

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 39

Divorce (Transferred) No 4951 of 2019

Between

VYL

... Plaintiff

And

VYM

... Defendant

JUDGMENT

[Family Law] — [Matrimonial assets]
[Family Law] — [Maintenance] — [Child]

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**VYL
v
VYM**

[2021] SGHCF 39

General Division of the High Court (Family Division) — Divorce
(Transferred) No 4951 of 2019
Choo Han Teck J
16 September, 21 October 2021

8 December 2021

Judgment reserved.

Choo Han Teck J:

1 The parties were married in 1999 in India. The Father started working in Singapore in June 2005 and became a Singapore citizen in 2012. He currently works as a director in an electrical equipment company. The Mother is 46 years old, and a freelancer in the real estate business with PropNex since 2009. She came to Singapore in September 2005 and became a Singapore citizen in 2018. Both earn around \$25,000 a month. The Father filed for divorce and interim judgment was entered on 8 September 2020.

2 They have two children from the marriage. The elder child is 18 years old, and is now serving in the National Service. The younger son is 15 years old. He is in Grade 10 in an international school. The parties and their two children are still staying in the matrimonial home.

3 With respect to custody, care and control of the children, both parties agree to have joint custody. But they disagree on care and control of the children. During my interview with the children, I find the children mature, independent and thoughtful. They have a good relationship with both parents but acknowledged that the Mother was more involved in their day-to-day life, such as their academics, as the Father was frequently at work. I would award care and control to the Mother and grant liberal access to the Father. As the children are grown up and mature, they are more than capable of expressing their desires on how they wish to spend their time with each parent. I do not think it necessary to set out a detailed arrangement in this respect.

4 The key issue is how the matrimonial assets shall be divided. The operative date for determining the pool of matrimonial assets should be the date of interim judgment, and the operative date for determining the valuation of matrimonial assets should be the date of the ancillary matters hearing (“AM hearing”). As long as a property falls within the definition of a “matrimonial asset” under s 112(10) of the Women’s Charter (Cap 353, 2009 Rev Ed), it should be included in the pool of matrimonial assets regardless of whether it is jointly or separately owned.

5 The Husband says that the date for ascertaining the pool of matrimonial assets should be 1 April 2019, but the date of the interim judgment is 8 September 2020. In the absence of any cogent reason to the contrary, the date of the interim judgment should be the operative date for determining the pool of matrimonial assets. As for the valuation of the matrimonial assets, balances in bank and CPF accounts will be taken at the time of the IJ as it is the monies that form part of the matrimonial assets and not the accounts themselves. The

rest of the matrimonial assets, namely the properties and shares, will be valued based on the available values as close to the AM hearing date as possible.

6 For the division of matrimonial assets, I will refer to the Joint Summary submitted by parties. For the purpose of valuation, I will adopt the currency rates stated in the Joint Summary: SGD\$1:MYR3.12, SGD\$1:USD\$0.74, SGD\$1:INR54.82.

7 The Mother claims that the pool of assets amount to \$4,167,689. This includes the Noida apartment which the Father tries to exclude from the pool on the basis that it was purchased by his own father, as well as the family car which the Father had sold off without her consent. Her position is that she had made 55% of the direct contributions, and 80% of the indirect contributions. The final ratio should, she says, be 72.5:27.5 in favour of her. The Father submitted that the total value should be \$5,047,120. His direct contributions should be 45%, and indirect contributions 50%. The final ratio should be 52.5:47.5 in his favour. The Father contends that the Mother's HDFC savings account and ICICI bank account should be included in the pool of matrimonial assets. But the Mother claims that those accounts were used to receive rental proceeds from the properties in India, which she had inherited from her parents.

8 Section 112(10) of the Charter provides that "matrimonial asset" does not include any asset that has been acquired by one party by gift or inheritance, and that has not been substantially improved during the marriage by the other party or by both parties to the marriage. For inheritance, unless it has been substantially improved during the marriage by the other party or by both parties to the marriage, it will be excluded from the pool of matrimonial assets.

