

HCA 1339/2014



IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF FIRST INSTANCE
ACTION NO. 1339 OF 2014

BETWEEN

KOO MING KOWN

Plaintiff

and

12 AUG 2016
THE BAPTIST CONVENTION OF HONG KONG operating as
PUI CHING PRIMARY SCHOOL and PUI CHING ACADEMY

1st Defendant

YOUNG KWOK HUNG CLEMENT

2nd Defendant

LEE SEE YUEN

3rd Defendant

BEFORE DEPUTY HIGH COURT JUDGE SEAGROATT IN CHAMBERS

ORDER

UPON the application of the Plaintiff by way of Summons filed herein on 5th February 2016 (“the Plaintiff’s Summons”), and the application by the 1st and 2nd Defendants by way of Summons filed herein on 8th July 2016 (“the 1st and 2nd Defendants’ Summons”)

AND UPON reading the 2nd Affirmation of Cheng Duen Lam Simon filed herein on 5th February 2016 with exhibit referred to therein and the Affidavit of Chan Chi Mong Hopkins filed herein on 8th July 2016 with the exhibits referred to therein

AND UPON hearing counsel for the Plaintiff and counsel for the 1st and 2nd Defendants

BY CONSENT, IT IS ORDERED THAT:

1. judgment be entered for the Plaintiff against the 1st and 2nd Defendants upon the following terms:

- (1) a declaration is made that the 1st Defendant holds the Gift of HK\$20,000,000 (as defined in paragraph 18 of the Plaintiff's Statement of Claim filed herein on 17 September 2014 (the "SOC")) on constructive trust for the Plaintiff;
- (2) an order is made against the 1st Defendant that the Gift of HK\$20,000,000 (as defined in paragraph 18 of the SOC) is rescinded;
- (3) the 1st Defendant do make repayment of the sum of HK\$20,000,000 to the Plaintiff forthwith;
- (4) the 1st Defendant do provide an account to the Plaintiff of all benefits and/or profits which the 1st Defendant has obtained from the Gift of HK\$20,000,000 (as defined in paragraph 18 of the SOC) since it was transferred by the Plaintiff to the 1st Defendant on or about 17 December 2007;
- (5) the 1st and 2nd Defendants do pay to the Plaintiff damages for misrepresentation, to be assessed;
- (6) the 1st Defendant do pay to the Plaintiff interest at judgment rate on the sum of HK\$20,000,000 for which it is liable under paragraph (3) above;

- (7) the 1st and 2nd Defendants do pay to the Plaintiff interest at judgment rate on the sum(s) which they may be found liable under paragraph (5) above;
 - (8) the 1st and 2nd Defendants do pay to the Plaintiff:
 - (i) the Plaintiff's costs of this action as against the 1st and 2nd Defendants up to and including this Judgment, such costs to be taxed if not agreed; and
 - (ii) the Plaintiff's costs of the Plaintiff's Summons, including all reserved costs and costs of the hearing on 13 July 2016, on an indemnity basis, to be taxed if not agreed.
2. the 1st and 2nd Defendants do have leave to withdraw the 1st and 2nd Defendants' Summons; and
 3. the 1st and 2nd Defendants do pay to the Plaintiff its costs of the 1st and 2nd Defendants' Summons, including the costs of the hearing on 13 July 2016, on an indemnity basis, to be taxed if not agreed.

Dated the 13th day of July 2016

Registrar

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ORDER

Dated the 13th day of July 2016

Filed the 12th day of August 2016

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