IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 10

Divorce Transferred No 2553 of 2020

Between

WUA

… *Plaintiff*

And

WUB

… *Defendant*

JUDGMENT

[Family Law — Matrimonial assets — Division]

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WUA
v
WUB

[2024] SGHCF 10

General Division of the High Court (Family Division) — Divorce
Transferred No 2553 of 2020
Choo Han Teck J
16 January 2024

6 February 2024 Judgment reserved.

Choo Han Teck J:

1 The parties were married for 21 years, and interim judgment was delivered on 30 September 2020. The plaintiff husband ("the Husband") is the CEO and majority shareholder of his company. The defendant wife ("the Wife") is the director of business management in another company. They have two children, aged 21 and 18, respectively. The parties are before me for the division of matrimonial assets and their children's maintenance. They agree that the date of ascertaining the pool of matrimonial assets is the date of interim judgment ("IJ date") and the date of determining the value of the matrimonial assets is the date of the ancillary matters hearing ("AM hearing date") — save for bank account balances and CPF account balances.

2 I first deal with the valuation of the undisputed matrimonial assets, and those with minor differences:

S/N	Asset	Husband's Case	Wife's Case	Court's Decision
Assets that are jointly held by Husband and Wife				
1	Matrimonial Home	$1,295,000	$1,300,000	$1,297,500.00
Husband's assets				
2	Investment accounts	$74,889.38	$74,889.38	$10,895.20 + $15,410.12 + $15,306.59 + $15,784.65 + $17,492.82 = $74,889.38
3	SCB accounts	$8,864.14	$8,864.14	$8,700.57 + $163.57 = $8,864.14
4	CPF accounts	$271,108.85	$271,108.85	$271,108.85
5	Shares in Philip Securities account	$22,489.50	$22,489.50	$22,489.50
6	Manulife policy	$17,302.36	$17,302.36	$17,302.36
7	deVere policy	$12,108.47	$11,550.62	$12,108.47 (parties agree to the exchange rate of 1.40)
8	St. James Place Account	$8,744.71	$8,804.96	$8,804.96 ($9,204.96 - $400)

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Wife's assets				
9	Motor vehicle	$14,600	$14,600	$14,600
10	Insurance policies	$136,795.56	$136,795.56	$112,239.26 + $24,556.30 = $136,795.56
11	Singtel shares	$3,277	$3,277	$3,277
12	iGP account (account number ending 42)	$579,744.07	$579,744.07	$579,744.07
13	SCB accounts	$50,435.65	$50,435.65	$49,418.02 + $1,017.63 = $50,435.65
14	POSB account	$4,227.09	$4,227.09	$4,227.09
15	SRS account	$54,711.25	$54,711.25	$54,711.25
16	CPF accounts	$353,021.14	$353,021.14	$353,021.14
17	Jewellery	$16,000	$14,800	$14,800

3 The Matrimonial Home is the only joint asset of the parties. The difference of their valuations is not large. As both parties obtained their valuation on and around the same date, I take the average of the two values, which is $1,297,500. The Wife says that there are preparations being made for the collective sale of the Matrimonial Home which may affect the valuation but has not adduced any supporting evidence. I reject her claim accordingly.

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4 Turning to the Husband's assets, the parties before me agree to the exchange rate of 1 USD to 1.40 SGD. Applying this exchange rate to the Husband's deVere policy, I accept the Husband's valuation of $12,108.47. As for the St. James Place account, I accept the Wife's valuation of $8,804.96 given that the early withdrawal charge ought to be 5% of the initial sum invested, $8,000, instead of 6%, as the Husband says.

5 In relation to the Wife's jewellery collection, I agree with the Wife that the engagement ring is a pre-marital asset and should not be included in the pool of matrimonial assets. I accept the Wife's valuation of $14,800 accordingly.

