Singapore Journal of Legal Studies
[1994] 252 – 258

BOOK REVIEWS

LAW OF NEGOTIABLE INSTRUMENTS. BY POH CHU CHAI. (3rd Edition). [Singapore: Longman. 1994. xxxiv + 476 pp (including index). Hardcover: S$61.80/RM96]

ASSOCIATE Professor Poh has wisely taken the opportunity to revise the 2nd edition of his book. This is because there have been significant developments in the last four years, both in the case law and the legislative arena.

In the legislative arena, the most significant change was made with regard to the legal position of "account payee cheques" by the Bills of Exchange (Amendment) Act 1992, (with effect from 18 December 1992), which introduced section 81A. The author has dealt adequately with the reasons and the effect of the changes (at pp 243-248), and points out that the amendment is similar to the recent amendment to the English Cheques Act 1957 (actually the Cheques Act 1992). He also points out that such cheques are no longer negotiable instruments but constitute a mere contract between the parties.

A less noted change by the same Act was the deletion of section 72(d) of the Bills of Exchange Act. This is dealt with at pp 190-191. The purpose of the amendment is also explained in footnote 15 (at p 191).

Among the recent cases noted are:

- *Algemene Bank Netherland NV* v *Happy Valley Restaurant Pte Ltd* (1991), which led to the change in status of account payee cheques;
- *Consmat Singapore Pte Ltd* v *Bank of America National Trust and Savings Association* (1992), which reiterates the principle that customers do not (in the absence of express agreement) owe a duty to prevent forgeries or check their bank statements;
- *Development & Commercial Bank Bhd* v *Brimal Sdn Bhd* (1991), which states that the holder of a bill is ordinarily entitled to summary judgment;
- *Marina Sports Ltd* v *Alliance Richfield Pte Ltd* (1990), which discusses the special circumstances where the holder of a bill may not get summary judgment;
- *Oversea-Chinese Banking Corporation Ltd* v *Woo Hing Brothers (M) Sdn Bhd* (1992), which decides that a traveller's cheque is neither a cheque nor a bill of exchange because it is a conditional order;
- *United Malayan Banking Corporation Bhd* v *Kek Tek Huat* (1990), which concerns the right of a payee of a cheque to sue the collecting bank for conversion;
- *Malayan Banking Bhd* v *Ong Kee Chong Motors* (1991), which discusses a drawer's right to sue the collecting bank for conversion;

– *Yeo Hiap Seng* v *Australian Food Corporation Pte Ltd* (1991), which decides that the mere fact that the drawer of a cheque may have a counterclaim against the holder, does not constitute a sufficient defence to an action on the cheque.

Coming now to a few problems of local interest, one such problem obviously relates to the legal effect of a post-dated cheque. Associate Professor Poh deals with such cheques adequately but laments "that the question whether a holder of a post-dated cheque is entitled to be a substantive holder in due course remains unanswered". His problem is that a post-dated cheque may not be "regular" within the meaning of section 29 of the Bills of Exchange Act. It is respectfully submitted that the lack of an apparent answer is because there is no need for answer. In law, there can be no "post-dated cheque"; as every cheque must be payable on demand (section 73). In law, it is a bill of exchange payable at a *fixed* future time. There is nothing "irregular" about such a bill of exchange. Hence, Choor Singh J was right in holding in *Liang Tai Trading* v *Toh Thye Guan* (1970) that the holder of such a "cheque" was the holder in due course of it.

Another recurring question is the age of majority of a minor in banking transactions in Singapore. Associate Professor Poh states that banks in Singapore generally adopt the position that the age of majority is 21. This is almost correct, because all banks would rather adopt 21 years of age out of abundance of caution. Also, as Associate Professor Poh points out, in *Rai Bahadur Singh* v *Bank of India* (1993) Karthigesu J (as he then was) has decided that the age of majority in Singapore for the purpose of entering into a contract is 21. (See also the Court of Appeal judgment in [1994] 1 SLR 328.) It has now been made clear by the Application of English Law Act 1993 (with effect from 12 November 1993) that the Family Law Reform Act (1969) of England is not applicable in Singapore. It is nowhere mentioned in the Singapore Act.

The question of noting and protest of bills of exchange in Singapore also deserves more detailed treatment. Many bank officers do not even know the rationale behind noting and protest and are not aware who is a *notary public* (the person who does the noting & protest). Also, what is noting as opposed to protest, needs to be explained. Practical problems also arise because of the apparent conflict between the provisions of the Bills of Exchange Act and the Uniform Rules for Collection.

In spite of the apparent reluctance of Associate Professor Poh to criticise certain decisions and views (which is perhaps wise), both lawyers and law students should greatly benefit by reading this book. The quality of scholarship should be admired. The book is also comprehensive enough and covers almost everything that is worth covering. He even warns people not to sign documents without reading the contents of the document, or sign documents in blank (at p 54). Lawyers who leave cheques signed in blank with their trusted secretaries should take heed!"

MYINT SOE