

Gangadharan Gopi v Sartha d/o Venka Dasalam
[2009] SGHC 107

Case Number : D 604729/2002, RAS 720007/2009
Decision Date : 30 April 2009
Tribunal/Court : High Court
Coram : Tan Lee Meng J
Counsel Name(s) : Appellant/Petitioner in person; Lalita Seenivasan (Virginia Quek Lalita & Partners) for the respondent
Parties : Gangadharan Gopi — Sartha d/o Venka Dasalam

Family Law

30 April 2009

Tan Lee Meng J:

1 The appellant, Mr Gangadharan Gopi ("Mr Gopi"), who appeared in person, appealed against the decision of District Judge Tan Peck Cheng ("DJ Tan") on 12 February 2009 to vary her previous order on the division of matrimonial property and to order him to pay his former wife, the respondent, Mdm Sartha d/o Venka Dasalam ("Mdm Sartha"), arrears in maintenance fees, amounting to \$6,150. After hearing the parties, I dismissed the appeal and now give the reasons for my decision.

2 Mr Gopi and Mdm Sartha were married on 11 September 1982. They were divorced in 2004 on the ground that they had been separated for more than 4 years. The Decree Absolute was granted on 22 July 2004. At the material time, Mr Gopi and Mdm Sartha had 3 children and the latter was granted custody, care and control of all their children.

3 The other ancillary orders made by DJ Tan on 26 January 2004 that are relevant to the present proceedings are as follows:

(i) Mr Gopi was to pay Mdm Sartha \$50 a month for her maintenance, \$300 a month for her maintenance of their second child and \$250 a month for the maintenance of their third child.

(ii) The matrimonial property at Blk 249 Yishun Avenue 9 #02-199 Singapore 760249 ("the matrimonial property") was to be sold in the open market and Mdm Sartha was entitled to 25% of the nett proceeds of sale after payment of the costs and expenses of sale and payment of outstanding service and conservancy charges while Mr Gopi was entitled to the remaining 75%. Mr Gopi was required to put back into his own Central Provident Fund ("CPF") account the amount utilized from the said account for the purchase of the matrimonial property.

4 Mr Gopi appealed against DJ Tan's decision on maintenance and division of the matrimonial property. The appeal was heard in May 2004 by VK Rajah JC, as he then was, who dismissed the appeal and ruled that DJ Tan's orders on maintenance and division of the matrimonial property were to stand.

5 Subsequently, Mr Gopi sold the matrimonial property and purchased another flat for himself without paying Mdm Sartha her 25% share of the nett proceeds of sale of the matrimonial property.

6 To safeguard Mdm Sartha's position, on 12 February 2009, DJ Tan varied the Order of Court of 26 January 2004 as follows:

The CPF Board shall release from [Mr Gopi's] CPF account the sum of \$36,597.00 to [Mdm Sartha] being her share of the proceeds of sale of the matrimonial flat known as Blk 249 Yishun Avenue 9 #02-199 Singapore 760249 within 14 days of the service of this Order on the CPF Board.

7 DJ Tan also ordered Mr Gopi to pay Mdm Sartha arrears in maintenance fees amounting to \$6,150.

8 Mr Gopi appealed against DJ Tan's decision.

9 DJ Tan's order that the CPF Board release the sum of \$36,597.00 from Mr Gopi's CPF account to Mdm Sartha will first be considered. Mr Gopi asserted that that his former wife had done nothing to deserve 25% of the nett sale proceeds of the matrimonial property and that she would be "unjustly enriched" if \$36,597.00 was withdrawn from his CPF account for her benefit. He repeated the assertion that he had made in previous proceedings that Mdm Sartha had benefited considerably from the sale of another property that he and she owned. However, all these are irrelevant for the simple reason that the issue of Mdm Sartha's share of the matrimonial property had been conclusively settled in 2004 when VK Rajah JC affirmed the decision of DJ Tan that Mdm Sartha was entitled to 25% of the nett proceeds from the sale of the said property. As Mr Gopi has not paid Mdm Sartha the amount due to her (and indeed claimed that he had no money to do so), DJ Tan's order that the CPF Board release \$36,597.00 from Mr Gopi's CPF account to pay Mdm Sartha cannot be faulted in any way.

10 As for the appeal against DJ Tan's order to pay the arrears in maintenance fees, it was noteworthy that Mr Gopi had not complied with the maintenance order on numerous occasions. He said that his circumstances were now different as he had remarried and his health is failing. He proposed to pay the outstanding arrears in maintenance fees in instalments of \$50 per month. Understandably, Mdm Sartha balked at this proposal as it would take Mr Gopi more than 10 years to pay the arrears, which amount to \$6,150. Mr Gopi is entitled to file an application for the reduction of the maintenance fees payable by him but what is presently owed to Mdm Sartha must be paid forthwith.

11 On the question of costs, Mr Gopi said that he should not be made to pay Mdm Sartha's costs because he is a layman and his intention in filing the present appeal was merely to seek an "explanation" from the court on his position. Mdm Sartha's counsel, Ms Lalita, rightly pointed out that Mr Gopi knew exactly what he was doing when he filed his appeal documents. In the circumstances, her client was entitled to costs for the appeal.

12 For the reasons stated, Mr Gopi's appeal was dismissed with costs.