

IN THE SUPREME COURT OF HONG KONG
HIGH COURT
MISCELLANEOUS PROCEEDINGS

BETWEEN

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| VAN CAN ON and others | Applicants |
| and | |
| THE DIRECTOR OF IMMIGRATION | 1st Respondent |
| THE DIRECTOR OF LEGAL AID | 2nd Respondent |
| THE CHAIRMAN OF THE REFUGEE STATUS REVIEW BOARD | 3rd Respondent |

Before: The Hon. Mr. Justice Keith in Court

Date of Hearing: 3rd October 1996

Date of Ruling: 3rd October 1996

R U L I N G

In my view, the skeleton agreement prepared by Miss Li and Mr. Dykes for the Applicants contains two grounds which are not included in the Amended Grounds on which relief was sought:

- (i) Para. 9 of the Amended Grounds alleges that the Director of Legal Aid cannot grant undertakings to persons who supply information to her under section 9(a) of the Legal Aid Ordinance (Cap. 91) to the effect that the information cannot be disclosed to the person applying for legal aid. The basis for that, as pleaded in the Amended Grounds, is that it prevents an applicant for legal aid from having his application for legal aid considered fairly. The Applicants now wish to allege an alternative and additional basis for arguing that such an undertaking cannot be given, namely that the Director of Legal Aid has an unconditional statutory entitlement to the information from whoever has documents of the kind to which section 9(a) applies in their possession.

- (ii) The Applicants wish to allege that by providing the Registrar with the documents, the Director of Legal Aid has already broken the condition of confidentiality given to the Director of Immigration, and that it is for that reason irrational for her not to make the same documents available to the Applicants.

Accordingly, I rule, pursuant to Ord. 53 r. 6(1), that those two grounds cannot be relied upon by the Applicants until such time as leave to re-amend the Grounds on which relief is sought has been granted.

(Brian Keith)
Judge of the High Court

Miss Gladys Li Q.C. & Mr. Philip Dykes, instructed by Messrs. Pam Baker & Co., for the Applicants.

Mr. William Marshall Q.C. & Miss Joyce Chan, Crown Counsel, for the 1st and 3rd Respondents.

Miss Selina Lau, instructed by Messrs. Lo & Lo, for the 2nd Respondent.