

ZP v ZO
[2010] SGHC 364

Case Number : Divorce Suit No 3710 of 2009
Decision Date : 21 December 2010
Tribunal/Court : High Court
Coram : Philip Pillai J
Counsel Name(s) : Yap Teong Liang (TL Yap & Associates) for the plaintiff; Foo Siew Fong (Harry Elias Partnership) for the defendant.
Parties : ZP v ZO

Family Law

LawNet Editorial Note: In the appeals to this decision, Civil Appeal No 94 of 2010 was allowed in part and Civil Appeal No 96 of 2010 was allowed in its entirety by the Court of Appeal on 29 April 2011. See [\[2011\] SGCA 25.](#)

21 December 2010

Philip Pillai J:

1 This was an application for custody, care and control as well as division of matrimonial assets. I will set out the grounds of my decision firstly on custody, care and control and then on the division of matrimonial assets.

Custody, Care and Control

2 Following the parties' separation, the District Judge ("DJ") made an interim order for care, control and access of the three children on 7 October 2008 in the following terms:

(a) The plaintiff has interim care and control of the three children, [B], [C] and [D];

(b) The defendant shall have access to the children as follows:

(i) Weeknights: two weekday nights each week from 6.00 pm to 9.00 pm;

(ii) Weekends: Alternate weekends from 7.30 pm on Friday to 8.00 pm on Sunday;

(iii) School holidays:

(A) PSLE marking days, National Day, March and September school holidays to be divided equally by mutual arrangement;

(B) June holidays - first two and a half weeks; and

(C) December holidays - first three and a half weeks with Christmas week (25 December to 1 January) to be shared equally by mutual arrangement;

(iv) Public holidays: Christmas Day to be shared (half day each from Christmas Eve). Other public holidays are to be alternated.

(v) Parents' birthdays: children to be with the respective parent on the day of his/her birthday; and

(vi) Father's Day and Mother's Day: children to be with the respective parent.

(c) The defendant is to be informed of all meetings with the children's school teachers, children's performances and other school events to which parents may be invited and is at liberty to attend them.

3 The husband appealed against the DJ's orders to the High Court which made the following orders which were in place up until to the of the hearing of the application:

(a) The alternate weekend access is from Friday 5.00 pm to Sunday 8.00 pm;

(b) On the weeks which the husband has weekend access, he will have 2 weekdays' access from 6.00 pm to 9.00 pm.

(c) On the week which the Husband does not have weekend access, he will have two weekdays' access from 6.00 pm to 9.00 pm.

(d) Access during all public holidays are to be alternated and access on Christmas will be from 4.00 pm on Christmas Eve to 12.00pm on Christmas Day.

(e) The time for access on public holidays and other special days will be from 6.00 pm on the eve of the public holiday or special day to 8.00 pm on the day itself.

4 In the light of the above and given that family matters are fact-based and contextual, I considered the following to be significant factors and considerations in this particular case: the three children are all daughters with the two older daughters being young teenagers. Quite apart from the emotional impact of their parents' divorce, I think it is important that there be some degree of continuity, certainty and stability in their upbringing during their teenage years. I noted that the decisions relating to the children's education and religious upbringing have been made during the marriage and see no reason to change them. It is also equally important that both parents continue to be engaged and consulted in the major decisions relating to their education and religious upbringing.

5 Accordingly, I made the following orders:

- (a) The defendant be granted sole custody, care and control of the three children of the marriage, subject to the following orders;
- (b) Prior to any decision being made on the change of school, course of study or major education milestones, both parties shall consult the child, her teachers and each other, and shall agree to a decision, failing which either party is at liberty to apply to court within a reasonable time;
- (c) The defendant shall inform the plaintiff of all meetings with the children's school teachers, children's performances and other school events to which parents may be invited and the plaintiff is at liberty to attend them;
- (d) The children of the marriage shall continue their catechism classes at [XXX] Church and the plaintiff shall fetch the children from the defendant's residence on the weekend when the children are with the defendant to take them for their catechism classes and return the children to the defendant's residence after the catechism classes;
- (e) If it is the practice of [XXX] Church to issue reports to parents on the child's spiritual development, the plaintiff is to promptly forward such reports to the defendant;
- (f) The plaintiff shall take the three children of the marriage for their regular checkups with the dentist and optometrist and the plaintiff shall bear all costs associated with such checkups;
- (g) The plaintiff shall have reasonable access to the three children of the marriage as follows:
 - (i) Weeknights: one weekday night each week from 6.00 pm to 9.00 pm;
 - (ii) Weekends: alternate weekends from 5.00 pm on Friday to 8.00 pm on Sunday;

