IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 13

District Court Appeal No 86 of 2023

Between

WQG

… *Appellant*

And

WQF

… *Respondent*

JUDGMENT

[Family Law — Matrimonial assets — Division]
[Family Law — Child — Maintenance of child]

WQG
v
WQF

[2024] SGHCF 13

General Division of the High Court (Family Division) — District Court Appeal No 86 of 2023
Choo Han Teck J
19 January 2024

14 February 2024 Judgment reserved.

Choo Han Teck J:

1 The parties were married on 7 December 2008. They have an 11-year-old son. Interim judgment was granted on 26 April 2022. The appellant wife, aged 49, earns $7,258 and a further $2,000 rental income monthly. The respondent husband, aged 50, earns $7,517 a month. They are both planning managers in the same company. This appeal concerns the division of matrimonial assets and child maintenance.

2 The appellant says that the District Judge ("DJ") should have included the moneys that the respondent lost in a scam. The respondent was cheated of $33,933 in a get-rich-quick scheme. The DJ found no reason to add these moneys back to the matrimonial assets as there was no evidence of bad faith by the respondent. I agree with the DJ that it was not a deliberate dissipation of assets, although 'bad faith' may not be the appropriate test. The appellant, on

the other hand, relies on the proposition in *TNL v TNK* [2017] 1 SLR 609 ("*TNL*") at [24], that a spouse who spends substantial sums of money when divorce is imminent, must return them to the pool of assets if the other spouse has at least a putative interest in it and has not consented to the expenditure.

3 The facts here are different because there is no evidence that divorce proceedings were imminent at the time the respondent was scammed. The bank statements show that the moneys were withdrawn by the Respondent in July and August 2021, but divorce proceedings only commenced on 18 October 2021. There is no evidence that the scam was a false story or that the respondent was complicit. In any case, I do not find the sum of $33,933 (2% of the total value of matrimonial assets) substantial in the circumstances of the case. In *TNL*, divorce proceedings had already commenced when the money, amounting to $331,057.77 (6% of total value), was spent.

4 The appellant also says that the respondent's CPF and POSB account balances ought to have been taken as of the IJ date. She says that the CPF balance and the POSB account balance ought to be $393,445.00 and $7,1118.00. I agree with the appellant in principle, but the evidence does not support her calculations. The respondent's CPF records and bank statements as of April 2022, show that the respective balances are $373,822.75 and $3,408.12, but the DJ ascertained these balances to be $364,767 and $813.87. Thus, the values of the CPF and POSB account balances ought to be $373,822.75 and $3,408.12. However, this is not likely to affect the percentage of each party's entitlement to the matrimonial assets, given the minor differences in values.

5 The DJ did not include the personal liabilities incurred by both parties in the pool of matrimonial assets, because there was no evidence that the debts were incurred for the benefit of the family. The appellant says that those

personal liabilities ought to be included. I agree with her. Although the DJ was right to find that those liabilities are not joint matrimonial liabilities, they ought to be regarded as the parties' personal assets and liabilities, and are relevant in the calculation of the matrimonial assets because they were incurred during the marriage. It does not matter whether they were incurred for the benefit of the family, the child, or for themselves. It may affect the parties' indirect contributions, but that concerns the division and not the ascertainment of assets. I am thus of the view that the personal liabilities incurred by the parties ought to be included in the pool of matrimonial assets. This would be $80,723.77 for the respondent husband, and $197,571 for the appellant wife.

6 The appellant also says that the unit trusts that were purchased with her pre-marital funds ought to have been excluded from the pool of matrimonial assets. $20,000 from her CPF Special Account from her pre-marital account had been included in the matrimonial assets. I agree that the portion of the unit trusts purchased with those pre-marital funds ought not to be treated as matrimonial assets. Thus, after deducting the relevant portion of the unit trusts, I accept the appellant's proposed value of the unit trusts to be $58,004.53, instead of the $82,275.93 that the DJ found.

7 Based on my findings above (from [2] – [6]), the parties' assets in their sole names are thus as follows:

Appellant wife's assets		
1	CPF balances	$234,464.00
2	Savings	$5,313.00
3	Unit trusts	$58,004.53

4	Insurance policies	$23,523.00
5	Personal liabilities	-$197,571.00
	Total	**$123,733.53**
Respondent husband's assets		
5	CPF balances	$373,822.75
6	Bank account	$3,408.12
7	Insurance policies	$442.42 + $809 = $1251.42
8	Stocks	$117.30
9	Personal liabilities	-$80,723.77
	Total	**$297,875.82**

8 I will now consider the parties' respective indirect contributions. The appellant says that she had contributed substantially more by paying for the household expenses, the child's education and even the respondent's debts, and asks for a 70:30 ratio in her favour. The DJ determined the indirect contributions ratio to be 50:50. In her judgment, she arrived at this ratio because she had considered "the [wife's] efforts as the primary care parent since April 2022, and the [husband's] giving of rent-free accommodation to the [wife] since April 2022". Although these are relevant in the assessment of indirect contributions, the DJ only referred to the parties' contributions in the period after April 2022 when the interim judgment was granted on 26 April 2022.

