

ARO v ARP
[2015] SGHC 70

Case Number : Divorce Transferred No 776 of 2012
Decision Date : 16 March 2015
Tribunal/Court : High Court
Coram : Woo Bih Li J
Counsel Name(s) : Lucy Netto (Netto & Magin LLC) for the plaintiff/appellant; Tan Chee Kiong (Seah Ong & Partners LLP) for the defendant/respondent.
Parties : ARO — ARP

Family law – Maintenance – Child

Family law – Matrimonial Assets – Division

Family law – Maintenance – Wife

16 March 2015

Woo Bih Li J:

Introduction

1 On 29 January 2015, I gave oral judgment (“the Oral Judgment”) on the issue of ancillaries in divorce proceedings between the plaintiff (“the Wife”) and the defendant (“the Husband”). A copy of the Oral Judgment is attached for easy reference. The Wife has filed an appeal against my entire decision. I elaborate on my reasons below.

Custody of the daughter and care and control

2 There are two children of the marriage: a son who is more than 21 years of age and a daughter who is below 21 years of age.

3 Neither party sought any order for custody or care and control of the son. As for the daughter, the parties agreed to joint custody over her.

4 The Wife also asked for care and control of the daughter. The Husband eventually accepted that the daughter preferred to stay with the Wife. Hence, I granted both parties joint custody over the daughter and care and control of the daughter to the Wife with reasonable access to the Husband. Accordingly, the question of custody and care and control of the daughter should no longer be in issue and the Wife’s notice of appeal should not be against my entire decision on the ancillaries.

Division of matrimonial assets

5 The parties agreed that the value of the matrimonial assets total \$23,915,000.

6 The Husband held \$23,055,000 worth of the assets. This included a 50% interest in a Housing and Development Board (“HDB”) flat. It was agreed that the 50% interest was worth \$195,000.

7 The Wife held \$860,000 worth of the assets including the other 50% interest in the HDB flat.

8 The Wife asked for 60% of the matrimonial assets if she was given care and control of the daughter and 50% if she did not have such care and control. I did not see why care and control of the daughter should be a reason for giving the Wife a higher portion of the matrimonial assets. That was a matter for maintenance. Furthermore, as mentioned below, the Husband would be the one who would provide for the children's future.

9 The Husband offered to give the Wife the HDB flat and a private apartment free from encumbrances and \$1 million cash. In addition, she would keep the assets held by her. This would work out to \$3,381,668 (*ie*, about 14.14% worth of the matrimonial assets):

S/No	Items	Value
(a)	HDB flat	\$ 550,000
(b)	An apartment in Bukit Regency	\$1,200,000
(c)	Cash	\$1,000,000
(d)	The Wife's own assets (excluding her share in the HDB flat)	\$ 631,668
Total:		\$3,381,668

10 It should be noted that in the above table, the Husband had used \$631,668 as the value of assets held by the Wife but this excluded her 50% share of the HDB flat. The parties eventually agreed that the value of assets held by the Wife, excluding the HDB flat, was \$665,000.

11 The main dispute was the portion which each party was entitled to of the total matrimonial assets. As stated above, the Wife wanted 50% to 60%. Based on the revised figures of the Wife's assets, the Husband's proposal would work out to about 14.28% of the total matrimonial assets.

12 As stated in [\[9\]](#) and [\[11\]](#) of the Oral Judgment, I took into account various factors when I granted the Wife 20% of the matrimonial assets. I elaborate below.

13 Although 20% of the matrimonial assets for the Wife may appear low for a 28 year marriage, a large portion of the assets held by the Husband are not liquid. These are shares in a private company which he built up. The value of the shares is \$10,314,191.20 which is a substantial portion of the \$23,055,000 worth of assets he holds, *ie*, about 44.74%.

14 Secondly, he had stated that he was trying to involve the children in the business and in any event, he would provide for their future. I accepted his assurance. Indeed, the Wife did not dispute these assertions even though she alleged that the Husband is pursuing a relationship with another woman and he is likely to remarry.

15 Thirdly, in my view, it was the Husband who built up the business. I did not accept that the Wife helped him much in his business. According to the Husband, he continued to build up the business after he discovered in 2007 that she had squandered or lost in gambling various sums of money totalling \$700,000. While the Wife disputed his allegations, the Husband's elaboration of the contradictions in her explanations made it clear that she was not to be believed. It is not necessary for me to repeat here the Husband's arguments about her contradictions.

16 The Husband alleged and I accepted that her gambling habit weighed on the Husband's mind and the Husband could no longer rely on her to manage their finances which she had been doing before.

17 The absence of her assistance to manage their finances and the fact that she had lost substantial sums of money as he was building up the business was material. The Husband said that the fact that she squandered a large sum of money in 2007 almost wiped out his hard earned money.

