Sim Geok Seng (alias Sim Eng Seng Robert) v Lee Kim Kiat
[2007] SGHC 100

Case Number : DT 897/2005

Decision Date : 27 June 2007

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Kalpanath Singh Rina (Kalpanath & Company) for the Petitioner; Raymond Yeo (Jen Koh & Partners) for the Respondent

Parties : Sim Geok Seng (alias Sim Eng Seng Robert) — Lee Kim Kiat

27 June 2007 Judgment reserved.

Choo Han Teck J:

1 The petitioner husband is now 65 years old and unemployed. He was a manager at the Mandarin Hotel until 2004. He then earned about $50,000 a year. The respondent wife is 54 years old and is a director of a company whose business is in providing education services. She earns about $4,000 to $6,000 a month. She is also an undischarged bankrupt. They were married on 21 January 1978 and obtained a decree nisi for divorce on 6 December 2005. They have a 15 year old son. The question of custody, care and control and access in respect of their son had been resolved. The only issues before this court concerned the division of matrimonial assets and maintenance.

2 The matrimonial home at 9 Jalan Kebaya, Singapore was purchased around August 1982 for $595,000 (the "matrimonial home"). The matrimonial home was valued as at January 2007 to be between $1.8m to $2.3m. The petitioner claimed that the matrimonial home was acquired in the respondent's name because he was not permitted to own private property by reason of his ownership of a government subsidised flat ("the flat") at Farrer Court.

3 The down-payment of $59,500 for the flat came from the couple's joint account. A further sum of $108,918 was also paid from this account but the respondent claimed that the money came from her. The CPF contributions were $313,782.59 from the respondent (65.8%) and $162,716.93 from the petitioner (34.2%). The contribution in cash was $381,424.31 and came from the couple's joint account but the respondent claimed that she was the sole contributor to that account. The petitioner said that he sold his Farrer Court flat in 1983 for $330,000. He purchased it before marriage for a sum between $60,000 to $70,000. The matrimonial home was fully paid by 1990. The petitioner contributed $198,000 towards the renovation of the matrimonial home and the respondent, $146,186.

4 The respondent's CPF account has $934,820.22 as at March 2006. The couple also acquired two townhouses in Houston, USA. 58 Memorial Oaks was purchased for US$156,000 and they obtained proceeds of US$71,000 from its sale. The parties do not know what the sale price was. 59 Memorial Oaks was purchased for US$132,000 and sold at US$141,000. The parties also had a flat at Holland Heights but that was sold at a loss in 1987. The parties also had a bungalow at Changi Grove, which was also sold in 1989. The evidence concerning the payments and receipts of proceeds from these properties has not been satisfactorily produced by either side. It appeared, however, that the respondent was the person who was in charge of the sale and subsequent resale. The petitioner claimed that the respondent had not accounted for US$40,000 from the sale of 58 Memorial Oaks. He also claimed that she had agreed to give him 25% from the proceeds of the sale of 59 Memorial Oaks

but he did not receive any payment at all. The respondent denied these claims. I am of the view that although the petitioner did not discharge the burden of proving his claims in respect of the private agreements between the respondent and himself in respect of all the properties acquired and disposed of during their marriage, including the Changi Grove and Holland Heights flats, the evidence appears to show that both parties behaved as a married couple would and had treated the properties as matrimonial assets jointly acquired and dealt with. So, even if one or both of them had not been entirely honest with the other, and might even have taken liberties with the proceeds, the evidence showed that the properties were jointly acquired as matrimonial assets with direct and indirect contributions from both parties. Given the length of the marriage and the number of transactions, as well as the lack of proper accounting, I am of the view that equal division would be the equitable order in this case.

5 In the absence of good reasons, as there might be in some cases, one ought to view a marriage for what it is generally intended to be – a closed partnership in personal, emotional, and material affairs between the married couple. It seems to me that to pick out in detail precisely what each party had contributed, both financially and non-financially, is both ironic and incongruous because the notion of marriage eschews such petty-minded attitude and conduct, and many marriages break up because the marriage partners adopted a fastidious accounting of each other's income and assets. The vow taken on marriage is intended, and is thus regarded, as a generous vow, leading both parties to forsake selfishness for each other. That would be so whether the marriage was solemnised as a religious or secular occasion. There is no compulsion that marriage is a prerequisite for a couple to live as one, and the notions of togetherness and community would be the same in or out of marriage where a couple chooses to live together. The difference is that outside marriage, the courts might presume until proven otherwise that there was no intention of a common sharing of individual wealth. However, where marriage is concerned, the law recognises marriage as such an institution and, likewise, when dealing with the division of matrimonial assets the courts would have regard to the notions of togetherness and equality and as far as possible lean towards equal division unless the circumstances show that such a division would be inequitable, where, for example, the assets were vast and acquired by the sole effort of one party. There is nothing in the present case that indicated that this would be so. The question of the validity of pre-nuptial agreements would also have to be considered in the broad context of what a marriage means but that is not a relevant factor in the present case.

6 I find that the matrimonial assets consisted of the money in the respondent's CPF account and the matrimonial home at 9 Jalan Kebaya, as there is insufficient evidence to make any finding in respect of jewellery, but in any event, in view of the orders I am making, the $120,000 claimed by the petitioner to be the value of the respondent's jewellery is not significant. For the reasons above, I order an equal division of the assets.

7 The respondent is claiming $2,000 a month as maintenance for their 15 year old son. The petitioner is 65 years old, and unemployed. It is open to him to find some form of employment but given his age and circumstances, he is unlikely to be provided with much. The respondent is 54 years old and gainfully employed with an annual income of about $72,000. In the circumstances, I am of the view that the petitioner should provide $800 a month towards the son's maintenance and I so order. I do so having regard to the division of the matrimonial assets as divided above. There will be no order for maintenance for the respondent. A nominal sum serves no function. There will be no order as to costs.