9 The parties disagree on the status of the Noida apartment, which is an apartment in India jointly owned by the Father, and the Father's father. The Father says that this is retirement savings of his own father; his own father invested in the purchase of this property, and put the Father and the Father's brother's name as the joint owners. Further, the developer has gone bankrupt and the property remains uncompleted for at least six years. The Mother disagrees that the Noida apartment should be excluded from the pool of matrimonial assets. She claims that \$167,943.27 of the purchase price was paid by the Father to the developer in India. Based on the letter of allotment issued by the developer confirming the allocation of the Noida apartment, there is nothing to support the Father's claim that his father paid for the Property solely. The Father further claims that the developer has gone bankrupt and the project has been delayed. But at the same time, the Father informed me that he had told his own father not to sell this property pending the settlement of present Suit. The Noida property is, therefore, not without value, and in the absence of proof that he was holding his half shares on trust for his father, I would count the Noida apartment as part of the matrimonial assets.

10 The New Delhi Property which the Wife inherited from her late parents is also claimed by the Father. The New Delhi Property was valued at \$450,000, and was paid for by the Mother's parents. The will by the Mother's mother specifically stated that, to honour the wishes of her late father, the Mother was not to sell this property. The same applies to her shares in the Gurgaon Property; neither parties contributed to the purchase of this property. I agree with the Mother that since these two properties were inherited from the Mother's parents, this should not be included in the pool of matrimonial assets.

11 Another issue arising from the inheritance properties is the rental proceeds from them. The Mother has two bank accounts in India and shares held in the Indian bank account: the bank accounts were used to receive rental proceeds earned from the inherited properties, and the shares in the India bank were likewise inherited from the Mother's parents. I will exclude these assets from the matrimonial asset pool, for the same reasons as the inherited properties. There is no evidence that these assets were used or substantially improved by the parties in the course of their marriage.

12 Parties have also included insurance policies for the purpose of their children's education, such as one Aviva plan worth \$35,862.82 according to the Mother. The Mother submitted that the monies that went towards purchasing such policies should be added back to the pool of matrimonial assets. I decline to include these insurance policies for the purpose of the asset division. First, the insurance policies in question, as contested by the Mother, are largely health insurance policies with no surrender value. Second, a number of the policies were purchased for the children's benefit, including their education plan and health insurance. I see no reason to include the purchase monies in the asset pool.

13 Another point of contention was the sale proceeds of the former family BMW car, which was sold on 28 November 2019 for the price of \$38,691.49. The Mother submitted that she had paid \$40,000 for the down payment of the car, and the Father sold it while divorce proceedings were pending without the Mother's consent, and failed to return any monies. The Father said that the sale proceeds had been deposited into the bank account and therefore it should not be included as a separate item in the pool of matrimonial assets. Though the Mother is rightly aggrieved that the family car was sold without her consent, I

am inclined to exclude this item from the pool of matrimonial assets as the monies had been deposited into the Father's SCB account -0989. In the absence of evidence from the Mother that he had dissipated monies in his bank account, including the sale proceeds as a separate item would lead to double-counting.

14 In sum, the parties' assets in the matrimonial pool are:

S/N	Manner of Holding	Asset	Net Value / in SGD
1.	Joint Names	Matrimonial home (without taking into account liabilities)	2,550,000.00
2.		POSB Joint Account	1,615.00
3.		Singapore Swimming Club Membership	940.00
Total assets in joint names			\$2,552,555.00
1.	Husband’s Name	Johor Bahru Apartment	82,100.00
2.		Noida Apartment	169,633.40
3.		SCB Supersalary Account - 5209	394.89
4.		SCB BonusSaver Account	421,381.65
5.		SCB Supersalary Account - 3257	59,605.60
6.		State Bank of India Account - 333	203,011.81
7.		Sector 45 Faridabad Land	178,776.87
8.		CPF (Ordinary Account)	14,419.29
9.		CPF (Special Account)	168,889.60
10.		CPF (Medisave)	60,000.00

