

Liew Chui Fong (mw) v Yew Kok Chin
[2007] SGHC 225

Case Number : DT 4789/2004
Decision Date : 27 December 2007
Tribunal/Court : High Court
Coram : Tan Lee Meng J
Counsel Name(s) : Fong Weng Khai (W K Fong & Co) for the appellant/petitioner; Lisa Sam (Lisa Sam & Co) for the respondent/respondent
Parties : Liew Chui Fong (mw) — Yew Kok Chin

27 December 2007

Tan Lee Meng J:

1 This judgment concerns the division of the matrimonial assets of the petitioner, Mdm Liew Chui Fong ("Mdm Liew"), and the respondent, Mr Yew Kok Chin, as well as the maintenance payable by Mr Yew to Mdm Liew. I ordered that the matrimonial assets be divided on the basis of 60% for Mr Yew and 40% for Mdm Liew. I also ordered that Mr Yew pay a monthly maintenance of \$700 to Mdm Liew.

2 Mdm Liew and Mr Yew, who were married on 29 March 1977, were divorced in 2005. They have two children, one aged 29 and the other aged 19.

3 As is often the case with disputes over division of matrimonial assets, lengthy affidavits were filed by both parties and innumerable accusations were hurled by them against each other.

4 The properties acquired by the parties during their marriage included the following:

- (i) their matrimonial home at Hilltops at Cairnhill, which was sold in an *en bloc* sale for \$2.8m, the bulk of which has been distributed to both parties;
- (ii) an apartment in Newton View, which has been fully paid for;
- (iii) a shop unit in China;
- (iv) an office unit in China; and
- (v) a half-share of a property in Brisbane, Australia, which was sold in 2005. The sale proceeds are listed in Mr Yew's list of assets for the purpose of distribution of matrimonial assets.

5 When dealing with the division of matrimonial property, reference must first be made to s 112(1) of the Women's Charter (Cap 353, 1997 Rev Ed), which provides as follows:

The court shall have power, when granting or subsequent to the grant of a judgment of divorce ... to order the division between the parties of any matrimonial asset or the sale of any such asset and the division between the parties of the proceeds of the sale of any such asset in such proportions as the court thinks just and equitable.

6 Reference must also be made to s 112(2) of the Women's Charter, which provides as follows:

It shall be the duty of the court in deciding whether to exercise its powers under subsection (1) and, if so, in what manner, to have regard to all the circumstances of the case, including the following matters:

(a) the extent of the contributions made by each party in money, property or work towards acquiring, improving or maintaining the matrimonial assets; ...

(d) the extent of the contributions made by each party to the welfare of the family, including looking after the home, or caring for the family or any aged or infirm relative or dependent of either party; ...

(g) the giving of assistance or support by one party to the other party (whether or not of a material kind), including the giving of assistance or support which aids the other party in the carrying on of his or her occupation or business .

7 The effect of s 112 of the Women's Charter has been considered in innumerable cases. In *Lim Choon Lai v Chew Kim Heng* [2001] 3 SLR 225 ("*Lim Choon Lai*"), the Court of Appeal pointed out that the process of dividing matrimonial assets is not an exact science and each judge will have his own view as to what would be a just and equitable division of the parties' matrimonial assets in any given case. L P Thean JA, who delivered the judgment of the court, stated at [14] as follows:

In determining a "just and equitable" division of matrimonial assets under s 112(1) of the Women's Charter, the court must, as directed by s 112(2), have regard to all the relevant circumstances of the case at hand, and in particular the matters enumerated in that subsection, in so far as they are applicable, and on that basis determine what a "just and equitable" division should be. The matters enumerated there comprise both financial and non-financial contributions made by the parties. Where financial contributions are concerned, the court must, of course, take into account the sums contributed by each party; these are the matters specifically mentioned in paras (a) and (b) of s 112(2). However, this does not mean that the court should engage in a meticulous investigation and take an account of every minute sum each party has paid or incurred in the acquisition of the matrimonial assets As for the non-financial contributions, they also play an important role, and depending on the circumstances of the case, they can be just as important. *At the end of the day, taking into account both the financial and non-financial contributions, the court would adopt a broad-brush approach to the issue and make a determination on the basis of what the court considers as a "just and equitable" division.*

