

Hong Kong Court Grants Relief in Wahaha Family Trust Dispute

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Hong Kong Court Grants Cross-Border Preservation Relief in Wahaha Family Trust Dispute — With Observations on Its Interaction with Parallel Proceedings in Hangzhou

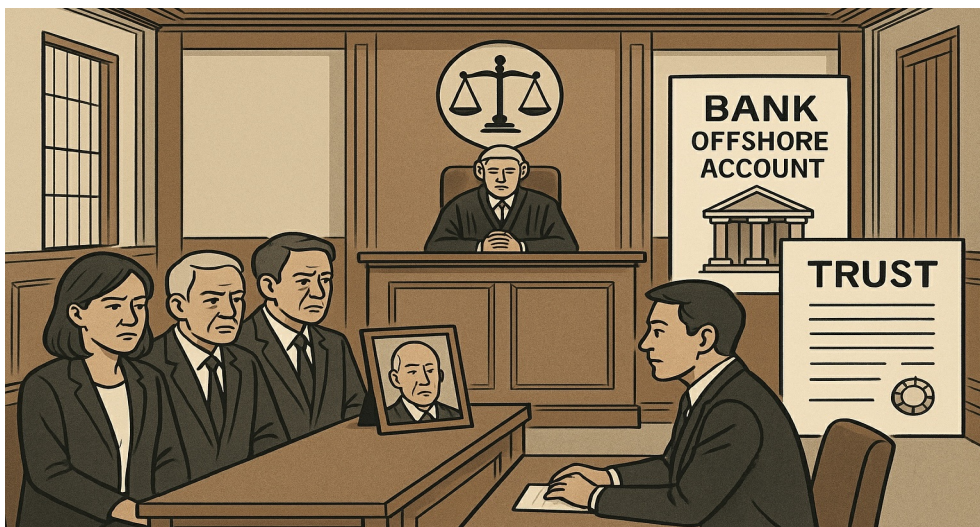
Preserving Cross-Border Trust Assets in Family Disputes: Hong Kong Court Reaffirms Its Role in Supporting Foreign Proceedings

Abstract

In *Jacky Zong and Others v Kelly Fuli Zong and Others* [2024] HCMP 2772 / [2025] HKCFI 3355, the Hong Kong Court of First Instance granted a preservation order and an ancillary disclosure order in support of ongoing trust litigation in Mainland of China:

- The preservation order was carefully tailored to prohibit only withdrawals or encumbrances from a Hong Kong HSBC account, thereby preserving the investment nature of the portfolio without disrupting legitimate asset management.
- The disclosure order was granted to trace the movement and status of the account assets, ensuring the effectiveness of the preservation relief.

Importantly, the Court clarified that these interim measures do not constitute a determination on the merits, nor do they interfere with the jurisdiction of the Hangzhou Intermediate People's Court. On the contrary, the Hong Kong Court viewed its relief as a complementary measure to safeguard offshore trust assets pending substantive adjudication in the Mainland proceedings.



The Facts

This decision arises from a closely watched intra-family dispute following the death of Zong Qinghou (“**Mr. Zong**”), the founder of the Wahaha Group, one of China’s largest beverage conglomerates. The Plaintiffs, Jacky Zong, Jessie Zong, and Jerry Zong, are Mr Zong’s children from his relationship with Madam Du, while the 1st Defendant, Kelly Zong Fuli, is the daughter of Mr Zong and his wife, Madam Shi,

and the current CEO of Wahaha Group.

The key asset in contention is a US\$1.8 billion portfolio held in a Hong Kong HSBC account under Jian Hao Ventures Limited, a BVI company previously controlled by Mr Zong and now solely owned and directed by the 1st Defendant. The Plaintiffs alleged that these assets were designated by their father to fund three offshore family trusts, each benefiting one of the Plaintiffs and their descendants.

The Plaintiffs relied on three documents:

- (1) A handwritten instruction by Mr Zong (January 2024), outlining the intention to establish three offshore trusts;
- (2) A Letter of Entrustment (2 February 2024), where the 1st Defendant agreed to hold the assets and set up the trusts;
- (3) A Family Agreement (14 March 2024), confirming the arrangement and providing for a specific trust structure.

Following Mr Zong's death, the Plaintiffs alleged that the 1st Defendant failed to implement the trusts and made unauthorised withdrawals from the HSBC account. They claim a constructive trust and/or fiduciary obligation over the assets, and commenced proceedings in the Hangzhou Intermediate People's Court (the "[Hangzhou Proceedings](#)").

Pending the outcome of the Hangzhou proceedings, the Plaintiffs applied to the Hong Kong Court of First Instance for a preservation order and ancillary disclosure relief under section 21M of the High Court Ordinance (Cap. 4).

The Law

The application was heard by Deputy High Court Judge Gary Lam, who ultimately granted the relief.

