

Peh Soh Kiat (mw) v Teo Wee Eng
[2003] SGHC 94

Case Number : Div P 3089/1993, SIC 601351/2002, 601589/2002

Decision Date : 15 April 2003

Tribunal/Court : High Court

Coram : Choo Han Teck J

Counsel Name(s) : Serene Chan Poh Choo (Serene Chan & Co) for the petitioner; Suppiah Thangaveloo (Thanga & Co) for respondent

Parties : Peh Soh Kiat (mw) — Teo Wee Eng

Family Law – Divorce – Ancillary matters – Application for increase in maintenance of children – Factors to consider

1 This is an application by the petitioner, now 48 years old, for an increase of maintenance for the two daughters to the marriage. She wants the respondent, now 51 years old (ex-husband) to increase the present amount of \$500 each to \$1,000 each. The couple was divorced in 1995 and after the decree was granted, a consent order was reached in respect of the ancillaries. The petitioner who is a remisier by profession took the five-room Housing and Development Board ('HDB') flat at Toh Yi Drive, and custody of the daughters then aged 10 and 12 respectively. The respondent who is a coffeeshop supervisor agreed to pay (and has been paying) maintenance of \$1,000 for the daughters. The petitioner now asks that the maintenance be doubled because the elder daughter is pursuing a course by distance learning from the Curtin University and the younger daughter also hopes to pursue a tertiary education later this year.

2 After the divorce, and having taken over the Toh Yi flat, the petitioner sold the flat and bought a three-room HDB flat where she has since been staying with her daughters. She still owes HDB \$82,000 for the flat. In 1999 she bought a private apartment at Aura Park for \$750,000 and still owes the bank about \$540,000 for it. She thus has a general debt of about \$622,000. She says that at last valuation in December 2002 the Aura Park flat was worth \$600,000. Her present income is \$4,000 comprising of \$2,000 gross salary and \$2,000 from the rental of the Aura Park flat. She says that the rental income goes almost entirely to the payment of the mortgages on her properties.

3 The respondent has since remarried with two young children about 8 and 12 years old respectively. His wife used to help him in running a school bus service but that business has closed and she has since been unemployed. His salary as a coffeeshop supervisor is about \$1,200. However, he had inherited about $\frac{2}{3}$ shares in a house at Trevoise Crescent. Two of his siblings own the remaining $\frac{1}{3}$ share. The respondent's share of the rental from that house is \$5,600. He had disputes with his siblings over the house. They had been to court over it and Mr Thanga, counsel for the respondent, tells me that Justice Lai Kew Chai had directed that the house is not to be sold until the lease has expired. That is due in the later part of 2005. Neither party has much cash in hand. The respondent holds \$10,000 in his account as the rental deposit for the Trevoise Crescent house and that has to be returned in due course.

4 After listening to the submissions of Mr Thanga, and Miss Chan, counsel for the petitioner, I am of the view that the incomes and assets of the parties are as set out above even though both sides made allegations that the other had not been truthful about their respective incomes. Miss Chan submitted that the respondent's CPF statements show a sudden drop after the petitioner filed this application for increase in maintenance. Before that, she said, the CPF contributions were consistent with an income of \$4,000 a month. Now, it is consistent with \$1,200 a month.

5 Mr Thanga stated that the extra income previously was the sum of \$8,000 which his coffeeshop employer paid him to cover expenses when he was sent to China to inquire into the possibility of opening a coffeeshop there but there was no evidence from the coffeeshop owner to support this assertion. However, without more, I would be slow to conclude that the respondent had falsified his income from the coffeeshop. He would, in any event, have to maintain his CPF payments and continue his declaration of income to the Inland Revenue Services.

6 In a counter-attack, Mr Thanga pointed out that the petitioner had falsified her assets by stating that she had closed her Post Office Savings Bank ('POSB') account when a statement from her Development Bank of Singapore account shows a transaction coming from the POSB account which had purportedly been closed. This took Miss Chan by surprise and she was not able to explain.

7 Having regard to all that has been put before me and the many affidavits that had already been filed, I decided not to pursue this allegation because I am of the view that the money existing in the account before it closed and all the evidence relating to the income and assets of the petitioner lead me to conclude that the petitioner probably did not have much assets to conceal.

8 In the context of the findings I make above, I am of the view that the application for an increase in the maintenance should be dismissed. It appears to me that both parties are financially stretched to their limits. On the balance, it appears that the respondent has a greater income, but he too, has his family to maintain, and a mortgage of his HDB flat to pay. I believe that he would, if required, be able to afford to pay \$150 more towards each of the daughters of his first marriage. But to make an order in this way would be wrong in principle because it would be an order made purely on the ground of charity. The petitioner's reason for the increase in maintenance is that the daughters need the extra money for their tertiary education. But it is undisputed that the younger daughter has not even qualified for a place in a tertiary institution. If she decides to enter the job market instead the maintenance may no longer be necessary. This application was therefore made prematurely, and in my view, the natural inference is that the petitioner may be short of money but for other reasons. But the petitioner is not truly impecunious in that she had purchased a private flat which is an asset to herself after the divorce. The only reason that she is not prepared to sell it is that the sale would not give her the capital gains that she would have liked. Hence, if she prefers to keep the asset, then she must balance her budget accordingly. So, even though the respondent is better off than she he ought not be compelled to make further sacrifices under present circumstances.

9 It must not be forgotten that the maintenance is for the daughters. It is true that over the years, the costs of maintenance may increase, but in this case the amount agreed was reasonably high from the outset so far as this family is concerned, and having reviewed the needs of each daughter, I am satisfied that \$500 is still adequate. Finally, it ought to be reiterated that the petitioner's reason for the increase is the increase expenses for their tertiary education but as I had mentioned earlier, that has not come fully to pass.

10 There will be no order in respect of this application but the petitioner is given leave to apply should the circumstances change. Each party is to bear his own costs in respect of the present application.

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