

**LIVASIRI AND COMPANY:  
MTR CORPORATION LTD WANTS TO SEE THE BACKSIDE OF THIS FIRM**

Hardly a month goes by now that a solicitor, a [solicitors' firm](#), or a barrister of the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) is not sued in one Court or another.

The latest case is MTR Corporation Ltd v. Livasiri and Company ().

Livasiri and Company is a solicitors' firm, headed by the Partners of Messrs David Fan Chun Shing () and David Cheung Wai Hung (), according to the database of **TOLFIN** () (The Computerised Online Financial Intelligence Service and Web-Based, Credit-Checking Provider).

Livasiri and Company has offices at:

Suite 1913,  
Two International Finance Centre,  
Number 8, Finance Street,  
Central, Hongkong.

However, Livasiri and Company may not be in its present location for much longer if MTR Corporation has its way – because this company wants to see the backside of this firm of solicitors and has asked the HKSAR High Court to adjudicate in the matter of obtaining Possession of its property.

According to High Court Action, Number 2264, MTR Corporation is the corporate landlord of the offices, presently occupied by Livasiri and Company, those premises, having been leased to Livasiri and Company for a period of 3 years, commencing November 29, 2003, and expiring on November 28, 2006.

The monthly rental, the Statement of Claim, attached to Writ of Summons, Number 2264, alleges, was established at \$HK71,370, exclusive of rates, service charges and all outgoings.

Paragraphs 7 through 12 of the Statement of Claim, allege:

- ‘7. *Wrongfully and in breach of the Lease, the Defendant has since 1<sup>st</sup> September 2006 failed to pay the arrears of rent and/or other charges in respect of the Premises to the Developer on behalf of the Plaintiff. Notwithstanding repeated demands had been made by the Developer to the Defendant for payment of the arrears, the Defendant has, up to the date hereof, failed and/or still fails to make payment for the sum of HK\$191,795.40; particulars of the said sum of HK\$191,795.40 are as follows:-*

<b>PARTICULARS</b>	<b>AMOUNT (HK\$)</b>		
	<b><u>Sept. 2006</u></b>	<b><u>Oct. 2006</u></b>	<b><u>Total</u></b>
(1) <i>Arrears of rent at the rate of \$71,370.00 per month</i>	\$ 71,370.00	\$ 71,370.00	<b>\$142,740.00</b>
(2) <i>Service charges at the rate of \$19,626.75 per month</i>	\$ 19,626.75	\$ 19,626.75	<b>\$ 39,253.50</b>

Rates for the period from 01.10.2006 to 28.11.2006

(3)	(i.e. the date of expiration of the tenancy under the Lease) at the rate of \$12,760.00 per quarter	\$ 8,183.04	\$ 8,183.04
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<b>Sub-total:</b>	<b>\$ 90,996.75</b>	<b>\$ 99,179.79</b>	<b>\$ 190,176.54</b>
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(3)	Accumulated overdue interest on late payment calculated up to 23/09/2006		\$ 1,618.86
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**Total: \$ 191,795.40**

- '8. By reason of non-payment of rent and other charges as aforesaid, the Defendant has failed to discharge the fundamental obligations of the Lease and has thereupon evinced an intention that its no longer wishes to be bound thereunder and thereby repudiated the same. The Plaintiff, as it was so entitled, hereby accepts the repudiation of the Defendant whereupon the Defendant's tenancy of the Premises is determined without prejudice to the Plaintiff's rights to recover such loss and damages thereupon.
- '9. Further or in the alternative, by reason of non-payment of rent and other charges as aforesaid, the Defendant's tenancy of the Premises was liable to be forfeited and is hereby forfeited to the Plaintiff by the issue and service of this Writ of Summons without prejudice to the Plaintiff's rights to claim further damages.
- '10. Further, by reason of the Defendant's repudiation of the tenancy of the Premises (alternatively, by reason of the forfeiture of the tenancy of the Premises), the Plaintiff has suffered loss and damage (including but not limited to loss and damage for the unexpired term arising from the Defendant's breach of the Lease) and by the issue and service of this Writ of Summons the Plaintiff do hereby claim against the Defendant for such loss and damage (to be assessed).
- '11. The Plaintiff is entitled to the interest on such arrears at the rate of 1.5% per month pursuant to Clause 6(a)(iii) of the Lease as referred to in paragraph 6 above. In this regard, the Plaintiff do claim interest on the sum of HK\$190,176.54 being the arrears of rent, service charges and rates pleaded in paragraph 7 above.
- '12. Both the annual rent and rateable value of the Premises exceeds HK\$240,000.00.

The Plaintiff therefore claims against the Defendant for:-

- (a) vacant possession of the Premises;
- (b) the amount of HK\$191,795.40 under paragraph 7 hereof;
- (c) interest at the rate of 1.5% per month on the sum of (i) HK\$90,996.75 from 24th September 2006 to 30th September 2006 and (ii) HK\$190,176.54 from 1st October 2006 to the date of payment or alternatively at judgment rate pursuant to Sections 48 and/or 49 of the High Court Ordinance (Cap.4);
- (d) (i) the sum of HK\$66,612.00 being rent from 1st November 2006 to 28th November 2006 and (ii) mesne profits at the rate of HK\$71,370.00 per month from 29th November 2006 (if the Defendant is still in occupation of the Premises after 28th November 2006) or at such higher rate as this Honourable Court deems fit from the date of service of this Writ of Summons to the date when vacant possession of the Premises is delivered up to the Plaintiff by the Defendant;
- (e) (i) the sum of HK\$18,318.30 being service charges from 1st November 2006 to 28th November 2006 and (ii) further service charges at the rate of HK\$19,626.75 per month from 29th November 2006 (if the Defendant is still in occupation of the Premises after 28th November 2006) to the date when vacant possession of the Premises is delivered up to the

- Plaintiff by the Defendant;*
- (f) rates at the rate of HK\$12,760.00 per quarter or at such rate as demanded by the Government of the Hong Kong Special Administrative Region from 29th November 2006 (if the Defendant is still in occupation of the Premises after 28th November 2006) to the date when vacant possession of the Premises is delivered up to the Plaintiff by the Defendant;*
  - (g) interest on rent and/or mesne profits and service charges as claimed under (d) and (e) herein calculated from 1st November 2006 until the date of actual payment pursuant to Sections 48 and/or 49 of the High Court Ordinance (Cap.4);*
  - (h) damages for the Defendant's repudiation of the Lease Agreement dated 24th October 2003 to be assessed;*
  - (i) further or other relief; and*
  - (j) costs.'*

This is not ... [CLICK TO ORDER FULL ARTICLE](#)

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