2020] HKCA 913.

Rita was also the pioneer for Hong Kong's first, and currently the only, private family adjudication case, since the pilot scheme was introduced in 2015. In this landmark case, she represented the wife in a private adjudication, conducted before retired Judge Hartmann, in a timely manner.

In addition to contentious work, Rita also has particular expertise in wealth preservation for ultra-high-net-worth individuals, with experience in preparing pre-nuptial and post-nuptial agreements, advising on trusts set up in the context of matrimonial perspectives for asset planning and to minimize the risk to family wealth posed by divorce proceedings. She is the go-to person when it comes to advising individuals and their families, who are planning to get married, considering succession issues or planning to pass their wealth on to the next generation, on trust structures from a litigation perspective before it is set up.

Rita has had experience in high profile children cases, particularly those involving cross border issues and the removal of children such as *MJB v CWC (Hague Convention)* [2018] HKFLR 331 which involved the wrongful removal of an infant to Hong Kong from the UK; a case in which a child of unmarried parents was abducted to Taiwan by the mother which involved consideration of the position of the father in the context of the Hague Convention and Wardship proceedings, successfully ensuring access for the father in future: *YJH v LKHM* [2019] HKEC 2954; and *VK v SAFG (removal)* [2018] HKFLR 485 in which she represented a father in a removal application in which the child went to live with him in Switzerland despite the primary carer remaining in Hong Kong. She was also involved in a controversial removal case before the Court of Appeal involving the conflict of laws between Hong Kong and Singapore *LN v SCCM* [2013] HKFLR 358, which essentially prompted the judiciary to instigate the system of direct judicial communications which can now be found in Practice Direction SL7. Rita also recently advised on a landmark case involving the Hague Convention which went to the Court of Appeal involving the parties' intentions and habitual residence: *BMC v BGC* [2020] HKCA 317.

Rita is recognised as a Leading Lawyer in Doyle's Hong Kong Family & Divorce Law Rankings and in Chambers Asia-Pacific from 2019 to 2020. In 2020, she was also recognised by Benchmark Litigation as one of the Top 100 Women in Litigation in Asia-Pacific.

TRACK RECORD

Acted for the husband in a big money case involving a conflict in jurisdiction between Hong Kong and the PRC, successfully staying the wife's Hong Kong petition. This Court of Final Appeal case led to a change in the law in HK and an introduction of new legislation to allow a party who had a divorce in another jurisdiction to seek a financial remedy in Hong Kong where applicable. This measure was to protect those who would be unfairly prejudiced by an overseas divorce. *ML v YJ* (Forum) [2011] HKFLR 179.

Assisted in cross-border issues, particularly in cases involving the PRC, leading the team in cases involving complicated legal argument and third parties' interests in assets both in HK, PRC and overseas [*CL v ZRC* [2015] HKEC 1646 and *LS v AD* [2012] HKEC 1395]. Acting for interveners to protect their interests in divorce proceedings. These cases often involve parents to one of the parties who have the beneficial ownership in property in the name of their child [*DX v LN FCMC 7870* of 2014].

Advises on complicated financial disputes, acted for a client in one of the most complicated cases which involved multiple third parties in the proceedings, offshore trusts and millions of assets worldwide [*H v W* [2014] HKEC 955]. This case involved co-ordinating leading counsel from Hong Kong and London as well as a team of accountants in Hong Kong. Rita obtained the highest award ever for interim maintenance. This case is an ultra-high net worth case involving complicated company structures and assets worldwide. As part of these proceedings she had to fly to the Cayman Islands for the client to successfully seek an order for discovery against third parties [*HJFG v KCY* [2012] 1 HKLRD 95].

Acting for a UHNWI (successfully defended the wife's case on discovery to limit the disclosure to a reasonable level for the proper management of the case).

W v H [2008] HKEC 766 – the first big money case applying the principle of *DD v LKW* in Hong Kong.

Representing an UHNWI client in her fight against the trustee in divorce proceedings and ultimately successfully negotiated with the trustee for settlement.

