

ZD v ZE and Another
[2008] SGHC 225

Case Number : DT 2668/2006
Decision Date : 28 November 2008
Tribunal/Court : High Court
Coram : Lee Seiu Kin J
Counsel Name(s) : Chia Chwee Imm Helen (Clifford Law Corporation) for the plaintiff; Tan Chee Kiong (Seah Ong & Partners) for the defendant
Parties : ZD — ZE; B

Family Law

28 November 2008

Lee Seiu Kin J:

1 On 11 September 2008, after hearing counsel for the plaintiff and the defendant ("the parties") on the issues of division of matrimonial properties and maintenance, I made the following order ("the Order"):

(a) I award the plaintiff 35% of the matrimonial assets on a global basis, with distribution as follows:

(i) Matrimonial home to be sold in open market and proceeds net of bank loan and costs of sale to be divided in the ratio 35:65 to plaintiff and defendant, each party to be liable for his/her refund to the Central Provident Fund Board ("CPF").

(ii) Apartment at X to be sold in open market and proceeds net of costs of sale to be divided in the ratio 35:65 to plaintiff and defendant.

(iii) Defendant to pay \$923,000 to plaintiff.

(iv) Plaintiff to transfer her share, interest and title in the Housing Development Board ("HDB") flat at Y to the defendant.

(v) Defendant to procure the assignment to the plaintiff of 35% of the debt owed to him by company A (amount: \$1,164,414.53).

(vi) Parties to keep for themselves the remaining matrimonial assets that are in their own names as follows: defendant's shareholdings in companies, defendant's bank account, defendant's CPF, defendant's Central Depository Pte Ltd ("CDP") shares, plaintiff's bank account, plaintiff's unit trusts, plaintiff's CPF.

(b) I award maintenance of \$1,500 per month on the basis of plaintiff's \$5,000 expenses but disallowing the \$1,200 for endowment insurance and deducting her income of \$2,300.

(c) Costs to the plaintiff to be paid by the defendant to be agreed or taxed.

2 On 8 October 2008, the plaintiff, who is the wife, appealed against the part of the Order providing that "the matrimonial home be sold in open market and proceeds net of bank loan and costs of sale to be divided in the ratio of 35:65 to the plaintiff and defendant respectively, and each party to be liable for his or her refund to CPF". As this part of the decision has to be seen in the context of the Order as a whole pertaining to the division of matrimonial assets, I shall give the grounds of decision for the entirety of that part of the Order.

3 The plaintiff is 44 years of age and the defendant 53 years. They were married in 1989. They have three children, who were born in 1991, 1993 and 1996. The plaintiff obtained interim judgment on an uncontested basis to dissolve the marriage on in 2006, after nearly 17 years of marriage. Through mediation, the parties were able to agree as to custody, care and control of the children and to their maintenance. The parties have shared custody of the children with the plaintiff having care and control and the defendant entitled to liberal access. The defendant agreed to an order to pay \$5,000 monthly towards the children's maintenance. The defendant would also continue to pay the premiums on various insurance policies that had been taken out in respect of each of the three children prior to the divorce. These premiums total \$19,445 annually.

4 The defendant is a director of company A, company B and company C. He receives income from all three companies which total about \$16,000 per month.

5 After she married, the plaintiff was employed in one of the defendant's companies, company A, doing up its accounts. In addition, the plaintiff was looking after the accounts of company B. The plaintiff was paid a monthly salary of \$2,319 by company A. She made use of her salary to pay for household expenses like groceries and tuition fees for the children. However the plaintiff's expenses charged to her credit cards are paid by the defendant. These average about \$3,400 per month.

6 In addition to working at company A and company B, the plaintiff had taken care of the home and the needs of the children. All three children are on medication for Attention Deficit Hyperactive Disorder and the plaintiff was the primary parent to them as the defendant was often absent. The plaintiff continues to work in company A, although on a part time basis from 2005 in order to better care for the children. The plaintiff stated that the main reason for breakdown of the marriage was the defendant's association with another woman with whom he had a child.

