

BND v BNE
[2014] SGHC 30

Case Number : Divorce Transferred No 3375 of 2010
Decision Date : 18 February 2014
Tribunal/Court : High Court
Coram : Andrew Ang J
Counsel Name(s) : Gill Carrie Kaur (Harry Elias Partnership LLP) for the plaintiff; The defendant in person.
Parties : BND — BNE

Family Law – Matrimonial assets – Division

Family Law – Maintenance – Wife

18 February 2014

Andrew Ang J:

1 This supplementary judgment came about as a result of further arguments heard by me on 9 and 13 January 2014 at the request of the defendant [BNE] (“the husband”). The request was made four days after I had released my written judgment on 27 December 2013 (“the Judgment”).

2 Much of the further arguments were a repetition of arguments I had earlier heard in the ancillary proceedings. They therefore lay in the province of appeal and not further arguments. However, the husband did produce a copy of a letter from Goodwins Law Corporation dated 16 September 2010 (“Goodwins’ Later Letter”) enclosing a letter from the Central Provident Fund Board dated 3 August 2010 (“the CPF Letter”) which showed that the principal amount withdrawn from his CPF account to pay for the matrimonial home at [address redacted] was \$281,951.82 and not \$262,628 as computed by the court based on Goodwins’ earlier letter of 9 September 2010 (“Goodwins’ Earlier Letter”). On the strength of the CPF Letter, he sought an upward adjustment to the principal amount attributed to him as his financial contribution towards the purchase of the matrimonial property.

3 Ms Carrie Gill (“Ms Gill”), counsel for the plaintiff [BND] (“the wife”) objected to any such adjustment on the ground that the husband had been asked several times in the course of the proceedings to produce the CPF Letter but chose not to do so. That, according to Ms Gill, was because he wanted the benefit of the higher figure (comprising principal and interest) in Goodwins’ Earlier Letter rather than the lower aggregate figure in Goodwins’ Later Letter.

4 However, what was relevant was the principal amount that the husband had withdrawn and not the aggregate of principal and interest. The figure in Goodwins’ Earlier Letter was not broken down into principal and interest, and the court was therefore obliged to work out, as best it could, what the principal amount was. It arrived at the figure of \$262,628. When the husband saw that the principal amount attributed to him in the Judgment was lower than the principal amount in the CPF Letter, he then decided to produce the CPF Letter. The fact that he could produce the CPF Letter so quickly after the Judgment was released showed that he had the document with him all along.

5 Ms Gill argued that he ought to be penalised for having failed to produce the CPF Letter earlier when it was needed. I sympathised with that sentiment, but was disinclined to allow the figure inaccurately computed by the court to stay. Accordingly, I allowed the upward adjustment of the husband's financial contribution, resulting in his percentage contribution towards the purchase of the matrimonial home being increased from 79% to 79.5%. The wife's contribution was reduced *pro tanto* to 20.5% instead of 21%. The adjustments made to [7] of the Judgment are shown below:

Description / Party	Husband	Wife
Cash down payment	\$200,000	-
Total CPF contribution (excluding interest)	\$262,628 \$281,951.82	-
Stamp duty and legal fees	\$29,601.33	-
Mortgage payments	\$178,200	\$178,200
Total:	\$670,429.33	\$178,200
Direct financial contribution (%)	79% 79.5%	21% 20.5%

6 Consequential amendments were also made to other figures shown at [23] and [25] of the Judgment. For ease of reference, [23] and [25] bearing such amendments are set out below:

23 Adopting a broad-brush approach, I am of the view that an award of ~~36%~~ 35.5% of the matrimonial home's net sale proceeds (*ie*, ~~36%~~ 35.5% of \$1,084,341.74) to the wife would be just and equitable in the circumstances of this case. This award is made up of ~~21%~~ 20.5% for her direct financial contributions and 15% for her indirect contributions. In arriving at the latter figure, I considered all the circumstances of this case, including the wife's frequent travelling for business and the reduced time she would have had with the two children.

...

