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TJR

v

TJS

[2017] SGHCF 19

High Court — HCF/DCA No 197 of 2015
Choo Han Teck J
10 July 2017

Family law — Matrimonial assets — Division

28 July 2017

Judgment reserved.

Choo Han Teck J:

Pool of matrimonial assets

1 There is no error in the District Judge's finding that the matrimonial assets comprise: the HDB Flat, the car, the Wife's CPF and bank account monies, the Husband's CPF monies as well as the Italian property purchased by the Wife during the marriage. These are also undisputed.

2 I also accept the DJ's orders regarding the values of the individual assets as follows:

- (a) HDB Flat: \$240,826
- (b) Wife's CPF and bank account: \$19,965

- (c) Husband's CPF account: \$25,019
- (d) Car: \$5,000
- (e) Italy property: negative, given that its current value is less than outstanding loans on the property

TOTAL: \$290,810

Direct Contributions

3 The HDB Flat is the main matrimonial asset. I agree with the District Judge's finding, based on the records, that the direct contributions to the HDB Flat are as follow:

Husband:

- (a) CPF: \$64,490
- (b) Bank fees: \$3,000
- (c) Balance of 5% deposit: \$17,000
- (d) Stamp duty: \$134.25
- (e) Renovations: \$42,130

Wife:

- (f) CPF: \$34,460
- (g) Cash: \$27,216

4 Taking into account the parties' own assets, I find the following:

- (a) Total contributions by Husband: \$156,773.25

- (b) Total contributions by Wife: \$81,641
- (c) This is no different from the DJ's finding except for a calculation error in the Husband's direct contributions to the HDB Flat in the DJ's decision. The total cash paid by the Husband in the purchase of the house was found to be \$22,024.25 when it should only add up to \$20,134.25 from the record.

5 Total direct contributions: \$238,414.25

- (a) Ratio of direct contributions— 65.8:34.2 (Husband:Wife)

Indirect contributions

6 Taking into consideration the fact that the Husband was imprisoned for most part of their brief and childless marriage, I agree with the DJ that the indirect contributions by the Wife was minimal. There was also no evidence of the financial records of the Chinatown shop or how the profits, if any, went towards the household expenses.

Adjustments to the ratio

7 The Wife has not adduced evidence to prove that her salary as a model and secretary allowed her to fund the Italian property independently. I accept the District Judge's finding that the Wife had rented out the HDB Flat when he was in prison and find that the rental proceeds were transferred to purchase the Italian flat. The rental proceeds allegedly forming part of the matrimonial pool of assets would therefore presently be manifested in the form of the Italian property. The Italian property has been included in the pool of matrimonial assets. Since its valuation as of the date of the Ancillary Matter hearing was less than the outstanding loan against it, no value was ascribed to it. As I have found

that the Italian property was likely to have been substantially funded by the rental proceeds from the matrimonial home and loans, the direct contributions to the Italian property would be ascribed to both parties in equal proportion. I make no further adjustments to the ratio of direct contributions.

8 The pool of matrimonial assets shall be divided between the parties in the rounded off ratio of 65:35 (Husband:Wife), which is not at all far apart from the DJ's apportionment at 66:34 (Husband:Wife) for the flat which is the main asset.

Division of the Assets—Consequential Orders

9 Taking into account the parties' own assets, I am satisfied that it will be fair and reasonable for the HDB Flat to be divided in the ratio of 65:35 (Husband:Wife) in proportion to their direct contributions.

10 In full and final settlement of all issues relating to the division of property, I order that the HDB Flat be sold on the open market within six (6) months of the date of Final Judgment and the net sale proceeds, after repayment of the outstanding mortgage and interest, costs and expenses relating to the sale including agent's commission, be divided in the proportion of 65% to the Husband and 35% to the Wife. From their shares of the sale proceeds, both parties shall refund to their respective CPF accounts all the monies utilized for the purchase of the flat together with accrued interest. There shall be joint conduct of sale of the HDB Flat. Parties shall bear the cost and expenses of the sale equally.

11 Parties shall each retain the other assets in their own names, namely the car and CPF account monies in relation to the Husband and the CPF monies, bank account monies, and, the property in Italy, to the Wife.

12 The Registrar or Deputy Registrar of the Family Justice Courts shall execute, sign or indorse all necessary documents relating to matters contained in this order on behalf of either party should either party fail to do so within seven (7) days of written request being made to the party.

13 The orders below are therefore varied with each party bearing its own costs for the appeal.

14 There shall be liberty to apply.

- Sgd -
Choo Han Teck
Judge

Seenivasan Lalita (Virginia Quek Lalita & Partners) for the
appellant;
Patrick Chin Meng Liong (Chin Patrick & Co) for the respondent.
