

Press Release

Court of Appeal upholds same-sex couple equality rights on inheritance laws

CACV 558/2020

Ng Hon Lam Edgar (Edgar) & Li Yik Ho (Henry) v Secretary for Justice

24 October 2023

Today, the Court of Appeal dismissed the appeal by the Secretary of Justice and upheld the lower court's ruling in favour of same-sex couples – that the exclusion of same-sex spouses from the statutory definitions of “valid marriage”, “husband” and “wife” under the Intestate’ Estate Ordinance Cap. 73 (IEO) and the Inheritance (Provision for Family and Dependents) Ordinance Cap. 481 (IPO) is unconstitutional and amounts to unlawful discrimination on the basis of sexual orientation.

The IEO and IPO govern the intestacy laws in Hong Kong. These intestacy laws provide legal protections for a deceased’s spouse and family when the deceased passes away without a will.

The Court’s ruling is based on the following facts of the case. Edgar, the applicant of the case, purchased a matrimonial home in 2018. After the purchase, Edgar became concerned that upon his death, his husband could be evicted from their own home. Edgar therefore filed the present judicial review challenging the relevant provisions of the intestacy laws. Sadly, after years of depression, Edgar passed away in 2020 while the present appeal was still in progress.

Henry, the substituted applicant of the case, said: “It has been incredibly painful to have lost Edgar. It added insult to injury – that the Government repeatedly argued in open court I am not Edgar’s husband and should be treated as a stranger to him, while I was still mourning.

Like it or not, Edgar was and will always be my closest family. We *all* deserve the same dignity.

I hope the Government will respect today’s judgment and at long last give Edgar the respect and dignity he’d always deserved.”

Daly & Associates, the solicitors of the case, said: “Further to a similar Court of Appeal’s ruling last Tuesday (note), the Court once again reaffirms that discrimination inflicts oppressive injustice and long-lasting damage upon the LGBT+ people. It is imperative that the Government and other public authorities fulfil their constitutional duty to ensure that everyone, regardless of sexual orientation, is treated equally under the law.”

The present appeal is the 7th case in which the Hong Kong Courts confirmed that there should be legal protection for same-sex couples.

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Note: See the judgment of the Court of Appeal in CACV 362/2021: [here](#).

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