

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2023] SGHCF 34

Divorce (Transferred) No 2504 of 2018
(Summonses Nos 235 of 2022, 27 and 133 of 2023)

Between

VHK

... Plaintiff

And

VHL

... Defendant

GROUND OF DECISION

[Family Law] — [Custody] – [Access]
[Family Law] – [Custody] – [Care and control]

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.

VHK

v

VHL

[2023] SGHCF 34

General Division of the High Court (Family Division) — Divorce
(Transferred) No 2504 of 2018 (Summonses Nos 235 of 2022, 27 and 133 of
2023)

Choo Han Teck J

25 October 2022, 6, 8-10, 14 February, 8, 12 May, 21 July 2023

25 July 2023.

Choo Han Teck J:

1 The plaintiff (the “Mother”) and the defendant (the “Father”) solemnized and registered their marriage in Singapore on 19 March 2013 and married again (as recorded in their joint summary) on 28 March 2013 in the United States of America (“US”). The Father is a 57 years old American citizen residing in the US where he works as a specialist doctor. The Mother is 48 years old and is a Singapore citizen. She holds a master’s degree from a university in the US. She was formerly the owner of an online tutoring business and a part-time account manager. Her current employment status is unknown.

2 The parties lived in Hawaii from 2013 until they relocated to Florida in 2014. Their daughter was born on 26 March 2014 in the US (“the Child”). She is now 9 years old, and holds both Singapore and American citizenships. In early

2016, the Mother left the Father and moved back to Hawaii with the Child, where she subsequently filed for divorce in September 2016. However, pending the outcome of her divorce application, the Mother had relocated to Singapore with the Child in early 2018. Therefore, given that she was no longer domiciled in the US, her divorce application in the US was dismissed on 30 May 2018 for lack of jurisdiction.

3 On 31 May 2018, the Mother commenced divorce proceedings in Singapore. Interim judgment of divorce was granted on 13 November 2018 and the ancillary matters (“AM”) were heard by Tan Puay Boon JC on 15 November 2019. Prior to the AM hearing, the parties made numerous applications to the court, concerning interim maintenance, interim access to the Child, and cross-applications for committal proceedings. The following were some of those interim orders made:

- (a) under FC/ORC 2667/2019, the Father was to contribute monthly interim maintenance of \$4,055.00 and \$2,400.00 respectively for the Child and the Mother with effect from March 2019;
- (b) under FC/ORC 1705/2019, the Father was granted interim access pending the making of the ancillary orders; and
- (c) in committal proceedings brought by the parties respectively in FC/SUM 2447/2019 and FC/SUM 2977/2019, both the Mother and the Father were found to be in breach of FC/ORC 1705/2019 and fined.

4 Tan JC gave his decision on the AM on 24 June 2020. He gave joint custody of the Child to the parents, and care and control to the Mother, with access to the Father. Tan JC was of the view that the Mother was more suitable

to be the primary caretaker of the Child. Since 2018, the Mother and the Child have been residing in Singapore. The terms of the Father's access included video access thrice per week, three weeks of access during the Child's summer vacation when the Father travels to Singapore, and Christmas access on alternate years when the Mother brings the Child to visit the Father in the US. The Father's access was ordered to be a hybrid of supervised and unsupervised access, to facilitate the cultivation of the father-daughter relationship.

5 The AM orders were not operationalised smoothly and led to further disputes between the parties — the Father requested for further arguments, and the Mother complained to court on two other occasions. Tan JC heard these matters on 12 November 2020. By this time, the parties had discharged their counsel, and appeared in-person. At the hearing, the parties raised issues concerning access orders made by JC Tan. The main issue was the Father's allegation that the Mother had been violating the video access orders — that the Mother was uncooperative and did not want to communicate with him directly. The Father further said that the Mother had been disruptive during the stipulated video access times, by hanging up the call on him and pressuring the Child to hang up on him. He said that the Mother's conduct amounted to parental alienation, which had caused the video access arrangements to “deteriorate to the point where [the Child] doesn't talk at all anymore”.

