IIN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 12

District Court Appeal No 14 of 2024
(Summonses Nos 141, 197 of 2024 and 3 of 2025)

Between

WVZ

… *Appellant*

And

WVY

… *Respondent*

District Court Appeal No 19 of 2024
(Summons No 184 of 2024)

Between

WVY

… *Appellant*

And

WVZ

… *Respondent*

JUDGMENT

[Family Law — Custody — Care and control]
[Family Law — Matrimonial assets — Division]
[Family Law — Matrimonial assets — Matrimonial home]

WVZ
v
WVY and another appeal and other matters

[2025] SGHCF 12

General Division of the High Court (Family Division) — District Court Appeals Nos 14 of 2024 and 19 of 2024 and Summonses Nos 141, 184, 197 of 2024 and 3 of 2025
Choo Han Teck J
17, 24 January 2025

10 February 2025 Judgment reserved.

Choo Han Teck J:

1 The Husband and the Wife married in China on 30 June 2005. The Husband became a Singapore citizen in 2010. He was working as a general manager of a manufacturing company in the automotive industry until 2022 but is now unemployed. The Wife is a Chinese citizen and Singapore Permanent Resident. She works as an office administrator. They have two children, a 14-year-old son and an 8-year-old daughter. Both children are Singapore citizens. The marriage subsisted for about 14 years before the Wife filed for divorce in Singapore on 7 August 2019. Interim judgment ("IJ") was granted on 15 June 2020 on an uncontested basis. The ancillary matters ("AM") were decided by the District Judge ("DJ") by a court order dated 25 January 2024. Parties are now filing cross appeals against the DJ's decision.

2 Briefly, these are the DJ's orders that are relevant for the purpose of the appeals:

(a) The Husband shall have sole care and control of the son and the Wife shall have sole care and control of the daughter. The parties shall have reasonable access to the child not under their respective care and control and access for key events.

(b) The matrimonial home is valued at S$550,000 and shall be divided in a ratio of 41:59 in favour of the Husband.

(c) The Wife shall select replacement units for two properties in China which are held in her name (the "Anhui Properties"). The net proceeds from the sale of the replacement units shall be divided in a ratio of 41:59 in favour of the Husband.

The Husband's appeal in HCF/DCA 14 of 2024

3 The first issue on appeal pertains to the care and control and access of the children. The Husband argues that the DJ erred in ordering split care and control of the children and instead, the Husband should have been granted sole care and control of both children. He contends that the Wife has failed to ensure the safety and wellbeing of the daughter, evinced by the fact that the daughter fell sick in September 2021 and has shown no sign of recovery until now. He also alleges that the Wife is not a responsible parent and that she favours the daughter over the son.

4 The Wife says that the Husband is misleading the court as he fails to mention that the daughter's illness has in fact improved and her medication has been reduced. She emphasises that the DJ's order was made after considering the history of extreme acrimony between both parties and strong evidence of

the Husband practising parental alienation between the son and the Wife. Given the circumstances, it would be in the best interests of the children to maintain the split care and control arrangement.

5 I find that there is no merit in the Husband's allegations against the Wife. The Wife is entirely capable of taking care of the daughter, who appears comfortable with the current arrangement. There is no evidence to suggest that the Wife has been neglectful, or that she has not been following the doctor's instructions in managing the daughter's medical condition. The present access arrangement allows both siblings to meet and bond with each other once every two weeks. Any transfer of care and control to the other party may only subject the children to more uncertainty and anxiety.

6 Courts are generally loath to separate siblings in custody tussles, but this is not an inflexible rule. In this case, the two children are not toddlers, and seem to have grown accustomed to the separation. After speaking to both children (separately), I am of the view that the present arrangements regarding care and control and access should remain. It will not work well to take either of them out of the circumstances in which they have become comfortable with.

7 I note for completeness that the Husband argues that split care and control was not within the Wife's ancillary matters pleadings and therefore, the DJ should not have ordered it. This is factually and legally incorrect. The Wife had sought split care and control (as an alternative to sole care and control of both children) in her fact and position sheet in the AM hearing. In any case, regardless of the parties' positions, the court may exercise its discretion in determining a care and control arrangement that is in the welfare of the children. Overall, I see no reason to disturb the DJ's findings regarding the care and control of the children.

8 Next, the Husband appeals against some of the DJ's orders regarding the division of matrimonial assets. It should be emphasised from the outset that an appellate court will typically not interfere in the orders made by the lower court unless it can be demonstrated that the DJ erred in law or clearly exercised his discretion wrongly or took into account irrelevant considerations or failed to take into account relevant considerations (*Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [19]). The application of the broad-brush approach in the division of matrimonial assets also means that there will be a range within which an appellate court must accept the trial judge's determination to be defensible (*TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 at [53]).

