

BJV v BJW
[2013] SGHC 140

Case Number : Divorce (T) Suit No 5953 of 2010
Decision Date : 24 July 2013
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Rajan Chettiar and Aishah Anwar (Rajan Chettiar & Co) for the plaintiff; Carrie Gill (Harry Elias Partnership LLP) for the defendant.
Parties : BJV — BJW

Family Law

24 July 2013

Judgment reserved.

Choo Han Teck J:

1 The parties are Americans of Korean descent. They married on 9 February 1998 but separated on 28 May 2009. They briefly attempted reconciliation in 2010 but were not successful. The plaintiff (wife), formerly working as a flight attendant, returned to the United States of America in October 2010. Interim judgment in this divorce suit was granted on 4 April 2011.

2 They have two sons, "B" born on 18 November 2000 and "C" born on 3 December 2002. The matrimonial home at Horizon Towers is owned by the defendant in his sole name. The Horizon Towers property was purchased in the defendant's sole name in 2003 for S\$1.1m. The plaintiff has two properties in the USA known as the "Ashland Property" and the "Bryn Mawr Property". The plaintiff's brother is a joint owner of the Bryn Mawr Property. The Ashland Property was acquired by the plaintiff on 27 April 2004 for US\$425,000. The current value was not given, but it seems that there is an outstanding loan against this property of US\$247,925.02 which is being repaid in monthly instalments by the defendant. It was apportioned to the plaintiff in the 2009 separation but the defendant claimed that he paid for the purchase as evidenced from the bank transfers from the United Overseas Bank account records. He claimed that he paid for the Bryn Mawr Property as well. The Bryn Mawr Property was acquired in 2003 for US\$360,000 (valued at US\$500,000 as at August 2011) and apportioned to the plaintiff in the 2009 separation. The defendant claimed that though the plaintiff's brother is a named joint owner, he did not contribute towards the purchase of the Bryn Mawr Property.

3 The defendant takes the position that the plaintiff retains these two properties as agreed in the deed of separation dated 28 May 2009 ("the Deed") with no further division. The plaintiff, however, wants all matrimonial assets to be divided equally. She claimed that the two American properties were not matrimonial assets. The net assets excluding real property owned by the defendant was about S\$194,135.72. The net asset of the plaintiff excluding the American properties was about \$106,890.82.

4 The defendant claimed to be presently unemployed but I do not see why he could not find a job similar to his previous one as a banker. The plaintiff appears to be earning S\$3,961.55 as her monthly salary as a director of a funeral home (family business). The defendant was paying \$5,500 as maintenance for the defendant and the sons jointly, but this amount was reduced to \$3,500 as

maintenance for the plaintiff after he took over care and control of the two sons. The defendant now wants the interim maintenance to cease with effect from June 2012. The plaintiff is challenging for the care and control of the children.

5 I note that the plaintiff claimed that the children were "snatched" away from her when she was in the USA pursuing her further studies, and that Singapore is not the natural home of the children. However, I did not have the impression that the children have difficulty living here. I interviewed both children. They seemed intelligent and well adjusted. They were articulate and evinced a clear preference to stay with their father in Singapore and were happy to visit their mother from time to time in the USA. When they did visit her they spent most of the time there with her either in the family home, or in the plaintiff's boyfriend's home in Michigan. I am of the view that the children's welfare at home and in school would be best maintained without disruption. Accordingly, I am of the view that the plaintiff and defendant should have joint custody with care and control to the defendant. The plaintiff shall have reasonable access including overseas access during the school holidays.

6 As to the division of matrimonial assets, I note that the assets were not much more different than they were when the parties entered into the Deed. Although this court is not bound by the Deed, I am of the view that the deed was negotiated fairly even though the plaintiff now says that it was forced upon her. The plaintiff was content with the terms for more than 16 months. She became dissatisfied only after the attempt at reconciliation failed. Accordingly, I am of the view that with some adjustments by way of the lump sum maintenance, the matrimonial assets as divided under the Deed should remain undisturbed. I had taken into account the plaintiff's claim that the Deed was unfairly drafted by the defendant and that she did not sign it willingly. However, she was initially advised by her previous solicitor to try and execute a separation agreement to avert the messiness of a battle over the ancillaries. There was no other evidence to prove her allegation that the defendant deceived her into signing the Deed. It may be that the Deed was drawn up after reconciliation failed, but the plaintiff had not challenged it reasonably quickly. In any event, bearing in mind the earning capacity of the parties, and the value of the major assets (being the three real properties, one in Singapore and two in the USA), as well as the respective contributions of which almost all were by the defendant, the terms of the Deed did not seem unfair.

7 Given the circumstances, and taking into account the length of their marriage, and their ages, I am of the view that the defendant be ordered to pay a lump sum maintenance to the plaintiff calculated at \$3,500 a month over nine years, but rounding up to \$380,000. The defendant is to maintain the two sons solely. For the reasons above, I also order that the parties to have joint custody of both children with care and control to the defendant and reasonable access including overseas stay to the plaintiff. The other terms under the Deed will not be disturbed. I will hear parties on costs at a later date.