

Insights



John Han, Su Mien Tee and Francesca Ip Analyze Implications of Recent Hong Kong Ruling on Challenging and Enforcing Awards in GAR

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A recent decision by a Hong Kong court demonstrates the importance of the initial decision by both arbitral award creditors and debtors of where and when to enforce or challenge an award. Kobre & Kim's Hong Kong-based lawyers John Han, Su Mien Tee and Francesca Ip, along with patent attorney Dr. Marc Labgold, wrote in an article for *Global Arbitration Review*.

In the case, an award debtor had sought to set aside part of the award in a supervisory court, but once the award creditor moved to enforce the unchallenged parts, the debtor raised new and different grounds to oppose enforcement. The Hong Kong Court of First Instance ruled that the debtor should have raised all their arguments when they made the initial decision to challenge the award, and not doing so revealed their bad faith.

Han, Tee and Ip noted that while this decision dealt with a situation where the supervisory and enforcement court was the same, the reasoning indicated that the court was inclined to adopt the English law position that the same principle applies even if the courts are different. This highlights how the initial choice for both creditors and debtors of which jurisdiction to go to, where there may be nuanced local differences in standards of review, can be the key to success.

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