9 The parties co-own a Housing Development Board flat which had been their matrimonial home. The Husband argues that there are two errors regarding the DJ's valuation of the matrimonial home. First, the operative valuation date should have been 5 April 2022 instead of January 2023. Second, the court ought to have considered the value of a flat within their block instead of a neighbouring block. He urges the court to accept his valuation of S$455,000 (being the price of a sale transaction within their block in August 2022), instead of the Wife's valuation of S$550,000 (being the value of a flat in the neighbouring block as of January 2023).

10 In relation to the operative valuation date, the DJ held that January 2023 was more appropriate than 5 April 2022 because that took into account the delays in the proceedings. Although the first AM hearing was on 5 April 2022, parties did not complete their submissions on the custody, care and control of the children as the Husband said that he needed to file a third AM affidavit. The subsequent AM hearings from 11 May 2022 to 27 December 2022 were taken up by the multiple summons applications of the Husband. As such, the AM hearing only "re-commenced" on 14 February 2023.

11 Further, the DJ found that it was appropriate to adopt the Wife's valuation of a flat located in the neighbouring block. The Husband argued that the neighbouring block had a park view and was away from the main road, which meant that the price of a flat within the neighbouring block was higher than that of the matrimonial home. The Husband also contended that the matrimonial home had the lowest price since it was closest to the congested side road and utility bin area. However, the Wife said that the neighbouring block was even nearer to the expressway, which meant that there was more noise from the traffic. Further, the matrimonial home was nearer to the upcoming MRT station and that would have increased its value.

12 On appeal, the Husband raises the same arguments that were canvassed before (and considered by) the DJ during the hearing below. The DJ chose to adopt a "common-sense approach", accepting a figure closest to the resumption of the AM hearing in February 2023. I agree with the DJ that the valuation of the matrimonial home is ultimately only an "estimation made solely for the purposes of attributing a fair figure" for division. The valuation of a flat in the neighbouring block in January 2023 is comparable to the valuation of the matrimonial home as at February 2023. Therefore, I am of the view that the DJ's decision to accept the Wife's valuation was reasonable.

13 Next, the Husband claims that the DJ should have excluded the following "liabilities" in his name from the pool of matrimonial assets:

(a) a gift/inheritance of RMB190,000 (or S$38,539) from his late brother in accordance with his late brother's will;

(b) two sums of RMB250,000 (or S$50,710) and RMB200,000 (or S$40,568) owed to his mother for the purchase and subsequent demolition and relocation of a property in China;

(c) a service fee of RMB180,000 (or S$36,511) that he had to pay his aunt and/or sister-in-law to take care of his assets in China; and

(d) loans amounting to S$85,000 that the Husband had taken from his family and friends for the divorce proceedings.

14 Again, the Husband's arguments are substantially what he made before the DJ. The only difference is that in the hearing below, the full "loan" contested by the Husband (see [13(d)]) was S$120,000. I will address this difference shortly. Regarding [13(a)], the validity and authenticity of the late brother's will had been questioned by the DJ during the hearing below. The alleged will was not signed by the late brother. There is no evidence to prove that the RMB190,000 was actually given to the Husband and there is also no equivalent of a grant of probate granted in the Chinese courts. The Husband has not adduced any fresh evidence before me to prove the validity of the alleged will under Chinese law. I therefore find no reason to overturn the DJ's findings on this sum of RMB190,000.

15 As to [13(b)] and [13(c)], the DJ held that there was no proof of the Husband's actual receipt of the respective sums of RMB250,000 and RMB200,000 from his mother. Neither was there any documentary evidence of the "service fees" payable to his aunt and sister-in-law. On appeal, the Husband merely claims that "nobody does anything for free" and therefore it is "entirely logical" that he must pay them for their services. He has not produced evidence of such loans and fees. As such, I will not disturb the DJ's findings.

16 With respect to [13(d)], the DJ found that the Husband failed to discharge his burden of proving that loans amounting to S$120,000 were in fact owed. At the AM hearing, the Husband adduced IOU notes which were not

exhibited in any of his affidavits. He even redacted the creditors' names because his "friend[s]" did not want to get involved in the legal proceedings. The DJ agreed with the Wife's counsel that the Husband had ample time to produce the IOUs before the hearing date but did not do so, and that all allowed liabilities must be identified at the time of the IJ, *ie*, 15 June 2020. On appeal, the Husband reduces the contested amount to S$85,000 because he claims this was the sum of the loan as at the IJ date. He merely says that his claim is "well explained and reasonable" but there is no evidence in support. Therefore, I dismiss the Husband's appeal on his alleged financial liabilities.

