

Red is variable. Green is output by LLM.

**Prompt (area of law) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The scenario:

{user\_input}

Potential areas of law:

{table\_of\_contents.keys()}

Instruction:

Based on the above information, select at most three areas of law from the potential areas of law related to the scenario. Output in JSON format.

Example:

```
```json
{
  "areas": [
    "Land Law",
    "Tort Law",
    "Commercial Law"
  ]
}
```

**Example (area of law) temperature=0.2, top\_p=0.2**

[SYSTEM]

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[USER]

The scenario:

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

Potential areas of law:

Contract Law, Trust Law, Tort Law, Civil Procedure, Land Law, Business Associations, Commercial Law, Equity

Instruction:

Based on the above information, select at most three areas of law from the potential areas of law related to the scenario. Output in JSON format.

Example:

```
```json
{
  "areas": [
    "Land Law",
    "Tort Law",
    "Commercial Law"
  ]
}
```
```

[ASSISTANT]

```
```json
{
  "areas": [
    "Contract Law",
    "Commercial Law",
    "Tort Law"
  ]
}
```
```

## Table of Contents

```
table_of_contents = {
  "Contract Law": "TOC/Chitty on Contracts 35 Edition.txt",
  "Trust Law": "TOC/Lewin on Trusts 20 Edition.txt",
  "Tort Law": "TOC/Tort Law in Hong Kong 5 Edition.txt",
  "Civil Procedure": "TOC/Hong Kong Civil Procedure 2024.txt",
  "Land Law": "TOC/Land Law in Hong Kong 5 Edition.txt",
  "Business Associations": "TOC/Law of Companies in Hong Kong 4 Edition.txt",
  "Commercial Law": "TOC/Goode and McKendrick on Commercial Law 6 Edition.txt",
  "Equity": "TOC/Snell's Equity 34 Edition.txt"
}
```

**Prompt (legal issue) temperature=0.2, top\_p=0.2**

[SYSTEM]

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[USER]

Table of contents of a leading textbook in {area}:

{f.read() }

The scenario:

{user\_input }

Instruction:

Based on the above information only, identify all potential legal issues within {area} arising from the scenario. There can be an unlimited number of potential legal issues. Output in JSON format.

Example:

```
```json
{
  "issues": [
    "Whether GHI has a duty of care to ensure the elevator operates safely",
    "If GHI has a duty of care to ensure the elevator operates safely, what is the standard of care",
    "Whether GHI has breached its duty of care to ensure the elevator operates safely",
    "Whether GHI has statutory duty of occupier's liability",
    "Whether ABC is contributory negligent when operating the elevator"
  ]
}
```
```

**Example (legal issue) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Table of contents of a leading textbook in Commercial Law:

Contents

PART ONE THE FOUNDATIONS OF COMMERCIAL LAW

## 1 The Nature and Sources of Commercial Law 3

1. The law merchant 3
2. The founding of English commercial law 6
3. The nature of commercial law 8
4. The interests to be protected 10
5. The principal sources of commercial law 12
6. The limitations of judicial precedent 26
7. The problem of language 28
8. The importance of certainty 30
9. The challenge of technology 32

[OMITTED]

## PART NINE ENVOI

### 40 Final Reflections 1393

1. Are there principles of commercial law? 1393
2. The philosophical foundations of commercial law 1394
3. Should commercial law be codified? 1395
4. Towards a new lex mercatoria? 1400

The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

Instruction:

Based on the above information only, identify all potential legal issues within Commercial Law arising from the scenario. There can be an unlimited number of potential legal issues. Output in JSON format.

Example:

```
```json
{
  "issues": [
    "Whether GHI has a duty of care to ensure the elevator operates safely",
    "If GHI has a duty of care to ensure the elevator operates safely, what is the standard of care",
    "Whether GHI has breached its duty of care to ensure the elevator operates safely",
```

```

    "Whether GHI has statutory duty of occupier's liability",
    "Whether ABC is contributory negligent when operating the elevator"
]
}
...
[ASSISTANT]
```json
{
    "issues": [
        "Whether the contract between Scanda and Jane constituted a sale of specific goods or unascertained goods",
        "Whether the property in the 50 Galaxy Ergonomic Office Chairs had passed to Jane at the time of the fire",
        "Whether the fire constitutes frustration of the contract for the sale of the 50 Galaxy Ergonomic Office Chairs",
        "Whether the risk of loss had passed to Jane at the time of the fire",
        "The applicability of the Sale of Goods Ordinance (Cap. 26) in determining the passing of property and risk",
        "Whether Scanda is liable to refund Jane the purchase price",
        "The effect of destruction of goods on an existing contract of sale under Hong Kong law",
        "Whether any implied terms under the Sale of Goods Ordinance (Cap. 26) are relevant to the situation",
        "Whether Scanda had a duty to insure the goods before delivery",
        "How Scanda can prove the destruction of the goods if Jane disputes the claim",
        "Whether there are any additional statutory or common law remedies available to Jane",
        "The steps Jane can take to recover her loss"
    ]
}
...

```

## Database options

```

database_info = {
    "legislation": "all Hong Kong ordinances and subsidiary legislation in effect",
    "cfa": "all Hong Kong Court of Final Appeal cases from 1997 to 2024",
    "ca": "all Hong Kong Court of Appeal cases from 1997 to 2023",
    "cfi": "all Hong Kong Court of First Instance cases from 1997 to 2024"
}
examples = {
    "legislation": 'Example 1:\n```json\n{"query": "What is considered driving in excess of speed limit?"}\n```\nExample 2:\n```json\n{"query": "What are the implied undertakings as to quality or fitness for a sales of good?"}\n```',
    "cfa": 'Example 1:\n```json\n{"query": "What is the legal principle of common intention constructive trust?"}\n```\nExample 2:\n```json\n{"query":

```

```
"What are the circumstances where rescission will be barred as an equitable remedy under contract law?"}\n``,\n  "ca": 'Example 1:\n```\njson\n{"query": "What is the legal principle of common intention constructive trust?"}\n```\n\nExample 2:\n```\njson\n{"query":\n"What are the circumstances where rescission will be barred as an equitable remedy under contract law?"}\n```\n,\n  "cfi": 'Example 1:\n```\njson\n{"query": "What is the legal principle of common intention constructive trust?"}\n```\n\nExample 2:\n```\njson\n{"query":\n"What are the circumstances where rescission will be barred as an equitable remedy under contract law?"}\n```\n\n\n  }\n}
```

**Prompt (formulate query) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are a helpful AI assistant.

[USER]

The scenario:

{ **user\_input** }

The area of law:

{ **area** }

The legal issue:

{ **issue** }

Instruction:

Based on the scenario, generate a query string for researching on the legal issue by performing vector search of a legal database. The legal database contains { **database\_info[option]** }. Here are some questions for thought. What is the legal principle related to the legal issue? What might be specific about Hong Kong law that you will want to search regarding the legal issue? The query string generated shall encapsulate the semantic meaning of the question you want to search. Expand abbreviations (CICT becomes Common Intention Constructive Trust) and remove specific information (Peter becomes Landlord, truck becomes vehicle) to enhance the effect of vector search. As the database only contains Hong Kong law, do NOT include "Hong Kong" in your query. Output in JSON format.

{ **examples[option]** }

**Example (formulate query)(legislation) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are a helpful AI assistant.

[USER]

The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very

lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Commercial Law

The legal issue:

Whether the property in the 50 Galaxy Ergonomic Office Chairs had passed to Jane at the time of the fire

Instruction:

Based on the scenario, generate a query string for researching on the legal issue by performing vector search of a legal database. The legal database contains all Hong Kong ordinances and subsidiary legislation in effect. Here are some questions for thought. What is the legal principle related to the legal issue? What might be specific about Hong Kong law that you will want to search regarding the legal issue? The query string generated shall encapsulate the semantic meaning of the question you want to search. Expand abbreviations (CICT becomes Common Intention Constructive Trust) and remove specific information (Peter becomes Landlord, truck becomes vehicle) to enhance the effect of vector search. As the database only contains Hong Kong law, do NOT include "Hong Kong" in your query. Output in JSON format.

Example 1:

```
```json
{"query": "What is considered driving in excess of speed limit?"}
```

Example 2:

```
```json
{"query": "What are the implied undertakings as to quality or fitness for a sales of good?"}
```

[ASSISTANT]

```
```json
{"query": "When does the ownership property in goods pass to the buyer under a sales contract?"}
```

**Example (formulate query)(case law) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are a helpful AI assistant.

[USER]

The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Commercial Law

The legal issue:

Whether the property in the 50 Galaxy Ergonomic Office Chairs had passed to Jane at the time of the fire

Instruction:

Based on the scenario, generate a query string for researching on the legal issue by performing vector search of a legal database. The legal database contains all Hong Kong Court of First Instance cases from 1997 to 2024. Here are some questions for thought. What is the legal principle related to the legal issue? What might be specific about Hong Kong law that you will want to search regarding the legal issue? The query string generated shall encapsulate the semantic meaning of the question you want to search. Expand abbreviations (CICT becomes Common Intention Constructive Trust) and remove specific information (Peter becomes Landlord, truck becomes vehicle) to enhance the effect of vector search. As the database only contains Hong Kong law, do NOT include "Hong Kong" in your query. Output in JSON format.

Example 1:

```
```json
{"query": "What is the legal principle of common intention constructive trust?"}
```

Example 2:

```
```json
{"query": "What are the circumstances where rescission will be barred as an equitable remedy under contract law?"}
```

[ASSISTANT]

```
```json
{"query": "What are the legal principles regarding the passing of property in goods in commercial law, specifically in relation to purchased goods being identified to the contract and destroyed before delivery?"}
```

**Prompt (legal reasoning)(legislation)(major premise) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The search results:

{ **search\_results** }

The scenario:

{ **user\_input** }

The area of law:

{ **area** }

The legal issue:



{**issue**}

Instruction:

Based only on the search results, identify all rules of law that correspond the legal issue specific to the scenario by answering these 4 questions: 1. What are the conditions of the rule? Include conditions from the parent section. 2. What is the consequence of the rule? 3. What are the exceptions to this rule? Include exceptions from the parent section. 4. What is the citation of the relevant section the legal rule is from?

Strictly follow the format (JSON) of the following examples.

Example output (irrelevant):

```
```json
```

```
[]
```

```
```
```

Example legal issue:

What are the differences for remedies of innocent, negligent, and fraudulent misrepresentations?

Example search results:

Misrepresentation Ordinance Cap. 284 To amend the law relating to innocent misrepresentations. 3. Damages for misrepresentation (1) Where a person has entered into a contract after a misrepresentation has been made to him by another party thereto and as a result thereof he has suffered loss, then, if the person making the misrepresentation would be liable to damages in respect thereof had the misrepresentation been made fraudulently, that person shall be so liable notwithstanding that the misrepresentation was not made fraudulently, unless he proves that he had reasonable grounds to believe and did believe up to the time the contract was made that the facts represented were true. (2) Where a person has entered into a contract after a misrepresentation has been made to him otherwise than fraudulently, and he would be entitled, by reason of the misrepresentation, to rescind the contract, then, if it is claimed, in any proceedings arising out of the contract, that the contract ought to be or has been rescinded the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission, if of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party.

Example output:

```
```json
```

```
[
```

```
{
```

```
  "Conditions": "If (1) a person has entered into a contract after a misrepresentation; and (2) the misrepresentation has been made to him by another party; and (3) he has suffered loss as a result of the misrepresentation; and (4) if the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages",
```

```
  "Consequences": "Then (1) the person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently",
```

```
  "Exceptions": "Unless (1) the person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true; and (2) the person making the misrepresentation did believe up to the time the contract was made that the facts represented were true",
```

```
  "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1"
```

```
}
```

```
{
```

```
  "Conditions": "If (1) a person has entered into a contract; and (2) he entered into a contract after a misrepresentation has been made to him; and (3) the
```

misrepresentation was not made to him fraudulently; and (4) he would be entitled, by reason of the misrepresentation, to rescind the contract; and (5) if it is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded; and (6) the court or arbitrator is of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party",

"Consequences": "Then (1) the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission",

"Exceptions": "Unless none",

"Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2"

}

]

...

### **Example (legal reasoning)(legislation)(major premise) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are a helpful AI assistant.

[USER]

The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Commercial Law

The legal issue:

Whether the property in the 50 Galaxy Ergonomic Office Chairs had passed to Jane at the time of the fire

Instruction:

Based on the scenario, generate a query string for researching on the legal issue by performing vector search of a legal database. The legal database contains all Hong Kong ordinances and subsidiary legislation in effect. Here are some questions for thought. What is the legal principle related to the legal issue? What might be specific about Hong Kong law that you will want to search regarding the legal issue? The query string generated shall encapsulate the semantic meaning of the question you want to search. Expand abbreviations (CICT becomes Common Intention Constructive Trust) and remove specific information (Peter becomes Landlord, truck becomes vehicle) to enhance the effect of vector search. As the database only contains Hong Kong law, do NOT include "Hong Kong" in your query. Output in JSON format.

Example 1:

```json

{ "query": "What is considered driving in excess of speed limit?" }

```

Example 2:

```
```json
{"query": "What are the implied undertakings as to quality or fitness for a sales of good?"}
```

[ASSISTANT]

```
```json
{"query": "When does the property in goods pass to the buyer in a sales contract?"}
```

Vector databases loaded.

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The search results:

```
[
  {
    "title": "Sale of Goods Ordinance Cap. 26 Extract 24",
    "cosine_similarity": 0.7181283831596375,
    "reranker_score": 10.0546875,
    "content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart II Effects of the Contract\n20. Rules for
ascertaining intention\n Unless a different intention appears, the following are rules for ascertaining the intention of the parties as to the time at which the
property in the goods is to pass to the buyer\u2014 Rule 1 . Where there is an unconditional contract for the sale of specific goods in a deliverable state, the
property in the goods passes to the buyer when the contract is made, and it is immaterial whether the time of payment or the time of delivery, or both, be
postponed. Rule 2 . Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods, for the purpose of putting
them into a deliverable state, the property does not pass until such thing be done, and the buyer has notice thereof. Rule 3 . Where there is a contract for the
sale of specific goods in a deliverable state, but the seller is bound to weigh, measure, test, or do some other act or thing with reference to the goods for the
purpose of ascertaining the price, the property does not pass until such act or thing be done, and the buyer has notice thereof. Rule 4 . When goods are
delivered to the buyer on approval or \u201con sale or return\u201d or other similar terms, the property therein passes to the buyer\u2014 (a) when he
signifies his approval or acceptance to the seller or does any other act adopting the transaction; (b) if he does not signify his approval or acceptance to the
seller but retains the goods without giving notice of rejection, then, if a time has been fixed for the return of the goods, on the expiration of such time, and if
no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact. Rule 5 . (1) Where there is a contract for the
sale of unascertained or future goods by description, and goods of that description, and in a deliverable state, are unconditionally appropriated to the contract,
either by the seller with the assent of the buyer, or by the buyer with the assent of the seller, the property in the goods thereupon passes to the buyer. Such
assent may be express or implied, and may be given either before or after the appropriation is made."
  },
  {
```

"title": "Sale of Goods Ordinance Cap. 26 Extract 23",

"cosine\_similarity": 0.7135376334190369,

"reranker\_score": 9.3125,

"content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart II Effects of the Contract\n19. Property passes when intended to pass\n (1) Where there is a contract for the sale of specific or ascertained goods, the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred. (2) For the purpose of ascertaining the intention of the parties, regard shall be had to the terms of the contract, the conduct of the parties, and the circumstances of the case."

},

{

"title": "Sale of Goods Ordinance Cap. 26 Extract 26",

"cosine\_similarity": 0.6972461938858032,

"reranker\_score": 9.0703125,

"content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart II Effects of the Contract\n21. Reservation of right of disposal\n (1) Where there is a contract for the sale of specific goods, or where goods are subsequently appropriated to the contract, the seller may, by the terms of the contract or appropriation, reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer, or to a carrier or other bailee for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled. (2) Where goods are shipped, and by the bill of lading the goods are deliverable to the order of the seller or his agent, the seller is prima facie deemed to reserve the right of disposal. (3) Where the seller of goods draws on the buyer for the price, and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if he does not honour the bill of exchange, and if he wrongfully retains the bill of lading the property in the goods does not pass to him."

},

{

"title": "Sale of Goods Ordinance Cap. 26 Extract 6",

"cosine\_similarity": 0.6778689026832581,

"reranker\_score": 8.5,

"content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart I Formation of the Contract\n3. Sale and agreement to sell\n (1) A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration, called the price. There may be a contract of sale between one part owner and another. (2) A contract of sale may be absolute or conditional. (3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer, the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled, the contract is called an agreement to sell. (4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred."

},

{

"title": "Sale of Goods Ordinance Cap. 26 Extract 27",

"cosine\_similarity": 0.6753944158554077,

"reranker\_score": 7.9296875,

"content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart II Effects of the Contract\n22. Risk prima facie

passes with property\n Unless otherwise agreed, the goods remain at the seller\u2019s risk until the property therein is transferred to the buyer, but when the property therein is transferred to the buyer the goods are at the buyer\u2019s risk, whether delivery has been made or not: Provided that where delivery has been delayed through the fault of either seller or buyer, the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault: Provided, also, that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee of the goods of the other party."

},  
{

"title": "Sale of Goods Ordinance Cap. 26 Extract 56",

"cosine\_similarity": 0.671157956123352,

"reranker\_score": 7.41796875,

"content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart V Actions for Breach of the Contract\n51. Action for price\n (1) Where, under a contract of sale, the property in the goods has passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may maintain an action against him for the price of the goods. (2) Where, under a contract of sale, the price is payable on a day certain irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price, the seller may maintain an action for the price, although the property in the goods has not passed, and the goods have not been appropriated to the contract."

},  
{

"title": "Sale of Goods Ordinance Cap. 26 Extract 17",

"cosine\_similarity": 0.667559027671814,

"reranker\_score": 7.14453125,

"content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart I Formation of the Contract\n14. Implied undertaking as to title etc.\n (Replaced 58 of 1977 s. 4 ) [cf. 1973 c. 13 s. 1 U.K.] (1) In every contract of sale, other than one to which subsection (2) applies, there is\u2014 (a) an implied condition on the part of the seller that in the case of the sale, he has a right to sell the goods, and in the case of an agreement to sell, he will have a right to sell the goods at the time when the property is to pass; and (b) an implied warranty that the goods are free, and will remain free until the time when the property is to pass, from any charge or encumbrance not disclosed or known to the buyer before the contract is made and that the buyer will enjoy quiet possession of the goods except so far as it may be disturbed by the owner or other person entitled to the benefit of any charge or encumbrance so disclosed or known. (2) In a contract of sale, in the case of which there appears from the contract or is to be inferred from the circumstances of the contract an intention that the seller should transfer only such title as he or a third person may have, there is\u2014 (a) an implied warranty that all charges or encumbrances known to the seller and not known to the buyer have been disclosed to the buyer before the contract is made; and (b) an implied warranty that neither\u2014 (i) the seller; nor (ii) in a case where the parties to the contract intend that the seller should transfer only such title as a third person may have, that person; nor (iii) anyone claiming through or under the seller or that third person otherwise than under a charge or encumbrance disclosed or known to the buyer before the contract is made, will disturb the buyer\u2019s quiet possession of the goods."

},  
{

"title": "Sale of Goods Ordinance Cap. 26 Extract 42",

"cosine\_similarity": 0.6652786731719971,

"reranker\_score": 6.6328125,

"content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart III Performance of the Contract\n37. Acceptance of goods\n(Replaced 85 of 1994 s. 6 ) (1) Subject to subsection (2), the buyer is deemed to have accepted the goods\n2014 (a) when he intimates to the seller that he has accepted them; or (b) when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller. (2) Where goods are delivered to the buyer, and he has not previously examined them, he is not deemed to have accepted them under subsection (1) until he has had a reasonable opportunity of examining them for the purpose\n2014 (a) of ascertaining whether they are in conformity with the contract; and (b) in the case of a contract for sale by sample, of comparing the bulk with the sample. (3) The buyer who deals as consumer cannot lose his right to rely on subsection (2) by agreement, waiver or otherwise. (4) The buyer is also deemed to have accepted the goods when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them. (5) The questions that are material in determining for the purposes of subsection (4) whether a reasonable time has elapsed include whether the buyer has had a reasonable opportunity of examining the goods for the purpose mentioned in subsection (2). (6) The buyer is not by virtue of this section deemed to have accepted the goods merely because the goods are delivered to another under a sub-sale or other disposition."

```
},
{
  "title": "Sale of Goods Ordinance Cap. 26 Extract 22",
  "cosine_similarity": 0.6565119028091431,
  "reranker_score": 5.96484375,
  "content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart II Effects of the Contract\n18. Goods must be ascertained\nWhere there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained."
},
{
  "title": "Sale of Goods Ordinance Cap. 26 Extract 46",
  "cosine_similarity": 0.6526374816894531,
  "reranker_score": 5.7421875,
  "content": "Sale of Goods Ordinance Cap. 26\nTo codify the law relating to the sale of goods.\nPart IV Rights of Unpaid Seller against the Goods\n41. Unpaid seller\n2019s rights\nSubject to the provisions of this Ordinance and of any enactment in that behalf, notwithstanding that the property in the goods may have passed to the buyer, the unpaid seller of goods as such, has by implication of law\n2014 (a) a lien on the goods or right to retain them for the price while he is in possession of them; (b) in case of the insolvency of the buyer, a right of stopping the goods in transitu after he has parted with the possession of them; (c) a right of re-sale as limited by this Ordinance."
}
]
```

The scenario:

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

The area of law:

Commercial Law

The legal issue:

Whether the property in the 50 Galaxy Ergonomic Office Chairs had passed to Jane at the time of the fire

Instruction:

Based only on the search results, identify all rules of law that correspond the legal issue specific to the scenario by answering these 4 questions: 1. What are the conditions of the rule? Include conditions from the parent section. 2. What is the consequence of the rule? 3. What are the exceptions to this rule? Include exceptions from the parent section. 4. What is the citation of the relevant section the legal rule is from?

Strictly follow the format (JSON) of the following examples.

Example output (irrelevant):

```
```json
```

```
{
```

```
```
```

Example legal issue:

What are the differences for remedies of innocent, negligent, and fraudulent misrepresentations?

Example search results:

Misrepresentation Ordinance Cap. 284 To amend the law relating to innocent misrepresentations. 3. Damages for misrepresentation (1) Where a person has entered into a contract after a misrepresentation has been made to him by another party thereto and as a result thereof he has suffered loss, then, if the person making the misrepresentation would be liable to damages in respect thereof had the misrepresentation been made fraudulently, that person shall be so liable notwithstanding that the misrepresentation was not made fraudulently, unless he proves that he had reasonable grounds to believe and did believe up to the time the contract was made that the facts represented were true. (2) Where a person has entered into a contract after a misrepresentation has been made to him otherwise than fraudulently, and he would be entitled, by reason of the misrepresentation, to rescind the contract, then, if it is claimed, in any proceedings arising out of the contract, that the contract ought to be or has been rescinded the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission, if of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party.

