

IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
MISCELLANEOUS PROCEEDINGS NO. 4818 OF 2001

BETWEEN

SECRETARY FOR JUSTICE (as representative of the <i>parens patriae</i>)	Plaintiff
AND	
SECRETARY FOR JUSTICE representing HKSAR	1st Defendant
THE CHINESE TEMPLE COMMITTEE	2nd Defendant
CHAN YAT SAN	3rd Defendants
LAU WONG FAT and HO SUN WING	
TO KAN CHI	4th Defendants
TO FUK TIM	
TO KAM CHAU (as managers of TO KA YI TSO)	
PUI MAN YAU alias SIK KWOK WAH	5th Defendant
SECRETARY FOR HOME AFFAIRS INCORPORATED	6th Defendant
TEAM SING CONSULTANTS LIMITED	7th Defendant

BEFORE THE HONOURABLE MR. JUSTICE YAM IN COURT

ORDER

UPON the Application of the Plaintiff by way of Summons filed on 14th May 2002

AND UPON READING the Affirmation of Chung Lai Ling, Ada, filed on 12th October 2001 and exhibit "CLLA-1" therein referred to and the Second Affirmation of Chung Lai Ling, Ada, filed on 14th May 2002 and the exhibits therein referred to

AND UPON HEARING Leading Counsel for the Plaintiff, Counsel for the 3rd Defendants, Leading Counsel for the 4th Defendants and Counsel for the 5th Defendant and the 2nd Defendant being absent

IT IS ORDERED that:

1. That the Scheme of Trust as set forth in Schedule 1 hereto respecting the charitable trust of the Tsing Shan Monastery be approved;
2. That HSBC Trustee (Hong Kong) Limited be appointed as the Custodian Trustee of the Scheme of Trust referred to in paragraph (1) above and be entitled to charge and be paid remuneration in accordance with the scale of fees set out in Schedule 2 hereto or otherwise as may be agreed to by the Managing Trustees of the said Scheme of Trust;
3. That the properties of Tsing Shan Monastery including:
 - a) Lots numbered 604, 417, 418, 440, 484, 559, 564, 565, 628, 718, 719 and 729 in Demarcation District numbered 131, and
 - b) The resumption monies following the resumption of Lot numbered 546 in Demarcation District numbered 132 by the Government in December 1977 lodged in the High Court and standing to the credit of the Tsing Shan Monastery;do vest in HSBC Trustee (Hong Kong) Limited as the person holding the office of Custodian Trustee under the Scheme of Trust referred to in paragraph (1) above for all the estate and interest therein of the Tsing Shan Monastery upon the charitable trust of Tsing Shan Monastery under the Scheme of Trust;
4. That the 5th Defendant do deliver possession of the Tsing Shan Monastery at Castle Peak, Tuen Mun, to the Plaintiff forthwith;
5. That the 5th Defendant do account for all monies and/or other property belonging to the Tsing Shan Monastery which were received by him during his stay at the Tsing Shan Monastery, his dealings therewith and their present equivalent acquired or derived from the same (including all interest or earnings upon the same or accretion in value of the same);
6. That the Managing Trustees of the Scheme of Trust referred to in paragraph 1 above be entitled to trace, attach, recover and/or have transferred to them in specie all monies and/or other property, whether real or personal, revealed, upon the taking of the

accounts referred to in paragraph (5) above, to be representing and/or acquired with or derived from monies or other property belonging to the Tsing Shan Monastery;

7. That the 5th Defendant do pay or transfer to the said Managing Trustees all monies and/or other property, whether real or personal, revealed, upon the taking of the accounts referred to in paragraph (5) above, to be representing and/or acquired with or derived from monies or other property belonging to the Tsing Shan Monastery;

IT IS FURTHER ORDERED AND DECLARED that the properties of the Tsing Shan Monastery, including:

- a) Lots numbered 604, 417, 418, 440, 484, 559, 564, 565, 628, 718, 719 and 729 in Demarcation District numbered 131, and
- b) The resumption monies following the resumption of Lot numbered 546 in Demarcation District numbered 132 by the Government in December 1977 lodged in the High Court and standing to the credit of the Tsing Shan Monastery;

are and have at all material times been held under a trust for religious purposes for the benefit of the public at large.

AND IT IS FURTHER ORDERED that an ORDER in respect of costs be made as follows:

1. the costs of the Plaintiff in this application be taxed on a common fund basis and paid out of the funds lodged in Court in the name of the Tsing Shan Monastery;
2. the counsel's fees incurred by the 4th Defendants in engaging Senior Counsel for attending the hearings on 3th August 2001 and 23rd May 2002 in these proceedings and in Part I of the proceedings (in HCMP 562/92 and 2084/94) shall be paid out of the funds lodged in Court in the name of the Tsing Shan Monastery on common fund basis;
3. all costs awarded against the 3rd Defendants in Part I of the proceedings (in HCMP 562/92 and 2084/94) and their own costs in Part I and this application shall be paid out of the funds lodged in Court in the name of the Tsing Shan Monastery on common fund basis; and
4. there be no order as to costs in relation to the 5th Defendant.

Dated the 23rd day of May 2002.