

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2022] SGHCF 3

Divorce (Transferred) No 1639 of 2019

Between

CLB

... Plaintiff

And

CLC

... Defendant

GROUND OF DECISION

[Family Law — Child — Involvement in court proceedings]

[Family Law — Child — Maintenance of child]

[Family Law — Custody — Access]

[Family Law — Custody — Care and control]

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**CLB
v
CLC**

[2022] SGHCF 3

General Division of the High Court (Family Division) — Divorce
(Transferred) No 1639 of 2019
Debbie Ong J
1 December 2021, 3 January 2022

21 January 2022

Debbie Ong J:

Introduction

1 The plaintiff (the “Father”) and the defendant (the “Mother”) were married on 15 September 2003. There are two children of the marriage – [B] and [C], who will respectively turn 17 and 15 years old in 2022. The Interim Judgment of Divorce (“IJ”) was granted on 26 July 2019.

2 The ancillary matters (the “AM”) have been bifurcated. These are the grounds of my decision pertaining to the issues of custody, care and control, access, and maintenance; the decision in respect of the division of matrimonial assets has earlier been delivered. I heard parties on the issues of custody, care and control, access, and maintenance on 1 December 2021. Pursuant to my directions at the hearing, the parties submitted a letter to court with their table of positions on custody, care and control and access, as well as maintenance for

the children, on 17 December 2021 (the “Table”). This Table was useful, especially as the parties sought rather detailed orders in respect of the sharing of time with the children.

Custody

3 The parties *agreed* to have joint custody of both children. I ordered that by consent of the parties, both parents shall have joint custody of [B] and [C].

Care and control

Father’s submissions

4 The Father sought shared care and control (with residence predominantly with the Mother), because the children “ought to know that he shares an equal status with the [Mother]”. He submitted that this is “analogous to the rationale for joint custody orders”.

5 The Father also sought an order that a counsellor or facilitator be appointed, in order to (a) assist in facilitation of physical meetings between the Father and the children; (b) intervene without the necessity for application or contact between the parties if there are difficulties in carrying out the court orders; and (c) to provide counselling for the children and/or the Mother, as the counsellor may recommend.

Mother’s submissions

6 The Mother sought sole care and control of the children. She submitted that the Father still had difficulties communicating and interacting with the children, and on the Father’s own account, a third party agency would be required to facilitate the Father’s time with the children. She submitted that

given these challenges in his relationship with the children, it would not be feasible for them to be cared for by the Father for half the week.

Decision on care and control

7 In my view, the Father’s rationale for shared care and control was misconceived. The joint custody order already made it clear that both parties are “equals” as parents and both have equal parental responsibility (and authority) over important matters concerning their children. The care and control and access orders relate largely to the practical day-to-day care and living arrangements of the children, and are not a description of the “status” or the quality of the parenting.

8 Based on the submissions and affidavits, it was apparent that the Father required guidance and facilitation for his access with the children, and that the facilitation in the past had been helpful. While I thought that the Father should be supported to rebuild his relationship with the children through the appointment of a counsellor or facilitator, given these difficulties, I did not think a shared care and control order would be workable or appropriate.

9 I ordered that the Mother shall have sole care and control of the children. The Father would have reasonable day access with the children at least once a week. Access was to be arranged in an incremental way in terms of frequency and duration. I expect the parents to work progressively over time towards a routine where there will be more than one access session in a week – it may be that in certain months, the children will have a lighter schedule than in other months and can have access more than once a week then. I ordered that the Father may have a facilitator to assist with the access between him and the children – I left the choice of facilitator to be worked out by both parents

together with the Family Court Specialists from the FJC's Counselling and Psychological Services ("CAPS").

10 I also ordered that overnight access would begin six months from the date of this order (I will elaborate on this below). However, if the children are ready for overnight access even before this point, this may take place.

11 These were interim access orders. I ordered a review to be fixed after six months (the "Review"), where the issue of day and overnight access will be considered.