Example output:

```
```json
```

```
[
```

```
{
```

"Conditions": "If (1) a person has entered into a contract after a misrepresentation; and (2) the misrepresentation has been made to him by another party; and (3) he has suffered loss as a result of the misrepresentation; and (4) if the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages",

"Consequences": "Then (1) the person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently",

"Exceptions": "Unless (1) the person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true; and (2) the person making the misrepresentation did believe up to the time the contract was made that the facts represented were true",

"Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1"

```
}
{
  "Conditions": "If (1) a person has entered into a contract; and (2) he entered into a contract after a misrepresentation has been made to him; and (3) the misrepresentation was not made to him fraudulently; and (4) he would be entitled, by reason of the misrepresentation, to rescind the contract; and (5) if it is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded; and (6) the court or arbitrator is of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party",
  "Consequences": "Then (1) the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission",
  "Exceptions": "Unless none",
  "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2"
}
]
```
```

[ASSISTANT]

```
```json
[
  {
    "Conditions": "If (1) there is a contract for the sale of unascertained goods; and (2) the goods are not ascertained",
    "Consequences": "Then (1) no property in the goods is transferred to the buyer",
    "Exceptions": "Unless (1) the goods are ascertained",
    "Citation": "Sale of Goods Ordinance Cap. 26 Section 18"
  },
  {
    "Conditions": "If (1) there is a contract for the sale of specific goods; and (2) the seller is bound to do something to the goods for the purpose of putting them into a deliverable state; and (3) the seller has not done such thing; and (4) the buyer has not received notice thereof",
    "Consequences": "Then (1) the property does not pass to the buyer",
    "Exceptions": "Unless (1) the seller has done such thing; and (2) the buyer has received notice thereof",
    "Citation": "Sale of Goods Ordinance Cap. 26 Section 20 Rule 2"
  },
  {
    "Conditions": "If (1) there is a contract for the sale of specific goods in a deliverable state; and (2) the seller is bound to weigh, measure, test, or do some other act or thing with reference to the goods for the purpose of ascertaining the price; and (3) the seller has not done such act or thing; and (4) the buyer has not received notice thereof",
    "Consequences": "Then (1) the property does not pass to the buyer",
    "Exceptions": "Unless (1) the seller has done such act or thing; and (2) the buyer has received notice thereof",
    "Citation": "Sale of Goods Ordinance Cap. 26 Section 20 Rule 3"
  },
]
```



```
{
  "Conditions": "If (1) there is a contract for the sale of unascertained or future goods by description; and (2) goods of that description and in a deliverable state are unconditionally appropriated to the contract; and (3) the appropriation is made either by the seller with the assent of the buyer, or by the buyer with the assent of the seller; and (4) such assent may be express or implied; and (5) such assent may be given either before or after the appropriation is made",
  "Consequences": "Then (1) the property in the goods passes to the buyer",
  "Exceptions": "Unless none",
  "Citation": "Sale of Goods Ordinance Cap. 26 Section 20 Rule 5"
}
```

**Prompt (legal reasoning)(legislation)(minor premise) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The major premise:

{major\_premise}

The scenario:

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Instruction:

Interpret the legal framework in the major premise using plain meaning. Determine if the scenario facts satisfy all conditions and avoid exceptions in the major premise by substituting the facts into the premise. Output the minor premise and the conclusion that answers the legal issue. You must make a decision. Strictly follow the output format of the following example.

Example scenario:

Emma, unaware of any defect, sold her vintage car to Jack, claiming it had never been in an accident, which was untrue. Jack, unaware of the misrepresentation, quickly sold the car to Lucy. When Lucy discovered the truth, she claimed damages from Jack. Jack sought rescission from Emma.

Example legal issue:

Whether rescission is available to Jack as a remedy to misrepresentation

Example major premise:[

```
{
  "Conditions": "If (1) a person has entered into a contract after a misrepresentation; and (2) the misrepresentation has been made to him by another
```

party; and (3) he has suffered loss as a result of the misrepresentation; and (4) if the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages",

"Consequences": "Then (1) the person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently",

"Exceptions": "Unless (1) the person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true; and (2) the person making the misrepresentation did believe up to the time the contract was made that the facts represented were true",

"Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1"

}

{

"Conditions": "If (1) a person has entered into a contract; and (2) he entered into a contract after a misrepresentation has been made to him; and (3) the misrepresentation was not made to him fraudulently; and (4) he would be entitled, by reason of the misrepresentation, to rescind the contract; and (5) if it is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded; and (6) the court or arbitrator is of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party",

"Consequences": "Then (1) the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission",

"Exceptions": "Unless none",

"Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2"

}

]

Example output:

### Relevant law:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1 and 2

### Major Premise:

1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1

Conditions:

- A person has entered into a contract after a misrepresentation
- The misrepresentation has been made to him by another party
- He has suffered loss as a result of the misrepresentation
- If the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages

Consequences:

- The person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently

Exceptions:

- The person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true
- The person making the misrepresentation did believe up to the time the contract was made that the facts represented were true

2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2

Conditions:

- A person has entered into a contract
- He entered into a contract after a misrepresentation has been made to him
- The misrepresentation was not made to him fraudulently
- He would be entitled, by reason of the misrepresentation, to rescind the contract
- It is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded
- The court or arbitrator is of opinion that it would be equitable to do so, having regard to:
  - \* The nature of the misrepresentation
  - \* The loss that would be caused by it if the contract were upheld
  - \* The loss that rescission would cause to the other party

Consequences:

- The court or arbitrator may declare the contract subsisting and award damages in lieu of rescission

Exceptions:

- None

### Minor Premise:

1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1:

- Jack has entered into a contract with Emma after a misrepresentation.
- The misrepresentation was made to him by Emma.
- Jack has suffered loss in the form of damage claimed from his client.
- If Emma had made the misrepresentation fraudulently, Emma would have been liable to damages.
- However, Emma has reasonable grounds to believe her claim is true, and Emma did believe her claim was true.
- Therefore, this section does not apply.

2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2:

- Jack has entered into a contract of sale of a car.
- Emma claiming the car has never been an accident is a misrepresentation.
- Jack has entered into the contract after this misrepresentation has been made to him.

- Emma did not make this misrepresentation fraudulently.
- Jack would have been entitled, by reason of misrepresentation to rescind the contract, but he is barred from rescission because an innocent third party is involved. Jack tries to sought rescission from Emma.
- Balancing the nature of the misrepresentation,
  - \* it is a innocent misrepresentation but it is material and might affect the value of the car;
  - \* the loss that would be suffered by Jack if the contract was upheld is minimal because he has already sold the car to Lucy; and
  - \* the loss to Anna a rescission would cause would be large as the car may decrease in value and Anna has to reimburse Jack in full value.
- Therefore, this section applies and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

### Conclusion:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2 applies, and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

#### **Example (legal reasoning)(legislation)(minor premise) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The major premise:

```
[
  {
    "Conditions": "If (1) there is a contract for the sale of unascertained goods; and (2) the goods are not ascertained",
    "Consequences": "Then (1) no property in the goods is transferred to the buyer",
    "Exceptions": "Unless (1) the goods are ascertained",
    "Citation": "Sale of Goods Ordinance Cap. 26 Section 18"
  },
  {
    "Conditions": "If (1) there is a contract for the sale of specific goods; and (2) the seller is bound to do something to the goods for the purpose of putting them into a deliverable state; and (3) the seller has not done such thing; and (4) the buyer has not received notice thereof",
    "Consequences": "Then (1) the property does not pass to the buyer",
    "Exceptions": "Unless (1) the seller has done such thing; and (2) the buyer has received notice thereof",
    "Citation": "Sale of Goods Ordinance Cap. 26 Section 20 Rule 2"
  },
]
```

```

{
  "Conditions": "If (1) there is a contract for the sale of specific goods in a deliverable state; and (2) the seller is bound to weigh, measure, test, or do some other act or thing with reference to the goods for the purpose of ascertaining the price; and (3) the seller has not done such act or thing; and (4) the buyer has not received notice thereof",
  "Consequences": "Then (1) the property does not pass to the buyer",
  "Exceptions": "Unless (1) the seller has done such act or thing; and (2) the buyer has received notice thereof",
  "Citation": "Sale of Goods Ordinance Cap. 26 Section 20 Rule 3"
},
{
  "Conditions": "If (1) there is a contract for the sale of unascertained or future goods by description; and (2) goods of that description and in a deliverable state are unconditionally appropriated to the contract; and (3) the appropriation is made either by the seller with the assent of the buyer, or by the buyer with the assent of the seller; and (4) such assent may be express or implied; and (5) such assent may be given either before or after the appropriation is made",
  "Consequences": "Then (1) the property in the goods passes to the buyer",
  "Exceptions": "Unless none",
  "Citation": "Sale of Goods Ordinance Cap. 26 Section 20 Rule 5"
}
]

```

The scenario:

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

The area of law:

Commercial Law

The legal issue:

Whether the property in the 50 Galaxy Ergonomic Office Chairs had passed to Jane at the time of the fire

Instruction:

Interpret the legal framework in the major premise using plain meaning. Determine if the scenario facts satisfy all conditions and avoid exceptions in the major premise by substituting the facts into the premise. Output the minor premise and the conclusion that answers the legal issue. You must make a decision. Strictly follow the output format of the following example.

Example scenario:

Emma, unaware of any defect, sold her vintage car to Jack, claiming it had never been in an accident, which was untrue. Jack, unaware of the misrepresentation, quickly sold the car to Lucy. When Lucy discovered the truth, she claimed damages from Jack. Jack sought rescission from Emma.

Example legal issue:

Whether rescission is available to Jack as a remedy to misrepresentation

Example major premise:[

```
{
  "Conditions": "If (1) a person has entered into a contract after a misrepresentation; and (2) the misrepresentation has been made to him by another party; and (3) he has suffered loss as a result of the misrepresentation; and (4) if the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages",
  "Consequences": "Then (1) the person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently",
  "Exceptions": "Unless (1) the person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true; and (2) the person making the misrepresentation did believe up to the time the contract was made that the facts represented were true",
  "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1"
}
{
  "Conditions": "If (1) a person has entered into a contract; and (2) he entered into a contract after a misrepresentation has been made to him; and (3) the misrepresentation was not made to him fraudulently; and (4) he would be entitled, by reason of the misrepresentation, to rescind the contract; and (5) if it is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded; and (6) the court or arbitrator is of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party",
  "Consequences": "Then (1) the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission",
  "Exceptions": "Unless none",
  "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2"
}
]
```

Example output:

### Relevant law:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1 and 2

### Major Premise:

1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1

Conditions:

- A person has entered into a contract after a misrepresentation
- The misrepresentation has been made to him by another party
- He has suffered loss as a result of the misrepresentation
- If the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages

Consequences:

- The person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently

Exceptions:

- The person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true
- The person making the misrepresentation did believe up to the time the contract was made that the facts represented were true

2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2

Conditions:

- A person has entered into a contract
- He entered into a contract after a misrepresentation has been made to him
- The misrepresentation was not made to him fraudulently
- He would be entitled, by reason of the misrepresentation, to rescind the contract
- It is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded
- The court or arbitrator is of opinion that it would be equitable to do so, having regard to:
  - \* The nature of the misrepresentation
  - \* The loss that would be caused by it if the contract were upheld
  - \* The loss that rescission would cause to the other party

Consequences:

- The court or arbitrator may declare the contract subsisting and award damages in lieu of rescission

Exceptions:

- None

### Minor Premise:

1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1:

- Jack has entered into a contract with Emma after a misrepresentation.
- The misrepresentation was made to him by Emma.
- Jack has suffered loss in the form of damage claimed from his client.
- If Emma had made the misrepresentation fraudulently, Emma would have been liable to damages.
- However, Emma has reasonable grounds to believe her claim is true, and Emma did believe her claim was true.
- Therefore, this section does not apply.

2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2:

- Jack has entered into a contract of sale of a car.
- Emma claiming the car has never been an accident is a misrepresentation.
- Jack has entered into the contract after this misrepresentation has been made to him.
- Emma did not make this misrepresentation fraudulently.
- Jack would have been entitled, by reason of misrepresentation to rescind the contract, but he is barred from rescission because an innocent third party is involved. Jack tries to sought rescission from Emma.
- Balancing the nature of the misrepresentation,
  - \* it is a innocent misrepresentation but it is material and might affect the value of the car;
  - \* the loss that would be suffered by Jack if the contract was upheld is minimal because he has already sold the car to Lucy; and
  - \* the loss to Anna a rescission would cause would be large as the car may decrease in value and Anna has to reimburse Jack in full value.
- Therefore, this section applies and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

### Conclusion:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2 applies, and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

[ASSISTANT]

### Relevant law:

Sale of Goods Ordinance Cap. 26 Section 18 and Section 20 Rule 5

### Major Premise:

1. Sale of Goods Ordinance Cap. 26 Section 18

Conditions:

- There is a contract for the sale of unascertained goods.
- The goods are not ascertained.

Consequences:

- No property in the goods is transferred to the buyer.

Exceptions:

- The goods are ascertained.

2. Sale of Goods Ordinance Cap. 26 Section 20 Rule 5



Conditions:

- There is a contract for the sale of unascertained or future goods by description.
- Goods of that description and in a deliverable state are unconditionally appropriated to the contract.
- The appropriation is made either by the seller with the assent of the buyer, or by the buyer with the assent of the seller.
- Such assent may be express or implied.
- Such assent may be given either before or after the appropriation is made.

Consequences:

- The property in the goods passes to the buyer.

Exceptions:

- None.

### Minor Premise:

1. Sale of Goods Ordinance Cap. 26 Section 18:

- There is a contract for the sale of unascertained goods (50 Galaxy Ergonomic Office Chairs).
- The goods are not ascertained at the time of the contract.

Therefore, no property in the goods is transferred to Jane unless the goods are ascertained.

2. Sale of Goods Ordinance Cap. 26 Section 20 Rule 5:

- There is a contract for the sale of unascertained goods by description (50 Galaxy Ergonomic Office Chairs).
- Goods of that description (55 Galaxy Ergonomic Office Chairs) are in a deliverable state.
- The goods have not been unconditionally appropriated to the contract as there is no evidence that the specific 50 chairs have been set aside for Jane.
- There is no indication that the appropriation was made with the assent of Jane or Scanda.

Therefore, the property in the goods does not pass to Jane as the conditions for appropriation and assent are not met.

### Conclusion:

The property in the 50 Galaxy Ergonomic Office Chairs had not passed to Jane at the time of the fire.

**Prompt (legal reasoning) (cases) (deductive) (choose 3 judgments) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The search results:

{ **search\_results** }

The scenario:

{ **user\_input** }

The area of law:

{ **area** }

The legal issue:

{ **issue** }

Instruction:

Based on the search results, choose three chunks of search results most relevant to the legal issue specific to the scenario. The three most relevant chunks should be from different cases. Output in JSON format.

Example:

```
```json
{
  "chunks":["chunk_id_1","chunk_id_2", "chunk_id_3"]
}
```
```

**Example (legal reasoning) (cases) (deductive) (choose 3 judgments) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The search results:

