

- (1) This judgment DOES/~~DOES NOT~~ need redaction.
 (2) Redaction HAS/~~HAS NOT~~ been done.


 District Judge

22 September 2020

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2020] SGFC 79

FC/OSG 162 of 2018 (FC/SUM 1188 of 2020)
 HCF/DCA 49 of 2020

Between

VLO

... Plaintiff

And

VLP

... Defendant

GROUND OF DECISION

[Variation] [Injunction to restrain taking of child out of Singapore] [Stop order]

TABLE OF CONTENTS

INTRODUCTION.....	1
BACKGROUND	2
THE PARTIES.....	2
BACKGROUND TO THE DISPUTE	2
<i>The proceedings in OSG162/2018.....</i>	<i>2</i>
<i>The child returns to Singapore and the injunction</i>	<i>4</i>
<i>The setting aside application and the final determination of OSG162.....</i>	<i>5</i>
<i>Other proceedings and the present application.....</i>	<i>6</i>
PRELIMINARY ISSUES.....	6
PRELIMINARY ISSUE 1: WHETHER THE FATHER IS AN INCREDIBLE/UNRELIABLE WITNESS OR IS IN CONTEMPT OF COURT	7
PRELIMINARY ISSUE 2: WHETHER THE EXHIBITS TRANSLATED BY THE FATHER SHOULD BE EXPUNGED	8
PRELIMINARY ISSUE 3: WHETHER THE FATHER’S AFFIDAVIT DATED 4 JUNE 2020 SHOULD BE EXPUNGED	10
THE MOTHER’S CASE.....	10
THE FATHER’S CASE	12
THE REQUIREMENTS FOR VARIATION	12
SUBSTANTIVE ISSUES TO BE DETERMINED.....	13
ISSUE 1: MISREPRESENTATION OR MISTAKE OF FACT	13
ISSUE 2: MATERIAL CHANGE OF CIRCUMSTANCES	16
<i>1st Occasion (7 July 2019)</i>	<i>17</i>

<i>2nd Occasion (25 August 2019 – 27 August 2019)</i>	17
<i>3rd Occasion (29 September 2019 to 2 October 2019)</i>	18
<i>4th Occasion (15 January 2020 to 16 January 2020)</i>	18
<i>5th Occasion (9 February 2020)</i>	18
<i>6th Occasion (19 February 2020 to 23 February 2020)</i>	18
<i>7th Occasion 22 April 2020</i>	20
<i>Summary of the 7 Occasions</i>	20
<i>That Taiwan is safer than Singapore</i>	21
<i>That the father has placed the child at an increased risk of infection due to his conduct</i>	22
<i>That the child is cooped up at home, with increased costs from purchase of toys and use of online delivery services</i>	26
<i>The need to visit his maternal grandparents, resume speech therapy assessment and vaccinations</i>	26
WHETHER THE VARIATION SOUGHT IS IN THE WELFARE OF THE CHILD	27
CONCLUSION	28
ANNEX A	29

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.

**VLO
v
VLP**

[2020] SGFC 79

Family Court — OSG 162 of 2018 (Summons No 1188 of 2020)
District Judge [REDACTED]
11 June 2020

22 September 2020

District Judge [REDACTED]:

Introduction

1 This was the Defendant mother's ("mother") application to vary an injunction that restrained her from taking the child of the marriage ("child") out of jurisdiction. In essence, she sought permission of the Court to travel with the child to Taiwan for a fixed period upon giving the Plaintiff father ("father") advanced notice and travel details.

2 After hearing parties, I dismissed the mother's application, holding that the injunction should remain in force. The mother has appealed and I now set out my full grounds of decision.

VLO
v
VLP

[2020] SGFC 79

Background

The Parties

3 The father is 32 years old. He is a citizen of China and a permanent resident (“PR”) of Singapore. The mother is 32 years old. She is a citizen of Taiwan and has been in Singapore on a long-term visit pass.

4 Parties were married in Singapore on 26 July 2016.

5 Their only son, [Child 1], was born on xxx 2017. He turned 3 this year.

Background to the dispute

6 The relationship between parties began to fracture shortly after the child’s birth. On 7 February 2018, the mother left Singapore and took the child with her to Taiwan. Despite being in different countries, parties remained in communication on issues on the marriage and the child. Sometime in May 2018, the father travelled to Taiwan to meet the child. After that, parties discussed the possibility of the child returning to Singapore with the mother eventually agreeing to bring the child back to Singapore in August 2018.