18 There was also the real danger that the Wife would lose much of what was to be granted to her to the detriment of the children. While one could argue that the money would be hers to lose anyway, such an argument would appear counter-intuitive when a court is considering the interests of the children as well as the parties. Perhaps that is why the Wife did not specifically assert that argument.

19 In balancing the interests of the parties and the children, I was of the view that 20% for the Wife was fair. That amounted to \$4,783,000 which is still a large sum and more than enough for her to live comfortably. Indeed, that amount includes:

- (a) a HDB flat;
- (b) a semi-detached house;
- (c) cash of \$968,000 from the Husband (which was erroneously stated as \$1,001,332 in [11(c)] of the Oral Judgment); and
- (d) the Wife's own assets of \$665,000 (which was erroneously stated as \$631,668 in [11(d)] of the Oral Judgment).

Both the HDB flat and the semi-detached house were granted to her free from encumbrances.

Maintenance for the Wife

20 I ordered the Husband to pay \$2,000 per month for the Wife's maintenance with effect from 1 February 2015. This was the amount he had been giving her. My reasons are stated in [\[15\]–\[25\]](#) of the Oral Judgment which I will not repeat.

Maintenance for the daughter

21 I ordered the Husband to pay another \$2,000 per month for the daughter's maintenance and certain specific expenses, including her school fees, which I set out in the Oral Judgment. This was effective from 1 February 2015. My reasons for the quantum are stated in [\[27\]–\[30\]](#) of the Oral Judgment which I will not repeat. However, I will stress that the specific expenses which the Husband is to pay for already include some items which the Wife used to increase her claim for maintenance for the daughter to \$4,000 per month.

ORAL JUDGMENT**Custody of the daughter and care and control**

- 1 There are two children from the marriage. The son is more than 21 years of age and neither party sought any order for custody or care and control of the son.
- 2 I grant joint custody to the husband and to the wife over the daughter.
- 3 I grant to the wife care and control of the daughter with reasonable access to the husband.

Division of matrimonial assets

- 4 The parties have agreed that the matrimonial assets total \$23,915,000.
- 5 The husband holds \$23,055,000 of the assets including a 50% interest in an HDB flat in Jurong West.
- 6 The wife holds \$860,000 of the assets including a 50% interest in the HDB flat.
- 7 The wife asked for 60% of the matrimonial assets if she is given care and control of the daughter and 50% if she does not have such care and control. I do not see why care and control of the daughter should be a reason for giving the wife a higher portion of the matrimonial assets. That is a matter for maintenance and as mentioned below, the husband is the one who will provide for the children's future.
- 8 The husband offered to give the wife the HDB flat and a private apartment free from encumbrances and \$1 million cash. In addition, she would keep the assets held by her. This would work out to \$3,381,668 (ie, about 14.14% of the matrimonial assets):

S/No	Items	Value
(a)	HDB flat	\$ 550,000
(b)	An apartment in Bukit Regency	\$1,200,000
(c)	Cash	\$1,000,000
(d)	The wife's own assets (excluding her share in the HDB flat)	\$ 631,668
Total:		\$3,381,668

- 9 I have taken into account:
- (a) The length of the marriage of about 28 years (from July 1985 to May 2013) during which the parties raised two children.
- (b) The husband's greater financial contributions and the wife's greater non-financial contributions in raising the children and taking care of the household (even if she did have a maid to help).

(c) However, I do not accept that the wife contributed much to the husband's business which was conducted through a private company. I have also taken into account that she did lose substantial sums of money in gambling which the husband discovered in 2007. Her gambling habit continued to weigh on his mind and he could no longer trust her to manage their finances.

(d) I accept the husband's assurance that he will provide for the children's future even though the wife alleged that the husband is pursuing a relationship with another woman and is likely to remarry.

(e) Also, a large portion of the assets held by the husband are his shares in a private company. He will be allowed to keep those shares as part of the division of matrimonial assets but they are not liquid.

10 The wife wanted to retain the HDB flat. She also asked for a semi-detached house at an address at Pavilion Place ("PP") instead of a private apartment. The house is the latest matrimonial home. She said she and the children are staying in it and the husband was not. The husband's counsel said that sometimes the husband stays at one of his other properties, *ie*, a condominium unit but he also does stay at PP. The relationship between husband and wife is strained. The latest update from the husband's counsel is that once (or twice) a week, the husband stays at night with his mother and sister. As the wife has care and control of the daughter and the son is also likely to stay with the wife too, I will grant the matrimonial house at PP to the wife and take that into account in the division.

