

INTRODUCTION

This book presents an alphabetically arranged collection of the most important Hong Kong case authorities on contract law. There is also a subject index at the back for the thematically minded. It is drawn from my personal experience of legal work, and also from teaching contract law for LB, JD, MBA and LL.M degree programs at City University of Hong Kong, Chinese University of Hong Kong, and The University of Hong Kong from early 2003 until 2009. Of the 300 cases covered, 67 are Hong Kong cases, and the other cases are discussed within the context of Hong Kong law.

Where overseas legislation is discussed, the equivalent Hong Kong legislation is referenced where relevant. The case commentary is structured as follows:

FACTS – major material facts pertinent to the decision in the case.

ISSUE – central contract law related issue(s) for which the case is considered.

HELD – major findings of law, with quotations where essential.

Some other headings appear from time to time when relevant to the context:

POLICY – a discussion of the broader issues behind the court decision

HONG KONG – any specific local variations or considerations, regarding foreign legal decisions, when applying the decision in Hong Kong.

It is hoped that practitioners may find this quick reference to essential principles of some assistance during the busy working day. While contract law is not a codified beast, there is no need to envelop it unnecessarily in a veil of mystery.

Students of law are our future leaders, just as contract law holds the future answers for commerce. This book is not designed as a substitute for a good contract law casebook, but as a complementary tool for understanding and recall which is so important for developing legal practice skills.

I would like to thank my wife, Lai Ling, who encouraged me to publish this work, and also Renzo for his inspiring deconstruction of legal life. Last but not least, I would like to thank The Honourable Mr Justice Michael Hartmann, for his valuable comments on an earlier draft.

Dmitri Hubbard

5th September 2009

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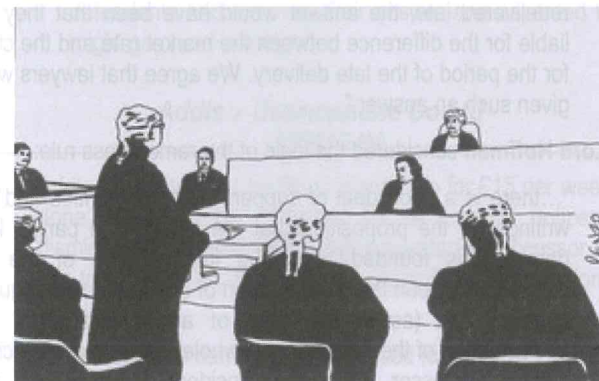
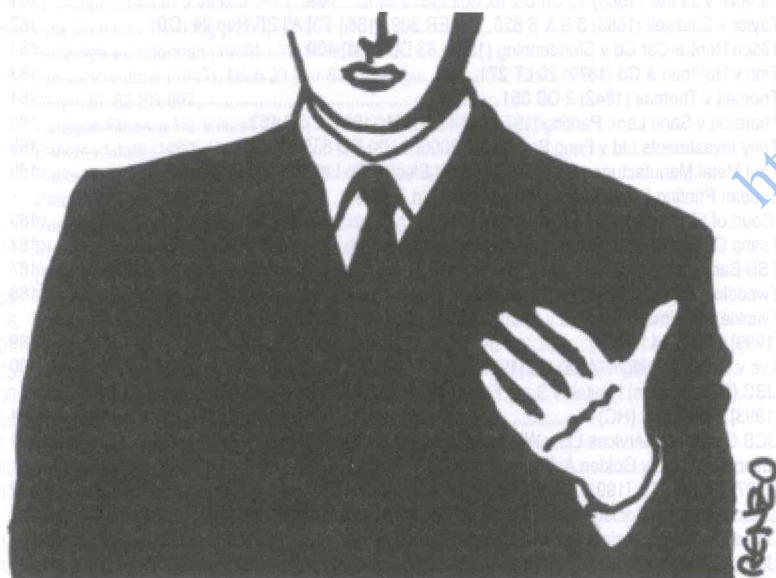
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CASE SUMMARIES

The Achilles; Transfield Shipping Inc v Mercator Shipping Inc [2008] 3 WLR 345; [2008] 4 All ER 159; [2008] 2 Lloyd's Rep 275 (HL)

FACTS Transfield Shipping was a charterer who hired a ship, *The Achilles*, from Mercator Shipping. Transfield was meant to return the ship on midnight 2 May 2004. Accordingly, Mercator arranged for the ship to be hired to another charterer, Cargill from 11 May for 4-6 months. Transfield returned the ship late, May 11, because they got a last minute order to carry coal from China to Japan. The original contract with Cargill was for £39,500 per day, but after the lateness, and given the market for Cargill's goods had fallen, would only pay £31,500 per day. Mercator sued for damages for lost revenues from Transfield.

ISSUE On an appeal from an original arbitration decision, what damages was Mercator entitled and what was too remote? Were the lost profits within the rule in *Hadley v Baxendale*?

HELD The House of Lords panel: **Lord Hoffmann, Lord Hope, Lord Rodger, Lord Walker, Baroness Hale.**

Lord Hoffmann: The loss of profits in the next charter to Cargill did not fall within the rule in *Hadley v Baxendale* and *The Heron II*. The Arbitrators had decided at first instance that the loss was within the rule, while simultaneously saying this was not the expectations of the parties.

Loss of earnings caused by late delivery under a charterparty is the difference between the market rate and the charter rate for the period