

Choo Hwee Nee v Tan Puay Kern
[2011] SGHC 158

Case Number : DT No 1359 of 2009/N
Decision Date : 30 June 2011
Tribunal/Court : High Court
Coram : Kan Ting Chiu J
Counsel Name(s) : Yap Bock Heng Christopher (Christopher Yap & Co) for the plaintiff; Lim Biow Chuan (Derrick Wong & Lim BC LLP) for the defendant
Parties : Choo Hwee Nee — Tan Puay Kern

Family Law – Matrimonial Assets – Division

Family Law – Maintenance

30 June 2011

Kan Ting Chiu J:

1 The plaintiff, Choo Hwee Nee (“the wife”), and the defendant, Tan Puay Kern (“the husband”) were married in July 1987, separated in January 2007, and divorced in July 2009.

2 After the interim judgment was granted, the ancillary matters, including the division of matrimonial assets and maintenance for the wife and the two children of the marriage, came before me.

3 In the event the division of matrimonial assets was dealt with first. It was apparent from the outset that a division of all the matrimonial assets *ie* the matrimonial home, the husband’s assets and the wife’s assets, may not be necessary or practical. I suggested to counsel that it may be preferable for the division to be effected on the matrimonial home, and that the assets held by the parties in their individual names be retained undisturbed. I made it clear that the division exercise was to take into account all the matrimonial assets as contemplated by s 112(1) of the Women’s Charter (Cap 353, 2009 Rev Ed). However, the implementation of the division was to be restricted to the matrimonial home, and thereafter the maintenance for the children was to be dealt with separately. (At that time, the wife also claimed for maintenance of \$1 for herself, see her affidavit of 24 September 2009). I also mentioned that based on a quick look of the figures, a 55% apportionment of the net value of the matrimonial home would be a good starting point for consideration.

4 Counsel was given time to consider and take their clients’ instructions on the suggestion, and on their next attendance before me, they confirmed parties’ agreement with the suggestion.

The matrimonial home

5 The matrimonial home is at 35 Harvey Crescent, Singapore 489397. It was held in the names of both parties as joint tenants. The husband was the primary contributor to the purchase, with the wife making a contribution of \$49,300. The wife had obtained an open market valuation of the home at \$1.65m, and after deducting the outstanding mortgage loan of \$461,881.38, the net value of the property is \$1,188,118.62. The husband did not produce any valuation reports, and his counsel put

the net value at \$1.2m. I accept the figure of \$1,188,118.62, and I round it off to \$1,118,119.

The husband's assets

6 The husband's assets are made up of the monies in his bank accounts, the monies in his CPF accounts, the value of his insurance policies, his car, his shares and his retirement payment. The husband had set out the monies in his five bank accounts, which totalled to \$277,127.47, while the wife had put the value at \$247,756.29 without explanation. I accept the figure presented by the husband.

7 The husband's CPF monies were quantified by him at \$161,211.71 and that was not disputed by the wife.

8 The husband held eight insurance policies. He had quantified the total value at \$214,962.32, and the wife had adopted the same figure.

9 Both parties agreed that the car was worth \$45,000.

10 The husband held SingTel shares with a value of \$529.23 (which was not disputed by the wife).

11 Lastly, the husband received payment of \$690,118.03 when he retired from the police force. However, he declared that the whole sum had been dissipated through a \$375,040 gift to his girlfriend, two payments of \$142,971.18 and \$20,000 into his bank accounts, \$93,136 for the purchase of his car and \$207,000 being the total of the periodic maintenance payments he made to the wife and the two children of the marriage, leaving a negative balance of \$148,029.15. The wife disputed the disbursements.

12 The husband did not produce any evidence in support of the alleged gift of \$375,040 to his girlfriend; no payment records, or record of receipt or acknowledgment by her, and I found that the gift was not proven.

13 In the circumstances, the net balance of the retirement payment is:

Retirement payment	\$690,118.03
Less: bank deposits	\$162,971.18
car payment	\$ 93,136.00
maintenance payments	\$207,000.00
	\$227,010.85

The total value of his assets is therefore:

Monies in bank accounts	\$277,127.47
Monies in CPF accounts	\$161,211.71
Monies in insurance policies	\$214,962.32
Value of car	\$ 45,000.00
Value of shares	\$ 529.23
Retirement payment balance	\$227,010.85

\$925,841.58

which I round off to \$925,842.