Access

Weekly and overnight access

12 The Father said that he saw the children about once every two weeks, for no more than three hours each time. The Father proposed that he should have time with the children twice a week, whether together or separately, with one day on a weekend for longer hours. He proposed that a weekday meeting should be three hours long while a weekend meeting should be eight hours long. Once overnight access was in place, access could take place once a week. He submitted that access should be arranged through a facilitator, at least for six months following the adjudication, such that a person from the Divorce Support Specialist Agencies ("DSSA") or CAPS could ensure compliance. He submitted that the weekday routine meetings ought to be fixed so that the children could plan their other activities around their meetings with him.

13 The Mother proposed that, until the Father's overnight access commenced, he should have dinner with the children from 5.30pm to 7.30pm,

or any timings as mutually agreed between him and the children, during the following time periods:

- (a) once every fortnight during the children's school terms;
- (b) on a weekly basis during the children's school holidays in June and December while travelling is restricted by the Singapore Government; and
- (c) when the Singapore Government allows overseas travelling, the Father shall have weekly dinners with the children in the first half of their school holidays in June and December of even years from the year of 2022, and in the second half of the children's school holidays in June and December of odd years, from the year of 2021.

14 As for overnight access, I noted that both parties *agreed* that the Father shall have overnight access from Friday 6pm to Saturday 6pm or from Saturday 6pm to Sunday 6pm – however, the Mother wanted this to commence from December 2022 while the Father wanted it to start immediately. According to the Mother, overnight access should only commence from December 2022 to give the Father and children more time to rebuild their relationship – if, however, their relationship did improve before December 2022, the Mother was open to the children staying overnight at the Father's home from an earlier period as long as the children and Father were agreeable. The Mother also said that she did not wish to be involved in the Father's access to the children as the parties had a painful history with each other. She was agreeable, however, to a neutral third party facilitating the access with the Father for at least the next six months.

15 Based on the Father's affidavit, his relationship with the children had improved since November 2020, and they had begun visiting his home as well as meeting at restaurants in their fortnightly sessions with him. The Father said, however, that his primary concern was the absence of some support structure to ensure continuity of time with the children to improve their relationship.

16 In my view, given the Father's own account of his present relationship with the children, weekly overnight access (as agreed by both parties) should not be ordered to commence *immediately* – the Father should be given more time to work on his relationship with the children, with the support of the facilitator. I ordered that the Father should start to have weekly overnight access after six months from the date of this order, from Saturdays at 6pm to Sundays at 6pm. In the meantime, he should continue with the access I have ordered above (see [9]–[11]) with the goal of reaching a comfortable place where the children can have regular overnight access. As I have stated above, a Review will be fixed *after* six months from this date of this decision.

School holiday access

17 I noted that both parents *agreed* that the Father shall have the following school holiday access:

- (a) March/September holidays: four consecutive overnight access from the weekend at the beginning of these holidays during even years and at the end of the said holidays during odd years.
- (b) June/December holidays: Uninterrupted access to the children during the first half of the said holidays during even years and at the second half of the said holidays during odd years.

(c) The Father's access shall be based on half of the total number of days of the said school holiday as stipulated by the Ministry of Education ("MOE"). The first day of access shall commence at 9am and access shall conclude on the last day at 9pm.

(d) The Mother shall provide the Father with the children's Singapore passports at the commencement of the Father's school holiday access. Upon the conclusion of the Father's school holiday access, the Father will return the children's Singapore passports to the Mother.

18 I also noted that the Father sought a clarification that "uninterrupted" access meant overnight access as well. I understood from the Mother's counsel at the hearing that, as the Mother was only comfortable with overnight access to the Father from December 2022, this meant that until then, the Father would only have day access during the school holidays. I ordered that the proposal at [17] was to be implemented with effect from the date of this decision, subject to my order on overnight access above at [16].

Chinese New Year

19 For Chinese New Year ("CNY"), the Mother proposed that:

(a) the children shall spend every CNY Eve and the first day of CNY with the Mother.

(b) the Father shall have access to the children on the second day of CNY, from 11am to 8pm or such time as the children may mutually agree with the Father.

20 The Father *agreed* with this proposal, but he also sought overnight access on the second day of CNY.

21 Based on the parties' agreement, I ordered that the arrangement at [19] was to be implemented, subject to my order on overnight access above at [16].

