

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 9

District Court Appeal No 51 of 2023

Between

WPV

... Appellant

And

WPW

... Respondent

JUDGMENT

[Family Law — Matrimonial assets — Division]

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**WPV
v
WPW**

[2024] SGHCF 9

General Division of the High Court (Family Division) — District Court
Appeal No 51 of 2023
Choo Han Teck J
29 January 2024

5 February 2024

Judgment reserved.

Choo Han Teck J:

1 The Husband is 51 years old, earning \$13,426 a month as a senior manager. The Wife is 45 years old and is a senior manager at a surgical department of a hospital. They married on 21 September 2000 and have three children, two daughters aged 17 and 14 respectively, and a son aged 12. The interim judgment was granted on 1 September 2021 and the ancillary matters were heard on 11 November 2022. The District Judge (“DJ”) divided the matrimonial assets amounting to \$1,582,828.07 in the ratio of 57.45: 42.55 in favour of the Husband. These are not disputed. The DJ ordered the cash proceeds from the sale of the matrimonial property be divided in that ratio after payment of the parties’ respective Central Provident Fund (“CPF”) contributions. The appellant says that the sale proceeds should be divided before the CPF contributions have been refunded. There is no other issue in this appeal.

2 Mr Tan Yong Quan for the appellant submitted that it did not occur to the DJ that the ratio before the CPF refunds cannot possibly be the same ratio after CPF refunds. I would not say that this was a point lost on the learned judge. It is a fact that is obvious to all judges and lawyers, and because of it, judges and lawyers are constantly troubled by how to deal with it.

3 The basic principle in dividing the matrimonial assets, which for simplicity's sake, we take the matrimonial home as the only asset for division, as in the case here, is that all actual financial contributions are taken into account and divided according to the ratio of the respective contributions. So, for a matrimonial flat valued at \$100,000 (just for ease of calculation) and paid for entirely by using the husband's CPF, the ratio will be 100:0 in favour of the husband.

4 But the courts have long recognised that a wife who does not contribute financially towards the acquisition of matrimonial assets is not entitled to nothing because her contributions to making the house a home has a value. That value depends on myriad and diverse factors such as cooking for the family, cleaning the house, and looking after the children. It also varies according to such factors as the length of the marriage, and possibly, the number of children.

5 If the court determines that that non-financial contribution of the wife should be 30% in value, then the ratio of their shares in the flat or its proceeds will be 70:30. If the proceeds of the sale, say, at \$100,000, are divided before the CPF refunds are made, the husband receives \$70,000 in cash and the wife, \$30,000. In this situation the husband still has to make a full refund to his CPF, namely \$100,000. He has to find \$30,000 from elsewhere to complete the refund. But the wife does not leave the marriage without money — she will have \$30,000. For convenience of calculations, we will assume that there has been

no previous refund to the husband's CPF. If the husband has to refund his CPF before the division of the proceeds then he need not look elsewhere for cash, but the wife will get no money from the sale proceeds.

6 Taking a different situation in which, the above facts remain the same, but the husband also has \$100,000 in cash, then the overall matrimonial assets (flat and cash) will be \$200,000. In this situation, even after repaying the husband's CPF, there is still money left for the wife to claim her non-financial contributions to the marriage.

7 Mr Tan raised various arguments as to why the proceeds should be divided after the CPF contributions are refunded, and end by relying on my decision in *WBI v WBJ* [2022] SGHCF 22 at [9] – [10]. There, I held as follows:

I agree with the DJ's approach in ordering the CPF refunds to be made from the gross sales proceeds, before apportioning the sales proceeds between the parties. With respect, the reasoning in *Tay Sin Tor* is flawed. The court in *Tay Sin Tor* correctly held that CPF sums are "not loans" but "assets of the parties", but it then contradicted itself by likening CPF sums to personal loans, which are not required to be repaid before division. I respectfully disagree with *Tay Sin Tor* that the liability to repay CPF sums used for the continuing payment of a matrimonial home is a "personal obligation". That description has no helpful meaning in determining whether CPF contributions ought to be paid before or after distribution of the gross proceeds of sale. When CPF monies have been used to buy the matrimonial home, they are used for the benefit of the family and are obligations undertaken for the joint benefit of the marriage. They are part of the matrimonial assets and should not be treated as a class separate from other deductions.

It seems to me that *Tay Sin Tor* is the only case attempting to explain why CPF proceeds should be paid after the proceeds of sale of the property have been divided, meaning, each party repays his or her CPF money from his or her own share of the proceeds. The courts have not been consistent in determining when CPF refunds are to be refunded before and when after the division of the sale proceeds. I have also on some occasions allowed CPF refunds to be paid from the parties' share of the sale proceeds, without elaboration, probably because parties

had not questioned the reasoning in *Tay Sin Tor*. I am now of the view that it is not desirable to have an arbitrary choice between dividing the proceeds of sale before or after repayment of CPF monies. To have that choice immediately raises the question, “Under what circumstances should a court order repayment of CPF monies before division of the sales proceeds, and when to pay after division?” No rational reason can be found to differentiate the two options. For the reasons above, I am of the view that repayment of CPF monies should always be paid before division of sale proceeds.

8 Mr Yong, counsel for the Wife, relies on *CVC v CVB* [2023] SGHC(A) 28, at [107]. That passage reads as follows:

In so far as *WBI* stands for the proposition that the “repayment of CPF monies should *always* be paid before [the] division of sale proceeds” (at [10]), we are of the view, with respect, that this is incorrect. Repayment of CPF moneys may be made (1) *before* dividing the sale proceeds, or (2) *after* dividing the proceeds and payments are made from each party’s share of the proceeds. In the latter situation, if the divided proceeds are insufficient for the repayment amounts, that party may have to use other assets or moneys to make up the difference. It would not be useful, nor principled, to limit the discretion of the court to either approach. Ultimately, whichever approach is taken, the *result in substance* should be that the total value of the share received by each party must reflect the final division ratios ordered.

9 The problems that I alluded to in *WBI* remain, and may well be intractable because the law requires the apportionment of matrimonial assets by way of a formula combining an ascertainable fixed portion (financial contributions) with an uncountable portion (non-financial contributions), and that uncountable portion has no sure and error-free way of ascertaining. Consistency sometimes has to cede its crown to flexibility. Determining the non-financial contributions will always involve some elements of arbitrariness, hence *WBI* had hoped to reduce some malleable parts, but, perhaps, when justice cannot be counted, it has to be felt.

10 In the present appeal, the ratios are not disputed. Neither are the figures. Given the total value of \$1,582,828.07, the dispute over whether the CPF should be refunded before (as the appellant claims) or after as the DJ ordered, is over \$68,325.98, a mere 4% difference. I am of the view that the DJ had calculated the ratio and made the orders on division such that either way, the difference still reflects the final ratio ordered. For this reason, the appeal is dismissed.

11 Each party is to bear its own costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Tan Yong Quan (SC Wong Law Chambers LLC) for the appellant;
Nicholas Yong Yoong Han and Andrew Wong Wei Kiat (Fortis Law
Corporation) for the respondent.
