IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 11

District Court Appeal No 120 of 2020

Between

VPU

… *Appellant*

And

VPT

… *Respondent*

JUDGMENT

[Family Law] — [Maintenance] — [Wife]

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VPU
v
VPT

[2021] SGHCF 11

General Division of the High Court (Family Division) — District Court Appeal No 120 of 2020
Choo Han Teck J
19 May 2021

1 June 2021 Judgment reserved.

Choo Han Teck J:

1 The appellant husband (the "husband") appeals against the decision of the District Judge (the "DJ"), who ordered the husband to pay a monthly maintenance of $400.00 to the respondent wife (the "wife") with effect from 30 November 2020.

2 The parties were married on 1 March 2015. At the time of the hearing before the DJ, the wife was 33 years old and the husband was 37. The wife is a Traditional Chinese Medicine ("TCM") physician with a monthly income of $3,000.00. The husband is a Senior Engineer with a monthly net salary of $4,302.00. They have a son, born in January 2016.

3 From 2015 to 2017, the parties lived separately in their respective parents' homes, apart from a brief period when they rented a room together.

They moved into the matrimonial home, a five-room HDB flat, in December 2017. The wife was working as a TCM physician in March 2015 but resigned in August 2015 because she had complications with her pregnancy. After the child was born, she stayed home to care for the child and only resumed work in July 2017. Around May 2019, the wife left the matrimonial home with the child. The husband still lives there.

4 The wife commenced divorce proceedings on 10 August 2019, and an Interim Judgment was granted on 5 March 2020. By consent, it was ordered that the wife was to have sole custody and care and control of the child, and the husband was to have reasonable access. The husband was also ordered to pay $700.00 per month as maintenance for the child and 60% of the child's school, enrichment, and medical fees, with effect from 1 March 2020.

5 On 24 November 2020, the DJ ordered that each party was to "retain their own personal insurance and other assets in their sole names". In respect of the child's insurance, any proceeds of the maturity, surrender or termination are to be placed into an account for the child's sole benefit. The husband is to pay $400.00 monthly maintenance to the wife. The wife was to transfer her rights and interest in the matrimonial home to the husband within 6 months from the Final Judgment, and the husband is to pay the wife 42.55% of the value of the matrimonial home minus the outstanding mortgage loan. The wife is to refund her own CPF money and the husband is to be responsible for the repayment of the outstanding mortgage loan and all costs relating to the transfer. On 2 December 2020, a Final Judgment was granted.

6 In the DJ's Grounds of Decision dated 8 March 2021 ("GD"), the DJ said that a fundamental principle embodied in Section 114(2) of the Women's Charter (Cap 353, 2007 Rev Ed) (the "Women's Charter") is financial

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preservation, which requires the wife to be maintained at a standard which is, to a reasonable extent, commensurate with the standard of living she enjoyed during the marriage (GD at [8]). At the hearing below, the wife's counsel left the quantum of maintenance to be determined by the court, but submitted that a lump sum of $40,000.00 was appropriate (GD at [11]). The wife said that her monthly household and personal expenses were $2,336.07, but the DJ assessed the wife's monthly expenses to be $789.24 (GD at [14]).

7 The DJ found this to be a short and tumultuous marriage, but there was a son born to the marriage and the wife was his primary caregiver from the start (GD at [16]). The DJ took into account the fact that the husband was staying rent-free in the matrimonial home while the wife and child were staying with the wife's family. Although the wife had regained employment, that should not be "taken to her disadvantage" to allow the husband to "negate his obligations" to her post-marriage (GD at [17]–[18]). For these reasons, she ordered that the husband pay the wife monthly maintenance of $400.00.

8 On appeal before me, counsel for the husband, Ms Yeo, submits that the wife is not entitled to any maintenance. First, she argues that the DJ erred in her finding that "there were financial inequalities between the spouses suffered during the marriage". In fact, there was no evidence that the wife's earning capacity was adversely affected during the marriage. She currently earns a comparable income to the husband and can support herself. Second, the DJ assessed the wife's monthly expenses to be $789.24, and after deducting this and the wife's share of the child's expenses from her income, the wife would have $1,829.76 left. The wife does not need an additional monthly sum of $400.00. Furthermore, the wife is entitled to a 42.55% share of the matrimonial home. Since she has already received her fair share of the parties' wealth, she is not entitled to maintenance.

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9 Finally, Ms Yeo submits that the husband cannot afford maintenance for the wife as he is paying $300.00 for his father's expenses each month, in addition to his personal expenses and maintenance for the child. At most, the court should only order a nominal sum of $1 for one year, as any higher figure would result in a "windfall" for the wife.

10 Counsel for the wife, Mr Ho, submits that the wife is financially disadvantaged post-divorce as she stopped working between August 2015 and July 2017 to care for the son, which affected her career. Even after July 2017, she could only work part-time because she had to focus on caring for the child, and she only managed to increase her salary back to pre-pregnancy levels in December 2017. Furthermore, as the sole proprietor of a TCM business, she is "vulnerable to the ebbs and flows of the general economy" and has "no certainty to her salary". In contrast, the husband is a salaried worker who enjoys "relative security of income". Although his monthly take-home pay is $4,302.00, this does not include his bonuses, which resulted in him earning $6,469.75 per month in 2019. Thus, the wife earns less than half what the husband earns.

