



Court Application for Setting up an Independent Committee to Administer the Estate of a Mentally Incapacitated Person

A child successfully applied for an order to set up an independent committee to administer and manage substantive assets in the estate of a mentally incapacitated person, while an enduring power of attorney was alleged to be valid and have been in force- unpublished judgment delivered in 2016 in the High Court Mental Health Case (HCMC in 2014):

It was an application for an order to appoint a committee to administer and manage all assets of an elderly mother, who was a mentally incapacitated person, under Part II of the Mental Health Ordinance, Cap.136. There was a serious dispute between 2 camps of children of an elderly mother who was alleged to have suffered from dementia and other mental illness. There was a serious allegation that an enduring power of attorney was signed by the mother and made in favour of only one child, who was suspected to have misappropriated the Mother's assets in a sum of about HK\$100 million out of her total assets of about HK\$1 billion.

Court held that the mother was in fact mentally incapacitated according to medical expert evidence; and it was just and necessary to appoint a committee to manage the mother's assets and deal with her financial affairs. As the children were in a serious rivalry, none of the children ought to be appointed in the committee, and independent accountants were appointed the committee to seek possession and control of and manage all assets of the mother, and deal with her financial affairs. The Court further ordered the committee to promptly commence investigation on the validity of the enduring power of attorney and the alleged misappropriation, and to regularly report the matters to the Court.

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PLEASE NOTE

The law and procedure on this subject are very specialized. This article is a general explanation for your reference only and should not be relied on as legal advice for any specific case. Of legal advice is needed, please contact our solicitors.

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