IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 33

District Court Appeal No 116 of 2023

Between

WTS

… *Appellant*

And

WTR

… *Respondent*

District Court Appeal No 30 of 2024

Between

WTR

… *Appellant*

And

WTS

… *Respondent*

JUDGMENT

[Family Law — Matrimonial assets — Division]
[Family Law — Maintenance — Wife]
[Family Law — Maintenance — Child]

WTS
v
WTR and another appeal

[2024] SGHCF 33

General Division of the High Court (Family Division) — District Court Appeals No 116 of 2023 and No 30 of 2024
Choo Han Teck J
18 July, 2 August 2024

26 September 2024 Judgment reserved.

Choo Han Teck J:

1 The appellant in HCF/DCA 116/2023 is the wife in the marriage ("the Wife"), and the respondent is the husband ("the Husband"). The Husband cross-appealed in HCF/DCA 30/2024, in which the Wife is the respondent. The Wife is aged 42 and the Husband, 46 this year. They were married on 29 October 2007 in Singapore. Their child is 12 years old this year. The Husband left the matrimonial home together with the child in August 2019. The parties thus lived together for nearly 12 years. The Husband filed for divorce on 11 April 2022. Interim Judgement ("IJ") was granted by consent on 29 June 2022. The district judge below ("the DJ") gave his decision on 7 November 2023.

2 The Wife has a bachelor's degree in Travel & Tourism Management and a Post-Graduate Diploma in International Travel & Tourism. She says that she was a homemaker during the marriage, and last worked as a customer service

officer with a gross monthly income of $1,800 or net monthly income of $1,435. The Husband disputes that the Wife was a homemaker during the marriage as she conducted baking classes and tours, and worked on fixed term contracts. The Husband worked as an IT Project Manager with a gross monthly income of $15,555 and net monthly income of $14,355. He claims that since January 2024, he has been providing IT consulting services on an "ad-hoc/freelance basis", to enable him to focus on the child's PSLE this year, and thus has irregular income for now.

3 Over the course of the appeal, parties attempted but ultimately failed to reach a full settlement. Hence, in their respective appeals, both parties allege that the DJ erred in certain aspects of his decision. However, it is well-established that the threshold for appellate intervention is high — an appellate court will not lightly interfere in the orders made by the court below unless there is an error of law, or a wrong finding of material facts.

4 The Husband challenges the DJ's determination in the pool of matrimonial assets. His counsel, Ms Anuradha Sharma ("Ms Sharma"), argued that the DJ overvalued the matrimonial flat because he did not appreciate that the matrimonial flat was in a state of deterioration. In my view, appellate intervention is unwarranted here. The Husband had the opportunity to submit valuation reports or quotations showing how much the renovation works would have cost. He did not do so. Instead, he relied on the HDB Resale Price List to suggest a valuation of $480,000 in the proceedings below. His written submissions below did not even mention the state of the flat, much less provide a figure for renovation or repair costs.

5 Ms Sharma also argued that the DJ overvalued the matrimonial flat by using the value of a flat located between the 13th and 15th floors to arrive at the

value of the matrimonial flat, which is situated on the tenth floor. She contended that the DJ "overlooked the well-known fact that flats on higher floors generally command a higher value". My view is that the DJ's error was not significant. The rationale behind the DJ's decision is as follows. Both parties submitted search results showing the actual resale price of flats similar to the matrimonial flat in the same estate, for the period between April 2021 to April 2022. The Husband limited his search to sales between $400,000 and $500,000, and none of the flats in his search results were situated on the tenth floor. He used these search results to support his proposed valuation of $480,000. The Wife's search results specified a slightly different set of blocks of flats, albeit with some overlap. One of her search results was a flat located on the 13th to 15th floor which was sold for $560,000. The DJ used this price to value the matrimonial flat because it was the most recent flat listed in the parties' search results to be sold. In my view, the DJ's decision was reasonable in the circumstances. As counsel for the Wife, Ms Nur Amalina Binte Kamal ("Ms Amalina"), pointed out, the Wife's search results also contained a flat on the tenth to 12th floor, which sold for $560,000 on August 2021. Since the parties did not provide any record of flats between the tenth to 12th floor in the same estate, and neither of them procured a valuation report for the matrimonial flat, the DJ was not wrong to value the matrimonial flat at $560,000.