17 The Wife has several properties in China under her name, two of which are known as the "Anhui Properties". At the time of the AM hearing, the Anhui Properties had been demolished and the parties were waiting to be compensated with new units. The DJ had ordered the Husband to assist the Wife by providing her with the information required to make the applications for the selection of replacement units. The Wife was instructed to sell the replacement units thereafter and divide the sale proceeds in a ratio of 41:59 in the Husband's favour. The Husband now claims that the Anhui Properties are in fact held on trust by the Wife for him and his family. This is again another allegation with no supporting evidence. I agree with the DJ's decision regarding the Anhui Properties. Parties are at liberty to apply for further orders in respect of the Anhui Properties in the event that the parties are unable to obtain the replacement units.

18 The next issue on appeal concerns the weight given to an agreement signed by parties in contemplation of divorce dated 21 June 2019 (the "Divorce Agreement"). Although the Divorce Agreement was signed merely two months before divorce proceedings commenced, the DJ chose not to give any weight to it because the Wife did not obtain independent legal advice before signing it.

The DJ accepted the Wife's argument that she had signed the Divorce Agreement under duress as the Husband exhibited violent tendencies and threatened her to sign it after damaging her office equipment. Further, according to the terms of the Divorce Agreement, the Husband would receive 100% of the matrimonial home without offering any consideration in return and the children would be prohibited from communicating with their maternal grandparents. These terms, the DJ found, were not fair and equitable to the Wife. On appeal, the Husband insists that the court should respect contractual freedom between two adults and divide their assets according to the Divorce Agreement.

19 It is settled law that the court holds the ultimate power to determine the division of matrimonial assets in a manner it deems just and equitable. As such, an agreement between parties (whether prenuptial or postnuptial) cannot be enforced in and of itself. Instead, the amount of weight accorded to such agreements depends on the "precise facts and circumstances of the case" (*TQ v TR and another appeal* [2009] 2 SLR(R) 961 at [75]). In the circumstances, I see no reason to depart from the DJ's finding that a one-sided agreement which was signed by the Wife without obtaining legal advice ought not to be given any weight at all.

20 The Husband's final argument is that the Wife had dissipated some of her assets and failed to conduct full and frank disclosure of all her assets. He says that therefore, he should be granted an uplift of 10% of the final ratio for division, and in the alternative, an appropriate adverse inference should be drawn against the Wife.

21 First, the Husband alleges that the Wife withdrew a total of S$60,000 in December 2019, which was roughly four months after divorce proceedings commenced. In the hearing below, the DJ accepted the Wife's explanation that

she had withdrawn the money to pay rent, the children's maintenance and her personal expenses over three years. In coming to this conclusion, the DJ referred to the Court of Appeal's observation in *BOR v BOS and another appeal* [2018] SGCA 78 ("*BOR v BOS*") (at [75]) that "there must be some evidence which suggests on its face that the party in question has deliberately sought to conceal or deplete some assets which would otherwise be available for division." On appeal, the Husband says that there is no proof that the S$60,000 was not a one-time withdrawal and was instead multiple withdrawals of varying amounts over a period of three years. He draws a distinction between the present case and *BOR v BOS* by pointing out that the parties in *BOR v BOS* led lavish lifestyles but the parties in the present case do not. I am not convinced by any of his arguments. Since he asserts that the Wife has dissipated S$60,000, the burden is on him to prove the alleged dissipation. He has not adduced any evidence to discharge his burden of proof. Therefore, I see no reason to disturb the DJ's findings.

22 Second, the Husband says that an adverse inference should be drawn against the Wife as she did not disclose the bank records for several of her Chinese bank accounts as at the IJ date (*ie,* 15 June 2020). There are four bank accounts in question, namely, the Wife's ICBC account number ending 8949 ("Account 8949"), Min Sheng Bank account number ending 4783 ("Account 4783"), Bank of China account number ending 7590 ("Account 7590") and Agricultural Bank of China account. There is no information provided for this alleged Agricultural Bank of China account. In relation to Account 8949 and Account 4783, the Wife explained to the DJ that the latest figures available were that of 10 March 2021 as shown because she did not have internet banking to retrieve the earlier statements. The DJ acknowledged that the Wife should have made greater effort to obtain the

figures as at the IJ date but found that there was no evidence to suggest that there were large amounts in the bank accounts prior to the date. As for Account 7590, the DJ noted that the Wife was unable to confirm whether the account belonged to her. Although this was not a satisfactory answer in the DJ's view, she found that an adverse inference should not be drawn against the Wife without more than a bare allegation. On appeal, the Husband reiterates the same arguments without adducing any evidence in support. It must be emphasised that the burden of proof lies on him to provide sufficient evidence to justify the drawing of an adverse inference against the Wife (see *BOR v BOS* at [75]). He has not done so and therefore, the DJ's findings ought to be upheld.