```
[
  {
    "id": "hkcfi_2021_1422_11",
    "title": "SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER
[2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) Extract 11",
    "cosine_similarity": 0.5955677628517151,
    "reranker_score": 6.8671875,
    "content": "an event (without default of either party and for which the \n contract makes no sufficient provision) which so significantly \n changes the
nature (not merely the expense or onerousness) of the \n outstanding contractual rights and/or obligations from what the \n parties could reasonably have
```

contemplated at the time of its execution it would be unjust to hold them to the literal sense of its stipulations in the new circumstances; in such case the law declares both parties to be discharged from the further performance (at 700F). (2) The matter must be considered as it appeared at the time is alleged to have happened. Commercial men must be entitled to act on reasonable commercial probabilities at the time when they are called upon to make up their minds (at 706H). (3) Whenever the performance of a contract is interrupted by a supervening event, the initial judgment is quantitative: what relation does the likely period of interruption bear to the outstanding period of performance? This must ultimately be translated into qualitative terms: in the light of the quantitative computation and of all other factors (from which executed performance would not be entirely excluded) would outstanding performance in accordance with the literal terms of the contract differ so significantly from what the parties reasonably contemplated at the time of execution that it would be unjust to insist on compliance with those literal terms (at 707B-D). (4) The doctrine of frustration was developed as an expedient escape from injustice where such would result from enforcement of a contract in its literal terms after a change in circumstances. It is modern and flexible and is not subject to being constricted by an arbitrary formula (at 701C-E).<sup>9</sup> 56. Mr Hon emphasizes, by reference to National Carriers, that whilst the doctrine of frustration is, in principle, applicable to leases, the doctrine would hardly ever be applied to a lease. 57. National Carriers is itself a summary judgment case, and the House of Lords held against the tenant on the facts, in that a 20-month disruption caused by the closure of the only access road to a warehouse was insufficient, given that the tenant could look forward to enjoyment of the warehouse for about two thirds of the remaining currency of the lease. 58. At *Li Ching Wing v Xuan Yi Xiong* [2004] 1 HKLRD 654 [710], Judge Lok (as he then was) said that an event which causes an interruption in the expected use of the premises by the lessee would not frustrate the lease, unless the interruption is expected to last for the unexpired term of the lease, or at least for a long period of that unexpired term. In that case, the tenant was not allowed to stay in the residential premises for ten days due to an isolation order issued by the Department of Health during SARS to evacuate Block E of Amoy Gardens. The learned Judge held that out of a term of two years, the isolation order was insignificant in terms of the overall use of the premises. 59. *The Center (76) Limited v Victory Serviced Office (HK) Limited* [2020] HKCFI 2881 is a case which deals with the effect of the social unrest and the COVID-19 pandemic. The defendant rented the premises in question to operate a flexible workspace business. DHCH rejected the defence of frustration. At [739], he said: "While COVID-19 pandemic and the social disruption may be unforeseen at the time of execution of the Tenancy Agreement, none of these has fundamentally or radically changed the nature of the parties' obligations or otherwise rendered it physically or commercially impossible to fulfil the Tenancy Agreement. The Defendant leased the Premises for the purpose of providing flexible workspace to rent to its customers. Its obligations is to pay rent and observe the covenants terms and conditions of the Tenancy Agreement. There has been no change in the nature of the Defendant's obligation, though the social disruption and COVID-19 pandemic must have rendered its business operation more onerous and not profitable. The doctrine of frustration is not to be lightly invoked to relieve contracting parties of the normal consequences of imprudent commercial bargain or commercial risk the Defendant"

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"id": "hkcfi\_2022\_279\_16",  
"title": "VEMBER LORD LTD v. THE SWATCH GROUP (HONG KONG) LTD [2022] HKCFI 279; HCA 1114/2020 (20 January 2022) Extract 16",  
"cosine\_similarity": 0.5838361978530884,  
"reranker\_score": 5.07421875,  
"content": "78. In response to the Court's question as to the date of the supervening event giving rise to frustration, the defendant's stance was that it is sufficient for its case that frustration had occurred by 18 June 2020. It would appear that reliance was upon the continuum of events, commencing in June 2019 with social unrest and overlapping with the

pandemic which commenced in early 2020. \n \n 79. When frustration occurs, typically there would be a supervening \n event transforming the obligation to perform into a radically \n different obligation from that undertaken at the time of entry into \n the contract, a \u00e2\u20ac\u02dcthere and then\u00e2\u20ac\u2122 situation. Where, as here, it is \n a \u00e2\u20ac\u02dcwait and see\u00e2\u20ac\u2122 situation, the approach to be adopted is that \n set out in *The Sea Angel* at \u00c2\u00a7120[28]. \n \n 80. The doctrine of frustration only applies if the obligations are \n \u00e2\u20ac\u02dcradically different\u00e2\u20ac\u2122. Rix LJ explained the importance of that \n test (at \u00c2\u00a7111): \n \n \u00e2\u20ac\u0153In such circumstances, the test of \u00e2\u20ac\u02dcradically different\u00e2\u20ac\u2122 is \n important: it tells us that the doctrine is not to be lightly \n invoked; that mere incidence of expense or delay or onerousness is \n not sufficient; and that there has to be as it were a break in \n identity between the contract as provided for and contemplated and \n its performance in the new circumstances.\u00e2\u20ac? \n \n 81. The obligation of the plaintiff as landlord was to make the Shops \n available for use and the defendant\u00e2\u20ac\u2122s obligation as tenant was to \n pay the rent due. As earlier noted, despite the extraordinary \n circumstances having commenced in June 2019, the defendant was able \n to and did continue to operate its business. Indeed, even in mid-May \n 2020 the defendant evinced every intention of continuing its \n business, albeit at a reduced rent of 50% [29]. \n \n 82. \u00e2\u20ac\u0153Commercially or fundamentally different\u00e2\u20ac? was not a legal \n test laid down in *Tsakiroglou* but a finding of fact by the appeal \n board [30] in arbitration proceedings before the matter was litigated \n in court. It cannot advance the defendant\u00e2\u20ac\u2122s case. \n \n 83. In those circumstances, it is inconceivable that the defendant \n has any prospect of satisfying the \u00e2\u20ac\u02dcradically different\u00e2\u20ac\u2122 test. \n \n 84. I now turn to consider the *Caffe Nero* case which the defendant \n considered to be an a fortiori case. That case concerned a 15-year \n lease of a walk down basement of the building \u00e2\u20ac\u02dcsolely\u00e2\u20ac\u2122 for the \n operation of a Caffe Nero themed cafe commencing June 2017. The \n relevant facts may be summarised as follows: \n \n (1) In March 2020, the Governor barred Massachusetts restaurants \n from allowing on-premises consumption of food or beverages indoors \n or outside from 24 March to 22 June, 2020. As a result, Caffe Nero \n temporarily closed its cafe and reopened it on 8 June but until 22 \n June only offered outside table service and take out. \n \n (2) When Caffe Nero failed to pay rent for April 2020, UMNv \n terminated the lease by notice served on 19 May 2020 and brought \n proceedings to recover, inter alia, unpaid rent for the months that \n Caffe Nero continued to occupy the premises and liquidated damages \n for the remainder of the lease. \n \n (3) Caffe Nero continued to pay no rent even though it occupied the \n premises and had reopened its business on 22 June. \n \n (4) When UMNv moved for partial summary judgment as to liability \n for breach of contract through 29 October 2020, the day that Caffe \n Nero left the premises [31], the court held that UMNv\u00e2\u20ac\u2122s motion was \n without merit and instead granted partial summary judgment in Caffe \n Nero\u00e2\u20ac\u2122s favour on the basis that the entire purpose of the lease \n (which was for Cafe Nero to use the premises to serve customers \n inside the premises) had been destroyed or frustrated. \n \n (5) Upon reopening on 22 June, Caffe Nero tried to renegotiate the"

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      "id": "hkcfi_2021_1526_8",
      "title": "ATELIER ENGINEERING LTD v. HONG KONG INTERIOR DESIGN & ENGINEERING CO LTD [2021] HKCFI 1526; HCA
3049/2016 (28 May 2021) Extract 8",
      "cosine_similarity": 0.578203022480011,
      "reranker_score": 4.87890625,
      "content": "which was undertaken by the contract: Davis Contractors Ltd v Fareham \n UDC [1956] AC 696, at 729. \n \n 43. The Frustration Point has no merits for the following reasons: \n \n (1) The Plaintiff claims that there was frustration because the \n Defendant could no longer supervise the Plaintiff in respect of \n work at the Project Premises and that delivery and work must be \n done at the Project Premises. However, as P\u2019s 2^(nd) Letter showed, \n the Subject Contracts were separate and independent from Rosy Acme. \n The Termination could not frustrate the Subject Contracts. \n \n (2) In

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the context of this renovation, delivery of goods to the \n Project Premises was for convenience, as installation was expected. \n However, Contracts 2, 4 and 5 were only for goods, which could be \n delivered to any premises. \n \n (3) P\u2019s 1<sup>(st)</sup> and 2<sup>(nd)</sup> Letters plainly showed that \u201cthe \n purchased items\u201d could be delivered to the Defendant at the \n warehouse. The Defendant had already offered to pay for the \n engineering costs even though no installation was required. How the \n Defendant would use the purchased items was none of the concern of \n the Plaintiff. As Ms Lee testified, she could in fact have re-sold \n the goods to Rosy Acme. \n \n (4) Accordingly, it could not be a fundamental term of the Subject \n Contracts that delivery of purchased items could only be to the \n Project Premises. \n \n 44. Having rejected the Agency Point and Frustration Point, the \n undisputed facts were that the Plaintiff had failed to deliver the \n goods on demand to the Defendant\u2019s warehouse and the Defendant had \n accepted the Plaintiff\u2019s anticipatory-breach by D\u2019s Letter. I hold \n that the Plaintiff was in breach of the Subject Contracts. \n \n 45. As the Defendant had not properly pleaded damages arising out of \n the Plaintiff\u2019s breach, I only award nominal damages of \$1,000 to the \n Defendant. \n \n J. COSTS \n \n 46. The Plaintiff pleaded a substantial case seeking an odd \n declaration that the ownership of the balance of purchased items \n stored and kept by the Plaintiff belonged to Rosy Acme and relied on, \n amongst others, section 4 of the Contracts (Rights of Third Parties) \n Ordinance, Cap 623. That prayer for declaration was removed on \n amendment but a claim for damages was added. At the trial, this part \n of the claim was not pursued. \n \n 47. Although the Plaintiff succeeds on part of the claim and should \n in principle have costs, I would only award part of the costs to \n them. Had their lawyers properly put their minds to how the balance \n of deposit was computed and the Defendant\u2019s defence on quantum, much \n costs would have been saved. \n \n 48. As for the Defendant, they only got nominal damages. Needless to \n say, the costs involved would not have justified an award of \$1,000. \n \n 49. I therefore cut down the party-and-party costs as if this were a \n two-day trial. Taking into account the relative success/failure of \n both parties, I order the Defendant to bear only 50% of the \n Plaintiff\u2019s costs. \n \n K. CONCLUSION \n \n 50. I order as follows: \n \n (1) There be judgment to the Plaintiff in the sum of \$188,425 with \n interest at P+1% from the date of the writ to the date of judgment \n and thereafter at judgment rate until payment. \n \n (2) There be judgment on liability on the counterclaim with nominal \n damages of \$1,000, to be set off against the judgment sum in \n sub-paragraph (1). \n \n (3) There be an order nisi that the Defendant should pay 50% of the \n Plaintiff\u2019s costs with certificate for Mr Yip on the basis of a \n two-day trial. I make an order nisi accordingly. \n \n (4) Within 7 days, the Plaintiff\u2019s solicitors shall provide to the \n Court a copy of Mr Yip\u2019s brief and state the proposed hourly rates \n to be charged by the Plaintiff\u2019s solicitors, copied to the \n Defendant. I shall give further directions on costs to aid the \n taxing master upon perusal of such information."

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"id": "hkcfi\_2022\_2036\_15",

"title": "WHARF REALTY LTD v. ABEI LIMITED T/A \"ARMANI JUNIOR\" [2022] HKCFI 2036; HCA 954/2020 (15 July 2022) Extract 15",

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"reranker\_score": 4.83984375,

"content": "bargain which these parties made and their bargain must be treated as \n at an end\u200e\u20ac? (717D-F). \n \n 89. Where the doctrine is successfully invoked, the contract is \n brought to an end by operation of law. This is because when the \n fundamental nature of the outstanding rights and obligations have \n become radically different from what was contemplated under the \n contract by reason of the supervening event, the law takes the view \n that the contract simply does not apply to the new situation. \n \n 90. In Davis Contractors, Lord Reid said, at 721: \n \n \u200e\u20ac\u0153In British Movietonews Ltd. v. London and District Cinemas Ltd. \n [[1952] AC 166, 185] Viscount Simon said: \u200e\u20ac\u0153If, on the other hand, \n a consideration of the terms of the contract, in the light of the \n circumstances existing when it was made, shows that they never \n agreed to be bound in a fundamentally different situation which has \n now unexpectedly emerged, the contract ceases to bind at that point \n \u200e\u20ac\u201c not because the court in its discretion thinks it just and \n reasonable to qualify the terms of the contract, but because on its \n true construction it does not apply in that

situation. On this view there is no need to consider what the parties thought or how they or reasonable men in their shoes would have dealt with the new situation if they had foreseen it. The question is whether the contract which they did make is, on its true construction, wide enough to apply to the new situation: if it is not, then it is at an end. (underline added) ¶ 91. In this situation, the law releases the parties from their contract as it would be unjust to hold them to its literal terms after a significant change in circumstances: National Carriers, at ¶ 701C, per Lord Simon. ¶ 92. It has been emphatically recognised in the case law that the doctrine of frustration has long been, and must be, kept within very narrow limits. It is not to be lightly invoked as the dissolvent of a contract: Davis Contractors at 715, 727; Tsakiroglou at 115. ¶ 93. In The Sea Angel, Rix LJ explained, at para 111: In such circumstances, the test of radically different is important: it tells us that the doctrine is not to be lightly invoked. ¶ 94. It has therefore been consistently stressed in the case law that hardship, inconvenience or material loss suffered by a party, of itself, is not sufficient to call into play the doctrine of frustration. There needs to be something more. There must be such a change in the significance of the obligation that the thing undertaken would, if performed, be a different thing from that contracted for: Davis Contractors at 729, per Lord Radcliffe. ¶ 95. This point is illustrated in Davis Contractors. In that case, the contractors agreed to build 78 houses for a local authority for a fixed sum within a period of eight months. Without fault of either party, adequate supplies of labour were not available and the work took 22 months to complete. Viscount Simonds said, at 714 to 715: The contract was for completion of certain work in eight months: the contractors made their tender in the expectation that they would be able to do the work in the time and made a price accordingly. It may then be said that they made the contract on the basis or on the footing that their expectations would be fulfilled. Nor presumably were the expectations, or at least the hopes, of the respondents in any way different. Let it be said, then, of them, too, that they contracted upon the same basis or footing. But it by no means follows that disappointed expectations lead to frustrated contracts. (underline added) ¶ 96. And, later, his lordship said, at 716: But I do emphatically say that it cannot, in the light of later authority, be used to support the proposition that where, without"

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"id": "HKCFI\_2014\_652\_16",

"title": "HCA 972/2011 CHEUNG KIT LAI (\u5f35\u6f54\u9e97) 1 st Plaintiff PAU WAI LAM (\u9b91\u60e0\u6797) 2 nd Plaintiff And RICH PROSPER LIMITED (\u69ae\u6bb7\u8ca1\u52d9\u6709\u9650\u516c\u53f8) 1 st Defendant YEUNG TING CHEUNG (\u694a\u4e01\u7965) 2 nd Defendant Extract 16",

"cosine\_similarity": 0.5682650804519653,

"reranker\_score": 4.828125,

"content": "[6] . 63. Third, Frustration brings a contract to an end forthwith, without more and automatically [7] . 64. Fourth, the essence of frustration is that it should not be due to the act or election of the party seeking to rely on it [8] . It must be some outside event or extraneous change of situation [9] . 65. Fifth, a frustrating event must take place without blame or fault on the part of the party seeking to rely on it [10] . 66. In Edwinton Commercial Corporation v Tsavliris Russ, The Sea Angel [11] , Rix LJ held that in applying the doctrine the court has to adopt a multi-factorial approach. The starting point of consideration is the terms of the contract, its factual matrix, and its context. Second, the court shall ascertain from the above circumstances, the parties' knowledge, expectations, assumptions and contemplations, in particular as to risk, as at the time of contract so far as these can be ascribed mutually and objectively. Third, the court shall consider the nature of the supervening event. Lastly, the parties' reasonable and objectively ascertainable calculations as to the possibilities of future performance in the new circumstances. The ultimate question the court has to decide is whether in the eventual analysis the supervening or frustrating event has rendered the contract impossible of performance or that its performance will be radically different from what the parties

undertook. The test is both subjective and objective. 67. Whatever the alleged source of frustration, a contract is not discharged under this doctrine merely because it turns out to be difficult to perform or onerous. Thus the parties will not generally be released from their bargain on account of rises or falls in price, depreciation of currency or unexpected obstacles to the execution of the contract, for these are ordinary business risks: see Halsbury's Laws of Hong Kong [12] . The converse is also true. If the performance will be radically different from what the parties have contracted, a party is not to be held to his part of the bargain merely because the other party will suffer more severe damage as a result. This is because the test for frustration is whether performance will be radically different. The test is not based on balance of detriment suffered by the parties. 68. If delay is relied on as the supervening or frustrating event, the delay must be abnormal in its cause, its effects, or its expected duration, so that it falls outside what the parties could reasonably contemplate at the time of contracting. The fact that the delay was caused by a new and unforeseeable factor or event is a relevant factor. The probable length of the delay must be assessed in relation to the nature of the contract, and to the expected duration of the contract after the delay is expected to end. Discussion 69. With the above principles in mind, I turn to examine the facts. The obligations undertaken by the 1<sup>st</sup> Defendant was to obtain the consent of the DLO to remove the non-assignment clause; pay the premium; discharge the incumbrances, at least items (i) to (vi) of the Seventh Schedule, with the purchase price; and convey the Property to the Plaintiffs free of the above incumbrances on completion date. The surrounding factual matrix was that it was a sale by the chargee-vendor to recover the 2<sup>nd</sup> Defendant's debt owed by sale of the Property; that the consent of the DLO was required; and that previously it took the DLO between two to four months to assess the premium and issue demand note for payment. The premium payable in May 2003 and March 2004 were \$1,763,800 and \$1,819,800 respectively. Such were the knowledge, expectation, assumptions and contemplations in the minds of the parties as to the time required for the issue of demand note for payment of premium and the amount of the premium payable. The purchase price after payment of anticipated premium would leave a very comfortable cushion of about \$2 million to discharge the various incumbrances. The parties made no allocation of risk of delay by the DLO in assessing the premium. 70. Here, the delay was almost five years. The DLO last gave an assessment of the premium on 13 February 2004 within two months of request. Probably, on that occasion the DLO had overlooked the breach. Upon signing the Agreement, C&Y wrote to the DLO on 14 October 2004 to apply for the issue of fresh demand note for premium. Then, despite repeated requests, it was not until 8 June 2009 that the DLO gave his assessment. The premium and other fees payable was increased by 62.73% from \$1,819,800 to \$2,961,410. 71. Probably in view of the past experience, the parties reasonably assumed that the premium would"

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"id": "hkcfi\_2022\_2251\_7",  
"title": "SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD (FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER  
[2022] HKCFI 2251; [2022] 6 HKC 155; HCA 1174/2021 (29 July 2022) Extract 7",  
"cosine\_similarity": 0.566103458404541,  
"reranker\_score": 4.734375,  
"content": "after consideration of the Master's Decision. \n\n 38. One can discern the following considerations from the above \n cases. \n\n 39. Frustration takes place only when there supervenes an event which \n so significantly changes the nature of the outstanding contractual \n rights or obligations from what the parties could reasonably have \n contemplated at the time of its execution so that it would be unjust \n to hold them to the literal sense of the stipulations in the new \n circumstances. This is when something occurs after the formation of \n the contract which renders it physically or commercially impossible \n to fulfil the contract or transformed the obligation to perform into \n a radically different obligation from that undertaken at the moment \n of entry into the contract. \n\n 40. Frustration cannot be lightly invoked to relieve the contracting \n parties of normal consequences of (imprudent) commercial bargain or \n commercial risk, unless a common purpose could be said to have been \n frustrated by the most extraordinary circumstances which renders \n performance of a contract impossible. \n\n 41. It follows that the threshold for proving frustration proper is \n very high.

Mere incidence of expense, delay, less profitability or \n onerousness is not sufficient. Cases leading to a successful \n frustration are therefore extremely rare. \n \n 42. As alleged in the previous cases, the impact of COVID-19, such as \n the closure of borders and reduced tourist traffic in 2020, operated \n adversely to the profitability of the business operation of the \n tenant at the leased property. Yet that has never been held to \n suffice in frustrating the lease. \n \n 43. While each case is decided on its own fact, I would arrive at the \n same conclusion in the circumstances of this case as that in the \n previous cases. \n \n 44. First, this was a commercial lease entered into by the Tenant \n which belonged to an established group claiming to possess at the \n material times over 80 stores covering key locations in Hong Kong, \n Singapore and Macau with strong localized market knowledge. There is \n no basis for questioning its capability of coming to a considered \n commercial decision not only to choose the Premises as suitable for \n its purpose but also to commit to a fixed term of 3 years without \n break clause at the relevant time. \n \n 45. Second, whilst the Lease restricted the use of the Premises by \n the Tenant to the operation of a retail shop for selling beauty and \n hair products (clause 7 of Section V), the Landlord did not warrant \n that the Premises would be fit for such or any purpose whatsoever \n intended by the Tenant (clause 7(b) and (c) of Section XI). In any \n event, what the Tenant complains about is not the fitness of the \n Premises but the adverse retail market situation, including the \n reduced shoppers flow, which affected the profitability of operating \n business at the location of the Premises. \n \n 46. Third, the nature and object of the Lease were letting and \n possession of the Premises. It was not a joint venture or commercial \n enterprise with a common purpose between the parties for the \n profitable operation of the Tenant\u2019s business at the Premises. The \n Tenant\u2019s use of the Premises, subject to the terms of the Lease, was \n really its concern alone. Amongst others, it committed to pay a fixed \n rate of rent for the entire term of the tenancy irrespective of any \n possible market fluctuation during the term. Its complaint is really \n that the market downturn due to COVID-19 exceeded its contemplation. \n Yet this generally applied across the board to the retail industry. \n \n 47. Fourth, the Tenant referred to the alleged mutual understanding \n of the parties that the Tenant\u2019s business relied on tourists from \n outside Hong Kong prior to entering into the Lease. That was neither \n here nor there. The vicinity of the Premises was well known as one of \n the busiest shopping districts on Hong Kong Island. As mentioned, the \n Tenant\u2019s group claimed to have strong localized market knowledge. It \n is incredible that the Tenant would have failed to perceive such \n character and potential of the Premises for its business but for the \n introduction or representation by the Landlord. In any event, any \n representations made in this respect during the pre-contractual \n negotiation were excluded by the entire agreement clause of the Lease \n (clause 6 of Section XI) for the purpose of both parties to the \n Lease."

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"id": "hkcfi\_2022\_2036\_14",

"title": "WHARF REALTY LTD v. ABEBI LIMITED T/A \"ARMANI JUNIOR\" [2022] HKCFI 2036; HCA 954/2020 (15 July 2022) Extract 14",

"cosine\_similarity": 0.566103458404541,

"reranker\_score": 4.67578125,

"content": "management of Harbour City and the purported effect, similarly, for \n present purposes, I shall proceed on the assumption that they are \n true. \n \n 83. On these factual bases, I now turn to address each of the \n defences and counterclaims. \n \n Frustration \n \n 84. The general principles governing frustration are well-established \n and are not in dispute between the parties. They have been \n authoritatively laid down and explained by the House of Lords in \n Davis Contractors and National Carrier and, more recently, explained \n in The Sea Angel. As is often the case, the difficulty lies with the \n application of the general principles to the specific facts of the \n case in hand. \n \n 85. In National Carriers, Lord Simon stated the principle, at 700F-G: \n \n \u00e2\u20ac\u0153Frustration of a contract takes place where there supervenes an \n event (without default of either party and for which the contract \n makes no sufficient provision) which so significantly changes the \n nature (not merely the expense or onerousness) of the outstanding \n contractual rights and/or obligations from what the parties could \n reasonably have contemplated at the time of its execution that it \n would be unjust to hold them to the literal sense of its \n stipulations in the new circumstances; in such case the law \n declares both parties to be discharged from further



performance.\u00e2\u20ac? \n \n 86. It was confirmed in the same case that the doctrine of \n frustration is, in principle, applicable to leases. \n \n 87. It is important to bear in mind the rationale underlying the \n doctrine. In Davis Contractors, Lord Radcliffe explained, at 729: \n \n \u00e2\u20ac\u0153\u00e2\u20ac\u00a6 frustration occurs whenever the law recognizes that without \n default of either party a contractual obligation has become \n incapable of being performed because the circumstances in which \n performance is called for would render it a thing radically \n different from that which was undertaken by the contract. Non haec \n in foedera veni. It was not this that I promised to do.\u00e2\u20ac? \n \n 88. Lord Radcliffe\u00e2\u20ac\u2122s way of explaining the doctrine \u00e2\u20ac\u201c \u00e2\u20ac\u0153It was \n not this that I promised to do\u00e2\u20ac? \u00e2\u20ac\u201c was preferred and endorsed by \n Lord Hailsham in National Carrier (at 688B-C). In the same case, Lord \n Roskill considered that as \u00e2\u20ac\u0153the most satisfactory explanation of \n the doctrine\u00e2\u20ac?. His lordship further explained: there must have been \n by reason of some supervening event some such fundamental change of \n circumstances as to enable the court to say: \u00e2\u20ac\u0153this was not the \n bargain which these parties made and their bargain must be treated as \n at an end\u00e2\u20ac? (717D-F). \n \n 89. Where the doctrine is successfully invoked, the contract is \n brought to an end by operation of law. This is because when the \n fundamental nature of the outstanding rights and obligations have \n become radically different from what was contemplated under the \n contract by reason of the supervening event, the law takes the view \n that the contract simply does not apply to the new situation. \n \n 90. In Davis Contractors, Lord Reid said, at 721: \n \n \u00e2\u20ac\u0153In British Movietonews Ltd. v. London and District Cinemas Ltd. \n [[1952] AC 166, 185] Viscount Simon said: \u00e2\u20ac\u0153If, on the other hand, \n a consideration of the terms of the contract, in the light of the \n circumstances existing when it was made, shows that they never \n agreed to be bound in a fundamentally different situation which has \n now unexpectedly emerged, the contract ceases to bind at that point \n \u00e2\u20ac\u201c not because the court in its discretion thinks it just and \n reasonable to qualify the terms of the contract, but because on its \n true construction it does not apply in that situation.\u00e2\u20ac? \u00e2\u20ac\u00a6 On \n this view there is no need to consider what the parties thought or \n how they or reasonable men in their shoes would have dealt with the \n new situation if they had foreseen it. The question is whether the \n contract which they did make is, on its true construction, wide \n enough to apply to the new situation: if it is not, then it is at \n an end.\u00e2\u20ac? (underline added) \n \n 91. In this situation, the law releases the parties from their"

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"id": "HKCFI\_2006\_65\_9",

"title": "HCA2450/2004 BETWEEN NG CHUN KONG CALVIN trading as KO AND CO. Plaintiff and FIRST STAR DEVELOPMENT LIMITED Defendant Extract 9",

"cosine\_similarity": 0.5629528760910034,

"reranker\_score": 4.53125,

"content": "it could not be said that the contract had been frustrated. The only differences were that there was no restriction now on the price which could be charged for the flats and anyone who wished to purchase the flats could do so. 42. So far as the plaintiff was concerned, it would be a relatively simple matter for his firm to modify the conveyancing documentation so as to make it applicable to the changed circumstances. 43. What the plaintiff had been concerned with all along was simply the opportunity to undertake the conveyancing work for prospective purchasers. As it now transpired there would be purchasers of the flats he just wished to have the benefit of the contract he had entered into with the defendant. 44. The test to determine whether or not the performance of a contract has been frustrated is conveniently encapsulated in the commentary at para. 23-007 in Volume I of the 29 th Edition of \u201c Chitty on Contracts\u201d Sweet & Maxwell 2004 . It reads : \u201c Introduction . Although the existence of the doctrine of frustration is now firmly established, its juristic basis remains rather uncertain. However in J. Lauritzen AS v. Wijsmuller BV (The Super Servant Two) , Bingham L.J. set out the following five propositions which describe the essence of the doctrine. These propositions, he stated, were \u2018established by the highest authority\u2019 and were \u2018not open to question.\u2019 The first proposition was that the doctrine of frustration has evolved \u2018to mitigate the rigour of the common

law\u2019s insistence on literal performance of absolute promises\u2019 and that its object was \u2018to give effect to the demands of justice, to achieve a just and reasonable result, to do what is reasonable and fair, as an expedient to escape from injustice where such would result from enforcement of a contract in its literal terms after a significant change in circumstances.\u2019 Secondly, frustration operates to \u2018kill the contract and discharge the parties from further liability under it\u2019 and that therefore it cannot be \u2018lightly invoked\u2019 but must be kept within \u2018very narrow limits and ought not to be extended.\u2019 Thirdly, frustration brings a contract to an end \u2018forthwith, without more ado automatically.\u2019 Fourthly, \u2018the essence of frustration is that it should not be due to the act or election of the party seeking to rely on it\u2019 and it must be some \u2018outside event or extraneous change of situation.\u2019 Finally, a frustrating event must take place \u2018without blame or fault on the side of the party seeking to rely on it.\u2019\u201d 45. I am satisfied that this is an accurate and complete statement of the law on this topic. 46. It will be noted that one important aspect of this doctrine is that it is necessary to have regard to the position at the time of the intervening event. In the instant case, that is the Government\u2019s announcement in November 2002. It would also appear not to be permissible to have regard to what subsequently transpires because once it is established that the contract has been frustrated it comes to an end forthwith. 47. Accordingly it is necessary to consider the position as it was in November 2002. 48. At that time it was manifest that the PSPS scheme was being terminated and that the flats in the development could not be sold in accordance with the scheme. 49. On any realistic basis, the fact that the development was being undertaken as a PSPS scheme was of central importance and in my view went to the very root of the subject matter of the contract between the parties. 50. It is also clear that the discontinuance of the scheme could not in any way be held to have been contributed to by the defendant thus making them in no way to blame for what transpired. 51. In November 2002, it could not have been reasonably foreseen by anyone that the flats would in the future be sold in the private sector. If thought had been given to this, the most probable outcome would have been that the flats would have reverted to HA and the plaintiff would have been unlikely to obtain the benefits from the contract he anticipated. 52. A further aspect of this matter is that it is not, in my view, proper to take cognizance of subsequent events whereby the defendant sought to mitigate losses. 53. Having regard to all of the evidence before me, I have come to the conclusion that the contract between the parties was indeed frustrated. 54. The consequence of this is that the defendant\u2019s application for summary judgment is successful and I so order. It is of course the case that the plaintiff is entitled to his fees on a quantum meruit basis but that is not a matter strictly speaking with which I am presently concerned. 55. I make an order nisi that the defendant will have their costs in this action. (Simon Mayo) Deputy High Court Judge Mr Edward Chan, SC, leading Mr C.Y. Li, instructed by Messrs Charles"

},  
{  
"id": "hkcfi\_2022\_279\_14",  
"title": "VEMBER LORD LTD v. THE SWATCH GROUP (HONG KONG) LTD [2022] HKCFI 279; HCA 1114/2020 (20 January 2022) Extract  
14",  
"cosine\_similarity": 0.5626503229141235,  
"reranker\_score": 4.52734375,  
"content": "discharged automatically: National Carriers at 712G; \n\n(6) frustration of purpose occurs when there is no physical \n destruction of the subject matter of the contract but its \n \u00e2\u20ac\u0153commercial purpose\u00e2\u20ac? has been frustrated: Krell v Henry [1903] \n 2 KB 740; Chitty, \u00c2\u00a726-033. \n\n69. The thrust of the defendant\u00e2\u20ac\u2122s case is that there was a shared \n common (commercial) purpose between the parties that the premises \n would be operated as luxury retail stores for watches. That common \n purpose was said to have been frustrated by the extraordinary \n circumstances. \n\n70. Pausing here, it is to be noted that a key component of the \n contextual background giving rise to that common purpose, namely, the \n alleged \u00e2\u20ac\u0153understanding and contemplation\u00e2\u20ac? of the parties at the \n time of the agreement considered in \u00c2\u00a77\u00c2\u00a728-29 above, has no \n evidential basis. \n\n71. Be that as it may, it was contended that the shared common \n purpose is to be inferred from the positive provision as to use \n contained in \u00c2\u00a71 of section III[20] of the agreement and that the \n user restriction gives rise to a

common purpose. The defendant sought \n to distinguish Canary Wharf (BP 4) T1 Limited v European Medicines \n Agency [2019] L&TR 14 (where (at \u00c2\u00a7244) the court found no common \n purpose beyond the purpose to be derived from a construction of the \n lease, confirmed by the negative provision regarding user[21] with no \n positive provision as to use) because of the positive provision as to \n use. \n \n 72. Assuming that the shared common purpose was that the premises \n would be operated as luxury retail stores for watches, there was \n nothing that prevented their operation beyond 18 June 2020. The real \n complaint is discernible from \u00c2\u00a7759.4 of the defendant\u00e2\u20ac\u2122s submissions \n where it is stated that: such stores \u00e2\u20ac\u0153would only be viable if the \n premises benefited from a steady stream of high-spending customers \n and visitors, in particular those from Mainland China and also from \n abroad\u00e2\u20ac? (emphasis added). \n \n 73. In other words, the defendant is really complaining about the \n adverse impact of the extraordinary circumstances on the \n \u00e2\u20ac\u02dcprofitability\u00e2\u20ac\u2122 of its business operations. But \u00e2\u20ac\u0153the mere \n incidence of expense or delay or onerousness\u00e2\u20ac? is \u00e2\u20ac\u0153not \n sufficient[22]\u00e2\u20ac? for invoking the doctrine. It is a complaint that \n it \u00e2\u20ac\u0153had made what was, in retrospect, a bad bargain[23]\u00e2\u20ac?. \n \n 74. In so far as it is suggested that the shared common purpose was \n frustrated in the Krell v Henry[24] sense, that cannot be correct. In \n that case, the taking place of the coronation processions on the days \n originally fixed was regarded by both contracting parties as the \n foundation of the contract. That was the common purpose. Here, there \n is no evidence that carrying out the common purpose (whether (as is \n my view) the letting and taking of the premises or for the Shops used \n as luxury retail shops for watches) was rendered impossible. \n \n 75. The extraordinary circumstances have been relied on \n unsuccessfully by tenants in recent cases: see The Centre (76) \n Limited v Victory Serviced Office (HK) Ltd [2020] HKCFI 2881 (where \n it was held (at \u00c2\u00a7739) that the nature of the tenant\u00e2\u20ac\u2122s obligation \n (to pay rent and observe the terms of the lease) had not changed \n though the extraordinary circumstances must have rendered its \n business operations more onerous and unprofitable); Holdwin Limited v \n Prince Jewellery and Watch Company Limited [2021] HKCFI 2735 at \n \u00c2\u00a7\u00c2\u00a7733-35; and Sunbroad Holdings Limited v A80 Paris HK Limited \n [2021] 5 HKC 394. \n \n 76. Turning to the frustration of leases, while the doctrine is in \n principle applicable to leases, the cases to which it could properly \n be applied must be extremely rare[25]. In his speech, Lord Hailsham \n remarked that he was \u00e2\u20ac\u0153struck by the fact that there appears to be"

},

{

"id": "HKCFI\_1997\_749\_4",

"title": "HCA010274A/1994 BETWEEN EURAMIN S.A. Plaintiff AND SHANGXIANG MINMETALS LIMITED Defendant Extract 4",

"cosine\_similarity": 0.5621854662895203,

"reranker\_score": 4.36328125,

"content": "was still no response, so the plaintiff told the defendant, by fax dated 31 August 1994, that the plaintiff would proceed to buy in against the balance of 85 tonnes. The plaintiff told the defendant that the best that it could do was US\$5,400 a tonne in warehouse Rotterdam, and asked the defendant if it could do better. On 5 September 1994, the plaintiff wrote to the defendant again, saying that failing a reply by 7 September 1994, they would buy in. Contact was re-established with the defendant, and, on 6 September 1994, the plaintiff wrote making another proposal. The defendant replied on 7 September 1994 saying that it would try to find another container, with the parties sharing the losses. The plaintiff responded on the same day, rejecting the proposals and saying that legal action would be taken. 20. There is evidence from journals and other contemporaneous documents that China did experience flooding in June and July 1994, and this caused difficulties in production and transportation. Finding on Frustration 21. This is not such a case as that relied upon by Mr Hung - Howell v Coupland 1876 (1) QBD 258 - in which the contract was for the sale of a particular crop of potatoes grown on specified land. 22. The classic test for frustration is that \"There must be ... such a change in the significance of the obligation that the thing undertaken would, if performed, be a different thing from that contracted for.\" per Lord Radcliffe; David Contractors v Fareham UDC [1956] AC 696, at 729. 23. Although the defendant was in breach of the contract earlier, the plaintiff did not bring the contract to an end until 15 July 1994. The contract, therefore, continued until that date, and

the defendant is entitled to rely on any circumstance arising immediately before that date discharging it from performance. 24. The question is, then, whether or not the defendant has established that there is no antimony available immediately before 15 July 1994. It is, of course, of no relevance that the defendant might have found it difficult to obtain the antimony at a reasonable price. 25. In my judgment, by no stretch of the imagination can it be said that delivery of antimony of precisely the kind contracted for, but from a source other than China, would be \"a different thing\" from that contracted for. 26. In my view, it is clear that antimony was available on the market immediately prior to 15 July 1994. The price was rising that but the commodity was there, and, if the defendant had bid the market price, or over the market price, it could have obtained a supply to satisfy its contract with the plaintiff. 27. Even if one were to say that the defendant was obliged only to look in China for a source, it is clear that the defendant could obtain some antimony there, and I am not satisfied that it has shown that it could not obtain 90 tonnes, if it had been prepared to pay the right price. 28. In the result, I hold that the defendant has not satisfied me that the contract was frustrated. That being the only defence now argued by the defendant, I hold that the defendant is liable to the plaintiff for damages on the contract. The Damages 29. It is agreed by counsel that the loss of profit to the plaintiff should be calculated at US\$100 a tonne. The only issue here is whether this loss should be calculated on 85 tonnes or 75 tonnes. The argument for the defendant is that the defendant was obliged to deliver only 90 tonnes, because it had the option of delivering 10% less than the 100 tonnes. Mr Coleman argues that this option would apply only if the defendant had delivered 90 tonnes. I do not accept this. The measure of damages is to be based on the seller's minimum legal obligation. Accordingly, I hold that the damages to which the plaintiff is entitled here is US\$7,500 (75 x US\$100). The Indemnity 30. The plaintiff also claims an indemnity in respect of a claim brought against it by a purchaser from it of the goods. This sub-purchaser is a company in Brussels called Trademet. The particulars given by the plaintiff are that the market price was US\$5,400, less the contract price with the defendant of US\$2,350, giving a shortfall of US\$3,050, multiplied by 85 tonnes, giving a total of US\$259,250. 31. Mr Hung accepts that it was within the contemplation of the parties that the plaintiff would sell the antimony for a profit. 32. The first point taken by Mr Hung is that I should not be satisfied that the plaintiff has established that it"

}

]

The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Commercial Law

The legal issue:

Whether the fire constitutes frustration of the contract, thereby discharging Scanda from its obligations

Instruction:

Based on the search results, choose three chunks of search results most relevant to the legal issue specific to the scenario. The three most relevant chunks should be from different cases. Output in JSON format.

Example:

```
```json
{
  "chunks":["chunk_id_1","chunk_id_2", "chunk_id_3"]
}
```

```
}  
...  
[ASSISTANT]  
```json  
{  
  "chunks":["hkcfi_2021_1422_11", "hkcfi_2022_279_16", "HKCFI_2014_652_16"]  
}  
...`
```

**Prompt (legal reasoning) (cases) (deductive) (major premise) temperature=0.2, top\_p=0.2**

[SYSTEM]  
You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]  
Excerpt of {title}:  
{excerpt}  
The scenario:  
{user\_input}  
The area of law:  
{area}  
The legal issue:  
{issue}  
Instruction:  
Based only on the excerpt of the judgment, identify the rule of law that corresponds to the legal issue specific to the scenario. You should abstract the facts into intermediate legal concepts when identifying the rule of law. Answer these 4 questions to identify the rule of law: 1. What are the conditions of the rule? 2. What is the consequence of the rule? 3. What are the exceptions to this rule? 4. What is the citation of where the legal rule is from (the current case)? If you cannot extract a rule of law relevant to the legal issue of the scenario, output an empty list.  
Strictly follow the format (JSON) of the following examples.  
Example output (irrelevant):  
```json  
[]  
...`

Example legal issue:  
Whether ABC's action results in a promissory estoppel  
Example excerpt of BETWEEN LUO XING JUAN ANGELA Petitioner (Respondent) and THE ESTATE OF HUI SHUI SEE, WILLY, DECEASED 1 st Respondent (1 st Appellant) HUI MI CHI 2 nd Respondent (2 nd Appellant) GLORY RISE LIMITED (in liquidation):

55. A promissory estoppel may be said to arise where (i) the parties are in a relationship involving enforceable or exercisable rights, duties or powers; (ii) one party (“ the promisor ”), by words or conduct, conveys or is reasonably understood to convey a clear and unequivocal promise or assurance to the other (“ the promisee ”) that the promisor will not enforce or exercise some of those rights, duties or powers; and (iii) the promisee reasonably relies upon that promise and is induced to alter his or her position on the faith of it, so that it would be inequitable or unconscionable for the promisor to act inconsistently with the promise. [53]

56. While it is necessary for the purposes of exposition to identify the separate elements of the doctrine, it should be borne in mind that when applying them to the facts, each element does not exist in its own watertight compartment to be kept separate from the others. Each element acquires its meaning and content in the context of the other elements. This was emphasised by Robert Walker LJ in *Gillett v Holt* [54] in relation to proprietary estoppel in the following terms:

“... the doctrine of proprietary estoppel cannot be treated as subdivided into three or four watertight compartments. ... [The] quality of the relevant assurances may influence the issue of reliance, ... reliance and detriment are often intertwined, and ... whether there is a distinct need for a ‘mutual understanding’ may depend on how the other elements are formulated and understood. Moreover the fundamental principle that equity is concerned to prevent unconscionable conduct permeates all the elements of the doctrine. In the end the court must look at the matter in the round.”

