

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2019] SGHCF 19

District Court Appeal No 157 of 2018

Between

TOE

... Appellant

And

TOF

... Respondent

JUDGMENT

[Family Law] — [Child] — [Relocation]

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TOE

v

TOF

[2019] SGHCF 19

High Court — District Court of Appeal No 157 of 2018 and Summons No 148 of 2019

Choo Han Teck J
19–21 August 2019

23 August 2019

Judgment reserved

Choo Han Teck J:

1 The wife and the husband are in the process of getting a divorce. The wife is a 51-year-old South Korean citizen and is a housewife. The husband says she stopped working as an air stewardess after their marriage in 2000. The husband is a 53-year-old citizen of the United Kingdom and until 2012, was working as a “quant” in a foreign trading company. Their son is now 9 years old. He was born in 2010 through a surrogate mother, as the husband constantly reminded this court.

2 This is an appeal by the wife against the order of a Family Court judge that the son be permitted to relocate to the United Kingdom with his father. The husband says that he has been living in Singapore because the court proceedings have prevented him from leaving. He now wants to go back to the United Kingdom and therefore applied to have the son relocated back with him.

3 The wife, being a Korean citizen, will obviously face hardship in maintaining contact with the son should that happen, just as the father would have faced had the child remained in Singapore when the father is relocated back to the United Kingdom.

4 The Family Court judge ordered that the son be allowed to relocate to the United Kingdom. The court seemed to rely on the report of the child representative, Mr Raymond Yeo Khee Chye. From her grounds of decisions, the learned judge was comparing the merits of relocation and was focusing on two choices — the United Kingdom or South Korea. It appears that the learned judge, and to some extent, Mr Yeo, had not given due weight to the possibility of no relocation for the child.

5 The husband has been the sole income earner in the family until 2012. The wife has not worked since marriage. The husband still has the ability to work and, given his profession, as a quant trader, can work anywhere. The mother says that once she is settled back in Singapore (she lost her dependence pass when the husband cancelled the son's study pass — that has been ordered by the Family Court to be reinstated). She hopes to be a teacher for young children. Comparing the two, the husband is much more mobile. Although he is free to locate wherever he wants, to compel the son to go with him is an act solely in the husband's interests. It will not be in the son's interests. The boy has grown up here. His friends are here. He wants to study here until he is 17 before he plans his future.

6 The husband acted in person before me, and I asked to see the son and the wife separately, after which I saw the husband again. I did this because this divorce has been acrimonious and the parties had levied many allegations against each other. For the purposes of deciding this appeal, I wanted to satisfy

myself that if the son were to remain in Singapore, would the wife be capable and suitable to look after him. It was patently clear to me that the son is a very cheerful, happy and good-natured boy. There were no signs of any despair or negative outlook about him. He was very clear and certain that he prefers to stay in Singapore where he has been brought up and where all his friends are. He also prefers the weather here more than that of the United Kingdom and South Korea. The son is happy and comfortable with both parents. When he is with his father, the domestic helper cooks for him. When he is with the mother, she cooks for him

7 The husband seems to me to be more recriminating than the wife. He wastes no moment to disparage her, in between bitter comments about the Family Court, the government, and this country. He made his remarks to show why he is aggrieved, but the bitterness and contempt could scarcely be hidden. When he was peeved, against the wife's counsel, and the courts, he could not contain his sarcasm. The mother was quite the opposite. She talked mostly about her son and how she is managing here. She only spoke about the husband when I asked why were they divorcing. She said she does not know because it was a sudden, unilateral decision by him to evict her from the family home. She said that she could only guess that perhaps he has another woman.

8 It is often the case that in an acrimonious divorce, one or both parties would turn master manipulators. Every step, and every word would be taken and made with only one thing in mind — to win the divorce war. I had taken note of the history of this couple's divorce proceedings, and that has fortified my view that to order the son to be relocated with the husband would only serve the interests of the husband and no one else. On the other hand, letting the son continue his studies in Singapore would be in his best interests without prejudice to either parent. No doubt, the husband will protest that he would be prejudiced

by being kept far away from the son. I am of the view that he has the means to see the son if he wished. He alleges that all his assets are depleted and much of it had been ‘stolen’ by the wife. The wife says she had to down grade from a \$9,000 a month rented flat to a \$4,000 a month flat, and she had bought an 8-year-old car to drive the son to school. She said she used to have a new car every three years or so.

9 Although the learned judge and Mr Yeo seemed a little swayed by the husband’s long-term relocation plan in the United Kingdom with the son, the son himself seemed very clear about his own long-term plan, at least, until he reaches 17. That plan is to remain in school in Singapore until he is 17 years old, and then he would consider relocating to the United Kingdom.

10 I am of the view that the order that the son be relocated to the United Kingdom should be revoked, and this part of the wife’s appeal is therefore allowed. The husband is free to return to the United Kingdom. The son remaining in Singapore to complete his schooling is more appropriate than having him relocated to the United Kingdom or South Korea. The mother has stated that she has a dependent’s pass and so will be here to look after the son.

11 This order does not affect the husband’s rights regarding care and control, and he is at liberty to visit the son when he is in Singapore. He is also at liberty to apply for the son to visit him in the United Kingdom during the son’s school holidays. This separation is not much different from that in which parents in Singapore send their children to study in the United Kingdom.

12 I have considered the rest of the court’s orders, and am of the view that none of the other orders require variation, save that those relating to the preparation for relocation can now be regarded as defunct. The wife’s

application for leave to adduce fresh evidence is dismissed. Those evidence included videos of herself and the son, the purpose of which was to show that the relationship between herself and the son were good, but as it turned out, I do not think that they were necessary.

- Sgd -
Choo Han Teck
Judge

Siaw Susanah Roberta (Siaw Kheng Boon & Co) for the appellant;
Respondent in person.