25 In total, therefore, I award the wife ~~\$558,363.03~~ \$552,941.05 or approximately ~~51.5%~~ 51% of the sale proceeds of the matrimonial home of which she has only received \$140,000 from the stakeholder account. The husband, on the other hand, has already received \$564,591.73 of the sale proceeds. This is made up of the \$80,000 deposit received from the purchaser; \$344,591.73 in respect of the CPF refund; and \$140,000 withdrawn from the stakeholder account. The balance of the award in favour of the wife is ~~\$418,363.03~~ \$412,941.05. I order that:

- (a) the amount of \$379,750.01 standing in the stakeholder account held by Veritas Law Corporation be paid to the wife;
- (b) the wife be entitled to ~~\$38,613.02~~ \$33,191.04 of the husband's CPF moneys pursuant to s 112 of the Women's Charter;
- (c) there shall be a charge imposed against the CPF moneys standing to the credit of the husband's CPF account in favour of the wife in the amount specified as follows:

Husband's CPF account against which a charge is to be imposed	Amount to be charged
Ordinary Account	\$38,613.02 \$33,191.04

(d) In the event that the actual amount standing to the credit of the husband's account stated above at the time when this order is served on the CPF Board is less than ~~\$38,613.02~~ \$33,191.04, the CPF Board shall impose the charge only on such actual amount as is available (the "Charged Amount");

(e) The CPF Board shall pay to the wife the Charged Amount or such amount as is payable after deducting the requisite sums under CPF laws:

(i) after the husband has died or has become entitled to withdraw CPF moneys from his CPF account under s 15(2) or s 27 of the Central Provident Fund Act (Cap 36, 2013 Rev Ed), whichever is earliest in time; and

(ii) upon an application by the wife for the withdrawal of the Charged Amount.

(f) monthly maintenance of \$1 be paid by the husband to the wife.

7 The husband also complained that the court's Notes of Arguments did not fully reflect his arguments. He alleged that therefore the court failed to consider his arguments. Admittedly, the Notes of Arguments were brief. However, the parties' contentions had been set out in a table which both sides prepared at my request setting out their respective assertions as well as their responses to the opposite parties' assertions. In addition, the husband's arguments were set out in his written "Skeletal Arguments" and affidavits. Thus, all the husband's arguments had been considered.

8 Finally, the husband complained that on the final day of hearing before judgment was delivered, he had requested the court to direct the wife to produce more bank statements to show the movement of moneys in her personal account with Overseas Union Bank ("OUB") in Singapore.

9 According to the husband, it was not until the wife filed her affidavit of 8 July 2013 (exhibiting in Tab 3 thereof certain pages of her OUB savings passbook to evidence her mother's transfer of capital to Singapore) that it occurred to him to allege that the wife had siphoned off, into her personal account, payments from trade debtors to their partnership firm [C]. If so, it is strange that in his affidavit of 26 August 2013, which was more than a month later, no such allegation was made. Moreover, Ms Gill pointed out that the existence of the wife's personal account with OUB was disclosed by the wife in her first affidavit of assets and means on 22 August 2011. At no time before the husband's affidavit of 11 November 2013 did he allege that the wife was depositing into her personal account, trade debts meant for [C].

10 Given that the husband, an accountant by training, was managing [C]'s business and keeping proper accounting records, it is difficult to believe that he would not have been alerted to the wife's alleged diversion of payments if invoices to trade debtors remained permanently unpaid.

11 Indeed, there are statements in his earlier affidavits which appear to contradict this allegation. Thus, in his affidavit of 29 September 2011, at p 12, para (xi)(3), he stated: "All sales proceeds and business expenses from [C] go into [C]'s business bank account ...". His much belated request on the last day of hearing on 18 November 2013 for the wife to produce statements from her savings account was nothing more than a request to be allowed to go on a fishing expedition after the fishing

boat had beached. Accordingly, his request was denied.

12 I also heard the parties on costs and ordered that costs of the ancillaries hearings (including those in Summons No 1571 of 2012) be borne by the husband, such costs to be taxed unless agreed.

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