57. Thus in the present case, the meaning of the words or conduct constituting the promise or assurance has to be understood in the light of the parties’ particular relationship and especially in the light of the legal rights or powers exercisable, and known to be exercisable, by the promisor. As the learned authors of *Spencer Bower* put it, one should put in focus “not simply the actions of the promisor but the proper interpretation to be placed on those actions given the shared background and knowledge of the parties.” [55]

Example output:

```
```json
[
  {
    "Conditions": "If (1) the parties are in a relationship involving enforceable or exercisable rights, duties or powers; and (2) one party (“ the promisor ”), by words or conduct, conveys or is reasonably understood to convey a clear and unequivocal promise or assurance to the other (“ the promisee ”) that the promisor will not enforce or exercise some of those rights, duties or powers; and (iii) the promisee reasonably relies upon that promise and is induced to alter his or her position on the faith of it, so that it would be inequitable or unconscionable for the promisor to act inconsistently with the promise; and (4) having regard the shared background and knowledge of the parties",
    "Consequences": "Then (1) a promissory estoppel may arise",
    "Exceptions": "Unless (1) it is inequitable to do so",
    "Citation": "Luo Xing Juan Angela v The Estate of Hui Shui See, Willy"
  }
]
```
```

**Example (legal reasoning) (cases) (deductive) (major premise) temperature=0.2, top\_p=0.2**

[SYSTEM]

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Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of WHARF REALTY LTD v. ABEBI LIMITED T/A "ARMANI JUNIOR" [2022] HKCFI 2036; HCA 954/2020 (15 July 2022):

the Tenant paying the rent on the days and in the manner herein provided for payment of the same and observing and performing the agreements stipulations and conditions herein contained and on the Tenant's part to be observed and performed shall peaceably hold and enjoy the said premises during the said term without any interruption by the Landlord or any person lawfully claiming under or in trust for the Landlord.

64. The defendants rely on essentially the same factual matters in support of the frustration defence, including the posting of the Notice, the suspension of the shuttle bus service, the closure of various access points to Harbour City and the emergency evacuation of Harbour City on 24 December 2019. They contend that the plaintiffs' actions constituted a blatant breach of the quiet enjoyment covenant. This is because they had the effect of encouraging the presence of violent protestors in or around the shopping mall (by the posting of the Notice), and cutting off access to the Premises. All these seriously interrupted the defendants' enjoyment of the Premises qua shop owners targeting mainland customers.

[omitted for brevity]

120. The next question is whether this bargain applies to the new situation caused by the two supervening events. Did the two events radically change the nature of the rights and obligations of the parties?

121. The new situation was that the businesses were much hard hit, and the defendants suffered grave hardship and losses in continuing to operate the Shops. From the defendants' perspective, they were obliged to pay the full contractual rent while there were only very

The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the

furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Commercial Law

The legal issue:

Whether the fire constitutes frustration of the contract

Instruction:

Based only on the excerpt of the judgment, identify the rule of law that correspond to the legal issue specific to the scenario. You should abstract the facts into intermediate legal concepts when identifying the rule of law. Answer these 4 questions to identify the rule of law: 1. What are the conditions of the rule? 2. What is the consequence of the rule? 3. What are the exceptions to this rule? 4. What is the citation of where the legal rule is from (the current case)? If you cannot extract a rule of law relevant to the legal issue of the scenario, output an empty list.

Strictly follow the format (JSON) of the following examples.

Example output (irrelevant):

```
```json
[]
```
```

Example legal issue:

Whether ABC's action results in a promissory estoppel

Example excerpt of BETWEEN LUO XING JUAN ANGELA Petitioner (Respondent) and THE ESTATE OF HUI SHUI SEE, WILLY, DECEASED 1 st Respondent (1 st Appellant) HUI MI CHI 2 nd Respondent (2 nd Appellant) GLORY RISE LIMITED (in liquidation):

55. A promissory estoppel may be said to arise where (i) the parties are in a relationship involving enforceable or exercisable rights, duties or powers; (ii) one party ("the promisor"), by words or conduct, conveys or is reasonably understood to convey a clear and unequivocal promise or assurance to the other ("the promisee") that the promisor will not enforce or exercise some of those rights, duties or powers; and (iii) the promisee reasonably relies upon that promise and is induced to alter his or her position on the faith of it, so that it would be inequitable or unconscionable for the promisor to act inconsistently with the promise. [53]

56. While it is necessary for the purposes of exposition to identify the separate elements of the doctrine, it should be borne in mind that when applying them to the facts, each element does not exist in its own watertight compartment to be kept separate from the others. Each element acquires its meaning and content in the context of the other elements. This was emphasised by Robert Walker LJ in *Gillett v Holt* [54] in relation to proprietary estoppel in the following terms:

"... the doctrine of proprietary estoppel cannot be treated as subdivided into three or four watertight compartments. ... [The] quality of the relevant assurances may influence the issue of reliance, ... reliance and detriment are often intertwined, and ... whether there is a distinct need for a 'mutual understanding' may depend on how the other elements are formulated and understood. Moreover the fundamental principle that equity is concerned to prevent unconscionable conduct permeates all the elements of the doctrine. In the end the court must look at the matter in the round."

57. Thus in the present case, the meaning of the words or conduct constituting the promise or assurance has to be understood in the light of the parties' particular relationship and especially in the light of the legal rights or powers exercisable, and known to be exercisable, by the promisor. As the learned authors of *Spencer Bower* put it, one should put in focus "not simply the actions of the promisor but the proper interpretation to be placed on those actions



given the shared background and knowledge of the parties.” [55]

Example output:

```
```json
[
  {
    "Conditions": "If (1) the parties are in a relationship involving enforceable or exercisable rights, duties or powers; and (2) one party (“ the promisor ”), by words or conduct, conveys or is reasonably understood to convey a clear and unequivocal promise or assurance to the other (“ the promisee ”) that the promisor will not enforce or exercise some of those rights, duties or powers; and (iii) the promisee reasonably relies upon that promise and is induced to alter his or her position on the faith of it, so that it would be inequitable or unconscionable for the promisor to act inconsistently with the promise; and (4) having regard the shared background and knowledge of the parties",
    "Consequences": "Then (1) a promissory estoppel may arise",
    "Exceptions": "Unless (1) it is inequitable to do so",
    "Citation": "Luo Xing Juan Angela v The Estate of Hui Shui See, Willy"
  }
]
```
```

[ASSISTANT]

```
```json
[
  {
    "Conditions": "If (1) there supervenes an event (without default of either party and for which the contract makes no sufficient provision) which so significantly changes the nature (not merely the expense or onerousness) of the outstanding contractual rights and/or obligations from what the parties could reasonably have contemplated at the time of its execution that it would be unjust to hold them to the literal sense of its stipulations in the new circumstances",
    "Consequences": "Then (1) the law declares both parties to be discharged from further performance",
    "Exceptions": "Unless (1) the contract is wide enough to apply to the new situation",
    "Citation": "WHARF REALTY LTD v. ABEI LIMITED T/A 'ARMANI JUNIOR' [2022] HKCFI 2036"
  }
]
```
```

**Prompt (legal reasoning) (cases) (deductive) (minor premise) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The major premise:

{major\_premise}

The scenario:

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Instruction:

Interpret the legal framework in the major premise using plain meaning. Determine if the scenario facts satisfy all conditions and avoid exceptions in the major premise by substituting the facts into the premise. Output the minor premise and the conclusion that answers the legal issue. You must make a decision. Strictly follow the output format of the following example.

Example scenario:

Emma, unaware of any defect, sold her vintage car to Jack, claiming it had never been in an accident, which was untrue. Jack, unaware of the misrepresentation, quickly sold the car to Lucy. When Lucy discovered the truth, she claimed damages from Jack. Jack sought rescission from Emma.

Example legal issue:

Whether rescission is available to Jack as a remedy to misrepresentation

Example major premise:

```
[
    {
        "Conditions": "If (1) a person has entered into a contract after a misrepresentation; and (2) the misrepresentation has been made to him by another party; and (3) he has suffered loss as a result of the misrepresentation; and (4) if the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages",
        "Consequences": "Then (1) the person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently",
        "Exceptions": "Unless (1) the person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true; and (2) the person making the misrepresentation did believe up to the time the contract was made that the facts represented were true",
        "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1"
    }
    {
        "Conditions": "If (1) a person has entered into a contract; and (2) he entered into a contract after a misrepresentation has been made to him; and (3) the misrepresentation was not made to him fraudulently; and (4) he would be entitled, by reason of the misrepresentation, to rescind the contract; and (5) if it is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded; and (6) the court or arbitrator is of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party",
        "Consequences": "Then (1) the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission",
        "Exceptions": "Unless none",
        "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2"
```

}

]

Example output:

### Relevant law:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1 and 2

### Major Premise:

#### 1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1

Conditions:

- A person has entered into a contract after a misrepresentation
- The misrepresentation has been made to him by another party
- He has suffered loss as a result of the misrepresentation
- If the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages

Consequences:

- The person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently

Exceptions:

- The person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true
- The person making the misrepresentation did believe up to the time the contract was made that the facts represented were true

#### 2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2

Conditions:

- A person has entered into a contract
- He entered into a contract after a misrepresentation has been made to him
- The misrepresentation was not made to him fraudulently
- He would be entitled, by reason of the misrepresentation, to rescind the contract
- It is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded
- The court or arbitrator is of opinion that it would be equitable to do so, having regard to:
  - \* The nature of the misrepresentation
  - \* The loss that would be caused by it if the contract were upheld
  - \* The loss that rescission would cause to the other party

Consequences:

- The court or arbitrator may declare the contract subsisting and award damages in lieu of rescission

Exceptions:

- None

### Minor Premise:

1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1:

- Jack has entered into a contract with Emma after a misrepresentation.
- The misrepresentation was made to him by Emma.
- Jack has suffered loss in the form of damage claimed from his client.
- If Emma had made the misrepresentation fraudulently, Emma would have been liable to damages.
- However, Emma has reasonable grounds to believe her claim is true, and Emma did believe her claim was true.
- Therefore, this section does not apply.

2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2:

- Jack has entered into a contract of sale of a car.
- Emma claiming the car has never been an accident is a misrepresentation.
- Jack has entered into the contract after this misrepresentation has been made to him.
- Emma did not make this misrepresentation fraudulently.
- Jack would have been entitled, by reason of misrepresentation to rescind the contract, but he is barred from rescission because an innocent third party is involved. Jack tries to sought rescission from Emma.
- Balancing the nature of the misrepresentation,
  - \* it is a innocent misrepresentation but it is material and might affect the value of the car;
  - \* the loss that would be suffered by Jack if the contract was upheld is minimal because he has already sold the car to Lucy; and
  - \* the loss to Anna a rescission would cause would be large as the car may decrease in value and Anna has to reimburse Jack in full value.
- Therefore, this section applies and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

### Conclusion:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2 applies, and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

**Example (legal reasoning) (cases) (deductive) (minor premise) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The major premise:

[

{

"Conditions": "If (1) there supervenes an event (without default of either party and for which the contract makes no sufficient provision) which (2) so significantly changes the nature (not merely the expense or onerousness) of the outstanding contractual rights and/or obligations from what the parties could reasonably have contemplated at the time of its execution",

"Consequences": "Then (1) the law declares both parties to be discharged from the further performance of the contract",

"Exceptions": "Unless (1) the interruption is not expected to last for the unexpired term of the lease, or at least for a long period of that unexpired term",

"Citation": "National Carriers Ltd v Panalpina (Northern) Limited [1981] AC 675"

},

{

"Conditions": "If (1) it appears from the nature of the contract and the surrounding circumstances that the parties have contracted on the basis that some fundamental thing or state of things will continue to exist, or that some future event which forms the basis of the contract will take place, and (2) before breach, an event in relation to the matter stipulated renders performance impossible or only possible in a very different way from that contemplated, but without default of either party",

"Consequences": "Then (1) the doctrine of frustration operates to excuse from further performance of a contract",

"Exceptions": "Unless (1) the performance is merely rendered difficult or onerous, or (2) the event was within the parties' reasonable contemplation at the time of contracting",

"Citation": "HCA 972/2011 Cheung Kit Lai v Rich Prosper Limited"

}

]

The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Instruction:

Interpret the legal framework in the major premise using plain meaning. Determine if the scenario facts satisfy all conditions and avoid exceptions in the

major premise by substituting the facts into the premise. Output the minor premise and the conclusion that answers the legal issue. You must make a decision. Strictly follow the output format of the following example.

Example scenario:

Emma, unaware of any defect, sold her vintage car to Jack, claiming it had never been in an accident, which was untrue. Jack, unaware of the misrepresentation, quickly sold the car to Lucy. When Lucy discovered the truth, she claimed damages from Jack. Jack sought rescission from Emma.

Example legal issue:

Whether rescission is available to Jack as a remedy to misrepresentation

Example major premise:

```
[
    {
        "Conditions": "If (1) a person has entered into a contract after a misrepresentation; and (2) the misrepresentation has been made to him by another party; and (3) he has suffered loss as a result of the misrepresentation; and (4) if the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages",
        "Consequences": "Then (1) the person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently",
        "Exceptions": "Unless (1) the person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true; and (2) the person making the misrepresentation did believe up to the time the contract was made that the facts represented were true",
        "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1"
    }
    {
        "Conditions": "If (1) a person has entered into a contract; and (2) he entered into a contract after a misrepresentation has been made to him; and (3) the misrepresentation was not made to him fraudulently; and (4) he would be entitled, by reason of the misrepresentation, to rescind the contract; and (5) if it is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded; and (6) the court or arbitrator is of opinion that it would be equitable to do so, having regard to the nature of the misrepresentation and the loss that would be caused by it if the contract were upheld, as well as to the loss that rescission would cause to the other party",
        "Consequences": "Then (1) the court or arbitrator may declare the contract subsisting and award damages in lieu of rescission",
        "Exceptions": "Unless none",
        "Citation": "Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2"
    }
]
```

Example output:

### Relevant law:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1 and 2

### Major Premise:

## 1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1

### Conditions:

- A person has entered into a contract after a misrepresentation
- The misrepresentation has been made to him by another party
- He has suffered loss as a result of the misrepresentation
- If the misrepresentation had been made fraudulently, the person making the misrepresentation would be liable to damages

### Consequences:

- The person making the misrepresentation shall still be liable to damages even though the misrepresentation was not made fraudulently

### Exceptions:

- The person making the misrepresentation proves that he had reasonable grounds to believe that the facts represented were true
- The person making the misrepresentation did believe up to the time the contract was made that the facts represented were true

## 2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2

### Conditions:

- A person has entered into a contract
- He entered into a contract after a misrepresentation has been made to him
- The misrepresentation was not made to him fraudulently
- He would be entitled, by reason of the misrepresentation, to rescind the contract
- It is claimed in any proceedings arising out of the contract that the contract ought to be or has been rescinded
- The court or arbitrator is of opinion that it would be equitable to do so, having regard to:
  - \* The nature of the misrepresentation
  - \* The loss that would be caused by it if the contract were upheld
  - \* The loss that rescission would cause to the other party

### Consequences:

- The court or arbitrator may declare the contract subsisting and award damages in lieu of rescission

### Exceptions:

- None

## ### Minor Premise:

## 1. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 1:

- Jack has entered into a contract with Emma after a misrepresentation.
- The misrepresentation was made to him by Emma.
- Jack has suffered loss in the form of damage claimed from his client.
- If Emma had made the misrepresentation fraudulently, Emma would have been liable to damages.
- However, Emma has reasonable grounds to believe her claim is true, and Emma did believe her claim was true.
- Therefore, this section does not apply.

## 2. Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2:

- Jack has entered into a contract of sale of a car.
- Emma claiming the car has never been an accident is a misrepresentation.
- Jack has entered into the contract after this misrepresentation has been made to him.
- Emma did not make this misrepresentation fraudulently.
- Jack would have been entitled, by reason of misrepresentation to rescind the contract, but he is barred from rescission because an innocent third party is involved. Jack tries to sought rescission from Emma.
- Balancing the nature of the misrepresentation,
  - \* it is a innocent misrepresentation but it is material and might affect the value of the car;
  - \* the loss that would be suffered by Jack if the contract was upheld is minimal because he has already sold the car to Lucy; and
  - \* the loss to Anna a rescission would cause would be large as the car may decrease in value and Anna has to reimburse Jack in full value.
- Therefore, this section applies and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

### Conclusion:

Misrepresentation Ordinance Cap. 284 Section 3 Subsection 2 applies, and the court would declare the contract subsisting and award Jack damages, which is the amount Lucy claims from him, in lieu of rescission.

[ASSISTANT]

### Relevant law:

National Carriers Ltd v Panalpina (Northern) Limited [1981] AC 675 and HCA 972/2011 Cheung Kit Lai v Rich Prosper Limited

### Major Premise:

## 1. National Carriers Ltd v Panalpina (Northern) Limited [1981] AC 675

Conditions:

- There supervenes an event (without default of either party and for which the contract makes no sufficient provision) which



- So significantly changes the nature (not merely the expense or onerousness) of the outstanding contractual rights and/or obligations from what the parties could reasonably have contemplated at the time of its execution

Consequences:

- The law declares both parties to be discharged from the further performance of the contract

Exceptions:

- The interruption is not expected to last for the unexpired term of the lease, or at least for a long period of that unexpired term

## 2. HCA 972/2011 Cheung Kit Lai v Rich Prosper Limited

Conditions:

- It appears from the nature of the contract and the surrounding circumstances that the parties have contracted on the basis that some fundamental thing or state of things will continue to exist, or that some future event which forms the basis of the contract will take place, and

- Before breach, an event in relation to the matter stipulated renders performance impossible or only possible in a very different way from that contemplated, but without default of either party

Consequences:

- The doctrine of frustration operates to excuse from further performance of a contract

Exceptions:

- The performance is merely rendered difficult or onerous, or

- The event was within the parties' reasonable contemplation at the time of contracting

### Minor Premise:

### 1. National Carriers Ltd v Panalpina (Northern) Limited [1981] AC 675:

- A fire has destroyed Scanda's showroom and adjoining warehouse.

- The fire occurred without default of either party and the contract makes no sufficient provision for such an event.

- The destruction of the warehouse significantly changes the nature of Scanda's obligation to deliver the chairs, as the chairs were presumably stored in the warehouse.

- The interruption caused by the fire is expected to last for a long period, as the warehouse and showroom need to be rebuilt or replaced.

### 2. HCA 972/2011 Cheung Kit Lai v Rich Prosper Limited:

- The contract between Scanda and Jane was based on the fundamental assumption that the chairs would be available for delivery.

- The fire, an unforeseen event, has rendered the performance of delivering the chairs impossible or only possible in a very different way (e.g., sourcing new chairs from another location or manufacturer).

- The performance is not merely rendered difficult or onerous; it is rendered impossible due to the destruction of the chairs.
- The event (fire) was not within the parties' reasonable contemplation at the time of contracting.

### Conclusion:

The fire constitutes a frustrating event that discharges Scanda from its contractual obligations to deliver the chairs to Jane.

**Prompt (legal reasoning) (cases) (analogy) (formulate query) temperature=0.6, top\_p=0.7**

[SYSTEM]

You are a helpful AI assistant.

[USER]

The scenario:

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Instruction:

Previously, you looked for cases relevant to the legal issue but found no results. Now, generate a query string to perform vector search for relevant case law that is different from the actual facts of the scenario, but has similar fact patterns that can be used for reasoning by analogy. Expand abbreviations (CICT becomes Common Intention Constructive Trust) and remove specific information (Peter becomes Landlord, truck becomes vehicle) to enhance the effect of vector search. As the database only contains Hong Kong cases, do NOT include "Hong Kong" in your query. Follow the format of the example output.

Example output:

I was told I could not find relevant cases for exclusive jurisdiction clauses. An arbitration clause is not an exclusive jurisdiction clause. However, they have similar fact patterns: they are both clauses that govern the forum of dispute. This is suitable for reasoning by analogy. Therefore, I suggest the following query:

```json

{"query": "when should a winding up petition be stayed due to a bona fide dispute regarding a debt which is governed by arbitration clause"}

```

**Example (legal reasoning) (cases) (analogy) (formulate query) temperature=0.6, top\_p=0.7**

[SYSTEM]

You are a helpful AI assistant.

[USER]

The scenario:

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Instruction:

Previously, you looked for cases relevant to the legal issue but found no results. Now, generate a query string to perform vector search for relevant case law that is different from the actual facts of the scenario, but has similar fact patterns that can be used for reasoning by analogy. Expand abbreviations (CICT becomes Common Intention Constructive Trust) and remove specific information (Peter becomes Landlord, truck becomes vehicle) to enhance the effect of vector search. As the database only contains Hong Kong cases, do NOT include "Hong Kong" in your query. Follow the format of the example output.

Example output:

I was told I could not find relevant cases for exclusive jurisdiction clauses. An arbitration clause is not an exclusive jurisdiction clause. However, they have similar fact patterns: they are both clauses that govern the forum of dispute. This is suitable for reasoning by analogy. Therefore, I suggest the following query:

```
```json
{"query": "when should a winding up petition be stayed due to a bona fide dispute regarding a debt which is governed by arbitration clause"}
```
```

[ASSISTANT]

I was told I could not find relevant cases for whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations. However, other cases involving destruction of goods due to unforeseen events, such as natural disasters, may have similar fact patterns: they both involve unexpected events that potentially discharge contractual obligations. This is suitable for reasoning by analogy. Therefore, I suggest the following query:

```
```json
{"query": "whether destruction of goods by natural disaster constitutes a frustrating event that discharges contractual obligations"}
```
```

**Prompt (legal reasoning) (cases) (analogy) (select chunk) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The search results:

{search\_results}

The scenario:

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Instruction:

Among the search results, choose one chunk most relevant to the legal issue specific to the scenario for legal reasoning by analogy. If all chunks are irrelevant (not even a slight potential for analogy), output an empty dict. Use JSON format.

Example (irrelevant):

```
```json
{}
```
```

Example:

```
```json
{
  "chunk": "chunk_id"
}
```
```

### Example (legal reasoning) (cases) (analogy) (select chunk) temperature=0.2, top\_p=0.2

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

The search results:

```
[
  {
    "query": "whether destruction of goods by natural disaster constitutes a frustrating event that discharges contractual obligations",
    "option": "cases"
  },
  {
    "id": "hkcfi_2021_1422_11",
    "title": "SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER
[2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) Extract 11",
```

"cosine\_similarity": 0.5603423118591309,

"reranker\_score": 6.1796875,

"content": "an event (without default of either party and for which the \n contract makes no sufficient provision) which so significantly \n changes the nature (not merely the expense or onerousness) of the \n outstanding contractual rights and/or obligations from what the \n parties could reasonably have contemplated at the time of its \n execution it would be unjust to hold them to the literal sense of \n its stipulations in the new circumstances; in such case the law \n declares both parties to be discharged from the further performance \n (at 700F). \n \n (2) The matter must be considered as it appeared at the time is \n alleged to have happened. Commercial men must be entitled to act on \n reasonable commercial probabilities at the time when they are \n called upon to make up their minds (at 706H). \n \n (3) Whenever the performance of a contract is interrupted by \n supervening event, the initial judgment is quantitative \u2013 what \n relation does the likely period of interruption bear to the \n outstanding period of performance? This must ultimately be \n translated into qualitative terms: in the light of the quantitative \n computation and of all other factors (from which executed \n performance would not be entirely excluded) would outstanding \n performance in accordance with the literal terms of the contract \n differ so significantly from what the parties reasonably \n contemplated at the time of execution that it would be unjust to \n insist on compliance with those literal terms (at 707B-D). \n \n (4) The doctrine of frustration was developed as an expedient \n escape from injustice where such would result from enforcement of a \n contract in its literal terms after a change in circumstances. It \n is modern and flexible and is not subject to being constricted \n arbitrary formula (at 701C-E).^(^([9])) \n \n 56. Mr Hon emphasizes, by reference to National Carriers, that whilst \n the doctrine of frustration is, in principle, applicable to leases, \n the doctrine would hardly ever be applied to a lease. \n \n 57. National Carriers is itself a summary judgment case, and the \n House of Lords held against the tenant on the facts, in that a \n 20-month disruption caused by the closure of the only access road to \n a warehouse was insufficient, given that the tenant could look \n forward to enjoyment of the warehouse for about two thirds of the \n remaining currency of the lease. \n \n 58. At Li Ching Wing v Xuan Yi Xiong [2004] 1 HKLRD 654 \u00a710, Judge \n Lok (as he then was) said that an event which causes an interruption \n in the expected use of the premises by the lessee would not frustrate \n the lease, unless the interruption is expected to last for the \n unexpired term of the lease, or at least for a long period of that \n unexpired term. In that case, the tenant was not allowed to stay in \n the residential premises for ten days due to an isolation order \n issued by the Department of Health during SARS to evacuate Block E of \n Amoy Gardens. The learned Judge held that out of a term of two years, \n the isolation order was insignificant in terms of the overall use of \n the premises. \n \n 59. The Center (76) Limited v Victory Serviced Office (HK) Limited \n [2020] HKCFI 2881 is a case which deals with the effect of the social \n unrest and the COVID-19 pandemic. The defendant rented the premises \n in question to operate a flexible workspace business. DHCJ To \n rejected the defence of frustration. At \u00a739, he said: \n \n \u201cWhile COVID-19 pandemic and the social disruption may be \n unforeseen at the time of execution of the Tenancy Agreement, none \n of these has fundamentally or radically changed the nature of the \n parties\u2019 obligations or otherwise rendered it physically or \n commercially impossible to fulfil the Tenancy Agreement. The \n Defendant leased the Premises for the purpose of providing flexible \n workspace to rent to its customers. Its obligations is to pay rent \n and observe the covenants terms and conditions of the Tenancy \n Agreement. There has been no change in the nature of the \n Defendant\u2019s obligation, though the social disruption and COVID-19 \n pandemic must have rendered its business operation more onerous and \n not profitable. The doctrine of frustration is not to be lightly \n invoked to relieve contracting parties of the normal consequences \n of imprudent commercial bargain or commercial risk\u201c the Defendant"

