

Tay Boon Cheng Gina v Goh Ah Poo
[2012] SGHC 217

Case Number : Divorce Transfer No 4520 of 2011
Decision Date : 29 October 2012
Tribunal/Court : High Court
Coram : Lai Siu Chiu J
Counsel Name(s) : Wong Chai Kin (Wong Chai Kin) for the plaintiff; Amerjeet Singh (Hoh Law Corporation) for the defendant.
Parties : Tay Boon Cheng Gina — Goh Ah Poo

Family Law

29 October 2012

Lai Siu Chiu J:

1 This case concerned the determination of ancillary matters. I made orders on maintenance, division of matrimonial assets and custody against which orders the Wife has filed an appeal (in Civil Appeal No 120 of 2012).

The background

2 The plaintiff Tay Boon Cheng Gina ("the Wife") married the defendant Goh Ah Poo ("the Husband") on 24 November 1989. They have two sons who are presently 20 and 16 years of age respectively (collectively "the children"). On 31 October 2011 the Wife obtained an interim judgment dissolving the marriage on the ground of the Husband's unreasonable behaviour. Both parties then appeared before me on 7 September 2012 to settle the ancillary matters consequent on the interim judgment.

3 The issues that needed my consideration were:

- (a) Custody, care and control of the children;
- (b) Maintenance for the Wife and the children and;
- (c) Division of the matrimonial assets.

Custody, care and control

4 The parties agreed to joint custody of the children. The Wife sought care and control of the children with reasonable access to the Husband, while the Husband sought care and control of the children with unlimited access to the Wife.

5 The Wife claimed that the children had expressed their wish to live with her. She also alleged that the Husband was always travelling and rarely spent time at home. This was confirmed by the Husband's own evidence, which indicated that he would normally return home very late and often had to go on overseas trips due to his commitments in the Kampong Tiong Bahru West Residents'

Committee.

6 The Husband on the other hand countered that the Wife had attempted suicide before and was thus unsuitable to have care and control of the children. The medical report furnished by the Institute of Mental Health ("IMH") confirmed that the Wife had been admitted to the IMH from 9 August 2007 after a suicide attempt. She was diagnosed to have a situational reaction and was discharged on 15 August 2007. Since then, the Wife has been taking medication for anxiety and insomnia but has not suffered from any major psychiatric episode. The Wife also stated in her affidavit that she has fully recovered from her depression.

7 Having regard to the evidence before me, I was persuaded that the Husband's busy schedule would make him a less suitable caregiver than the Wife. I was also satisfied that the Wife's mental condition had stabilised enough that she was able to exercise care and control over her children. I therefore ordered that the Wife be granted care and control of the younger son, subject to his wishes as to which parent he chose to live with. The younger son is old enough to have an independent opinion on this issue. As for the older son, I made no order as to his custody because he would turn 21 on 10 September 2012 just three days after I heard the ancillary matters.

Maintenance

8 Under a maintenance order issued on 21 June 2011 ("the Maintenance Order"), the Husband was ordered to pay the Wife monthly maintenance of \$700, which comprised of \$200 for the elder son, \$400 for the younger son and \$100 for the Wife. At the hearing before me, the Wife requested monthly maintenance of \$400 for the elder son, \$500 for the younger son, and \$400 for herself. The Husband counter-offered \$500 for the elder son, \$400 for the younger son but only \$100 for the Wife.

9 The take-home monthly incomes of the Husband and Wife were about \$3,000 and \$1,500 respectively. In terms of monthly expenses, the Husband claimed that he needed \$2,254.14 (excluding the sums he has to pay in maintenance), while the Wife claimed that she required \$1,705. If the Husband's proposal (*supra* at [8]) were adopted, he would be paying a total of \$1,000 in maintenance (\$100 of which goes to the Wife), which works out to \$2,000 for himself and \$1,600 for the Wife. This seemed reasonable to me in view of the parties' reported monthly expenses. I therefore ordered maintenance in terms of the Husband's proposal. I further ordered that the Husband be responsible for the tuition fees of the two children when they pursue tertiary education.