Section 21M of the High Court Ordinance

Section 21M permits the Hong Kong courts to grant interim relief in aid of foreign proceedings, even where the substantive dispute is not justiciable in Hong Kong. The judge applied a well-established two-stage test (from *Compania Sud Americana de Vapores SA v Hin-Pro International Logistics Ltd* (2016) 19 HKCFAR 586), which was reaffirmed in this judgment.

Stage One: Enforceability and Threshold for Relief

The court must first determine whether:

- (1) A judgment from the foreign proceedings would be recognisable or enforceable in Hong Kong; and
- (2) The applicant has met the substantive threshold for the interim relief sought.

In this case, the judge found that any judgment from the Hangzhou Court would be enforceable in Hong Kong. As to the threshold, the judge

clarified:

(1) Preservation orders and proprietary injunctions (as sought here) require only a “serious issue to be tried”, not the higher “good arguable case” standard applicable to Mareva (freezing) injunctions.

(2) A real risk of dissipation is not a mandatory requirement for preservation orders, although it remains relevant to the balance of convenience.

The judge rejected the Defendants’ submission that the cross-border nature of the relief required a higher threshold, distinguishing between the principles applicable to Mareva injunctions and those relevant to proprietary or fiduciary claims.

Stage Two: Comity and Discretion

Even where the first stage is satisfied, the court must determine whether granting relief would be unjust or inconvenient, particularly given that the substantive proceedings are taking place abroad. Factors include:

(1) Whether the relief would interfere with the management of the foreign proceedings.

(2) Whether the foreign court has jurisdiction and capacity to grant similar relief.

(3) Whether there is a risk of inconsistent or overlapping orders.

Here, the judge found that granting the preservation and disclosure orders would assist, rather than interfere with, the Hangzhou Court, by ensuring the assets remained available for adjudication. It accepted expert evidence that Mainland courts rarely grant preservation orders over foreign assets, and thus a Hong Kong order was appropriate and necessary.

Disclosure Orders

The judge also granted a disclosure order to track the movement and status of the HSBC account assets. Crucially, the judge emphasised that:

(1) The disclosure order was ancillary to the preservation order.

(2) It was intended to police the effectiveness of the interim relief.

(3) It did not constitute a finding on the merits or interfere with the Mainland court’s jurisdiction.

To avoid overreach, the judge tailored the order to prohibit “withdrawal or encumbrance” (rather than use broader terms like “deal with” or “diminish value”) in order to preserve the investment nature of the account without freezing legitimate portfolio management.

Comments

This decision is a clear affirmation of Hong Kong's active role in facilitating foreign litigation involving assets located in Hong Kong. The court's approach reflects:

- (a) A mature and flexible understanding of cross-border legal cooperation.
- (b) A practical application of interim relief principles.
- (c) A rejection of formalistic barriers, such as requiring a prior application to the foreign court.

The judgment also provides a useful doctrinal clarification distinguishing Mareva relief from proprietary preservation, aligning with prior decisions such as *Narian Samtani v Chandersen Tikamdas Samtani* [2012] 4 HKLRD 872 and *Sky Motion Holdings Ltd v China Create Capital Ltd* [2019] HKCFI 2408.

Importantly, the Court was careful to emphasise that its decision to grant the preservation and disclosure orders was not a determination of the merits of the Plaintiffs' claims. While the Court found that there were serious issues to be tried and a good arguable case on certain aspects, it made clear that the interim relief was grounded solely on the threshold required for section 21M applications. The relief was granted to preserve the status quo pending the Mainland court's adjudication, and not to pre-judge the outcome of that litigation. This judicial restraint ensures that the Hong Kong court's role is properly limited to supporting, rather than supplanting, the decision-making authority of the foreign court seized of the substantive dispute.

From a comparative perspective, the Hong Kong court's approach is consistent with English and Singaporean authorities. English law similarly recognises the availability of interim relief in aid of foreign proceedings, subject to considerations of enforceability and comity. The distinction between Mareva and proprietary injunctions is well established in decisions such as *American Cyanamid Co v Ethicon Ltd* [1975] AC 396 and *Motorola Credit Corp v Uzan (No 2)* [2004] 1 WLR 113. English courts have also recognised, as in *JSC VTB Bank v Skurikhin* [2014] EWHC 2254 (QB), that the unavailability of equivalent relief in the foreign jurisdiction supports an application for domestic interim measures. Singapore courts have taken a similar approach under section 4(10) of the Civil Law Act, as reaffirmed in *Bi Xiaoqing v China Medical Technologies, Inc* [2019] SGCA 50.

The decision also offers valuable guidance on the standards applicable to preservation and disclosure orders under section 21M. It affirms that the threshold for preservation relief remains "serious issue to be tried", that a prior application to the foreign court is not a strict precondition, and that comity considerations must be balanced with the practical need to preserve assets. The judge's rejection of an overly formalistic approach, and its emphasis on proportionality, are particularly welcome in the context of increasingly complex cross-border trust and succession disputes.

