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Charting the Dragon's ascent: A new legal frontier in a shifting business landscape

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In the final part of our series of three articles on market trends across Asia in the Year of the Dragon, we look into issues which are likely to cause disputes, as well as flows of real estate investment across Asia.

Read part 1 here and part 2 here.

Asia's continuing artificial intelligence (AI) and digital transformation is expected to bring a surge in legal disputes in the digital realm. Shaun Leong, a Singapore-based partner in Withers' disputes team elaborates, 'We're entering a new era of digital disputes. The increasing use of artificial intelligence technologies will bring about new challenges to the law, including interesting questions around the allocation of liability when AI makes mistakes. At the same time, the increasing adoption of AI in Web 3.0 functionalities at the time when the digital assets markets recover from the crypto winter could mean more disputes involving the interaction of blockchain and AI technologies.'

The legal frameworks in many Asian countries will be tested and will need to evolve rapidly to keep in pace with these technological advancements. Shaun anticipates that the rapid evolution of digital assets will lead to novel legal challenges.

'There will be an increasing need for laws to fill in gaps made more manifest arising from artificial intelligence related disputes,' he adds.

Chenthil Kumarasingam, Singapore-based partner in Withers' disputes team expands, 'Whenever an asset class becomes valuable, there is significantly more interest and disputes inevitably arise as people seek to take advantage of limited opportunities. A key factor will be the impact of necessary cybersecurity technology and regulation on ease of use and cost of ownership of digital assets and software-based services.'

Beyond the digital realm, the geopolitical landscape in Asia is rapidly changing. Elections in key countries are poised to impact geopolitics, business, and society significantly, influencing policies and priorities of major economies. This, in turn, affects alliances, trade agreements, and joint ventures, with direct implications for legal disputes in international trade and investment.

Additionally, the International Monetary Fund projects a global inflation rate of approximately 5.8% in 2024, with significant regional variations. These factors combined - the fluctuating inflation rates, shifting geopolitical dynamics, and the evolving economic landscape - are expected to create a more complex environment for legal disputes. The flow of deals could be impacted, leading to increased commercial disputes and supply chain issues.

'As geopolitical tensions rise, so will the complexity of legal disputes in Asia. We expect a significant increase in cases involving international trade agreements and investment disputes,' says Shaun.

Chenthil adds, 'Navigating this space requires a deep understanding of competing legal systems and international frameworks, particularly in understanding public policy considerations, timeframes for dispute resolution and cross-border enforceability of judgments and awards. Increasingly, it appears likely that disputes relating to environmental compliance and social responsibility will come to the forefront.'

Pan-Asian real estate investment networks

The real estate sector is set to expand its sustainability and green financing efforts. Polly Chu, a Hong-Kong based partner in Withers' real estate team, elaborates, 'The integration of green financing in real estate is not just a trend, but a necessary evolution in response to global environmental challenges. The demand for green buildings, especially in commercial real estate, is set to rise sharply, driven by both environmental concerns and long-term cost savings. This will encourage developers and investors to adopt more sustainable building practices.'

Japan's real estate market in particular has been a focal point for international investors. 'This growth has been attributed to several factors, including Japan's stable economic environment, attractive property prices, and strategic location in Asia. The trend reflects a broader interest in Asian real estate markets, which have been increasingly favored by global investors for their potential for high returns and diversification,' says Toshihiko Tsuchiya, a Japan-based partner in Withers' real estate team.

Particularly, Singapore has taken a leading role in this investment surge. In 2023, it became Japan's largest cross-border real estate investor, with investments around S$4.1 billion. He adds, 'This prominence is due to various factors, including Singapore's robust financial sector and its investors' appetite for international real estate.

The favourable exchange rate for the yen has also made Japanese properties more attractive to Singaporean investors, who are diversifying their portfolios across different regions and sectors. The investments have been mainly directed towards sectors like logistics and hospitality, which have shown significant growth potential. This trend is a clear indication of the strong economic ties between Singapore and

Japan and the growing importance of cross-border investments in shaping the real estate markets of both countries.'

The year of the Dragon heralds a period of remarkable growth, progress and innovation. It is also a reminder that while we embrace change and seek advancement, there is a parallel need for vigilance and protection. In such times, the role of sound legal advice becomes paramount.

Should you wish to delve deeper into any of the points raised in this series or seek the benefit of our expertise, please reach out to your designated contact at Withers or any of the lawyers listed below.

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