

Chai Fei Choo v Leong Tak Wa
[2012] SGHC 185

Case Number : Divorce No 4734 of 2007 (RAS No 210 of 2011)
Decision Date : 07 September 2012
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Carrie Gill, Adriene Cheong and Ivan Cheong (Harry Elias Partnership LLP) for the plaintiff; Defendant in-person.
Parties : Chai Fei Choo — Leong Tak Wa

Family Law – Custody

Family Law – Maintenance

Family Law – Matrimonial assets

7 September 2012

Judgment reserved.

Choo Han Teck J:

1 The appellant (husband) was the defendant in this divorce suit brought by the respondent (wife) against him. They married on 27 January 1988. The respondent is 49 years old and the appellant is 48 years old. The marriage broke down in 2007 and the respondent filed the divorce suit on 28 October 2008. Interim judgment was granted on 7 October 2009. They have three children. The eldest is a son (Kent) aged 22; the second a daughter (Serene) aged 20; and the youngest, a son (Daniel) aged 17 years.

2 The respondent was a housewife until the divorce when she began working as a customer service assistant earning \$848 a month. The appellant was ordered to pay a monthly maintenance of \$5,000 a month as interim maintenance. There were two main assets, namely, the matrimonial flat which was a flat at Sin Ming Walk known as Gardens@Bishan, and an HDB flat at Teck Whye Lane.

3 The ancillary orders made by District Judge Wong Keen Onn ("the District Judge") were as follows. First, the parties were given joint custody of the two minor children with care and control to the respondent and reasonable access to the appellant. Secondly, the appellant is to pay a monthly maintenance in the sum of \$1,400 to the respondent. The appellant is to maintain the two minor children in the sum of \$3,200 jointly each month. The appellant is also to pay half the overseas school fees and related expenses for Serene until she completes her course. The appellant was also ordered to pay arrears in maintenance amounting to \$26,155. Thirdly, the appellant was to transfer his rights, title and interest in the matrimonial flat at Gardens@Bishan to the respondent. The respondent was to transfer her rights, title and interest in the Teck Whye Lane to the appellant but the appellant was to refund the respondent's Central Provident Fund ("CPF") money used for the purchase of this flat. Further, the appellant was to pay the respondent the sum of \$232,400 from the remaining matrimonial assets. The District Judge ordered this sum to be transferred from the appellant's CPF account to the respondent's CPF account with any shortfall to be paid in cash. Fourthly, costs of \$5,000 was ordered against the appellant.

4 The appellant was dissatisfied with the above orders and appealed before me. The appellant was unrepresented in this appeal although he was represented by solicitors before the District Judge. The District Judge set out the arguments from both sides and the grounds in his written judgment dated 16 March 2012. Each item disputed was dealt with in sequence and his decision on each was fully explained. Perusing his judgment, I find myself in full agreement with the learned District Judge on each of his findings and his overall approach. However, there was an inexplicable difference in paragraphs 27 and 29 of his judgment. At paragraph 27, the District Judge noted that the appellant claimed \$60,000 for his pilot training course but at paragraph 29 he noted that the respondent conceded that \$91,000 was used for the pilot training course. I do not think that this was material as the District Judge ultimately erred in favour of the appellant on this point.

5 In regard to the issue of custody, care and control of the two minor children, the District Judge noted the change in position by the appellant who had initially accepted that it would be in the children's interest to continue living with their mother, the respondent. He changed his mind and prayed for care and control so as to spend more time with them. There seems no doubt that the respondent was the parent who brought up the children when the appellant was at work. The District Judge took his interview with Daniel into account and was satisfied that it would be best to grant care and control to the respondent. The two minor children are well educated and nearing adulthood. They could but did not seek a contrary order by indicating so in an affidavit. I agree with the learned District Judge that there was no need to interview them further. The orders relating to custody, care and further control are therefore not to be disturbed.

6 In respect of the earnings and contributions made by the parties, there is little evidence indicating that the District Judge was so wrong as to merit an intervention by this court. I am of the view that the decision to award the respondent 45% from the matrimonial assets to be just and fair even though the direct financial contributions made by her were very low. In a marriage that lasted twenty years (1988 to 2008) and involved bringing up three children, and where there was a 5% to 15% direct financial contribution, a 45% to 50% apportionment is fair and reasonable.

7 I find that the District Judge's finding, that the total matrimonial assets consisted of \$1,808,435.45 inclusive of the two flats, was reasonably accurate. Where, as in this case, some other assets such as investments in unit trusts and bank accounts as well as alleged payment and withdrawal of money from real or phantom accounts are alleged by both sides, the trial judge was duty bound to act only where he is satisfied that the claims appear reasonable.

8 The court ordered an interim maintenance order of \$5,000 a month. That order was upheld on appeal. However, at the final hearing, the learned District Judge found the expenses of the two minor children to be \$1,935.33 for Daniel and \$1,614 for Serene (totalling \$3,549, against the claims of \$3,479 by the respondent and \$1,285 by the appellant). The court thus revised the maintenance to the children to \$3,200 (being 90% of \$3,549). I am of the view that this assessment was fair. Although the appellant was ordered to pay a much higher percentage than the respondent, the District Judge had taken into account the fact that the appellant earns eight times more than the respondent. I do not accept the appellant's claim that he is earning less than that. No convincing evidence was adduced before me on this issue. With regard to the respondent's maintenance, the District Judge found that her expenses were about \$2,400.20 a month. This did not include her share of maintaining the children (\$349). Her net salary was \$1,000. The maintenance order of \$1,400 might be high to place the respondent at the expenses level claimed but given the income of the appellant (more than \$8,500 a month) the amount ordered was not unreasonable and should remain.

9 I come to the appellant's conduct of the appeal. The appellant loaded a massive stack of documents with a lengthy submission that did not address the factual issues. Instead, his

“submission” referred to what seemed clearly old and irrelevant evidence. For instance, pages of photographs of the respondent and a person alleged to be her lover were produced. The photographs were clearly taken more than ten years ago. Some of them show the children at 5 to 7 years old. Photographs and descriptions of the appellant’s past work and projects for the future were also attached with no relevant or logical persuasion. These were all of no relevance to the decision or the ancillary matters. I will merely say, without amplification, that the appellant seems to me to have abused his position as a litigant in-person in vexing the process with tedious polemic and many rude and unjustified references to the learned District Judge. I accept that perhaps he had been, and still is, emotionally affected by the divorce, but that is something for him to work on with professional counsellors. For my part, I am of the view that there is no merit in the appeal and it is therefore dismissed. Given the circumstances, I order costs of this appeal to be paid to the respondent and to be taxed if not agreed.

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