Overall, the case underscores the strategic significance of Hong Kong as a forum for interim relief in international litigation, especially where family wealth and offshore structures intersect. It will be of considerable interest to practitioners advising on cross-border trust disputes, enforcement strategies, and succession planning involving Chinese family businesses and offshore assets.

Observations

This case is a powerful reminder that, for high-net-worth families, the transition of wealth across generations is never just a matter of numbers or signatures. Even with the best intentions, without rigorous and comprehensive legal planning, the founder's wishes may be vulnerable to

misinterpretation, challenge, or even defeat.

As demonstrated here, even multiple legal instruments—trusts, family agreements, letters of entrustment—cannot always prevent practical risks where control over key assets is concerned. Well-drafted documents alone may not be enough: gaps, ambiguities, or insufficient enforcement mechanisms can allow a party in control to act contrary to the founder’s wishes, sometimes before the courts can intervene.

In such circumstances, interim relief becomes vital. Whether in high-value family disputes or complex commercial litigation, especially where there is an asymmetry of control over key assets, the ability to obtain interim relief to preserve the status quo is often critical. Without such relief, a party in control of offshore assets, such as a designated trustee or corporate director, may have the practical ability to dissipate, restructure, or reallocate assets before the substantive issues can be fairly adjudicated. The Hong Kong court’s willingness to intervene early, and to do so in aid of foreign proceedings, provides an essential safeguard for parties seeking to protect their interest in assets that spans multiple jurisdictions.

The judgment reaffirms Hong Kong’s pivotal role as a global hub for asset preservation in cross-border disputes. With its common law heritage, sophisticated financial infrastructure, and trusted judiciary, Hong Kong offers a reliable forum for interim relief where international trust structures, offshore holding companies, and multi-jurisdictional asset portfolios are involved. The city continues to serve as a bridge between Mainland of China and the international legal and financial systems, making it a natural venue for resolving disputes over offshore wealth, especially where Mainland courts may not have jurisdiction over foreign assets or the capacity to grant equivalent relief.

Equally notable is the Hong Kong court’s procedural sophistication and judicial restraint in crafting tailor-made relief that preserves the integrity of foreign proceedings while ensuring meaningful protection for the applicants. Rather than imposing sweeping prohibitions, the Court carefully calibrated the preservation order to prohibit only withdrawal and encumbrance, thereby maintaining the investment character of the banking relationship. The accompanying disclosure order was similarly framed with precision, explicitly limited to ensuring the preservation order’s effectiveness without encroaching upon the merits of the underlying dispute or the Mainland court’s jurisdiction. This approach reflects the high level of discipline and cross-border sensitivity required in modern international litigation, and exemplifies the standards expected of a premier common law jurisdiction.

In sum, the decision provides a compelling demonstration of how Hong Kong courts are uniquely equipped to handle the procedural and jurisdictional intricacies of modern cross-border disputes. Practitioners advising clients with international trust structures must increasingly look to Hong Kong not only as a venue for substantive proceedings, but also as a critical forum for securing interim protections that ensure disputes are resolved on a level playing field.



Haiwen & Partners Hong Kong Office Dispute Resolution Practice Team

The Dispute Resolution Practice Team of Haiwen's Hong Kong office is composed of a highly experienced and professional team of lawyers dedicated to providing comprehensive dispute resolution services. These services include international arbitration, commercial litigation, asset preservation, cross-border injunction applications, judgment enforcement, and matters related to family and matrimonial law. The team holds qualifications in multiple jurisdictions, including Mainland of China, Hong Kong SAR, and England and Wales, and is well-equipped with in-depth legal expertise and a global perspective to handle complex cross-border disputes.

The team excels in handling sophisticated cases involving trust structures, offshore assets, multi-jurisdictional investments, high-value commercial disputes, white-collar crime, and family trust issues. They have extensive experience assisting clients in applying for interim relief measures, such as asset preservation orders, Mareva injunctions, and disclosure orders, effectively safeguarding clients' rights and protecting their assets.

In addition, the team demonstrates outstanding expertise in family law, offering clients comprehensive legal advice on matters such as prenuptial agreements, division of assets after divorce or separation, child custody disputes, and relocation applications. By working closely with clients, the team strives to deliver practical and effective solutions to help clients navigate emotionally complex situations while safeguarding their interests.

The exceptional performance has been widely recognized internationally. Team members have been consistently ranked as leading lawyers by prestigious legal directories such as Chambers, The Legal 500, China Business Law Journal, and Asia Business Law Journal. They have successfully handled numerous complex cases before Hong Kong courts, international arbitration tribunals, and major arbitration institutions around the world. The team remains committed to placing clients' interests at the forefront, leveraging their profound cross-border legal knowledge and extensive practical experience to achieve outstanding results in the field of dispute resolution.

2025-08-13