

**The Chief Justice's Address at the Farewell Sitting
for The Honourable Mr Justice Tang PJ
22 October 2018, Court of Final Appeal**

1. Fellow Judges, Solicitor General, Chairman of the Bar, President of the Law Society, Ladies and Gentlemen, I extend a warm welcome to all of you to this farewell sitting in honour of the Honourable Mr Justice Robert Tang PJ, who retires from the Bench as a Permanent Judge of the Court of Final Appeal on 24 October 2018, after 14½ years in the Hong Kong Judiciary. He became a judge of the Court of First Instance in 2004, going up to the Court of Appeal a year later, becoming a Vice President of that Court in 2006 and then came his elevation to the Court of Final Appeal as a Permanent Judge in 2012. It has been a stellar career for him in the Judiciary.

2. It is perhaps unusual to begin an address on an occasion such as this by a reference to a New York Times bestseller, which has also been described on the back cover by one critic as a beautifully written “page turner”. A signed copy of this book was given to me by my daughter at Easter over four years ago. The book is called “My Beloved World” and this is the autobiography of Justice Sonia Sotomayor, an Associate Justice of the Supreme Court of the United States. In it, she says something that made me instantly think as being applicable to Mr Justice Tang. Justice Sotomayor said this :-

“Looking back today, it seems a lifetime ago that I first arrived at a place of belonging and purpose, the sense of having heard a call and answered it.”

3. Mr Justice Tang’s whole working life has been in the law. He has belonged in it for close to 50 years and during

that time has graced the law with his wisdom, integrity and indelible character. All lawyers, both practitioners and judges alike, are servants of the law and the rule of law.

4. Robert Tang received his legal education in England and graduated from the University of Birmingham in 1969. In those days, it was necessary to obtain one's legal education overseas. The University of Hong Kong did not begin having a degree course in law until 1969. On his return to Hong Kong, he served his pupillage with the late Mr Robert Wei¹ whom he was later to describe² as the person who has influenced him the most in his career as a lawyer. From Robert Wei, he learned, as Robert Tang puts it, the importance of integrity, hard work, fidelity and courage. These same traits were to become the characteristics of Mr Justice Tang's

¹ Later Robert Wei QC. Mr Wei was himself the pupil of Sidney Templeman (later Lord Templeman).

² In an article he wrote for the Hong Kong Bar Association's 50th Anniversary (published by Sweet and Maxwell Asia, 2000) – "Virtues of the Bar".

practice, which he tried to pass down to his own pupils, many of whom are present today, including me. His former pupils also include a Vice President of the Court of Appeal, a justice of the Court of Appeal, a justice of the Court of First Instance, a judge of the High Court of Singapore and a former judge of the District Court here.

5. Others will speak on Robert Tang's practice at the Bar. I want to concentrate more on his judicial career, although I should say something about his career at the Bar. When he joined the Judiciary in 2004, it is not an exaggeration to say that Mr Justice Tang had arguably the most successful practice at the Bar at that time. In leaving what was clearly a tremendously lucrative career (one which he could quite easily have continued), he was doing what many successful barristers have been doing over the years and which continues to this day : to serve the community. This

was not an act of seeking a higher status – Robert Tang already had that in abundance; his reputation was formidable – this was an act purely of giving something back to the community. The sacrifice that is made is a real one. Many people forget the longer working hours, the substantial drop in income and, most important, the inability (this arising as a result of a formal undertaking that is given) of a judge to return to practice as a lawyer. I know of no other profession or occupation in which there is a bar to returning to the very profession or occupation for which one is trained. This prohibition is, however, in the public interest and can be said to be a facet of judicial independence, namely, that a judge should not be seen in any way to be beholden to anyone or any institution in the discharge of his or her judicial functions. It is notable that there is a statutory prohibition against any

member of the Court of Final Appeal being able to practise as a barrister or solicitor after ceasing to hold office.³

6. The very first paragraph in the Code of Conduct of the Hong Kong Bar Association states that “Respect for and upholding the rule of law and for the freedom of the individual citizen depend to a large extent on the maintenance of high standards of all who practise in the Courts”. As Chairman of the Bar (from 1988 to 1990), Robert Tang adhered to this statement of the overriding duty of a lawyer to the rule of law. It is the same as far as judges are concerned. When Mr Justice Tang became a judge of the Court of First Instance on 2 April 2004, the Judicial Oath he took stated his duties to the law in solemn and clear terms : to uphold the Basic Law and to serve Hong Kong “conscientiously, dutifully, in full accordance with the law, honestly and with

³ Section 13 of the Hong Kong Court of Final Appeal Ordinance Cap. 484.

integrity, safeguard the law and administer justice without fear or favour, self-interest or deceit”. These themes of judicial independence and acting in accordance with the law are themselves reiterated in the Basic Law. They constitute the core components of the overriding responsibilities of a judge and the core values of the administration of justice in our system of law.

