

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2025] SGFC 140

FC/D 5053/2022
Summons 1794 and 2035/2024
HCF/DCA 121/2025

Between

XWP

... Plaintiff

And

XWQ

... Defendant

GROUND OF DECISION

[Family Law – Custody, care and control of child -Variation of consent order]

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**XWP
v
XWQ**

[2025] SGFC 140

Family Court — Divorce No 5053 of 2022
23 May, 21 July 2025

9 January 2026

District Judge Shobha Nair

Introduction

1 The plaintiff (husband/father) and defendant (wife/mother) were married in September 2009 and have a daughter who turned 7 years of age in 2025. An Interim Judgement (IJ) was issued in 2022 dissolving the marriage. After what appears to be significant attempts at mediation, the parties agreed on the care arrangements for their daughter which is reflected in a consent order dated 3 April 2023. The daughter was 5 years old at the time. In 2024, both parties sought variation of the consent order, principally as it relates to issues of custody, care and control of their child. Having heard from the parties and having had the opportunity to speak with the child, I found no reason to change the terms of the order and accordingly dismissed the applications save that I no longer felt it necessary that the husband place a deposit of S\$20 000 with his

solicitors each time he takes his child overseas nor the need for the wife to retain all of the child's passports. The wife appeals against all orders.

Background

2 The husband is 60 years of age, a permanent resident in Singapore¹ and was at the time of the applications before me, retrenched from his position as a Director of Accounting for Sustainability at a company providing workforce solutions. He has since taken on an adjunct teaching position at a local university. He shared that with the income he receives from teaching, his savings and inheritance received from his late father, he is financially stable and does not at this time of his life need to take on another job. The wife is 50 years old and a Singaporean. She works part-time as a lecturer at a local polytechnic.

3 The parties were blessed with a child after 8 years of marriage and both agreed that they were equal partners in the care of their daughter in the early years of the child's life. The marriage faced difficulties and in 2021 the husband left the home. They were living with the wife's parents at that time. He filed for divorce in 2022. Through a series of mediation sessions, the parties agreed to the following:

¹ He has German and Swiss citizenship

Order of Court dated 3/4/2023

- a. Parties shall have joint custody of the only child of the marriage.
- b. Parties shall have shared care and control of the child as follows:
- c. ***Until August 2024***, the father shall have care of the child on Wednesdays, Thursdays and Sundays from 11 a.m. to Monday (when the child is dropped off at school);
- d. The mother shall have care of the child for the remaining period of the week;
- e. The father shall have liberty to travel with the child for 18 days in July 2023, 2 weeks in February/early March 2024 (after Lunar New Year) and 3 weeks in July 2024;
- f. ***From August 2024***, the father shall have care and control of the child from Saturdays at 2 p.m. to Tuesday mornings when she is dropped off at school;
- g. The mother shall have care of the daughter for the remaining period of the week;
- h. The parties agree to attend co-parenting counselling after the date of this Order with the child or any other independent counsellor mutually agreed upon between the parties. The parties shall attend the co-parenting counselling once a month, commencing within one (1) month from the date of this Order. Further, parties shall share the costs of the co-parenting counselling equally; and
- i. The child's school holidays shall be split equally between the parties, with parties having the liberty to bring the child overseas during their respective shares of the school holidays.

3. There will be no make-up access should either party miss their time with their child.
4. Unless mutually agreed between the parties, neither party shall enlist the assistance of non-family members to care for the child during their time with her and neither party shall place the child ins afterschool care.
5. Where either party travels overseas with the child, the travelling party shall provide the non-travelling party with prior notice of at least one (1) month, and shall also provide the non-travelling party details of the trip, including but not limited to flights, itinerary and contact details. The plaintiff shall deposit S\$20 000 to his solicitors' firm to hold as stakeholders, at least seven (7) days prior to his overseas travels with the child, upon which the defendant shall release the child's passports to the plaintiff in accordance with Clause 9 below.
6. Parties agree that the child shall continue to be enrolled at the XXX pre-school and thereafter she shall be enrolled at a local school.
7. The father shall register the child at the German Embassy before the end of 2023 and the mother shall do the necessary to facilitate and consent to the same including attending at the Embassy together with the plaintiff to attend to the application;
8. The father shall apply for Swiss and German passports for the child before the end of 2023, and the mother shall do the necessary to facilitate and consent to the same including attending at the Embassy together with the plaintiff to attend to the application;
9. All of the child's passports shall be retained by the mother. The defendant shall release the child's Singapore passport to the plaintiff at least 7

days prior to the father's intended travel overseas with the child. The father shall return the child's passport to the defendant within seven (7) days of his return to Singapore, upon which the father's solicitors may release the deposit of S\$20 000 to him; and

