Basic Principles of Singapore Business Law EDITED BY ANDREW PHANG [Singapore: Thomson Learning, 2003. l + 698 pp. Paperback: S$42.50]

As General Editor, Professor Andrew Phang, who has an international reputation in the law of contract, has led a team of scholars comprising the entire Department of Law (11 authors in all, a significant number of whom are junior academics) of the Business School in the Singapore Management University, to produce a remarkable book. It is written primarily for the use of the business law students in the University; the dedication of the book to their students bears testimony to the authors' commitment to their mission of education. But it is likely also to appeal to a wider audience.

An introductory chapter takes the reader on a journey through the history of the Singapore legal system and its major features, including a discussion of the impact of information technology on the adjudicatory processes and the significance of dispute resolution mechanisms outside the formal judicial system. The bulk of the book is then taken up by the law of contract. As Professor Peter Birks Q.C. pointed out in the Foreword, no one would disagree with its emphasis on contract as the "core of the core" of the law that is essential to businesses. Six chapters follow, on selected areas of law considered vital to the business community: agency, business organisations, negligence, economic torts, intellectual property and international business.

The law is stated clearly, systematically and succinctly in easily digestible paragraphs. The numbered paragraphs facilitate referencing. Indentations in the paragraphs helpfully leave enough space in margins for scrawling notes; this will be appreciated by students. Diagrams explain complex ideas. To learn how incredibly complex legal rules can be reduced into

conceptual diagrams, one can do no better than to take a leaf or two from this book (especially at pp. 533–4). Because the primary target readers are business students and laypersons, there are no footnotes, and cases, already kept to the minimum of leading authorities and important illustrations, are cited in the main text with only the year in parenthesis. The drawback is that keen readers eager to pursue references constantly need to flip to the table of cases for full citations.

Apart from the exposition of the law of contract, the other chapters generally provide only overviews of the topics (but there is a gem of a discourse on the duty of care in the chapter on negligence). The contract chapters, to which some 60% of the book is devoted, could stand on their own as a textbook on contract law; such is the breadth and depth of their coverage—a textbook within a textbook, as it were. All the major topics that one expects to see in a student's contract law textbook are present. The level of detail in the contract chapters is fairly consistent, but the subject matter of some inevitably requires greater attention to technical details than others. Differences, whether real or potential, between English and Singapore common law are highlighted. Occasional references are made to Australian law when it provides interesting counterpoints. The level of legal detail and analysis in the contract chapters has been pitched higher than many other books on Singapore law serving the market outside that of students and practitioners of the law. The book is also written with the general public in mind, but although the writing style may be accessible, the contents in many places appear too detailed and complex for a layperson's introduction to the law. It is far more useful to those who have an identified legal problem and wish to read to acquire specific knowledge about specific parts of the law. In this respect, it is a useful reference book for anyone who needs or wants to have more than just a passing acquaintance with the law.

As to be expected, the business perspective is pervasive. Virtually all chapters set out the practical business context and implications of the law. It is commendable that many chapters deal with modern transactions conducted in cyberspace. The general message conveyed is that this context generally raises issues of application of the law, but in a few cases changes in the sociological environment brought about by new technology may also require reconsideration of doctrine. Anyone who wants a quick look at potential issues in this context could benefit from this book.

As restitution and unjust enrichment are receiving recognition as concepts independent of the law of contract, it is salutary that this book has eschewed the old language of quasi-contracts generally, preferring the modern terminology. Principles of restitution and unjust enrichment are discussed where contextually relevant within the contract chapters. This complex subject is given a splendid summary especially in Chapter 16 (although para. 16.118 ought now to be read with *Parkway Properties Pte Ltd v. United*

Artists Singapore Theatres Pte Ltd [2003] 1 S.L.R. 791 at para. 46). The odd inconsistency exists: *e.g.*, the claim for profits made by the defendant in breach of contract is said to be based on gain and not loss at para. 15.2, but is then curiously tallied under "restitutionary losses" at para. 15.45.

The law is stated with admirable clarity. This is no mean feat especially in the contract chapters considering the level of legal detail being scrutinised. Few passages are obscure, but one struck the reviewer at para. 16.5. The statement of the principle that the *debtor* is not entitled to turn the creditor's claim for the repayment of a debt into a claim for damages (thereby subject to mitigation rules) is, for unexplained reasons, utilised to support the proposition that the *creditor* cannot, as a general rule, claim damages from the debtor for the late payment of the debt. The preceding heading does not assist: *No Election Between Action for Fixed Sum and Claim for Damages*. Without further elucidation in the text, this is likely to provoke in the reader's mind: does it mean that the creditor *cannot* choose between debt and damages because his claim is confined to debt (since he cannot sue for damages for late payment)? Or does it mean that the creditor *does not have* to choose because he can sue for both? An experienced lawyer can see that the creditor has no inconsistent remedies between which to elect; he can sue on the debt *and* claim for damages for late payment thereof (provided the law recognises the damages, which as a general rule it does not as para. 16.5 explains); but the heading and passage can be mystifying to a reader coming to grasp with the law in this area for the first time.