7. The community can safely be satisfied that Mr Justice Tang has fully and unequivocally discharged his responsibilities as a judge, and understood his role in upholding the rule of law in Hong Kong. Very often, the litmus test to gauge whether our judges have adhered to the Judicial Oath and have discharged their constitutional responsibilities can be seen in how controversial cases have been determined. These are the types of case that attract many public interest issues. Almost as soon as

Mr Justice Tang became a Permanent Judge of the Court of Final Appeal, he sat in two important cases : first, *Re. Ho Chun Yan Albert*⁴ which dealt with an application for leave to appeal in relation to allegations of illegal conduct on the part of the then Chief Executive during the March 2012 elections for the Chief Executive;⁵ secondly, *Ubamaka v Secretary for Security*⁶ dealing with the effect of s 11 of the Hong Kong Bill of Rights Ordinance⁷ when seen against non-derogable and absolute rights contained in Article 3 of the Hong Kong Bill of Rights.

8. Mr Justice Tang continued to sit in many other important cases that have over the years aroused considerable public interest. Among them are :-

⁴ (2012) 15 HKCFAR 686.

⁵ This application for leave eventually led to a substantive appeal heard by the Court of Final Appeal in *Leung Chun Ying v Ho Chun Yan Albert* (2013) 16 HKCFAR 735.

⁶ (2012) 15 HKCFAR 743.

⁷ Cap. 383.

- (1) *C v Director of Immigration*⁸ which dealt with the position of refugees under the United Nations Convention Relating to the Status of Refugees. Mr Justice Tang's judgment made important observations on the rule of law.

- (2) *HKSAR v Chow Nok Hang*⁹. Mr Justice Tang again made important observations this time regarding the freedom of expression and demonstration.

- (3) *T v Commissioner of Police*¹⁰ dealing with the applicable principles regarding licenses for events under the Places of Public Entertainment Ordinance.¹¹ This was a 3-2 decision of the Court

⁸ (2013) 16 HKCFAR 280.

⁹ (2013) 16 HKCFAR 837.

¹⁰ (2014) 17 HKCFAR 593.

¹¹ Cap. 172.

of Final Appeal in which Mr Justice Tang was a member of the majority.

9. This past year, Mr Justice Tang has sat in appeals involving sentencing principles in relation to the offence of unlawful assembly in two high profile cases : *Secretary for Justice v Wong Chi Fung*¹² and *Secretary for Justice v Leung Hiu Yeung*.¹³ He was also on the Court in a case involving same sex partnerships : *Director of Immigration v QT*.¹⁴

10. These cases and many others are important from both legal and public interest points of view. They require very careful thought and application. That is why at each level of court, it is vital to have judges of the very highest standing and ability. The community has been fortunate to

¹² (2018) 21 HKCFAR 35.

¹³ [2018] HKCFA 43; FACC 3-15 of 2018, 28 September 2018.

¹⁴ [2018] HKCFA 28; FACV 1 of 2018, 4 July 2018.

have had Mr Justice Tang as one of its judges. This will continue as he will become a Non-Permanent Judge of the Court of Final Appeal.

11. Mr Justice Tang has been a much valued colleague to all of us in the Court of Final Appeal. He has written many important and erudite judgments – these are too numerous to mention although I have earlier referred to some of them. Even where he has not written a judgment in a case, this is not to say he has taken in any sense a backseat in the decision. The Court of Final Appeal, like the Court of Appeal, is a collegiate court and this defines not only the atmosphere in which we work, but it also describes the contribution that is expected of each judge in every case. Robert Tang has always made a significant contribution. Even when his view of a case has not prevailed, his views have always commanded high

respect among his colleagues. We are fortunate that he has agreed to remain a Non-Permanent Judge of the Court.

12. As Chief Justice, I have reason to be particularly grateful to Mr Justice Tang. He has supported me whenever I have asked for his help. For the past four years, he has been a member of the Judicial Officers Recommendation Commission. For the past two years, he has chaired the Standing Committee on Legal Education and Training (this Committee faces significant challenges in the coming years). He has also chaired the Standing Committee on Judicial Remuneration. I deeply thank him personally and professionally.

13. The community, I am happy to say, has recognized Mr Justice Tang's services to it over the years. He was awarded the Silver Bauhinia Star in 2004. On Saturday, he

will receive Hong Kong's highest honour, the Grand Bauhinia Medal. In addition, the Inn of Court where he was first called to the Bar, Gray's Inn, made him an Honorary Master of the Bench in 2013.

14. There are many more achievements that I can continue enumerating, but I hope what I have mentioned in this address will give you some idea of the immense contribution made by Robert Tang. Of course, his achievements are to be shared by those he loves and would not have been possible but for their support. His close family who are present today (his wife Cissy, his children Hilary and Charles, and others) must be very proud indeed.

15. I hope Robert Tang can look back and will feel that he did arrive at a place of belonging and purpose, heard his call and answered it fully to his satisfaction. Everyone else

knows he has. It only remains for me to wish my friend, colleague and pupil master a fulfilling and happy retirement, and the best of health and happiness.

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