10. The parties agree that they shall respond within four (4) hours for urgent communication from the other party and within twenty-four (24) hours for non-urgent communications from the other party.

The present appeal

4. In summons 1749/2024, the wife sought the sole custody, care and control of the child, offering the husband access every Saturday afternoon to Sunday evening. She asked that reasonable access be given to the child's father on school holidays, on dates to be mutually agreed and subject to the child's school and co-curricular activities. She also agreed that the father should have the liberty to take the child on holidays overseas. In summons 2035/2024, which was the husband's application for variation of the consent order, he too sought sole custody, care and control of the child and offered access to the mother on weekends and an additional day in the school week. The wife claimed that the husband filed his application only in "retaliation" to the wife's application. The husband on the other hand, alleged that the wife was unhappy that maintenance for the child was not increased when they were before a different court on account of the shared care and control arrangement. Nothing turned in my view, on the allegations by each party on the motivations of the other. The husband also sought a rescission of the order requiring S\$20 000 to be placed as a deposit each time he travels with the child and that he be permitted to retain the German and Swiss passports for the child when these are issued.

5. On receipt of my orders, the wife's counsel sought further arguments on 4 August 2024 in relation to the ability of the husband to retain the Swiss and German passports of the child once these were issued. Counsel sought to present these further arguments largely on the basis that the court ought not to have interfered with some parts of a consent order while retaining others. I declined to hear further arguments and the wife's counsel appealed against all the orders, including the order rescinding the need for S\$20 000 to be deposited with the husband's solicitors when he travelled with the child. Given that the appeal was filed out of time, counsel sought an extension of time which was granted.

Variation of the Consent Order

6. Section 128 of the Women's Charter 1961 (2020 Rev Ed) allows a court to vary an order for the custody, care and control of children where it is satisfied that the order was based on any misrepresentation or mistake of fact or where there has been any material change in circumstances. S 129 of the Charter allows for the variation of terms that were agreed to between parties regardless of when the agreement was made and despite any provision to the contrary in that agreement where it is satisfied that it is reasonable and for the welfare of the child to do so. In this regard, the words of the court in *VWQ v VWR*² are instructive when it said that "*Generally, a consent order is a contract negotiated and agreed upon by parties, and the courts would be slow to re-write their contract. Privately settled terms negotiated by the parties, especially in family matters are to be encouraged. As such, they should be respected and not lightly changed. Otherwise, one party may lead the other to believe that obtaining a consent order would end their dispute, only to call in aid, the provisions in the*

² [2022] SGHCF 5

Women's Charter to vary their agreement when they feel that the bargain was not to their liking subsequently".³

7. Both parties rooted their arguments largely on there being a material change in circumstances since the consent order was issued in April 2023 and/or its unworkability. If anything, the changes in circumstance were of a nature which called for the retention of the consent order save for the need to relook the issue of conditions imposed in relation to overseas travel.

Custody of the child

8. The wife wanted the joint custody order to be varied to one that allows her to have sole custody. The main reason appears to be that the parties have different parenting styles and there was an inability to communicate effectively on matters which involve the child. The court in *VRJ v VKR*⁴ quoting the words of the court in *CX v CY*⁵ two decades ago, and emphasising its continued relevance today said "*The court grants sole custody only in exceptional circumstances, such as where one parent physically, sexually or emotionally abuses the child or where the parties' relationship is such that co-operation is impossible even after mediation and counselling avenues are explored and this lack of co-operation is harmful to the child*".⁶

9. Often marriages come to an end because of unmet expectations, an inability to communicate effectively or different parenting styles which may lead to constant conflict. These cannot be reasons for sole custody orders unless

