

Contact Partners:

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Sean Yeow Huang-Meng  
**Banking & Insolvency**  
T: +603 6208 5867  
E: [yhm@lh-ag.com](mailto:yhm@lh-ag.com)



Hoi Jack S'ng  
**Banking & Insolvency**  
T: +603 6208 5908  
E: [hjs@lh-ag.com](mailto:hjs@lh-ag.com)

## Partnership Liable for Wrongful Act of a Partner

*CIMB Bank Berhad v Tetuan Chen, Leong & Co* [Civil Appeal No 02 (f)-84-11/2015(P)]

| by Lilian Lee |

The Federal Court recently endorsed the principle that a partnership can be liable for the wrongful act of one of its partners.

Legal firm Messrs Chen, Leong & Co, a partnership of Chen and Leong, acted for one Madam Lee to recover the compensation sum awarded for the acquisition of a piece of land. The partner in charge of Madam Lee's case was Leong.

A cheque for the compensation sum was issued to Madam Lee and Leong received the cheque on her behalf. Using forged documents, Leong opened a bank account in Madam Lee's name. One of the forged documents was a letter of instruction to the bank, authorising Leong to operate the account. The cheque was paid into the account and was subsequently withdrawn and deposited in the firm's clients' account, which Leong misappropriated and has since absconded.

Madam Lee sued the bank and the bank then sought indemnity from the firm. The High Court found the bank liable to Madam Lee, but refused the bank's claim for indemnity. The High Court held that the wrongful actions of Leong were not committed in the ordinary course of the business of the firm and that, therefore, the firm was not liable.

[1] The Court of Appeal affirmed the decision.

On further appeal, the Federal Court held that the wrongful acts of Leong in receiving Madam Lee's cheque and the paying of the monies into the firm's clients' account were closely connected to acts that he was authorised to do as a partner. Therefore, Leong was to be deemed as acting in the ordinary course of the business of the partnership and that Chen, the innocent partner, was liable for Leong's actions.

The Court of Appeal's decision [2] must now be read subject to the

reversal and findings by the Federal Court.

The bank was represented by partners, [Sean Yeow Huang-Meng](#) and Hoi Jack S'ng, along with associate, Lilian Lee, of Messrs [Lee Hishammuddin Allen & Gledhill](#).

If you have any queries or would like to know more about the case, please contact the author ([lil@lh-ag.com](mailto:lil@lh-ag.com)) or [Hoi Jack S'ng](#) ([hjs@lh-ag.com](mailto:hjs@lh-ag.com)).

Lee Hishammuddin Allen & Gledhill

Level 6, Menara 1 Dutamas  
Solaris Dutamas  
No. 1, Jalan Dutamas 1  
50480 Kuala Lumpur  
Malaysia

T +603 6208 5888  
F +603 6201 0122/0136  
E [enquiry@lh-ag.com](mailto:enquiry@lh-ag.com)  
W [www.lh-ag.com](http://www.lh-ag.com)

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<sup>[1]</sup> The High Court referred to sections 12 and 13 of the Partnership Act 1961

<sup>[2]</sup> *CIMB Bank Bhd v Lee Kim Kee & Ors and another appeal* [2018] 9 CLJ 168; [2018] 3 MLJ 72