The proceedings in OSG162/2018

7 Prior to her return, the father commenced the primary application under the Guardianship of Infants Act (Cap. 122) for custody, care and control of the child (“OSG162”). The father also took out an urgent injunction to restrain the mother from taking the child out of jurisdiction.

VLO
v
VLP

[2020] SGFC 79

8 The applications were served on the mother after she arrived in Singapore and the injunction was fixed for an urgent hearing which the mother attended in person. Parties reached an amicable resolution on the day of the hearing and recorded a consent order before the court dated 13 August 2018 (“the first consent order”) which provided that:

- (a) The father shall withdraw the injunction application.
- (b) The mother agrees to participate in OSG162.
- (c) The mother agrees to bring the child back to Singapore by 15 December 2018.
- (d) While the mother and the child are in Singapore, the Plaintiff agrees to bear all the child’s expenses, provide for the Defendant’s reasonable accommodation, living costs up to a certain sum, amongst other things.

9 The mother then returned to Taiwan with the child and appointed her present solicitors at around the same time. The mother continued to participate in OSG162 and a second consent order was entered on interim child arrangements following mediation at the Child Focused Resolution Centre in October 2018 (“the second consent order”). In short, the second consent order provided that:

- (a) the child shall reside with the mother when he returned to Singapore with the father having the liberty to spend time with the child liberally.

VLO
v
VLP

[2020] SGFC 79

(b) The father shall apply for Singapore permanent residency status for the child and the mother shall render her co-operation in relation to the application.

(c) Parties shall take step to enrol the child in childcare/ kindergarten in Singapore.

10 The substantive issues of custody, care and control and access in OSG162 were adjourned to be dealt with on a contested basis.

The child returns to Singapore and the injunction

11 The mother brought the child back to Singapore on 15 December 2018 in accordance with the first and second consent orders. Unfortunately, their relationship continued to be rocky with disagreements over issues of access and payment of maintenance for the mother and child. The mother intimated on several instances that that she would return to Taiwan with the child.

12 On 21 March 2019, the mother allegedly told the father that the child and her were going to leave for Taiwan soon. The father then called several airline companies and discovered that the mother had indeed purchased 2 air-tickets to Taiwan departing on 26 March 2019.

13 This prompted the father to commence another application to restrain the mother from taking the child out of jurisdiction. The application was heard by me with an injunction granted on an ex-parte basis on 25 March 2019 (“the injunction”). As the child’s visit pass in Singapore was also expiring, the father also applied and obtained an order on 2 April 2019 before another District Judge to apply and/or renew the child’s immigration documents.

VLO
v
VLP

[2020] SGFC 79

14 The mother and child continued to remain in Singapore as a result of the aforesaid orders.

The setting aside application and the final determination of OSG162

15 The mother eventually commenced an application to set aside the injunction and the matter was heard by me together with the substantive issues in OSG162 on 5 July 2019.

16 Having heard parties, I declined to set aside or discharge the injunction but amended the order to provide that the mother may leave the jurisdiction with the child if the father gives written consent to the proposed travel. In respect of OSG162, I ordered the mother to have care and control of the child with unsupervised overnight access to the father.

17 I gave parties detailed reasons for my decision and reproduce the decision in Annex A as it is relevant to the present proceedings. In summary, I declined to discharge the injunction as I found the mother to be a flight risk as she took the child out of jurisdiction in February 2018 without the father's consent. Second, despite the terms of the first and second consent orders, the mother had consistently threatened the father that she would either not return from Taiwan or leave for Taiwan with the child. Third, she did not inform the father that she had booked the flight tickets on 26 March 2019.¹

18 I also found that it was not in the child's interest to set aside the injunction as the mother did not comply with her obligations under the consent

¹ Annex A at [22a.] - [22c.]

VLO
v
VLP

[2020] SGFC 79

orders and made it difficult for the father to have access to the child liberally.² Further, it was the parties' intention to have the child in Singapore and it would be in the child's interest and stability to remain in Singapore and not constantly be subject to the possibility of being uprooted.