Division of matrimonial assets

10 The parties' dispute over the division of the matrimonial assets centred on two properties – a 4-room HDB flat held by both parties as joint tenants ("the flat"), and a HDB shophouse owned solely by the Husband and used for his bicycle-cum-motorcycle business ("the shophouse"). Based on recent resale prices of similar units on the same floor, the flat had an estimated value of \$666,500, while a valuation report obtained by the Wife valued the shophouse at \$1.35 million.

11 It was clear that both properties constituted matrimonial assets. The flat was the parties' matrimonial home, while the shophouse was purchased on 16 February 1996 during the parties' marriage and therefore fell within the definition of "matrimonial asset" as an asset "acquired during the marriage by one party or both parties to the marriage" (see s 112(10)(b) of the Women's Charter (Cap 353, 2009 Rev Ed)).

12 The Wife wanted the flat to be transferred to her for no consideration and without any refund to the Husband's CPF account, while the Husband (after some discussions between parties and the

court) was agreeable to selling the flat and dividing the proceeds equally with the Wife. However, he wanted to keep the shophouse for himself, while the Wife wanted it to be sold and to be awarded 35% of the proceeds.

The parties' contributions

13 In terms of financial contributions, the Husband had contributed about 79% of the payments towards the purchase price of the flat thus far (including an estimated \$30,000 that he had spent on renovations and electrical appliances). He was also solely responsible for the purchase of the shophouse. The Wife contributed the remaining 21% of the payments towards the flat, and there was evidence that she had used her own money to purchase replacement furniture and appliances when they broke down. She also paid for some of the children's medical bills.

14 As for non-financial contributions, the Wife had been working for the Husband at his business from 1990 until at least 2001. She was paid \$1,000 per month by the Husband, and he had also made employer contributions to her CPF account from August 1995 to February 2004. There was some dispute over the precise scope of her duties – the Husband claimed that she only worked as a cashier while the Wife insisted that she did some administrative work as well. Overall, I was satisfied that while the Wife did aid the Husband in the running of his business, it was in the capacity of an employee and she did not play a part in developing the business or generating profits. In other words, she made neither direct nor indirect contribution towards the business or to the acquisition of the shophouse.

15 The Wife was also primarily responsible for managing the household and doing household chores. However, when it came to the children's upbringing, the Husband claimed that the elder son had lived with his sister on weekdays until he was 13, while the younger son was cared for by a neighbour until he was 5, with the Husband paying the babysitting fees to his sister and the neighbour. The Wife did not dispute this save to clarify that the arrangement for the elder son ended when he was 11, while the arrangement for the younger son ended when he was 2. Thereafter she enrolled the latter in a childcare centre and raised funds for the fees by pawning her and her husband's jewellery. Even accepting the Wife's account to be true, the fact remained that the children were substantially cared for by third parties while they were young, and I could not give her full credit for raising them.

The decision

16 In deciding the just and equitable division of matrimonial assets, a court should make "a holistic assessment of all the circumstances of the case", instead of "embark[ing] on a mathematical calculation in a fruitless attempt to ascertain and attribute the 'correct' percentage to each party's actual contribution" (*NK v NL* [2007] 3 SLR(R) 743 at [36]). This is especially so when there is conflicting evidence regarding the precise extent of each party's contributions, as is so often the case in matrimonial proceedings.

17 Having regard to the parties' contributions during the marriage, I was of the view that the Wife should *prima facie* be granted 40% of the flat. In addition, I considered that the Wife ought to be granted a small share of 10% in the shophouse in recognition of the years she had spent working there for which she was paid. However, I did not consider it satisfactory for the shophouse to be sold as it was the only source of the Husband's income and would also be his residence after the flat has been sold. Further, the Husband would be responsible for the continued maintenance of the Wife and children, including the payment of the children's tertiary education fees.

18 In the light of those considerations, I thought it best to and did, order the flat to be sold in the

open market within 6 months for at least \$650,000, with the net sale proceeds to be divided 50:50 between the parties. In view of the Wife's 50% share in the flat's proceeds, which amounted to giving her an additional 19% over and above her direct contribution of 21% towards the acquisition of the flat and an additional 10% share for her notional share in the shophouse, I allowed the Husband to retain the shophouse. Finally, I ordered the Husband to reimburse the Wife from his half share of the sale proceeds of the flat, the expense of \$600 that she had incurred as valuation fee for the shophouse.

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