7 The first matrimonial home was an HDB flat at Y where the parties lived from 1990 to 2004. It is still owned by the parties and it is presently occupied by the defendant's parents. It was paid for by the defendant in full. The second matrimonial home was at Z which was purchased in 2000 and into which they moved in 2004. The plaintiff contributed about \$80,000 in cash and drew down from her CPF account the sum of \$108,000 to contribute towards the purchase. The defendant contributed cash of \$22,500, drew down the sum of \$555,000 from his CPF account and took out a housing loan for the remainder. To service the housing loan, each month the defendant drew down \$2,000 from his CPF account and paid another \$5,000 in cash.

8 The parties agree on the following valuations for the matrimonial assets sought to be divided:

Asset	Market Value	Remarks
Matrimonial home at Z	\$1.4m to \$1.8m	Outstanding loan \$1m

HDB flat at Y	\$200,000	
Apartment at X	\$700,000 to \$760,000	
Defendant's shares in various private companies	\$1,300,000	
Defendant's bank accounts	\$1,010,000	
Defendant's CPF	\$254,000	
Defendant's CDP shares	\$159,000	
Debt owed to defendant by company A	\$1,164,000	Defendant contends that this debt is locked up
Plaintiff's bank accounts	\$54,000	
Plaintiff's unit trusts	\$15,000	
Plaintiff's CPF	\$86,000	
Total	Approx \$5.6m net	

The parties agree that the plaintiff's direct contribution to the pool of matrimonial assets is about 6%.

9 In my view, given the varied nature of the assets, the most expedient manner of division would be to make a single division of all the assets, and based on this, to divide each individual asset in the most convenient fashion. Under s 112(2) of the Women's Charter Act (Cap 353, 1997 Rev Ed) ("the Act"), I must have regard to all the circumstances of the case, including the following matters:

- (a) the extent of the contributions made by each party in money, property or work towards acquiring, improving or maintaining the matrimonial assets;
- (b) any debt owing or obligation incurred or undertaken by either party for their joint benefit or for the benefit of any child of the marriage;
- (c) the needs of the children (if any) of the marriage;
- (d) the extent of the contributions made by each party to the welfare of the family, including looking after the home or caring for the family or any aged or infirm relative or dependant of either party;
- (e) any agreement between the parties with respect to the ownership and division of the matrimonial assets made in contemplation of divorce;
- (f) any period of rent-free occupation or other benefit enjoyed by one party in the matrimonial

home to the exclusion of the other party;

(g) the giving of assistance or support by one party to the other party (whether or not of a material kind), including the giving of assistance or support which aids the other party in the carrying on of his or her occupation or business; and

(h) the matters referred to in s 114 (1) of the Act so far as they are relevant.

10 In *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR 520 ("*Lock Yeng Fun*"), the Court of Appeal awarded a 50:50 distribution of the matrimonial assets. The parties were married for almost 30 years and had two children who were independent adults at the time of the divorce. The wife had been a homemaker from the outset of the marriage (with a short stint of employment when the husband was retrenched in 1992) while the husband enjoyed a successful career in banking until he was retrenched in 2000. During his employment, he was required to be based overseas for substantial periods of time and the wife had to look after the children on her own. One unusual feature noted by the court was that the wife never had the assistance of a domestic maid. By squirreling away her household allowance and investing it, the wife managed to amass a sum of about \$528,000. The husband had investments worth about \$230,000. The matrimonial assets comprised these two sums as well as the matrimonial home, a house sold for \$2.45m. The Court of Appeal ordered the matrimonial assets to be divided in equal shares. It should be noted that of the total matrimonial assets of \$3,208,000, the wife's direct contribution was some 16.5%. Another point to be noted was that the Court of Appeal set aside a lump sum maintenance award of \$60,000 given by the court below in view of the division.

11 The factors in *Lock Yeng Fun* were stronger in favour of the wife than in the present case. The marriage there lasted 30 years, and the wife's direct contribution was 16.5%, compared to 17 years and 6% respectively in the present case. Also there is an award of maintenance in the present case whereas the Court of Appeal had factored the maintenance provision in the division of the matrimonial assets in *Lock Yeng Fun*. I was therefore of the view that, in the circumstances of the present case and in view of the scale of the awards in other comparable situations, the division of 35:65 to plaintiff and defendant would be just and equitable.

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