Mainland and Hong Kong mutual recognition and enforcement of family court judgments

Description

This is a new sign of integration of Hong Kong into its mainland. The two sides now mutually agreed to recognize and enforce the family court judgments delivered by the courts in the other side in full aspects, meaning that clients who have obtained a divorce judgments (child custody or other family issues decisions) from Hong Kong court (vice versa) can now request the mainland courts to recognize and enforce the Hong Kong court judgments in regard of the divorce (itself) but also in regard of the other aspects of Hong Kong court judgments such as community property splitting between the spouses as well as child custody.

This is a substantial judicial progress between the mainland and Hong Kong.

In the past, Hong Kong courts' family judgments were regarded as the same as other foreign countries' court judgments and China mainland courts will only recognize and enforce the decision on divorce only with no regard to other aspects of such family court judgments such as community property division and child custody. So people divorced outside of China will have to sue again in China in order to divide properties located in China.

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This big change will save clients from a lot of trouble when they have properties to split in both mainland and Hong Kong.

International divorce parties shall need to seriously look at the forum shopping issue before commencing lawsuits. If properties are scattered in both Hong Kong and mainland China or even in other countries, if possible, they should divorce in Hong Kong courts whose judgments can now be recognized in more jurisdictions.

For example, one of my clients who is now divorcing in Hong Kong with her husband, and the couple has properties in Hong Kong, and stock in mainland companies and other properties in USA, so it is now good for them to divorce through Hong Kong courts whose judgments can be recognized and enforced in both USA and now the mainland China. Indeed, when she started the lawsuit in Hong Kong (as they both reside in Hong Kong) years ago, it was contemplated then that upon she obtained a judgment in Hong Kong, I will be helping her to split their stock assets in China. With the new rules taking effect, this will save her a lot of trouble now.

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