

Neutral Citation Number: [2016] ECC Swk 2

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

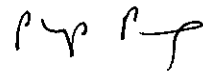
IN THE MATTER OF THE CONSECRATED SECTION OF WOOLWICH CEMETERY

AND IN THE MATTER OF TWO PETITIONS BY CUONG TAN HOANG

JUDGMENT

1. These are two petitions by Mr Cuong Tan Hoang to permit the exhumation of the cremated remains of his grandparents Mr Khoan Xieng Hoang and Mrs Che Liu Man from a plot in the consecrated part of Woolwich Cemetery and to permit their re-interment in a nearby plot (also in the consecrated part of the cemetery).
2. Mr Hoang died in 1979 and his body cremated; Mrs Man in November 1986 and her body cremated. In circumstances of which I am not aware, their remains were not interred in the ground until 21 October 2015. Unfortunately, by a mistake of one of the cemetery staff, they were interred not in the plot that Mr Hoang had bought but in a nearby plot. The plot in which they were interred had been bought in 1984 by Mr Cornelius Mordey. This plot was next to that of his late parents and his intention was and is that his remains should be there interred in due course.
3. All the interested parties agree to the exhumation.
4. This is a classic “mistake” case and I direct that a faculty should issue authorising the exhumation of the remains.
5. There is this complication. Mr Hoang considers that it may be unpropitious to exhume the remains of his grandparents until a year has passed. This is of course no part of Christian belief but it is a matter which is obviously entitled to respect; as a matter of law, his belief and its manifestation is protected under the terms of the Human Rights Act.
6. Accordingly if Mr Mordey were to die in the course of the next year, his representatives might not be able to exercise the right of burial which purchased in 1984.
7. One hopes, of course, that the situation will not arise but obviously it is possible that it might, and I can see the situation must be a worry to Mr Mordey. I am afraid that I do not think that there is anything which the Court can do about this. However I do understand from Mr Wood, the Cemetery Manager, that Mr Hoang understands Mr Mordey’s concerns and that naturally he, too, wishes that the situation may be speedily resolved. I will be grateful if Mr Hoang could look carefully at the situation; I very much hope that he is able to identify an early date on which the exhumation may be carried out.
8. I make it clear that there will be liberty to apply to the Court in the light of this judgment and order if either Mr Mordey or Mr Hoang wish to make further submissions to me.

9. Finally, it appears that it might have been possible for the exhumation that I am now authorising to have taken place sooner had authorisation been sought sooner, with the result that concerns about whether exhumation was or was not propitious might not have arisen. Obviously, irrespective of issues arising from a petitioner's particular beliefs, it is always best in such cases for the mistake to be remedied as soon as possible. I know that there will potentially be issues of ascertaining what has happened and getting the requisite consents and so on. I am not in a position to make any comment on the particular circumstances of this case where the position may not have been straightforward and where there does not seem to have been any objective delay. Nonetheless I hope it may be helpful to say that where the case is one of a mistake by interment in the wrong grave, I will be sympathetic to efforts speedily to rectify the situation. As long as I am satisfied that there has been a mistake and that every relevant person involved is in agreement, then, upon undertakings that a petition will be lodged in due course, I would be prepared to authorise exhumation in advance of the formal paperwork being supplied.



PHILIP PETCHEY

Chancellor

22 January 2015