[emphasis added]

8 Mdm Liew was a typist in Singapore Airlines and her starting salary was only \$190 per month. At that time, Mr Yew was earning a monthly salary of \$2,000. Although Mdm Liew worked in SIA for 27 years until she retired in January 2003, she never earned a salary that was as high as that of Mr Yew, who explained in his affidavit filed on 28 June 2006 at [4] as follows:

Of course as time passed, both our income[s] increased but as she was employed as a clerk, her annual increments only amounted to \$15.00 per annum for the first few years. In contrast, as an executive employee with Castrol Oil, a multinational oil company, my wages were much higher and my annual increments ranged from \$150.00 to \$400.00 per annum.

9 Although Mdm Liew also claimed to have purchased some Singapore Airlines shares that had been offered to her at a discount when she was an employee of the airline, Mr Yew denied that she

was able to pay for the shares with her own money. In any case, the amount that could have been realised from the sale of these shares pales by comparison to the parties' investments in the property market.

10 Mdm Liew lay claim to 70% of the matrimonial assets without justifying why she should be entitled to such a large share of the said assets. Her case was that she should be given 70% to the matrimonial assets in view of the length of the marriage and her direct and indirect contributions. Bearing in mind Mdm Liew's low salary as compared to that of her husband and after taking into account her non-financial contribution in looking after the family, a task which was shared with Mr Yew as they were both working parents for a long time, an award of 40% of the matrimonial property to Mdm Liew is, in view of the broad-brush approach endorsed by the Court of Appeal in *Lim Choon Lai* ([7] *supra*), not unfair to her.

Maintenance

11 As for maintenance, s 114(1) of the Women's Charter provides as follows:

In determining the amount of any maintenance to be paid by a man to his wife or former wife, the court shall have regard to all the circumstances of the case including the following matters:

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the marriage;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contributions made by each of the parties to the welfare of the family, including any contribution made by looking after the home or caring for the family.

12 It must first be noted that Mr Yew is unemployed and is in ill health. He is diabetic, has high blood pressure and is already blind in the left eye. In his report on 1 April 2006, Assoc Prof Au Yong Kah Guan, a consultant ophthalmologist, certified that apart from being blind in his left eye, Mr Yew has wet myopic macular degeneration in his right eye. Another eye specialist, Dr Gerard Chuah, stated in a report dated 9 December 2005 that in view of his eye condition, it is highly likely that Mr Yew will require prolonged and life-long follow-ups and may require multiple treatments of laser. In view of his health problems, Mr Yew is clearly unable to work.

13 Apart from Mr Yew's ill health and inability to work, it is pertinent to note that in *Lee Yong Chuan Edwin v Tan Soan Lian* [2001] 1 SLR 377, the Court of Appeal accepted that for the purpose of determining the question of maintenance, the division of the matrimonial assets and the financial resources that the parties have or are likely to have in the foreseeable future may be taken into account. In the present case, with the *en bloc* sale of the matrimonial home at Hilltops, Cairnhill, Mdm Liew already has in her hands quite a tidy sum. The parties' Newton apartment, which has been fully paid for, has appreciated in value considerably in the present property market and there are other matrimonial properties. In short, the fact that Mdm Liew has been awarded 40% of the

matrimonial assets cannot be overlooked when considering the question of maintenance. In these circumstances and in view of Mr Yew's unemployment and ill health, Mdm Liew's suggestion that she be paid a monthly maintenance of around \$4,700 or a lump sum of \$200,000.00 cannot be countenanced. This is especially so since separate arrangements had already been made for the welfare of Don, who is presently below 21 years of age.

14 On hindsight, it might have been preferable not to have ordered Mr Yew to pay any maintenance at all to Mdm Liew. Mr Yew has not appealed against the order that he pay \$700 per month to Mdm Liew. As for Mdm Liew, she may have her long list of expenses, as outlined in her affidavit, but she should be content with her share of the matrimonial assets and use them to maintain her preferred life-style.

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