

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE
[2025] SGFC 132

FC/OAG 31 of 2025

HCF/DCA 103 of 2025

Between

XVX

... Applicant

And

XVY

... Respondent

FOUNDATIONS OF DECISION

[Family law]
[Custody care and control of child]
[Access to child]
[Guardianship of Infants Act]
[Shared care and control]
[Therapeutic justice]

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XVX

v

XVY

[2025] SGFC 132

Family Justice Courts — FC/OAG 31/2025

District Judge Sheik Mustafa bin Abu Hassan

2 April 2025, 9 April 2025, 23 April 2025, 24 April 2025, 1 September 2025

11 December 2025

District Judge Sheik Mustafa:

Introduction

1 In this case, the parents of a newly born child contest between them concerning the child's care, control and access. I ordered both parents to have joint custody of the child, and that they have shared care and control of the child for half of every week each. I also made orders on access for Hari Raya. The Mother has appealed against my decision. I furnish my grounds below.

Facts

The parties

2 The child was born of the parents in December 2024. At the time of hearing in April 2025, the child was 5 months old, and at the time of my order

in September 2025, the child was 10 months old. The child is the only child of the parents.

3 I shall refer to the parents as “the Mother” and as “the Father” accordingly herein.

4 The parents married each other in Singapore in January 2023 under provisions of the Muslim law. The Mother is now 33 years old and is a marketing strategy/planning professional. The Father is now 32 years old and is a head of brand experience. After their marriage, the parents lived in their matrimonial home at Normanton Park.

5 The child was born in December 2024. The Mother breastfed the child. The parents had frequent quarrels. They had differences over religious practices.

6 The Mother claimed that the Father forbade her family members from visiting her or the child at the matrimonial home. Later, the Father brought her and the child to his parents’ home. The Mother claimed that she was subjected to harassment and pressure by the Father and his parents to accept their religious practices. She claimed that she was forced to make a choice immediately. The Father pronounced a talak purporting to end the marriage. She signed a document which the Father had prepared that stated that she had no more feelings for him and for the child, and that she agreed for him to have full custody of the child upon divorce. The Mother left the Father’s parents’ home. She claimed that she was not allowed to take the child with her. She filed a police report a day later. She claimed that she was forbidden from taking the child away with her. The Mother also claimed that she had not seen the child even by the date of the first hearing on 2 April 2025.

The Mother’s application

7 The Mother filed her application in February 2025. Apart from joint custody of the child to both parents, the Mother sought an order that she is to have care and control of the child, and for there to be no order as to access to the Father. She also sought an order that the Father deliver and hand over the child to her immediately.

The Father’s application

8 The Father counter-applied in April 2025.

9 The Father’s case was essentially that it was the Mother who left after a dispute. He alleged that during the “altercation”, the Mother abruptly shoved the child into the Father’s arms, nearly causing him to lose his balance. He claimed that since that incident, the Mother had not actively sought to care for the child, save for her demands to remove the child from the present arrangement.

10 The Father argued that the child’s best interest would be best served if the child remained in his care and control because of continuity and stability, as the child had been in his care since the Mother left, and also because the Mother’s living environment at her parents’ home was unsuitable due to overcrowding, exposure to vaping activities, and to the presence of multiple pets which posed health hazards to the child. The Father also claimed that he had been the child’s primary caregiver, and was therefore best positioned to provide for the child’s emotional, physical and financial well-being.

Hearing

11 I first heard the parties on 2 April 2025. The hearing could not proceed, because the Father had just before that filed his application, and the Mother's counsel was not yet in the position to respond. I adjourned the hearing to a week later, on 9 April 2025. Given that the Mother had not seen the child for almost 4 months at that time, I directed that the Mother was to have access supervised by a DSSA in the interim.

