IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 6

District Court Appeal No 108 of 2020

Between

VOU

… *Appellant*

And

VOT

… *Respondent*

JUDGMENT

[Family Law] — [Maintenance] — [Wife]

VOU
v
VOT

[2021] SGHCF 6

General Division of the High Court (Family Division) — District Court Appeal No 108 of 2020
Choo Han Teck J
23 April 2021

3 May 2021 Judgment reserved.

Choo Han Teck J:

1 The appellant wife (the "wife"), appeals against the decision of the District Judge (the "DJ"), who made no order as to her maintenance from the respondent, her husband (the "husband"). They had lived together as a married couple for barely six months. The wife is 59 years old and the husband is 78. There are no children to the marriage. This was the second marriage for both of them. The wife has children, now adults, from her previous marriage.

2 The parties were married on 25 December 2016, after cohabiting for four years in a "tumultuous" on-again, off-again relationship. It is not disputed that the husband gave the wife monthly sums of $5,000 from March 2014 to February 2017. In March 2017, the husband opened a joint bank account with the wife (the "Joint Account") from which the wife withdrew a sum of $5,000 every month between March to June 2017.

3 Their marital bliss was short-lived. The husband left the wife abruptly around 14 June 2017, after withdrawing $50,000 from the Joint Account. He left about $25,000 behind, which the wife says she withdrew on 20 June 2017 and used for her own expenses until it ran out in December 2017.

4 The wife says that sometime in January 2017, the husband told her to sell her *kueh* business that she had been running for about 15 years, in order to devote more time to taking care of him. She says that she agreed when the husband promised to take care of her and provide for her. Despite the husband's departure in June 2017, the wife proceeded to sell her *kueh* business in July 2017, thinking that the husband would return to her as he had always done in the past after he had cooled down, and in reliance on his promise to take care of her. But he did not come back.

5 The husband disputes the wife's claim that she had sold her business because of his assurance to take care of her. He says that the decision to sell the business was entirely the wife's since the marriage had broken down by then. Her reason for selling the business was to free her time so that she could look after him. With both marriage and husband gone, it was not reasonable for her to sell her business in expectation of his return. This is not an unreasonable argument, and one might have thought that in the circumstances, the wife might have delayed the sale. In any event, I do not think that decision has such a great impact in her favour. She could, if she would, return to it, even if, as she says, that she cannot make *kueh* in the same quantities as before due to her medical condition. It was, after all, a business based entirely on her skill and effort alone.

6 Eventually, the Writ of Divorce was filed by the husband on 6 January 2020 and Interim Judgment was granted on 26 May 2020. The ancillary hearing was held on 22 September 2020. As there were no children to the marriage and

the parties had agreed to keep assets in their sole names absolutely, the only ancillary issue before the DJ was maintenance for the wife. The DJ made no order as to maintenance for the wife. The wife filed a Notice of Appeal on 11 November 2020, and the DJ subsequently released her Grounds of Decision ("GD") on 4 February 2021.

7 On appeal before me, the wife seeks a lump sum of $420,000 on the basis of $5,000 per month for 7 years. She says this is reasonable because the husband had given her $5,000 per month from 2014 until June 2017, when he left her. She submits that a multiplier of 7 years is fair and reasonable because she will not be able to earn much income moving forward due to her age and medical conditions, and the husband did not maintain her for almost three years during the marriage.

8 In the alternative, the wife seeks a lump sum of $180,000 on the basis of $5,000 per month for three years. She says this is fair and reasonable, given that the husband refused to maintain her for almost the entire duration of the marriage from the time he left her around 14 June 2017 till the time Interim Judgment was granted on 26 May 2020.