³ Paragraph 9

⁴ [2024] SGHCF 29

⁵ [2005] SCGA 37

⁶ At paragraph 38

the nature of these challenges bear on the welfare of the child. If it were otherwise, most parents and in particular fathers of young children, may see their rights and responsibilities limited. This will invariably affect a child who has benefitted from the presence and involvement of both parents when times were better. When parties separate, the need for co-parenting becomes an imperative as the child who suddenly finds himself without one parent in the home should not have to accept the absence of that parent in decisions which affect him. Save for situations where one parent is intentionally disrupting decision-making, there is no reason to remove a parent from his or her varied roles as protector, provider, decision-maker and supporter. When there is a divorce between a husband and wife, it must never result in a divorce between parent and child which a sole custody order effectively signifies. Sole custody orders should only be issued in cases where the facts clearly support the preservation and enhancement of the child's welfare from such an order. Counsel for the wife relied on the cases of *Soon Peck Wah v Woon Che Chye*⁷ which defines child welfare and *AZB v AZC*⁸ where the court stated that a principled and pragmatic approach should be taken in determining material changes in circumstances. I was mindful of the court's guidance in the cases cited as I approached the facts of the present case.

10. One of the key examples the wife chose to highlight in order to show that parenting styles were vastly different was in the training of the child to use the toilet. The child today is 7 years of age, and this example even if viewed as something of significance, is no longer relevant. Another concern raised was that the husband would sign his daughter up for classes without informing the

⁷ [1997] 3 SLR® 430

⁸ [2016] SGHCF 1

wife.⁹ While clearly there needs to be communication between the parties on what the child's activities are or should be, the fact that the husband was willing to take the child for these activities when she was with him and pay for these classes reflects his interest in exposing the child to activities beyond academic pursuits. Different parenting styles stem from differences in the backgrounds of the parents and what they were exposed to, growing up. The question is not whether the styles are different but whether exposure to different styles is harmful to the child. The child clearly will not be hurt by swimming classes and exposure to different languages.¹⁰ There is of course the danger that too many classes may result in the child having little time to rest or prioritise school demands. However, there was no indication of that and these matters must be left to the parents to work through. Both parents would want the child to thrive and they both show a resolve to maximise her potential.

11. The wife narrated an incident which she submitted was an example of a lack of communication between parties. This related to a time when the husband returned from an overseas trip with his daughter in March 2024. The husband was alleged to have ignored calls from the wife and it was only 3 hours later that the wife found the child at her father's house. The wife speaks of how the child was "teary eyed" when the wife saw her and that she "...*had to assure [the child] that she could stay with the plaintiff if she wanted to*".¹¹ While the husband must certainly communicate with the wife who was anxious about the safe return of her child, I could not conclude that he had failed to do so intentionally. What perhaps is more telling is the response of the child. She wanted to stay on with her father and the mother ended up having to reassure

⁹ Paragraph 42 of wife's affidavit of 4 June 2024

¹⁰ Paragraphs 44-46 of the husband's affidavit of 1 July 2024 filed for summons 2035/2024

¹¹ Paragraph 44 of wife's affidavit of 4 June 2024

her that she could. While it is always more convenient to parent alone after a divorce, it is almost always not the right way forward for the child. In the present case, the involvement of the father in all areas of the child's life can only enhance her well being. He is able to guide her in her academic life, has the tools to help her regulate her emotions well¹² and exposes her to the richness of cultures through the diversity of the larger family, on both sides. A court should not interrupt this. The wife in applying for variation of the consent order sought that reasonable access be given to the husband on dates to be mutually agreed. The fact that she felt that they could agree on the dates suggests I would have to assume, that she has no issue communicating with the husband. Even if she spoke of the resistance of the father to her choice of primary school for the child, the fact is that the child has been enrolled in the primary school that the mother wished for. Continued co-parenting can work in this case and would certainly send the right signal to the child of the love and care of both her parents. As a child without siblings and the absence of support from the larger family on her father's side in Singapore, it would do little for the welfare of this child to reduce the support of her father.