11 Second, there remain financial inequalities between the parties after the division of matrimonial assets. The husband is now the sole owner of a "large and comfortable" five-room HDB flat. However, the wife will only have about $106,919.00 in liquid assets after the payment from the husband for the matrimonial home, and another $24,783.00 which is "locked up" in her CPF accounts. This $106,919.00, along with her monthly income of $3,000.00, is not enough to buy a "decent home" for herself and the child, and she would have to buy a much smaller flat or live with relatives.

12 I first consider the parties' incomes and expenses. According to the Appellant's Case dated 9 April 2021 (the "Appellant's Case"), the husband has

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a net monthly income of $4,302.00 and his monthly personal expenses are $3,831.00. According to the husband's counsel's written submissions for the hearing below dated 9 October 2020, his personal expenses include monthly maintenance of $886.00 for the child. The husband also pays $300.00 for his father's expenses. This amounts to $4,131.00, leaving the husband with $171.00 each month. If the husband's bonuses are included, *ie* if he continues earning $6,469.75 every month as he did in 2019, this will leave him with $2,338.75.

13 As for the wife, she earns $3,000.00 a month. After deducting her expenses of $789.24 and the wife's share of the child's expenses from her income, the wife would have $1,829.76 left each month.

14 In the Respondent's Case dated 10 May 2021 (the "Respondent's Case"), counsel argues that the wife's actual expenditure is higher than what the DJ assessed. However, in my judgment, the DJ's assessment of the wife's expenditure was not against the weight of the evidence. I also think that both parties have about the same income, although the husband would earn more than the wife if he receives bonuses. Both also have similar earning capacities. They are both young and healthy, and can work to provide for themselves. The wife's occupation is a business, and her vulnerability to the ebbs and flows of the general economy is not necessarily a downward trend. Indeed, she might become twice as successful, but for the moment, we have no evidence either way.

15 At the hearing before me on 19 May 2021, I asked counsel how much the husband would have to pay the wife for her 42.55% share of the matrimonial home. Counsel said that the parties had not yet done a valuation of the matrimonial home and gave me several different figures. First, Ms Yeo said that the husband would pay the wife $93,000.00. Mr Ho then said that the DJ

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indicated in her GD that the value of the flat was $436,000.00 (excluding the outstanding mortgage loan). Based on this value, Ms Yeo said that the husband would have to pay the wife $82,972.00, though in the Appellant's Case she had stated that this would be $84,469.30. Finally, Mr Ho said that the exact amount, which was not in the affidavits, was calculated by HDB to be $85,607.00, though in the Respondent's Case he had stated that this would be about $82,566.00. Counsel also submitted that about $24,000.00 of this sum will have to be returned to the wife's CPF account.

16 Since a final valuation has not been done for the matrimonial home and counsel is unable to assist me, I do not know the exact amount the wife will receive from the husband for her 42.55% share of the matrimonial home. However, even if it is the lowest figure of $82,566.00, when added to the money in her bank accounts, insurance policy surrender values, and the existing money in her CPF Ordinary Account, she would have about $106,919.00.

17 This is not an insubstantial sum. The wife could use this money for the down-payment on a new HDB flat if she wishes. It may be smaller than the five-room HDB flat where the husband lives, but that does not mean it will not be a "decent home". The wife cannot expect to have the exact same standard of living as she did when the parties were married. The reality of divorce is that both parties will have less money than they had during the marriage. In my judgment, the wife is self-sufficient and does not require maintenance for herself.

18 In the Respondent's Case, the wife's counsel argued that the wife's expenses will "skyrocket" when she finds a home for herself and the child, due to rental or mortgage payments, town council fees, and purchase and replacement of furniture and appliances. "Skyrocket" seems a little bit of an exaggeration in the circumstances, and in any event, it is up to the wife to ensure

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that she finds a home within her means such that her expenses do not "skyrocket".

19 The wife's counsel argued at the hearing below that the wife should receive lump sum maintenance of $40,000.00, on the basis that this would assist her with "discharging the mortgage over the former matrimonial home so that she can provide a roof over the child's head". However, now that the husband will pay for the outstanding mortgage loan and will be paying the wife a 42.55% share of the value of the matrimonial home, I do not think that an order for lump sum maintenance is justified.

20 For the reasons set out above, I allow the appeal and order that there shall be no maintenance for the wife. I will hear parties on costs at a later date.

- Sgd -
Choo Han Teck
Judge of the High Court

Yeo Poh Tiang (Yang Baozhen) and Madeleine Poh (Yeo & Associates LLC) for the appellant;
Ho Jin Kit Shaun and Cheong Zhihui Ivan (Withers KhattarWong LLP) for the respondent.

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