

HCA 4715/2001

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE**

ACTION NO. 4715 OF 2001

BETWEEN

OCEAN PALACE RESTAURANT
AND NIGHTCLUB LIMITED

Plaintiff

and

CHENG CHAO MING

1st Defendant

CHUN KAM CHIU

2nd Defendant

Before: Hon Chung J in Chambers

Date of Hearing: 9 November 2001

Date of Decision: 9 November 2001

DECISION

1. The Plaintiff commences this action alleging that the 2 Defendants have wrongfully caused disruptions to the Plaintiff's restaurant and nightclub business. The Plaintiff applied *ex parte* for, and was granted, an interim injunction order in effect enjoining the Defendants from doing so and for related reliefs.

2. At today's hearing, the Defendants ask for the *ex parte* order to be discharged on the ground that there is no serious question to be tried regarding the Defendants' connection to the wrongful acts referred to by the Plaintiff in this action.

3. Having perused the documents before the court, I agree with the Plaintiff's argument that a serious question has been raised by the Plaintiff as regards whether an inference can justifiably be drawn that the Defendants are related to those wrongful acts.

4. Further, I agree with the Plaintiff that judging from the evidence before the court, the Defendants have the necessary motive and means to perpetrate the alleged wrongful acts.

5. I pause to observe that:-

- (a) the alleged wrongful acts of disruption of the Plaintiff's business as such have not been challenged;
- (b) no argument has been raised by the Defendants as regards factors relevant to the balance of convenience;
- (c) it is the Plaintiff's case that the injunction order is needed for the proper running of its business and this has not been challenged by the Defendants;

- (d) by reason of the above, the balance of convenience is in favour of granting the order sought by the Plaintiff.
6. To conclude,
- (1) the application to discharge the *ex parte* order is refused;
 - (2) there will be an order in terms of paragraph 1 of the Plaintiff's summons dated 1 November 2001 but the order is to remain in force until after judgment in the action or further order.

(Andrew Chung)
Judge of the Court of First Instance
High Court

Mr Horace Wong, instructed by Messrs Simon Siu, Wong Lam & Chan, for
the Plaintiff

Mr Ronald Tang, instructed by Messrs C Y Chan & Co., for the 1st
Defendant

Mr Douglas Lam, instructed by Messrs Alvan Liu & Partners, for the 2nd
Defendant