11 In all the circumstances, I grant the wife 20% of \$23,915,000 = \$4,783,000 as follows:

S/No	Items	Value
(a)	HDB flat (free from encumbrances)	\$ 550,000
(b)	Matrimonial home at PP (free from encumbrances)	\$2,600,000
(c)	Cash	\$1,001,332
(d)	Wife's own assets (excluding her share in the HDB flat)	\$ 631,668
Total:		\$4,783,000

12 The HDB flat and PP are granted to the wife free from encumbrances and the values stated above are on that basis. Therefore, the husband is to pay any outstanding loan secured by the HDB flat or PP. He is entitled to retain the other assets held by him. As for the cash to be paid to the wife, the husband is to pay \$500,000 within one month from the date of this judgment and the balance within six months from the date of this judgment.

13 The husband is to vacate PP within six months from the date of this judgment or such other period as parties may agree to in writing.

14 Parties are to bear their own solicitor's costs for the transfer of the husband's interest in the HDB flat and in PP to the wife. Any stamp duty for each transfer is to be borne by the wife.

Maintenance for the wife

15 The wife sought lump sum maintenance calculated at \$8,000 per month x 12 months x 17 years as orally clarified by her counsel. I see no reason to award her lump sum maintenance.

16 On the question of periodic monthly maintenance, the wife claimed that her monthly expenses are \$8,900 per month although she calculated her claim for lump sum maintenance based on a multiplier of \$8,000 and not \$8,900 per month. She also said that she had reduced her expenses from about \$13,000 claimed in her first affidavit of means.

17 The husband submitted that the wife had claimed at one time that her expenses amounted to \$6,865.95 before she increased it to \$8,900 per month. Even then, both claims included a monthly sum of \$621 to pay the loan secured by the HDB flat. As the husband was paying off that loan entirely, the monthly payment would cease to apply.

18 I noted that the wife was charging work related expenses of about \$720 per month which should pertain to her income earning capacity instead. Furthermore, her second list of expenses contained expenses which were either not necessary or inflated. For example, she included \$800 per month for personal development which was vague and should not be allowed. She claimed \$500 per month for personal grooming such as physio treatment, spas and facials. This appeared excessive.

19 Looking at the wife's expenses in the round, I do not think that they exceed \$6,500 per month.

20 The fact that the husband can afford to give her more is in my view irrelevant.

21 However, I note that the wife has not claimed the cost of purchasing a car. I presume this is because the husband has bought a BMW car recently for her. I am of the view that the husband's obligation to provide the wife with a car is a continuing one and I leave it to the parties to try and agree as to how he is to do so.

22 The husband submitted that the wife was receiving the following:

(a)	Her own income as a real estate agent	\$2,000 per month
(b)	Rent from the HDB flat	\$2,800 per month
(c)	Cash from the husband as maintenance pursuant to the wife's request in 2010	\$2,000 per month
	Total:	\$6,800 per month

23 He submitted that the \$6,800 was more than the wife's original list of expenses after taking away the monthly payment for the HDB loan and he suggested that he continue paying her the \$2,000 per month as maintenance for her.

24 Although it was unclear whether the HDB flat was still being rented out, it is still an asset from which the wife may derive an income. Although the rental market may have softened, that is the risk associated with such an asset as the rental market may also improve. I use \$2,800 per month as the income earning capacity of that flat.

25 The wife said she was earning an income of \$2,000 per month as a real estate agent. While her income may be affected by a softening real estate market, that is also the risk associated with the nature of her work and her income could also improve. Also, it is up to her to find alternative or

additional income. I use \$2,000 per month as her own income earning capacity.

26 In the circumstances, I order the husband to pay the wife \$2,000 per month as maintenance for her expenses with effect from 1 February 2015. This is the amount which he has been giving to her and he is to continue to do so.

Maintenance for the daughter

27 The wife's allegation of expenses for the daughter was haphazard. In her first affidavit of means of 25 June 2013, she indicated at para 15 that the expenses totalled \$700 per month. In para 25, she claimed \$3,000 per month for the daughter's expenses. In the wife's Updated Ancillary Matters Fact and Position Sheet but said by her counsel to be filed on 11 April 2014 (undated), the wife stated that the children's total monthly expenses was \$1,050 per month. Then, in submissions before me, the wife was claiming \$4,000 per month for the daughter based on a list of alleged expenses.

28 The husband's first affidavit of means indicated at para 14 that his expenses for the daughter were \$1,200 per month.

29 The husband submitted that the wife had asked for \$3,000 per month for the daughter's expense and then increased her claim to \$4,000 per month. He offered \$2,000 per month and he would also pay for the school fees of the daughter. He did not clarify whether this included some expenses like tuition for academic subjects and an alleged badminton coach fee and violin classes which were part of the wife's submissions for \$4,000 per month.

30 I order the husband to give the wife \$2,000 per month as maintenance for the daughter with effect with 1 February 2015. In addition, he is to pay for her:

- (a) school fees;
- (b) any overseas trips for exchange programs;
- (c) tuition for academic subjects;
- (d) violin classes; and
- (e) badminton coach fee, where appropriate.

Costs

31 Each party is to bear his/her own costs of the ancillaries.

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