IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2018] SGHCF 11

HCF/District Court Appeal No 44 of 2017

Between

TAU

… *Appellant*

And

TAT

… *Respondent*

GROUNDS OF DECISION

[Family Law] — [Custody] — [Care and control]

[Family Law] — [Custody] — [Access]

Version No 2: 28 Oct 2020 (02:01 hrs)

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.

TAU
v
TAT

[2018] SGHCF 11

High Court — HCF/District Court Appeal No 44 of 2017
Debbie Ong J
5 March, 20 April 2018

8 August 2018

Debbie Ong J:

Introduction

1 Parental responsibility is one of the most fundamental family obligations in family law. Section 46 of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter") provides that "[u]pon the solemnization of marriage, the husband and the wife shall be mutually bound to co-operate with each other in safeguarding the interests of the union and in caring and providing for the children." Joint parental responsibility as encapsulated in s 46 of the Charter imposes upon every parent the legal obligation to co-operate with the other parent in raising their children, even after the termination of their marriage. The present case raised the question of how the notion of joint parental responsibility ought to be applied to determine orders for "care and control" and "access" to support a child's welfare.

2 In these written grounds of my decision, I shall refer to the appellant as the "Father" and the respondent as the "Mother". This was the Father's appeal against part of the decision of the District Judge ("DJ") made on 30 November 2016 in relation to the care and control and access orders concerning the parties' only child, whom I shall refer to as Emma (not her real name). Emma was born in September 2012 and will be six years old next month.

3 The parties are British citizens, and the Father is a citizen of Morocco as well. They were married in the UK in 2005, and have been living in Singapore since September 2011. The Mother commenced divorce proceedings against the Father in the UK in July 2014, and a Decree Absolute was granted on 25 May 2016.

4 The parties began litigating over Emma's care arrangements in 2013, and those proceedings culminated in an appeal to the High Court in May 2015. On 8 August 2016, the Father applied to vary the orders made in those proceedings, seeking in particular, shared care and control of Emma. The DJ allowed the Father's application in part in relation to some terms of access, but declined to grant him shared care and control. I will elaborate further on the DJ's orders below when addressing the Father's arguments.

5 After considering the parties' submissions and the evidence, I varied just a few aspects of the DJ's orders in relation to the access to Emma (see [69] below), but otherwise dismissed the appeal. These are the full grounds of my decision.

Version No 2: 28 Oct 2020 (02:01 hrs)

Legal principles

Custody, care and control, and access

6 When a marriage breaks down, it may become necessary for the court to make orders for the welfare of the child of that marriage. Section 124 of the Charter provides that "[i]n any proceedings for divorce … the court may … make such orders as it thinks fit with respect to the welfare of any child". Where the Charter does not apply to the parties before the court, as in this case where the divorce was obtained in a foreign country, the court can make these orders under s 5 of the Guardianship of Infants Act (Cap 122, 1985 Rev Ed) ("GIA"). Such orders which the court may make are orders for custody, care and control, and access.

7 The landmark decision of the Court of Appeal in *CX v CY (minor: custody and access)* [2005] 3 SLR(R) 690 ("*CX v CY*") explains the concepts of "custody" and "care and control" (at [31]):

> … where parties are splitting up, custody as a general concept is divided into two smaller packages, *ie*, 'care and control' and residual 'custody'. … [R]esidual 'custody' is the package of residual rights that remains after the grant of a care and control order that dictates which parent shall be the daily caregiver of the child and with whom the child shall live. To put it simplistically, 'care and control' concerns day-to-day decision-making, while residual 'custody' concerns the long-term decision-making for the welfare of the child.

8 "Custody" thus pertains to decision-making over the major aspects of a child's life, such as the child's education and major healthcare issues. Following *CX v CY*, the grant of joint or no custody orders is the norm, while sole custody orders will only be made in exceptional circumstances, including where one parent had physically, sexually or emotionally abused the child, or where "the relationship of the parties is such that co-operation is impossible even after the

Version No 2: 28 Oct 2020 (02:01 hrs)

avenues of mediation and counselling have been explored, and the lack of co-operation is harmful to the child": *CX v CY* at [38]. Where joint or no custody orders are made, both parents must consult each other and co-operate to make the major decisions for the child. Such orders ensure that the child continues, even after the parent's divorce, to have the guidance of both parents in his or her life.

