

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGHCF 5

Registrar's Appeal from the Family Justice Courts No 19 of 2024

Between

XEW

... Appellant

And

XEV

... Respondent

JUDGMENT

[Family Law — Matrimonial proceedings — Jurisdiction]

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XEW

v

XEV

[2025] SGHCF 5

General Division of the High Court (Family Division) — Registrar's Appeal
from the Family Justice Courts No 19 of 2024

Choo Han Teck J

16 January 2025

22 January 2025

Judgment reserved.

Choo Han Teck J:

1 The appellant (the “Husband”) and the respondent (the “Wife”) were married on 5 September 1992 in Norway. The Husband, aged 76, is a Norwegian citizen and he works as the managing partner of a Norwegian logistics company. The Wife, aged 52, is a citizen of the United States. She works as an interior designer and has a business that operates luxury villas in Bali, Indonesia. They have two adult children born in 1996 and 2002 respectively, and neither of them live in Singapore. On 17 April 2023, the Wife commenced divorce proceedings in Singapore. On 5 July 2023, the Husband filed SUM 2127/2023, seeking a dismissal of the Wife’s writ of divorce on the grounds that the Singapore courts have no jurisdiction under s 93(1) of the Women’s Charter 1961 (2020 Rev Ed) (the “WC”). On 26 September 2024, the District Judge (“DJ”) found that the Singapore courts have jurisdiction to hear the divorce. This is the Husband’s appeal against the DJ’s finding that he was

habitually resident in Singapore from 17 April 2020 to 17 April 2023 (the “Material Period”).

2 Under s 93(1)(b) of the WC, the Singapore courts will have jurisdiction to hear the matter if either party to the marriage is “habitually resident in Singapore for a period of 3 years immediately preceding the commencement of the proceedings”. It was agreed between the parties that in determining whether a party is “habitually resident”, two features are necessary — the residence must have been adopted voluntarily and there must have been a degree of settled purpose in residing in that jurisdiction: *Lee Mei-Chih v Chang Kuo-Yuan* [2012] 4 SLR 1115 (“*Lee Mei-Chih*”) at [6]. Where the features above are present, the court should also consider the length of time spent out of jurisdiction to determine whether the party had broken the continuity of habitation required to fulfil the “habitually resident” requirement: *Lee Mei-Chih* at [8] and [9].

3 In the hearing below, the DJ found that:

- (a) Although the Husband travelled extensively, he would always return to Singapore.
- (b) The Husband had not been liable to pay tax in Norway since 2005 and had been careful not to spend more than half the year in Norway to avoid becoming tax resident.
- (c) The Husband changed his residency status to being “Ordinary Resident” in Norway only in May 2023, after the Wife commenced divorce proceedings in Singapore. Prior to that, the Husband was based in Singapore. Furthermore, the Norwegian National Population Register

as at 21 July 2023 stated that the Husband “immigrated from” Singapore.

(d) The Husband maintained a residence in Singapore and had a valid employment pass during the Material Period.

4 On 23 June 2023, the Husband commenced divorce proceedings in Norway. On 29 April 2024, the Norwegian Court of Appeal dismissed his application on the basis that:

(a) The Husband had spent the last 13 to 14 years in Singapore.

(b) The Husband had run a business in Norway for many years while being based in Singapore.

(c) The Husband had not purchased a home of his own in Norway before relocating there on 17 May 2023. Even at the time of the hearing on 29 April 2024, he had yet to purchase such a home despite having a relatively high net worth.

The Norwegian Court of Appeal’s findings will become relevant for reasons I shall return to shortly.

5 Counsel for the Husband, Ms Bernice Loo (“Ms Loo”) advances her appeal on two principal grounds. First, she says that the DJ erred in finding that the Husband was habitually resident in Singapore during the Material Period because quantitatively, the Husband spent more time outside Singapore during the Material Period and qualitatively, the Husband’s presence in Singapore was not a settled one. Second, she argues that alternatively, even if the Husband was habitually resident in Singapore during the Material Period, it was broken due

to his long periods of absence from Singapore. This point, Ms Loo says, was not considered by the DJ.

