

Dong Jianrong v Jiang Huaguo
[2015] SGHC 56

Case Number : Divorce Suit No 5198 of 2011 (Registrar's Appeal from the State Courts Nos 94 and 143 of 2014)
Decision Date : 02 March 2015
Tribunal/Court : High Court
Coram : Choo Han Teck J
Counsel Name(s) : Lim Poh Choo (Alan Shankar & Lim LLC) for the plaintiff/wife; Chung Ting Fai (Chung Ting Fai & Co) for the defendant/ husband on 3 November 2014; Defendant in-person on 16 February 2015.
Parties : Dong Jianrong — Jiang Huaguo

Family law – Custody – Care and control

Family law – Maintenance – Wife

Family law – Matrimonial assets – Division

2 March 2015

Choo Han Teck J:

1 The plaintiff is a 43-year old Singapore citizen. She holds two jobs, one as an insurance agent earning about \$1,200 per month, and another selling “niches”, earning about \$2,500 per month. The defendant is a 49-year old Singapore citizen working as an M&E supervisor and earning a gross monthly income of \$2,800 a month, and a take-home monthly income of \$2,240 a month.

2 The parties married on 15 April 1994 in Chengdu, China. They have one child to the marriage who is now 19 years old. On 28 October 2011, the plaintiff filed a writ for divorce. On 28 August 2012, 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 marriage lasted about 18 years.

3 On 22 April 2014, the learned District Judge (“DJ”) made orders as to ancillary matters pertaining to custody, care and control of the child of the marriage, division of the matrimonial home, division of other matrimonial assets, maintenance for the plaintiff, and maintenance for the child. The grounds for her decision are set out in *TFJ v TFK* [2014] SGDC 256 (“the GD”).

4 Subsequently in RAS 94 of 2014, the plaintiff appealed against the following orders made by the learned DJ on 22 April 2014:

(a) The defendant shall pay a sum of \$100 per month as maintenance for the plaintiff with effect from 30 April 2014. Such payments are to be made into the plaintiff’s POSB Savings account.

(b) The matrimonial home at Jurong West shall be sold in the open market within six months of the date of the final Judgment and the proceeds after repayment of the outstanding mortgage

and costs and expenses of sale be shared equally between the parties. Each party shall refund his/her CPF monies utilised for the purchase together with all interest accrued thereon from his/her share of the proceeds. The defendant shall have the option to purchase the plaintiff's share of the matrimonial home. The option shall be exercised within three months from the date of the Final Judgment. If the option is exercised, the defendant shall bear the costs of the transfer.

5 In RAS 143 of 2014, the defendant appealed against the following orders made by the learned DJ on 22 April 2014:

(a) The parties shall have joint custody of the child of the marriage with care and control of the child to the plaintiff and reasonable access to the defendant.

(b) The defendant shall pay a sum of \$300 per month as the maintenance for the child to the plaintiff with effect from 30 April 2014 into the plaintiff's designated bank account.

(c) The matrimonial home at Jurong West shall be sold in the open market within six months of the date of the final Judgment and the proceeds after repayment of the outstanding mortgage and costs and expenses of sale be shared equally between the parties. Each party shall refund his/her CPF monies utilised for the purchase together with all interest accrued thereon from his/her share of the proceeds. The defendant shall have the option to purchase the plaintiff's share of the matrimonial home. The option shall be exercised within three months from the date of the Final Judgment. If the option is exercised, the defendant shall bear the costs of the transfer.

6 I allowed RAS 94 of 2014 in part and dismissed the appeal in RAS 143 of 2014, making the following orders and setting out my reasons below:

(a) Maintenance for the plaintiff be converted to a lump sum and adjusted to \$20,000 to be deducted from the defendant's share of the sale proceeds.

(b) Other than the above, both appeals are dismissed.

(c) All monies due from the defendant to the plaintiff are to be deducted from the defendant's share of the sale proceeds of the Jurong West matrimonial home.

7 I start with the first issue before me, namely the issue of care, control and access of the child. The parties are in agreement that they should have joint custody over the child. But they differ on control and access. The defendant's counsel, Mr Chung, has argued for sole care and control on behalf of the defendant, or in the alternative, joint care and control. The learned DJ had interviewed the child to ascertain his wishes as he was of sufficient maturity to be able to do so (at [4] of the GD), and observed that the defendant had exhibited violent behaviour towards the plaintiff at home though there were no allegations of violence being committed against the child (at [5] of the GD). In fact, the plaintiff has also been granted expedited orders twice, once in 2007 and once in 2008, restraining the defendant from committing family violence on the plaintiff.

