

JF v JG
[2005] SGDC 119

Case Number : D 602631/2003, RAS 720021/2005

Decision Date : 24 May 2005

Tribunal/Court : District Court

Coram : Khoo Oon Soo

Counsel Name(s) : Solomon Richard (Solomon Richard and Co) for the petitioner; Alagappan (A Alagappan and Co) for the respondent

Parties : JF — JG

Family Law – Custody – Custody, care, control and access – Personal protection orders previously issued against father – No allegation of recurrence of family violence by father – Social welfare report showing child to be responsive to and comfortable with father – Whether father disqualified from being custodial parent

Family Law – Maintenance – Maintenance for wife and child – Quantum of maintenance to be awarded

Family Law – Matrimonial assets – Matrimonial home – Division – Wife making no direct financial contribution to acquisition of matrimonial home but claiming indirect contributions in the form of looking after the home and the child of the marriage as a full-time homemaker – Whether wife should be given 50% share of matrimonial home

[EDITORIAL NOTE: The details of this judgment have been changed to comply with the Children and Young Persons Act and/or the Women's Charter]

24 May 2005

District Judge Khoo Oon Soo:

Background

1 The Petitioner/father is a Singapore citizen and the Respondent/mother is an Indonesian with Permanent Residence status in Singapore. Both were married in Singapore on 23 August 1995.

2 On 8 August 2003, the Petitioner filed for divorce on the ground of the Respondent's unreasonable behaviour. On 29 September 2003, the Respondent filed her Answer and Cross-Petition, also on the ground of unreasonable behaviour on the part of the Petitioner.

3 On 23 December 2003, a Decree Nisi was granted on both the Petition and the Cross-Petition on an uncontested basis.

4 The following ancillary matters came before me for hearing:-

- a. Custody of the only child, a girl, aged 8.
- b. Maintenance of the Respondent and the child.
- c. Division of matrimonial assets.

Custody

5 The main reasons cited by the Respondent for wanting custody were these:-

- a. It was for the child's interest that she is with the mother,
- b. There were Personal Protection Orders made against the Petitioner in 2002 (for the Respondent), in November 2003 (for the child),
- c. That she can adjust her working hours to care for her,
- d. She was the sole care-giver for the child.

6 On his part, the Petitioner cited these reasons for wanting custody:-

- a. The child was being cared for by three persons, namely, a baby sitter, his mother and himself,
- b. There has not been any complaint of family violence since the respective PPOs were made on 2002 and 2003,
- c. The Respondent left their matrimonial home on 23 December 2003, the day the Decree Nisi was made. Since then, he had been looking after their child,
- d. He has been and is able to provide for the child.

7 In deciding this issue, I considered all the facts and circumstances, bearing in mind the principle that the paramount consideration shall be the welfare of the child, as enunciated in Section 125(2) of the Women's Charter. I was also aware that "welfare" must be given its widest possible terms. See Practitioners' Library, Family Court Division page 147.

8 After due consideration, I was of the view that custody, care and control of the child be given to the Petitioner with access to the Respondent from Friday 3 p.m. to Sunday 6 p.m. In arriving at my decision I considered the fact that the Petitioner was in a better position to provide for the child. With a flat of his own, the flexible schedule as a taxi driver and the ready support of his own mother, I found the child would have a stable environment for her upbringing with the Petitioner. On the other hand, the Respondent was staying in a rented room and has no one in Singapore to turn to for support. She is in Singapore on a 5 year renewable Permanent Resident Pass. Her stay in Singapore is then uncertain. This would be unsatisfactory for the welfare of the child, a Singaporean at birth, if she was granted custody, care and control.

9 I was of the view that the PPOs of 2002 and 2003 did not disqualify the Petitioner to be the custodian parent. Since then, there had not been any allegation of a recurrence. The fact that the Respondent continued to stay in the matrimonial home until 23 December 2003 would support the conclusion that the Petitioner had

learnt his lesson with the issuance of the PPOs. It is also noteworthy that the Respondent also consented to a PPO against herself on 6 October 2003.

10 Further, the Social Welfare Report, dated 15 October 2004, shows that Petitioner was being counselled by MCYS regarding his upbringing of the child.

11 The same Report did not make any adverse finding against the Petitioner. On the contrary, the social welfare worker found that the child loved both parents, and wanted them to be reconciled. The Report further found the child was responsive and comfortable with him. The Report also confirmed the home environment of the Petitioner and Respondent as discussed above.

Maintenance

12 The Respondent had claimed monthly maintenance for herself (\$1,000) and for her daughter (\$1,500). The basis for this claim was that their combined monthly expenses came to \$2,567.50 per month.

13 The Respondent's own net income was about \$500. The Petitioner had claimed he was earning an average income of \$900 per month. Based on declared average incomes of both parties, the Respondent's claim was obviously excessive. Since custody, care of the child has been given to the Petitioner, it was necessary to order the quantum of maintenance for the Respondent only.

14 In considering this quantum, I bore in mind their previously standard of living. It was undisputed Respondent was looking after the home and was given \$700 per month for doing so. She is now renting a room and stays alone. Her personal expenses should not be too high compared to her monthly income. She claimed her monthly expenses amounted to \$1,270. This is beyond the standard of living she was used to.

15 For the foregoing reasons, I assessed the amount to be paid to her by the Petitioner to be \$200 per month.

Matrimonial Property

16 Their only matrimonial property is a 3 room flat which is registered in the sole name of the Petitioner. It was not disputed that the Petitioner was the sole contributor to the purchase of the flat. The Respondent made no direct financial contribution. However, there was no dispute that she did make indirect financial contribution. She was a full-time homemaker, looking after the home and the child. The issue was the quantification of her indirect contribution. The marriage lasted for about 8 years (25/8/95 – 23/12/03).

17 The Respondent's claim for 50% share was excessive. The Petitioner claimed Respondent was not entitled to any share in the flat. That was miserly.

18 In the case of Ong Cheng Leng v Tan Sau Poo [1993] 3 SLR137, the Court of Appeal awarded only 35% of the net proceeds from the sale of the matrimonial flat to the wife. In that case the marriage lasted 20 years. The parties had 3 children. The flat was purchased through the sole effort of the husband. The wife only provided indirect financial contribution by looking after the home for the 20 years of their marriage.

19 Considering the Respondent's indirect financial contribution and the length of the marriage, I assessed her share of the flat was 10% of the net market value of the said flat. I gave the Petitioner the option to either paying her this 10% in cash (in which case her name will be deleted as a permitted occupier), or to sell the flat and pay her 10% of the net proceeds.

20 I made no order as to costs.

21 The Respondent is dissatisfied with the decision of the Court and has appealed against my order of custody, care and control, maintenance and division of matrimonial property.

BACK TO TOP