IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2021] SGHCF 36

District Court Appeal No 58 of 2021

Between

VTP

… *Appellant*

And

VTO

… *Respondent*

JUDGMENT

[Family Law] — [Grounds for divorce] — [Behaviour]

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VTP
v
VTO

[2021] SGHCF 36

General Division of the High Court (Family Division) — District Court Appeal No 58 of 2021
Choo Han Teck J
20 October 2021

22 October 2021 Judgment reserved.

Choo Han Teck J:

1 The husband here, who is now aged 50, is a trainer and consultant in workplace safety, and the wife, aged 42, is a data analyst with the Citibank. They married on 9 December 1999 in India and have a son who is now 21 years old, and a daughter who is 16 years old. The wife filed for divorce on 17 July 2019 which was contested by the husband. The suit was founded on the husband's unreasonable behaviour, and the wife cited abusive conduct and financial irresponsibility as the basis of the unreasonable behaviour.

2 The parties bought a Housing and Development Board ("HDB") flat in 2000 at Jurong East, and moved there until they moved into a condominium flat at 6 Gateway in 2017. This condominium was bought in 2013 and was rented out. Counsel referred to them as the two matrimonial homes. There can be two matrimonial homes if they have both two families. The fact that a husband and

wife have two properties does not mean that they have two matrimonial homes. They may have initially made the HDB flat their matrimonial home, but once they moved, 6 Gateway became their matrimonial home. They can refer to a first and second matrimonial home only in relation to time, not to number.

3 The DJ rejected the wife's claim that the husband had been abusive to her and the children, but he accepted her claim that the husband had acted irresponsibly in the conduct of his and the family financial affairs, and on that basis granted her an interim judgment.

4 The husband appealed. There is no cross-appeal by the wife, so the only issue before me is whether the DJ was right to have granted the interim judgment on the ground of unreasonable behaviour on account of the husband's irresponsibility with regard to matters of finance. The parties and the DJ used the phrase "financial irresponsibility", as the convenient descriptive phrase.

5 The instances of the husband's financial irresponsibility are set out by the DJ in his grounds of decision. These include '[dabbling] in various investments and [starting] his own business to obtain quick high-yield returns'. The husband invested more than $50,000 in the business against her objections. The company was eventually declared insolvent in 2010. He also made investments without her knowledge, such as in FOREX, placing himself in debt. The husband had registered the wife's name as a distributor in a multi-level marketing business without her consent or knowledge. The husband was himself adjudicated a bankrupt in 2016. The wife gave proof of numerous unpaid debts and fines incurred by the husband, and paid eventually, by the wife. Those debts include the non-payment of utilities and property taxes. All the allegations were

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disputed, but the DJ compared the evidence and testimonies of both and found in favour of the wife.

6 So far as the facts are concerned, I am not inclined to upset the findings of the DJ, and nothing I read from the record justifies an alternative finding. What I will consider is whether the facts satisfy s 95(3)(*b*) of the Women's Charter (Cap 353, 2009 Rev Ed), that the husband had behaved in such a way that the wife cannot reasonably be expected to live with him. That question must begin with a reminder that the matrimonial vow includes the dedication to remain by each other, "for richer or poorer". The husband is poorer. The wife is not. The vow ought to keep them together, as it would in many similar situations that other married couples find themselves.

7 Despite the marital vow, the law allows a party to rescind it, so to speak, provided that the conduct of the other amounts to behaviours that render it unreasonable to expect the wife to continue to live with the husband. The first step is to assess whether the wife found it intolerable to live with the husband. This is subjective. Next, the court should consider whether the wife can reasonably be expected to live with the husband. That is an objective test, but the court may take into account the personalities of the parties in assessing the impact of the behaviour on the other spouse. The husband's behaviour not only towards the wife, but also in relation to the marriage, is relevant in this inquiry: *Castello Ana Paula Costa Fusillier v Lobo Carlos Manuel Rosado* [2003] 4 SLR(R) 331 at [21]. Impecuniosity in itself is insufficient for one spouse to leave the other, by law, if not by conduct, and bearing in mind the Tolstoyan insight that every unhappy family is unhappy in its own way, I accept the DJ's finding that the husband's behaviour in this case had taken "an emotional toll on the [wife] and it [had] affected her health". On balance, I incline towards the

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DJ's opinion that the husband's conduct in this case sufficiently amounted to unreasonable behaviour especially since the DJ found that the wife had implored the husband to behave more responsibly and honestly in the managing of finances that affect her and the children.

8 On appeal, counsel for the husband submitted that the DJ was wrong not to have considered the fact that the wife did not really want a divorce, pointing to some messages that she only wanted "a paper separation". That is not only incongruous with a message that read, "my parents friends all want me to come out from your shit messy life…[that's] the fact". There is nothing I find to suggest that the wife does not want a divorce, or, as his counsel submitted, that she only wanted a "paper divorce", whatever that might mean.

9 For the reasons above, this appeal is dismissed. I will hear the question of costs at another date if parties are unable to agree costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Tien De Ming Grismond (Infinitus Law Corporation) for the Appellant;
Lim Junchen Xavier, Madeleine Poh (Yeo & Associates LLC) for the Respondent.

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