

## THE HONOURABLE CHIEF JUSTICE GEOFFREY MA TAO-LI (3): WHAT MAKES GOOD ORAL ADVOCACY?

### **What makes a good oral legal argument in English in professional settings?**

Well, it's the same answer whether it's in English, or indeed any other language: it is important when you are making oral submissions, in the same way as if you are writing, to have a firm structure. This is what they have in common. The difference lies in that if you have something in writing, the audience or the reader is able to look at it and look at it again. In an oral argument, you don't have that luxury. You have one chance and that one chance has to be grasped in order to make your point. Making your point in a legal argument means persuading the listener to your point of view or explaining to the listener what it is that would constitute your objective, namely to get your advice over and across. Now, given that severe, limiting factor of an oral argument, you've got to be quite disciplined in how you do it. Clarity is important, but apart from that challenge, you've got to make yourself attractive to the listener. Now, being unduly nervous, unduly expressive, talking too fast, pretending as though it's a lecture and not a conversation, all distract from the main objective which is to get your point across. So in an oral argument, please bear in mind one thing that you only have one go to persuade. Now, of course you can repeat, but of course with a listener, the more you repeat, the more you will lose that listener.

### **What is the role of excellent presentation skills in oral legal argument?**

The very best advocates, the very best people who are able to speak to an audience, do so at a pace which is a little slower than normal speech. This enables you to think for a little longer, enables the audience, very often who's listening to this for the first time, to understand you, gives you more chance to relax, gives you more of a chance to engage with the audience. Now, once you have the audience in a comfortable position, then of course, the structure, the content, and what you want to get across is then more easily got across. I've seen over the years many quite brilliant lawyers who were known as poor advocates and the reason for that is that they speak too fast because they have so much information to convey to the listener. The listener is then lost, the listener loses interest, and as a result, in court, you lose the case, or in a normal situation, you've lost the listener, and the listener doesn't get the benefit of what it is that you have to impart. I've seen this over the years where great lawyers lose cases because they can't communicate and relatively poor lawyers

or lawyers who are not quite so good are able to succeed because they can get their point across more easily.

**As a judge, what are you looking for in the oral legal arguments that you hear?**

As a judge, you're in an advantage that you have both written materials and oral arguments, so one very rarely these days listens, as a judge, to arguments afresh for the first time. So what you're concerned with as a judge, as indeed any listener, would be to ask questions and expect those questions to be answered. The good advocate, the good oralist, is able to answer the questions whether or not those questions are in your favour. There is too much of a tendency of a poor advocate to second-guess the meaning of a question and then try not to answer if the advocate thinks that it's a question against them. It is good advocacy to be clear. This is yet another example of clarity: a question is asked of you, you answer it. These are simple rules, as it were, but often forgotten.