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**Summary of Judicial Decision**

**Wong Weng Chi (“P1”), Chow Nok Hang (“P2”), Leung Wing Lai (“P3”) & Chow  
Chun Yu (“P4”) v The Secretary for Justice for and on behalf of  
The Commissioner of Police (“Defendant”)  
DCPI 282, 311, 349 & 375/2015 (Heard Together); [2020] HKDC 412**

**Decision** : Plaintiffs’ claims dismissed  
**Date of Hearing** : 1-4, 8-11, 23 & 24 April 2019  
**Date of Judgment/Decision** : 19 June 2020

**Background**

1. These 4 civil actions arose from a demonstration opposing the preliminary funding for the North East Territories New Development Areas Project held outside the Legislative Council Complex (“**LegCo Complex**”), including the designated public activities area (“**DPAA**”), on 13 and 14 June 2014 (“**Demonstration**”). The Plaintiffs were among hundreds of protestors in the Demonstration.
2. On the night of 13 June 2014, the protestors charged the glass doors of the public entrance of the LegCo Complex with hard objects, and the LegCo Complex was damaged.
3. After a while, the police, having managed to control the situation and contained the protestors at the DPAA which was enclosed by some mills barriers, repeatedly warned the protestors that they were participating in an unlawful assembly, that the meeting was likely to cause a breach of the peace, and that they should at once leave or else they would be evicted. The police warnings were ignored by the protestors who, including some of the Plaintiffs, continued to give speeches and to chant slogans.
4. At the early hours on 14 June 2014, the police commenced eviction action against the protestors including the 4 Plaintiffs who were inside the DPAA, intercepted each of the 4 Plaintiffs some of whom climbed over the mills barrier to leave the DPAA, arrested them and escorted them to the police vehicle (“**PV**”).
5. The Plaintiffs claimed against the Defendant for :
  - (i) false imprisonment alleging that the police failed to declare arrest to P1,P2 and P3; and
  - (ii) battery alleging that the police used excessive force on P2 and P3 before escorting them to the PV; unnecessarily handcuffed P2 and P4 on board the PV; and physically and verbally abused all the Plaintiffs on board the PV.



6. The Plaintiffs claimed damages from the Defendant, including exemplary and aggravated damages.
7. The Defendant denied liability and all the allegations against the police.

### **Issues in Dispute**

8. The issues were whether the respective Plaintiff could prove that:
  - (1) the arrest of P2 and P3 was unlawful by reason that the police failed to inform them of the reason for arrest;
  - (2) the force applied on P2 and P3 by the police during the interception and removal to the PV was unnecessary and unreasonable;
  - (3) there was no legal justification to handcuff P2 and P4; and
  - (4) they were physically and verbally abused by the police on board the PV which was dark with its curtains drawn.

### **Department of Justice's Summary of the Court's rulings**

(full text of the judgment of the District Court

at [https://legalref.judiciary.hk/lrs/common/search/search\\_result\\_detail\\_frame.jsp?DIS=128849&QS=%2B&TP=JU](https://legalref.judiciary.hk/lrs/common/search/search_result_detail_frame.jsp?DIS=128849&QS=%2B&TP=JU))

9. The Court recapitulated the following applicable legal principles on liability (Paragraphs 17-32 and 312-326):

#### *Personal Freedom*

- (i) Every resident is entitled to freedom of person. Anyone who seeks to interfere with that freedom can only do so with proper legal justification.

#### *False imprisonment and unlawful arrest*

- (ii) False imprisonment is the unlawful imposition of constraint upon another person's freedom of movement from a particular place.
- (iii) A police officer may subject another to restraint when he lawfully exercises his power of arrest. If a policeman arrests without warrant, he must in ordinary circumstances inform the person arrested of the ground or reason for arrest. If a person is subjected to an unlawful arrest by a police officer, the continued detention of that person pursuant to the arrest perpetuates the unlawfulness and constitutes a false imprisonment.
- (iv) However, the requirement of informing the person arrested of the reason does not exist if the circumstances are such that he must know the general



nature of the alleged offence for which he is detained.

- (v) The person arrested cannot complain that he has not been informed of the reason for arrest if he himself produces the situation which makes it practically impossible to inform him, e.g. by immediate counter-attack or by running away.
- (vi) Arrest was a continuing act, which started when a person was taken into custody until he was released. An arrest which was initially unlawful could subsequently become lawful upon sufficient reasons being given.

#### *Battery and handcuffing*

- (vii) Battery is the actual infliction of unlawful force on another person.
  - (viii) In the course of arresting a person and escorting the arrested person, the police can use reasonable measures and force to prevent the arrested person from escaping.
  - (ix) Unjustified use of handcuffs on an arrested person constitutes trespass to person. Handcuffing is only justifiable when reasonable necessity existed. The court looks at all the circumstances of the case and asks whether reasonable precautions or unreasonable precautions or unnecessary measures are taken.
10. In applying the above legal principles to the evidence in this case, the Court first gave full weight to the video and sound contents of the police footage and the television station footage (Paragraph 42).
  11. The Court rejected most of the Plaintiffs' evidence as it was not supported, or contradicted by contemporaneous and/or indisputable records or documents. The Court found the Plaintiffs incredible and unreliable (Paragraphs 133-134).
  12. The Court found the police officers' evidence given on behalf of the Defendant generally consistent with and supported by contemporaneous and indisputable documents (Paragraph 267).
  13. On issue (1), the Court held that they "*already knew*" in substance the "*general nature of the alleged offence*" they were arrested for, or "*the facts which are said to constitute a crime on his part*". The exception to the general rule that the arrested person shall be given the reasons for arrest applied. Therefore, their arrests were lawful from the beginning and the claims of false imprisonment and battery failed (Paragraphs 330-335; 363-369).
  14. On issue (2), the Court held that the police had exerted no more than was reasonable and necessary force in all the circumstances in intercepting P2 and P3 considering the heat of the situation, and considering that according to medical evidence, P2 and P3 had not sustained injuries at the relevant parts of their body (Paragraphs 339-340; 371-372).



15. On issue (3), the Court held that the handcuffing of P2 and P4 on board the PV was reasonable and necessary precaution or measure taken in the circumstances of the case. They had been released from their handcuffs as soon as the circumstances allowed (Paragraphs 290-291 and 344-345).
16. On issue (4), the Court rejected the Plaintiffs' allegations of physical and verbal abuse in the PV and rejected their reliance on the darkness of the interior of the PV in support of their allegations. The Court found, *inter alia*, that there was nothing suspicious that the light of the PV was not switched on, that the "darkness" of its interior did not pose any safety issue as the maximum passenger capacity of the PV had not been exceeded, that there was some illumination by outside light sources and the curtain of the PV was light transmitting, and that travelling inside the PV would have been very similar to riding inside an ordinary vehicle at night and it would not have created any "intimidating" environment. (Paragraphs 227-243 and 337).
17. All the Plaintiffs failed to prove that the Defendant was liable to them on their respective claims in the 4 civil actions. The Plaintiffs' claims were all dismissed. The Court made costs orders *nisi* against the Plaintiffs (Paragraphs 383-386).

**Civil Division**

**Department of Justice**

**12 August 2020**