9 In the Appellant's Case dated 3 March 2021, the wife said that the DJ had erred by failing to consider the fact that the parties' pre-marriage lifestyle continued into the marriage and their high standard of living during the marriage, holding it against the wife for failing to enter into a pre-nuptial agreement or deed of separation, putting too much emphasis on the short length of the marriage, failing to recognise the parties' conduct and circumstances in which they got married (particularly the husband's promises he would provide for her financially), and declining to order maintenance because of the wife's alleged financial security.

10 I consider, first, the relevance of the parties' pre-marriage lifestyle and the wife's argument that this continued into their marriage. The wife is essentially seeking a form of "palimony", by asking for the same monthly sum she had been receiving during their cohabitation. However, as the law stands, neither the fact that parties are cohabiting prior to their marriage, nor the circumstances of that cohabitation, can be taken into account in deciding on the ancillary matters once the marriage comes to an end — even in relationships that were longer than this one (*UJF v UJG* [2019] 3 SLR 178). As submitted by the husband's counsel, the power of the court to order maintenance under Section 113 of the Women's Charter (Cap 353, 2009 Rev Ed) (the "Women's Charter") may only be invoked upon parties being either married or divorced, and nothing in the list of factors under Section 114 can be read as making references to circumstances prior to the marriage. I therefore agree with the DJ's view that there was "no legal basis" for the wife's argument (GD at [24]–[25]).

11 I am also unpersuaded by the wife's submission that the DJ had erred in failing to consider the parties' high standard of living during the marriage, and by the wife's reliance on the principle of financial preservation (Section 114(2) of the Women's Charter). First, the parties had lived together as man and wife only from December 2016 till the husband left her in June 2017. Subjective as it might be, I agree with the husband's counsel that there was therefore not much "lifestyle during the marriage" to speak of. It will take a high standard of living during the marriage, of which there is only scant and unconvincing evidence (such as a passing reference to their two-week honeymoon in Europe), to justify the wife's claim.

12 I also agree with the DJ's view that both parties were "mature adults who were financially independent when they remarried each other" (GD at [27]) and the wife "was of a certain means and was financially secure on her own"

(GD at [32]). Although the wife no longer has her *kueh* business, she is significantly younger than the husband, who is 78 and retired, and she is capable of being self-sufficient and providing for herself.

13 In any event, from the start of the marriage till its sudden end, the wife had received a total sum of about $50,000 (based on the $5,000 monthly sum she had received from December 2016 till June 2017, and the sum she withdrew from the Joint Account after the husband's departure). In my view, this was sufficient for her needs after they stopped living together.

14 Third, the wife also argued that the court is required to have regard to the conduct of the parties under Section 114(2) of the Women's Charter, and the DJ should therefore have taken into account the circumstances under which the parties had gotten married and their conduct. This included the husband's promise to the wife around 5 September 2016 that he would never leave her again, and the fact that she had sold her *kueh* business in July 2017 in reliance on the husband's previous assurance that he would provide for her. Even if all this were true, I agree with the DJ that there was no legal basis to grant an order for maintenance on the basis of the husband reneging on his various promises (GD at [30]–[31]). Promises of this sort are routinely made in the happy days of courtship and marriage. But broken vows of devotion do not, on their own, form the basis of a maintenance order.

15 For completeness, I do not agree with the wife's argument that the DJ was "holding it against [her]" for not entering into a pre-marital agreement. The point the DJ was making was that the husband's generosity towards the wife in giving her $5,000 every month during their cohabitation could not be relied on upon the breakdown of the marriage, although that arrangement might have been given some weight had it been recorded in a pre-marital agreement or a

deed of separation (GD at [26]). The DJ was not saying that the wife was at fault for omitting to do so.

16 For the reasons set out above, I uphold the decision of the DJ and dismiss the appeal. I will hear the parties on costs at a later date if they are unable to agree costs. I will suggest to parties that they each bear their own costs in this case.

- Sgd -
Choo Han Teck
Judge of the High Court

The appellant in person;
Looi Min Yi Stephanie and Oei Su-Ying Renee (Optimus Chambers LLC) for the respondent.