

G v R (No 2)
[2003] SGHC 297

Case Number : Div P 807/2000, RAS 720056/2003
Decision Date : 27 November 2003
Tribunal/Court : High Court
Coram : Lai Kew Chai J
Counsel Name(s) : Raymond Yeo (Koh Ong and Partners) for appellant/petitioner; K S Rajah SC and A Rajandran (A Rajandran Joseph and Nayar) for respondent
Parties : G — R

Introduction

1 On 16 June 2003 the district judge of the Family Court ordered that the matrimonial property shall be sold in the open market and the net proceeds of sale after discharge of the POSB mortgage loan and expenses of sale shall be divided in the proportion of 40% to the petitioner and 60% to the respondent. Each party was ordered to reimburse their respective CPF accounts of moneys utilised for the purchase of the matrimonial property and accrued interest and each party shall pay their respective share being \$75,000.00 each of the loan given by F. In relation to the petitioner's claim for maintenance, it was further ordered that the respondent shall pay the petitioner the sum of \$3,600.00 in full settlement of her claims for maintenance. In effect, the district judge was awarding a nominal sum of \$100.00 per month for three years as lump sum maintenance. It was also ordered that the respondent shall continue to bear the maintenance the child of the marriage.

2 The petitioner appealed to the High Court against the decisions of the district judge. She asked that her share in the matrimonial property be increased to 50%, or alternatively, to 45% of the net proceeds of sale, as earlier defined. In relation to the maintenance, she asked the respondent be ordered to pay her monthly maintenance in the sum that was fair and just. In submissions, she argued that the lump sum maintenance should be \$800.00 per month for 3 years, i.e. the sum of \$28,800.00.

3 At the conclusion of the hearing, I agreed with the decisions of the district judge and I dismissed the appeal with costs. The petitioner has appealed to the Court of Appeal. I set out the circumstances and reasons for my decisions.

Background Facts

4 The parties were married on 17 March 1995. They have a 7 year old son. On 6 November 2001, decree nisi dissolving the marriage was granted. The ancillary issues were adjourned into chambers.

5 The custody, care and control of the son were hotly contested. There were 8 previous proceedings, all of which were decided in the respondent's favour. The upshot was that the respondent was granted custody, care and control of the son.

Division of Matrimonial property

6 The evidence adduced demonstrated the following facts. On 7 January 1998, a cheque for \$55,000.00 was handed by the respondent to the petitioner for the acquisition of the home for the couple. Eventually, they bought the matrimonial property under an option in January 1998. In February, 1998 the petitioner's father, F, lent the couple an unsecured loan of \$150,000.00. The money was deposited into the bank account of the respondent. Both parties accepted equal liability

to repay their share of the loan of \$75,000.00 each. The respondent in February 1998 did transfer the sum of \$91,500.00 into the appellant's bank account. On the same day, the balance of the father's loan was used to purchase the property. A cheque was drawn on the respondent's bank account for \$58,500.00 in favour of the vendor's solicitors and it was duly cleared.

7 On the evidence, there was an intermingling of funds consisting of the respondent's \$55,000.00 and part of the father's loan of \$91,500.00, which were both paid into the petitioner's bank account, in the total sum of \$146,500.00. Two sums were withdrawn from the intermingled funds: first, the sum of \$90,921.52 was withdrawn from the petitioner's account to pay for a cashier's order in the same sum to pay for the purchase of the matrimonial property. Subsequently, the remaining balance of \$55,578.48 in the petitioner's account was used to pay for the renovations, furniture and fittings. In the light of the evidence, the district judge held, quite rightly, that the sum of \$55,000.00 paid by the respondent should be and was attributed to the respondent when calculating direct financial contributions.

8 The couple moved into the matrimonial property in August, 1998 but by March 2000 it was left vacant. The petitioner resided with her parents. The respondent and the son resided with his parents.

9 The district judge on the evidence found that the petitioner had made direct contribution of 34% whereas the respondent's direct contribution was 66%. She paid out \$61,920.00 out of her CPF account for the progress payments of the matrimonial payment. She assumed liability for half of her father's loan to the couple. The respondent paid from his CPF \$34,000.00, \$104,429.00 towards mortgage payments out of his GIRO account, cash of \$55,000.00 as mentioned earlier, and taking responsibility for half of the former father-in-law's loan.

10 The district judge increased the petitioner's contributions to 40%, taking into account the matters enumerated in section 112(2) of the Women's Charter. In my judgment, that was a just and equitable division of the matrimonial assets. The district judge took into consideration all the relevant circumstances. In the final analysis, she took into account both the financial and non-financial contributions and adopted a broad brush approach to the tasks before her as outlined in *Lim Choon Lai v Chew Kim Heng* [2001] 3 SLR 225. She noted it was a short marriage of 6 years; parties had lived together for about 5 years. The district judge accepted that the petitioner was a caregiver of the son and that she had contributed towards the household expenses. On the other hand, the district judge also took into account the fact that the respondent would be maintaining the son without any financial contribution from the petitioner.

11 The petitioner attempted to invoke section 54 of the Women's Charter, contending that the \$55,000 should be construed as "money derived from any allowance made by the husband for the expenses of the matrimonial property or for similar purposes, or to any property acquired out of that money". This submission was entirely without merit. The sum of \$55,000.00 was not an "allowance" at all. Its size, and the purpose for which it was paid by the respondent to the petitioner, contradicted any assertion that it was an 'allowance'. It should be noted that the petitioner's credibility was severely dented so far as the purpose of the sum of \$55,000.00 was concerned. First, she claimed that the respondent had paid the sum to her in repayment of a loan. Later, she claimed it was a gift. Those three claims that it was repayment of a loan, that it was a gift and that it was an "allowance" within the meaning of section 54 were quite properly rejected by the district judge.

Maintenance

12 In relation to the lump sum payment of maintenance, it was a fact that throughout the short

marriage, the petitioner had been working and had means of her own. She did not depend on the respondent for financial assistance. I agreed with the district judge that this was eminently a suitable case for a clean break. The award was reasonable. The petitioner had not disclosed her expenses and financial needs. She did not seek to justify any claim for maintenance. The inference must be that she did not need any maintenance. As a senior manager, the petitioner's income was \$2,650.00 per month.

13 The petitioner had failed to show that the district judge was "plainly wrong" in her decisions on the division of matrimonial property and in the award of the lump sum maintenance. Accordingly, I dismissed the appeal with costs fixed at \$3,000.00.

Appeal dismissed with costs

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