12 At the subsequent hearing, I heard the parents' counsel further. At the end of the hearing, I adjourned the issue of the child's care and control pending an evaluation to be conducted on the issue and a report be submitted to me. In the interim, I ordered that the child was to be in the care and control of the Mother, and that the Father was to deliver the child to the Mother at 6pm the following day at the Father's parents' residence. I further ordered that the Mother was to give the Father access to the child once a week on Saturdays 10am to Sundays 10am. I further ordered for two-way supervised exchange to take place at the DSSA for 8 sessions, and that a review was to be fixed by the Court after a report is submitted by the DSSA to the Court.

Custody Evaluation

13 Custody evaluators from Community Psychology Hub interviewed both parents of the child, as well as both sets of grandparents and a paternal aunt.

14 The evaluators observed that the child was responsive and smiling in the presence of the Mother. They also observed the child to be responsive to her maternal grandmother, and to be comfortable with her maternal grandfather. The child was also observed to be comfortable at the maternal grandparents' home.

15 The evaluators also observed that there was no resistance nor anxiety by the child to being handed over to the Father. The evaluators also observed the child in the Father's care. They observed that the return of the child to the Mother was non-eventful.

16 The evaluators found no evidence to indicate that either parent was unfit. Both parents were assessed to have adequate caregiving resources, including stable employment and support for the child's psychosocial and emotional development. However, their contentious relationship caused them to lose focus on the child's best interests, leading to disagreements on parenting styles, missed opportunities for breastfeeding, and ineffective communication regarding the child's eczema management, all of which have adversely affected the child's well-being. Taking into consideration the child's developmental needs, the evaluators recommended that both parents play a consistent role in the child's life to provide a stable routine and secure attachment. Considering the parents' tendency for gatekeeping behaviours, they recommended that the parenting arrangements be prescriptive.

17 The evaluators recommended for the parents to be supported by FAM@FSC professional in their coparenting relationship and be given therapy on the developmental needs and milestones of the child.

18 In consideration of the parents' and other significant caregivers' parenting capacities, child's attachment and developmental needs, as well as the perceptions and relationships of all parties involved, the evaluators recommended that joint custody of the child be granted to both parents, and that shared care and control of the child be granted to both parents.

Applicable laws

19 The starting point of my inquiry was to consider section 5 of the Guardianship of Infants Act:

“Where in any proceedings before any court the custody or upbringing of an infant ..., the court, in deciding that question, shall regard the welfare of the infant as the first and paramount consideration and save in so far as such welfare otherwise requires the father of an infant shall not be deemed to have any right superior to that of the mother in respect of such custody, administration or application nor shall the mother be deemed to have any claim superior to that of the father.”

20 I took the term “welfare” in its widest sense, for it is not “possible or desirable to define it” – *[IW v IX [2005] SGCA 48 at (26)]*.

21 In *Tan Siew Kee v Chua Ah Boey [1987] SLR (R) 725*, Chan Sek Keong JC (as he then was), in reference to the term “welfare”, said (at 551, [12]):

“It means the general well-being of the child and all aspects of his upbringing, religious, moral as well as physical. His happiness, comfort and security also go to make up his well-being. A loving parent with a stable home is conducive to the attainment of such well-being. It is not to be measured in monetary terms.”

“[27] What would be in the interests of the child must necessarily depend on all the circumstances of the case. The court, where appropriate, will have regard to the factors the wife had mentioned, i.e. maintaining status quo, preservation of mother-child bond and that siblings should not be separated. Other factors will include the home environment and care arrangements made for the child, the conduct of the parties, and the wishes of the child. We must reiterate that this enumeration is not meant to be exhaustive. The court will have to carry out a balancing exercise to determine, as between the two parents, to whom custody should be given in the best interests of the child. A factor which may be determinant in one case may not necessarily be so in another. So the weight to be given to each factor may vary from case to case. No precise formulation is possible. This is not a scientific exercise but one of judgment.”