6 After hearing the parties on 12 November 2020, Tan JC made amendments to the original AM orders, of which the following are pertinent to the present proceedings:

- (a) for urgent travels involving the Child, notice of travel is to be provided to the Father as soon as practicable if there was no opportunity to give one month's notice;

(b) for travels involving the Child, the Mother is to provide the contact number of a third party whom the Father could reach in the event of any emergency;

(c) the first visit of the Child to the US, subject to the prevailing restrictions on travel because of the Covid-19 pandemic at that time, was to be in 2021 during the Christmas vacation. The first visit of the Child to the US during the summer vacation was to be in 2022, subject to mutual agreement and to the prevailing restrictions on travel due to the COVID-19 pandemic; and

(d) video access sessions by the Father to the Child are to take place on Tuesdays, Thursdays and Sundays. Each session is to commence at 7.30pm Singapore time, and would be for a minimum of 15 minutes and limited to a maximum of 30 minutes.

7 The Mother continued to disregard the orders of Tan JC, and consequently, the Father made applications for committal against the Mother. Previously, in mid-2019, there was an application by the Father in FC/SUM 2447/2019, for committal for the breach of the consent order (dated 28 March 2019) See [3] above. The Mother was held in contempt for failing to give the Father the requisite unsupervised access, the requisite advance written notice of 3 hours for any cancellation of video access, and video access. The Father had also breached the same consent order, and FC/SUM 2977/2019 was the Mother's application for committal against the Father. The court found the Father in contempt for making disparaging remarks against the Mother to the Child. On 16 December 2021, the Father filed HCF/SUM 363/2021 for an order of committal for contempt of court with respect to the orders made by Tan JC. On 18 May 2022, Debbie Ong J (as she then was) found the Mother only to be

in breach of Tan JC's orders pertaining to the division of matrimonial assets. She held that she was not in breach of the access orders because of the disruptions due to the Covid-19 pandemic. She imposed a fine of \$3,500 but suspended it for two weeks for the Mother to purge the contempt. The Mother did not purge the contempt and duly paid the fine on 19 August 2022.

8 Dissatisfied with the access orders, the Father applied in HCF/SUM 235/2022 to vary the access orders made by Tan JC, which I heard on 25 October 2022. He asked for overseas access where the Child would travel to the US to live with him for three weeks, with unsupervised overnight access. I varied the orders made by Tan JC, and ordered the Mother to bring the Child to Florida from 24 December 2022 to 6 January 2023. I also asked to see the Child in February 2023. In breach of my order, the Child was not brought to the US to see the Father.

9 The interview of the Child was fixed for 8 February 2023. On that day, the Mother appeared — alone. She told the court that “the Child does not want to see the Court”. I impressed upon her the coercive force of a court order and gave the Mother another chance to comply with the order by fixing another interview the next morning. However, the Mother replied, “I would state on record that she does not want to see the Court”. On 9 February 2023, she appeared before me — again alone. She maintained that the Child did not wish to see me and added that “[the Child] is American and knows her rights”. She added that the Child had a message for the court, but declined to permit the Child to attend court.

10 Apart from disobeying the orders to bring the Child to the court, the Mother also failed to comply with my previous orders in HCF/SUM 235/2022,

in particular, the order to bring the Child to the US for the Father to exercise his overseas access. The Father thus commenced HCF/SUM 27/2023, for leave to commence committal proceedings against the Mother. I granted leave on 10 February 2023, and a hearing date was fixed for 8 May 2023. As the Mother faced the prospect of imprisonment for contempt of court, I asked the Father to appear in person so that care and control of the Child may be transferred to him temporarily in the event that the Mother is held in contempt of court.

