

MB v MC
[2008] SGHC 246

Case Number : D 601589/2001, RAS 720017/2008
Decision Date : 31 December 2008
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : Appellant in person; Andrew Tan (Andrew Tan Tiong Gee & Co) for the respondent
Parties : MB — MC
Family Law – Maintenance

[EDITORIAL NOTE: The details of this judgment have been changed to comply with the Children and Young Persons Act and/or the Women's Charter]

31 December 2008

Woo Bih Li J:

Introduction

1 In Summons No 650228 of 2008 (“the 2008 Summons”), the Applicant MC (“the Wife”) applied for a variation of the maintenance previously awarded to her and a son who is the child of her marriage with the Respondent MB (“the Husband”). Her application was dismissed by District Judge Regina Ow-Chang Yee Lin (“DJ Ow”) on 17 September 2008. I heard her appeal against that decision on 14 November 2008 and dismissed her appeal. She has requested that I provide my grounds of decision (“GD”).

The court’s reasons

2 On 25 May 2005, a District Judge Laura Lau (“DJ Lau”) made various orders on the ancillaries in respect of the divorce proceedings between the parties (“the 25 May 2005 Order”). The 25 May 2005 Order provided, *inter alia*, for the Husband to pay (a) lump sum maintenance of \$20,000 for the Wife and (b) maintenance for the child at \$650 per month with effect from 1 June 2004 and thereafter, on the first day of each month.

3 Apparently, there were cross-appeals RAS 720042 and 720043 of 2005 filed against the 25 May 2005 Order. RAS 720043 of 2005 was the Wife’s appeal in which she sought an order that the Husband pay a lump sum maintenance of \$200,000 for the child, or alternatively \$950 per month with effect from the time the divorce proceedings were commenced. As for herself, the Wife sought a lump sum maintenance of \$30,000 in the appeal.

4 Both her appeal and the Husband’s were dismissed by Justice Tan Lee Meng on 25 January 2006.

5 A few months later, the Wife filed an application by way of Summons No 650212 of 2006 to vary the 25 May 2005 Order as follows:

(a) that the Husband be ordered to pay maintenance for the child at \$2,500 per month, alternatively, a lump sum of \$250,000 for the child;

(b) that the Husband be ordered to pay the Wife a sum of \$1,000 (presumably she meant this to be monthly maintenance), alternatively, a lump sum of \$100,000.

This application was heard by District Judge Khoo Oon Soo ("DJ Khoo") and dismissed on 11 November 2006.

6 On 29 November 2006, the Wife filed an appeal against DJ Khoo's decision seeking the same reliefs as Summons 650212 of 2006.

7 On 7 March 2007, Justice Tay Yong Kwang dismissed this appeal. It is true that Justice Tay did mention that if the Wife had in fact enrolled the child in XYZ School, which is a school for children with special needs, and if the existing maintenance for the child was insufficient, the Wife could try to apply to vary the maintenance but he stressed that this was an advice only and was not a direction to anyone. Indeed, although Justice Tay dismissed the Wife's appeal with no order as to costs, he also cautioned the Wife about future costs orders if she persisted in taking out unmeritorious applications and appeals.

8 About 15 months later, the Wife filed the 2008 Summons on 24 June 2008 which was the subject of the appeal which I heard and dismissed. In her first affidavit in support of the 2008 Summons (which affidavit was filed on 24 June 2008), the Wife mentioned that the child suffers from Attention Deficit Hyperactivity Disorder ("ADHD") and Autistic Spectrum Disorder ("ASD") and she had enrolled him at XYZ School on 25 June 2007. The Wife alleged that the monthly school and transport fees were \$500 and \$115 respectively. His medicine costs about \$40 a month. She claimed she was owing money for school fees and medical bills.

9 As for herself, the Wife stressed in that affidavit that she had been diagnosed with nasopharyngeal cancer more than 16 years ago and she was always feeling very tired and could not work. She referred to rent of \$1,400 per month she was paying for an HDB flat. She said she had used the lump sum maintenance to pay various creditors and she still owed \$44,000 to other creditors.