},

{

"id": "hkcfi\_2022\_2036\_14",

"title": "WHARF REALTY LTD v. ABEBI LIMITED T/A \"ARMANI JUNIOR\" [2022] HKCFI 2036; HCA 954/2020 (15 July 2022) Extract 14",

"cosine\_similarity": 0.5539172291755676,

"reranker\_score": 6.0,

"content": "management of Harbour City and the purported effect, similarly, for \n present purposes, I shall proceed on the assumption that they are \n true. \n \n 83. On these factual bases, I now turn to address each of the \n defences and counterclaims. \n \n Frustration \n \n 84. The general principles governing frustration are well-established \n and are not in dispute between the parties. They have been \n authoritatively laid down and explained by the House of Lords in \n Davis Contractors and National Carrier and, more recently, explained \n in The Sea Angel. As is often the case, the difficulty lies with the \n application of the general principles to the specific facts of the \n case in hand. \n \n 85. In National Carriers, Lord Simon stated the principle, at 700F-G: \n \n \u00e2\u20ac\u0153Frustration of a contract takes place where there supervenes an \n event (without default of either party and for which the contract \n makes no sufficient provision) which so significantly changes the \n nature (not merely the expense or onerousness) of the outstanding \n contractual rights and/or obligations from what the parties could \n reasonably have contemplated at the time of its execution that it \n would be unjust to hold them to the literal sense of its \n stipulations in the new circumstances; in such case the law \n declares both parties to be discharged from further performance.\u00e2\u20ac? \n \n 86. It was confirmed in the same case that the doctrine of \n frustration is, in principle, applicable to leases. \n \n 87. It is important to bear in mind the rationale underlying the \n doctrine. In Davis Contractors, Lord Radcliffe explained, at 729: \n \n \u00e2\u20ac\u0153\u00e2\u20ac\u00a6 frustration occurs whenever the law recognizes that without \n default of either party a contractual obligation has become \n incapable of being performed because the circumstances in which \n performance is called for would render it a thing radically \n different from that which was undertaken by the contract. Non haec \n in foedera veni. It was not this that I promised to do.\u00e2\u20ac? \n \n 88. Lord Radcliffe\u00e2\u20ac\u2122s way of explaining the doctrine \u00e2\u20ac\u201c \u00e2\u20ac\u0153It was \n not this that I promised to do\u00e2\u20ac? \u00e2\u20ac\u201c was preferred and endorsed by \n Lord Hailsham in National Carrier (at 688B-C). In the same case, Lord \n Roskill considered that as \u00e2\u20ac\u0153the most satisfactory explanation of \n the doctrine\u00e2\u20ac?. His lordship further explained: there must have been \n by reason of some supervening event some such fundamental change of \n circumstances as to enable the court to say: \u00e2\u20ac\u0153this was not the \n bargain which these parties made and their bargain must be treated as \n at an end\u00e2\u20ac? (717D-F). \n \n 89. Where the doctrine is successfully invoked, the contract is \n brought to an end by operation of law. This is because when the \n fundamental nature of the outstanding rights and obligations have \n become radically different from what was contemplated under the \n contract by reason of the supervening event, the law takes the view \n that the contract simply does not apply to the new situation. \n \n 90. In Davis Contractors, Lord Reid said, at 721: \n \n \u00e2\u20ac\u0153In British Movietonews Ltd. v. London and District Cinemas Ltd. \n [[1952] AC 166, 185] Viscount Simon said: \u00e2\u20ac\u0153If, on the other hand, \n a consideration of the terms of the contract, in the light of the \n circumstances existing when it was made, shows that they never \n agreed to be bound in a fundamentally different situation which has \n now unexpectedly emerged, the contract ceases to bind at that point \n \u00e2\u20ac\u201c not because the court in its discretion thinks it just and \n reasonable to qualify the terms of the contract, but because on its \n true construction it does not apply in that situation.\u00e2\u20ac? \u00e2\u20ac\u00a6 On \n this view there is no need to consider what the parties thought or \n how they or reasonable men in their shoes would have dealt with the \n new situation if they had foreseen it. The question is whether the \n contract which they did make is, on its true construction, wide \n enough to apply to the new situation: if it is not, then it is at \n an end.\u00e2\u20ac? (underline added) \n \n 91. In this situation, the law releases the parties from their"

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{

"id": "HKCFI\_2014\_652\_16",

"title": "HCA 972/2011 CHEUNG KIT LAI (\u5f35\u6f54\u9e97) 1 st Plaintiff PAU WAI LAM (\u9b91\u60e0\u6797) 2 nd Plaintiff And RICH PROSPER LIMITED (\u69ae\u6bb7\u8ca1\u52d9\u6709\u9650\u516c\u53f8) 1 st Defendant YEUNG TING CHEUNG (\u694a\u4e01\u7965) 2 nd Defendant Extract 16",

"cosine\_similarity": 0.5532851815223694,

"reranker\_score": 5.55859375,

"content": "[6] . 63. Third, Frustration brings a contract to an end forthwith, without more and automatically [7] . 64. Fourth, the essence of frustration is that it should not be due to the act or election of the party seeking to rely on it [8] . It must be some outside event or extraneous change of situation [9] . 65. Fifth, a frustrating event must take place without blame or fault on the part of the party seeking to rely on it [10] . 66. In *Edwinton Commercial Corporation v Tsavliris Russ, The Sea Angel* [11] , Rix LJ held that in applying the doctrine the court has to adopt a multi-factorial approach. The starting point of consideration is the terms of the contract, its factual matrix, and its context. Second, the court shall ascertain from the above circumstances, the parties' knowledge, expectations, assumptions and contemplations, in particular as to risk, as at the time of contract so far as these can be ascribed mutually and objectively. Third, the court shall consider the nature of the supervening event. Lastly, the parties' reasonable and objectively ascertainable calculations as to the possibilities of future performance in the new circumstances. The ultimate question the court has to decide is whether in the eventual analysis the supervening or frustrating event has rendered the contract impossible of performance or that its performance will be radically different from what the parties undertook. The test is both subjective and objective. 67. Whatever the alleged source of frustration, a contract is not discharged under this doctrine merely because it turns out to be difficult to perform or onerous. Thus the parties will not generally be released from their bargain on account of rises or falls in price, depreciation of currency or unexpected obstacles to the execution of the contract, for these are ordinary business risks: see *Halsbury's Laws of Hong Kong* [12] . The converse is also true. If the performance will be radically different from what the parties have contracted, a party is not to be held to his part of the bargain merely because the other party will suffer more severe damage as a result. This is because the test for frustration is whether performance will be radically different. The test is not based on balance of detriment suffered by the parties. 68. If delay is relied on as the supervening or frustrating event, the delay must be abnormal in its cause, its effects, or its expected duration, so that it falls outside what the parties could reasonably contemplate at the time of contracting. The fact that the delay was caused by a new and unforeseeable factor or event is a relevant factor. The probable length of the delay must be assessed in relation to the nature of the contract, and to the expected duration of the contract after the delay is expected to end. Discussion 69. With the above principles in mind, I turn to examine the facts. The obligations undertaken by the 1<sup>st</sup> Defendant was to obtain the consent of the DLO to remove the non-assignment clause; pay the premium; discharge the incumbrances, at least items (i) to (vi) of the Seventh Schedule, with the purchase price; and convey the Property to the Plaintiffs free of the above incumbrances on completion date. The surrounding factual matrix was that it was a sale by the chargee-vendor to recover the 2<sup>nd</sup> Defendant's debt owed by sale of the Property; that the consent of the DLO was required; and that previously it took the DLO between two to four months to assess the premium and issue demand note for payment. The premium payable in May 2003 and March 2004 were \$1,763,800 and \$1,819,800 respectively. Such were the knowledge, expectation, assumptions and contemplations in the minds of the parties as to the time required for the issue of demand note for payment of premium and the amount of the premium payable. The purchase price after payment of anticipated premium would leave a very comfortable cushion of about \$2 million to discharge the various incumbrances. The parties made no allocation of risk of delay by the DLO in assessing the premium. 70. Here, the delay was almost five years. The DLO last gave an assessment of the premium on 13 February 2004 within two months of request. Probably, on that occasion the DLO had overlooked the breach. Upon signing the Agreement, C&Y wrote to the DLO on 14 October 2004 to apply for the issue of fresh demand note for premium. Then, despite repeated requests, it was not until 8 June 2009 that the DLO gave his assessment. The premium and other fees payable was increased by 62.73% from \$1,819,800 to \$2,961,410. 71. Probably in view of the past experience, the parties reasonably assumed that the premium would"

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"id": "hkcfi\_2022\_362\_2",  
"title": "SILVERCORD LTD v. THE SWATCH GROUP (HONG KONG) LTD [2022] HKCFI 362; [2022] 1 HKLRD 975 ; HCA 268/2021 (8 February 2022) Extract 2",  
"cosine\_similarity": 0.5512570738792419,

"reranker\_score": 5.19921875,

"content": "event (without default of either party, and for which the contract \n makes no sufficient provision) which so significantly changes the \n nature of the outstanding contractual rights and/or obligations \n from what the parties could reasonably have contemplated at the \n time of its execution, that it would be unjust to hold them to the \n literal sense of its stipulations in the new circumstances.\u201d [D \n Skel \u00a734.2] \n \n 8. On this basis, he submits that the Social Unrest and the Pandemic \n are events that \u201cso radically and fundamentally changed the nature of \n the outstanding rights and/or obligations\u2026that it would be unjust to \n hold them to the literal sense of its stipulations in the new \n circumstances.\u201d For this, he places particular emphasis on: \n \n (a) how unprecedented the double blow of Social Unrest and Pandemic \n were; and \n \n (b) the fact that these occurred one after the other in the \n relatively short period of the tenancy (3 years). \n \n 9. More particularly, he relies on the doctrine of failure of common \n purpose [D Skel \u00a735, 38], the common purpose being \u201cthe Premises \n would be operated as luxury watch retail stores\u201d. \n \n 10. In support of his submission that there exists such common \n purpose, Mr Chan relies on: \n \n (a) The restriction of user clauses in both tenancy agreements, ie, \n that the Premises should only be used as a first class shop for the \n display and retail sales of Tissot watches and accessories [D Skel \n \u00a738.1]. In this regard, he relies particularly on the academic \n commentary that the common purpose of the lease can be inferred \n from a restriction of use clause: Treitel, Frustration and Force \n Majeure (3<sup>rd</sup> Edition) \u00a711-014. \n \n (b) Mr Chan also relies on other clauses which require the Premises \n to be fitted out to the standard of a first class shopping and \n commercial centre [D Skel \u00a738.2]. \n \n 11. Mr Chain (together with him, Mr Jiang), on the other hand, makes \n the following submissions. \n \n 12. The doctrine of frustration is not to be lightly invoked, \n especially in lease cases. This is because the rights and obligations \n of the parties to a lease are very simple \u2013 provision of Premises and \n paying rent. It will be exceedingly rare for a contract to be \n frustrated on the basis of impossibility of performance [Ps Skel \n \u00a721]. \n \n 13. Insofar as the ground of frustration is failure of common \n purpose, Mr Chain pointed me to Canary Wharf (BP4) T1 Ltd v European \n Medicines Agency [2019] L&TR 14 at \u00a729 onwards, whereby Marcus Smith \n J put forward an analysis of the failure of common purpose defence. \n In gist, the learned Judge made the following observations:- \n \n (a) First, citing Treitel, he noted that the failure of common \n purpose defence is in essence, a mirror image of the \n impracticability of performance defence. For impracticability \n cases, it is usually the supplier who would say that, due to \n increase in costs, it could no longer supply; for failure of common \n purpose cases, it is usually the recipient who claims that the \n supplier\u2019s performance is no longer of any use to the recipient for \n the purpose to which both parties had intended the performance to \n be used [\u00a735]. \n \n (b) Second, going through a number of cases, including Krell v \n Henry [1903] 2 KB 740 and Herne Bay Steam Boat Co v Hutton [1903] 2 \n KB 683, the learned Judge draws the line between cases where \n frustration would be allowed as a defence and where it would not. \n In gist:- \n \n (i) If the supervening event is to cause the price for the \n bargain to appear, in hindsight, too high, the contract is not \n frustrated. \n \n (ii) If however, the supervening event makes the common purpose \n impossible to perform (as in the Krell case, where the common \n purpose was held to be the provision of a room with a view of the \n coronation, but the view would never come to pass as the \n coronation was cancelled), then the contract will be frustrated."

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"id": "hkcfi\_2022\_2251\_7",

"title": "SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD (FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER [2022] HKCFI 2251; [2022] 6 HKC 155; HCA 1174/2021 (29 July 2022) Extract 7",

"cosine\_similarity": 0.5512568950653076,

"reranker\_score": 5.1875,

"content": "after consideration of the Master\u2019s Decision. \n \n 38. One can discern the following considerations from the above \n cases. \n \n 39. Frustration takes place only when there supervenes an event which \n so significantly changes the nature of the outstanding contractual \n rights or



obligations from what the parties could reasonably have contemplated at the time of its execution so that it would be unjust to hold them to the literal sense of the stipulations in the new circumstances. This is when something occurs after the formation of the contract which renders it physically or commercially impossible to fulfil the contract or transformed the obligation to perform into a radically different obligation from that undertaken at the moment of entry into the contract.

40. Frustration cannot be lightly invoked to relieve the contracting parties of normal consequences of (imprudent) commercial bargain or commercial risk, unless a common purpose could be said to have been frustrated by the most extraordinary circumstances which renders performance of a contract impossible.

41. It follows that the threshold for proving frustration proper is very high. Mere incidence of expense, delay, less profitability or onerousness is not sufficient. Cases leading to a successful frustration are therefore extremely rare.

42. As alleged in the previous cases, the impact of COVID-19, such as the closure of borders and reduced tourist traffic in 2020, operated adversely to the profitability of the business operation of the tenant at the leased property. Yet that has never been held to suffice in frustrating the lease.

43. While each case is decided on its own fact, I would arrive at the same conclusion in the circumstances of this case as that in the previous cases.

44. First, this was a commercial lease entered into by the Tenant which belonged to an established group claiming to possess at the material times over 80 stores covering key locations in Hong Kong, Singapore and Macau with strong localized market knowledge. There is no basis for questioning its capability of coming to a considered commercial decision not only to choose the Premises as suitable for its purpose but also to commit to a fixed term of 3 years without break clause at the relevant time.

45. Second, whilst the Lease restricted the use of the Premises by the Tenant to the operation of a retail shop for selling beauty and hair products (clause 7 of Section V), the Landlord did not warrant that the Premises would be fit for such or any purpose whatsoever intended by the Tenant (clause 7(b) and (c) of Section XI). In any event, what the Tenant complains about is not the fitness of the Premises but the adverse retail market situation, including the reduced shoppers flow, which affected the profitability of operating business at the location of the Premises.

46. Third, the nature and object of the Lease were letting and possession of the Premises. It was not a joint venture or commercial enterprise with a common purpose between the parties for the profitable operation of the Tenant's business at the Premises. The Tenant's use of the Premises, subject to the terms of the Lease, was really its concern alone. Amongst others, it committed to pay a fixed rate of rent for the entire term of the tenancy irrespective of any possible market fluctuation during the term. Its complaint is really that the market downturn due to COVID-19 exceeded its contemplation. Yet this generally applied across the board to the retail industry.

47. Fourth, the Tenant referred to the alleged mutual understanding of the parties that the Tenant's business relied on tourists from outside Hong Kong prior to entering into the Lease. That was neither here nor there. The vicinity of the Premises was well known as one of the busiest shopping districts on Hong Kong Island. As mentioned, the Tenant's group claimed to have strong localized market knowledge. It is incredible that the Tenant would have failed to perceive such character and potential of the Premises for its business but for the introduction or representation by the Landlord. In any event, any representations made in this respect during the pre-contractual negotiation were excluded by the entire agreement clause of the Lease (clause 6 of Section XI) for the purpose of both parties to the Lease."

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"id": "HKCFI\_2011\_258\_27",

"title": "HCA 3987/2003 BETWEEN SINOEARN INTERNATIONAL LTD Plaintiff and HYUNDAI-CCECC JOINT VENTURE (a firm)

Defendant ----- Extract 27",

"cosine\_similarity": 0.5466919541358948,

"reranker\_score": 4.984375,

"content": "that the Plaintiff was entitled to the payment of the full amount (i.e, HK\$17,000,000.00) of the 1 st Dumping Permit (permitting the dumping of 1,000,000 m<sup>3</sup> of contaminated mud) as obtained irrespective of whether or not the Defendant in fact dumped the full 1,000,000 m<sup>3</sup> of mud. It is

important note that: (1) If (as contended) the Plaintiff was entitled to receive HK\$17.00/ m<sup>3</sup> on the volume on the right to dump it had secured for the Defendant under each dumping permit so obtained, as opposed to the dumped volume, there was no need for the dumping contract to provide for the method of measurement of the dumped mud. (2) There was no qualification in clauses 2.7 and 2.8 (the measurement clauses) that they do not apply to the 1<sup>st</sup> Dumping Permit but only to subsequent dumping permits obtained. To be fair to Ms Cheng, she has also not so contended. 126. I therefore further reject the Plaintiff's 2<sup>nd</sup> alternative case. C2. Was the dumping contract frustrated 127. Given my conclusion above, the issue of whether the dumping contract was frustrated does not arise. 128. However, as this has been argued fully before me, I would deal with the question of frustration briefly as follows. C2.1 The law 129. Frustration is a common law doctrine which discharges the parties from performing their obligations under a contract. It occurs whenever the law recognises that without default of either party, a contractual obligation has become incapable of being performed because the circumstances in which performance is called for would render it a thing radically different from that which was undertaken by the contract. However, there is generally no frustration if it has only become more onerous or expensive for the party to perform its outstanding obligations under the contract. See: *Davis Contractor v Fareham* [26] and *National Carriers Ltd v Panalpina (Northern) Ltd* [27] . 130. In *J Lauritzen AS v Wijsmuller BV (the Super Servant Two)* [28] , Bingham LJ set out the following five propositions which form the essence of the doctrine. These have been summarized in *Chitty on Contracts* [29] as follows: (1) The doctrine of frustration has evolved to mitigate the rigour of the common law's insistence on literal performance of absolute promises (2) Frustration operates to kill the contract and discharge the parties from further liability under it and that therefore it cannot be lightly evoked but must be kept within very narrow limits and ought not to be extended (3) It brings a contract to an end forthwith, without more and automatically (4) The essence of frustration is that it should not be due to the act or election of the party seeking to rely on it and it must be some outside event or extraneous change of situation (5) A frustration event must take place without blame or fault on the side of the party seeking to rely on it. 131. Further, the mere fact that it has become no longer commercially viable to perform the contract is not sufficient to invoke the doctrine of frustration: *Tenants (Lancashire) Ltd v CS Wilson & Co Ltd* [30] and *Thames Valley Power Ltd v Total Gas & Power Ltd* [31] . C2.2 The present case 132. As an alternative defence, the Defendant pleaded that the dumping contract was frustrated by the dismissal of its appeal against the EPD's refusal to grant the loading permits. 133. I do not think the evidence establishes that this amounted to a frustration event: (1) It is clear from the accepted evidence and the decision of the Appeal Board that the EPD would and could continue to issue the necessary loading permits to the Defendant if the Defendant could provide the necessary environmental impact assessment report that would satisfy EPD's requirements. (2) After the dismissal of the appeal, the Defendant had in fact proceeded to enter into the 2<sup>nd</sup> Monitoring Agreement and engage with other professionals for the purpose of producing such a report. (3) There is no evidence whatsoever to show that it was impossible to produce a report that could have satisfied the EPD's requirements. (4) However, it is the evidence that the Defendant out of its own volition suddenly terminated the continuation of the 2<sup>nd</sup> Monitoring Agreement and the commission of the professionals to produce the necessary impact assessment report. The Defendant's own evidence [32] shows that the Defendant terminated the preparation of the environmental impact assessment report as it was informed by the Lands Department that the Defendant would be in breach of a special condition of the relevant land grant (for the CT9 development) to dump the contaminated mud at sites other than those"

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"id": "HKCFL\_2011\_258\_28",

"title": "HCA 3987/2003 BETWEEN SINOEARN INTERNATIONAL LTD Plaintiff and HYUNDAI-CCECC JOINT VENTURE (a firm)

Defendant ----- Extract 28",

"cosine\_similarity": 0.54665607213974,

"reranker\_score": 4.93359375,

"content": "election of the party seeking to rely on it \u201d and it must be some \u201c outside event or extraneous change of situation \u201d. (5) A frustration event must take place \u201c without blame or fault on the side of the party seeking to rely on it \u201d. 131. Further, the mere fact that it has become no longer commercially viable to perform the contract is not sufficient to invoke the doctrine of frustration: *Tenants (Lancashire) Ltd v CS Wilson & Co Ltd* [30] and *Thames Valley Power Ltd v Total Gas & Power Ltd* [31] . C2.2 The present case 132. As an alternative defence, the Defendant pleaded that the dumping contract was frustrated by the dismissal of its appeal against the EPD\u2019s refusal to grant the loading permits. 133. I do not think the evidence establishes that this amounted to a frustration event: (1) It is clear from the accepted evidence and the decision of the Appeal Board that the EPD would and could continue to issue the necessary loading permits to the Defendant if the Defendant could provide the necessary environmental impact assessment report that would satisfy EPD\u2019s requirements. (2) After the dismissal of the appeal, the Defendant had in fact proceeded to enter into the 2 nd Monitoring Agreement and engage with other professionals for the purpose of producing such a report. (3) There is no evidence whatsoever to show that it was impossible to produce a report that could have satisfied the EPD\u2019s requirements. (4) However, it is the evidence that the Defendant out of its own volition suddenly terminated the continuation of the 2 nd Monitoring Agreement and the commission of the professionals to produce the necessary impact assessment report. The Defendant\u2019s own evidence [32] shows that the Defendant terminated the preparation of the environmental impact assessment report as it was informed by the Lands Department that the Defendant would be in breach of a special condition of the relevant land grant (for the CT9 development) to dump the contaminated mud at sites other than those designated in the grant. The SEZ Site was not such a designated site. (5) In the circumstances, I am not satisfied that the dumping contract was no longer possible to be performed by the Defendant by reason of an extraneous event which the Defendant was not to be blamed [33] . Looking at the evidence, the performance of the dumping contract might have become more onerous and expensive by having to obtain the necessary environmental impact assessment report. But as mentioned above, this does not amount to frustration of the underlying contract. 134. For these reasons, I would have dismissed the Defendant\u2019s defence of frustration if this had become a relevant issue. C3. The Plaintiff\u2019s liability under the Mainland back-to-back agreements and undertakings 135. Whether the Plaintiff is liable under PRC law under the Mainland back-to-back agreements and undertakings it had given relating to the dumping contract is relevant to the question on whether the Plaintiff is entitled to be indemnified by the Defendant for these liabilities. This question however would only need to be determined if the Defendant was in breach of the dumping contract and that there was a frustration of the dumping contract. 136. Again, in light of my conclusion above that (a) the Defendant was not in breach of the dumping contract, and (b) even if the Defendant were in breach of it, there was no frustration thereof, this issue simply does not arise. 137. But for completeness, I would also deal with this issue quickly as follows. C3.1 The contentions 138. Under clauses 2.3 and 2.9 of the 21/7 Agreement, the Plaintiff was responsible for paying all fees and expenses incurred in respect of obtaining the dumping permits and for liaising with all concerned parties for the smooth progress of the Defendant\u2019s operations to dump contaminated mud at the SEZ Site. The agreed fees to be paid by the Defendant to the Plaintiff under the contract (i.e., at the rate of HK\$17.00/ m<sup>3</sup> of contaminated mud) was inclusive of all such costs and expenses whatsoever incurred. 139. I accept that for the purpose of the dumping contract: (1) The Plaintiff had entered into the following back-to-back agreements (collectively \u201cthe Back-to-Back Agreements\u201d) in the Mainland: (a) The 1 st Monitoring Agreement. (b) The Wing Yiu Agreement. (c) The Hanshing Agreement. (2) The Plaintiff had given the Plaintiff\u2019s Undertaking in favour of the Monitoring Centre in respect of the 2 nd Monitoring Agreement up to the extent of RMB1.9 million. 140. On the other hand, for the same reasons I set out above in rejecting the Plaintiff\u2019s case on the Alleged Agreed Quantity Term, I would have also rejected Mr Tsang\u2019s evidence that (a) the Plaintiff had given an undertaking on 15 July 2000 to"

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"id": "hkcfi\_2022\_2036\_10",

"title": "WHARF REALTY LTD v. ABEBI LIMITED T/A \"ARMANI JUNIOR\" [2022] HKCFI 2036; HCA 954/2020 (15 July 2022) Extract 10",

"cosine\_similarity": 0.5466252565383911,

"reranker\_score": 4.765625,

"content": "shall not be vitiated by the act neglect default or omission of the \n Tenant the rent or a part thereof proportionate to the damage \n sustained shall cease to be payable until the said premises shall \n have been restored or reinstated.\u00e2\u20ac? \n \n 57. The abatement clause was designed to relieve the tenant of the \n duty to pay rent where the premises are unfit for use and occupation \n by reason of a supervening or unexpected event which is beyond either \n party\u00e2\u20ac\u2122s control. \n \n 58. The rent payable by the defendants was fundamentally premised on \n there being a constant influx of tourists. Because of the \n catastrophic drop in the number of mainland and overseas tourists \n frequenting Harbour City, the Premises were no longer \u00e2\u20ac\u0153fit for use \n and occupation\u00e2\u20ac? because the defendants were no longer able to \n operate commercially viable retail stores for high quality \n children\u00e2\u20ac\u2122s wear and accessories there. \n \n 59. Applying a purposive approach, the words \u00e2\u20ac\u0153destroyed or so \n damaged\u00e2\u20ac? need not be confined to physical destruction or damaged. \n One must take into account the broader intent and purpose behind the \n clause. Here, the Premises were \u00e2\u20ac\u0153destroyed\u00e2\u20ac? or \u00e2\u20ac\u0153damaged\u00e2\u20ac? \n \u00e2\u20ac\u0153so as to be rendered unfit for use and occupation\u00e2\u20ac? by reason of \n the two consecutive supervening events. They were no less \n \u00e2\u20ac\u0153damaged\u00e2\u20ac? than a case where, eg, a typhoon had caused severe \n flooding to the Premises. The defendants say that they were as good \n as destroyed (or at least severely damaged) by the extreme events. \n \n 60. The defendants\u00e2\u20ac\u2122 stance is that they are entitled to at least \n 50% of rent abatement. Since there is no mechanism for the \n calculation of the abatement, to the extent that the plaintiff \n disputes the appropriate amount, the issue will have to be tried, \n with the assistance of expert evidence of surveyors. \n \n Quiet enjoyment \n \n 61. Independent of the defences of frustration and abatement of rent, \n the defendants raise two counterclaims, which they say are plausible \n and may extinguish (and possibly exceed) the plaintiff\u00e2\u20ac\u2122s claim. \n \n 62. The defendants first rely on the plaintiff\u00e2\u20ac\u2122s covenant to give \n quiet enjoyment of the Premises under Clause IV, clause 1 of the \n Tenancy Agreements, and say that there has been a breach. \n \n 63. The clause read: \n \n \u00e2\u20ac\u0153The Landlord hereby agrees with the Tenant as follows: \u00e2\u20ac\u00a6 upon \n the Tenant paying the rent on the days and in the manner herein \n provided for payment of the same and observing and performing the \n agreements stipulations and conditions herein contained and on the \n Tenant\u00e2\u20ac\u2122s part to be observed and performed shall peaceably hold \n and enjoy the said premises during the said term without any \n interruption by the Landlord or any person lawfully claiming under \n or in trust for the Landlord.\u00e2\u20ac? \n \n 64. The defendants rely on essentially the same factual matters in \n support of the frustration defence, including the posting of the \n Notice, the suspension of the shuttle bus service, the closure of \n various access points to Harbour City and the emergency evacuation of \n Harbour City on 24 December 2019. They contend that the plaintiff\u00e2\u20ac\u2122s \n actions constituted a blatant breach of the quiet enjoyment covenant. \n This is because they had the effect of encouraging the presence of \n violent protestors in or around the shopping mall (by the posting of \n the Notice), and cutting off access to the Premises. All these \n seriously interrupted the defendants\u00e2\u20ac\u2122 enjoyment of the Premises qua \n shop owners targeting mainland customers. \n \n 65. The defendants say that there had been substantial interference \n with their ability to use the Premises. In any event, whether an \n interference is sufficiently \u00e2\u20ac\u0153substantial\u00e2\u20ac? or not is a matter of \n degree and is fact-specific. Any dispute in this regard must be a \n matter which ought to go to trial and ought not to be resolved in a \n summary manner. \n \n 66. It is therefore arguable that the defendants are entitled to \n claim damages for loss of profits caused by the plaintiff\u00e2\u20ac\u2122s breach \n of the quiet enjoyment covenant. Given the substantial decline in"

