

VLI v VLJ
[2021] SGHCF 27

Case Number : District Court Appeal (Family Division) No 25 of 2021
Decision Date : 28 July 2021
Tribunal/Court : General Division of the High Court (Family Division)
Coram : Debbie Ong J
Counsel Name(s) : Koh Tien Hua and Yoon Min Joo (Harry Elias LLP) for the appellant; Respondent in person.
Parties : VLI — VLJ

Family Law – Guardianship – Welfare of child

28 July 2021

Debbie Ong J (delivering the judgment of the court *ex tempore*):

Background

1 The background facts of this case are summarised in the Grounds of Decision (“GD”) of the District Judge (“DJ”) for OSG 102/2020 (at [5]–[6], [7]–[8]):

The Wife is a 27-year-old Israeli citizen and an architect by profession. ... The Husband is a 32-year-old Singaporean currently working as a service engineer. ... The parties met in Bangkok sometime in 2019. Shortly after, the Wife found herself pregnant and she gave birth to the Child in November 2019. The Husband proposed that the Wife relocate to Singapore and she took up his offer after meeting with his parents over Chinese New Year in 2020. On 2 April 2020, parties registered their marriage ... in Singapore. ... By July 2020, the marriage broke down. The Husband terminated the lease of a condominium in Bishan that the Wife was living in and refused to complete the application for the Wife’s LTVP with the ICA.

2 The Appellant in this appeal (the “Wife”), had sought, pursuant to the Guardianship of Infants Act (Cap 122, 1985 Rev Ed) (“GIA”) in OSG 102/2020, the “sole custody care and control of the child, [C], male, born on 1 November 2019 an infant (“the Child”)” as well as other orders (see [3] below).

Issue

3 The crux of this appeal involves the Wife’s application to obtain a Long Term Visit Pass (“LTVP”) to remain in Singapore. Her prayers in OSG 102/2020 includes the following (*ie*, prayer 3):

That the Defendant be ordered to reinstate restore or re-apply for the Plaintiff’s Long Term Visit Pass from the Immigration and Checkpoint Authority and to do all that is necessary to enable the Plaintiff to obtain the Long Term Visit Pass.

The DJ’s decision

4 The DJ “dismissed the Wife’s application and made no order as to custody and care and control of the Child” (GD at [13]). He “declined to make an order for the Husband to do all that is necessary to enable the Wife to obtain an LTVP” (GD at [13]). He explained (at [33] of the GD) that he was “not prepared to read section 3 of the GIA as giving [him] blanket powers under section 5 of the GIA to make a substantive order directly for the best interest of the Child, especially since the Wife’s

counsel is making this argument in isolation, independent of the issue of the custody of the Child” [emphasis in original].

5 In her Appellant’s Case, the Wife argues that the DJ had erred in finding that it did not have the powers to grant the LTVP Order under s 5 read with s 3 of the GIA, that the Court had erred in finding that it is not in the best interest of the Child for the Mother to remain employed in Singapore so that both can continue staying in Singapore, and that the DJ had erred in finding that the LTVP is the not the most appropriate course of action for the Mother.

My decision

6 I begin by asking the fundamental question: what is the dispute and what is the remedy provided by the law that the Wife seeks?

7 The present application is made under s 5 of the GIA. Section 5 provides that a parent or guardian can apply to the court to “make orders as it may think fit regarding the custody of such infant, the right of access thereto and the payment of any sum towards the maintenance of the infant and may alter, vary or discharge such order”.

8 The Wife’s application for an order to compel the Husband to apply for an LTVP for her is not in itself an application on the custody, access or maintenance of the child. Hence, she attempts to link her application to remain in Singapore to the welfare of the child and submits that the court has powers to make orders that are in the welfare of the child under s 5 of the GIA.

9 I note that there is little in the Wife’s Appellant’s Case on how this specific application is tied to the Child’s welfare. She has alluded to the submission that Singapore is a good place to raise a child and is the country in which the Child’s father is a citizen. She submits in her Appellant’s Case that “with the LTVP, there is a better prospect of obtaining employment and an employment pass and this in turn will go a long way to secure the Child’s residence in Singapore. ... this is in the best interest of the Child”.

10 When asked what s 5 (of the GIA) orders are sought here, the Wife’s counsel submits that this is an application for custody in s 5 of the GIA and this specific order is in the best interests of the child. Her counsel also submitted that the parties had agreed to raise this child in Singapore (at least before the marriage and its breakdown) and so the child should continue to have this benefit despite the marital breakdown.

11 In his Respondent’s Case, the Husband submits that if the Wife wishes to work in Singapore, “she could always have various options “work permit or employment pass” without the Husband undertaking document given to the authorities”. The Husband accepts that if the Wife chooses to return to Israel, the Child will go with her to Israel as well.

12 Indeed I observe that the Wife is seeking a very specific way of obtaining a status to live in Singapore where the ‘need’ for it, according her counsel’s submission, is to give her the runway to live in Singapore to look for a job. Further, this specific way involves certain sponsorship and guarantees by the Husband, who is no longer willing to take on the responsibility as this marriage has broken down. I note that the Husband pays a monthly sum for the maintenance of the Child.

13 Even if it is accepted that the prayer for the LTVP order comes broadly under an application for custody under s 5 of the GIA, I do not think it reasonable to seek such an order. The Wife is essentially asking the court to assist her in obtaining a specific immigration status to remain and work

in Singapore. It appears to be her personal preference to stay and work in Singapore. It is for the Wife to show how such an order is one that is related to the custody application such that the order sought is also an appropriate order that is in the child's welfare.

14 I observe that the Child himself is an Israeli citizen and not a Singapore citizen. I remind parties of the remark I had made in *UYK v UYJ* [2020] SGHCF 9 (at [3]–[4]):

The matter of where one wishes to live, to work or to raise children are personal decisions. Parents have their own personal aspirations for their child, and for themselves too. Whether a child should grow up in Country X which has, for example, a high incidence of racism or safety issues, or be raised elsewhere, is a matter for parents to decide. If Country X is home to the parents, they will have to deal with any issues arising there as responsible parents would. If the parents wish to move to Country Y, for example, a less developed country with undeveloped infrastructure but with lower incidence of racism and safety issues, it is their personal choice and they would have to make the necessary preparations to raise their child in that country.

In functioning families, the court would not be asked to make orders or give parenting advice on whether it is better for the child to be raised in Country X or Country Y. The court is asked to adjudicate a parenting dispute only because the parents' relationship has broken down, and the court is called on to protect the child's welfare and assist the family in moving forward.

15 It seems that the main interest the Wife is pursuing is to obtain a long term immigration status that allows her to live in Singapore. The proper authority to which the Wife should apply in order to obtain the necessary permission to stay and work in Singapore may be the Ministry of Manpower or the Immigration and Checkpoints Authority; the court is not the appropriate forum.

16 I do not see any good reason to interfere with the decision reached by the DJ in the court below. The appeal is dismissed.