Special days access

22 The Father proposed that the children spend time with each parent on their respective birthdays. For the children's birthdays, if the Father's routine meeting with the child was fixed for that day, then the Mother should have time to share a meal with the child. Conversely, if their birthdays fell on a non-meeting day for the Father, he should be provided with three hours to have a meal with the child. The Mother did not state her position on this in the Table.

23 In my view, the Father's proposal was reasonable as it allowed both parents to spend time with the children on their birthdays. I made the order sought by the Father in [22].

Public holidays (other than Chinese New Year)

24 The Father proposed that public holidays were to be split between the parties on an alternate basis unless expressly agreed (*ie* CNY was expressly excluded), and that access should be from 6pm on the eve of the public holiday to 6pm on the day of the public holiday. The Mother did not state her position on this in the Table.

25 I noted that the Father's proposal would entail overnight access on the night before the public holiday and it was hence affected by my order on overnight access. In my view, public holiday access (other than CNY) should follow the usual weekly arrangements in order to minimise any potential dispute

between the parties about what constitutes an “alternate” public holiday (*eg* if there is a two-day public holiday). Further, the Father’s day access was not fixed on a particular day of the week, and it was possible for him and the children to enjoy a longer and more leisurely access time when there was a public holiday in that week (*eg* on the eve of or on the public holiday itself). I ordered that, apart from CNY and the arrangements for school holiday access, public holiday access would follow the access arrangements at [9]–[11] above (which remained subject to a Review to be fixed after six months). To be clear, I ordered that the school holiday access arrangements would prevail even if any public holiday (apart from CNY) fell within the school holidays.

Overseas access

26 The Father proposed that either parent be at liberty to bring the children out of Singapore during the school holidays, provided that precautions and insurance arrangements be taken in view of the COVID-19 pandemic. The non-travelling parent should be provided with telephone and video access during the travel period, as well as the travel and hotel itinerary at least a month prior to the travel. The children were to handle their own passports, and each parent was to bear all expenses of the trip without any claim from the non-travelling parent. He also wished to bring the children for ad-hoc trips *eg* to Batam or Malaysia during his time with them, and sought an order that the children’s Singapore passports be with the children.

27 The Mother did not state her position on overseas travel in the Table. In my view, the Father’s proposal that the parties be allowed to bring the children for overseas travel, as well as his proposal that the non-travelling parent be provided with telephone/video access during the travel period and one-month notice of the trip, was reasonable. However, I clarified that, by default, the

Mother would hold the passports of the children as she was the parent with sole care and control. Thus, the children's passports would remain with the Mother, unless there was a trip scheduled with the Father for which the children would need to bring along their passports, in which case the Mother should provide the children's passports to the Father. It was not entirely clear what the Father meant by "ad-hoc trips" – in my view, there still had to be notice given to the Mother as long as the Father intended to bring the children out of Singapore (even if it was to Batam or Malaysia). With these considerations in mind, my orders on overseas access were as follows:

- (a) Each parent is at liberty to bring the children out of Singapore during the school holidays, with appropriate precautions and insurance arrangements in view of the pandemic.
- (b) The non-travelling parent should be provided with telephone and video access during the travel period and the travel and hotel itinerary at least one month prior to the travel.
- (c) The travelling parent is to bear all the expenses of the trip without any claim from the non-travelling parent.

Mother's general access terms

Liaising with and meeting the children

28 First, both parties *agreed* that the Father shall liaise with the children directly on their availability and location of the Father's access to the children. I ordered this by consent of the parties.

29 Second, both parties also *agreed* that the Father shall create a WhatsApp group chat between himself and the children and he shall liaise with the children

from the said chat – save that the Father wanted this chat to include the facilitator. I thought it would be helpful for the Father to have assistance from the facilitator in his communications with the children, and hence, to be clear, I ordered that the Father may include the facilitator in the chat. My view that this was helpful was consistent with the contents of the report from Fei Yue Child Protection Specialist Centre and the Father’s own affidavit.

