

VGY v VGZ
[2020] SGHCF 6

Case Number : Registrar's Appeal No 50 of 2019
Decision Date : 04 March 2020
Tribunal/Court : High Court (Family Division)
Coram : Debbie Ong J
Counsel Name(s) : Sam Hui Min Lisa (Lisa Sam & Company) for the appellant; Khwaja Imran Hamid, Yap En Li and Sudhershen Hariram (Tan Rajah & Cheah) for the respondent.
Parties : VGY — VGZ

Civil Procedure – Striking out

4 March 2020

Debbie Ong J (delivering the judgment of the court *ex tempore*):

Brief Facts and Issue

1 The parties are in the midst of Ancillary Matters (“AM”) proceedings, particularly proceedings for the division of matrimonial assets and maintenance. I refer to the Appellant as the Husband and the Respondent as the Wife.

2 In this appeal, the issue before me is whether the District Judge (the “DJ”) had erred in striking out various portions of the Husband’s 2nd Affidavit of Assets and Means (“2AOM”) in the following paragraphs: paragraphs 31, 54, 62, 92, 110, 111 and 120.

3 Paragraph 31 of the Husband’s 2AOM sets out how a former helper no longer worked for the Husband after the Wife moved in, and he then arranged to have his parent’s helper come by to do some tasks once a week. I note that the Wife’s affidavit does not contradict the position that there was some part-time help.

4 Paragraph 54 seeks to set out how, despite working very hard and intensely during the weekdays, he accompanied the Wife to activities with her extended family even though he very much needed to rest and recover during weekends.

5 Paragraph 62 sets out how the Wife did not take his advice but proceeded to sell the Bishan property. I note that there is no dispute that this property was eventually sold.

6 Paragraph 92 mainly states that the Wife did not pay a professional cleaner for services rendered.

7 Paragraphs 110 and 111 set out how, despite suffering from a growth in the anus that caused severe pain, he continued to go to work.

8 Paragraph 120 states that the Husband was depressed in 2016 and “felt lousy physically”.

9 I note the DJ’s observations that r 89 of the Family Justice Rules 2014 (S 813/2014) (the “FJR”)

was put in place “to prevent parties from repeatedly rehashing issues due to heightened emotions and acrimony”. Rule 89 of the FJR permits each party to file an Affidavit of Assets and Means and a reply affidavit to the other party’s Affidavit of Assets and Means. Beyond these two affidavits, any further affidavit sought to be admitted requires the leave of the court.

10 I highlight the observations and directions of the Court of Appeal in *UYQ v UYP* (“*UYQ v UYP*”) [2020] SGCA 3 (at [4]):

... it would assist the parties to find a way forward... by focusing on the *major details* as opposed to every conceivable detail under the sun. We caveat that this does not mean parties should swing to the other extreme by being remiss in submitting the relevant records. Put simply, there ought to be ***reasonable accounting rigour that eschews flooding the court with details that would obscure rather than illuminate***. Henceforth, therefore, courts should discourage parties from applying the *ANJ v ANK* approach in a rigid and calculative manner. Parties would do well to understand that such an approach ***detracts*** from their respective cases instead of enhancing them. And in extreme situations where the court’s time and resources have been wasted in a wholly disproportionate manner, a party may face sanctions in the form of the appropriate costs orders.

[emphasis in original in italics and bold italics; emphasis added in underline]

11 I had said at the hearing that parties should *assist the court* to reach a just decision, and *not inundate and distract* the court and parties with voluminous amounts of material that are not relevant to the issues before the court.

12 The Husband’s 2AOM was more than a hundred pages long. It starts in this way in its first paragraph: “I like to share a little about myself. I came from a poor family. My family had very little to scrape through. There were the five of us.” I wonder whether, if the Husband had kept broadly to what is relevant in the entire affidavit in a more concise manner, even if it includes some of the material in the paragraphs now in question, the Wife might perhaps not have been so inclined to apply for portions to be struck out. There are other parts not applied to be struck out, which I find are not entirely relevant to the real issues in the AM proceedings. But here we are.

13 I find that the paragraphs described above are not relevant to the AM proceedings, especially as there is already much evidence that had been allowed in the affidavits. For example, the Husband set out what the DJ described as “unnecessary graphic detail” of his medical condition in paragraphs 110 and 111 of the Husband’s 2AOM. There, he states that he continued to work very intensively despite suffering much physical pain and inconvenience. I asked his counsel how this was relevant to showing his indirect contribution, noting at the same time that his hard work which produced income and assets would be taken into account as part of his direct contribution. Counsel analogised this to a working mother who worked hard and slept little. I think that a career mother who works hard all day and cares for the children and household after work hours (thereby having less sleep) would have her efforts caring for the family appropriately taken into account as her indirect contribution. The paragraphs in the present case do not relate to the Husband’s indirect contribution. Indeed, in other situations similar to the present, parties have used evidence of a spouse’s medical condition to show that the spouse could not have contributed much to the family’s welfare, since he or she was suffering from medical conditions that instead required care. If the Husband is worried about being prejudiced in not being allowed to put in these paragraphs, I do not think that this is a concern as these paragraphs ironically do not appear to favour his case on his indirect contribution.

14 I am not unaware of the distress and agony that ensue after the breakdown of a relationship as

important and intimate as a marriage. Recounting what had happened during the marriage cannot be easy; the justice system does not belittle the deep hurt that divorcing parties experience and instead discourages parties from conduct which may increase each other's pain during the proceedings.

15 Our family law has adopted the "no-fault" divorce regime. This regime recognizes that it is not helpful for parties to allege the worst of each other when what they should seek to do is to address the consequences of the marriage breakdown, heal from them and move forward positively. This no-fault regime also recognizes that marriage is an intimate relationship where alleged "faults" are not always easy to ascertain, especially when spouses had a continuous dynamic relationship during marriage in which how one spouse acts may impact how the other acts or reacts.

16 The AM proceedings are not the forum for parties to vent their frustrations. The parties are to address the financial consequences of their marriage breakdown in the present court proceedings, where the focus ought to be on the relevant issues in the division of assets and maintenance. I have already stated what the Court of Appeal has instructed in *UYQ v UYP* in terms of how to conduct the AM proceedings and presenting relevant evidence in the spirit in which *ANJ v ANK* [2015] 4 SLR 1043 ought to be understood. Parties should use therapeutic services to support them in respect of the *emotional consequences* of marriage break down.

17 The appeal is dismissed.