9 "Care and control", on the other hand, relates to which parent the child should live with primarily, with that parent as the daily caregiver. Consequently, that parent is generally responsible for making day-to-day decisions for the child, such as how the child is to dress or what the child is to eat. In most cases, the child will also spend regular periods of time with the other parent through an arrangement known as "access". Access can take many forms. Where the child is not yet completely comfortable spending time alone with that parent, access may be supervised by professionals such as counsellors who will also assist in strengthening the parent-child relationship. Access may also be overnight, where for example, the child stays at the residence of that parent for one or some nights a week. When the parent with access is with the child, he or she can make some of the day-to-day decisions for the child, as it would be otherwise impractical for the parent with care and control to be consulted on every decision, such as what the child should eat during periods of access.

10 In making orders for custody, care and control, and access, the court's focus is on the child's welfare, which is the paramount consideration in all proceedings directly affecting the interests of a child: see s 3 of the GIA and s 125(2) of the Charter. This welfare principle ensures that the child's interests are not side-lined while his or her parents litigate over what they subjectively perceive to be their respective rights and entitlements. It has been said elsewhere in Debbie Ong Siew Ling & Lim Hui Min, "Custody and Access: Caring or

Version No 2: 28 Oct 2020 (02:01 hrs)

Controlling?" in *Developments in Singapore Law Between 2001 and 2005* (Singapore Academy of Law, 2006) (Teo Keang Sood gen ed) ch 15 at p 581 that:

> The child of separation and divorce needs to be cared for long after his/her parents have parted ways. [Custody, care and control, and access] are the constructs used by the court to make arrangements for who the child will live with, who he/she will visit, and who will have authority over [him]/her in matters great and small. In this regard, [custody, care and control, and access] are instruments which allow the parents to continue caring for the child after the breakdown of their relationship. From another perspective, [custody, care and control, and access] are rights to be acquired, negotiated with, and even fought over in the elaborate aftermath of separation and divorce. They are a means employed to gain dominion over the child. Basely used, they can be instruments to control the activities of the other parent. A misguided sense of entitlement, unresolved anger, or a genuine and intolerable difference of opinion [is] all it takes to turn an instrument of care into an instrument of control. …

By focusing on the child's welfare, the courts remain vigilant that custody, care and control, and access are not used by a parent as "instruments of control" over the child and the other parent. As the High Court pointed out in *Tay Ah Hoe (m w) v Kwek Lye Seng* [1996] SGHC 120, "[c]hildren should never be used as pawns".

Shared care and control

11 It is common that a parent is granted sole care and control of a child while the other parent has access to the child. In appropriate cases, the court may grant both parents shared care and control if this is feasible and determined to best serve the child's welfare. In such cases, the child may spend about three days of the week with a parent and the remaining four days with the other parent. Each parent will be responsible for day-to-day decision-making for the child when the child is living with him or her. The child will effectively have two

Version No 2: 28 Oct 2020 (02:01 hrs)

homes and two primary caregivers in this arrangement: *AQL v AQM* [2012] 1 SLR 840 at [8]. To be clear, shared care and control is different from joint custody; the former relates to the child living with both parents, while the latter is about joint decision-making over major decisions affecting the child.

12 As I have explained above, the legal constructs of custody, care and control, and access are used to support families where the child's parents have separated. Intact, functioning families do not need such interventions. The ideal state is understandably for a child to be in an intact family where he or she lives with and is lovingly cared for jointly by both parents. Yet, upon the breakdown of a marriage, this is simply no longer fully achievable. The family justice system nevertheless aspires to achieve the ideal state of affairs for the child, or the closest to it possible. But to ignore the realities, including the parental conflict, the parties' emotional baggage and the new dynamics of the various relationships, and impose in all situations a modified version of the perceived ideal (such as equal-time shared parenting or shared care and control) can do more harm than good. Thus in considering whether shared care and control would be in the child's welfare, the court will have to consider factors such as that particular child's needs at that stage of life, the extent to which the parents are able to co-operate within such an arrangement, and whether it is easy for that child, bearing in mind his or her age and personality, to live in two homes within one week.