S/N	Manner of Holding	Asset	Net Value / in SGD
11.		Bank Muamalat Account - 7722	108.60
12.		Central Bank of India Account - 3070	7,014.06
13.		ICICI Savings -5838	1,581.62
14.		ICIC Savings - 7148	2,832.85
15.		DBS Supplementary Retirement Scheme (SRS) - 8223	60,367.68
16.		ICICI Demat (shares)	7,139.77
17.		IBM shares	5,301.00
18.		Baker Hughes shares	45,360.00
19.		GE Shares	13,328.00
20.		ICICI Prudential Investment Policy - 2575	36,483.04
21.		ICICI Prudential Pension Insurance - 0379	3,648.30
22.		NTUC Income Savings Policy - 4440	43,362.00
23.		Prulink Supergrowth Investment Policy	35,393.02
24.		Honda Stream	20,000.00
Total assets in the Husband’s Name			\$1,640,133.00
1.	Wife’s Name	Tanjong Rhu Property (less mortgage)	896,303.87

S/N	Manner of Holding	Asset	Net Value / in SGD
2.		Prudential Policy -6399	61,525.00
3.		M-City Property in KL	190,000.00
4.		CPF OA	-
5.		CPF Special Account	9,187.05
6.		CPF Medical Account	60,000.00
7.		POSB eSavings - 9806 (as at 31 August 2020)	195.54
8.		POSB eSavings - 3833 (as at 31 August 2020)	28,895.52
9.		OCBC Premier Account - 7001	303,454.47
10.		Citibank Step-Up Interest Account - 5019 (As at 1 September 2020)	17,147.67
11.		UOB Stash account	155,308.26
12.		Philips Securities	19,501.26
13.		Julius Bar Investment (as at Jan 2021)	837,736.95
14.		Saxo Investment	96,344.55
15.		Car Honda Vezel (nett value)	15,028.00
Total assets in the Wife’s Name			\$2,690,628.00
Total Value of Matrimonial Assets			\$6,883,316.00

15 As this is a dual-income family, I will first ascribe a ratio that represents each party's direct contributions relative to those of the other party, having regard to the amount of financial contribution each party had made towards the acquisition or improvement of the matrimonial assets. I will then ascribe a ratio to represent each party's indirect contribution in terms of their contribution to the well-being of the family, relative to that by the other spouse. Third, I will derive the average percentage contribution, based on the respective direct and indirect contributions by the parties.

16 In terms of the direct financial contribution, the Father asked for a 70:30 split of the sale proceeds of the matrimonial home, based on his initial contribution and mortgage payments for the matrimonial home. As for the Tanjong Rhu property in the Mother's sole name, the Father sought a 50:50 split as it was a joint matrimonial asset. The rest of the assets in cash should be distributed 50:50, and the properties in Malaysia and India be excluded from the matrimonial pool. As for his indirect contribution, the Father submitted that he the primary caretaker was the domestic helper, and not the Mother who was active in both her careers and her social life. The Father also asks that the Mother bear 50% of the mortgage instalments in arrears since August 2020, until the titles are transferred, as the Mother had allegedly declined to pay for her share of the mortgage payment.

17 The Mother says that the Father did not provide any proof as to how the mortgage and down payments were paid. With respect to the Johor Bahru apartment, the Mother claims that she had contributed MYR10,000 to the purchase of the Johor Bahru apartment, and 20% of the purchase price of a plot of residential land in Faridabad ("Sector 46 Faridabad"). As for the matrimonial home, the Mother claims that she had paid the 4% down payment, the 15% cash

payment, the stamp duty payment, legal fees and part of the renovation costs, amounting to a total of \$518,125.54.

18 Though the Mother contends that there is no proof of the Husband's contribution to the matrimonial home, it is also undisputed that the Husband contributed solely to the payment of the mortgage, and the Mother contributed more in terms of the cash down payment and renovation expenses. The ratio of the contribution between the Father and Mother is around 63:37. As for the Sector 45 Faridabad land, there was an agreement between parties evidencing their respective contributions, which were around 80:20 in favour of the Father. With their respective properties taken into account (without factoring in the Sector Faridabad land under the Father's assets which has been taken into account), the direct financial contributions are 40:60 in favour of the Mother.

