

Wong Sook Kuen v Loh Choon Fah
[2015] SGHC 36

Case Number : Divorce (Transferred) No 3 of 2013
Decision Date : 04 February 2015
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Koh Tien Hua and Yoon Min Joo (Harry Elias Partnership LLP) for the plaintiff/wife; Felicia Ng Hui-Li (ComLaw LLC) for the defendant/ husband.
Parties : Wong Sook Kuen — Loh Choon Fah

Family law – Maintenance – Wife

Family law – Matrimonial assets – Division

4 February 2015

Choo Han Teck J:

1 The plaintiff/wife is a 48-year old Singapore citizen. She has been unemployed since 4 May 2014, and was previously a senior lecturer at Nanyang Polytechnic. The defendant/husband is a 57-year old Singapore citizen who works as a principal systems engineer at the Defence Science and Technology Agency. It is not disputed that his take-home monthly income is \$16,878.

2 The parties married on 23 November 1996. The wife moved out of the matrimonial home on 17 August 2012. On 2 January 2013, she filed a writ for divorce. The husband filed a defence and counterclaim on 24 January 2013. On 27 August 2013, the District Court granted the interim judgment for divorce on the basis of unreasonable behaviour on the part of the defendant under s 95(3)(b) of the Women’s Charter (Cap 353, 2009 Rev Ed) (“WC”). The length of the marriage is about 16¾ years.

3 There are no children to this marriage. The defendant has a 26-year old son from his previous marriage.

4 I start with the first issue before me, namely, the division of matrimonial assets. I first deal with the matrimonial home. The wife says that the property is worth \$2,645,000 as of August 2013. The husband says that the property is worth \$2.5m as of September 2013 but has not given any documentary evidence to support this. They disagree over the financial contributions made by the respective parties. They also agree that the wife contributed \$260,342 and the husband contributed \$534,753 from their respective CPF funds. Though both parties agree that the remaining cash funds of \$518,607 were paid from a DBS bank account in the wife’s name, the husband’s lawyers claim that this was merely used as “a conduit through which payments were made, and the funds in the account were provided by the husband.” The wife admits that funds were deposited by the husband into her account, but she disputes the amount paid. Both parties did not provide bank statements for the relevant period to assist me in determining the amount transferred from the husband’s bank account into the wife’s, and thereafter used in the purchase of the home. Nevertheless, I accept the submission by the defendant’s lawyers that the husband has made significantly greater financial contributions towards the acquisition of the matrimonial home. After all, it seems unlikely that the wife would have agreed to a 60:40 co-ownership in favour of the husband otherwise.

5 On the other hand, I find that the wife has made substantial financial contributions to the upkeep of the home by paying for various household expenses over the course of the marriage. The husband disputes this by stating that regular recurring household expenses were shared with the wife, and further, he paid for most of the valuable items. However, he did not furnish sufficient evidence of monies spent on such items. In fact, the husband has admitted that expenditures such as overseas holidays were shared with the wife, and that the wife bore the burden of paying for monthly expenditures on groceries, all expenditures relating to their domestic helper, and his son's pocket money up till junior college. The husband's lawyers made a simple comparison of the incomes and eventual savings of both parties to support the argument that the fact that the husband had a higher income throughout the marriage and less savings at present, must mean that he contributed more to the household expenditure. This argument is weak. After all, the husband could have spent his income on other forms of expenditure completely unrelated to the household. The husband's decision to give the wife \$500 a month for household expenditures in the later years of the marriage can be viewed as corroboration of the wife's claim that she had been shouldering most of the household expenses during the marriage. Therefore, I find that the wife has made greater indirect financial contributions to the home over the course of the marriage.

6 Though the husband asserts that the wife is not the primary caregiver of the son, I find that the wife has played an important role in caring for the son, especially during his teenage years. The wife has also supported the husband in his career throughout the marriage, and as a result of her contributions, he was able to focus on his career, and enjoy success in the workplace with his monthly income increasing from \$6,483.17 at the time of marriage to his current monthly income of \$16,878.

7 In determining a just and equitable division of the matrimonial assets between the parties, I also had regard to s 112(2)(f) of the WC, which reads: "any period of rent-free occupation or other benefit enjoyed by one party in the matrimonial home to the exclusion of the other party". There is no indication from the evidence that the husband paid the wife any rent since she moved out on 17 August 2012.