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"id": "hkcfi\_2022\_2036\_17",

"title": "WHARF REALTY LTD v. ABEI LIMITED T/A \"ARMANI JUNIOR\" [2022] HKCFI 2036; HCA 954/2020 (15 July 2022) Extract 17",

"cosine\_similarity": 0.545910656452179,

"reranker\_score": 4.74609375,

"content": "goes beyond mere onerousness was reiterated in *The Sea Angel*, at para 111: that mere incidence of expense or delay or onerousness is not sufficient; and that there has to be as it were a break in identity between the contract as provided for and contemplated and its performance in the new circumstances. 99. Having in mind the juridical basis of the doctrine, as explained in *Davis Contractors and National Carriers*, it is clear that the court's task is not to ascertain how the parties or any reasonable persons in their shoes would have dealt with the supervening event in the contract if they had foreseen it when they entered into the contract. The task is instead to apply the well-known rules of construction and ascertain the true nature and scope of the contract (or, in Lord Roskill's words, what bargain the parties had made), and then ask whether the contract applies to or covers the new situation brought about by the supervening event, applying the radically different test. And if it does not, the court steps in and declares that the contract is frustrated and the parties are from that point onwards relieved from its terms. 100. When undertaking this task, what should be the court's approach? 101. In *Davis Contractors*, Lord Radcliffe appeared to treat it as a matter of general impression, while bearing in mind the general principles: In the nature of things there is often no room for any elaborate inquiry. The court must act upon a general impression of what its rule requires. It is for that reason that special importance is necessarily attached to the occurrence of any unexpected event that, as it were, changes the face of things. (at 729) 102. In *The Sea Angel*, Rix LJ advocated for a multi-factorial approach, at para 111: In my judgment, the application of the doctrine of frustration requires a multi-factorial approach. Among the factors which have to be considered are the terms of the contract itself, its matrix or context, the parties' knowledge, expectations, assumptions and contemplations, in particular as to risk, as at the time of contract, at any rate so far as these can be ascribed mutually and objectively, and then the nature of the supervening event, and the parties' reasonable and objectively ascertainable calculations as to the possibilities of future performance in the new circumstances. 103. Lastly, the matter may also be tested in terms of risk allocation. 104. In *National Carriers*, Lord Roskill said, at 712E-G: The doctrine is principally concerned with the incidence of risk who must take the risk of the happening of a particular event especially when the parties have not made any or any sufficient provision for the happening of that event? When the doctrine is successfully invoked it is because in the event which has happened the law imposes a solution, casting the incidence of that risk on one party or the other as the circumstances of the particular case may require, having regard to the express provisions of the contract into which the parties have entered. 105. In *The Sea Angel*, Rix LJ explained that contracts are about the allocation of risk. The court should consider the consequence of its decision and test it against the demands of justice. It involves recognising that the frustration of a contract may well mean that the contractual allocation of risk is reversed: paras 111 to 112. 106. In this judgment, I do not consider it necessary to go through all the authorities cited by parties on how the doctrine of frustration has been applied in the past. It is ultimately a fact-sensitive exercise and the conclusion turns on the construction of the contract in question, the effect of the supervening event and a host of varying factors in each case. 107. With that in mind, I now turn to the defence of frustration as formulated by the defendants in this case. 108. Here, it is indisputable that the widespread social unrest and"

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"id": "hkcfi\_2022\_279\_4",

"title": "VEMBER LORD LTD v. THE SWATCH GROUP (HONG KONG) LTD [2022] HKCFI 279; HCA 1114/2020 (20 January 2022) Extract

4",

"cosine\_similarity": 0.5449049472808838,

"reranker\_score": 4.33984375,

"content": "occasions of physical damage), the operative conditions in the present case are different. 19. The provision was said to be unique and, on proper construction, it is engaged if the Shops are rendered (i) unfit for use or inaccessible (ii) by any cause beyond the plaintiff's control, those being the operative conditions and no physical damage or destruction is required. 20. As stated in Hong Kong Tenancy Law 6<sup>(th)</sup> edition at 104: It is not unusual to find a clause in the lease suspending or abating payment of rent in the case of destruction of or damage to the premises by a variety of calamities including fire, landslide, flood and typhoon ... The standard sort of clause...[4] also applies where the premises are rendered inaccessible by the calamity. In addition, it may extend to cases of orders for closure of the building and the like by the Building Authority. 21. The Appendix to Hong Kong Tenancy Law provides examples of leases. A rent suspension clause can be found in Examples 2 and 3 from which the following provisions are extracted: In the event of the said Premises or any part thereof being damaged or destroyed by reason of fire typhoon earthquake or white ants or subsidence or any cause for which the Tenant shall not be responsible; and If the said premises or any part thereof shall be destroyed or so damaged or shall be rendered inaccessible or unfit for use and occupation by fire, typhoon, act of God, force majeure or any other cause beyond the control of the Landlord and not attributable directly or indirectly to any act or default of the Tenant ...[6]. 22. It is apparent from the wording used in Example 3 that there is but a slight difference in phraseology with the provision under consideration in that the words destroyed or so damaged have been omitted. Whether or not such an omission renders the agreements atypical or non-standard is perhaps debatable. Clearly, it is the proper construction of the provision that matters. 23. A useful reminder of the correct approach to be adopted to the interpretation of contractual provisions can be found in *Arnold v Britton* [2015] AC 1619 at 714-23 where Lord Neuberger emphasised 7 factors. For present purposes, it suffices to refer to the 1<sup>(st)</sup> and 3<sup>(rd)</sup> factors, namely, the importance of the language of the provision and that commercial common sense is not to be invoked retrospectively as it is relevant to the extent of how matters would or could have been perceived by the parties, or by reasonable people in the position of the parties, as at the date that the contract was made. 24. The defendant's case on construction is along the following lines: (1) physical damage is not a requirement because the operative conditions are not damage or destruction invariably found in the usual or standard rent abatement clause; (2) the extraordinary circumstances which caused the premises to be unfit for use or inaccessible are matters beyond the landlord's control; (3) damage covers pure economic loss. 25. The defendant's construction largely focuses on the first of the 3 classes[7] or categories that can trigger the provision. Its starting point is that the requirement that the premises be rendered unfit for use or inaccessible is not constrained or qualified by damage or destruction. The need to show physical damage thus became a major bone of contention. 26. The Shops are said to be commercial retail premises in prime areas, selling high-end[8] luxury products. The defendant submitted that the court should bear in mind the contractual context in interpreting the provision, including the following[9]: (a) its purpose is essentially to relieve the tenant of the burden"

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The scenario:

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Instruction:

Among the search results, choose one chunk most relevant to the legal issue specific to the scenario for legal reasoning by analogy. If all chunks are irrelevant (not even a slight potential for analogy), output an empty dict. Use JSON format.

