

LCQ21: Administration of the estate of the late Mrs Nina Wang

Following is a question by the Hon Mrs Regina Ip and a written reply by the Secretary for Justice, Mr Paul Lam, SC, in the Legislative Council today (February 15):

Question:

The Court of Final Appeal handed down a judgment on May 18, 2015, which held that the Chinachem Charitable Foundation Limited (the Foundation) was to hold the estate of the late Mrs Nina Wang as a trustee, rather than receiving the estate concerned as an unconditional absolute gift; the Foundation's Board of Governors and the Secretary for Justice (SJ) (as the guardian of the public interest) were required to formulate a scheme for implementing the will made by Mrs Wang in 2002, and prepare the scheme and submit it to the High Court for approval after consultation between the Foundation's Board of Governors and SJ. Moreover, SJ indicated in her reply to a question raised by a Member of this Council on February 24, 2021 that the Department of Justice had made an application to the Court on March 29, 2019 in respect of the relevant issues such as the propriety of the administration scheme it proposed and the details thereof, in order to seek the Court's determination or directions, and that the Court had fixed a directions hearing on May 26, 2021. In this connection, will the Government inform this Council of the progress of the relevant legal proceedings and whether the directions hearing concerned has been completed; if so, of the Court's directions for the use of such estate, and when SJ and relevant government departments will, in accordance with the Court's directions, properly handle such estate which should be used for charitable purposes, so as to avoid wasting resources?

Reply:

President,

In relation to the estate of the late Mrs Nina Wang (Estate), the Department of Justice (DoJ) has been actively following up the blueprint of the scheme of administration for the Estate (Scheme) as laid down in the judgment of the Court of Final Appeal dated May 18, 2015 as well as the subsequent legal proceedings, orders and directions. The relevant legal proceedings are still ongoing.

In relation to the Hon Regina Ip's questions, I now reply as follows:

The Court made procedural directions at the hearing on May 26, 2021 which primarily concerned the further timetable for the parties' filing of evidence. The parties have been progressing with the legal proceedings according to the timetable. The Court conducted the first stage hearing on matters relating to the trustee of the Estate in July 2022 and handed down its judgment on October 21, 2022 (HCMP 853/2012: [2022] HKCFI 3255) ruling on the key issues concerning the Scheme, including the imposition of two conditions for Chinachem Charitable Foundation Ltd (Foundation) to be appointed as the trustee of the Estate:

- (1) The Solvency Condition; and
- (2) The Fit and Proper Condition.

The Court has also dismissed the Foundation's application for issuance of formal requests to the Premier of the State Council of the People's Republic of China and the Secretary General of the United Nations inviting them to join a supervisory managing organisation (SMO), for the reason that they are not subject to the Hong Kong Courts' jurisdiction. It is thus inexpedient and inappropriate for them to be invited to join the SMO.

In addition, the Court held that before dealing with the detailed provisions of the Scheme (including the constitution and structure of the SMO), it is necessary to determine whether the Foundation is suitable to be appointed as the trustee. Subsequently, the Court held a directions hearing in November 2022 regarding the issue of Foundation's suitability to be appointed as the trustee. The parties were directed to file documents and evidence on the said two Conditions in accordance with the Court's directions. The Court has also scheduled separately the substantive hearings for determining (1) the Solvency Condition in July 2023 and (2) the Fit and Proper Condition in December 2023 and February 2024.

As the legal proceedings are still ongoing, it is inappropriate for us to publicly discuss any further details or make any comments. Upon the Court's determination of whether the Foundation satisfies the said two Conditions for appointment as the trustee, the DoJ will continue to pursue the matters in relation to the detailed provisions of the Scheme.

The Estate is currently administered by the interim administrators pursuant to the Court's orders so as to preserve its status quo. Pending a Scheme to be set up and sanctioned by the Court, no unauthorised person may misappropriate any assets of the Estate. According to information provided by the interim administrators, in each year between 2018 and 2022, the Chinachem Group made donations to different charitable organisations and other institutes for charitable purposes, totalling around HK\$55.51 million.

As the protector of charities, the Secretary for Justice will actively follow up on the ongoing legal proceedings in order to assist the Court in sanctioning the Scheme as early as possible, with a view to facilitating the trustee in proper use of the Estate for charitable purposes in accordance with the Scheme and Mrs Nina Wang's wishes.

Ends/Wednesday, February 15, 2023