(iii) School holidays:

(A) PSLE marking days, National Day and March and September school holidays to be divided equally by mutual arrangement.

(B) June holidays: first two and a half weeks.

(C) December holidays: first three and a half weeks.

(D) The plaintiff and defendant are to alternate access from 2.00pm on Christmas Eve to 2.00pm on Christmas Day and from 2.00pm on Christmas Day to 2.00pm on 26 December.

(E) The plaintiff and defendant are to alternate access from 2.00pm on New Year's Eve to 2.00pm on New Year's Day.

(F) The plaintiff and defendant to share the Christmas week equally (from 2.00pm on Christmas Eve to 2.00 pm on New Year's Day and the handover of the children during the week shall be at 4.00 pm on 28 December).

(iv) Other public holidays to be alternated and access shall be from 6.00pm on the eve of the public holiday to 8.00 pm on the day itself.

(v) Parents' birthdays: children to be with respective parent on the day of his/her birthday.

(vi) Father's Day and Mother's Day: children to be with the respective parents.

(vii) If a child's birthday falls on a weekday when the plaintiff does not have access, the plaintiff shall have two hours of access after school from 5.30 pm to 7.30 pm. If the birthday falls on a weekend, the plaintiff shall have access for four hours from 12.00 pm to 4.00 pm. If the birthday falls on the weekend when the plaintiff has access, the defendant shall have access for four hours from 12.00 pm to 4.00 pm on the day of the birthday.

Division of matrimonial assets

6 Section 112 of the Women's Charter provides that the court is to order the division of

matrimonial assets in such proportions as the court thinks just and equitable. In particular, section 112(2) sets out the relevant circumstances to be taken into account. Applying the same, the respective incomes and assets over a marriage of 18 years revealed that the plaintiff and defendant's direct income during this time approximated the proportions of 57%/43%. At the time of the divorce, their respective holdings of assets reflected the proportion of 63%/37%. Taking into account the relevant circumstances, including their respective earning capacities and the arrangements they appear to have adopted during the marriage for the financial upkeep of the household and the children, I did not consider the non-financial contributions of both parties to warrant a change in the proportions of the division of matrimonial assets to be apportioned between them. I accordingly ordered that the share of assets be divided with 57% to the husband and 43% to the wife.

Maintenance of wife and children

7 I awarded a nominal maintenance of \$1.00 for the wife in the light of her employment and earning capacity and to preserve her right to apply for maintenance in the event of changed employment or earning capacity. With respect to the maintenance of the children, taking into account the respective earnings of the parents, I ordered that the plaintiff and defendant bear the costs of maintenance of the children in the approximate proportions of 60%/40% respectively. The wife estimated the monthly expenditure for the children and maid to be as follows: eldest daughter S\$2,401; second daughter S\$2,100, third daughter S\$1,884 and maid S\$842 per month. Following submissions by the plaintiff disputing these costs, I ordered that he pays S\$3,500 per month for the children's maintenance and that this order take effect from 1 May 2010.

8 The defendant next sought arrears of maintenance as the plaintiff had not made any contribution for the maintenance of the children since January 2009. The Plaintiff disclosed that the parties had maintained a joint savings account in the defendant's name and as of August 2008 there had been a balance of S\$99,000 in this account which has been reduced to S\$11,000 by the defendant. The defendant explained that she had used S\$74,000 from this account to pay for a property agent's commission. In the light of this being disputed, I decided to make no order relating to the arrears of payment by the plaintiff of the children's maintenance.

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