

*The Law of Agency (Second Edition)* BY TAN CHENG HAN SC [Singapore: Academy Publishing, May 2017. xlvii + 388 pp. Softcover: SG\$96.30]

Professor Tan's monograph *The Law of Agency*, first published in 2010, forms part of Academy Publishing's 'Law Practice Series' which aims to publish seminal works on key subject areas in legal practice. It is encouraging, to this end, to see the law of

agency take its rightful position in this cast, rather than simply being relegated to a sub-set of contract law (where it not infrequently resides in law school syllabi). There is much more, after all, to the law of agency than its common (but not invariable) contractual foundation; agency inhabits, and interacts with, other core areas within the modern law of obligations, including those sourced from tort, property and equity.

At the outset, it is important to appreciate what the second edition is not. A work of less than 400 pages, with judicious use of footnotes, cannot aspire to being comprehensive. After all, the classic *Bowstead and Reynolds on Agency* (2017), now in its 21st edition, admirably fulfils this role. But nor is it a purely propositional work. Where propositions appear, these provide the springboard for an assessment of their merit. And the multiple occasions where the author questions the prevailing law, always in a most respectful style, reveal more so in this edition than the former that the law of agency is hardly past the age of childrearing.

The monograph is a modern illustration of a type of work that is, regrettably, becoming rarer in the legal landscape: a doctrinal, ‘black letter’ work that, in a concise form, presents core areas of doctrine in a contextual framework that facilitates their evaluation. In the agency law context, the book is reminiscent of Professor Stoljar’s book of the same title, published in 1961, also by reason of its discursive style. While aspects of that style read in a fashion not entirely dissimilar to what one may expect of lecture notes, this is no cause for criticism, and is certainly not intended in disrespect. The venerable Maitland’s *Equity: A Course of Lectures* (1909), for instance, derived from a course of lectures to students. But the book is no lightweight introductory recitation, but (like Maitland) goes well beyond the student domain. Not only does the author’s style contribute to flow and ease of comprehension, it animates the subject matter, which some (but not the present writer) may perceive as somewhat dry.

That there is evidently a ‘common law of agency’—which exhibits greater confluence across the breadth of common law jurisdictions (here including the United States) than most fields of the common law—dictates that the book cannot avoid frequent reference to case law and writings beyond Singaporean boundaries. Like the first edition, it maintains an international flavour, at least in the common law realm. Yet in doing so, it views agency law through a Singaporean prism. And while Singaporean agency law digresses little in genuine substance from its English counterpart, it is inhabited by multiple significant and well-reasoned judgments that serve to clarify the broader common law.

The Preface highlights six significant Singaporean cases spanning the time frame between the editions. One may be hard pressed to think of six equally significant agency law cases within the same duration in Australia, a country with over four times the population. In this sense, in common with its first edition, the book reveals that Singaporean courts ‘punch above their weight’ in this context, and thus cannot be overlooked in any genuine survey of agency (or other common) law.

The structure of the second edition follows the same path as the first. This is no bad thing, as it reflects a relatively standard approach to presenting agency law. Logically, Chapter 1 is devoted to defining ‘agency’, which remains no easy task, especially when it comes to placing ‘control’ within the agency taxonomy. That the author has grasped the opportunity to re-work some of the material on control, in particular, reflects this point. Matters going to definition are sharpened by comparing agency

to other legal relations, which is the object of Chapter 2. Here again the author has taken steps to improve the first edition, specifically in presenting a clearer portrayal of the sometimes difficult agent-employee distinction.

The monograph then proceeds to the creation of agency via agreement (Chapter 3), before addressing agencies that arise by operation of law (Chapter 4), the nature and function of ostensible authority (Chapter 5), and ratification (Chapter 6). Ostensible authority appears in this sequence because questions of actual and implied authority are covered in Chapter 3.

Chapters 7 and 8 target the duties that arise within an agency relationship, the former from agent to principal, the latter the converse (which could also be viewed in terms of the agent's rights against the principal). In Chapter 7, which has benefited from re-writing when it comes to the duties of performance and gratuitous agents, I would suggest that thought be given to collapsing the material presently under the separate headings 'Fiduciary Duties' and 'Duty of Loyalty'. The impression left by this discrete treatment (which is straddled by material under the heading 'Remedies for Breach of Duty') is that they target qualitatively different duties, which is not so.

Chapters 9 and 10 probe the relationships with third parties arising out of agency, from the perspective of the agent and the principal, respectively. Logically bookending the monograph, in the final chapter, is commentary directed to the termination of agency.

A final 'house-keeping' comment is that the index could be improved (something that could be said for several of my own works!). It is confined to a handful of major headings rather than necessarily distilling specific points a reader may wish to quickly locate. For instance, one searches in vain for 'Ostensible Authority' (instead indexed as 'Apparent Authority'). The term 'solicitor' appears but at the same time 'director' is overlooked, even though the text addresses directors' agency in greater detail.

Overall, the second edition of Professor Tan's work is very much to be welcomed, for its concise, balanced, lively and reasoned analysis of legal doctrine, from a jurisdictional slant not developed in other agency works.

**GE DAL PONT**  
Professor  
University of Tasmania