22 On the issue of joint or sole custody, I referred to the case of *CX v CY* [2005] SGCA 37, which is the landmark Court of Appeal decision where the principle of joint parenting was endorsed, and which stated that acrimony alone is not considered to be sufficient to justify a sole custody order:

“[26] The idea of joint parental responsibility is deeply rooted in our family law jurisprudence. Section 46(1) of the Women’s Charter (Cap 353, 1997 Rev Ed) (‘the Charter’) exhorts both parents to make equal cooperative efforts to care and provide for their children. Article 18 of the United Nations Convention of the Rights of the child 1989, to which Singapore is a signatory, also endorses the view that both parents have common responsibilities for the upbringing and development of their child. Similarly, jurisdictions like England and Australia have adopted approaches that impose on both parents the concept of life-long parental responsibility. With parliamentary intervention in these jurisdictions, the very concept of custody orders was abolished as it was acknowledged that it was in the interests of the child to have both parents involved in his life. There can be no doubt that the welfare of a child is best secured by letting him enjoy the love, care and support of both parents. The needs of a child do not change simply because his parents no longer live together. Thus in any custody proceedings, it is crucial that the courts recognise and promote joint parenting so that both parents can continue to have a direct involvement in the child’s life.”

23 I was also aware that sole custody orders may in some situations be justified, again based on *CX v CY* [2005] SGCA 37:

“[38] ... the exceptional circumstances where sole custody orders are made may be where one parent physically, sexually or emotionally abuses the child or where the relationship of parties is such that cooperation is impossible even after the avenues of mediation and counselling have been explored, and the lack of cooperation is harmful to the child.”

24 On the issue of shared care and control, I referred to the case of *AQL v AQM* [2011] SGHC 264:

“[8] In my opinion, an order for shared care and control means that the child spends time living with each parent, who then becomes the child’s primary caregiver for the duration that the child lives with him (or her). The right to make the day-to-

day decisions on the upbringing of the child therefore rests with the parent the child is presently living with. In the context of shared care and control, it becomes meaningless to speak of 'access'. This is because the child effectively has two homes and two primary caregivers.

[9] The practical effect of an order of shared care and control means that the child will spend roughly equal amounts of time (including overnight) with each parent. An order of shared care and control can take different forms depending on the circumstances. This is illustrated by two High Court decisions where shared care and control was ordered: in *AHJ v AHK [2010] SGHC 148* the child would spend Saturdays 8.00pm to Wednesday 11.30am with the mother, and the rest of the week with the father; in *AKF v AKG [2010] SGHC 225* the same learned judge held that the children would spend alternate fortnights with each parent."

25 I also noted the High Court's view in *TAU v TAT [2018] SGHCF 11*:

"[17] The court should also be concerned with whether both parents can support a two-home arrangement with sufficient co-operation so that there is minimal conflict over issues that ordinarily arise from daily living. While each parent will separately be responsible for day-to-day decision-making for the child when the child is spending time with that parent, there still remains the potential for harmful conflict. For instance, if the child has left his or her homework at the mother's residence, will the father be antagonistic to the mother and blame her for failing to attend to this, or will he deal with the matter calmly and supportively? What if this happens often? Thus, while it is true, as the Father submitted, that acrimony between parents does not automatically rule out the possibility of an order of shared care and control, it is a relevant factor in the overall analysis of whether such an order would be in the child's welfare.

[18] Research also indicates that high, on-going parental conflict can make shared care and control "hard for children", such that "the stress and burden outweighs the benefits for them" in some cases: *Caring for Children after Parental Separation* at p 8. Of note is an Australian study which found that in high conflict families, "[c]hildren's experience of living in shared care over 3–4 years was associated with greater difficulties in attention, concentration and task completion by the fourth year of the study". Similar conclusions were reached in another Australian study: see Jennifer McIntosh & Richard Chisholm, "Cautionary Notes on the Shared Care of Children in Conflicted Parental Separation" (2008) 14 *Journal of Family*

Studies 37 at pp 41–42. As the authors in the latter article eloquently put it at pp 43–44:

... when children of any age make frequent transitions between warring parents who are unable to conceal their feelings in the presence of the child, children then begin to use considerable energy to ensure their own comfort and emotional safety in each environment, actively and constantly monitoring the ‘emotional weather’ they encounter in each parent’s home.”