13 In HCF/District Court Appeal No 114 of 2016 ("HCF/DCA 114/2016"), I affirmed the decision of the court in *TRY v TRZ* [2016] SGFC 112 to grant care and control of the child to the wife and access to the husband, instead of shared care and control to both parents. I observed that:

> … [The child] now has to spend time with both parents and shuttle between two different households. She has to adjust to

Version No 2: 28 Oct 2020 (02:01 hrs)

> spending different periods of time with each parent separately. In the post-divorce circumstances, it is neither practical nor possible for her time to be split mathematically equally between her parents. The parties also have to work around [the child's] routines to promote stability in her life. The apportioning of time needs to take into account the child's developmental needs at that particular stage of life, including the cognitive, emotional, academic and physical needs. The needs of a child are dynamic and change over time, *eg*, the way a child needs security and stability depends on the age and emotional maturity of the child.

14 I reiterate that in making orders on care and control and access, the focus is always on the child's welfare, and not the interests or wishes of either parent if they do not serve the child's welfare. Let us say, by way of a hypothetical example, that a father has "care and control" of a 14-year-old child I shall call Shaun, while the mother has "access" to Shaun. If the mother has overnight access every Friday evening to Saturday night, then the father will have care and control of Shaun for the remaining time (Saturday night to Friday evening). The consequence of divorce on a child's time is that the child now has to spend different periods of time separately with each parent. So while Shaun used to spend time with both parents concurrently on weekdays and used to go out with his friends on weekends, the post-divorce circumstances now cut up his week into blocks where each parent spends time with him separately. The practical effect of the new structure of family life is that Shaun has less flexibility for his activities, and in some way, "less time" for himself. For example, if Shaun would like weekly band jamming sessions every Saturday afternoon, his mother will be disappointed as this will encroach into her access time; if Shaun fixes the jamming sessions on Sundays, then his father, who works on weekdays, will be disappointed that he will not be able to spend much of the weekends with Shaun. When the parties contest over the time they have with the child, they may miss this perspective from the eyes of the child. They may also not appreciate that the apportioning of time needs to take into account the child's

Version No 2: 28 Oct 2020 (02:01 hrs)

developmental needs at that particular stage of life – the cognitive, psychological, emotional, social, academic, physical and special needs. As mentioned, the needs of a child are dynamic and change over time; for instance, the way a child needs security and stability depends on the age and emotional maturity of the child. A parent who is better at providing the basic physical care needs of an infant may be better placed to have care and control of an infant, but that skill will be less salient when parenting a teenager. The various factors discussed demonstrate how important it is that each case must be determined on its own facts. Further, parenting arrangements must consider the needs of all the children of the parties for many cases do involve more than one child at different stages of development and needs. The eminent professor in sociology, Paul R Amato, has remarked that "[k]nowledge of group averages, therefore, cannot predict how a particular child will adjust to family disruption": Paul R Amato, "Children of Divorce in the 1990s: An Update of the Amato and Keith (1991) Meta-Analysis" (2001) 15(3) Journal of Family Psychology 335 at p 366.

15 It is pertinent to note the view offered by social science and family law experts that "in an optimal parenting plan, responsibilities and time are not allocated according to a principle of abstract fairness to the parents, but by family functionality … as it relates to the child's best interests", and taking into account the "needs, and developmental trajectories of young children": Marsha Kline Pruett & J Herbie DiFonzo, "Closing the Gap: Research, Policy, Practice, and Shared Parenting" (2014) 52(2) Family Court Review 152 ("*Closing the Gap*") at pp 162 and 168.