6 Mr Gan Guo Bin (“Mr Gan”), who appears for the Wife, emphasises that the determination of habitual residence is not an exercise in mere arithmetic. Rather, the analysis must take into consideration the purpose for such residence. He says that the DJ was correct in finding that the Husband was habitually resident in Singapore during the Material Period because the Husband operated various Singaporean businesses and his travels out of Singapore, albeit extensive, were absences intended to be temporary and occasional. Mr Gan emphasises the point that only absences intended to be permanent would break the continuity of habitual residence. He submits that the DJ’s finding that Singapore was a fixed presence deliberately maintained by the Husband to return to from his travels, is correct.

7 The finding of habitual residence is a determination of fact. The fact that the Husband spent 19.5 months (out of 36 months) away from Singapore is not, in and of itself, determinative as he was a well-travelled businessman with commitments around the globe. What is more crucial is the Husband’s intention based on the objective evidence before me. In this regard, I disagree with Ms Loo’s argument that the Husband’s presence in Singapore was merely a transit stop. The DJ’s finding (see [3] above) that the Husband regarded Singapore as a base from which he operated is reasonable. In fact, the Husband permanently resided in a sailboat with cabins moored in Singapore. Although he did not own the sailboat, he effectively controlled it as the chairman and sole shareholder of the company that owned the sailboat.

8 Further, the Husband’s long period of residence in Norway (*ie*, approximately eight months) occurred in 2020, when COVID-19 travel

restrictions were in place. The Husband's deliberate conduct of applying to change his residency to Norway after the Wife's commencement of divorce proceedings in Singapore (see [3(c)] above) suggests that he was indeed resident in Singapore previously. As for the other countries (*ie*, France, Netherlands, Philippines, Vietnam and Indonesia), these are places that the Husband merely stopped by temporarily. Although the Husband decided in 2022 not to renew his Singapore employment pass which was due to expire in August 2023, he spent significantly more time in Singapore than any other country from 2022 to April 2023. The Husband's allegations that he had presence in Norway because he had properties and strong family ties are mere assertions which are not supported by evidence. More importantly, they are contradicted by the findings of a court of competent jurisdiction in Norway and affirmed on appeal by the Norwegian Court of Appeal, which we would defer to.

9 Ms Loo relies on the case of *Lee Mei-Chih* to support her argument that the Husband's extended periods of absence from Singapore broke his habitual residence here. *Lee Mei-Chih* is distinguishable on the facts. First, the plaintiff there had no residency nor employment status in Singapore, being a citizen of New Zealand and Taiwan. Second, the plaintiff had no concrete settled purpose of being in Singapore, such as education, family or employment. Third, the plaintiff was not found to be in the habit of travelling overseas frequently, be it for work or otherwise. Those facts differ from the present case, in which the Husband held an employment pass in Singapore, resided in a sailboat and frequently travelled overseas for business and/or leisure activities. The nature of absences during the Material Period in the present case does not evince an intention that displaces the Husband's settled purpose in Singapore.

10 In Mr Gan's written submissions, he addresses the DJ's decision on the parties' places of domicile. However, the notice of appeal filed by the Husband

only put in issue the DJ's specific finding on the Husband's habitual residency. Given that no cross appeal was filed by the Wife, there is no basis for me to address that in this appeal.

11 For the reasons above, I dismiss the Husband's appeal. Parties are to file their submissions on costs within 14 days of this judgment if they are unable to agree on costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Loo Ming Nee Bernice and Tan Si Ying, Gloria (Allen & Gledhill
LLP) for the appellant;
Gan Guo Bin and Quek Seng Soon Winston (Winston Quek &
Company) for the respondent.
