

UFU v UFV
[2021] SGHCF 26

Case Number : Divorce (Transferred) No 4267 of 2012 (Summonses Nos 44 and 90 of 2021)
Decision Date : 27 July 2021
Tribunal/Court : General Division of the High Court (Family Division)
Coram : Choo Han Teck J
Counsel Name(s) : Plaintiff in-person; Chong Siew Nyuk Josephine, Navin Kangatharan and Poh Wen Jing (Josephine Chong LLC) for the defendant.
Parties : UFU — UFV

Family Law – Maintenance – Child

27 July 2021

Judgment reserved.

Choo Han Teck J:

1 The plaintiff wife (“the Wife”) and the defendant husband (“the Husband”) both applied to vary the maintenance order made by Judicial Commissioner Foo Tuat Yien on 9 January 2017 (“the Order”). Parties have four children from their marriage, [C], [J], [S] and [H], who are respectively 20, 19, 17 and 13 years of age at the date of this judgment. H is attending secondary school in Singapore, and the other three are studying in the UK.

2 The Order made by JC Foo included, *inter alia*, one section on the maintenance for the children. There are three components of expenses where the maintenance of the Children is concerned:

(a) Under Component 1, the Husband agreed to be solely responsible for the Children’s UK educational expenses;

(b) Under Component 2, the Husband was to pay the Wife \$13,200 per month for the Children’s household, car, domestic helper and other sundry expenses in Singapore.

(c) Under Component 3, the Husband was to pay the Wife \$36,000 as an advance for the Children’s educational and medical expenses. The Wife would provide statements of every quarter’s expenses. At the end of its quarter, there would be an account to deduct what the Wife had spent in the previous quarter, and for the Husband to pay a sum to maintain the quantum of \$36,000 in the account.

3 The Husband applied by way of SUM 44 of 2021 to vary the maintenance such that the Husband shall pay the Wife \$4,250 per month as maintenance for the Children in relation to the Component 2 expenses, and \$3,000 for the Component 3 expenses.

4 The Wife applied by way of SUM 90 of 2021 to convert the monthly maintenance to a lump sum maintenance for three different components for the Children:

(a) \$1,422,204 for Component 1 expenses;

(b) \$528,000 for Component 2 expenses; and

(c) \$205,000 for Component 3.

5 The basis of the Wife's application is that the Husband is going to relocate to Thailand with his new family. The Wife claims that the Husband was not upfront about his plan to relocate to Thailand in his affidavit, even though he has planned to do so in October 2020. Further, that there is such acrimony between parties such that a clean break would be desirable.

6 The court's power to vary a maintenance order is set out in s 72(1) of the Women's Charter (Cap 353, 2009 Rev Ed). If there is proof of a change of circumstances, or any other good cause shown to the satisfaction of the court, the court may rescind the order or vary it as it thinks fit.

7 The basis of the Husband's variation application is that his income has been reduced, as he has retired from his former full-time position in an auditing and consulting firm to work on a 50% part time basis in the same firm. Another change of circumstances is that three of the Children have gone overseas to pursue their studies after the Order was made. C is expected to return to the UK to continue with university after taking a gap year. J has completed his "A" levels in the UK at boarding school, and has gained admission into a UK university. S is in a UK boarding school. Only H is still studying in Singapore.

8 For Component 2, the Husband seeks a reduction from \$13,200 to \$4,390-\$5,540 when C is in Singapore, and \$3,865-\$5,015 when C goes back to the UK for university. For Component 3, the Husband seeks a reduction such that he would pay an advance of \$3,000 per month into the Wife's designated POSB Account for the Children's school fees, private enrichment classes and medical expenses in Singapore. This is a reduction from the advance of \$10,000 stipulated in the Order. The Wife proposed a revised sum of \$9,011.10 to \$9,097.85 to be paid by the Husband.

9 While the Husband has retired from his full-time position in the accounting firm, he has taken on the position of a principal consultant in the same firm on a part-time basis. His monthly salary is around \$33,750 per month. This is a not an insubstantial income; affordability would not be an issue and would not in itself justify a reduction of the maintenance payment. However, I agree that there has been a change of circumstances insofar as three of the Children have left Singapore for tertiary or university education, except that C is back in Singapore for a short term for her gap year. Parties have informally agreed to reduce the sum to \$11,700 following C, J and S's departure to the UK.