19 In relation to OSG162, I granted the mother care and control of the child as I found that she was the primary care-giver of the child since his birth with unsupervised overnight access to the father for him to build up a good relationship with the child.³

20 Neither party appealed my decision of 5 July 2019.

Other proceedings and the present application

21 The father subsequently commenced divorce proceedings in August 2019 and the interim judgment was granted in March 2020. Other proceedings concerning interim maintenance for the mother and child were also dealt with.

22 On 30 April 2020, amidst the evolving Covid-19 situation in Singapore, the mother filed the present proceedings to vary the injunction to allow the child to travel with her to Taiwan.

Preliminary Issues

23 Before I turn to the substantive issues, I first deal with 3 preliminary issues raised by the mother⁴:

² Annex A at [24]

³ Annex A at [28] – [38]

⁴ Mother's submissions at [3a.] to [3c.]

VLO
v
VLP

[2020] SGFC 79

(a) First, the mother asserts that the father had provided inaccurate facts and tampered/alterd documents on several instances to mislead the court. She asks the court to find that the father is an incredible/unreliable witness and his actions amounts to contempt.⁵

(b) Second, the court should expunge documents which the father had translated himself from Chinese to English in his affidavits of 22 May 2020 and 4 June 2020.

(c) Third, the court should expunge the father's affidavit dated 4 June 2020 as it was filed without leave of court.

Preliminary Issue 1: Whether the father is an incredible/unreliable witness or is in contempt of court

24 I disagree with the mother's submission that the father can be said to be unreliable or in contempt of court for the following reasons. First, there were voluminous correspondence exchanged between parties over the course of their interactions in the past 2 years. The parties primarily communicated through email or text messages following the breakdown of the marriage. Many of these exchanges were reproduced in the affidavits filed in court and there were no issues raised about them.

25 Second, whilst the father may have cherry-picked certain portions of the communications, this is an issue which the mother could easily pick up through assistance of her solicitors as she has access to the same messages. The mother

⁵ Mother's submissions at [46]

VLO
v
VLP

[2020] SGFC 79

herself is conversant in the Chinese language. Indeed, this was done in the 12 instances which she asserts were attempts at misleading the court.

26 Third, I did not think the fact that he was selective in picking up relevant portions equated to tampering with evidence. Tampering suggest deliberate attempts to alter the primary evidence. The primary text messages are available to both parties and available for all to see. In relation to the inaccurate translations, I note that compared to the bulk of the translations, there was only a handful which were inaccurate and relevant to the dispute.

27 In totality, the father could at best be said to be selective in presenting the evidence which the mother could and has responded. I therefore did not agree with her on a preliminary basis that the father is therefore an incredible/inherently unreliable witness or is in contempt of court.

Preliminary Issue 2: Whether the exhibits translated by the father should be expunged

28 Turning to the second preliminary issue, Rule 953 of the Family Justice Rules (“FJR”) provides that every document not in the English language must either be accompanied by a translation certified by a court interpreter or a translation verified by the affidavit of a person qualified to translate it. Both counsels do not disagree that the Court may nonetheless have a discretion under the judge-led approach in Rule 22 FJR to admit the evidence. This appears to be accepted by the District Court in *UFN v UJO* [2018] SGFC 47 at [45] (“*UFN*”). The mother urged me not to exercise this discretion in this instance.

29 I disagree with the mother’s submissions and admitted the evidence for the following reasons. First, unlike the situation in *UFN* where the party there

VLO
v
VLP

[2020] SGFC 79

had created the primary document completely from her own translation, the present documents are primarily translations of text messages or emails of which, the primary evidence is available to both mother and father.

30 Second, on the mother’s submissions, the only material inaccurate translation is the email of 14 December 2019 where the father had wrongly translated the word “now” to the word “again”.⁶ This inaccuracy has to be considered against the vast majority of the other translations which the mother did not raise issues of accuracy. I reiterate that the mother can and has pointed out the discrepancies given her own access to the emails and messages.

31 Third, the mother herself did not comply with Rule 953 and had only exhibited a certified translation without any affidavit by the translator. Although her non-compliance with the rules is arguably less problematic than the father translating it himself, the affidavit of the translator is also a fundamental requirement of Rule 953. This is to ascertain if the translation is done by someone qualified. Ultimately, I did not think it was expeditious to strike out the evidence on both sides or require them to provide certified translations as this would only delay proceedings and escalate costs.

32 I thus exercised my discretion to admit the documents submitted by both parties despite the non-compliance with Rule 953.