19 As for indirect contributions, this includes their contributions to other household expenses, and to taking care of their children. I accept that the Father travelled frequently for work. But he had also contributed to the upbringing of the children, paid for their school fees. Accordingly, I ascribe a ratio of 60:40 in favour of the Mother. The average ratio is therefore 60:40.

20 For the matrimonial home, since the younger son is sitting for a major exam in the coming year, it would be more appropriate and convenient for the Mother to buy out the Father's shares in the matrimonial home, than for the children to be compelled to move to a new apartment.

21 In the circumstances, I make the following orders as to the parties' respective entitlement:

- (a) Parties are to retain assets in their sole names;

- (b) The remaining moneys in the POSB Joint Account are to be shared 60:40 in favour of the Mother, and the account shall be closed thereafter;
- (c) The Mother is to sell the Swimming Club Membership, and the net proceeds to be divided 60:40;
- (d) The matrimonial home is to be sold in open market, and the net sale proceeds of the matrimonial home shall be distributed in the ratio of 40% to the Father and 60% to the Mother, with an option for the Mother to buy over the Father's share of the matrimonial home, based on market price or price otherwise agreed upon.
- (e) If the matrimonial home were to be sold in open market, each party shall utilize their shares of the nett sale proceeds of the matrimonial home to refund their CPF monies withdrawn for the purchase of the matrimonial home plus accrued interest.
- (f) The Mother is to reimburse the Father for half of the mortgage instalments paid between the date of the IJ and the date of this Judgment, subject to the Father producing proof of the sums paid.

22 As for maintenance for the children, I think that the Father's request that the Mother enumerates the expenses for the children, is unreasonable. The elder son is in National Service and only requires limited daily expenses, which can be paid for as he so requires. For the younger son, the Father suggested that both parents bear his school fees (\$3,700 per month) in the proportion of 53.5% by the Mother, and the rest by the Father, and that a nominal maintenance for \$380 be given on top of his school fees if he does not have care and control.

23 The Mother wants the Father to bear 70% of the children's expenses. For the elder son, this amounts to a total of \$4,949.67 including personal expenses, mortgage, household expenses and car. For the younger son, this amounts to \$10,273.67, out of which \$6,381 are for school fees and related expenses, for the period until the younger son starts National Service in September 2024. After the younger son starts his National Service, the expenses are estimated to be a total of \$4,949.67, less school fees, school bus and other school-related expenses.

24 As both parties are of comparable earning power (although the Mother seems to earn more than the Father), they should contribute to both Children's educational fees and other daily expenses equally from the date of this Judgment onwards. For the educational expenses, this would be subject to the invoices from the school or university, to be paid by parties to the respective school/university upon receipt of the invoices.

25 For the daily expenses, I do not find the Mother's request to include the mortgage payments in the children's expenses justifiable. Moreover, since the older son has started serving National Service, there is no evidence as to how extra-curricular tuition fees for both children would amount to \$1,500 per month. Further, some of the expenses such as the sports activities were incurred in 2020; there is no evidence that such activities are ongoing. For the dental expenses, the Mother showed payment of around \$250 for the dental visits, but the records do not bear out her claim that such expenses are incurred on a monthly basis. I therefore find that \$2,500 for both children would be reasonable, taking into account groceries, pocket money, school bus, medical needs, clothing and other sundry expenses. The Father is to pay for half of the personal expenses by depositing \$1,250 per month into the Mother's bank

account. Once the younger son commences National Service in 2024, with the elder son in university, the personal expenses would be \$900 for each child and both parents shall deposit their respective contributions to the child's bank account directly.

26 Both children are mature and articulate, but the evidence shows that their parents kept involving them in the quarrels. As the ancillary matters draw to a close, the parties should move on with their lives and allow their children to move on with theirs too, and perhaps for once, to breathe freely.

27 I make no order as to costs.

- Sgd -
Choo Han Teck
Judge of the High Court

The Father in person and unrepresented;
The Mother in person and unrepresented.
