

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 34

District Court Appeal No 39 of 2021

Between

VLO

... Appellant

And

VLP

... Respondent

District Court Appeal No 41 of 2021

Between

VLP

... Appellant

And

VLO

... Respondent

JUDGMENT

[Family Law] — [Child] — [Relocation]
[Family Law] — [Custody] — [Access]

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

VLO
v
VLP and another appeal

[2021] SGHCF 34

General Division of the High Court (Family Division) — District Court
Appeals Nos 39 and 41 of 2021
Choo Han Teck J
7, 28 September 2021

18 October 2021

Judgment reserved.

Choo Han Teck J:

1 This is a short-lived marriage that had broken down in less than three years. The Father is a Chinese national whose work has brought him to Singapore. The Mother is from Taiwan and was a full-time homemaker during the marriage. They have one Child from the marriage, who was born on 26 May 2017 in Singapore. Their relationship broke down shortly after the birth of the Child. The writ of divorce was filed on 2 August 2019, shortly after the requisite three-year period under s 94 of the Women's Charter (Cap 353, 2009 Rev Ed) had passed. The District Judge ("DJ") who heard the ancillary proceedings below granted parties shared care and control of the Child, dismissed the Mother's application to relocate the Child to Taiwan, ordered the Father to pay the Mother \$133,000 for the division of matrimonial assets, and made orders for the maintenance of the Child and the Mother.

2 In DCA 39, the Father appeals against the financial matters, arguing that the DJ had overvalued the pool of matrimonial assets, disregarding the sum of \$200,000 owed by him to his father for university and his master's degree tuition fees between 2007 and 2012. In relation to the maintenance for the Mother, the Father argued that there is no proof that the Mother would not be able to secure her own accommodation and job due to her immigration status, and awarding maintenance would only prolong the Mother's dependency on the Father. As for the maintenance for the Child, the Father asks for a cap on the maintenance so that the Child would not be engaging in too many extracurricular activities.

3 In DCA 41, the Mother appeals to have the Child relocated to Taiwan, and to have sole care and control of the Child. The Mother's counsel submitted that the DJ erred in dismissing the relocation application; the DJ erred in placing too much weight on the loss of relationship between the Child and Father in the event of relocation, and failed to consider the uncertainty of the Mother's immigration status in Singapore.

4 I am of the view that the DJ has not erred in his judgment regarding the pool of matrimonial assets. The alleged personal loan from the Father's father for his university and master's education is not supported by any evidence; there is no indication as to how much his education costs, and who made the payment. In any event, such a personal loan that is neither for the joint benefit of the parties nor for the benefit of the child of the marriage would not be considered by the court in dividing matrimonial assets within s 112(2)(b) of the Women's Charter.

5 I also dismiss the appeal by the Father in relation to the maintenance for the Mother. The Mother has been a homemaker since the marriage. She moved to Singapore because of the Father and the Child, and only started working as a store manager after October 2019. The maintenance ordered by the DJ, which is \$700, is reasonable, and only lasts for a period of 24 months starting from 1 April 2021.

6 For the issue of maintenance for the Child, the Father sought to introduce new evidence of him paying for the Child's enrichment classes, which took place after the ancillary hearings below. These affidavits were not admitted into evidence in the hearings below as no leave was sought before the Father filed the additional affidavits, and the Father has not sought leave to adduce such evidence before me. I will not take them into consideration for the present appeal. I find no basis to put a cap of \$500 on the amount to be spent on the Child's enrichment classes. What the DJ has ordered below, which is for the Mother to consult the Father prior to enrolling the Child in enrichment classes, and providing the necessary proof of such enrolment, is eminently reasonable as a safeguard against any potential abuse of her discretion as now alleged by the Father.

7 I turn to the Mother's appeal. In relocation applications, the court below had considered the various factors and balanced the pros and cons carefully. As always, the welfare of the child is of paramount consideration, and it is especially so in an application as sensitive as that for the relocation of the child. The reasonable desire of the caretaker to relocate to her country of origin are, of course, relevant. It is unrealistic to disregard the well-being of the caretaker and treat it as separate and distinct from the welfare of the child. But that must

be balanced against the child's loss of relationship with the "left-behind" parent: *UFZ v UFY* [2018] SFHCF 8.

8 In *UYK v UYJ* [2020] 5 SLR 772 ("*UYK*"), the court dismissed the appeal that granted the mother's relocation application with the child. That was not a case where the child and family had lived in Singapore for many years, and their ties to Singapore were transient. Rejecting that application would have compelled the mother to stay in Singapore permanently with tenuous and uncertain immigration status, whereas there was evidence that the child had spent some time in the United Kingdom and had a life planned out for him there.

9 That is one instance of how the courts have decided, but each case turns on its own facts. On the facts of this case, I am not persuaded that it would be in the best interest of the Child to relocate him to Taiwan. Unlike *UYJ*, this is not a case where parties have planned to stay in Singapore temporarily. The Father has been a permanent resident in Singapore since 2015, and purchased, rather than rented, the matrimonial home. After the Mother moved back to Singapore with the Child in August 2018, the Father has facilitated her stay in Singapore by arranging for her accommodation in a rented apartment, finding a pre-school for the Child, ensuring that the Child's immigration documents were executed. Indeed, the Mother's own WeChat messages to the Father reveal her intention to return to Singapore with the Child so that the Child can attend schools here, even though the Mother's relationship with the Father had broken down by then. Further, there is no life planned out for the Child in Taiwan; the Mother has no job there and her current plan is to stay in a rented apartment with the Child. The work that she does in Taiwan as a sales assistant is the same as the work she had as a store manager in Singapore.

10 Moreover, the Child is well-settled after moving back to Singapore in August 2018; he has started attending pre-school in Singapore and spends his time on weekends with the Father's. Over the years, the Child's relationship with the Father has strengthened. Being four years' old, he could not fully apprehend the implications of him moving back to Taiwan, and believes that he could see his father on weekends. Relocating the child to Taiwan, at this juncture, will result in an irrevocable loss of relationship between the Father and the Child, and I therefore dismiss the Mother's appeal for the relocation of the Child. For the same reason, I also dismiss the Mother's appeal to change the care and control arrangement, given that the Child has adjusted to the current arrangement.

11 I am sympathetic to the Mother's plight regarding her immigration status in Singapore and her struggle looking for a job. But I have also been informed by counsel that the Mother has a Long-Term Visit Pass based on the Child's student's pass, but may not be able to work for the first year because of relevant regulations. However, this is a point the Father needs to understand as well, for he seems to labour under the misapprehension that the Mother has made no attempt at looking for a job. The Mother has applied for certain positions but was rejected, although mostly for reasons other than her immigration status. For the interim until the Mother finds another job, the maintenance from the Father would help with her financial situation. The immigration status issue seems to have been resolved at the moment. But should there be a change of circumstances, the Mother is at liberty to apply.

12 Acrimony between the parties has increased since the ancillary hearings, which no doubt was exacerbated by the stress of the relocation problem. But what lies before them is clear: either they continue to fight in the courts, a fight

that may last longer than their marriage, or they cooperate with each other for the benefit of their child. Good sense will have them choose the latter, bearing in mind their joint responsibility as parents to promote their child's flourishing.

13 I dismiss both appeals and make no order as to costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Teo Jin Huang (Rajen Law Practice) for the father;
Poh Jun Zhe Malcus (Chung Ting Fai & Co) for the mother.
