IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2022] SGHCF 20

District Court Appeal (Family Division) No 139 of 2021

Between

WAA

… *Appellant*

And

VZZ

… *Respondent*

JUDGMENT

[Family Law — Custody — Care and Control]
[Family Law — Custody — Access]
[Family Law — Maintenance — Child]

Version No 1: 01 Aug 2022 (09:01 hrs)

This judgment is subject to final editorial corrections approved by the court and/or redaction pursuant to the publisher's duty in compliance with the law, for publication in LawNet and/or the Singapore Law Reports.

WAA
v
VZZ

[2022] SGHCF 20

General Division of the High Court (Family Division) — District Court Appeal No 139 of 2021
Choo Han Teck J
28 April, 20 May and 18 July 2022

29 July 2022 Judgment reserved.

Choo Han Teck J:

1 The parties were married on 5 February 2012. Interim Judgment was granted on 11 January 2021. The parties have a daughter (referred to as "A"), born in April 2015, and a son (referred to as "B"), born in March 2017. On 18 October 2021, the District Judge the "DJ") ordered, *inter alia*, the parties to have joint custody of the two children, with care and control to the Mother and access to the Father. The DJ also held that there was no conclusive evidence as to who paid for the jewellery in the parties' possession, and she therefore divided the jewellery equally between the parties ("AM Orders"). In HCF/DCA 139/2021 ("DCA 139"), the Father appeals against the DJ's decision on the issues of care and control, access, maintenance and the division of jewellery belonging to the parties.

2 The Father prays that care and control of both children be granted to him with access to the Mother and in the alternative, that the parties have split care and control, or shared care and control of the children. The Father says that he is the better parent for care and control as, *inter alia*, the children will be cared for after school by his parents and himself, as compared to being in the childcare centre for the whole day as proposed by the Mother. The Mother says that the current AM Orders should be upheld.

3 Subject to the warning I gave to her, I agree that the Mother should have care and control of the children. I emphasise that this is not because the Mother is the "superior caregiver", but because the children seem comfortably adjusted to living with her. At this point, the children have been living with the Mother for almost ten months. It is in the interests of the children to have continuity and not disruption in their care arrangements. Although the Mother relies on the assistance of a childcare centre for the children, I agree with the DJ that there is nothing wrong with that. The children can better learn and socialize at the childcare centre. Having interviewed the children on 5 May 2022, I am of the view that split care and control is also not a feasible option. The children clearly share a close bond with each other, and it will not be in their interests to separate them. The Father's proposal of shared care and control is also not feasible as the parties are unlikely to give each other the co-operation that shared care and control requires.

4 In the event that care and control is not reversed, the Father seeks more access time with the children. The Father asks for an increase of weekday dinner access to twice a week for a longer duration, longer overnight access, half of the March and September holidays, access on the eve of alternate public holidays, longer Deepavali access and birthday access on the children's birthdays and his birthday. He also asks for an order for liberal phone and video call access with

Version No 1: 01 Aug 2022 (09:01 hrs)

no interference by the Mother. He asks that the Mother is not to arrange for enrichment classes during his access unless he agrees, and that the children are to attend his family events. The Mother says that the Father presently has liberal access to the children and does not agree to the additional access that the Father seeks. The Mother also requests for the Father to have supervised access as she is concerned for the children's safety during their access time with the Father.

5 In my view, the present access orders allow the Father sufficient time with the children, but I agree that dinner access from 5.00pm to 7.00pm is too short as he has to factor in travel time during peak hour. As extending the access time too late into the night would not be in the welfare of the children who are young and attending school, I will order that dinner access will be from 5.00pm to 8.00pm. I also think that it is reasonable that the Father is granted access on his birthday and on the children's birthdays from 5.00pm to 8.00pm, as this allows both parents to spend time with the children on their birthdays.

6 In respect of the Father's request for uninterrupted phone and video call access, I will not make an order on this, but remind the Mother that she is, as far as possible, not to disrupt these access periods. I will also not make a specific order that the Mother is not to arrange for enrichment classes during the Father's access period, but strongly discourage the Mother from doing so. If the Father's family has events that he wants the children to attend, he should be permitted provided reasonable notice is given to the Mother.