Example (irrelevant):

```
```json
{}
```
```

Example:

```
```json
{
  "chunk": "chunk_id"
}
```
```

[ASSISTANT]

```
```json
{
  "chunk": "hkcfi_2021_1422_11"
}
```
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**Rewrite Argument schemes for case-based analogies from “Handbook of Legal Reasoning and Argumentation” in natural language**

- Plaintiff's advocate cites precedent  $p$ , in which outcome  $o$  was held.
- The advocate points out a set of intermediate legal concepts (ILCs)  $i$  with associated composite fact patterns  $i^*$  shared by  $p$  and current case  $c$ .
- The advocate posits a rule,  $i^* \Rightarrow o$  and submits that its application in  $p$  is justified because the positive effects of outcome  $o$  on underlying values in  $p$  outweigh the negative effects (i.e.,  $E^+ > E^-$  in  $p$ ).
- The advocate submits that the rule,  $i^* \Rightarrow o$ , applies to  $c$  and justifies outcome  $o$  in  $c$  because the positive effects on underlying values of outcome  $o$  in  $c$  outweigh the negative effects ( $E^+ > E^-$  in  $o$ ).

**Fig. 2** Argument schemes for case-based analogies: argument from sufficient similarity



#### *Distinction Due to Missing Feature in Current Case*

- Defendant's advocate argues that an ILC  $m$  in  $p$  justifies the inference that the positive effects on underlying values of outcome  $o$  in  $p$  outweigh the negative effects.
- The advocate argues that  $p$  and  $c$  are not analogous because  $m$  is not present in  $c$ .

#### *Argument from Undesirable Consequence*

- The defendant's advocate posits an alternative rule,  $(i^* \cup m) \Rightarrow o$  that applies in  $p$ .
- The advocate argues that an undesirable consequence  $q$  arises if  $m$  were omitted from the rule (or a desirable consequence if  $m$  were included).
- The advocate may support the distinction if the opinion in  $p$  explicitly states that  $m$  was relevant for the decision.

#### *Distinction from Non-occurring Undesirable Consequence*

- The defendant's advocate hypothesizes that the purpose of the rule in the precedent  $p$  was to prevent an undesirable consequence  $u$  from occurring.
- The advocate argues that  $u$  is not entailed in the case at bar  $c$ , and hence the precedent's rule should not apply because the purpose it serves does not apply.

#### *Distinction from Missing Feature in Precedent Case*

- The defendant's advocate point out that an ILC  $m$  is given in the current case  $c$  but not present in the precedent  $p$ .
- The advocate may argue that the presence of  $m$  in  $c$  conflicts with  $i^*$ .
- The advocate argues that since  $m$  is in  $c$ , the negative effects on values outweigh the positive effects.

#### *Counterexample*

- The defendant's advocate may state her own precedent  $p0$ , a case that (ideally) shares  $i^*$  with current case  $c$  but whose outcome is not  $o$ .
- The advocate argues that precedent  $p0$  justifies the inference in  $c$  that the negative effects on values of outcome  $o$  outweigh the positive effects.

**Fig. 3** Argument schemes for case-based analogies: rebuttal arguments

### *Downplaying Significance of Distinction*

- The plaintiff's advocate points out an undesirable consequence if the distinctive ILC  $m$  were to be required for the analogy to  $p$  (or a desirable consequence if  $m$  were not required.)

### *Feature Substitution*

- Plaintiff's advocate can point out an ILC  $n$ , which is present in current case  $c$  but absent in  $p$ , which compensates for the absence of  $m$  in  $c$ .
- The advocate submits that given  $n$ , the fact pattern associated with  $i^*$  justifies the inference that the positive effects on values outweigh the negative effects.

## **Fig. 4** Argument schemes for case-based analogies: surrebuttal arguments

1. Citing Precedent: Begin by referencing a relevant previous court case, which we'll call precedent  $p$ . Clearly state the outcome,  $o$ , that was reached in this precedent. This establishes the foundation of your argument by showing a prior legal decision that is relevant to the current case. For example, you might say: "In the case of ABC v GHI (precedent  $p$ ), the court ruled that... (outcome  $o$ )."
2. Identifying Shared Legal Concepts: Next, identify and present a set of intermediate legal concepts (ILCs), which we'll call  $i$ . These ILCs should be associated with specific fact patterns, referred to as  $i^*$ . Crucially, demonstrate that these ILCs and their associated fact patterns are present in both the precedent case  $p$  and the current case  $c$ . This similarity is key to your argument, as it establishes a connection between the two cases. You might state: "Both in ABC v GHI and in our current case, we see the following legal concepts and fact patterns..."
3. Proposing a Legal Rule: Based on the shared ILCs and fact patterns, propose a legal rule. This rule should be stated as: "If the fact pattern  $i^*$  is present, then outcome  $o$  should follow." Argue that this rule is justified in the precedent case  $p$  because the positive effects ( $E+$ ) of outcome  $o$  on the underlying values and principles of the law outweigh the negative effects ( $E-$ ) in that case. You could say: "This suggests a general rule that when we see [fact pattern  $i^*$ ], the court should decide [outcome  $o$ ]. This rule was justified in ABC v GHI because..."
4. Applying the Rule to the Current Case: Finally, argue that this same rule should apply to the current case  $c$ . Contend that because the fact pattern  $i^*$  is present in case  $c$ , the outcome  $o$  should also be applied here. To justify this application, assert that, just as in the precedent case, the positive effects ( $E+$ ) of outcome  $o$  on the underlying values and principles of the law in case  $c$  would outweigh any negative effects ( $E-$ ). You might conclude: "Given that our current case shares the same crucial fact pattern  $i^*$ , we submit that the court should reach the same outcome  $o$ . This decision would be justified because, as in ABC v GHI, it would have the following positive effects..."
5. Distinction Due to Missing Feature in Current Case: Begin by identifying an intermediate legal concept (ILC)  $m$  that was present in the precedent case  $p$ . Argue that this concept  $m$  was crucial in justifying the outcome  $o$  in  $p$ , as it ensured that the positive effects on underlying legal values outweighed the

negative effects. Then, point out that this crucial concept *m* is absent in the current case *c*. For example, "In the precedent case *ABC v GHI*, the court's decision was significantly influenced by factor *m*. This factor was key in ensuring that the benefits of the ruling outweighed any potential drawbacks. However, in our current case, this crucial factor *m* is notably absent."

6. Argument from Undesirable Consequence: Propose an alternative rule that includes both the shared fact pattern *i*\* and the missing feature *m*. State this rule as: "If both *i*\* and *m* are present, then outcome *o* should follow." Argue that omitting *m* from this rule would lead to an undesirable consequence *q*, or conversely, that including *m* prevents this undesirable outcome. If possible, support this argument by referencing explicit statements in the precedent case *p* that highlight the relevance of *m* to the decision. You might say, "We propose that the correct rule from *ABC v GHI* should be stated as 'When both [*i*\*] and [*m*] are present, the court should decide [*o*].' Omitting [*m*] from this rule could lead to [undesirable consequence *q*]. Indeed, the opinion in *ABC v GHI* explicitly states that [*m*] was crucial to their decision."

7. Distinction from Non-occurring Undesirable Consequence: Hypothesize about the purpose behind the rule established in the precedent case *p*. Suggest that this rule was created to prevent a specific undesirable consequence *u*. Then, demonstrate that this undesirable consequence *u* is not a risk in the current case *c*. Argue that because the purpose of the precedent's rule doesn't apply to the current case, the rule itself shouldn't apply. For instance, "The rule established in *ABC v GHI* was clearly designed to prevent [undesirable consequence *u*]. However, in our current case, there's no risk of [*u*] occurring. Therefore, applying the precedent's rule here would be misguided, as the very purpose it serves is not relevant to our situation."

8. Distinction from Missing Feature in Precedent Case: Identify an intermediate legal concept (ILC) *m* that is present in the current case *c* but was absent in the precedent case *p*. Argue that the presence of *m* in the current case either conflicts with the shared fact pattern *i*\* or significantly alters the balance of positive and negative effects. You could state, "Our current case involves an important factor [*m*] that was not present in *ABC v GHI*. This factor [conflicts with/significantly alters] the situation described by [*i*\*]. Because of [*m*], applying the same outcome in our case would have more negative consequences than positive ones, unlike in *ABC v GHI*."

9. Downplaying Significance of Distinction: When faced with a distinction between your current case and a precedent, specifically the absence of an intermediate legal concept (ILC) *m* in your case, focus on the potential consequences of requiring this distinction. Argue that if *m* were to be required for the analogy to the precedent *p*, it would lead to an undesirable outcome. Alternatively, highlight the beneficial consequences if *m* were not required. For example, you might say: "While it's true that our case lacks factor *m*, which was present in the precedent case *ABC v GHI*, requiring this factor for all similar cases would lead to [undesirable consequence]. Conversely, not requiring *m* would allow for [desirable outcome], which better aligns with the underlying principles of the law in this area."

10. Feature Substitution: When your current case lacks an intermediate legal concept (ILC) *m* that was present in a relevant precedent, identify another ILC *n* that is present in your case but absent in the precedent. Argue that *n* effectively compensates for the absence of *m*. Demonstrate how the presence of *n*, combined with the shared fact pattern *i*\*, justifies the same outcome as the precedent by showing that the positive effects on legal values still outweigh the negative effects. You might argue: "Although our case lacks factor *m*, which was present in *ABC v GHI*, we have the additional factor *n*. This factor *n*, when considered alongside the shared circumstances *i*\*, serves a similar function to *m* in the precedent case. Given the presence of *n*, we submit that the reasoning in *ABC v GHI* still applies, as the positive effects on [relevant legal values] would still outweigh any potential negative consequences, just as they did in the precedent case."

11. Conclusion: Having read through the original argument by analogy (Step 1 to 4), the rebuttal arguments (Step 5-8), and the surrebuttal arguments (Step 9 to 10), be neutral and determine the merits and flaws of all the arguments and make a final decision to the legal issue. Assess whether the proposed rules and their applications are supported by the facts and legal principles involved. Make a final decision on the legal issue by balancing these considerations, striving for a decision that aligns with legal precedent while also serving justice and legal consistency. Conclude with a clear and reasoned statement that explains why the decision was reached, highlighting key factors that influenced the outcome.

**Prompt (legal reasoning) (cases) (analogy) (step 1-3) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of {judgment['context']} (precedent):

The scenario (current case):

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Instruction:

Step 1. Citing Precedent: Begin by referencing {judgment['citation']}, which we'll call precedent p. Briefly state the facts of p. Then clearly state the outcome, o, that was reached in this precedent. This establishes the foundation of your argument by showing a prior legal decision that is relevant to the current case. For example, you might say: "In the case of ABC v GHI (precedent p), [brief facts], the court ruled that... (outcome o)."

Step 2. Identifying Shared Legal Concepts: Next, identify and present a set of intermediate legal concepts (ILCs), which we'll call i. These ILCs should be associated with specific fact patterns, referred to as i\*. Crucially, demonstrate that these ILCs and their associated fact patterns are present in both the precedent case p and the current case c. This similarity is key to your argument, as it establishes a connection between the two cases. You might state: "Both in ABC v GHI and in our current case, we see the following legal concepts and fact patterns..."

Step 3. Proposing a Legal Rule: Based on the shared ILCs and fact patterns, propose a legal rule. This rule should be stated as: "If the fact pattern i\* is present, then outcome o should follow." Argue that this rule is justified in the precedent case p because the positive effects (E+) of outcome o on the underlying values and principles of the law outweigh the negative effects (E-) in that case. You could say: "This suggests a general rule that when we see [fact pattern i\*], the court should decide [outcome o]. This rule was justified in ABC v GHI because..."

Follow the instructions of Step 1 to 3 and give detailed explanation where necessary. Use the format of the example below. Terminate after finishing Step 3.

Example output:

### Step 1: Outcome of Precedent (ABC v GHI)

In the case of ABC v GHI (precedent p), [brief facts], the court ruled that [outcome o].

### ### Step 2: Shared Legal Concepts

Both in ABC v GHI and in our current case, we see the following legal concepts and fact patterns:

- [legal concept 1]: [fact pattern 1]
- [legal concept 2]: [fact pattern 2]
- [legal concept 3]: [fact pattern 3]
- [legal concept 4]: [fact pattern 4]

### ### Step 3: Extraction of legal rule from Precedent (ABC v GHI)

This suggests a general rule that when we see [fact pattern i\*], the court should decide [outcome o]. This rule was justified in ABC v GHI because [policy arguments for outcome o on underlying values specific to p]

### Example (legal reasoning) (cases) (analogy) (step 1-3) temperature=0.2, top\_p=0.2

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER [2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) (precedent):  
January 2020.

36. It is the Landlord's case that the Tenant never accepted its offer of 10% rent reduction. There is no dispute that the Tenant never countersigned the 21/1/20 Letter. However, it is the defendants' case that Maria had accepted the Landlord's offer orally over a telephone conversation with Mr Ho in mid-late January 2020,^(^([7])) which Mr Ho denied ever took place.

[omitted for brevity]

42. ... I have come to the same conclusion as each of them did, namely that, on the present state of English law, the contention which Mr. Gauntlett wishes to advance by way of defence on quantum is not open to him. I do not decide whether or not repudiation plays any, and if so what, part in the English law of landlord and tenant... There is, however, no case in English law that shows that the landlord can recover damages from a former tenant the respect of loss of future rent after termination, and there is at least one

case which decides that he cannot. In those circumstances, either damages are not an adequate remedy for the landlord or at least the landlord will be acting reasonably in taking the view that he should not terminate the lease because he may well not be able to recover such damages...”

70. Reichman is discussed in Hong Kong Tenancy Law, 6<sup>th</sup> Ed, Malcolm Merry at page 201:

“For a long time it was thought that the ordinary principles of repudiatory breach did not apply to leases. However, the better view, which is now firmly accepted in Hong Kong, is that a tenant repudiation (or renunciation) of the lease during its term may be accepted by the landlord. The effect of such an acceptance is that the lease ends immediately and the landlord loses the right to sue for rent but may sue for damages instead.

... Under the traditional approach, a landlord was faced with a tenant determined to abandon the premises either accepted the situation (in which case there would probably be a surrender of the tenancy) or stoically refused to compromise and insisted on the continued payment of rent. Often, for fear that compromise might be construed as consent to abandonment, the landlord would refuse to accept back the keys or try to re-let the premises. The traditional view... was reasserted by the Court of Appeal in England in 1972 and even [in Reichman] in 2007 that court was not prepared to accept that the principle no longer applied, although the attitude has recently been more receptive.

However, the Supreme Court of Canada came to a different conclusion [and held] that a landlord who had elected to treat a lease as terminated by repudiation was not prevented from seeking damages for the breach. This has been followed in Hong Kong decisions. Therefore, a “halfway-house” solution is available: the landlord can make it clear that he does not approve of the tenant

The scenario (current case):

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire

is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Instruction:

Step 1. Citing Precedent: Begin by referencing *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER* [2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) , which we'll call precedent p. Briefly state the facts of p. Then clearly state the outcome, o, that was reached in this precedent. This establishes the foundation of your argument by showing a prior legal decision that is relevant to the current case. For example, you might say: "In the case of *ABC v GHI* (precedent p), [brief facts], the court ruled that... (outcome o)."

Step 2. Identifying Shared Legal Concepts: Next, identify and present a set of intermediate legal concepts (ILCs), which we'll call i. These ILCs should be associated with specific fact patterns, referred to as i\*. Crucially, demonstrate that these ILCs and their associated fact patterns are present in both the precedent case p and the current case c. This similarity is key to your argument, as it establishes a connection between the two cases. You might state: "Both in *ABC v GHI* and in our current case, we see the following legal concepts and fact patterns..."

Step 3. Proposing a Legal Rule: Based on the shared ILCs and fact patterns, propose a legal rule. This rule should be stated as: "If the fact pattern i\* is present, then outcome o should follow." Argue that this rule is justified in the precedent case p because the positive effects (E+) of outcome o on the underlying values and principles of the law outweigh the negative effects (E-) in that case. You could say: "This suggests a general rule that when we see [fact pattern i\*], the court should decide [outcome o]. This rule was justified in *ABC v GHI* because..."

Follow the instructions of Step 1 to 3 and give detailed explanation where necessary. Use the format of the example below. Terminate after finishing Step 3.

Example output:

### Step 1: Outcome of Precedent (*ABC v GHI*)

In the case of *ABC v GHI* (precedent p), [brief facts], the court ruled that [outcome o].

### Step 2: Shared Legal Concepts

Both in *ABC v GHI* and in our current case, we see the following legal concepts and fact patterns:

- [legal concept 1]: [fact pattern 1]
- [legal concept 2]: [fact pattern 2]
- [legal concept 3]: [fact pattern 3]
- [legal concept 4]: [fact pattern 4]

### Step 3: Extraction of legal rule from Precedent (*ABC v GHI*)

This suggests a general rule that when we see [fact pattern i\*], the court should decide [outcome o]. This rule was justified in *ABC v GHI* because [policy arguments for outcome o on underlying values specific to p]

[ASSISTANT]

### Step 1: Outcome of Precedent (*SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*)

In the case of *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD* (precedent p), the tenant argued that the COVID-19 pandemic and social unrest



frustrated the tenancy agreement, making it impossible to fulfill. The court ruled that the tenant did not raise a triable issue on the grounds of frustration, as the pandemic and social unrest did not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the execution of the Tenancy Agreement (outcome o).

### ### Step 2: Shared Legal Concepts

Both in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD and in our current case, we see the following legal concepts and fact patterns:

- **Legal Concept 1: Frustration of Contract**:

- **Fact Pattern 1**: In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- **Legal Concept 2: Fundamental Change in Contractual Obligations**:

- **Fact Pattern 2**: In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- **Legal Concept 3: Reasonable Contemplation at the Time of Contract**:

- **Fact Pattern 3**: In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- **Legal Concept 4: Performance of Contract**:

- **Fact Pattern 4**: In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

### ### Step 3: Extraction of Legal Rule from Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

This suggests a general rule that when we see a fact pattern where an unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract, the court should decide that the contract is not frustrated (outcome o). This rule was justified in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD because the positive effects (E+) of maintaining contractual stability and predictability outweighed the negative effects (E-) of enforcing the contract under changed circumstances. The court emphasized the importance of upholding contractual obligations unless there is a fundamental change that was not reasonably foreseeable at the time of the contract.

**Prompt (legal reasoning) (cases) (analogy) (step 4) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of `{judgment['citation']}`:

`{judgment['context']}`

The scenario (current case):

`{user_input}`



The area of law:

{area}

The legal issue:

{issue}

Previous Steps:

{analysis}

Instruction:

Step 4. Applying the Rule to the Current Case: Finally, argue that this same rule should apply to the current case c. Contend that because the fact pattern i\* is present in case c, the outcome o should also be applied here. To justify this application, assert that, just as in the precedent case, the positive effects (E+) of outcome o on the underlying values and principles of the law in case c would outweigh any negative effects (E-). You might conclude: "Given that our current case shares [the same crucial fact pattern i\*], we submit that the court should reach [the same outcome o]. This decision would be justified because, as in ABC v GHI, it would have the following positive effects..."

Follow the instructions of Step 4 and give detailed explanation where necessary. Use the format of the example below. Terminate after finishing Step 4. Do not repeat the previous steps.

Example output:

### Step 4: Applying the Rule to the Current Case

In the current case, the same legal concepts and fact patterns as the precedent (ABC v GHI) is present:

- [legal concept 1]: [fact pattern 1]
- [legal concept 2]: [fact pattern 2]
- [legal concept 3]: [fact pattern 3]
- [legal concept 4]: [fact pattern 4]

Given that our current case shares [fact patterns i\*], we submit that the court should reach [outcome o]. This decision would be justified because, as in ABC v GHI, it would have [policy arguments for outcome o on underlying values specific to current case]

**Example (legal reasoning) (cases) (analogy) (step 4) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER [2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) (precedent):

[omitted for brevity]

The scenario (current case):

Scanda Limited ("Scanda") supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire

is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda's showroom and inspecting some office chairs for her business's new premises two days before the fire, agreed to purchase '50 Galaxy Ergonomic Office Chairs.' On checking its stock Scanda informed Jane "You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days' time."

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Previous Steps:

### Step 1: Outcome of Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

In the case of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD (precedent p), the tenant argued that the COVID-19 pandemic and social unrest frustrated the tenancy agreement, making it impossible to fulfill. The court ruled that the tenant did not raise a triable issue on the grounds of frustration, as the pandemic and social unrest did not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the execution of the Tenancy Agreement (outcome o).

### Step 2: Shared Legal Concepts

Both in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD and in our current case, we see the following legal concepts and fact patterns:

- \*\*Legal Concept 1: Frustration of Contract\*\*:

- \*\*Fact Pattern 1\*\*:

In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- \*\*Legal Concept 2: Fundamental Change in Contractual Obligations\*\*:

- \*\*Fact Pattern 2\*\*:

In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- \*\*Legal Concept 3: Reasonable Contemplation at the Time of Contract\*\*:

- \*\*Fact Pattern 3\*\*:

In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- \*\*Legal Concept 4: Performance of Contract\*\*:

- \*\*Fact Pattern 4\*\*:

In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

### Step 3: Extraction of Legal Rule from Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

This suggests a general rule that when we see a fact pattern where an unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract, the court should decide that the contract is not frustrated (outcome o). This rule was justified in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD because the positive effects (E+) of maintaining contractual stability and predictability outweighed the negative effects (E-) of enforcing the contract under changed circumstances. The court emphasized the importance of upholding contractual obligations unless there is a fundamental change that was not reasonably foreseeable at the time of the contract.

Instruction:

Step 4. Applying the Rule to the Current Case: Finally, argue that this same rule should apply to the current case c. Contend that because the fact pattern i\* is present in case c, the outcome o should also be applied here. To justify this application, assert that, just as in the precedent case, the positive effects (E+) of outcome o on the underlying values and principles of the law in case c would outweigh any negative effects (E-). You might conclude: "Given that our current case shares [the same crucial fact pattern i\*], we submit that the court should reach [the same outcome o]. This decision would be justified because, as in ABC v GHI, it would have the following positive effects..."

Follow the instructions of Step 4 and give detailed explanation where necessary. Use the format of the example below. Terminate after finishing Step 4. Do not repeat the previous steps.

Example output:

### Step 4: Applying the Rule to the Current Case

In the current case, the same legal concepts and fact patterns as the precedent (ABC v GHI) is present:

- [legal concept 1]: [fact pattern 1]
- [legal concept 2]: [fact pattern 2]
- [legal concept 3]: [fact pattern 3]
- [legal concept 4]: [fact pattern 4]

Given that our current case shares [fact patterns i\*], we submit that the court should reach [outcome o]. This decision would be justified because, as in ABC v GHI, it would have [policy arguments for outcome o on underlying values specific to current case]

[ASSISTANT]

### Step 4: Applying the Rule to the Current Case

In the current case, the same legal concepts and fact patterns as the precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD) are present:

- \*\*Legal Concept 1: Frustration of Contract\*\*:

- \*\*Fact Pattern 1\*\*:

In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- \*\*Legal Concept 2: Fundamental Change in Contractual Obligations\*\*:

- \*\*Fact Pattern 2\*\*:

In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- \*\*Legal Concept 3: Reasonable Contemplation at the Time of Contract\*\*:

- \*\*Fact Pattern 3\*\*:

In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- \*\*Legal Concept 4: Performance of Contract\*\*:

- \*\*Fact Pattern 4\*\*:

In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to

determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

Given that our current case shares these crucial fact patterns, we submit that the court should reach the same outcome as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, which is that the contract is not frustrated. This decision would be justified because, as in *SUNBROAD*, it would have the following positive effects:

1. **Contractual Stability and Predictability**: Upholding the contract despite the fire would reinforce the principle that contracts should be honored unless there is a fundamental change that was not reasonably foreseeable at the time of the contract. This promotes stability and predictability in commercial transactions.
2. **Encouragement of Risk Management**: By not allowing the fire to frustrate the contract, the court would encourage businesses to take appropriate measures to manage risks, such as obtaining insurance for unforeseen events like fires.
3. **Fairness and Equity**: The court's decision would ensure that parties cannot easily escape their contractual obligations due to unforeseen events, thereby maintaining fairness and equity in commercial dealings.
4. **Economic Efficiency**: Enforcing the contract would prevent unnecessary economic disruptions and ensure that resources are allocated efficiently, as parties would be more likely to take proactive steps to mitigate risks.

Therefore, given that our current case shares the same crucial fact patterns, we submit that the court should reach the same outcome. This decision would be justified because, as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, it would have the positive effects of promoting contractual stability, encouraging risk management, ensuring fairness, and maintaining economic efficiency.

**Prompt (legal reasoning) (cases) (analogy) (step 5-6) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of {judgment['citation']} (precedent):

{judgment['context']}

The scenario (current case):

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Previous Steps:

{ **analysis** }

Instruction:

Step 5. Distinction Due to Missing Feature in Current Case: Begin by identifying an intermediate legal concept (ILC) *m* that was present in the precedent case *p*. Argue that this concept *m* was crucial in justifying the outcome *o* in *p*, as it ensured that the positive effects on underlying legal values outweighed the negative effects. Then, point out that this crucial concept *m* is absent in the current case *c*. For example, "In the precedent case *ABC v GHI*, the court's decision was significantly influenced by [factor *m*]. [Factor *m*] was key in ensuring that the benefits of the ruling [benefits] outweighed any potential drawbacks [drawbacks] because [reasons]. However, in our current case, this crucial [factor *m*] is notably absent as [explanation]." If you cannot identify the Distinctions in Step 5, skip to Step 6.

Step 6. Distinction Due to Missing Feature in Precedent Case: Identify an intermediate legal concept (ILC) *m* that is present in the current case *c* but was absent in the precedent case *p*. Argue that the presence of *m* in the current case either conflicts with the shared fact pattern *i*\* or significantly alters the balance of positive and negative effects. You could state, "Our current case involves an important factor [m] that was not present in *ABC v GHI*. This factor [conflicts with/significantly alters] the situation described by [*i*\*]. Because of [m], applying the same outcome in our case would have more negative consequences than positive ones, unlike in *ABC v GHI*." If you cannot identify the Distinctions in Step 6, terminate your answer.

Follow the instructions of Step 5 to 6 and give detailed explanation where necessary. Use the format of the examples below. Terminate after finishing Step 6. Do not repeat previous steps.

Example output (cannot identify distinctions):

### Step 5: Distinction Due to Missing Feature in Current Case

Skipped

### Step 6: Distinction Due to Missing Feature in Precedent Case

Skipped

Example output:

### Step 5: Distinction Due to Missing Feature in Current Case

In the precedent case [*ABC v GHI*], the court's decision was significantly influenced by [factor *m*]. [Factor *m*] was key in ensuring that the benefits of the ruling [benefits] outweighed any potential drawbacks [drawbacks] because [reasons]. However, in our current case, this crucial [factor *m*] is notably absent as [explanation].

### Step 6: Distinction Due to Missing Feature in Precedent Case

Our current case involves an important factor [m] that was not present in [*ABC v GHI*]. This factor [conflicts with/significantly alters] the situation described by [*i*\*] because [reasons]. Due to [m], applying the same [outcome *o*] in our case would have more negative consequences such as [negative consequences] than positive ones, unlike in [*ABC v GHI*] because [explanation].

**Example (legal reasoning) (cases) (analogy) (step 5-6) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER [2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) (precedent):

[omitted for brevity]

The scenario (current case):

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Previous Steps:

### Step 1: Outcome of Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

In the case of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD (precedent p), the tenant argued that the COVID-19 pandemic and social unrest frustrated the tenancy agreement, making it impossible to fulfill. The court ruled that the tenant did not raise a triable issue on the grounds of frustration, as the pandemic and social unrest did not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the execution of the Tenancy Agreement (outcome o).

### Step 2: Shared Legal Concepts

Both in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD and in our current case, we see the following legal concepts and fact patterns:

- \*\*Legal Concept 1: Frustration of Contract\*\*:

- \*\*Fact Pattern 1\*\*:

In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- \*\*Legal Concept 2: Fundamental Change in Contractual Obligations\*\*:

- \*\*Fact Pattern 2\*\*:

In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- \*\*Legal Concept 3: Reasonable Contemplation at the Time of Contract\*\*:

- \*\*Fact Pattern 3\*\*:

In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- \*\*Legal Concept 4: Performance of Contract\*\*:

- \*\*Fact Pattern 4\*\*:

In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

### ### Step 3: Extraction of Legal Rule from Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

This suggests a general rule that when we see a fact pattern where an unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract, the court should decide that the contract is not frustrated (outcome o). This rule was justified in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD because the positive effects (E+) of maintaining contractual stability and predictability outweighed the negative effects (E-) of enforcing the contract under changed circumstances. The court emphasized the importance of upholding contractual obligations unless there is a fundamental change that was not reasonably foreseeable at the time of the contract.

### ### Step 4: Applying the Rule to the Current Case

In the current case, the same legal concepts and fact patterns as the precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD) are present:

- **Legal Concept 1: Frustration of Contract**:

- **Fact Pattern 1**: In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- **Legal Concept 2: Fundamental Change in Contractual Obligations**:

- **Fact Pattern 2**: In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- **Legal Concept 3: Reasonable Contemplation at the Time of Contract**:

- **Fact Pattern 3**: In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- **Legal Concept 4: Performance of Contract**:

- **Fact Pattern 4**: In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

Given that our current case shares these crucial fact patterns, we submit that the court should reach the same outcome as in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD, which is that the contract is not frustrated. This decision would be justified because, as in SUNBROAD, it would have the following positive effects:

1. **Contractual Stability and Predictability**: Upholding the contract despite the fire would reinforce the principle that contracts should be honored unless there is a fundamental change that was not reasonably foreseeable at the time of the contract. This promotes stability and predictability in commercial transactions.

2. **\*\*Encouragement of Risk Management\*\***: By not allowing the fire to frustrate the contract, the court would encourage businesses to take appropriate measures to manage risks, such as obtaining insurance for unforeseen events like fires.

3. **\*\*Fairness and Equity\*\***: The court's decision would ensure that parties cannot easily escape their contractual obligations due to unforeseen events, thereby maintaining fairness and equity in commercial dealings.

4. **\*\*Economic Efficiency\*\***: Enforcing the contract would prevent unnecessary economic disruptions and ensure that resources are allocated efficiently, as parties would be more likely to take proactive steps to mitigate risks.

Therefore, given that our current case shares the same crucial fact patterns, we submit that the court should reach the same outcome. This decision would be justified because, as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, it would have the positive effects of promoting contractual stability, encouraging risk management, ensuring fairness, and maintaining economic efficiency.

Instruction:

Step 5. Distinction Due to Missing Feature in Current Case: Begin by identifying an intermediate legal concept (ILC) *m* that was present in the precedent case *p*. Argue that this concept *m* was crucial in justifying the outcome *o* in *p*, as it ensured that the positive effects on underlying legal values outweighed the negative effects. Then, point out that this crucial concept *m* is absent in the current case *c*. For example, "In the precedent case *ABC v GHI*, the court's decision was significantly influenced by [factor *m*]. [Factor *m*] was key in ensuring that the benefits of the ruling [benefits] outweighed any potential drawbacks [drawbacks] because [reasons]. However, in our current case, this crucial [factor *m*] is notably absent as [explanation]." If you cannot identify the Distinctions in Step 5, skip to Step 6.

Step 6. Distinction Due to Missing Feature in Precedent Case: Identify an intermediate legal concept (ILC) *m* that is present in the current case *c* but was absent in the precedent case *p*. Argue that the presence of *m* in the current case either conflicts with the shared fact pattern *i*\* or significantly alters the balance of positive and negative effects. You could state, "Our current case involves an important factor [m] that was not present in *ABC v GHI*. This factor [conflicts with/significantly alters] the situation described by [*i*\*]. Because of [m], applying the same outcome in our case would have more negative consequences than positive ones, unlike in *ABC v GHI*." If you cannot identify the Distinctions in Step 6, terminate your answer.

Follow the instructions of Step 5 to 6 and give detailed explanation where necessary. Use the format of the examples below. Terminate after finishing Step 6. Do not repeat previous steps.

Example output (cannot identify distinctions):

### Step 5: Distinction Due to Missing Feature in Current Case

Skipped

### Step 6: Distinction Due to Missing Feature in Precedent Case

Skipped

Example output:

### Step 5: Distinction Due to Missing Feature in Current Case

In the precedent case [*ABC v GHI*], the court's decision was significantly influenced by [factor *m*]. [Factor *m*] was key in ensuring that the benefits of the ruling [benefits] outweighed any potential drawbacks [drawbacks] because [reasons]. However, in our current case, this crucial [factor *m*] is notably absent as [explanation].

### Step 6: Distinction Due to Missing Feature in Precedent Case



Our current case involves an important factor [m] that was not present in [ABC v GHI]. This factor [conflicts with/significantly alters] the situation described by [i\*] because [reasons]. Due to [m], applying the same [outcome o] in our case would have more negative consequences such as [negative consequences] than positive ones, unlike in [ABC v GHI] because [explanation].

[ASSISTANT]

### Step 5: Distinction Due to Missing Feature in Current Case

Skipped

### Step 6: Distinction Due to Missing Feature in Precedent Case

Our current case involves an important factor, the destruction of specific goods (the 50 Galaxy Ergonomic Office Chairs) by fire, that was not present in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD. This factor significantly alters the situation described by the shared fact pattern of frustration of contract. In SUNBROAD, the tenant's ability to perform some of its obligations despite the pandemic was a key consideration. However, in our current case, the fire has completely destroyed the specific goods that were the subject of the contract, making it impossible for Scanda to deliver the exact chairs Jane purchased.

Due to the destruction of the specific goods, applying the same outcome (that the contract is not frustrated) in our case would have more negative consequences such as unfairly holding Scanda liable for an obligation it can no longer fulfill due to circumstances beyond its control. Unlike in SUNBROAD, where the tenant could still perform some obligations, the fire has rendered performance by Scanda impossible. This fundamental difference means that the balance of positive and negative effects shifts, and the doctrine of frustration should be considered applicable in our current case to discharge Scanda from its contractual obligations.

**Prompt (legal reasoning) (cases) (analogy) (step 7-8) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of {judgment['citation']} (precedent):

{judgment['context']}

The scenario (current case):

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Previous Steps:

{analysis}

Instruction:

Step 7. Argument from Undesirable Consequence: Propose an alternative rule that includes both the shared fact pattern  $i^*$  and the missing feature  $m$ . State this rule as: "If both  $i^*$  and  $m$  are present, then outcome  $o$  should follow." Argue that omitting  $m$  from this rule would lead to an undesirable consequence  $q$ , or conversely, that including  $m$  prevents this undesirable outcome. If possible, support this argument by referencing explicit statements in the precedent case  $p$  that highlight the relevance of  $m$  to the decision. You might say, "We propose that the correct rule from  $ABC \text{ v } GHI$  should be stated as 'When both [ $i^*$ ] and [ $m$ ] are present, the court should decide [ $o$ ].' Omitting [ $m$ ] from this rule could lead to [undesirable consequence  $q$ ]. (If applicable: Indeed, the opinion in  $ABC \text{ v } GHI$  [quote] explicitly states that [ $m$ ] was crucial to their decision.)" If you cannot propose an alternative rule in Step 7, skip to Step 8.

Step 8. Distinction from Non-occurring Undesirable Consequence: Hypothesize about the purpose behind the rule established in the precedent case  $p$ . Suggest that this rule was created to prevent a specific undesirable consequence  $u$ . Then, demonstrate that this undesirable consequence  $u$  is not a risk in the current case  $c$ . Argue that because the purpose of the precedent's rule doesn't apply to the current case, the rule itself shouldn't apply. For instance, "The rule established in  $ABC \text{ v } GHI$  was clearly designed to prevent [undesirable consequence  $u$ ]. However, in our current case, there's no risk of [ $u$ ] occurring. Therefore, applying [the precedent's rule] here would be misguided, as the very purpose it serves is not relevant to our situation." If you cannot identify the undesirable consequence in Step 8, terminate your answer.

Follow the instructions of Step 7 to 8 and give detailed explanation where necessary. Use the format of the examples below. Terminate after finishing Step 8. Do not repeat previous steps.

Example output (cannot answer):

### Step 7: Argument from Undesirable Consequence

Skipped

### Step 8: Distinction from Non-occurring Undesirable Consequence

Skipped

Example output:

### Step 7: Argument from Undesirable Consequence

We propose that the correct rule from [ $ABC \text{ v } GHI$ ] should be stated as 'When both [ $i^*$ ] and [ $m$ ] are present, the court should decide [ $o$ ].' Omitting [ $m$ ] from this rule could lead to [undesirable consequence  $q$ ]. (If applicable: Indeed, the opinion in  $ABC \text{ v } GHI$  [quote] explicitly states that [ $m$ ] was crucial to their decision.)