6 Ms Sharma submitted that the sum of $1,365.05 in the parties' joint ICICI bank account is not part of the matrimonial pool because the Husband agreed to relinquish that account to the Wife. Ms Amalina for the Wife argued that the Husband "has not provided any caselaw in support of his position to carve out items for which he has agreed to give up to [the Wife]", and maintained that the balance of $1,365.05 is a matrimonial asset and should be divided. If the Husband had intended to give the $1,365.05 to the Wife, that

would have benefitted the Wife. But since it is not clear that the Husband so intended, and since the Wife insists that the money be subject to division, I uphold the DJ's decision that the $1,365.05 is a matrimonial asset.

7 Ms Sharma submitted that the DJ erred by not excluding assets which the Husband acquired before the marriage. These include $10,000 in one of his POSB bank accounts as at October 2007, and his CPF balance as at October 2007 of $99,697.48, amounting to a total of $109,697.48. The DJ found that the Husband had not proved that only a part of the POSB account and CPF account should be included as matrimonial assets. The DJ likely meant that the Husband did not show that the $109,697.48 was left untouched or unused even after the marriage. I agree. First, the Husband applied his CPF funds, including the $99,697.48, towards purchasing the matrimonial flat. Section 112(10)(*a*)(i) of the Women's Charter 1961 (2020 Rev Ed) ("WC") renders the $99,697.48 a matrimonial asset: see *Neo Mei Lan Helena v Long Melvin Anthony (Yeo Bee Leong, co-respondent)* [2002] 2 SLR(R) 616 at [52]. Second, and in any event, the commingling of pre- and post-marital assets presents an evidential challenge in discerning which part of the Husband's pre-marital assets remain today: see *WBN v WBO* [2022] SGFC 27 at [32]. The burden, as the DJ correctly held, lies on the Husband to prove that the parties did not touch the pre-marital portions of the POSB bank account and his CPF account: see *USB v USA* [2020] 2 SLR 588 at [31]. He has not been able to discharge this burden as the funds were commingled, which makes tracing the pre- and post-marital assets nigh impossible.

8 Ms Sharma argued that, of the $108,178.84 which the DJ found to be dissipated by the Husband (and which the DJ thus added back into the matrimonial pool), $8,178.84 should not be added back into the matrimonial pool because the Husband used this sum to pay for proceedings pursuant to the

Guardianship of Infants Act 1934 ("the GIA") which was concluded in January 2021. The GIA proceedings were not related to the current divorce proceedings, which was filed only on 12 January 2022. This explanation is irrelevant. Where a spouse expends matrimonial money when, among other things, divorce proceedings are imminent, and the other spouse did not consent to it, the expended sum must be returned to the matrimonial pool. The exception is where the sum expended is not substantial, *eg*, the sum went towards daily, run-of-the-mill expenses: see *TNL v TNK* [2017] 1 SLR 609 ("*TNL v TNK*") at [24]. In this case, the Husband left the matrimonial home with his child in August 2019. Divorce proceedings were thus clearly imminent. The Husband was not entitled to use matrimonial money to fund his legal costs, which differ in nature compared to daily expenses.

9 As for the $100,000 which the Husband claimed he repaid to his father in two tranches (7 July and 31 August 2019) for an education loan, the Husband's evidence on affidavit is that he told the Wife about repaying the loan several times between 2008 and 2012, and sometime between December 2018 and January 2019. The Wife said that the two repayments were made without her consent. I have no basis to disturb the DJ's finding that there was no evidence to confirm the Husband's allegation that the transfers to his father were repayments for his education. As the DJ noted, the Husband's father filed an affidavit but did not address the repayment of $100,000. I thus will not disturb the DJ's decision to add $108,178.84 to the matrimonial pool.

10 The Husband also challenges the DJ's findings on the Wife's assets. Ms Sharma argued that the DJ erred by saying that the Husband did not provide evidence for his valuation of the Wife's gold jewellery at $78.70 per gram, when he in fact did. This, Ms Sharma contended, would mean that the value of the Wife's gold jewellery is $11,705.05 instead of $10,800 as the DJ found.