16 These concerns are supported by empirical studies. For instance, an Australian study has found that "frequent moves between households bring added practical and emotional difficulties [for a child] in terms of having to pack up and move from house to house": Belinda Fehlberg *et al*, "Caring for Children

Version No 2: 28 Oct 2020 (02:01 hrs)

after Parental Separation: Would Legislation for Shared Parenting Time Help Children?" (2011) 7 Family Policy Briefing 1 ("*Caring for Children after Parental Separation*") at p 6. Empirical research from Australia on this topic is particularly useful as the "marked increase in shared time arrangements" since the implementation of the Family Law Amendment (Shared Parental Responsibility) Act 2006 (No 46 of 2006) (Cth) provided researchers with a valuable opportunity to gather data on shared time arrangements: *Caring for Children after Parental Separation* at p 10.

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

Version No 2: 28 Oct 2020 (02:01 hrs)

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.

19 In considering these studies, I am not suggesting that these findings should be used to dictate any specific outcome in a particular case. I am well aware that research in other jurisdictions should be read within the cultural contexts and parenting arrangements prevalent in those countries. Further, the circumstances of each case are different, and what is in the welfare of one child in a particular household may not be in the welfare of a child in another household. I am also acutely aware that the experts and scholars do not speak with one voice on the issue of shared care and control. Still, such social science research remains useful in ensuring that the courts can take in the broad insights and issues raised therein when deciding arrangements in a particular case, which must ultimately be determined on its own unique facts.

20 There is thus neither any legal principle against shared care and control, nor a legal presumption that this arrangement is always in a child's welfare. Where such an arrangement is suitable for a child in his or her developmental stage of life, considering his or her relationship with each parent and all relevant circumstances, such an order may be made for the child's welfare. Whatever the arrangements ultimately made, parents must recognise that they must "place the needs of their children before their own": *TAA v TAB* [2015] 2 SLR 879 at [18].

Version No 2: 28 Oct 2020 (02:01 hrs)

21 It should also be noted that while the *frequency* of contact between a parent and a child may be important, the *quality* of contact is also important. In this vein, it is apposite to note the following observation in *Caring for Children after Parental Separation* at p 6:

> Research shows that the best interests of children after parental separation are most strongly connected to the quality of parenting they receive, the quality of the relationship between their parents, and practical resources such as adequate housing and income – *not any particular pattern of care or amount of time* … [emphasis added]

22 Time with a child is always precious. Such time with a child is even more limited for parents who are separated. Parents must thus commit to giving their best as a parent during the time allotted; they can indeed create loving, positive memories for the child.

Present appeal

23 In the present case, the disputes related only to "care and control" and "access". In brief, the Father sought:

(a) shared care and control of Emma;

(b) to be kept informed of Emma's medical and dental consultations;

(c) responsibility over Emma's immigration matters;

(d) further access to Emma's school meal portal;

(e) additional overnight access to Emma;

Version No 2: 28 Oct 2020 (02:01 hrs)

(f) specific orders relating to access to Emma during school holidays, public holidays, and Father's Day; and

(g) to be kept informed of the Mother's residential address.

24 The Father's requests were largely resisted by the Mother, who argued that the DJ's orders ought to be upheld.

Appeal for shared care and control

25 The Father submitted that this was a suitable case for shared care and control, because of Emma's tender age (which renders her schedule sufficiently flexible) and the Father's desire to actively parent Emma. He argued that such an arrangement would not be disruptive to Emma's living arrangements, and in any event would reflect the reality of his caregiving and daily decision-making in relation to Emma during his access time. He also denied that there were major disagreements with the Mother over the long-term welfare or upbringing of Emma. The Father wanted an order for shared care and control so that he could jointly manage Emma's physical disorder together with the Mother, and take responsibility for Emma's immigration matters.

26 In my view, it was not necessary for the Father to obtain an order for shared care and control in order to have a part in these major aspects of Emma's life. The parties have joint custody of Emma. This means that the Father and Mother must consult each other and jointly make such major decisions for her, and this includes decisions regarding major healthcare issues and immigration matters.

27 As for the day-to-day issues, these will generally be more appropriately taken care of by the parent with care and control of Emma, which in this case is

Version No 2: 28 Oct 2020 (02:01 hrs)

the Mother. In the particular circumstances of this case, the Father will often make day-to-day decisions for Emma, as he has access to her for substantial periods each week too: see [47] below.