6 My decision regarding the rest of the matrimonial assets are as follows:

S/N	Asset	Husband's Case	Wife's Case	Court's Decision
Husband's assets				
1	Shares in Husband's company	$515,983.98	$528,183.00	$522,083.49
2	Colonial Superannuat-ion account	$14,700.44	$16,614.76	$14,700.44
3	Husband's legal fees	$0	$147,385.00	$0
Wife's assets				
4	Fidelity account	$353,617.05	$266,459.42	$310,038.24
5	iGP account (account no. ending 05)	$3,193,594.20	Not a matrimonial asset	$3,193,594.20

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6	Unvested stock options	$272,484.14	$81,441.12	1,348 unvested stock options (to be split in kind on an "if as and when" basis)

7 Regarding the valuation of the shares in the Husband's company, parties appointed a joint valuer, and they rely on the same valuation report. Yet, parties do not agree on the valuation. Without more evidence, I incline to the average of the two values, which is $522,083.49. As for the Husband's Colonial Superannuation account, the dispute is over the exchange rate from AUD to SGD. I accept the Husband's valuation taken in September 2023 as the more recent of the two, whereas the Wife applies the exchange rate as of December 2020. The Husband's valuation date is closest to the AM hearing date.

8 The Wife says that the legal fees incurred by the Husband from the divorce proceedings should be added back to the pool of matrimonial assets because legal fees are not to be paid for using matrimonial assets. In principle, a party who incurs legal fees on the divorce and ancillary proceedings ought to use his or her own assets to pay for them first, rather than matrimonial assets. However, this principle does not lend itself to the Wife in the present case. I agree with the Husband that the legal fees were paid for by the Husband using his director's fees earned in the year 2021, after the IJ date. This is reflected by the Husband's Notice of Assessment issued by the Inland Revenue Authority of Singapore for year of assessment 2022 (which the Wife similarly relies on to show dissipation of assets). Thus, I am of the view that the Husband did not dissipate matrimonial assets in paying his legal fees.

9 I turn to deal with the Wife's assets, beginning with the Wife's Fidelity account. The valuation of her Fidelity Account turns on the valuation of the

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Microsoft stocks she holds in the account. Parties agree on the number of shares in the account to be 1135.831, and on the applicable exchange rate. What they do not agree is the price of each share. However, the evidence does not provide any indication on what the share price ought to be. The Wife's evidence shows the share price to be USD 252.46, but from that same piece of evidence, the number of shares reflected (796.147) does not tally with the number parties agreed before me (1135.831). Furthermore, the Wife, in her written submissions, appears to rely on this number as the total value of shares (USD 254,460) instead of the individual share price (USD 252.460). I incline to the average of the two values proposed by parties, which is $310,038.24.

10 As for the Wife's iGP account (account no. ending 05), the parties do not dispute its value at $3,193,594.20. However, the Wife says that the account is not a matrimonial asset as it was set up solely for the children's benefit and she had named the account, "X and Y Trust", after their two children (X and Y). She estimates the children's overseas education fees and relevant expenses to be about $2 million, which is why she hopes that that sum of money in the account should be set aside solely for the children. However, there is insufficient evidence that she has applied these funds towards the children's expenses since opening the account in 2014. There is also no evidence that the account is a trust established for the benefit of the children. The Wife is not the one managing the investments in the account and the requisite certainty of intention to create a trust is not established. I am thus of the view that the account ought to be regarded as a matrimonial asset.

11 In relation to the unvested stock options the Wife holds, the parties agree that there are a total of 932 unvested stock options as at IJ date. These unvested stock options vest over a period of five years from the award date, and with each passing year, 20% of the stock will vest until all the stock options are fully

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vested. It is also undisputed that a portion of these unvested stock options can be treated as matrimonial assets. Where parties disagree is the exact proportion.

