Practical consequences for today's practitioner

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The history examined in this chapter is not merely of antiquarian interest. Several of its consequences confront the practitioner who advises on Singapore matters today.

The first concerns the sources of law. An adviser who asks whether an English statute applies in Singapore must consult the First Schedule to the Application of English Law Act 1993. An adviser who relies on an English decision handed down after 12 November 1993 must treat it as persuasive authority, which a Singapore court may or may not follow. English and Singapore law have diverged in areas as varied as contractual interpretation, penalties and remedies, where the difference can be decisive in a dispute.

The second concerns property. A lender who takes security over Singapore land relies on the Torrens register, as does a purchaser on the title shown there. Where land is held on one of the long leases of the nineteenth century, the terms of the lease and its remaining duration affect its value as collateral. The distinction between 999-year leases, which the market treats as freehold, and 99-year leases, whose value declines as their term runs out, is a familiar feature of the Singapore property market and of the credit decisions of Singapore banks.

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The third concerns family structures. Clients with Chinese, Malay or Indian family traditions may seek arrangements that reflect their customs. The modern law gives more room to such arrangements than the colonial courts did. The adviser must nevertheless reconcile family wishes with the rules of trust law, succession law and, for Muslim clients, the Administration of Muslim Law Act, which governs certain matters of Muslim family and succession law in Singapore.[1]

The fourth concerns the forum. The Singapore courts, whose origins lie in the Charter of 1826, today include the Singapore International Commercial Court. Singapore is also one of the leading seats of international arbitration. A client who chooses Singapore as a forum benefits from two centuries of institutional development. Parts F and J examine the forum and the choice of law in detail.

- Check whether an English statute relied on is listed in the First Schedule to the Application of English Law Act 1993.
- Treat English decisions after 12 November 1993 as persuasive authority only, and check for Singapore decisions on the point.
- Verify land title on the Torrens register and review the remaining term of any lease offered as security.
- Reconcile family and religious customs with trust law, succession law and, where relevant, the Administration of Muslim Law Act.
- Choose the forum and governing law deliberately, with regard to the Singapore courts, the SICC and arbitration.

Notes

1. The Administration of Muslim Law Act 1966 governs specified matters of Muslim family law, succession and religious endowments (wakaf) in Singapore. ↩

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