28 I pause here to observe that in *AUA v ATZ* [2016] 4 SLR 674, the Court of Appeal declined to grant the parties shared care and control of the child, noting that: "the order for joint custody … already means that the most important decisions affecting the long-term upbringing and welfare of the child can only be made with the consent of both parties", and the liberal access arrangements were such that the father was "afforded ample opportunity to play an active role in the child's life": see [59]–[60].

29 I did not think that the DJ was wrong in coming to his decision that shared care and control of Emma would not be workable because of the acrimonious relationship between the parties as well as their very different parenting styles. He held at [44] of the Grounds of Decision ("GD") in *TAT v TAU* [2017] SGFC 48:

> In this case, parties are unable to see eye to eye in respect of almost all the aspects relating to the child's life. They are unable to agree on the child's religion, unable to agree on the type and nature of medical care that the child is entitled to, unable to agree on schooling issues including the type of food that the child is able to eat in school, unable to agree on the type of exercises that the child should be involved in given her medical conditions. This is but to name a few of the differences between the parties. The parties also continue to blame each other as the party at fault. I also note that the parties are very acrimonious towards each other and there is absolutely no trust between the parties.

30 Pertinently, the DJ referred to the Father's own affidavit evidence in coming to this conclusion. The DJ also took into account the numerous applications filed by the parties to the court over issues relating to Emma. In particular, after the DJ had given his orders in the proceedings below, the Father

Version No 2: 28 Oct 2020 (02:01 hrs)

filed an application just to fix the actual period of access for Emma's Easter School Holidays: see GD at [47].

31 I also noted that Emma has a fixed schooling routine, and would commence primary school later in the year. The High Court in *ATZ v AUA* [2015] SGHC 161 (at [109]) had remarked that a shared care and control arrangement may not be practical when a child commences formal education. In that case, the Court found that:

> … It would be wholly impractical to layer the complexity of the child's life with a shared care and control arrangement in the present case as she has just moved on to primary one and would have to deal with many new issues from transitioning into primary education.

32 Considering all the circumstances, the DJ's order for sole care and control to the Mother with liberal access to the Father was not wrong and in fact supported Emma's welfare.

Importance of joint parenting

33 I also reminded the parties that whichever party is granted care and control of Emma, co-parenting between the parties is always necessary. Experts agree that "[p]arents who collaborate in childrearing have a positive effect on their children's development and well-being", and that shared parenting "represents a key protective factor in (a) helping children adjust to separation and divorce and (b) establishing an ongoing healthy family environment in which to rear children and facilitate high-quality parenting": *Closing the Gap* at p 160.

34 I accepted, with gladness, that both parties wished to provide the best for Emma in all aspects of her life. They must thus recognise that it is in Emma's

Version No 2: 28 Oct 2020 (02:01 hrs)

welfare and best interests to enjoy to the fullest extent possible a normal family life with minimal parental conflict. I had observed in another case HCF/District Court Appeal No 59 of 2017, which is the appeal from *UEK v UEJ* [2017] SGFC 103 and involved parents with vastly different parenting styles:

> While the parties take issue with each other's parenting style, they must know that it is their divorce that has ultimately taken the greatest toll on the children. The parties' acrimonious litigation and relationship have produced terrible effects on their children, psychologically, mentally, emotionally and even physically. The children are sandwiched between the parties. The adverse effects of the divorce on the children far outweigh the disadvantages of each parent's parenting style.

35 With this perspective I mind, I shall proceed to address the other issues raised in this appeal.

Medical and dental consultations

36 The Father sought orders for the parties to keep each other informed at all times of all Emma's medical and dental consultations, so that the other party can be at liberty to attend them.

37 I declined to make such orders. I reiterated to the parties that they have joint custody of Emma. It follows from this that they must consult each other and jointly make *major* healthcare decisions for her. The Mother who has care and control can take care of Emma for minor day-to-day healthcare matters that arise. Nevertheless, insofar as the parties themselves desire to update each other on Emma's day-to-day healthcare matters, I encouraged the parties' willingness to co-parent. I understood that the parties made efforts to jointly attend Emma's regular medical check-ups and physiotherapy appointments.