12 The number of unvested shares, being 932, was calculated as of November 2021. However, the date of ascertaining the pool of matrimonial assets is 30 September 2020, on the date of IJ. In other words, the number of unvested shares as of 30 September 2020 would have, in fact, been higher than 932. The correct number of unvested shares ought to have been 1,348 (932 + 135 + 128 + 73 + 80). Although parties have agreed on 932 unvested shares, I shall proceed with the number obtained as of IJ date, 1,348, in accordance with established law.

13 The table below shows how the 1,348 unvested shares are vested over the 5 years beginning from the IJ date, accounting for the different dates of award.

S/N	Date of award	Vesting 31 Aug 2021	Vesting 31 Aug 2022	Vesting 31 Aug 2023	Vesting 31 Aug 2024	Vesting 31 Aug 2025
1	31 Aug 2017	135	135	0	0	0
2	31 Aug 2018	128	128	129	0	0
3	31 Aug 2019	73	73	73	74	0
4	31 Aug 2020	80	80	80	80	80
	Total	416	416	282	154	80

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14 Unvested stock options have been treated as the contractual right to receive options to purchase shares upon the fulfilment of certain condition(s). While their exact value may be hard to determine, the courts have differentiated the existence of an asset from the difficulties of evaluating that asset. Difficulties in valuation or division does not render a contractual right any less an asset.

15 Nonetheless, there are difficulties in valuation and division of such assets because stock options may not have been exercised nor even vest in the Wife. To resolve these difficulties, I grant a division in kind on an "if as and when" basis, applying to the unvested stock options only. Effectively, the unvested stock options will not only be split by their number instead of by their value, but the division will also be postponed until the stock options are exercised.

16 In summary, the total value of the matrimonial assets is as follows:

Subtotal for assets under Husband's name	**Subtotal for assets under Wife's name**	**Subtotal for joint assets**
$952,351.59	$4,715,244.20	$1,297,500.00
Total: $6,965,095.79		

17 I now consider the appropriate division ratio to apply. For parties' direct financial contributions, the only issue in dispute is over their contributions towards the Matrimonial Home, specifically, the renovation costs of about $100,000 incurred at the time of acquisition of property in 2000. Both parties claim to have paid for these costs, but they both do not have any supporting documentation to back up their claims. I am thus of the view that attributing the contributions towards renovation costs equally between the parties is fair and

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equitable. I set out the parties' contributions towards the matrimonial home in the table below:

S/N	Item	Husband's contributions	Wife's contributions
1	Downpayment	$124,000	$96,000
2	Mortgage	$220,667	$182,000
3	Renovation Costs	$50,000	$50,000
	Total	**$394,667**	**$328,000**
	Percentage	**54.6%**	**45.4%**

18 The direct contributions of parties to the matrimonial assets are thus as follows:

Asset	Husband's direct contributions	Wife's direct contributions
Matrimonial Home	$708,598.06	$588,901.94
Rest of Husband's assets	$952,351.59	$0
Rest of Wife's assets	$0	$4,715,244.20
Total:	$1,660,949.65	$5,304,146.14
Ratio:	24	76

19 As for the parties' indirect contributions, the Husband says that it should be 60:40 in his favour while the Wife says that it should be 70:30 in her favour. I am satisfied that, over the course of the 21-year long marriage, both parties have contributed financially and non-financially in spite of their different financial capacities and corresponding occupational needs. The parties agree

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that the Wife contributed about $100,000 towards the Husband's company. Further, I am of the view that the Wife contributed substantially more towards the children's education, tuition fees, personal endeavours, and other expenses. In the circumstances, I apportion the ratio 65:35 in the Wife's favour.

20 Given that the direct contributions ratio is 76:24 and the indirect contributions ratio is 65:35, the final ratio is thus 70:30 in favour of the Wife. This ratio is to be applied to both the division of the unvested share options (944 to the Wife, 404 to the Husband) and the rest of the matrimonial assets.