26 With the above in mind, I arrived at my findings.

Custody

27 Both parents requested for joint custody of the child. Nevertheless, in the interest of the welfare of the child, I examined the issue of whether an order of joint custody was appropriate.

28 I acknowledged that the relationship between the parents was in difficulties. They were leading separate lives in separate households.

29 However, I also took into account the fact that the parents were not divorced. Since the parents were still married, there remained at least a theoretical possibility of reconciliation. It remained to be seen if the parents’ separation was a temporary difficulty or would become a permanent state.

30 I found that the acrimony between the parents was not of such a nature that called for the child to be in the sole custody of either parent.

31 I also found that both parents exhibited love, care and affection for the child. I had no doubt that the welfare of the child would be best served by letting the child enjoy the love, care and support of both parents. The needs of the child had not changed simply because the parents no longer lived together. Therefore,

it was crucial that I recognised and promoted joint parenting so that both parents could continue to have a direct involvement in the child's life.

32 I found there to be no exceptional circumstances such that joint custody ought not to be ordered. Therefore, I ordered that both parents shall have joint custody of the child.

Care and control

33 The Mother sought an order of care and control of the child solely to her. The Father sought for an order of shared care and control.

34 The child was less than a year old. During these proceedings, the child had been in the Father's sole care, and later in the Mother's care. I took into consideration the evidence before me that was found in the parents' affidavits, as well as the external inputs of the custody evaluators.

35 I found that both parents were capable of caring for the child during the periods when the child was with them. I did not find their allegations against each other regarding their home environments to be convincing to the extent that either parent ought not care for the child. Therefore, I ordered both parents to share care and control of the child. They shall each have half of each week to care for the child. I provided for access on Hari Raya Puasa and Hari Raya Haji in addition to the weekly arrangement. I also ordered that the parents were free to modify, whether temporarily or permanently (such as in the event of childcare closures, vacations, or illnesses) any of the care and control arrangements, as long as such modifications were arrived at with agreement of both parties.

Other orders

36 I found it appropriate to approach the case through the lens of therapeutic justice, as explained in *TEN v TEO [2020] SGHC 20*:

“[46] ... The overarching aspiration of the family justice system is to assist families to move forward positively. Therapeutic justice delivered through a problem-solving court process seeks to allow healing, restoration and recasting of a positive future... It is with these principles in mind, and the welfare of the Children as my utmost concern, that I approached the legal issues in these appeals.”

37 I was conscious that the parents have an acrimonious relationship. At the same time, I was confident that they both want the best for the child. I believed that with professional counselling and therapy, they would be able to parent the child in future, even if their relationship remained estranged. I therefore agreed with the recommendation of the custody evaluator, and I ordered that the parents attend counselling at FAM@FSC. This was to work on their parenting and child development skills, and co-parenting behaviours, with a view to awareness of the impact of their continued conflicts on their child.

38 To encourage compliance and cooperation, I ordered that a penal notice be attached to the order.

39 I was also aware that the parents are both Muslims and that they were married under the provisions of the Muslim Law. If their relationship does not improve and they decide to they undergo a dissolution of their marriage, it would take place at the Syariah Court, which will then deal with the issues of custody care and control of the child. I therefore ordered that this order remained in force until such a time if and when the parties divorce and the Syariah Court issues orders on the parties regarding the custody care control and access of the child.

Sheik Mustafa bin Abu Hassan

District Judge

Mohamed Muzammil bin Mohamed (Muzammil & Co.) for the Mother;
Mohd Dzuleqhma bin Mohd Dzulqham (IRB Law LLP) for the Father.