23 Third, the Husband claims that the Wife only partially declared her China "CPF" moneys and retirement pension. In the hearing below, the Husband used handwritten calculations to justify his claims, without providing any official documents from the relevant Chinese authorities. As such, the DJ found that the Husband's calculations for the China "CPF" moneys and pension were speculative and could not be relied upon. On appeal, the Husband continues to make bare assertions that the Wife failed to make full and frank disclosure of these moneys. Therefore, I find that no adverse inference should be drawn against the Wife.

24 The Husband alleges that he was treated unfairly at the hearing below. He claims that during the AM hearing, he did not have the "first say" nor the "final say", and that he could not say anything without permission from the court. He further contends that the Wife's counsel had all those rights. I agree with the Wife's counsel that the Husband has misunderstood court procedure and has not adduced any evidence to prove that he had been prejudiced or accorded unfair treatment by the DJ. As such, I find that his allegations are completely unfounded.

25 I also dismiss the Husband's three summons applications. In HCF/SUM 141/2024, he seeks to adduce letters from the Wife's former lawyers dated 30 August 2019 and 11 October 2019 as evidence. These are not relevant to the current proceedings. Further, the letters were addressed to the Husband and accordingly, they would have been available to him during the AM hearing. In HCF/SUM 197/2024 and HCF/SUM 3/2025, he seeks leave to adduce fresh evidence on appeal and file further affidavits to exhibit the documents in his affidavits. Again, I see no reason to allow the applications as the evidence in question could have been obtained with reasonable diligence for use at the AM hearing. In any case, even if I were to grant the applications, the evidence does not have a significant effect on the case.

The Wife's appeal in HCF/DCA 19 of 2024

26 The Wife is appealing against the DJ's decision on the identification and valuation of matrimonial assets for division. In the hearing below, the DJ found that the Wife had two separate Bank of China accounts: (a) an account number ending with 2834 ("Account 2834") holding S$133,089.30; and (b) an account number ending with 5053 ("Account 5053") holding S$65,520.12. The DJ found that there was no evidence of both accounts being linked and therefore, both sums were added into the pool of matrimonial assets.

27 The Wife's only contention is that the DJ had erred in adding S$133,089.30 from Account 2834 into the pool of matrimonial assets. This is because Account 2834 is a "counterparty account" to Account 5053, with the former being a fixed deposit account and the latter being a savings account. The Wife says that each time she withdraws money from Account 2834, an equivalent sum will be deposited into Account 5053. All the money in Account

2834 had been transferred into Account 5053 and therefore, there was no money left in Account 2834 to be added to the matrimonial assets.

28 To support her assertion, the Wife filed HCF/SUM 184/2024 on 11 June 2024 to adduce fresh evidence, comprising:

(a) translated copies of the statements of Account 5053 for the transaction period from 5 September 2018 to 6 November 2021;

(b) a translated copy of the Deposit Historical Transaction Details List of Account 2834; and

(c) a translated copy of the combined transactions of Account 5053 and Account 2834 for the transaction period from 20 June 2019 to 21 September 2021.

29 I accept the Wife's explanation that at the time of the hearing below, she was unable to travel to China to obtain the fresh evidence from the bank due to the COVID-19 travel restrictions. Therefore, I allow her HCF/SUM 184/2024 application. The documentary evidence adduced by the Wife shows that on 7 September 2018, the Wife placed two deposits of RMB500,000 and RMB80,000 into Account 5053. The following day, on 8 September 2018, there was a withdrawal of RMB580,000 from Account 2834. Similarly, on 8 September 2021, the balance of RMB312,340 was withdrawn from Account 2834, which was then closed. Correspondingly, on the same date, an equivalent sum of RMB312,340 was transferred to Account 5053. This corroborates the Wife's testimony that both accounts are linked. I am therefore of the view that S$133,089.30 should not have been added into the pool of matrimonial assets.

30 For the reasons above, I dismiss the Husband's appeal in its entirety and grant the Wife's appeal. Parties are to file their submissions on costs by 28 February 2025.

- Sgd-
Choo Han Teck
Judge of the High Court

The appellant in person in DCA 14 of 2024 and the respondent in person in DCA 19 of 2024;
Lim Yong (Eldan Law LLP) for the appellant in DCA 19 of 2024 and the respondent in DCA 14 of 2024.