12. The wife also pointed to the fact that the husband travels extensively as a further reason for a change in the current arrangement. However by the time of the hearing, the husband no longer was in a work capacity that required regular travel and informed that he was not intending to take on work which would require it. The wife pointed to a specific incident in the past where the husband had to engage the help of a cousin's daughter who flew in from Germany to care for the child when he had to travel. The reason for having done it was because the wife refused to care for the child during his period of absence from Singapore. The wife said "*However, sometime in November to December*

¹² Paragraph 31 of the husband's affidavit of 1 July 2024

*2023, the plaintiff was, again, required to travel overseas for work. By that time, I had already been frustrated with the frequency of work trips that the plaintiff had been taking and for which I have to cover for him. I was reluctant to cover for the plaintiff yet again as I did not want the plaintiff to form the habit in assuming that I was always available to cover for him.”*¹³ In the context of a marriage, where one spouse has to travel for work, the other continues to care for the children. It should not have to be different in the context of divorce. The husband was not intentionally taking on travel. He was not using it as an excuse to avoid being present. He chose a relative from Germany simply because the order prohibits a non-family member from being tasked. The reluctance of the wife to step in was also troubling and further entrenches the idea that she was happy to have the child with her father.

Care and Control of the child

13. At the time the consent order was made and shared care and control of the child was agreed on, the child was in preschool. The wife seeks for care and control with access to the husband from Saturday afternoon to Sunday evening every week. She speaks of the unworkability of the order for shared care and control. She also spoke of how the child was stressed having to shuttle between homes and the lack of co-operation on the part of the husband resulting in the child trying to meet the expectations of both parties as a result of different parenting styles.¹⁴ Acrimony is indeed a relevant factor in any analysis of whether shared care and control would be in the child’s interest.¹⁵

¹³ Paragraph 65 of the wife’s affidavit of 4 June 2024

¹⁴ Ibid. at paragraphs 29 and 30

¹⁵ *TAU v TAT* [2018] 5 SLR 1089

14. The wife emphasised that the child suffered from night terrors and insomnia. She also attributed the onset of facial tics which the child appeared to have experienced, to the fact that the husband told the child to keep secret, the plans and activities the child had with him. The wife also pointed to the transition between the two homes and school as distressing for the child and that she was not “carefree” because she would be wondering who would be picking her up from a school on any given day. The wife further spoke of the child having dyspnoea (shortness of breath) which she said the husband downplayed. The wife essentially was seeking care and control on the basis that this would provide the child with security, stability and certainty.¹⁶ The child having started primary school is an important factor when considering the need to have her under the care and control of one parent. It clearly is more convenient. In my view however, the present shared care arrangements served the child better and should not be disrupted.

(a) I met with the child together with a court psychologist on 25 June 2025. It was an opportunity and privilege to understand her feelings and to learn directly from her, how she sees herself, her parents and her life in school. She loves her parents and like most children, wants to ensure that they are not disappointed in her. She wants to be with both in the same home and is understandably sad that this is not possible. She did not find it difficult to travel from one home to school on a few days of the week and from another home to school on the remaining days. The difference in travel time between the mother’s residence to and from school and that of her father’s home to and from school, is negligible. As the husband put it, ‘10 versus 15 minutes’ does not make much of a difference.¹⁷ The father has put in place a pattern where the

¹⁶ Paragraph 32 of wife’s affidavit of 4 June 2024

¹⁷ Page 11A of Notes of Evidence dated 23 May 2025

child is fed well and cared for. So too has her mother. The child is in lower primary school and school demands are not such that she would be burdened from having to be in two different homes over the week. In *XCQ v XCP*¹⁸ the need for “constancy and consistency” was the basis on which the court varied a shared care and control arrangement. It is my view that these are the very reasons to keep the shared care and control in place in the present case. The child is familiar with the routine, feels comfortable with it, enjoys her time with both parents and she does not have to travel long distances after school to the different homes.

(b) In Singapore, where distances between places are not large and where children often spend time in the homes of grandparents, uncles, aunts or in student care centres as they wait to be picked up by parents daily or even weekly, the wife should feel confident that separate homes in and of itself do not go against the interests of a child. The nature of the arrangements is what one needs to be concerned about. Clearly in some cases, shared care and control does not work for the child. The parents here however are available and accessible to the child, take the effort to pick her up and drop her off at school, communicate with her teachers, tutor if needed, and are attentive to her physical and emotional needs as seen in the engagement of the child psychologist by the father to address the child’s night terrors.¹⁹ The child is familiar and happy with the arrangements and it affords the father time to nurture the relationship. It should not be a court that displaces the potential for a strong and supportive father-child relationship even as the child continues to grow well under the guidance and love of her mother.