8 I agree with the learned DJ that the plaintiff has been the primary caregiver throughout the marriage, staying with the child in China when the defendant moved to Singapore in 2000, and subsequently when the parties moved into separate rooms in 2007, the child shared a room with the plaintiff and not the defendant. The Family Affairs Agreement drawn up in 2007 further specified that the plaintiff was to collect rental and use the rental to provide for the child's expenses. In my view,

joint care and control is neither appropriate nor in the child's best interests in this case. The child is almost of adult age, and shared care and control would be highly disruptive to his routine especially when he is in university. More importantly, he is fully capable of making adult choices at this age. After considering the above, I dismissed the appeal pertaining to care and control of the child to the plaintiff, and consequently, the appeal pertaining to maintenance of the child by the defendant is also dismissed.

9 I now move onto the division of the matrimonial home. The parties' direct financial contributions to the matrimonial home can be split as 40% to the plaintiff and 60% to the defendant. The learned DJ found at [21] of the GD that:

"Although the wife was not a full-time homemaker she had to maintain the household and take care of the child in China when the husband moved to Singapore in 2000. When she came to Singapore in 2001, she worked hard to contribute to the household and to help with financing the purchase of the Jurong West flat. At the time of the hearing she was earning an average of \$3,700.00 per month from holding two jobs as an insurance agent and selling niches. The husband on the other hand, did not appear to have exerted the same effort in providing for the family. He was earning about \$1,600.00 to \$2,000.00 from the time he moved to Singapore until 2005. He was earning about \$1,600.00 to \$2,000.00 from the time he moved to Singapore until 2005. He admitted that he was earning less than \$1,000.00 per month in 2002. He was earning between \$2,000.00 and \$2,800.00 after 2005."

10 It is clear that the plaintiff has made significant contributions to the marriage, especially in taking on multiple jobs to support the family after moving to Singapore, and playing an active role in raising the child. Taking into account the plaintiff's indirect contributions, both financial and non-financial, an equal division of the matrimonial home was just and appropriate. 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. I thus dismissed the appeal pertaining to the equal division of the matrimonial home.

11 I now turn to the issue of maintenance for the plaintiff. She has appealed against the order for maintenance, stating that lump sum maintenance would be more appropriate in this case. In ordering monthly maintenance, the learned DJ at [23] of the GD stated that "[a]s the [defendant] intends to retain the Jurong West flat, there would not be any proceeds from the sale for him to make the lump sum payment." I note that at present the situation has changed: the flat has been sold, and there are now sufficient funds for the defendant to pay lump sum maintenance to the plaintiff. Given that the plaintiff was granted a personal protection order in 2011 and two expedited orders against the defendant in 2007 and 2008, I find that a clean break would be desirable in this instance. I found it appropriate in the circumstances of this case to convert the monthly maintenance order for the plaintiff to a lump sum maintenance adjusted to \$20,000, to be deducted from the defendant's share of the sale proceeds. 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]).

12 On 16 February 2015, the parties appeared before me for a clarification of the orders I had previously made. The defendant appeared in person having discharged his counsel. This clarification was sought by the plaintiff's counsel, Ms Lim, as to whether the \$10,600 due to the plaintiff could be

deducted from proceeds of the sale of the matrimonial home, which was currently held by LawHub LLC, solicitors of the sale of the property. I granted leave to the plaintiff to withdraw the sum of \$10,600 from proceeds of sale now held by LawHub LLC. The matter was heard on this basis and for this reason alone.

13 However, at the clarification proceedings, the defendant asked the court to “re-judge and re-investigate this case and re-divide the marital property again”, which was an attempt to re-argue the appeals. He repeatedly alleged that the judgments made were obviously unfair and that his previous solicitor had failed to raise important arguments before the court during the ancillary matters hearing. The defendant threatened to disseminate the decisions and publish them “for the world to see”. The court informed the defendant that even if he wishes to appeal against the order of this court, he has to appeal to the Court of Appeal. He will also need to apply to appeal out of time.

14 My orders are therefore as follows:

- (a) Maintenance for the plaintiff be converted to a lump sum and adjusted to \$20,000 to be deducted from the defendant’s share of the sale proceeds.
- (b) Other than the above, both appeals are dismissed.
- (c) All monies due from the defendant to the plaintiff are to be deducted from the defendant’s share of the sale proceeds of the Jurong West matrimonial home.
- (d) Liberty to apply.