9 That does not, however, necessarily mean that the DJ arrived at her decision based only on those two factors. The point that the appellant had substantially higher indirect financial contributions does not, in my view, seem lost on the DJ. She accepted that the husband's monthly expenses to be $3,029 and the wife's monthly expenses, $22,132. Nonetheless, she considered a 50:50 ratio to be fair. It is trite that the appellate court will seldom interfere in the orders made by the court below unless it can be demonstrated that it has committed an error of law or principle, or has failed to appreciate crucial facts. That is not the case here. The parties' indirect contributions apply to both financial and non-financial contributions. The appellant had made substantially more financial contributions, but that should not necessarily be given greater weight than the non-financial contributions made by the respondent. A comparison must be made because every case differs. Accordingly, I am of the view that the DJ's determination was fair and equitable.

10 I turn now to address the appellant's points on the apportionment of the assets. She does not dispute the DJ's application of the classification method, but she says that the DJ ought to have applied the indirect contributions ratio consistently across all classes of assets, and specifically, to the parties' assets held in their sole names. In my view, the DJ had applied the indirect contributions ratio consistently. The DJ held that as for the parties' assets in their own names, they should be retained in the parties' sole names given their comparable value ($345,575 to $336,948.32). This is only sensible because the she had applied the parties' indirect contributions ratio, which was 50:50. Given that the parties made a 100% of the direct contributions to the assets in their sole names, the final division ratio would be 50:50. In making the order for parties to retain their own assets that were of comparable value, the DJ had adopted the most expedient way to achieve the outcome of equal division (50:50).

11 However, as I have found above that the value of the parties' assets is $123,733.53 (appellant) and $297,875.82 (respondent), the DJ's approach would no longer be feasible. Instead, the division for these assets ought to be as follows:

	Appellant wife	**Respondent husband**
Direct contributions	29.3% ($123,733.53)	70.7% ($297,875.82)
Indirect contributions	50%	50%
Final ratio	**39.7%**	**60.3%**

12 As for the condominium apartment that the appellant purchased, partially with pre-marital funds, ("the Property"), she makes two contentions. First, she says that the DJ ought to have given a higher weightage to the direct contributions made to the Property. Second, she says that the DJ erred in calculating the net valuation of the Property. These points had been raised before the DJ below.

13 I reject the appellant's contentions. It is true that the Property was partially purchased with pre-marital funds, but it had not massively increased in value by the appellant's exceptional efforts, as was the case in *TNC v TND* [2016] 3 SLR 1172, where the High Court attributed a greater weight to the direct contributions to the properties in question. There, the properties were valued at $18,500,000 and the Court found that there was a massive increase in value after the parties' marriage had broken down and largely due to the efforts of the husband. Thus, the Court found it equitable to attribute a greater weight to direct contributions for a just and equitable outcome in favour of the husband,

given the extraordinarily large pool of assets. In contrast, the Property here was purchased at the price of $615,000 in 2017 and is now valued at $700,000.

14 As for the appellant's second contention, I find no reason to disturb the DJ's valuation of the Property, being approximately $183,254. This was arrived at after deducting the outstanding housing loan of $429,332 and the pre-marital funds of $87,414, from the gross value of $700,000. The appellant, however, proposes that the value be $176,583.80. In the circumstances, I do not find it necessary to disturb the DJ's valuation as the two values are not substantially different.

15 Regarding the child's maintenance, the appellant says that the respondent ought to pay $2,275 per month, contrary to what the DJ ordered, which is $1,350 a month. In coming to this amount, the DJ had taken into consideration the appellant's proposed monthly expenses for the child, at $5,514. That comprised the basic expenses of $2,396 and enrichment classes costing $3,118. In her judgment, the DJ found that a reasonable estimate of the child's expenses ought to be about $2,694. She considered the parties' monthly incomes, at $7,517 and $7,258, and gave parties the liberty to make some adjustments scaled towards reasonableness.

16 In my view, the DJ had adequately considered the relevant factors in arriving at her assessment. I agree with her decision to exclude certain expenses on hiring a domestic helper, condominium maintenance fees and car expenses. I also agree with her decision to moderate the tuition and enrichment expenses from $3,114 to $1,500, given the parties' earning capacities and debts. Accordingly, I find no reason to depart from the DJ's findings. I will, however, emphasise that maintaining the child is no doubt the responsibility of both parents. Although the court only provides for what is reasonable, at law, to

expect of parents, the parental responsibility of maintaining the child is not derived from the law and should not therefore be constrained by it. The parties are at liberty to make reasonable adjustments in the best interests of the child.

17 The order below is varied accordingly. Each party to bear its own costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Chew Wei En (Teoh & Co LLC) for the appellant;
Yu Gen Xian, Ryan (Aspect Law Chambers LLC) for the respondent.