21 As to the children's maintenance, the Wife wants $3,937.38 per month for the children, while the Husband is willing to pay up to $977 per month. Both children are currently studying overseas. The older child is in her final year at Maastricht University in the Netherlands and the younger brother just began his studies in Langley School in the United Kingdom. The children's expenses claimed by the Wife are as follows:

S/No.	**Expense**	**Wife's estimate**	**Husband's estimate**	**Court's decision**
Older child's expenses				
1	Accommodation	$1,500	$1,300	$1,400
2	Utilities/services costs	$200	$200	$200
3	Air travel	$,400	$283	$300
4	Tuition fees at University College Maastricht	$432.33	$432.33	$432.33
5	Computer and accessories	$84	$84	$0 (one-time expense)

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6	School textbooks	$100	$100	$100
7	Household expenses	$800	$800	$800
8	Broadband	$80	$80	$80
9	Mobile	$100	$100	$100
10	Meals	$500	$500	$500
11	Transport	$350	$100	$200
12	Medical and dental expenses	$100	$50	$75
13	Entertainment expenses	$200	$200	$200
14	Personal grooming	$100	$100	$100
15	Clothes	$100	$100	$100
16	Aviva hospitalisation premiums	$21.30	$21.30	$21.30
17	International insurance in the Netherlands	$166.67	$0	$166.67
18	3 weeks' accommodation and expenses to settle down in Netherlands	$684	$0	$0 (one-time expense)
19	2 x 2 weeks of quarantine upon return to SG during holidays	$334	$0	$0 (no longer required)
20	Fitness (personal trainer)	$300	$0	$0 (not reasonable expense)
21	Counselling	$300	$0	$300

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22	Birthday celebrations and gifts	$167	$0	$100
23	Enrichment (e.g. summer camps)	$667	$0	$0 (not reasonable expense)
24	Annual family holidays	$550	$0	$0
25	Pet care	$75	$0	$0 (not reasonable expense)
Younger child's expenses				
26	Boarding school fees	$6,449.91	$0	$0
27	Learning support	$945	$0	$945
28	Medical and miscellaneous expenses	$500	$250	$300
29	Air travel	$400	$0	$0
30	3 weeks' accommodation to settle down in the UK	$517	$0	$0 (one-time expense)
31	Quarantine upon return to SG	$334	$0	$0 (no longer required)
32	International insurance	$200	$0	$200
33	Aviva hospitalisation premiums	$21.30	$21.30	$21.30
34	Coaching / mentoring	$429	$0	$0 (not reasonable expense)

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35	Summer camps	$620	$0	$0 (not reasonable expense)
36	Birthday celebrations and gifts	$167	$0	$100
37	Annual holidays	$550	$0	$0
38	Pet care	$75	$0	$0 (not reasonable expense)
	Total	**$23,019.51**	**$4,721.93**	**$6,441.60**

22 The Husband says that the bulk of the younger son's expenses arising from his overseas education should not be borne by him because the Wife has previously undertaken, in FC/SUM 3438/2021, to pay for all his overseas expenses. The Wife herself confirms this in her submissions, and I shall not disturb the parties' agreement.

23 I am of the view that the reasonable monthly expenses of both children are about $6,441.60. I do not consider enrichment classes, summer camps, fitness classes and pet care as reasonable expenses in the circumstances of this case. Although the Wife earns substantially more than the Husband, it would be fair for the Husband to bear about 30% of the children's maintenance ($1,932 per month), and the Wife, who has a higher income, should bear the remaining 70% ($4,510 per month). The Wife earns $30,000 a month and the Husband earns $5,000 a month. The proportionate difference is 85:15, but the Husband to pay for just a few more years and there is also the iGP account moneys that is meant for the children. If that matrimonial asset was intended to be used for the children's sole benefit, then the parties will no doubt put that sum of money to its intended use.

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24 Each party to bear its own costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Cheong Zhihui Ivan and Ho Jin Kit Shaun (Withers KatharWong LLP) for the plaintiff;
Tan Hiang Teck Simon (Attorneys Inc. LLC) for the defendant.

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