### Step 8: Distinction from Non-occurring Undesirable Consequence

The rule established in  $ABC \text{ v } GHI$  was clearly designed to prevent [undesirable consequence  $u$ ]. However, in our current case, there's no risk of [ $u$ ] occurring. Therefore, applying [the precedent's rule] here would be misguided, as the very purpose it serves is not relevant to our situation.

### Example (legal reasoning) (cases) (analogy) (step 7-8) temperature=0.2, top\_p=0.2

[SYSTEM]

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[USER]

Excerpt of  $SUNBROAD \text{ HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER [2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) (precedent):$

[omitted for brevity]

The scenario (current case):

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Previous Steps:

### Step 1: Outcome of Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

In the case of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD (precedent p), the tenant argued that the COVID-19 pandemic and social unrest frustrated the tenancy agreement, making it impossible to fulfill. The court ruled that the tenant did not raise a triable issue on the grounds of frustration, as the pandemic and social unrest did not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the execution of the Tenancy Agreement (outcome o).

### Step 2: Shared Legal Concepts

Both in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD and in our current case, we see the following legal concepts and fact patterns:

- \*\*Legal Concept 1: Frustration of Contract\*\*:

- \*\*Fact Pattern 1\*\*:

In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- \*\*Legal Concept 2: Fundamental Change in Contractual Obligations\*\*:

- \*\*Fact Pattern 2\*\*:

In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- \*\*Legal Concept 3: Reasonable Contemplation at the Time of Contract\*\*:

- \*\*Fact Pattern 3\*\*:

In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- \*\*Legal Concept 4: Performance of Contract\*\*:

- \*\*Fact Pattern 4\*\*:

In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

### Step 3: Extraction of Legal Rule from Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

This suggests a general rule that when we see a fact pattern where an unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract, the court should decide that the contract is not frustrated (outcome o). This rule was justified in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD* because the positive effects (E+) of maintaining contractual stability and predictability outweighed the negative effects (E-) of enforcing the contract under changed circumstances. The court emphasized the importance of upholding contractual obligations unless there is a fundamental change that was not reasonably foreseeable at the time of the contract.

#### ### Step 4: Applying the Rule to the Current Case

In the current case, the same legal concepts and fact patterns as the precedent (*SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*) are present:

- **Legal Concept 1: Frustration of Contract**:

- **Fact Pattern 1**: In *SUNBROAD*, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- **Legal Concept 2: Fundamental Change in Contractual Obligations**:

- **Fact Pattern 2**: In *SUNBROAD*, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- **Legal Concept 3: Reasonable Contemplation at the Time of Contract**:

- **Fact Pattern 3**: In *SUNBROAD*, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- **Legal Concept 4: Performance of Contract**:

- **Fact Pattern 4**: In *SUNBROAD*, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

Given that our current case shares these crucial fact patterns, we submit that the court should reach the same outcome as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, which is that the contract is not frustrated. This decision would be justified because, as in *SUNBROAD*, it would have the following positive effects:

1. **Contractual Stability and Predictability**: Upholding the contract despite the fire would reinforce the principle that contracts should be honored unless there is a fundamental change that was not reasonably foreseeable at the time of the contract. This promotes stability and predictability in commercial transactions.

2. **Encouragement of Risk Management**: By not allowing the fire to frustrate the contract, the court would encourage businesses to take appropriate measures to manage risks, such as obtaining insurance for unforeseen events like fires.

3. **\*\*Fairness and Equity\*\***: The court's decision would ensure that parties cannot easily escape their contractual obligations due to unforeseen events, thereby maintaining fairness and equity in commercial dealings.

4. **\*\*Economic Efficiency\*\***: Enforcing the contract would prevent unnecessary economic disruptions and ensure that resources are allocated efficiently, as parties would be more likely to take proactive steps to mitigate risks.

Therefore, given that our current case shares the same crucial fact patterns, we submit that the court should reach the same outcome. This decision would be justified because, as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, it would have the positive effects of promoting contractual stability, encouraging risk management, ensuring fairness, and maintaining economic efficiency.

### Step 5: Distinction Due to Missing Feature in Current Case  
Skipped

### Step 6: Distinction Due to Missing Feature in Precedent Case

Our current case involves an important factor, the destruction of specific goods (the 50 Galaxy Ergonomic Office Chairs) by fire, that was not present in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*. This factor significantly alters the situation described by the shared fact pattern of frustration of contract. In *SUNBROAD*, the tenant's ability to perform some of its obligations despite the pandemic was a key consideration. However, in our current case, the fire has completely destroyed the specific goods that were the subject of the contract, making it impossible for Scanda to deliver the exact chairs Jane purchased.

Due to the destruction of the specific goods, applying the same outcome (that the contract is not frustrated) in our case would have more negative consequences such as unfairly holding Scanda liable for an obligation it can no longer fulfill due to circumstances beyond its control. Unlike in *SUNBROAD*, where the tenant could still perform some obligations, the fire has rendered performance by Scanda impossible. This fundamental difference means that the balance of positive and negative effects shifts, and the doctrine of frustration should be considered applicable in our current case to discharge Scanda from its contractual obligations.

Instruction:

Step 7. Argument from Undesirable Consequence: Propose an alternative rule that includes both the shared fact pattern  $i^*$  and the missing feature  $m$ . State this rule as: "If both  $i^*$  and  $m$  are present, then outcome  $o$  should follow." Argue that omitting  $m$  from this rule would lead to an undesirable consequence  $q$ , or conversely, that including  $m$  prevents this undesirable outcome. If possible, support this argument by referencing explicit statements in the precedent case  $p$  that highlight the relevance of  $m$  to the decision. You might say, "We propose that the correct rule from *ABC v GHI* should be stated as 'When both [ $i^*$ ] and [ $m$ ] are present, the court should decide [ $o$ ].' Omitting [ $m$ ] from this rule could lead to [undesirable consequence  $q$ ]. (If applicable: Indeed, the opinion in *ABC v GHI* [quote] explicitly states that [ $m$ ] was crucial to their decision.)" If you cannot propose an alternative rule in Step 7, skip to Step 8.

Step 8. Distinction from Non-occurring Undesirable Consequence: Hypothesize about the purpose behind the rule established in the precedent case  $p$ . Suggest that this rule was created to prevent a specific undesirable consequence  $u$ . Then, demonstrate that this undesirable consequence  $u$  is not a risk in the current case  $c$ . Argue that because the purpose of the precedent's rule doesn't apply to the current case, the rule itself shouldn't apply. For instance, "The rule established in *ABC v GHI* was clearly designed to prevent [undesirable consequence  $u$ ]. However, in our current case, there's no risk of [ $u$ ] occurring."

Therefore, applying [the precedent's rule] here would be misguided, as the very purpose it serves is not relevant to our situation." If you cannot identify the undesirable consequence in Step 8, terminate your answer.

Follow the instructions of Step 7 to 8 and give detailed explanation where necessary. Use the format of the examples below. Terminate after finishing Step 8. Do not repeat previous steps.

Example output (cannot answer):

### Step 7: Argument from Undesirable Consequence

Skipped

### Step 8: Distinction from Non-occurring Undesirable Consequence

Skipped

Example output:

### Step 7: Argument from Undesirable Consequence

We propose that the correct rule from [ABC v GHI] should be stated as 'When both [i\*] and [m] are present, the court should decide [o].' Omitting [m] from this rule could lead to [undesirable consequence q]. (If applicable: Indeed, the opinion in ABC v GHI [quote] explicitly states that [m] was crucial to their decision.)

### Step 8: Distinction from Non-occurring Undesirable Consequence

The rule established in ABC v GHI was clearly designed to prevent [undesirable consequence u]. However, in our current case, there's no risk of [u] occurring. Therefore, applying [the precedent's rule] here would be misguided, as the very purpose it serves is not relevant to our situation.

[ASSISTANT]

### Step 7: Argument from Undesirable Consequence

We propose that the correct rule from SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD should be stated as: "When both [the unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract] and [the specific goods that are the subject of the contract are not destroyed] are present, the court should decide [the contract is not frustrated]." Omitting [the specific goods that are the subject of the contract are not destroyed] from this rule could lead to the undesirable consequence of holding parties liable for obligations they can no longer fulfill due to circumstances beyond their control, which would be unfair and contrary to the principles of justice and equity. Indeed, the opinion in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD explicitly states that the tenant was still able to perform some of its obligations despite the pandemic, highlighting the relevance of the ability to perform contractual obligations to their decision.

### Step 8: Distinction from Non-occurring Undesirable Consequence

The rule established in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD was clearly designed to prevent the undesirable consequence of parties easily escaping their contractual obligations due to unforeseen events that do not fundamentally alter the nature of the contract. However, in our current case, there's no risk of this undesirable consequence occurring because the fire has completely destroyed the specific goods (the 50 Galaxy Ergonomic Office Chairs) that were the subject of the contract, making it impossible for Scanda to fulfill its obligation to deliver the chairs. Therefore, applying the precedent's rule here would be misguided, as the very purpose it serves is not relevant to our situation. The destruction of the specific goods fundamentally changes the nature of the contractual obligations, making the doctrine of frustration applicable in this case.

**Prompt (legal reasoning) (cases) (analogy) (step 9-10) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of {judgment['citation']} (precedent):

{judgment['context']}

The scenario (current case):

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Previous Steps:

{analysis}

Instruction:

Step 9. Downplaying Significance of Distinction: When faced with a distinction between your current case and a precedent, specifically the absence of an intermediate legal concept (ILC) m in your case, focus on the potential consequences of requiring this distinction. Argue that if m were to be required for the analogy to the precedent p, it would lead to an undesirable outcome. Alternatively, highlight the beneficial consequences if m were not required. For example, you might say: "While it's true that our case lacks [factor m], which was present in the precedent case [ABC v GHI], requiring this factor for all similar cases of [fact pattern i\*] would lead to [undesirable consequence]. Conversely, not requiring [m] would allow for [desirable outcome], which better aligns with the underlying principles of the law in this area [explanation of relation to underlying principles]." If you cannot think of an argument, skip to Step 10.

Step 10. Feature Substitution: When your current case lacks an intermediate legal concept (ILC) m that was present in a relevant precedent, identify another ILC n that is present in your case but absent in the precedent. Argue that n effectively compensates for the absence of m. Demonstrate how the presence of n, combined with the shared fact pattern i\*, justifies the same outcome as the precedent by showing that the positive effects on legal values still outweigh the negative effects. You might argue: "Although our case lacks [factor m], which was present in ABC v GHI, we have the additional [factor n]. This [factor n], when considered alongside [the shared circumstances i\*], serves a similar function to [m] in the precedent case. Given the presence of [n], we submit that the reasoning in [ABC v GHI] still applies, as the positive effects on [relevant legal values] would still outweigh any potential negative consequences, just as they did in the precedent case." If you cannot identify another ILC, terminate your answer.

Follow the instructions of Step 9 to 10 and give detailed explanation where necessary. Use the format of the examples below. Terminate after finishing Step 10. Do not repeat previous steps.

Example output (cannot answer):

### Step 9: Downplaying Significance of Distinction

Skipped

### ### Step 10: Feature Substitution

Skipped

Example output:

### ### Step 9: Downplaying Significance of Distinction

While it's true that our case lacks [factor m], which was present in the precedent case [ABC v GHI], requiring this factor for all similar cases of [fact pattern i\*] would lead to [undesirable consequence]. Conversely, not requiring [m] would allow for [desirable outcome], which better aligns with the underlying principles of the law in this area [explanation of relation to underlying principles].

### ### Step 10: Feature Substitution

Although our case lacks [factor m], which was present in ABC v GHI, we have the additional [factor n]. This [factor n], when considered alongside [the shared circumstances i\*], serves a similar function to [m] in the precedent case. Given the presence of [n], we submit that the reasoning in [ABC v GHI] still applies, as the positive effects on [relevant legal values] would still outweigh any potential negative consequences, just as they did in the precedent case.

### Example (legal reasoning) (cases) (analogy) (step 9-10) temperature=0.2, top\_p=0.2

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER [2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) (precedent):

[omitted for brevity]

The scenario (current case):

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Previous Steps:

### ### Step 1: Outcome of Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

In the case of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD (precedent p), the tenant argued that the COVID-19 pandemic and social unrest



frustrated the tenancy agreement, making it impossible to fulfill. The court ruled that the tenant did not raise a triable issue on the grounds of frustration, as the pandemic and social unrest did not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the execution of the Tenancy Agreement (outcome o).

### ### Step 2: Shared Legal Concepts

Both in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD and in our current case, we see the following legal concepts and fact patterns:

- \*\*Legal Concept 1: Frustration of Contract\*\*:
  - \*\*Fact Pattern 1\*\*:
- \*\*Legal Concept 2: Fundamental Change in Contractual Obligations\*\*:
  - \*\*Fact Pattern 2\*\*:
- \*\*Legal Concept 3: Reasonable Contemplation at the Time of Contract\*\*:
  - \*\*Fact Pattern 3\*\*:
- \*\*Legal Concept 4: Performance of Contract\*\*:
  - \*\*Fact Pattern 4\*\*:

### ### Step 3: Extraction of Legal Rule from Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

This suggests a general rule that when we see a fact pattern where an unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract, the court should decide that the contract is not frustrated (outcome o). This rule was justified in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD because the positive effects (E+) of maintaining contractual stability and predictability outweighed the negative effects (E-) of enforcing the contract under changed circumstances. The court emphasized the importance of upholding contractual obligations unless there is a fundamental change that was not reasonably foreseeable at the time of the contract.

### ### Step 4: Applying the Rule to the Current Case

In the current case, the same legal concepts and fact patterns as the precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD) are present:

- \*\*Legal Concept 1: Frustration of Contract\*\*:
  - \*\*Fact Pattern 1\*\*:
- \*\*Legal Concept 2: Fundamental Change in Contractual Obligations\*\*:
  - \*\*Fact Pattern 2\*\*:

obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- **Legal Concept 3: Reasonable Contemplation at the Time of Contract**:

- **Fact Pattern 3**: In *SUNBROAD*, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- **Legal Concept 4: Performance of Contract**:

- **Fact Pattern 4**: In *SUNBROAD*, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

Given that our current case shares these crucial fact patterns, we submit that the court should reach the same outcome as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, which is that the contract is not frustrated. This decision would be justified because, as in *SUNBROAD*, it would have the following positive effects:

1. **Contractual Stability and Predictability**: Upholding the contract despite the fire would reinforce the principle that contracts should be honored unless there is a fundamental change that was not reasonably foreseeable at the time of the contract. This promotes stability and predictability in commercial transactions.
2. **Encouragement of Risk Management**: By not allowing the fire to frustrate the contract, the court would encourage businesses to take appropriate measures to manage risks, such as obtaining insurance for unforeseen events like fires.
3. **Fairness and Equity**: The court's decision would ensure that parties cannot easily escape their contractual obligations due to unforeseen events, thereby maintaining fairness and equity in commercial dealings.
4. **Economic Efficiency**: Enforcing the contract would prevent unnecessary economic disruptions and ensure that resources are allocated efficiently, as parties would be more likely to take proactive steps to mitigate risks.

Therefore, given that our current case shares the same crucial fact patterns, we submit that the court should reach the same outcome. This decision would be justified because, as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, it would have the positive effects of promoting contractual stability, encouraging risk management, ensuring fairness, and maintaining economic efficiency.

### Step 5: Distinction Due to Missing Feature in Current Case  
Skipped

### Step 6: Distinction Due to Missing Feature in Precedent Case

Our current case involves an important factor, the destruction of specific goods (the 50 Galaxy Ergonomic Office Chairs) by fire, that was not present in

SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD. This factor significantly alters the situation described by the shared fact pattern of frustration of contract. In SUNBROAD, the tenant's ability to perform some of its obligations despite the pandemic was a key consideration. However, in our current case, the fire has completely destroyed the specific goods that were the subject of the contract, making it impossible for Scanda to deliver the exact chairs Jane purchased.

Due to the destruction of the specific goods, applying the same outcome (that the contract is not frustrated) in our case would have more negative consequences such as unfairly holding Scanda liable for an obligation it can no longer fulfill due to circumstances beyond its control. Unlike in SUNBROAD, where the tenant could still perform some obligations, the fire has rendered performance by Scanda impossible. This fundamental difference means that the balance of positive and negative effects shifts, and the doctrine of frustration should be considered applicable in our current case to discharge Scanda from its contractual obligations.

#### ### Step 7: Argument from Undesirable Consequence

We propose that the correct rule from SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD should be stated as: "When both [the unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract] and [the specific goods that are the subject of the contract are not destroyed] are present, the court should decide [the contract is not frustrated]." Omitting [the specific goods that are the subject of the contract are not destroyed] from this rule could lead to the undesirable consequence of holding parties liable for obligations they can no longer fulfill due to circumstances beyond their control, which would be unfair and contrary to the principles of justice and equity. Indeed, the opinion in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD explicitly states that the tenant was still able to perform some of its obligations despite the pandemic, highlighting the relevance of the ability to perform contractual obligations to their decision.

#### ### Step 8: Distinction from Non-occurring Undesirable Consequence

The rule established in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD was clearly designed to prevent the undesirable consequence of parties easily escaping their contractual obligations due to unforeseen events that do not fundamentally alter the nature of the contract. However, in our current case, there's no risk of this undesirable consequence occurring because the fire has completely destroyed the specific goods (the 50 Galaxy Ergonomic Office Chairs) that were the subject of the contract, making it impossible for Scanda to fulfill its obligation to deliver the chairs. Therefore, applying the precedent's rule here would be misguided, as the very purpose it serves is not relevant to our situation. The destruction of the specific goods fundamentally changes the nature of the contractual obligations, making the doctrine of frustration applicable in this case.

Instruction:

Step 9. Downplaying Significance of Distinction: When faced with a distinction between your current case and a precedent, specifically the absence of an intermediate legal concept (ILC) *m* in your case, focus on the potential consequences of requiring this distinction. Argue that if *m* were to be required for the analogy to the precedent *p*, it would lead to an undesirable outcome. Alternatively, highlight the beneficial consequences if *m* were not required. For example, you might say: "While it's true that our case lacks [factor *m*], which was present in the precedent case [ABC v GHI], requiring this factor for all similar cases of [fact pattern *i*\*] would lead to [undesirable consequence]. Conversely, not requiring [*m*] would allow for [desirable outcome], which better aligns with the underlying principles of the law in this area [explanation of relation to underlying principles]." If you cannot think of an argument, skip to Step 10.

Step 10. Feature Substitution: When your current case lacks an intermediate legal concept (ILC) m that was present in a relevant precedent, identify another ILC n that is present in your case but absent in the precedent. Argue that n effectively compensates for the absence of m. Demonstrate how the presence of n, combined with the shared fact pattern i\*, justifies the same outcome as the precedent by showing that the positive effects on legal values still outweigh the negative effects. You might argue: "Although our case lacks [factor m], which was present in ABC v GHI, we have the additional [factor n]. This [factor n], when considered alongside [the shared circumstances i\*], serves a similar function to [m] in the precedent case. Given the presence of [n], we submit that the reasoning in [ABC v GHI] still applies, as the positive effects on [relevant legal values] would still outweigh any potential negative consequences, just as they did in the precedent case." If you cannot identify another ILC, terminate your answer.

Follow the instructions of Step 9 to 10 and give detailed explanation where necessary. Use the format of the examples below. Terminate after finishing Step 10. Do not repeat previous steps.

Example output (cannot answer):

### Step 9: Downplaying Significance of Distinction

Skipped

### Step 10: Feature Substitution

Skipped

Example output:

### Step 9: Downplaying Significance of Distinction

While it's true that our case lacks [factor m], which was present in the precedent case [ABC v GHI], requiring this factor for all similar cases of [fact pattern i\*] would lead to [undesirable consequence]. Conversely, not requiring [m] would allow for [desirable outcome], which better aligns with the underlying principles of the law in this area [explanation of relation to underlying principles].

### Step 10: Feature Substitution

Although our case lacks [factor m], which was present in ABC v GHI, we have the additional [factor n]. This [factor n], when considered alongside [the shared circumstances i\*], serves a similar function to [m] in the precedent case. Given the presence of [n], we submit that the reasoning in [ABC v GHI] still applies, as the positive effects on [relevant legal values] would still outweigh any potential negative consequences, just as they did in the precedent case.

[ASSISTANT]

### Step 9: Downplaying Significance of Distinction

While it's true that our case lacks the factor of the tenant being able to perform some of its obligations despite the unforeseen event (as was present in the precedent case SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD), requiring this factor for all similar cases of frustration of contract would lead to an undesirable consequence. Specifically, it would unfairly hold parties liable for obligations they can no longer fulfill due to circumstances beyond their control, such as the complete destruction of specific goods by fire. Conversely, not requiring this factor would allow for a more just and equitable outcome, which better aligns with the underlying principles of the law in this area, namely fairness and the prevention of undue hardship.

### Step 10: Feature Substitution

Although our case lacks the factor of the tenant being able to perform some of its obligations despite the unforeseen event, which was present in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD, we have the additional factor of the specific goods (the 50 Galaxy Ergonomic Office Chairs) being completely destroyed by fire. This factor, when considered alongside the shared circumstances of an unforeseen event disrupting contractual obligations,

serves a similar function to the tenant's partial ability to perform in the precedent case. Given the presence of the destruction of specific goods, we submit that the reasoning in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD* still applies, as the positive effects on legal values such as fairness, equity, and the prevention of undue hardship would still outweigh any potential negative consequences, just as they did in the precedent case.

**Prompt (legal reasoning) (cases) (analogy) (step 11) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of {judgment['citation']} (precedent):

{judgment['context']}

The scenario (current case):

{user\_input}

The area of law:

{area}

The legal issue:

{issue}

Previous Steps:

{analysis}

Instruction:

Step 11. Conclusion: Having read through the original argument by analogy (Step 1 to 4), the rebuttal arguments (Step 5-8), and the surrebuttal arguments (Step 9 to 10), be neutral and determine the merits and flaws of all the arguments and make a final decision to the legal issue. Assess whether the proposed rules and their applications are supported by the facts and legal principles involved. Make a final decision on the legal issue by balancing these considerations, striving for a decision that aligns with legal precedent while also serving justice and legal consistency. Conclude with a clear and reasoned statement that explains why the decision was reached, highlighting key factors that influenced the outcome.

Follow the instructions of Step 11 and give detailed explanation where necessary. Use the format of the example below. Terminate after finishing Step 11.

Do not repeat the previous steps.

Example output:

### Step 11: Conclusion

After careful consideration of all arguments presented, including the initial analogy to [ABC v GHI], the distinctions raised, and the counterarguments offered, we make the following observations. The case shares [mention key similarities] with the precedent, but also differs in [mention key differences]. The proposed legal rule of [briefly state the rule] finds support in both cases, but its broader implications must be considered. We've weighed arguments from both sides, particularly [mention a strong point from each side]. Considering the underlying legal principles of [mention relevant principles] and the potential impact on future cases, we conclude that [state your decision].

**Example (legal reasoning) (cases) (analogy) (step 11) temperature=0.2, top\_p=0.2**

[SYSTEM]

You are an intelligent and logical lawyer specialising in Hong Kong law. Hong Kong law is a common law system similar to UK (England and Wales) law. Legislation in Hong Kong is referred to as Ordinances instead of Acts. Case law is mainly the same.

[USER]

Excerpt of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD ( FORMERLY KNOWN AS A80 ANOUFA PARIS HK LTD) AND ANOTHER [2021] HKCFI 1422; [2021] 5 HKC 394; HCA 735/2020 (3 June 2021) (precedent):

[omitted for brevity]

The scenario (current case):

Scanda Limited (“Scanda”) supplies office furniture to businesses. A fire has recently destroyed its showroom and adjoining warehouse. The cause of the fire is unknown. Scanda seeks your advice as to its legal position in relation to each of the following customers, who had paid in full but not yet received the furniture they had purchased at the time the fire broke out: Jane, after going to Scanda’s showroom and inspecting some office chairs for her business’s new premises two days before the fire, agreed to purchase ‘50 Galaxy Ergonomic Office Chairs.’ On checking its stock Scanda informed Jane “You are very lucky as we have got 55 of these chairs in stock. We will deliver to you in three days’ time.”

The area of law:

Contract Law

The legal issue:

Whether the fire constitutes a frustrating event that discharges Scanda from its contractual obligations

Previous Steps:

### Step 1: Outcome of Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

In the case of SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD (precedent p), the tenant argued that the COVID-19 pandemic and social unrest frustrated the tenancy agreement, making it impossible to fulfill. The court ruled that the tenant did not raise a triable issue on the grounds of frustration, as the pandemic and social unrest did not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the execution of the Tenancy Agreement (outcome o).

### Step 2: Shared Legal Concepts

Both in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD and in our current case, we see the following legal concepts and fact patterns:

- \*\*Legal Concept 1: Frustration of Contract\*\*:

- \*\*Fact Pattern 1\*\*:

In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- \*\*Legal Concept 2: Fundamental Change in Contractual Obligations\*\*:

- \*\*Fact Pattern 2\*\*:

In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- **Legal Concept 3: Reasonable Contemplation at the Time of Contract**:

- **Fact Pattern 3**: In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- **Legal Concept 4: Performance of Contract**:

- **Fact Pattern 4**: In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

### Step 3: Extraction of Legal Rule from Precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD)

This suggests a general rule that when we see a fact pattern where an unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract, the court should decide that the contract is not frustrated (outcome o). This rule was justified in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD because the positive effects (E+) of maintaining contractual stability and predictability outweighed the negative effects (E-) of enforcing the contract under changed circumstances. The court emphasized the importance of upholding contractual obligations unless there is a fundamental change that was not reasonably foreseeable at the time of the contract.

### Step 4: Applying the Rule to the Current Case

In the current case, the same legal concepts and fact patterns as the precedent (SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD) are present:

- **Legal Concept 1: Frustration of Contract**:

- **Fact Pattern 1**: In SUNBROAD, the tenant argued that unforeseen events (COVID-19 pandemic and social unrest) frustrated the contract. In our current case, Scanda may argue that the fire, an unforeseen event, frustrated the contract.

- **Legal Concept 2: Fundamental Change in Contractual Obligations**:

- **Fact Pattern 2**: In SUNBROAD, the court examined whether the pandemic and social unrest fundamentally changed the nature of the contractual obligations. In our current case, we need to examine whether the fire fundamentally changed Scanda's ability to fulfill its contractual obligations to deliver the chairs.

- **Legal Concept 3: Reasonable Contemplation at the Time of Contract**:

- **Fact Pattern 3**: In SUNBROAD, the court considered what the parties could reasonably have contemplated at the time of the contract. In our current case, we need to consider whether the risk of fire was within the reasonable contemplation of Scanda and Jane at the time of the contract.

- **Legal Concept 4: Performance of Contract**:

- **Fact Pattern 4**: In SUNBROAD, the tenant was still able to perform some of its obligations despite the pandemic. In our current case, we need to determine whether Scanda can still perform its obligation to deliver the chairs despite the fire.

Given that our current case shares these crucial fact patterns, we submit that the court should reach the same outcome as in SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD, which is that the contract is not frustrated. This decision would be justified because, as in SUNBROAD, it would have the

following positive effects:

1. **\*\*Contractual Stability and Predictability\*\***: Upholding the contract despite the fire would reinforce the principle that contracts should be honored unless there is a fundamental change that was not reasonably foreseeable at the time of the contract. This promotes stability and predictability in commercial transactions.
2. **\*\*Encouragement of Risk Management\*\***: By not allowing the fire to frustrate the contract, the court would encourage businesses to take appropriate measures to manage risks, such as obtaining insurance for unforeseen events like fires.
3. **\*\*Fairness and Equity\*\***: The court's decision would ensure that parties cannot easily escape their contractual obligations due to unforeseen events, thereby maintaining fairness and equity in commercial dealings.
4. **\*\*Economic Efficiency\*\***: Enforcing the contract would prevent unnecessary economic disruptions and ensure that resources are allocated efficiently, as parties would be more likely to take proactive steps to mitigate risks.

Therefore, given that our current case shares the same crucial fact patterns, we submit that the court should reach the same outcome. This decision would be justified because, as in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, it would have the positive effects of promoting contractual stability, encouraging risk management, ensuring fairness, and maintaining economic efficiency.

### Step 5: Distinction Due to Missing Feature in Current Case  
Skipped

### Step 6: Distinction Due to Missing Feature in Precedent Case

Our current case involves an important factor, the destruction of specific goods (the 50 Galaxy Ergonomic Office Chairs) by fire, that was not present in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*. This factor significantly alters the situation described by the shared fact pattern of frustration of contract. In *SUNBROAD*, the tenant's ability to perform some of its obligations despite the pandemic was a key consideration. However, in our current case, the fire has completely destroyed the specific goods that were the subject of the contract, making it impossible for Scanda to deliver the exact chairs Jane purchased.

Due to the destruction of the specific goods, applying the same outcome (that the contract is not frustrated) in our case would have more negative consequences such as unfairly holding Scanda liable for an obligation it can no longer fulfill due to circumstances beyond its control. Unlike in *SUNBROAD*, where the tenant could still perform some obligations, the fire has rendered performance by Scanda impossible. This fundamental difference means that the balance of positive and negative effects shifts, and the doctrine of frustration should be considered applicable in our current case to discharge Scanda from its contractual obligations.

### Step 7: Argument from Undesirable Consequence



We propose that the correct rule from *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD* should be stated as: "When both [the unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract] and [the specific goods that are the subject of the contract are not destroyed] are present, the court should decide [the contract is not frustrated]." Omitting [the specific goods that are the subject of the contract are not destroyed] from this rule could lead to the undesirable consequence of holding parties liable for obligations they can no longer fulfill due to circumstances beyond their control, which would be unfair and contrary to the principles of justice and equity. Indeed, the opinion in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD* explicitly states that the tenant was still able to perform some of its obligations despite the pandemic, highlighting the relevance of the ability to perform contractual obligations to their decision.

#### ### Step 8: Distinction from Non-occurring Undesirable Consequence

The rule established in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD* was clearly designed to prevent the undesirable consequence of parties easily escaping their contractual obligations due to unforeseen events that do not fundamentally alter the nature of the contract. However, in our current case, there's no risk of this undesirable consequence occurring because the fire has completely destroyed the specific goods (the 50 Galaxy Ergonomic Office Chairs) that were the subject of the contract, making it impossible for Scanda to fulfill its obligation to deliver the chairs. Therefore, applying the precedent's rule here would be misguided, as the very purpose it serves is not relevant to our situation. The destruction of the specific goods fundamentally changes the nature of the contractual obligations, making the doctrine of frustration applicable in this case.

#### ### Step 9: Downplaying Significance of Distinction

While it's true that our case lacks the factor of the tenant being able to perform some of its obligations despite the unforeseen event (as was present in the precedent case *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*), requiring this factor for all similar cases of frustration of contract would lead to an undesirable consequence. Specifically, it would unfairly hold parties liable for obligations they can no longer fulfill due to circumstances beyond their control, such as the complete destruction of specific goods by fire. Conversely, not requiring this factor would allow for a more just and equitable outcome, which better aligns with the underlying principles of the law in this area, namely fairness and the prevention of undue hardship.

#### ### Step 10: Feature Substitution

Although our case lacks the factor of the tenant being able to perform some of its obligations despite the unforeseen event, which was present in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD*, we have the additional factor of the specific goods (the 50 Galaxy Ergonomic Office Chairs) being completely destroyed by fire. This factor, when considered alongside the shared circumstances of an unforeseen event disrupting contractual obligations, serves a similar function to the tenant's partial ability to perform in the precedent case. Given the presence of the destruction of specific goods, we submit that the reasoning in *SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD* still applies, as the positive effects on legal values such as fairness, equity, and the prevention of undue hardship would still outweigh any potential negative consequences, just as they did in the precedent case.

Instruction:

Step 11. Conclusion: Having read through the original argument by analogy (Step 1 to 4), the rebuttal arguments (Step 5-8), and the surrebuttal arguments (Step 9 to 10), be neutral and determine the merits and flaws of all the arguments and make a final decision to the legal issue. Assess whether the proposed rules and their applications are supported by the facts and legal principles involved. Make a final decision on the legal issue by balancing these considerations, striving for a decision that aligns with legal precedent while also serving justice and legal consistency. Conclude with a clear and reasoned statement that explains why the decision was reached, highlighting key factors that influenced the outcome.

Follow the instructions of Step 11 and give detailed explanation where necessary. Use the format of the example below. Terminate after finishing Step 11. Do not repeat the previous steps.

Example output:

### Step 11: Conclusion

After careful consideration of all arguments presented, including the initial analogy to [ABC v GHI], the distinctions raised, and the counterarguments offered, we make the following observations. The case shares [mention key similarities] with the precedent, but also differs in [mention key differences]. The proposed legal rule of [briefly state the rule] finds support in both cases, but its broader implications must be considered. We've weighed arguments from both sides, particularly [mention a strong point from each side]. Considering the underlying legal principles of [mention relevant principles] and the potential impact on future cases, we conclude that [state your decision].

[ASSISTANT]

### Step 11: Conclusion

After careful consideration of all arguments presented, including the initial analogy to SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD, the distinctions raised, and the counterarguments offered, we make the following observations. The case shares key similarities with the precedent, such as the invocation of the doctrine of frustration due to unforeseen events and the examination of whether these events fundamentally change the nature of the contractual obligations. However, it also differs significantly in that the current case involves the complete destruction of specific goods (the 50 Galaxy Ergonomic Office Chairs) by fire, which was not a factor in the SUNBROAD case.

The proposed legal rule from SUNBROAD HOLDINGS LTD v. A80 PARIS HK LTD, which states that a contract is not frustrated if the unforeseen event does not fundamentally change the nature of the contractual obligations from what the parties could reasonably have contemplated at the time of the contract, finds support in both cases. However, its broader implications must be considered, especially in light of the destruction of specific goods in the current case.

We've weighed arguments from both sides, particularly the strong point that the destruction of specific goods fundamentally changes the nature of the contractual obligations, making it impossible for Scanda to fulfill its obligation to deliver the chairs. Conversely, the argument that upholding contractual obligations promotes stability and predictability in commercial transactions is also compelling.

Considering the underlying legal principles of fairness, equity, and the prevention of undue hardship, and the potential impact on future cases, we conclude that the contract between Scanda and Jane is frustrated due to the fire. The destruction of the specific goods (the chairs) fundamentally changes the nature of the contractual obligations, making it impossible for Scanda to perform its obligations under the contract. This decision aligns with the principles of justice and legal consistency, ensuring that parties are not unfairly held liable for obligations they can no longer fulfill due to circumstances beyond their control.

Therefore, Scanda is discharged from its contractual obligations to deliver the chairs to Jane due to the frustration of the contract caused by the fire.