



## Gan Khong Aik FCI Arb

Partner

E: [khongaik@ganlaw.my](mailto:khongaik@ganlaw.my)

Gan Khong Aik is a litigation and dispute resolution partner of Gan Partnership. He was admitted and enrolled as an advocate and solicitor of the High Court of Malaya in 1995.

On the alternative dispute resolution front, Khong Aik is a Fellow of the Chartered Institute of Arbitrators (CI Arb), United Kingdom, who sits on the panel of arbitrators of the Asian International Arbitration Centre and in various Chinese arbitration institutes which include international arbitration court. He is also a mediator with the Malaysian Mediation Centre and the Asian International Arbitration Centre.

His extensive practice experience includes corporate and commercial, insolvency and liquidation, land and property, anti-bribery and corruption, insurance and reinsurance claims, and employment and industrial relations disputes with specific reference to restrictive covenants, protection of trade secrets and confidential information. He often represents directors, shareholders and companies in a wide range of high-value corporate disputes including reputational claim. His commercially practical and legally sound approach coupled with his responsiveness and humble personality made him an all-round counsel.

Khong Aik has been recommended by *Legal 500 Asia Pacific* and *Benchmark Litigation* for his depth of legal knowledge and troubleshooting skill complemented by a meticulous and solution driven approach in managing the dispute strategy. *Asia Business Law Journal* listed Khong Aik as one of Malaysia's Top 100 Lawyers in 2021 and 2022, and recognised his practice in arbitration & ADR, Corporate Governance, Insurance & Reinsurance, Labour & Employment and Litigation. He has been ranked as a "Litigation Star" for commercial and transactions, dispute resolution, and labor and employment by *Benchmark Litigation* in 2020.

Khong Aik has been appointed as a Chair for International Conventions and Trade Agreements Subcommittee of International Commerce and Distribution Committee, International Bar Association.

### Practice Areas

- Arbitration
- Boardroom Risk & Reputation
- Construction, Engineering, Infrastructure & Projects
- Corporate Governance & Compliance
- Corporate Litigation & Risk Management
- Dispute Resolution
- Employment, Benefits and Incentives & Industrial Relations
- Insurance & Reinsurance
- Regulatory & Compliance
- Technology, Media & Telecommunication

### Admission

Advocate and Solicitor of the High Court of Malaya

### Languages

English, Malay, Mandarin

### Memberships

Fellow, Chartered Institute of Arbitrators (CI Arb), United Kingdom

### Qualifications

- LL.B (Hons), University of Malaya
- LL.M (Commercial and Corporate Law), University of London
- Postgraduate Diploma in Laws (International Business Law), University of London
- Postgraduate Certificate in Laws (Insurance Law), University of London
- Diploma in International Arbitration, Chartered Institute of Arbitrators (CI Arb), UK

## Relevant Experience

Some significant matters which Khong Aik has involved in:

### Corporate

- Acted in a matter concerning re-assessment of damages of a land worth more than RM12 million before the Court of Appeal.
- Acted as a lead counsel for a company in the sale of health food industry before the Federal Court in Malaysia in a matter concerning enforcement or exercise the right of option to sell its shares pursuant to an exit clause in the joint venture agreement.
- Acted for a company in a suit to recover a sum of RM8.61million (approximately USD2.01million) against its director for breach of fiduciary duty and duty of fidelity.
- Acted as one of the lead counsels in an appeal where the Court of Appeal decided over the power of liquidator vis-à-vis the power of the minority shareholder for the first time, subsequent leave application to the Federal Court was dismissed.
- Acted as a lead counsel in disputes involving renowned properties construction developers in Malaysia where one of the suits was against a state government for damages over RM25 million.
- Acted and advised a multinational company in relation to debt recovery arising from construction dispute.
- Acted as a lead counsel in a highly publicised dispute involving Chinese Educationist in Malaysia over a shareholder oppression claim.