ADMISSIONS

- Hong Kong, 2002

PUBLICATIONS

Court in the middle - A comparison of child removal applications in England and Wales, Hong Kong and Singapore - April 2021, co-author

#LoveWins: Planning ahead of the future in Hong Kong - April 2021, co-author

Symbolic but not consequential - household chores as part of divorce rulings in Hong Kong and Singapore? - 31 March 2021, co-author

Children's Well-Being in Hong Kong During Covid-19: How We Can Help - 18 Mar 2021, co-author

'Parent's Voice and Possible Solution to Ease the Anxiety of the Families During the Pandemic' - 19 Mar 2021, co-author

'A year in review - #LoveWins: The journey towards equality for Hong Kong's LGBTQ community in 2020' - January 2021, co-author

'Challenging times: The effect of an economic downturn on divorce settlements'; 10 Mar 2020, co-author

'For better or for worse: The impact of COVID-19 on weddings and divorce in Hong Kong' - 5 Mar 2020, co-author

'Why Hong Kong child custody reform faces more delay despite lawyers' support, South China Morning Post - 30 June 2016

How to prepare prenuptial agreement《如何準備婚前協議?》, TOPick news of Hong Kong Economic Times - 6 July 2016, author

'Why Hong Kong career women marry men from China ... and where to divorce them,' South China Morning Post - 11 May 2016, co-author.

Wedding abroad case studies – legal implication on asset allocation《海外註冊夫妻實例 離婚後不獲贍養費》, TOPick news of Hong Kong Economic Times - 4 February 2016

'Necessary steps newly-weds should take in Hong Kong upon return from destination wedding'《新婚夫婦海外註冊後 回港必做的事》, TOPick news of Hong Kong Economic Times - 3 February 2016, author

'The perfect wedding: are you married yet?'《完美的婚禮:但你是否「結婚」了?》, TOPick news of Hong Kong Economic Times - 2 February 2016, author

'How to secure your assets when divorcing with your wealthy husband?'《嫁個有錢人 離婚怎保物業?》, Hong Kong Economic Times - 24 April 2015, author

'Legal Eye: how to lessen the impact of divorce on children', South China Morning Post - 18 February 2014, co-author

'Legal Eye: Beijing or Hong Kong - where is best to divorce?', South China Morning Post - 16 April 2013, author

'Legal Eye: sole child custody- five points you should know', South China Morning Post - 19 March 2013

MEMBERSHIPS

- Hong Kong Family Law Association

- Member of Hong Kong Collaborative Practice Group

- International Academy of Family Lawyers, IAFL (formerly known as IAML)

- Sub-committee of the Hague Convention committee of the International Academy of Family Lawyers, IAFL (formerly known as IAML)

- Treasurer of the IAFL Asia Pacific Region

- Family Law Committee of the Hong Kong Law Society

- STEP Matrimonial Sub-Committee

TALKS

'How to Talk About Money', Withers' modern relationships podcast, co-presenter, March 2020

'Learn How to Handle Cross-Border Family Law Issues', International Academy of Family Lawyer - 2 November 2018

'Succession Planning for Family Businesses and High Net Worth Clients', Courses and Seminars - 21 May 2015

'Lecture on Cross-Border Family Cases', Shenzhen Lawyers Association - 15 May 2015, panellist

'Roundtable discussion on cohabitation', IAML European Chapter Conference 2015 - 27 March 2015, panellist

'Preserving Family Wealth and Legacy Across Generation (Trust/Taxes/ Foundations)'; *'HKUST-Campden IPI Wealth Management Program'* - 16-

19 June 2014, speaker

'Handling of Cross Border Divorce', LexOmnibus - 1 April 2014, co-presenter

'Different Treatments about Children's Issues between Hong Kong and PRC', The 6th World Congress on Family Law and Children's Right - 17-20 March 2013, co-presenter.

EDUCATION

The University of Hong Kong, LLB, PCLL

LANGUAGES

CANTONESE

ENGLISH

MANDARIN

DATES

JOINED: 2010

PARTNER: 2012

RECOGNITION

2021 DG Preeminent Leader in Family Law

2021 Chambers Asia Pacific Ranked Rita Ku

2021 Benchmark Litigation Litigation Stars

2019 Doyles APAC Family Law Leading Individual Rita Ku

2019 Chambers Asia Pacific Ranked Rita Ku

2015 Wealth Briefing Asia Awards Hong Kong Legal Team Winner Rita Ku

2015 DG Market Leader in Family Law

2015 Asian Legal Business Hong Kong Law Awards Recognized Rita Ku

2014 Wealth Briefing Asia Awards Singapore Effective Legal Team Highly Commended Rita Ku

2014 Macallan ALB Hong Kong Law Awards - Winner

2014 Citywealth Hong Kong Law Firm of the Year

2014 Chambers Withers HK

Hong Kong

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