30 Third, both parties *agreed* that the Father shall be at liberty to change the dates and timings for his access or see the children more often, so long as both children are agreeable to meet with the Father. I ordered this, by parties’ consent, so that parties had clarity in respect of this issue. I noted that the Father said that this did not mean the children were at liberty to refuse time with him. His counsel had also explained during the hearing that the Father did not want the children to “call the shots” on spending time with him, nor did the Father want to breed any resentment by insisting that the children spend time with him. This concern was also reflected in the Father’s affidavit. I acknowledged the Father’s concern about wanting to preserve his time with the children, and I understand that this arises out of his love for them and his desire to rebuild his relationship with them. However, I encouraged him to consider, with the aid of the facilitator, how best to achieve this in his interactions with both children. The Father must remember that the children are both teenagers now, with independent preferences, schedules and obligations. He has to be understanding of the competing needs affecting their time and have realistic expectations about rebuilding their relationship, especially given the children’s increasing autonomy at this stage in their lives.

31 Fourth, the Mother proposed that the Father shall not pick up or fetch the children from their home before and after the Father’s access to the children – instead, the Mother shall provide the children with monies to enable them to

take a private car or taxi. The Father did not agree. He proposed that he may pick up or return the children from where they live, though he agreed that there was to be no interaction between the parents on such occasions. In my view, the Father's proposal was more reasonable – while the Mother had indicated her desire not to interact with the Father, this did not mean he should be *prohibited* from picking up or dropping off the children at their address. The Father may pick up or return the children from where they live.

32 Fifth, both parties *agreed* that they “shall not be involved or interfere in the arrangements and parties’ respective time with the [c]hildren. Parties shall not contact each other regarding parties’ respective time with the [c]hildren save for any emergencies in relation to the [c]hildren”. I ordered this by the parties’ consent.

33 Finally, parties *agreed* that the Father’s access to the children shall be with both children at all times, unless either child agrees to spend time alone with the Father. I ordered this, by the parties’ consent. I noted that the Father said this was subject to him not being deprived of time because one child was busy with activities – in this regard, I reiterate my comments at [30] above.

Counselling

34 The Mother proposed that if the Father desired counselling between him and the children, he should first ask both children if they would like to attend counselling. Only if both children were agreeable to the counselling should the Father then arrange for the same, and he would solely bear the costs of the counselling sessions. The Mother submitted that she should not be involved in any counselling sessions between the Father and children. The Father proposed that there be intervention by the counsellor in the event of difficulties in the implementation of the court’s orders; that counselling not be subject to the

children's agreement; that the counsellor (if appointed by the Father) was to follow the case and be paid for by the Father; that the Father was agreeable to the counsellor being appointed by the court; and that the counsellor may report to the court if so ordered.

35 I declined to make this order. I noted that in the Father's own affidavit, he highlighted that he and the children had attended therapeutic counselling under the District Judge's orders of 5 March 2020, but only under the supervision of the Child Protective Service in November 2020 was there an improvement in his relationship with the children. I also noted the Mother's concern about counselling fatigue. In my view, the Father ought to work together with the facilitator first and consider what progress was made in his relationship with the children. The facilitator would also be better placed to assess and recommend whether counselling is necessary further down the road, and how (and whether) to engage the children in such counselling.

No negative influence

36 The Father sought an order that neither parent shall negatively influence the children in respect of the other parent and submitted that the prohibition against such negative influence should be observed by other members of the parents' household, including the defendant's mother, any domestic helpers and "any further partners" of either party. He suggested that both parents could speak about the other parent if the communication was a positive one and/or was to encourage the children to build their relationship with the other parent.

37 I declined to make such an order. First, I made clear that regardless of whether I made this order, this is the expectation of the law. Parental responsibility includes supporting the children's relationships with both parents, instead of negatively influencing the children in respect of the other parent.

Further, this proposed order purported to bind third parties who were not parties to these proceedings, including “further partners” of either party. While the Father’s counsel said at the hearing that he could remove the defendant’s mother from this list, this did not address the broad scope of “other members of the parents’ household”, and even including “further partners” – people who may not be in the parties’ lives yet. I did not think making such a specific order was helpful, but I did emphasise that it is expected of parents to support a positive relationship with the other parent.

Children’s involvement in proceedings

38 Both parties *agreed* that parties were not to speak to the children about the court proceedings or speak about the court proceedings in the presence of the children. I made this order, by the consent of the parties. I noted that the Father said that such communications may be made by the court, facilitator or counsellor. I did not think the court needed to make an order to preserve its own discretion.

