

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

UBW

v

UBX

[2017] SGHCF 26

High Court — HCF/District Court of Appeal No 53 of 2017
Choo Han Teck J
23 October, 7 November 2017

Family law — Matrimonial assets — Division

13 November 2017

Choo Han Teck J:

1 This is the appellant-wife's ("Wife") appeal against the division and maintenance orders given by the District Judge below. Counsel for the Wife, Ms Lim Poh Choo, submitted, *inter alia*, that the District Judge erred in attributing a sum of \$4,315 allegedly spent on renovations as the respondent-husband's ("Husband") direct contributions towards the matrimonial home; that the Wife's share of indirect contributions should be increased as the District Judge failed to consider that the two children to the marriage were born premature and the Wife had dedicated time and energy to raise them and to train the domestic helper, and asked for a review of the maintenance awarded to the Wife and the two children or for a sum of medical expenses to be excluded from the award for the two children. With regard to the maintenance review, no submissions were made as to the appropriate sum that ought to be awarded.

2 The division of matrimonial assets, the grant of custody and access orders regarding the children, and the determination of maintenance, are complex matters and are often intertwined. There is therefore no clear and infallible formula to ensure a perfect adjudication of those issues when they arise in court. A judge at first instance have numerous factors to take into account in such cases, and may sometimes to fill gaps by substituting or consider reapportioning matters from one factor to another, just so that a fair distribution can be achieved. Hence, sometimes the court may award a higher percentage for non-monetary contribution if a division based on monetary contribution alone appears inadequate. The personal aspects of every divorce are always different, and so, precise precedents are hard to establish, but fair and equitable principles can be formulated and are often helpful for the task. One such principle is that although the appeal court in family cases review the cases afresh, it will not lightly disturb the findings and orders of the court below if the difference in opinion will not lead to a substantial change. It is axiomatic that in complex cases such as family disputes, judges may differ in their views in individual aspects of the case from that of the trial judge, but they may still agree in the final orders made.

3 I found the District Judge's findings in this case to be sound on the evidence. She had adopted the structured approach in attributing ratios for the parties' direct and indirect contributions before arriving at an average ratio. But the 8% uplift that the District Judge granted to the Wife on the basis that the children would be residing with her, and that the Husband had failed to pay the monthly instalments for the matrimonial flat, was inappropriate. In my view, the fact that the children would be residing with the wife is a consideration more relevant to the issue of maintenance. It is a prospective consideration whereas the structured approach ought to be based on the parties' past contributions in

the course of marriage. Secondly, the Husband's failure to pay the monthly instalments would already have been accounted for when calculating his direct contributions towards the matrimonial home.

4 But, in my view, the uplift awarded to the Wife would have accounted for the reduction in direct contributions on the part of the Husband, the increase in indirect contributions for the Wife and the extra sum for medical expenses for the children that the Wife was asking for but did not get. As such, I did not see the need to disturb the District Judge's final orders as they were just and equitable on the whole. For the reasons above, I dismissed the appeal.

5 The parties raised an additional issue before me in relation to the sale of the matrimonial home. Given that more than six months since the date of Final Judgment had passed, Ms Lim asked for an extension of six months for her client to sell the matrimonial home pursuant to the division order. The Husband responded by asking for sole conduct for the sale of the home, submitting that the Wife had been holding out for the best possible offer and took the view that the flat could be sold in a much shorter amount of time. The Husband explained that he needed the proceeds from the sale of the matrimonial home as soon as possible in order to purchase a place for himself to move into.

6 It is difficult enough to find a fair solution in matrimonial disputes when the parties whose interests are understandably reasonable but diametrically opposed. In cases such as this, there is only one matrimonial flat to divide; after which, the parties have to find separate flats to make their new homes individually. The new flat may likely cost more than they can each afford, and thus it may be in the interests of the one who is still occupying the flat to delay the sale as long as possible, but on the other hand, it will be in the interests of

the other to sell it as quickly as possible. There are many variations to this theme. So sometimes adjustments to the initial orders may have to be made, and sometimes not at all.

7 In the present case, balancing the interests of both parties, I ordered that the matrimonial flat be sold within three months from the date of judgment, being 7 November 2017, failing which the Husband may apply before me for sole conduct of sale.

8 As a final point, Ms Lim also addressed me on the point of future surgery expenses for the parties' elder son. She informed that the elder son was due for a surgery procedure and asked that orders be given for the Husband to bear a part of the expected costs. As there were no evidence before me as to the estimated costs of the surgery, or indeed as the Husband pointed out, when the surgery was expected to take place or whether it could be covered by existing insurance, I did not make an order in relation to the surgery expenses but granted the parties liberty to apply in future when more concrete information as to the expected costs or insurance coverage is available.

Choo Han Teck
Judge

Lim Poh Choo and Rekha Makalingam (Alan Shankar & Lim LLC)
for the appellant.
Respondent in-person;