¹⁸ [2025] SGHCF 26

¹⁹ Paragraph 33 of the husband’s affidavit of 1 July 2024

(c) The husband has a lot more time today that he has stopped full-time work and can afford the attention that the child needs. There is no longer a need to travel overseas for work. The concerns that the mother has with respect to the child's night terrors, insomnia and facial tics which she attributes to the need to move from one house to another is not borne out by the evidence. These incidents were when parties started to live apart and when the child was in preschool and she may have been stressed and anxious. The events however, occurred largely in 2023 and 2024. When I met her in the middle of 2025, she spoke of how she was doing much better. We had a very good conversation. If the parents co-operate, she is likely to do even better. The child needs time, space and peace to grow well. Only the parents can help her do that. The first step would be to communicate reasonably well with each other and compromise on issues that are close to the hearts of each parent. Importantly, allow the child to witness those efforts. When a parent is happy, a child often is too.

Termination of the need for a deposit and the retention of the passports by one parent

15. The need for the father to deposit a sum of S\$20 000 each time he travels with his child was not in my view a condition that should be kept in force. The husband was no longer represented by his legal counsel and it is unnecessary to retain it. If it was intended to secure the return of the child, it is of little value. The husband has been permitted to take the child overseas. In fact, the mother had repeatedly shown that she had no real concerns about the child being with her father. S\$ 20 000 would not serve to deter a man who intends to keep his child away from Singapore and her mother. It cannot in my view be fair to impose conditions such as this everytime a Singaporean marries a foreigner. There is nothing in the past conduct of the husband to suggest that he would not return to Singapore. He has travelled with his daughter many times and his

return to Singapore was not on account of the deposit that he wanted to have back. Agreeing to such a term may have been to provide some assurance to the mother initially but it cannot be for the long term.

16. Even though the consent order provides for the wife to hand the child's passport to the husband when he wants to travel with her, the wife had not done so at the time of the hearing for an intended trip during the school holidays. The wife's counsel said that this was because the wife wanted the return of the child's birth certificate held by the husband.²⁰ There is additionally the need for the wife to facilitate the issuance of the German and Swiss passports which was at the time of the hearing, still outstanding. There is no good reason for all the passports to be retained by the wife. I ordered that when the German and Swiss passports are issued, the husband is to keep them while the wife retains the Singapore passport. This is in keeping with the nature of the shared arrangements in place. The child is a child of parents from different cultures. The fear of a mother that her child would not return to Singapore if the father has access to passports can be appreciated, but there is no evidence to support this fear. If a court were to issue orders to mitigate the possibility of abduction, it must be because the evidence shows a real risk. In this case it does not. Both Germany and Switzerland are parties to the 1980 Hague Convention on the Civil Aspects of International Child Abduction and swift action can be taken against the husband who risks losing all contact with his child should he attempt to take the child out of Singapore without permission.

²⁰ Page 15E of the Notes of Evidence of 23 May 2025

Conclusion

17. There was no need to vary the consent order as it relates to the child's custody, care and control. She is thriving under the current arrangements and the father is more available to her now than when the consent order was made. The concerns with night terrors and insomnia appear symptomatic of a child caught in between parents she loves and would rather that they remained together. With time, a new and healthy norm has come about and she is doing much better today. As the child grows and school demands become greater, there may be a need to relook the terms. For now, it is important not to fix things which are not broken. The workability of the order is contingent on how the parties conduct themselves. Open communication and a resolve to put the child first will produce good results for the family as a whole. Insofar as overseas travel conditions are concerned, the futility of placing a deposit with a counsel the husband no longer has and allowing the wife to be the custodian of all the child's passports despite a shared care arrangement, logically and fairly called for a rescission of those orders.

XWP v XWQ

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Shobha Nair
District Judge

Plaintiff in person;
Audrey Liaw Shu Juan (PY Legal LLC) for the Defendant