11 On 8 May 2023, the Mother was absent, and according to the Father, the Mother had sent him an email on 3 May 2023 that read “Destination: Annecy [a city in France]. Date: 3 May 2023. Emergency contact: same”. On the same morning, the Mother had written an email to the Registry of the Family Justice Courts and the Father, saying that she was unable to return to Singapore as the Child, who was with her, had been feeling unwell. The Mother had taken the Child overseas just before the hearing and did not turn up on the day of the hearing because the Child was allegedly ill. There was no indication of what the illness was, nor was there any medical certificate evidencing the illness. I thus ordered a warrant of arrest for the Mother on 8 May 2023, and adjourned the hearing to 12 May 2023. I also ordered that the Child Protection Services (“CPS”) take steps to take over care and control of the Child until further arrangements can be made. At the hearing on 12 May 2023, five days after the Child’s alleged illness, the Mother was again absent. She sent another email to the Registry stating that the Child is still unwell. Again, no evidence was provided by the Mother to show that the Child was unwell, despite this being the second hearing the Mother had failed to attend. I then made the following orders:

- (a) that the Father's committal application in HCF/SUM 27/2022, the summons for variation of the access orders in HCF/SUM 235/2022 and the summons to vary the care and control orders in HCF/SUM 133/2022 are to be adjourned to a date to be fixed;
- (b) in the interim, that the Child is to be taken into custody by the CPS as soon as she returns to Singapore;
- (c) the CPS is to ensure that the Father has access according to the existing access orders, with video-link access to take place without the presence of the Mother; and
- (d) liberty to the Father to apply for two weeks full access.

12 I asked the Father whether he was still having video access with the Child. He said that it was practically meaningless because the Mother turned off the microphone so that the Child could not speak. She also turned off the speaker so that the Child could not hear him. I asked if all he had was just to see the Child's face on the screen. He said not even that because the Mother used the Child's hair to cover her (the Child's) face.

13 On both hearing dates in May 2023 the Mother was as defiant as she had been in all previous appearances before this and other courts. Judges try to bear with impertinence, knowing that some rude people may eventually be won over, and others, safely channelled into oblivion simply by ignoring them. But no court should ignore or condone a blatant defiance of its orders, for the court is a public office in service of society. The judge is not pampering his own ego by punishing the offender. He is upholding the honour of the office and maintaining

respect not so much to him but that office. I was thus left with no alternative but to order a warrant for the Mother's arrest.

14 The warrant was issued on 10 May 2023 by the police. The Mother has not returned and the warrant has not been executed. The Father applied under HCF/SUM 133/2023 on 11 May 2023 to reverse the previous order for care and control. That summons, together with the HCF/SUM 27/2023 for committal and HCF/SUM 235/2022 to modify access orders were fixed for hearing on 21 July 2023.

15 On 21 July 2023, the Father and the Mother both appeared via Zoom. The Mother refuses to disclose her physical location on the ground that there is a warrant of arrest against her, thereby evincing a clear intention of evading arrest. The Mother could have asked for the warrant of arrest to be rescinded on her undertaking to return, but she did not. It has been more than two months since the warrant was issued on 10 May 2023. The Mother has always been in touch via email and zoom. She is clearly using the warrant of arrest as an excuse to flee jurisdiction. I made no order as to HCF/SUM 235/2022 as events have overtaken its relevance, especially with HCF/SUM 133/2023 in which the Father seeks to reverse the order for care and control. He asked for his summons to be amended to include granting him sole custody of the Child so as to facilitate the enforcement of the orders of court. I allowed the amendment and granted an order in terms, hence giving the Father sole custody, care and control of the Child. I trust that having the experience he had, the Father will comply with the terms of access for the Mother now that the roles are reversed. But first, mother and child have to be located. HCF/SUM 27/2023 is adjourned until such time as the Mother is physically before this court.

16 Had the Mother applied to have the warrant rescinded, it would likely have been granted upon terms that she returns and brings the Child before the court. The Mother is still at liberty to so apply. Until such time as she does, she remains a fugitive of her own volition.

- Sgd -
Choo Han Teck
Judge of the High Court

Plaintiff in-person;
Defendant in-person.
