

Fong Khai Yin v Mok Poh Yee Delia
[2013] SGHC 254

Case Number : Divorce Transferred No 68 of 2008 (Summonses Nos 6586 of 2012 and 5289 of 2013)
Decision Date : 22 November 2013
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Suppiah Thangaveloo (Thanga & Co) for the plaintiff/husband; Lim Poh Choo (Alan Shankar & Lim LLC) for the defendant/wife.
Parties : Fong Khai Yin — Mok Poh Yee Delia

Family Law – Maintenance – Variation of maintenance order

22 November 2013

Judgment reserved.

Choo Han Teck J:

1 The parties are Singapore citizens who were married on 9 March 1987. The plaintiff/husband is 55 years old and the defendant/wife is 50 years old. They have two children who are 24 and 22 years old. The husband filed for divorce on 4 January 2008 and interim judgment was granted on 13 February 2009. The ancillary matters were decided by Steven Chong J on 5 August 2011. One of the orders which Chong J made was that the husband pays the wife maintenance of \$2,500 a month. The order stated that the husband was at liberty to apply to court to vary the monthly maintenance for the wife in the event that the wife should purchase a property. The reason for this, based on Chong J's minutes of the 5 August 2011 hearing, was that the wife's rental expenses of \$2,500 a month had been factored into the determination of the monthly maintenance amount. On 20 December 2012 the husband applied by way of Summons No 6586 of 2012 to vary the amount of maintenance due to the wife, on the basis that she had purchased a property in Choa Chu Kang in December 2011. He said that he discovered this development only towards the end of 2012.

2 The wife conceded that she had purchased the Choa Chu Kang property. She said that the purchase price was \$890,000, not including legal and stamp fees amounting to \$22,725. She paid \$44,500 in cash, used \$368,225 from her CPF account and took a loan of \$500,000. This loan was to be repaid over 12 years in monthly instalments of \$3,731 — \$2,631 in cash and \$1,100 from her CPF account. Her argument was that even though she was no longer paying rent, it did not mean that there was a reduction in her expenses because she had monthly instalments to meet. In response, the husband contended that the wife had the means to pay for the property in full, and that the monthly instalments were "self-incurred" expenses which he should not have had to pay. In my view, the wife ought to be given a degree of latitude in managing her financial affairs. It would be too onerous to expect her — or, for that matter, any party — to make full payment for an investment as substantial as a piece of real property just because her total assets exceed the purchase price. I think that she was entitled to take a loan in order to retain cash in hand, and I do not think that the loan amount of \$500,000 was unreasonable.

3 However, I am of the view that the question of whether monthly maintenance payments should be reduced is not a matter of whether the wife has to pay monthly instalments. Rather, the approach should be as follows. Given that the wife was 49 years old when she purchased the Choa Chu Kang

property in December 2011, I would first calculate the rental she would have had to pay for the notional remaining 36 years of her life (the average life expectancy for females in Singapore being 85) if she had not purchased the property. I would then calculate the difference between this sum and the amount that she paid to purchase the property. This difference would represent the amount of money that she would have saved, in terms of accommodation expenses, by purchasing the property. Finally, I would divide this difference over the notional 36 years to ascertain how much per month she would have saved in purchasing the property.

4 I then proceed on the premise that the rent would not be immutably \$2,500 per month but may increase by \$500 per month every 12 years. Adding up \$2,500 a month for 12 years, \$3,000 a month for 12 years and \$3,500 a month for 12 years, the total amount of rent she would have had to pay over the notional remaining 36 years of her life had she not purchased the property is \$1.296 million. As for how much she effectively paid for the Choa Chu Kang property, this would be \$890,000 plus the legal and stamp fees of \$22,725 plus the interest payable on the loan amounting to \$37,264, a total sum of \$949,989. Subtracting this sum from \$1.296 million, the result of \$346,011 would represent the amount saved by purchasing the property instead of continuing to rent. Dividing this over 36 years, it would mean about \$800 saved per month.

5 The wife's income is approximately \$6,000 a month. Presently, she receives maintenance of \$2,500 a month. The ratio of how much income she would make and the amount she would receive from the husband would thus be about 12:5. Apportioning the \$800 saved per month in that ratio, the husband should enjoy savings of approximately \$235 per month as a result of the wife's property purchase. I have not taken into account miscellaneous recurrent expenses pertaining to the property which the wife would have to pay, such as property tax. I have also left out the likely increase in value of the property over time, which would reduce the effective cost of the property, on the assumption that the wife would live in the property for good rather than sell it at some point and realise the increase in value. But I think that what I have taken into account would generate a sufficiently reasonable result keeping in mind the broad-brush philosophy that the courts generally adopt when dealing with financial matters in divorce proceedings. Rounding down the savings of \$235 a month which the husband should enjoy, I reduce the maintenance payable to the wife to \$2,300 a month. However, I decline to order that the wife reimburse the husband the difference between this reduced amount and the \$2,500 a month originally ordered as accumulated since the wife purchased the property in December 2011. The accumulated difference would not exceed \$5,000, and I think that the relatively small amount at stake does not warrant the inconvenience of ordering reimbursement.

6 There remains Summons No 5289 of 2013 to resolve. This was the husband's application to strike out two paragraphs of the wife's affidavit of 23 September 2013. His ground for doing so was that the wife's affidavit was to have been limited to responding to a specific paragraph in the husband's most recent affidavit, but she went beyond that. I agree that she did. Her affidavit should have been limited to an explanation of the movement of funds in her own accounts. In two paragraphs of that affidavit she instead made allegations concerning his accounts. I therefore order that those two paragraphs be struck out. I would, however, make no order as to costs as there was no substantial prejudice.