10 The Wife also stressed in her first supporting affidavit that although the Husband (who was 78 years old in 2008) was a pensioner receiving \$1,900 as monthly pension, he is a wealthy man as he had sold his property at Jalan Unggas ("the JU property") on 14 February 2005 at \$2.7 million. She was concerned that if he passed away, the child would not get any more maintenance. In the conclusion of her first supporting affidavit, she asked for \$250,000 lump sum maintenance for the child. In her affidavit, she said that if lump sum maintenance or an upward variation of maintenance was not granted for the child, she would have little option but to surrender the child to the state as she could no longer care for him physically or financially. In the first supporting affidavit, the Wife did not elaborate as to how she derived the figure of \$250,000.

11 It was in her second affidavit (filed on 27 August 2008), after the Husband queried how she derived the figure of \$250,000, that the Wife elaborated and said that in her first supporting affidavit, she had said that the minimum total monthly expenditure for her and the child was \$3,605 which works out to \$43,260 per year. \$250,000 was five years and eight months (based on \$3,605 per month). I noted that in this elaboration, she based her calculation not on maintenance for the child alone but on maintenance for both the child and herself.

12 In the hearing before DJ Ow, the Wife said she was asking for lump sum maintenance of

\$250,000 for both of them and was not asking for (an increase in) the monthly maintenance anymore.

13 In her written submissions for the appeal before me, the Wife stressed at [13] to [15]:

13. The [Husband] is presently 78 years old with a monthly pension of S\$1,900.00. He is very cash rich having sold his house for S\$2.7 million cash in 2005. ([Husband's] 1st Affidavit, Exhibit 15, page 93).

14. The [Husband] had stated that, "I have sold this property and obligated to account to my grown up daughters.". ([Husband's] Affidavit in Reply, page 5, paragraph 17, lines 6 to 7).

15. Since the [Husband] can give all the S\$2.7 million to his two daughters, he should give my son a lump sum maintenance of S\$250,000.00. In view of the present change in circumstances for my son and I, I beg the Court to give my son a lump sum maintenance of S\$250,000.00. ...

14 The Wife's cancer and the child's ADHD were already known and taken into account by DJ Lau when she made the 25 May 2005 order and must have been known by the other courts which heard the appeals and applications I set out above. From the Wife's affidavits and submissions for the 2008 Summons and the appeal which I heard, I was of the view that the real reasons for the 2008 Summons and the appeal was that the Wife was concerned over the old age of the Husband and wanted a share of the sale proceeds of the JU property. I was of the view that the Wife had used her child (and herself) as a reason to get the \$250,000 lump sum maintenance.

15 The JU property had already been dealt with by DJ Lau when she heard the ancillaries. The property had been bought by the Husband and his first wife some 30 years ago (according to the Husband). The (present) Wife and he had never stayed in the JU property nor had she contributed to or improved the same. The marriage between the parties lasted for four years from the date of registration on 21 April 1998 to the date of the decree nisi granted on 15 May 2002 and the parties were physically together for slightly less than three years (see [1] and [27] of DJ Lau's GD).

16 The Husband also pointed out in his reply affidavit (filed on 19 August 2008), some inconsistencies in the Wife's other allegations which I need not go into here.

17 I would add that the Wife's situation was not as pitiful as she had portrayed. As one example, in [20] of the GD of DJ Lau, the district judge noted that in the span of five months from September 2000 to February 2001, the Wife demanded and received from the Husband no less than \$46,500.

18 I did ask the Husband's counsel whether the Husband was prepared, as a matter of indulgence, to give more by way of the monthly maintenance for the child if his expenses had really increased, even though the Wife was seeking a lump sum only. However, counsel said he had no instructions on the same since the Wife had said (before DJ Ow) that she was asking for a lump sum.

19 The question of a lump sum in principle (and the Husband's age and the JU property) had already been considered by DJ Lau and other judges.

20 Bearing in mind the real reasons behind the 2008 Summons, I dismissed the Wife's appeal. Although I made no order for costs of the appeal, she must not believe that she will always be able to avoid paying costs even when she is unsuccessful.

21 If the Wife really wants an increase in monthly maintenance due to genuine increases in the son's monthly expenses, I hope the parties can resolve that without further litigation.

Copyright © Government of Singapore.