Version No 2: 28 Oct 2020 (02:01 hrs)

Immigration and related matters

38 The Father sought an order to enable him to handle all aspects of Emma's immigration matters. He also sought for the Mother to provide, upon his request, copies of Emma's important documents kept by the Mother – Emma's passport, student pass, birth certificate and health records. The Father premised this request partly on his allegation that the Mother was a flight risk who might remove Emma from Singapore.

39 The DJ made no orders specifically with respect to issues on immigration and Emma's passport. I saw no reason to interfere with his decision.

40 Pursuant to the joint custody order, the parties must consult each other and jointly make immigration decisions for Emma. While the Mother safe-keeps Emma's important documents, I urged both parents to be reasonable in their interactions should there be reasonable requests for copies of these documents.

Education matters

41 The DJ ordered that the Mother is to deal with Emma's day-to-day school issues but the Father is at liberty to approach the school for updates and information regarding Emma's progress and school activities. The Father is to be allowed to attend school-related events or functions involving parents: GD at [7(d)]–[7(e)].

42 The Father sought further access to Emma's school meal portal. I declined to grant this request. The DJ's orders had already specifically provided for the Father's involvement in Emma's education. The DJ's orders were therefore sufficient to enable the Father to keep track of Emma's educational

Version No 2: 28 Oct 2020 (02:01 hrs)

development, and play an active role in this respect. Furthermore, as the parent with care and control, the Mother is the parent responsible for deciding what Emma eats on a day-to-day basis, save when Emma is spending time with the Father: see [9] above. This issue illustrates the usefulness of the legal constructs of "care and control" and "access", for they may reduce the room for conflict over which parent ought to make day-to-day decisions when the child is not physically with either parent.

Access

Weekly access

43 In relation to weekly access, the DJ granted the Father access to Emma from Thursday after school to Saturday at 7.30pm, and on Monday from 5.30pm to 7.30pm for dinner: GD at [7(a)].

44 The Father submitted that he should be granted additional access so that the parties "can have equal opportunity to bond" with Emma. He was of the opinion that such "equal opportunity" meant that he and the Mother should each spend an equal amount of time with Emma. He also explained his difficulties exercising access under the present orders. For instance, the Father argued that in respect of the Monday dinner access, dinner time conversation and bonding were "whittled down to less than an hour" after factoring the travelling time from and to the access handover point at [X] Shopping Mall. He thus sought weekly access on the following terms on alternate weeks:

(a) from Wednesday after school to Saturday at 7.30pm; and

(b) from Wednesday after school to Sunday at 9.00am.

45 The Mother submitted that the DJ's orders should be upheld.

Version No 2: 28 Oct 2020 (02:01 hrs)

46 In the light of the discussion at [11]–[22] above, the Father's submission that joint parenting or co-parenting meant that both parents must spend almost mathematically equal amounts of time with Emma could not be accepted. The parties must appreciate that Emma now has to spend time with both parents separately and shuttle between two different households; her time is limited. In the post-divorce circumstances, it is simply neither practical nor possible for Emma's time to be split mathematically equally between both parents. The parties also have to work around Emma's schooling schedule and other routines, to promote stability in her life. Such stability is especially necessary, given how her life has inadvertently been affected by the flux of the parties' divorce.

47 I did not think that the DJ's order was unreasonable or ineffective in promoting joint parenting between the parties. The Father effectively spends with Emma two weekdays and one day of the weekend including two overnights; the Mother spends with Emma three weekdays and the other day of the weekend. The Father even shares one further dinner time on Monday with Emma. In the circumstances, I did not interfere with the DJ's order on the Father's access to Emma.

48 With respect to the Monday dinner access, if the Father thought it not conducive to bring Emma home for those two hours of dinner access, he could for example, have dinner with Emma at or around [X] Shopping Mall. It is for him to spend quality time with Emma in the way he thinks best, under these circumstances where Emma's time has to be shared between two parents.