### Insurance

- Advised and acted for Insurers and Reinsurers in a MYR 125 million Machinery Breakdown/Loss of Profit claim arising from a 2013 aluminium smelter incident.
- Advising Insurers on coverage and defence in a MYR 12.5 million Directors & Officers liability claim initiated by a Bursa Malaysia Mainboard-listed company against its former directors.
- Acted for Insurers in a reinsurance claim over MYR 22 million involving fraudulent cheque payment by a bank.
- Advised and acted for Insurers in an occupier liability claim in respect of a high-profile escalator incident happened in a renowned shopping mall in Malaysia.

- Advised and acted for Insurers in a reinsurance claim on a Civil Engineering Completed Risks Insurance Policy claim over a collapse of folded plate retaining wall incident.

### Employment & Industrial Relations

- Acted for manufacturing and production companies in disputes in respect of retrenchment due to economic reasons and functional needs.
- Acted for a telecommunication company in disputes involving abuse of power and issue pertaining to renewal of fixed-term renewable.
- Acted for a tertiary educational group of companies and an oil and gas multinational company in disputes over conflict of interest by a member of the senior management.
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- Acted for an international banking institution on issue pertaining to forced resignation.

### Awards & Accolades

Among others, Khong Aik has been recognized by independent rankers and client testimonials as, inter alia:

- *‘experienced litigation lawyer’ who has a ‘depth of knowledge’ and ‘trouble shooting skills’ that are complemented by a ‘meticulous and thorough approach’. This expertise extends to industrial relations.”*
- *“very competent and commercial in his approach”*
- *“very professional, effective and efficient” and “Extremely knowledgeable, effective and practical”*

### Publications

Khong Aik has authored/co-authored various publications including:

- *“Managing Contracts of Employment in Mergers and Acquisitions in Malaysia” in Inter Pacific Bar Association Journal.*
- *“The Arbitration Initiative under the Belt and Road Initiative” for the Asia Pacific Regional Forum Committee of International Bar Association.*
- *Global Legal Insights, International Arbitration 2019 - Chapter on Malaysia.*

## Articles:

- *Apex court rules that high court orders and decisions that do not finally dispose of litigants rights are non-appealable*
- *Apex court finds controller of housing's powers to waive or modify provisions of statutory contract invalid*
- *Attorney general's discretion is not unfettered*
- *Court rules on applicable test in medical negligence suits*
- *Court rules on banks' rights under absolute assignment after issue of title to land*
- *Court rules that stay of proceedings is mandatory*
- *Court weigh in on requirements for breach of confidentiality claims*
- *COVID-19 courts go online to regulate administration of justice*
- *COVID-19: Legal Mechanisms for Companies and Individuals Facing Financial Distress*
- *Dishonesty must be present before debtor in assignment can be made liable*
- *Embrace the storms of the Movement Control Order*
- *Federal Court maintains wide scope of Companies Act 1965 in oppression cases*
- *Federal Court rules that Arbitration Act provisions do not apply to non-parties to arbitration agreements*
- *Federal Court will not condone irregularities in court orders*
- *High court cannot transfer proceedings to another high court of coordinate jurisdiction*
- *Lower threshold for staying proceedings pending appeal*
- *Movement Control Order & Employment - Workplace Safety and Health*
- *Movement Control Order & Employment - 4 Key Aspects for Employer*
- *Proper construction of Section 93(3) of Bankruptcy Act and Rule 276 of Bankruptcy Rules*
- *Origin of section 17A of MACC Act 2009 - Lessons from UK Experience*
- *Section 17A MACC Act - What are the lessons learnt from foreign case studies*
- *Section 17A MACC Act - Have you adopted Adequate Procedures*
- *Section 17A MACC Act - How to safeguard your company against corporate corruption*
- *Solicitor cannot repudiate solicitor-client relationship unless properly ended*
- *Stricter confidentiality obligation on lawyers*