

CONVEYANCING IN HONG KONG. By HARTLEY BRAMWELL. [London: Butterworths. 1981. 403 pp. Hardcover HK\$280]

Mr. Hartley Bramwell, the author, is to be congratulated for his efforts to fill in the lacuna in the literature on real property in Hong Kong. Indeed his book is *sui generis*. The uniqueness of the Hong Kong legal landscape fascinates not only its local practitioners but also jurists in other legal systems, e.g. on page 15, the author noted in exclamation: "All the New Territories Crown leases therefore expire three days before the end of the period of the 'lease' of the New Territories from China!" Where else in the World could one be confronted with such a future-shock phenomenon? The author

attempts to suggest some solutions to this Hong Kong dilemma but unfortunately, his suggestions were only encapsulated in the foot-note on page 15. It is a pity that no fuller discussion on such an intractable problem was given: perhaps, doing so would lead the author beyond the scope of the book. It is submitted that hitherto the singularly most important contribution of Hong Kong to the English and Commonwealth law of real property was the case of *Wong Lai Ying v. Chinachem Investment Company Limited* [Privy Council Appeal No. 9 of 1979, reported in *Hong Kong Law Reports* (1980), 1.] and it is adequately discussed in this book on pages 150-152. The applicability of the doctrine of frustration to a lease was somewhat uncertain [see *Megarry & Wade, The Law of Real Property* [4th ed.] at p. 674], but it is now clear that if an event such as a landslide occurred, as in the case of *Wong Lai Ying*, it would, in law, be a frustrating event.

Chapter 3 contains useful sections. For example, (on pages 39-40) the author delineates steps in a checklist which a conveyancer could follow in taking instructions, (on pages 41-44) what to look out for in a simple and common residential flat transaction and (on pages 44-45) how to conduct a land search at the land office. The materials are presented in a cook-book manner and practitioners in conveyancing, especially the novices, would find these sections helpful.

Practitioners would also find the Chapters on Land Registrations [Chapter 11] and Deeds of Mutual Covenant [Chapter 13] extremely useful because land registration is a universally parochial subject. English and Commonwealth literature is not directly relevant and the management of multi-story buildings, as governed by deeds of mutual covenant, does present practical problems in a solicitor's day-to-day practice. Contrariwise, practitioners would probably be more inclined to use standard English texts in looking for precedents in areas of remedies on breach of contract (Chapter 9) although it is not suggested that the author should not include such a topic in his book. Chapter 14 on Mortgages and Chapter 15 on Completion and Post Completion are again useful chapters.

Chapter 10 contains an extremely interesting discussion of the legal status of the title to land during the Japanese Occupation. I am sure that students in comparative law and history in countries which were, like Hong Kong, occupied by the Japanese would be delighted to read this section and compare the Hong Kong experiences.

A serious flaw in the contents of this book, in my view, is the omission of a discussion on the matrimonial home in the Hong Kong context. The concept of "matrimonial home" or "community property" is a practical subject and all the major textbooks on real property deal with it in some detail. In England, under the Matrimonial Homes Act 1967, a deserted wife could register her occupational right as a class F land charge (in respect of unregistered land) and a notice or caution (in respect of registered land) giving her occupational right priority over prospective purchasers. Hong Kong does not have the equivalent of a Matrimonial Homes Act 1967 and a deserted wife has to get a shelter, however precarious, under the authority of *National Provincial Bank v. Ainsworth* (1965) A.C. 1175 [see Elizabeth Phillips, *Rights in the Matrimonial Home* in

**H.K.L.J.** (1980) Vol. 11, No. 2, p. 201]. It is therefore submitted that, where there is no legislation and practitioners have to resort to case law for authority on such an important subject, it is especially disappointing that a text-book of this nature does not devote any space to it.

Mr. Bramwells book will no doubt find its way to the bookshelves of legal practitioners if it has not already done so and it should be on the purchase-list of every law library in the Commonwealth. Individuals and institutions who have or are contemplating investing in real property in Hong Kong should find this book a useful tool.

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