Part of this obscurity could be due to over-compression in the text. This is always a danger for introductory texts. To its credit, the book manages this problem very well generally, but the chapter on contractual capacity illustrates the perils. Under the heading of "Voidable Contracts", paras. 7.13 and 7.14 set out the circumstances under which a minor may set aside a voidable contract, but para. 7.15 follows immediately with the claim that the minor "may also ratify the contract" upon reaching majority. This is difficult to understand; how can a voidable contract be ratified? The confusion is caused because para. 7.15 should really address itself to a different category of minors' contracts altogether, which are neither valid nor voidable but to which the minor can choose to bind himself upon reaching majority. Additionally, the reader who has digested at para. 1.20 that the Second Charter of Justice received pre-1826 English statutes into Singapore will be puzzled to read at para. 7.17 that the Infants Relief Act 1874 (U.K.) was part of Singapore law by virtue of the Charter. Nor is it easy to follow para. 7.19 stating that the restitutionary relief enacted in the Minors' Contracts Act (Cap. 389, 1994 Rev. Ed., Sing.) had mitigated the harsh consequences of rendering contracts void. This is oddly expressed; the effect of the Act is

that, in repealing the Infants Relief Act 1874 (U.K.), there is no longer a category of void minors' contracts.

The contents prove the General Editor's claim that the authors have not been afraid to enter controversial territory. Prominent examples include the reappraisal of the doctrine of consideration, the proposal to merge the common law and equitable doctrines of common mistake in contract law, and the use of unconscionability as a concept to organise and explain the doctrines of duress, undue influence and unconscionable bargains. It is difficult to strike the right balance in an introductory text between presenting the law in a simple and digestible manner to non-lawyers, and presenting the law as a dynamic process of development in the grey areas. Most of the balancing task is accomplished commendably in the book. At first blush, the reviewer thought that some chapters appeared to contain more discussion on controversial areas than an average businessman would care to know. However, if the objective of the book is not just to raise the level of legal awareness among business people but also to invite them to be more concerned about legal development, then this is no bad thing. In particular, the chapters on the law of contract deal with many of the controversies that will be familiar to lawyers and law teachers. Major opposing views and conflicting authorities are summarised and analysed. Law students are likely to find the book useful as a gentle introduction to these controversies. The discussion of selected relevant and up-to-date Singapore case law adds particular value in this respect.

It is in view of this professed general willingness to engage controversies that the reviewer was surprised by the confident assertion (at para. 9.10) that were the facts in the famous case of *Cutter v. Powell* (1795) 6 T.R. 320, 101 E.R. 573 to occur in Singapore today, the Apportionment Act (Cap. 8, 1998 Rev. Ed., Sing.) would apply to allow the recovery of the prorated portion of the plaintiff's salary before his death. The reviewer does not share this confidence, as there was nothing periodical in the agreed payment in the contract as it at least appears to be required under the legislation, and moreover, the contract was so different from the norm that it could be argued that the parties had agreed not to apportion the payment.

An astonishing 750 pages have been physically compressed into a remarkably slim volume only an inch thick. (Perhaps as a consequence of this, reflection from the wafer-thin glossy paper can make reading just a little difficult under a direct source of light.) The editorial labours deserve praise for the consistency of presentation throughout the book. Few typographical errors were spotted. The statement at para. 13.39 that "*the onus of proof* is on *the debtor* to plead and prove that it did *not* have constructive notice" (author's emphasis), referring to the infection of the creditor by a third-party's undue influence of the debtor, *must* contain such an error. The index entry for "Mistake—law, of" refers to the wrong paragraph. The reader may

also doubt whether the author at para. 21.92 seriously thought that the indefatigable courts in Singapore are often "weary" of survey evidence tendered in support of passing off claims (did he mean "wary"?).

On the whole this book is an excellent product of a laudable team effort. It is of a high standard generally, and there is much that can be learnt from it about the law in Singapore. It deserves space on the shelves of business and law libraries in Singapore, in universities and law firms, and in public libraries. It is handy for students to carry around. It is rather heavy for its size, which may itself be a portent: perhaps like the law department that authored it, the book is small but can deliver a punch heavy for its size.

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