CYX v CYY
[2003] SGHC 29

Case Number	:	DIV P227/2000, RAS 720089/02
Decision Date	:	19 February 2003
Tribunal/Court	:	High Court
Coram	:	S Rajendran J
Counsel Name(s)	:	Ms Tan Yew Cheng (Leong Partnership) for the appellant (husband); Ms Lucy Netto (Netto Tan & S Magin) for the respondent (wife)
Parties	:	CYX — CYY

Family Law – Divorce – Ancillary orders – Division of matrimonial assets – Apportionment of proceeds of sale of matrimonial flat – Custody, care and control of children as relevant factor to be considered.

Family Law – Divorce – Ancillary orders – Maintenance – Quantum of maintenance – Whether wife ought to make contribution towards maintenance of the children where husband has custody, care and control.

1. The parties were married in May 1987. They have two children, a daughter born in November 1988 and a son born in August 1990. The daughter was a Secondary 3 student and the son was in Secondary 1.

2. The marriage broke down primarily due to the discovery by the petitioner ("the wife"), in December 1997, that the respondent ("the husband") was having an affair. In January 1999, the wife left the matrimonial home. The wife commenced divorce proceedings in 2000 and decree nisi was granted in May 2001. Except for a brief period between June and September 2000 when they were with the mother, the children have lived with and been cared for by the father since the wife left the matrimonial home.

3. The District Judge ("DJ"), in dealing with the ancillary matters, made, inter alia, the following orders:

(1) The husband to have custody, care and control of the two children with access to the wife once a month in the presence of a counsellor.

(2) The matrimonial flat in Kallang be sold in the open market and the net proceeds of sale divided between the husband and wife in the proportion: 60% to the wife and 40% to the husband. Each party was to reimburse his or her own CPF account from his or her share in the proceeds of sale.

(3) There be no maintenance for the wife.

(4) There be no contribution by the wife towards the maintenance of the children.

The husband, dissatisfied with the decisions in (2) and (4) above, appealed against the DJ's decision.

Division of matrimonial flat.

4. The learned DJ, in a fairly detailed judgment, has given her reasons why she apportioned the matrimonial flat in the ratio 60:40. In doing so, however, the DJ formed the view that the husband's and wife's direct financial contribution towards the matrimonial flat was 44% and 56% respectively. This was incorrect. The direct contribution by the husband was 62% and by the wife was 38%. If the renovation loan taken by the wife was factored in, the percentage would be 55% contribution by the husband and 45% contribution by the wife. I would note that the husband claimed that he too had made very substantial contributions towards the renovation costs and looking at the evidence, it is more likely than not that he had.

5. The error by the DJ, in respect of the respective direct contributions of the parties to the purchase of the matrimonial flat, would have affected her decision in the apportionment of the flat. As the DJ had misdirected herself in this regard, I reviewed the available evidence

and came to the determination that an equitable apportionment of the matrimonial flat would be 50% to the husband and 50% to the wife with each party reimbursing their respective CPF account with his or her share of the proceeds. In arriving at this apportionment, I also took into account the fact that custody, care and control of the two young children was in the hands of the husband.

Maintenance of children.

6. Both parents in this case were working professionals earning good salaries. The children, who are now in their early teens, were brought up in a middle-class environment and their education had always been supplemented with tuition and enrichment classes. Looking at the expenses of the children and the available resources of the parents, I felt that it would be appropriate in this case to vary the order of the DJ by making an order that the wife contribute $500 per month towards her children's maintenance.

7. I therefore allowed the appeal to the extent indicated above. The wife, dissatisfied with those orders, has now appealed.