

VLT v VLS and another
[2021] SGHC 67

Case Number : Originating Summons No 156 of 2021
Decision Date : 23 March 2021
Tribunal/Court : General Division of the High Court
Coram : Choo Han Teck J
Counsel Name(s) : Cha Yong Sing Ignatious and Yeo Poh Tiang (Yeo & Associates LLC) for the applicant; Yee May Kuen Peggy Sarah, Liaw Shu Juan Audrey and Chua Ru En Rachel (PY Legal LLC) for the first respondent; The second respondent absent and unrepresented.
Parties : VLT — VLS — CKI

Civil Procedure – Originating processes

23 March 2021

Choo Han Teck J:

1 The applicant is the wife of the first respondent. She is presently 54 years old and he, a year younger. The applicant (the “wife”) and the first respondent (the “husband”) were married on 25 April 1997 in Cook County, Illinois, United States of America. They have two sons, born on 29 September 2002 and 5 September 2005 respectively.

2 The wife is a Singapore citizen, and the husband is an Australian citizen. Their marriage had broken down and the wife filed FC/D 1031 of 2020 to divorce the husband on the ground that he had behaved in such a way that she could not reasonably be expected to live with him. The divorce proceedings are ongoing.

3 In the course of the divorce proceedings, the ownership of the matrimonial home at 6 Pandan Valley (“6 Pandan Valley”) became an issue and, consequently, the wife commenced this Originating Summons HC/OS 156/2021 (the “Originating Summons”) as the applicant, naming the husband as the first respondent and her mother as the second respondent (the “mother”). 6 Pandan Valley is in the wife’s sole name.

4 In this Originating Summons, the wife is seeking a declaration that 6 Pandan Valley is a matrimonial asset and that she holds 41.2% of the beneficial interest in it. The wife seeks, in the alternative, that the court determine the beneficial shares of the parties. I dismissed the Originating Summons and now set out my grounds.

5 There is no dispute that 6 Pandan Valley was the matrimonial home. In divorce proceedings, the matrimonial home will be dealt with as part of the pool of matrimonial assets available for division, but if, as in this case, a third party is said to be the beneficial owner of the property or a portion of it, that third party must file a claim by way of a suit stating the basis of her claim, that is to say, setting out her cause of action.

6 In this case, it is not clear what the mother’s cause of action is because she was made a respondent by the wife. The mother herself has not made a claim to the property, and since 6 Pandan

Valley is in the sole name of the wife, the property must be divided between her husband and her. A third party who has a claim must personally assert that claim as a plaintiff.

7 The wife's counsel was also unsure whether the mother is claiming as a beneficial owner of 6 Pandan Valley or whether she is claiming as a lender of part of the purchase price.

8 If the mother is claiming as a beneficial owner, then her claim may have to be founded on trust because the property is in the sole name of the wife. In that case, the mother would need to file a writ of summons, and the husband may have to apply to be joined as a party in order to challenge the mother's claim on the ground that it is he and not her that has a share in this property. If the mother is claiming as a lender, that would be a claim in contract, and the particulars of the contract would have to be pleaded.

9 Thus, this Originating Summons is flawed because the second respondent, and not the wife, ought to be the applicant. Secondly, the Originating Summons is flawed because the claim is dependent on fact and law, neither of which has been pleaded. And, assuming that the mother's claim is in trust or contract, the action will have to be commenced by writ unless the facts are not disputed, which is highly unlikely.

10 I therefore dismissed the Originating Summons without prejudice to the mother's right to file a suit as claimant of 6 Pandan Valley or part thereof, with costs reserved.