39 Both parties also *agreed* that the parties were not to speak poorly of the other parent to the children or in their presence. This appeared quite similar to the order sought by the Father in [36] above and I declined to make this order (notwithstanding the parties’ agreement). This is an expectation of the law and the parties should certainly not speak poorly of each other in the children’s presence, but making this a specific order could potentially cause parties to be overly and unnecessarily focused on what the other parent may have said to the children that is linked to him or her.

40 Finally, the Mother proposed an order that the parties were not to photograph, document or record videos and/or audio recordings of the children for the purposes of use or reference in court. The Father disagreed – he said that

the court cannot be deprived of material evidence if this became necessary in the future, and that he would inform the children of the use of such materials if it becomes necessary.

41 As I had observed at the hearing, such photographs and videos are not always of assistance to the court – they may capture a moment (or several moments) in time during that parent’s interaction with the child, but they do not capture the events and interactions leading up to that moment (or after). Such evidence may be relevant, yet it may have weight that is disproportionately prejudicial to its relevance. Further, allowing the parties to photograph and document their interactions with the children may also be detrimental to the children’s relationship with their parents, especially if the children are aware that they are being filmed or photographed by that parent to be “used” as evidence in court proceedings. Being filmed for evidence is intrusive, which can potentially cause a sense of discomfort and “unnaturalness”. It may also constitute a persistent reminder to the children of their parents’ conflict, which will have an adverse impact on their wellbeing. I also had concerns over the possible impact on the children in the long term. When the children are grown and look back at how their past behaviour, words and reactions captured as evidence were used by one parent against the other, will feelings of guilt, self-blame and betrayal arise and affect *them* in some way, as well as *their relationships* with each parent then? I ordered that the parties were not to photograph, document or record videos and/or audio recordings of the children for the purposes of use as evidence or reference in court.

Other orders sought by the Father

42 The Father also sought several other orders.

43 First, the Father sought an order for therapeutic counselling for the Father/children and/or the Mother. The Mother said that there should be no additional counselling for her and the children. I declined to make an order on this point, for the same reasons I have stated at [35] above.

44 Second, the Father sought an order for communication of the orders by the court to the children, whether by CAPS or by DSSA. I declined to make such an order. In so far as this order attempted to *compel* CAPS or DSSA to make such communications to the children, I did not think it justified to encroach on their discretion in this manner. In so far as the order *suggested* that CAPS or DSSA *may* make such communications to the children, I reiterate my comments at [38] above.

45 Third, the Father sought an order confirming that he had the ability to contact the school to discuss the children's progress and other matters, and receive updates on the children's results and performances. I did not think such an order was necessary. As the parents share joint custody, the Father is involved in decisions relating to the children, including their education.

46 Finally, the Father sought an order for future review of these arrangements within three to six months' time. In my view, such an order would be beneficial to assess how the access arrangements were working, and to evaluate whether any fine-tuning or adjustment is required. I have ordered above (at [11]) that these arrangements are to be reviewed after six months from the date of my order, and a report by the facilitator, if any, will be helpful to the court.

Maintenance for the children

47 The Mother estimated [B]’s monthly expenses to be \$3,870 and [C]’s monthly expenses to be \$3,600. The Mother sought monthly maintenance of \$3,735 for the children from the Father, with \$1,935 for [B] and \$1,800 for [C] – payment was to be made on the first day of the month from the date of the Final Judgment to the Mother’s bank account, and parties were to equally bear the costs of the children’s insurance and tertiary education expenses. The Mother submitted that the parties should also respect the children’s decision for their respective choice of tertiary education and neither parent shall interfere in the children’s decision. Additionally, the Mother sought an order for maintenance to be backdated from April 2019 and to offset payments made by the Father to the children from January 2020.

48 In the Table, the Father proposed the following:

(a) The Father will provide a weekly allowance of \$80 per child, *ie* an allowance of \$320 per month, and pocket money of \$10 per school day (which, assuming 5 school days in a week, is \$200 per month for pocket money). In total, that would be an allowance/pocket money of \$520 per month for each child. The Father will make payment directly to the children’s respective bank accounts on a weekly basis.

