

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2024] SGHCF 5

District Court Appeals Nos 91 and 95 of 2023

Between

WQI

... Appellant

And

WQH

... Respondent

JUDGMENT

[Family Law — Custody — Care and control]

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WQI
v
WQH and another appeal

[2024] SGHCF 5

General Division of the High Court (Family Division) — District Court
Appeals Nos 91 and 95 of 2023
Choo Han Teck J
17 January 2024

29 January 2024

Judgment reserved.

Choo Han Teck J:

1 The appellant (wife) and the respondent (husband) were married on 16 March 2013 and divorced on 15 December 2020 when the interim judgment was granted on an uncontested basis. The ancillary matters were settled by a consent order at the same time. The appellant is 40 years old, and the respondent is 42. They have two daughters, aged 9 and 8, respectively.

2 The parties have agreed to joint custody but with shared care and control, the appellant took out an application in FC/SUM 2405/2023 to vary the consent order for sole care and control, or alternatively for additional care time for herself. The District Judge (“DJ”) considered the application and dismissed it. The present appeal arises from that decision.

3 The material clauses of the consent order for care and control are as follows:

- (a) Shared care and control in the following terms:
 - (i) During the children's regular school term:
 - (A) The children shall be with the respondent from Sundays 3pm to Fridays 5pm. In the event the children have no school on Friday, the children shall be with the respondent until 10am; and
 - (B) The children shall be with the appellant from Fridays 5pm to Sundays 3pm. In the event the children have no school on Fridays, the children shall be with the appellant from 10am.
 - (C) The appellant shall be at liberty to spend time with the children from 6.30pm to 8.30pm on Mondays and Wednesdays.
 - (ii) The parties shall ensure that the children continue to attend their existing enrichment classes, extra-curricular lessons or activities that take place during their respective time with the children, save that the respondent shall re-schedule the children's swimming lessons from Saturday to Sunday, subject to availability.

4 The appellant now wishes to have sole care and control with reasonable access granted to the respondent on the following terms:

- (a) During the children's regular school term:

- (i) The children shall be with the respondent from Fridays after school to Saturdays 5pm. In the event the children have no school on Friday, the children shall be with the respondent from 10am.
 - (ii) The children shall be with the respondent from 5pm to 8pm on Mondays and Wednesdays.
- (b) Save for the Chinese New Year, Christmas Day, and New Year's Day, the respondent shall have access to the children on alternate public holidays from 10am to 8pm; and
- (c) The parties shall ensure that the children are to continue their enrichment classes, extra-curricular lessons, and activities. Any new activity proposed by the parties are to take place only during the time of care of the proposing parent; and
- (d) During school holidays, the parent not having access may have dinner with the children every seven days on a day to be agreed three days in advance if the children are in Singapore.

5 Alternatively, the appellant prays for the care and control order to be revised as follows:

- (a) During the children's regular school term:
 - (i) The children shall be with the respondent from Mondays after school or 10am if there is no school, to Thursdays start of school or 10am if there is no school;

- (ii) The children shall be with the appellant from Thursdays after school or 10am if there is no school, to Mondays start of school or 10am if there is no school;
- (b) Save for the Chinese New Year, Christmas Day, and New Year's Day, the respondent shall have access to the children on alternate public holidays from 10am to 8pm;
- (c) The children are to continue their enrichment classes, extra-curricular lessons and activities. Any new activity proposed by the parties are to take place only during the time of care of the proposing parent; and
- (d) During school holidays, the parent not having access may have dinner with the children every seven days on a day to be agreed three days in advance if the children are in Singapore.

6 The appellant gave a number of reasons for her desire to amend the consent order. They have all been addressed by the DJ below. The appellant had, among other arguments, claim that she now has greater flexibility at work, the daughters are now two years older and attending school, and the appellant claims that the daughters are looking to have more time with her. Although there are some merits in the Wife's grievance here, I do not think that it warrants a change of the order yet. All court orders, especially those involving custody, care and control of the children in a divorce, must be given time to settle. The wife is at liberty to apply for a review of the access in 10 months' time.

7 The DJ was of the view that the appellant's unhappiness concerning the orders for care and control stem from the different parenting styles, and thus

agreed with Mr Yap for the respondent, that divergent views on parenting styles are custody issues and not issues concerning care and control. That is generally correct, but in this case, their divergent points of view have been enmeshed into the province of care and control. But even looking at this appeal as one strictly on care and control, which it is not, there is insufficient merit in the appeal to warrant a change of the orders.

8 Ms Loo, counsel for the appellant also argued that circumstances have changed because the children have now moved from the paternal grandparents home to the respondent's home, and there would be too much disruption having them travel from one place to another, but I agree with Mr Yap that the respondent's home, which is a short walking distance from his parents' home, is not a substantive impediment to the fulfilment of the existing orders.

9 The DJ decided that this was not a case that required the children to be given a say to avoid placing any responsibility on their young shoulders for the decision of the court. I agree with her. The children are no doubt young, and in many cases, an interview with young children are necessary where there is little for the court to make its determination but to see what the child's preferences are. But where, as in this case, the order below was made by consent after mediation, and have been carried out with no difficulties or problems, the appeal must be dismissed.

10 The appellant also appeals against the order of costs imposed by the DJ below. Costs was fixed by her at \$9,000. The application to vary the consent order ought not have been made, and costs following the event is within the court's discretion. \$9,000 may appear a little high, but it is not unreasonable,

and I will therefore not disturb that order. However, I will exercise my discretion and not impose costs for the appeal.

- Sgd -
Choo Han Teck
Judge of the High Court

Bernice Loo and Sophia Rossman (Allen & Gledhill LLP) for the
appellant;
Yap Teong Liang (T L Yap Law Chambers LLC) for the respondent.