Version No 2: 28 Oct 2020 (02:01 hrs)

School holiday access

(1) DJ's orders

49 The parties agreed that the number of weeks of the various school holidays varies each year. In this regard, every year, there are generally (see the GD at [53]):

(a) seven to eight weeks of Summer School Holidays;

(b) three weeks of Winter School Holidays;

(c) one week of February Half-Term School Holidays;

(d) one week of October Half-Term School Holidays; and

(e) two weeks of Easter School Holidays.

50 The DJ agreed with the Father that the school holidays should be shared equally between the parties and made the following orders at [54] of the GD, which were to take effect from the beginning of 2017:

(a) The Father is to have Emma with him for the 1st and 5th to 7th weeks of the **Summer School Holidays** while the Mother is to have Emma with her for the 2nd to 4th and 8th weeks of the Summer School Holidays. This arrangement will alternate every year.

(b) The Mother is to have Emma with her for the 1st part of the **Winter School Holidays** while the Father is to have Emma with him, after Christmas Day, for the last seven days (one week) of the Winter School Holidays.

Version No 2: 28 Oct 2020 (02:01 hrs)

(c) The Father is to have a week's access to Emma during the **October Half-Term School Holidays**.

(d) The Father is to have Emma with him for the 1st week of the **Easter School Holidays** while the Mother is to have Emma with her for the 2nd week of the Easter School Holidays. This arrangement will alternate every year.

51 The DJ ordered at [57] of the GD that if the Father and Emma are in Singapore during his allotted school holiday access, the Father is to take Emma to all her scheduled activities including church.

52 I accepted the Mother's submission that while not expressed in the DJ's decision or order, he intended for the parties to each have one set of Half-Term School Holidays with Emma. This means that the Mother is to have the February Half-Term School Holidays while the Father has the October Half-Term School Holidays.

53 The DJ also ordered that the parent who does not have Emma may have daily calls with her from 5.30pm to 5.45pm. For the avoidance of doubt, such calls may be made at any venue, and not necessarily at either party's house.

(2) Parties' submissions

54 The Father submitted that the order on the school holiday access should expressly specify that the parties are to "share [Emma's] school holidays equally between themselves". He further submitted that the "truncated" access arrangements for the Summer School Holidays would disrupt his travel plans with Emma, deprive him of the opportunity to celebrate important annual family events with Emma in August, and increase opportunities for conflict between

Version No 2: 28 Oct 2020 (02:01 hrs)

the parties during access handovers. The Father thus sought to have the last four weeks of the Summer School Holidays with Emma every year.

55 The Father also argued that the DJ should have ordered the parties to share the February Half-Term School Holidays equally, by alternating the parties' access to Emma during this whole week, yearly. The Father further expressed his desire to spend some winter seasons with Emma overseas. Finally, he submitted that he should not be compelled to bring Emma to church on Sundays during his allotted school holiday access if he and Emma are in Singapore.

56 In response, the Mother submitted that the DJ's orders should be upheld. She however also suggested that the parties' access to Emma during her February and October Half-Term School Holidays be alternated yearly.

(3) Decision on school holiday access

57 I found that the DJ made his order so that the parties could generally share the school holiday access to Emma equally. The Father agreed that under the DJ's school holiday access order, he had seven weeks of school holiday access to Emma.

58 I accepted that the DJ's order for "truncated" access arrangements for both parties for the Summer School Holidays was to account for the fact that the Summer School Holidays could vary from seven to eight weeks each year. Where both parties desired to have access for prolonged periods in August, it was reasonable to have them alternate their respective access periods for the Summer School Holidays yearly following the DJ's order.

Version No 2: 28 Oct 2020 (02:01 hrs)

59 Where both parties also desired to have access to Emma during her February Half-Term School Holidays, I found it reasonable to alternate the February and October Half-Term School Holidays between the parties yearly.

60 Apart from the allotted school holiday access the Father has to Emma on certain Sundays (and any public holiday during which the Father has access that falls on a Sunday (see [63]–[64] below)), the Mother has all the remaining Sundays with Emma throughout the year. Hence, for those Sundays during the Father's allotted school holiday access, I left it up to him to decide whether to bring Emma to church. He is not compelled to do so; if Emma wishes to go to church, the Father can support her wishes. I thus adjusted the DJ's order in respect of the Father being required to bring Emma to church during his school holiday access time. If the Father and Emma are in Singapore during his allotted school holiday access, he is to take her to all her other scheduled activities.