However, the Husband's valuation was merely from an online search result and not a proper valuation. Since the parties did not provide a valuation of the Wife's gold jewellery at the material time, the DJ was entitled to find that they were worth $10,800. Furthermore, even if the Husband's valuation were correct, his dispute over a $905.05 difference in valuation is pedantic.

11 The Husband also alleges that the Wife has both undeclared jewellery belonging to her as well as jewellery belonging to the Husband and child in her possession. He says that these items are roughly valued at $100,000 but values these items at $75,000. The DJ found that these items were not proved, which Ms Sharma challenged on appeal. I agree in part with Ms Sharma. The Husband had provided photos of the Wife wearing some jewellery, as well as photos of some jewellery in the Wife's possession. The former photos appear to be of the Wife on her wedding day, supporting the Wife's allegations that the jewellery in those photos were gifted to her by her parents before the marriage. They are thus not matrimonial assets. As for the latter photos, they appear to be taken by the Husband for these divorce proceedings, as suggested by the $1 coin for reference size in all the photos. Tellingly, the Wife did not dispute the existence or her possession of the jewellery in those photos. I thus draw an adverse inference against her for non-disclosure of some jewellery. Using the broad-brush approach, I value those jewellery at $10,000. This shall be split 79-21 in favour of the Husband. The Wife is thus to pay $7,900 to him.

12 Ms Sharma also argued that the money in the parties' respective joint accounts with the child should be taken by the Husband who has care and control. She submitted that the DJ erred in allowing the parties to be solely entitled to the funds in their respective joint accounts with the child. She cited *VHY v VHZ* [2020] SGFC 45 in support, but that was a perplexing choice because that case undermines her argument. The wife there said that the moneys

in the joint account between her and the child should be excluded from the matrimonial pool, but the judge (at [17]) disagreed as the source of moneys was from her and the same could be withdrawn by her. This reasoning directly applies to this case. Also, unlike in *VRJ v VRK* [2024] SGHCF 29, it is not clear that the parties in this case intended the money to form the child's savings.

13 I now move on to the parties' arguments on the division of matrimonial assets. In the Wife's appeal, Ms Amalina argued that the DJ erred in using the division framework in *ANJ v ANK* [2015] 4 SLR 1043 — he should have used the framework in *TNL v TNK* instead because this was a single-income marriage. Ms Sharma countered that the Wife was in fact working on fixed term contracts during the marriage with an earning capacity of $1,800 (as recognised by the DJ) and this was thus a dual-income marriage. The evidence shows that the Wife conducted her own cooking classes and Little India Immersion Tours, earning $500 to $1,500 every month from March 2015 to December 2018. In my view, the DJ erred in treating this marriage as a dual-income one. A marriage where one party is primarily the breadwinner and the other is primarily the homemaker would also count as a single-income marriage for the purposes of division: *UBM v UBN* [2017] 4 SLR 921 ("*UBM v UBN*") at [50]. This is the case here — the Wife's earning capacity of $1,800 pales in comparison to the Husband's earning capacity of $15,555.

14 However, I do not disturb the end result reached by the DJ, *ie*, a 79-21 split in favour of the Husband. The Wife asks for a 65-35 split in favour of the Husband. Ms Amalina submitted that the DJ erred in finding that this marriage lasted for 11 years — she argued that the marriage lasted for 14 years and eight months. I disagree. The DJ was entitled to use the duration from the commencement of the marriage to the date of separation in dividing the matrimonial assets, especially where (as in this case) the parties led wholly

separate lives after separation: see *WUI v WUJ* [2024] SGHCF 25 at [45]–[46]. This duration adds up to around 11 to 12 years, close to the DJ's finding of an 11-years marriage. The cases cited by Ms Amalina to support a 65-35 split also do not assist her on the facts. The Wife took care of the child, but she was assisted by the Husband's parents. She also did not fully take care of the child for years, due to her postnatal depression and addiction to using her phone. I sympathise with her, but she had contributed less to the household than the wives in the cases brought up by Ms Amalina. On the facts, a ratio of 79-21 in favour of the Husband is fair.

