

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2022] SGHCF 21

District Court Appeal No 50 of 2022

Between

UKS

... Appellant

And

UKR

... Respondent

JUDGMENT

[Family Law — Custody — Care and control — Relocation]

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UKS

v

UKR

[2022] SGHCF 21

General Division of the High Court (Family Division) — District Court
Appeal No 50 of 2022
Choo Han Teck J
5 August 2022

11 August 2022

Judgment reserved.

Choo Han Teck J:

1 Two veterinarians from Ireland had a relationship that bore them a son, born in Ireland on 18 August 2015. The parties are not married. The Father is 50 years old, and the Mother is 44. The Mother is a Singaporean citizen with residency rights in the United Kingdom (the “UK”), and the Father is an Irish citizen. The parents and child lived in Tralee, Ireland until 7 February 2017 when the Mother brought the child back to Singapore for a holiday, and then decided that they would not return to Ireland.

2 The Father applied to the Family Justice Courts (“FJC”) for the return of the child (FC/OSF 113/2017). His application was made under the International Child Abduction Act (Cap. 143C) (“ICAA”). His application was granted on 2 February 2018, and it was ordered that the child be returned to Tralee, Ireland. The Mother appealed to the High Court (HCF/DCA 11/2018).

The matter ought to have been dealt with as an appeal on the merits, but the High Court directed the parties to apply to the Irish Court to determine questions of guardianship, a matter that could have been resolved at the appeal. Nonetheless, the parties appeared before the Irish Court but ended up in mediation. This resulted in a settlement, signed by them on 22 May 2019, and endorsed by the Irish Court as a consent order, perfected on 19 June 2019 (the “Consent Order”).

3 The settlement reflected various agreements, the salient parts being that the parties remain in Ireland for six weeks before the Mother and child be permitted to travel Singapore for 12 months, but after that, they were to relocate to the UK, and not Ireland, by December 2020. It was also agreed that the previous proceedings before the Singapore court be rescinded, and the Consent Order under the Irish Court shall be made “orders before the Singapore Courts”. This resulted in the parties recording an identical order of court in Singapore. That order has been referred to by the parties as the “Mirror Order”. Another important term of the Consent Order is that the Father be appointed the guardian of the child, under both Irish and Singapore law.

4 Trouble brewed after the Mother arrived back in Singapore with the child for the agreed 12-month stay. The Mother claimed that the child no longer wished to see his Father, and on that ground, denied the Father access to the child. The Father thus applied on 1 December 2020 for an order that a psychologist be appointed to examine and determine whether there was parental alienation, and for orders relating to having the parties return to the UK (FC/SUM 3799/2020). The Mother returned salvo and filed an application on 24 December 2020 (FC/SUM 4087/2020). She wanted an expert to assess the

child, and for a stay of the relocation order under the Consent (and Mirror) Order.

5 Both summonses were heard before the District Judge (the “DJ”). On 31 August 2021, the DJ ordered a stay of the relocation order until the order is varied or set aside because the Father had, in the meantime returned to Ireland, and the DJ was not sure if the Father would return to Singapore. This was a factor he thought important because the psychologist, [Dr A], recommended therapy for the child that required the physical presence of the Father.

6 The Father appealed to the High Court in HCF/DCA 116/2021 (“DCA 116”), but his appeal was dismissed on 9 November 2021 with liberty to apply “...if he encounters difficulties in returning to Singapore to engage in the therapeutic interventions recommended by [Dr A]”. The Father filed FC/SUM 4412/2021 on 16 December 2021, stating his difficulties in coming back to Singapore. Essentially, he is a veterinarian and is unable to find a job in Singapore due to his difficulties in attaining an Employment Pass (“EP”). The litigation has made it impossible for him to find a steady job even in the UK and he needs to settle down so that life can return to him professionally as well as domestically. The DJ allowed his application, and thus the Mother appealed before me.

7 The dispute before me as well as before the DJ, and the High Court Judge in DCA 116, revolved around the feasibility of the therapy for the Father and child. The parties had accepted that the Father could appoint a therapist of his choice, and the Father chose to appoint [Therapist B]. The parties are unable to agree on whether [Therapist B] would be able to carry out the therapy in the UK. The Mother claims that [Therapist B] would not be able to because she

(Therapist B) had indicated previously that she would conduct the therapy in Ireland. The Mother says that the therapy should either take place physically in Singapore, or remote therapy should be carried out. The Father says that there is no agreement on this because there is no specific order that [Therapist B] be the appointed therapist, and the Father can appoint one when the parties are relocated to the UK.

8 The Father's counsel went to great lengths to substantiate his argument that the Father is unable to find employment in Singapore, going into the details of the requirements of an EP and the outcomes of his various job applications. Instead, the Mother would be able to return to the UK to work with relative ease. The Mother's counsel states that there are available job positions in Singapore. The Father also does not need an EP, as he can travel to Singapore for therapy and treatment on a short term visit pass. The Mother also says that in any case, the relocation to the UK should not be confined to East Molesey, UK. She filed HCF/SUM 187/2022 to adduce an affidavit for the purposes of the present appeal. This affidavit further details her considerations for employment and accommodation in the UK that she wishes to consider relocating to, and the choice of schools for the counties that she wishes to relocate to. In view of my decision on the appeal, the matters relating to this affidavit are irrelevant here. The summons is dismissed with costs.

9 The Mother also objects to the therapy being conducted in her absence, quite forgetting that the entire exercise was to reconcile the Father with the child. The absence of the Mother in the circumstances may not be a bad thing. But all this is not crucial. This appeal concerns the DJ's order rescinding his stay of a previous order that the parties relocate to the UK. The how, why, who,

and where regarding the child's therapy for reconciliation with the Father is a secondary issue that has drawn everyone away from the main and most important point in this case — that the Mother had wrongfully disobeyed a court order obtained by consent.

10 I will reiterate the main episodes of this dispute for convenience. The Mother took the child from Ireland where he and his parents were living, to Singapore, ostensibly for a six-week holiday. She then refused to return to Ireland. The Father obtained a child abduction order from the FJC. The Mother appealed and the High Court directed the parties to apply to the Irish Court to determine who has guardianship of the child, born in Ireland. The parties settled and a consent order was recorded by the Irish Court in which the Father was appointed the guardian of the child. In spite of that, the Mother took the child back to Singapore, with leave for 12 months, and was to relocate to the UK no later than the expiration of the 12-month period. The Mother refused to relocate.

11 There had been two court orders, one in Singapore, under the ICAA, and the Consent Order endorsed by the Irish Court, in which the main orders were express and clear — the father was to be appointed guardian of the child, and the parties and the child are to relocate to the UK. That order must be obeyed. The claim that the son, only seven years old, refuses to see his Father is an obvious pretext for refusing to comply with the court order. Whether the child needs therapy, and how that is to be carried out is a matter to be determined in the UK. The Mother's appeal before me has absolutely no merits. The relocation must not be delayed. That order had been flouted for too many years as the child was fast growing up. This appeal is dismissed.

12 I will hear the question of costs at a later date. There are far more pressing matters for the parties to attend to so that the relocation can take place.

- Sgd -
Choo Han Teck
Judge of the High Court

Yap Teong Liang and Tan Hui Qing (T L Yap Law Chambers LLC)
for the appellant/mother;
Linda Joelle Ong (Engelin Teh Practice LLC) for the
respondent/father.