7 There is no need for the Father's access to be supervised. Having interviewed the children, I find that there are no exceptional circumstances that require or justify supervised access. While the Mother alleges that the Father has been violent towards the children, in my assessment, there has been no physical abuse inflicted by the Father on the children, and they clearly do not

Version No 1: 01 Aug 2022 (09:01 hrs)

regard him with fear or trepidation. There is thus no reason why the Mother should be preventing the Father's access. The Mother is reminded to ensure that the Father is able to have access to the children during the court-ordered access times.

8 The Father also seeks an order that if B remains in the Mother's care and control, he is to continue attending his current preschool. The Mother does not agree to this as his current schools are far from the Mother's residence. Since the Mother is to retain care and control of both children, I think that the Mother should be allowed to transfer B to a school that is nearer to her residence and thus make no order on this. However, the Mother should find a school with fees that are similar to or approximate that of B's current preschool.

9 In respect of the children's maintenance, the Father seeks an order that his share of the children's maintenance sum be reduced from $2,200 to $875 per month. The Father says that the DJ had overestimated A's expenses and wrongly extrapolated B's expenses. Firstly, the Father says that the DJ had included for A, in excess, the amount of $155 for items such as books and uniform, haircuts, birthday parties, shoes, jewellery and insurance, although there was no mention in the Mother's affidavit that A had indeed incurred such expenses. Secondly, the Father says that the allowance to be allocated to the children's grandmother for babysitting them should not be $400, but only $200 as this amount is to be shared between both children. Thirdly, the Father also says that the DJ failed to consider that the children have Child Development Accounts ("CDA") accounts that can be used to subsidise the children's medical and educational expenses. Fourthly, he also says that he should not have to pay for A's ballet and piano classes since the Mother unilaterally decided to enrol her in those classes. Lastly, the Father also says that B's current maintenance sum includes fees for kindergarten and phonics classes, although B does not regularly attend the

former and has completely stopped attending the latter. The Father had previously estimated A's expenses at $1,000 and B's expenses at $1,870. The Mother says that the DJ's findings should be upheld. The DJ had adopted the Father's calculations of B's expenses and A's expenses are similar to that of B's.

10 In view of the children's age and the parties' income, I think that the DJ's calculation of the children's maintenance sum is fair and reasonable. The amount of $155 allocated are for items such as books, uniforms and haircuts, which children of A and B's ages are reasonably expected to incur. The allowance of $400 allocated to the children's grandmother covers the costs of caring for both children and is reasonable. I also accept that the monies in the CDA accounts should not be unnecessarily drawn down from and where possible, should be conserved for the children's future use. The costs of A's ballet and piano lessons are also not excessive and the Father should share in this expense. However, since the Mother says that B has stopped attending phonics classes since December 2021, I agree that this amount should be deducted from B's list of expenses. While the Mother says that B will be entering a full-day childcare programme, resulting in an increase in his education costs, I agree that this is speculative. I therefore deduct $420 from B's expenses. The Father is to bear 62% of the children's monthly expenses, which amounts to $1,985, in accordance with the orders below.

11 The Father also prays for an order for the Mother to return all jewellery belonging to the children and himself respectively. The Father says that the Mother is currently in possession of all the gold jewellery and therefore, it would be inequitable and unjust to enforce the AM Order for parties to retain the gold jewellery in their own possession. The Mother says that the current AM Orders should be upheld.

Version No 1: 01 Aug 2022 (09:01 hrs)

12 In my view, the Mother, as the parent with care and control of the children, is entitled to keep the jewellery that belongs to the children. I note that the Father had adduced receipts of jewellery purchased from Ishtara Jewellery Pte Ltd, showing that he has purchased a diamond earring, diamond necklace and a "bracelet baby". Without more, it appears that they were purchased for the Mother or children. While the Father seeks the return of his jewellery, he has not adequately proved that the Mother currently has jewellery in her possession that belongs to him (and not herself or the children).

13 For the aforementioned reasons, DCA 139 is allowed in part, to the extent stated above. I make no orders as to costs.

- Sgd -
Choo Han Teck
Judge of the High Court

Seenivasan Lalita and Lim Ying Ying (Virginia Quek Lalita & Partners) for the appellant;
Rachel Hui Min De Silva and Chow Hai Man (Tan Rajah & Cheah) for the respondent.

Version No 1: 01 Aug 2022 (09:01 hrs)