

Neutral Citation Number: [2017] ECC Swk 8

IN THE CONSISTORY COURT OF THE DIOCESE OF SOUTHWARK

AND IN THE MATTER OF THE GARDEN OF REMEMBRANCE AT THE SOUTH LONDON
CREMATORIUM

AND IN THE MATTER OF A PETITION BY MRS LYNDA HOPWOOD

JUDGMENT

Introduction

1. This is a petition by Mrs Lynda Hopwood who seeks permission for the exhumation of the cremated remains of Georgina Finch from a consecrated plot in the South London Crematorium. Mrs Hopwood is the only child of Mrs Finch.

The facts

2. Mrs Finch, who was the wife of Roy Finch, died unexpectedly in March 1993, aged 71. Before her death she had expressed two wishes, namely that she wished to be cremated and that in due time her ashes would be joined with the remains of her husband¹.
3. Mr Finch and his family chose the South London Crematorium as the place for Mrs Finch's funeral because this enabled the service to be on a Saturday (many crematoria are closed on Saturdays) and took up the option of having her cremated remains interred in the Garden of Remembrance at the Cemetery. Their thought was this would be a temporary measure until the death of Mr Finch, when arrangements would be made for the remains of Mr and Mrs Finch to be re-united. They tell me that no-one told them that the Garden of Remembrance was consecrated and the legal consequences of its consecration, namely that permission for exhumation from consecrated ground is granted only exceptionally.
4. Mr Finch died on 3 July 2017. Shortly before his death, he made it clear that he wanted his remains to be buried, with a casket containing his wife's remains placed within his coffin. In seeking to organise this, Mrs Hopwood discovered for the first time that the Garden of Remembrance at the South London Crematorium was consecrated and that permission for exhumation of her father's remains would not issue as a matter of course, as she had assumed.
5. Mrs Hopwood has arranged for Mr Finch's remains to be buried in Epsom Cemetery. Her preference is that he should be buried not in that part of the cemetery that is consecrated but in a section that has been blessed by ministers of churches not in communion with the Church of England². However if it were a requirement of any faculty that might issue that any re-interment of Mrs Finch's remains should be into consecrated ground, a consecrated plot is available. A specialist firm would be employed to carry out the exhumation and make the subsequent arrangements. However this has been postponed pending the determination of her petition for permission to exhume her mother's remains. Her petition is supported by her two children.

¹ Tracey Thornton, her granddaughter, says that she would have been happy for their ashes to have been scattered together. As it is, as I shall explain, Mr Finch did not want to be cremated.

² I do not know if this includes members of the Roman Catholic Church.

Consideration

6. This is not a case where a family simply did not know that the ground was consecrated in which the remains of a relative were interred; and where they have subsequently changed their minds about the appropriate arrangements in respect of that interment. Rather they organised the interment positively thinking that there would be no difficulty about subsequent exhumation of the remains. Mrs Hopwood observes that

Retrospectively it would have been much more sensible to have just kept the ashes at home but somehow it didn't seem respectful enough and in an emotionally charged state we did not realise the enormous consequence of our decision as no-one at the Crematorium had explained it³.

7. I can understand that Mr Finch and his family did not explore at the time that a decision had to be made about the ashes just what the consequences of interring in the Garden of Remembrance might be, even though, since they were particularly concerned that the interment should be temporary, it would have been a sensible thing to do.
8. In these circumstances, it seems to me that a mistake has been made such that it would be appropriate to permit exhumation as an exception to the norm of permanence of Christian burial⁴. Accordingly I direct that a faculty should issue upon Mrs Hopwood's undertaking that her mother's remains are re-interred in Epsom Cemetery in a plot where her father's remains will be buried. I do not require that Mrs Finch's remains be re-interred in consecrated ground. It is unlikely in the extreme that the occasion would ever arise in the future for any further exhumation but, in any event, I do not think that it would be appropriate in the circumstances for me to require Mrs Finch's remains to remain subject to the control of the Consistory Court. Similarly in *In re Blagdon Cemetery*, the Court of Arches did not impose a requirement that remains which the court permitted to be exhumed should be re-interred in consecrated ground.

PHILIP PETCHEY
Chancellor

16 August 2017

³ I do not think that it will be appropriate to make inquiries as to what precisely happened and why; however in these circumstances, in fairness to those involved in the making of the funeral arrangements, I must note that it is possible that there might be differing recollections of what happened. It occurs to me that there was scope for confusion in circumstances where the Crematorium might have thought that the undertakers may have spoken to Mrs Hopwood and her family about the status of the Garden of Remembrance.

⁴ See *In re Blagdon Cemetery* [2002] Fam 299, especially paragraph 36 (iii).