61 Thus, I did not interfere with the DJ's order on the school holiday access, except on these two points:

(a) the parties are to alternate the February and October Half-Term School Holidays yearly; and

(b) church is not a scheduled activity that the Father has to take Emma to.

62 For avoidance of doubt, I made the following points:

(a) The Father's school holiday access will begin on Mondays at 10.00am and end on Sundays at 7.30pm. I urged the parties not to be calculative with the arrangement that the duration spent with each parent may not be entirely equal in mathematical terms.

Version No 2: 28 Oct 2020 (02:01 hrs)

(b) Where the DJ's orders do not cover certain special events (*ie*, all other days apart from the school holidays listed and the public holidays), like school closures, the weekly access order applies.

Public holiday access

63 The DJ ordered at [7(b)] of the GD that for the remaining public holidays that do not fall during Emma's school holidays, the Father is to have access on alternate public holidays from 10.00am to 7.30pm, save that the Mother is to have Emma with her on Christmas and Good Friday while the Father is to have Emma with him on Hari Raya Puasa and Hari Raya Haji.

64 I clarified that if a public holiday falls on a Sunday, the Father will have access to Emma on the public holiday, *ie*, the Sunday. This means that the usual access order will apply for the Monday which may be the holiday-in-lieu of the public holiday (*ie*, the Father will have dinner access from 5.30pm to 7.30pm).

Father's Day access

65 The Father sought to celebrate Father's Day with Emma and be granted access to her from 10.00am to 7.30pm. The DJ made no orders in this regard. The Mother was agreeable to the Father's request to spend time with Emma on Father's Day, but submitted that access should begin after Emma attended her church and Chinese enrichment classes. The Mother submitted that the Father's access should end before dinner to allow Emma to prepare for school on Monday.

66 I found the Father's request to spend time with Emma on Father's Day reasonable. I noted nevertheless that Emma will still have her usual scheduled Sunday activities on Father's Day, which is not a public holiday. As such, I

Version No 2: 28 Oct 2020 (02:01 hrs)

ordered that the Father shall have access to Emma during dinnertime on Father's Day from 5.00pm to 8.30pm.

Mother's residential address

67 The Father also asked that the Mother disclose her residential address to him and provide details of all persons living at that address, out of his concern for Emma's safety. He sought mutual disclosure of residential addresses, with the parties undertaking not to go to each other's place of residence.

68 The DJ made no orders on the disclosure of the Mother's address. His decision was not unreasonable, in the light of the acrimony between the parties and the Mother's complaint against the Father in the State Courts for harassment, which was not resolved at the time of my decision. I further noted that no handovers take place at either party's house.

Conclusion

69 In the circumstances, I allowed the appeal only to the following extent, and dismissed it otherwise:

(a) the parties are to alternate the February and October Half-Term School Holidays yearly;

(b) church is not a scheduled activity that the Father has to take Emma to; and

(c) the Father is to have access to Emma during dinnertime on Father's Day from 5.00pm to 8.30pm.

Version No 2: 28 Oct 2020 (02:01 hrs)

70 It was heartening to know that both parents love Emma very much and wish to spend more time with her and be involved in her life and growth. However, Emma is at an age where many changes are likely to take place from year to year. Significantly, she would be attending primary school later in the year. As I held in HCF/DCA 114/2016 (see [13] above), the apportioning of time between the parties must take into account, first and foremost, how it served Emma's welfare. This entailed taking into account her developmental needs, which are dynamic and change over time. The parties should work out and agree between themselves future access matters.

71 The court should always be the last resort in which to resolve parental disagreements. I also urged both parties to be reasonable and more flexible and understanding should either party, on occasion, require some grace and latitude with carrying out the orders.

Debbie Ong
Judge

The appellant in person;
The respondent in person.

Version No 2: 28 Oct 2020 (02:01 hrs)