The wife's assets

14 The wife declared her assets at \$149,727.62 (see her Declaration of the Value of Matrimonial Assets (Amendment 1) dated 24 August 2010), made up of monies in her one bank account, her CPF account, the value of her seven insurance policies and her unit trust holdings. I round up the figure to \$149,728.

The matrimonial assets

15 From the foregoing, the matrimonial assets are:

Matrimonial home \$1,188,119

Husband's assets \$ 925,842

Wife's assets \$ 149,728

\$2,263,689

The wife's entitlement

16 As I have stated, the parties agreed that the division of the matrimonial assets be implemented through a division of the matrimonial home. The husband went further, and agreed with the suggestion that the wife's entitlement be 55% of the matrimonial home. The wife took a different approach. She submitted that she was entitled to 40% of all the matrimonial assets, and she quantified that at \$847,176, which worked out to be equivalent to 71% of the matrimonial home (see Notes of Arguments, 11 November 2010).

17 The 55% share I awarded to the wife amounts to \$653,465 ($\$1,188,119 \times 55\%$). Adding that to her assets which she retains, her total entitlement is \$803,193, which works out to 35.5% of the matrimonial assets of \$2,263,689. The difference between the award of \$809,193 and the wife's claim of \$847,176 is \$37,983.

The relevant facts

18 The marriage was effectively for a period of almost 20 years, and had produced two children who are 19 and 21 years old, and are undergoing tertiary education. The wife is 47 years old. She holds a Bachelor of Arts and was employed as an executive officer at the Institute of Technical Education earning a gross monthly pay of \$2,967.31, but she resigned in October 1997 to become a full-time homemaker. After the breakdown of the marriage, she has resumed employment as a senior sales executive with the National University of Singapore Multi-Purpose Co-Operative Society, earning a gross monthly salary of \$1,780.

19 The husband is 48 years old. He is now Director of Security at Marina Bay Sands Pte Ltd, earning a gross salary of \$25,700 per month. Prior to this, he was a Senior Assistance Police Commissioner until he retired in 2007.

20 There was a long marriage in which the wife made a minor direct financial contribution to the acquisition of the matrimonial home. She made a more significant indirect contribution by being the homemaker when the husband assumed the role of sole breadwinner.

21 When a court makes a division, it needs to make a just and equitable division after taking into account all the relevant factors. The award of \$803,193 is, to my mind, a fair and equitable share for the wife, besides being close to her own claim and expectations.

The maintenance orders

22 After the order on the division of the matrimonial assets was determined, the parties returned before me on the maintenance of the two children of the marriage.

23 The two children are:

- a) a son born on 23 April 1990, who has just been admitted into the National University of Singapore after completing his full-time National Service obligations, and
- b) a daughter born on 11 February 1992, a student at Ngee Ann Polytechnic.

24 After hearing counsel, I made the following orders

- (1) that the husband is to pay the university and polytechnic fees of the children as and when they are due,
- (2) the husband is to pay the children their expenses for the procurement of books and other necessities for their studies, and
- (3) the husband is to pay each child \$1,000 a month with effect from December 2010, with the payments for the period December 2010 to May 2011 to be paid within a month, and further payments to be paid monthly by the husband directly to each child. (The husband had stopped paying maintenance since December 2010.)

The wife has appealed against order (3). I will explain my orders.

25 The husband was prepared to pay for the children's education expenses. There was some disagreement and uncertainty over the amounts which I resolved by making orders (1) and (2) so that the payments can be made when they are ascertained and are due for payment.

26 Order (3) was for maintenance of the children in addition to their educational expenses such as food and transport expenses. The husband had offered to pay the son \$750 per month and the daughter \$600 per month.

27 It is clear that the two children need more than the educational expenses to get by. However, the additional expenses they require as students should not be so high as they were staying with

their mother. I therefore fixed the additional payment to each of them at \$1,000 per month, which should be sufficient for their needs. The husband had expressed his disappointment that the children had treated him like a stranger since he left the family and have rebuffed his efforts to communicate with them. In view of that I had also ordered that the payments be made by the husband directly to them in the hope that when the children meet their father to receive the payments, their relationship will be restored. I trust that they realise that there is more than monetary issues which they should be concerned with.

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