8 The BMW family car is also part of the pool of matrimonial assets. It is not disputed that the plaintiff drove away the family car when she left the matrimonial home on 17 August 2012. They had previously purchased the current family car in 2008 by trading in the previous family car at a value of \$63,000. It is not disputed that from this amount, the wife and husband each contributed \$31,500 to the purchase of the new car. The husband further states that taking into account the remaining costs of the car including bidding for car number plate and insurance, his contributions amount to \$71,300 and the wife's contributions amount to \$62,553. This results in the husband funding 53.3% of the acquisition of the family car, and the wife funding the remaining 46.7%. During the course of the marriage, both parties "took turns paying for the upkeep of the car".

9 I am of the view that an equal division in this case in respect of the matrimonial home and the BMW family car would be just and equitable. The parties have been married for more than 16 years. Equality of division is neither ideal nor the norm (*Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520 at [55]), but for long marriages such as this, the courts tend to lean towards equality of division. That is because there is no formula or means to determine the differential between the financial and non-financial contribution of the parties with precision. An equal division is also probably the closest the court can effect the parties' declaration in their matrimonial vow of treating themselves as one. Thus in the absence of a better formula, the court will consider equality as justice. I also find that for the remaining assets which are held in each party's name, it is fair and reasonable for each party to continue to keep them in their own names.

10 I now turn to the issue of maintenance for the ex-wife. Section 113 of the WC provides that the court may order maintenance of a former wife. Section 113(b) of the WC reads:

Power of court to order maintenance

113. The court may order a man to pay maintenance to his wife or former wife —...

(b) when granting or subsequent to the grant of a judgment of divorce, judicial separation or nullity of marriage.

11 In determining the amount of maintenance, the court has to have regard to the list of non-exhaustive considerations provided under s 114(1) of the WC. That provision reads:

(1) In determining the amount of any maintenance to be paid by a man to his wife or former wife, the court shall have regard to all the circumstances of the case including the following matters:

(a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;

(b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

(c) the standard of living enjoyed by the family before the breakdown of the marriage;

(d) the age of each party to the marriage and the duration of the marriage;

(e) any physical or mental disability of either of the parties to the marriage;

(f) the contributions made by each of the parties to the marriage to the welfare of the family, including any contribution made by looking after the home or caring for the family; and

(g) in the case of proceedings for divorce or nullity of marriage, the value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage that party will lose the chance of acquiring.

12 The wife asks that the husband pays a lump sum maintenance of \$648,000, or in the alternative, monthly maintenance in the sum of \$8,354.95. The husband's lawyers state that the wife is financially independent, with sufficient assets and income capacity to support herself in the future. Thus, they state that no maintenance should be ordered. The wife was previously receiving a take-home monthly salary of \$9,356.96 when she was still working full-time, which I acknowledge was more than sufficient to meet her needs. However, it is apparent that the wife has suffered emotional distress during the marriage, and is currently suffering from depression. Though it is possible that in the future, if her condition permits, she may return to the workforce and receive a stable income, she is currently unemployed.

13 On the other hand, I find it hard to believe that the wife's expenses amount to \$8,354.95. In particular, I am of the view that the wife's expenses have been inflated by the wife especially in relation to the car expenses. The wife claims that her monthly car expenses will amount to \$2,110. This is based on an unreasonable assumption that she will be driving a similar luxury car in the future, necessitating such high expenses pertaining to petrol, road tax and maintenance. I am of the view

that the proceeds from the sale of the family car would be more than sufficient to cover her car expenses.

14 I accept the submissions made by the wife's lawyers that the husband has the means to provide maintenance for the wife. The husband has a high earning capacity which has been steadily increasing over the years. He is a man of means and has income. I have also taken into account the fact that the wife should work towards re-entry into the workforce to support herself in the future. I thus fix monthly maintenance for the wife payable by the husband at \$2,500 a month. In my view, this is a reasonable amount of maintenance that he has the means to pay and would achieve "financial preservation so far as practicable and reasonable in the circumstances" (*Quek Lee Tiam v Ho Kim Swee* [1995] SGHC 23 at [18] and approved by the Court of Appeal in *NK v NL* [2007] 3 SLR(R) 743 at [78]).

15 My orders are therefore as follows:

- (a) The matrimonial home is to be apportioned equally between parties.
- (b) The BMW car is to be sold, and the proceeds of the sale are to be divided equally.
- (c) Parties are to keep all other assets in their own names.
- (d) Maintenance to the Plaintiff is fixed at \$2,500/month.
- (e) Liberty to apply.
- (f) No order as to costs.