10 In relation to Component 2, there are two major points of divergence between parties. First, parties disagree on the percentage or the ratio of total household expenditure the Husband ought to contribute. The Husband suggests that he should bear $\frac{1}{2}$ of the household expenditure, as the expenses should be divided between the Wife and H. The Wife, however, suggests that the Husband should bear $\frac{4}{5}$ of the household expenditure because the expenses should be divided amongst the Wife and the four children. I find that since the change of circumstances is that at least two children do not reside with the Wife for the time being, the ratio to be applied should be either $\frac{2}{3}$ or $\frac{1}{2}$, depending on whether C lives in Singapore.

11 Second, parties also disagree on some of the items in Component 2. To the extent that the Wife is able to justify the expenditure, I set out the total sum of the individual items, before applying the appropriate ratio depending on whether C lives in Singapore:

(a) Rent: the Wife's figure is \$4,809.24, including moving and storage costs; I allow the actual rental of \$4,200, and \$172.91 per month for storage costs as the Wife downsized to a smaller apartment as the storage would include the Children's items.

(b) Grocery: the Wife's figure is \$1,600 for a three-person household. I accept this as a reasonable sum.

- (c) Others: Parties agreed on the amount of \$1,139.
- (d) Car: I maintain the Order of JC Foo that this should be \$1,058.
- (e) Domestic Helper expense: I accept the Wife's calculation of \$1,407.64.
- (f) Sundry expenses: I accept the proposed figure of \$1,000.

12 Hence, the total expenses under Component 2 amount to \$10,578. If C is staying in Singapore, the Husband would contribute to 2/3 of the expenses, which amounts to \$7,052. When C leaves for the UK in January 2022, the Husband would contribute to 1/2 of the expenses, which amounts to \$5,289.

13 I allow the Husband's variation application in relation to Component 3. Parties do not dispute that the Husband would pay for C's counselling costs in Singapore. The Husband explained that Component 3 pertained to the Children's school expenses, private enrichment classes and medical expenses in Singapore. For three children who are now living in the UK, these expenses are no longer applicable. Only H continues to incur these expenses. Hence, the Husband proposed a sum of \$3,500 to cover H's expenses. The Wife counter-proposed \$5,000, on the basis that the total estimated expenses incurred by H amount to \$4,501.36. This sum includes \$2,655.86 for H's private enrichment classes and C's counselling costs (which amounts to \$1,095.35). A point of contention between parties is H's private enrichment classes. Insofar as these classes are ongoing, I am minded not to disturb the status quo. But I accept that the Husband should not be paying for expenses that are not actually incurred – this is in relation to H's science tuition class which has been terminated in January 2021. There would be a reduction of the sum of \$395.20, being the tuition fees for the science classes, based on the total estimated expenses of \$4,501.36 prepared by the Wife. Hence, the estimated expenses for the Children for Component 3 would be \$4,116.16. I therefore allow the advance payment sum under Component 3 to be reduced to \$4,200.

14 I allow the variation to Component 3 to be backdated to 5 July 2020 as that is when S has finished schooling in Singapore then, and there was no Component 3 expense incurred for C, J and S.

15 I disallowed the Wife's application for a lump sum maintenance by the Husband. A lump sum payment would be ordered if it presents a clean break in the marriage that helps to avoid further litigation. A lump sum order may also be ordered if there is reason to believe that defaults in payments are likely. Here, while the Husband has plans to relocate to Thailand, this does not mean that a lump sum maintenance payment is appropriate. There is no indication that the Husband has or will default on payment. None of the Children filed any affidavit to state that the Husband did not provide for them. Bearing in mind that H is still 13 years' old whose financial needs will change, and that parties have joint custody over four children, a clean break is not desirable in this case. I also accept that the relationship between children and their father is strong and there is a genuine interest in his keeping up with the maintenance payments.

16 To conclude, for the reasons stated above, I will allow SUM 44 of 2021 in part, and dismiss SUM 90 of 2021. I make no order as to costs.