15 The above also disposes of the Husband's appeal arguments regarding the division ratio, which in any event was an utter waste of space and effort. Ms Sharma wished to impress upon me that the DJ had used inaccurate asset values and that the Husband deserved a higher indirect contributions percentage than what the DJ gave, but her eventual outcome of 21% for the Wife was exactly the same as the DJ's. With respect, such academic arguments which lead to no change in outcomes are entirely unhelpful and frowned upon by our courts.

16 Ms Sharma submitted that, pursuant to the DJ's order that the Wife may retain the altar gifted to her by her late mother, the Wife is only entitled to retain the altar itself and not the deities and prayer items therein. That seems petty. I will let the Wife take the deities and the prayer items. The Husband's contention that the Wife should pay half the fees for removing her as director from a company set up by the Husband is another petty claim, and is dismissed.

17 On the issue of the Wife's maintenance, Ms Amalina accepted the monthly figure of $1,500, but submitted that the multiplier of only two years that the DJ ordered is insufficient for the Wife to weather the transition of the divorce. Ms Amalina asked for a multiplier of 36 months instead. Ms Sharma

argued that the Wife's reasonable expenses were only $650, and that since the Wife has business acumen, "even a nominal maintenance for [the Wife] is not appropriate". That is unrealistic. The Husband will be earning $15,555 monthly. Meanwhile, the Wife will have to find a house for herself, but only has an earning potential of around $1,800 with no CPF savings nor permanent job history here. $1,500 is just slightly more than the rental cost for a room in Singapore. Also, she is receiving $187,286.34 of the matrimonial assets, which is comparatively small. Nonetheless, she is still young, and should be able to get a stable job as a Singapore citizen and as an overseas citizen of India with privileges that allows her to reside and work in India indefinitely without the need for any Visa. In the premises, I maintain the duration of 24 months, but increase the monthly payment to $2,000. The Husband thus owes the Wife a lump sum maintenance of $48,000 instead of the $36,000 that the DJ ordered.

18 As for the child's maintenance, the DJ found the child's reasonable expenses to be $1,700 per month and ordered the Wife to bear 12% of that sum, *ie*, $200 per month. Ms Amalina submitted that since the Husband has a far higher earning capacity than the Wife, the Husband should solely maintain the child. Alternatively, the Wife should only bear 10% of the child's expenses, *ie*, $170 per month, based on the ratio of the parties' respective earning capacities. Ms Sharma submitted that the Wife should pay lump sum maintenance as any monthly maintenance order would be near impossible to enforce if the Wife returns to India. She also submitted that the DJ failed to explain how he derived the child's reasonable expenses at $1,700. The Husband's proposal before the DJ was that the child's reasonable expenses amount to $2,282.28. I see no reason to disturb the DJ's finding of $1,700 per month. The DJ was entitled to employ a broad-brush approach in evaluating the child's expenses. I find, however, that the Wife should only bear 10% of the child's expenses, *ie*, $170

per month, in line with the parties' respective earning capacities. But I also think that the Wife should pay the child's maintenance in a lump sum to allow for a clean break, in case the Wife leaves for India. The payments shall cover the period of December 2023 (as ordered by the DJ) to September 2033 (when the child turns 21 years' old), *ie*, around 116 months. This adds up to $19,720.

19 I reject Ms Sharma's argument that the Wife should pay for backdated maintenance from the child's birth until November 2023. That would wrongly imply that the parties' marriage was a calculative commercial relationship rather than a partnership of love and give-and-take: see *UYQ v UYP* [2020] 1 SLR 551 at [2].

20 For the above reasons, the Husband shall pay the Wife $20,380. This replaces the Husband's obligation to pay a lump sum maintenance of $36,000, and the Wife's obligation to maintain the child at $200 per month. The parties have entered a consent order regarding the remaining matters. By consent, the parties shall bear their own costs for this appeal.

- Sgd -
Choo Han Teck
Judge of the High Court

Nur Amalina Binte Kamal (Ika Law LLC) for the appellant/wife in DCA 116 of 2023;
Anuradha d/o Krishan Chand Sharma (Winchester Law LLC) for the appellant/husband in DCA 30 of 2024.