(b) The Father will make full payment for school expenses upon the Mother providing receipts/invoices. These comprise:

(i) all school fees, private school bus fees, purchase of school uniforms, school shoes and any other required clothing for school;

- (ii) purchase of books and stationery up to a maximum of \$300 annually;
 - (iii) all expenses incurred by the children on overseas school trips;
 - (iv) all expenses for the children's mathematics and science tuition; and
 - (v) all sports related expenses, including equipment and required clothes.
- (c) The Father will make full payment for the children's handphone, computer and IT accessories.
- (i) The Father will liaise directly with the children on their respective needs and purchase the items with the children.
 - (ii) If the items are needed urgently, the Mother is to buy the item and the Father will reimburse her upon provision of the relevant receipts. A cloud sharing system should be set up between the parties for the Mother to deposit these receipts. Alternatively, the Mother should give the children the receipts to pass to the Father during their access session.
 - (iii) The purchase of new handphones and laptops for each child shall be limited to one item within a two-year period.
- (d) The Father will equally split the costs of tertiary education with the Mother. The Father will pay for [B]'s health insurance (including hospitalisation insurance) while the Mother will pay for [C]'s health insurance (including hospitalisation insurance). If either child is hospitalised, the parents are to make equal contributions following the

deductions from the child's respective medical insurance. As the Mother receives \$2,000/child per year for the child's medical bill, and upon the Mother's production of the relevant receipt, the Father will pay half of each child's medical bill not covered by the Mother's employment benefit.

(e) Maintenance for the children is to be backdated to 6 October 2020 and will include the rental proceeds from the Niven Road Property.

49 Since the parties *agreed* to equally bear the costs of the children's tertiary education, I ordered that by consent of the parties, these costs be borne equally between them. As for the children's insurance, I noted that the Father was not, in principle, opposed to bearing these costs equally, save that he sought to pay solely for [B]'s health insurance and to take into account insurance deductions/the Mother's employment benefits. I ordered that the children's insurance expenses be borne equally between the parties, as well as any outstanding healthcare costs incurred by the children after insurance deductions/the parents' employment benefits.

50 As for the remainder of the Father's proposal on maintenance, I noted that the Father did not deal with some of the other expenses listed in the Mother's submissions and her affidavit, *eg* tuition for non-mathematics and science subjects like General Paper and Chinese, music lessons, and the children's share of the household expenses. Thus, while the Father had offered to solely pay for some items, such as the children's mathematics and science tuition and the children's handphone/computer/IT accessories, this would still leave the Mother to bear most of the expenses for the children. For example, for [B], the Mother would still have to pay for music lessons, tuition for General

Paper and Chinese, public transport, spectacles, musical instruments, [B]’s share of the household expenses, *etc.*

51 I did not think the Mother’s proposal for the Father to pay \$3,735 per month (which was the total of half the expenses for each of the children submitted by the Mother) was unreasonable in the circumstances, particularly given the large resources at the Father’s disposal, and the needs of two growing teenaged children. The children’s specific expenses would not remain perfectly constant every month, and a “budget approach” was fair in the circumstances, after assessing the reasonable monthly sum for their needs. The Father should not feel that he needs to separately co-pay or directly pay for various items of expenses in order for it to be clear that he is providing equally for the children. By paying a monthly sum that is assessed to be half of the children’s reasonable monthly expenses, it is clear that both parents are equally maintaining the children. I ordered that the Father was to pay \$3,700 per month for the maintenance of the children (being \$1,900 for [B] and \$1,800 for [C]). The maintenance was to be paid from the date of this order.

Costs

52 I ordered that the matter of costs shall be agreed between the parties, and if not agreed, they were at liberty to write to the court for directions in respect

of costs. I encouraged parties to seriously consider the option of bearing his or her own costs in respect of this AM matter.

Debbie Ong
Judge of the High Court

Chiok Beng Piow (AMLegal LLC) (instructed), Oei Ai Hoea Anna
and Heng Chye Ming Friedrich (Tan, Oei & Oei LLC) for the
plaintiff;
Yap Teong Liang and Tan Hui Qing (T L Yap Law Chambers LLC)
(instructed), Lee Yuan Yu and Chen Yiyang (Tan Kim Seng &
Partners) for the defendant.