⁶ Mother’s submissions at [28]-[36]

VLO
v
VLP

[2020] SGFC 79

Preliminary Issue 3: Whether the Father’s Affidavit Dated 4 June 2020 should be Expunged

33 Turning to the issue of the father’s affidavit of 4 June 2020 (“P2A”) filed without leave, I admitted parts of it under headers B and C as the mother had clearly raised new serious allegations against the father in her final reply affidavit (“D2A”) and had belatedly exhibited a material video recording of the child. I expunged the remaining parts of the father’s affidavit under header D as these were neither new issues nor necessary for the fair disposal of the matter.

34 With the preliminary issues explained, I now turn to the substantive application to vary the injunction.

The mother’s case

35 The mother asserts that there was a misrepresentation or mistake of fact which led to the Court granting the injunction and declining to set it aside. This was because the father had misrepresented that she had abducted the child back in February 2018 as he had knowledge that she was going to leave to Taiwan with the child.⁷ Second, the father has misrepresented to the court that the child has both a Taiwan passport and a China passport when he was well aware that this was untrue.⁸

36 The mother also argues that there was a material change of circumstances as the father had unreasonably withheld his consent for the mother to travel to Taiwan with the child on 7 occasions since the injunction

⁷ Mother’s submissions at [67]-[70]

⁸ Mother’s submissions at [71]-[75]

VLO
v
VLP

[2020] SGFC 79

was upheld. The mother also gave other reasons why she wanted to return to Taiwan with the child which are broadly as follows⁹

(a) It would not be in the best interests of the child to remain in Singapore as there was a high Covid-19 rate of infection in Singapore at the material time. On the contrary, as of 29 April 2020, Taiwan only has a total 429 confirmed cases despite it being a country with a much larger population than Singapore.

(b) The father had breached circuit breaker measures (“CB measures”) by allowing his allegedly girlfriend to stay at his house during the child’s access, thereby exposing the child to infection. She also claims that the father had ignored the CB measures and brought the child out unnecessarily during his access (i.e. by taking Mass Rapid Transit (“MRT”)). As such, the child was at a greater risk of contracting the virus if he remained in Singapore.

(c) The child is an active boy and finds it difficult to stay at home. He would be able to go out freely in Taiwan. Costs have increased as a result of the CB measures as she has to buy more groceries and food through online delivery services. She also needs to purchase more books and toys when the child is at home.

(d) The child also misses the maternal grandparents and this would be a good opportunity for him to visit them. The maternal grandfather also recently underwent a spinal surgery and there are concerns about

⁹ Mother’s first affidavit (“D1A”) at [8]

VLO
v
VLP

[2020] SGFC 79

his health. Further, the child can also attend his second assessment for speech therapy and go for his vaccinations which are overdue.

(e) The risk of her not returning to Singapore is low and non-existent as the parties are undergoing divorce proceedings in Singapore and she would effectively be giving up her rights to seek ancillary relief against the Plaintiff and allowing the court to reverse care and control of the child. Further, the father is aware of the maternal grandparents' address and she can provide him with her family members' contacts.

The father's case

37 The father objects to the application as it would not be in the child's interest to travel out of Singapore amidst the Covid-19 pandemic. The father asserts that there are travel restrictions as well as the increased risk of the child catching the virus during travel. The father also disputes the mother's allegations that he has endangered the child. The father also submits that the mother remains a flight risk and has not provided any legitimate reasons to travel with the child.

The requirements for variation

38 Both parties do not dispute that the injunction can be varied if there is a misrepresentation, mistake of fact or where there has been any material change in the circumstances as would be required for an application to vary a custody, care and control order under Section 128 of the Women's Charter. They also accept that the paramount consideration in these proceedings would be the welfare of the child.

VLO
v
VLP

[2020] SGFC 79

Substantive issues to be determined

39 The substantive issues to be determined are first, whether there was a misrepresentation or mistake of fact. Second, whether there are material changes of circumstances or other good reasons to vary the injunction. Finally, whether the variation sought is in the welfare of the child.

Issue 1: Misrepresentation or mistake of fact

40 The mother argues that the father had misrepresented to the court that she had abducted the child back in February 2018 as he was aware and had consented to their departure. She relies on a series of correspondence between parties on or around February 2018 in support of her assertions. The mother also states that the father misrepresented to the Court that the child has both Taiwan and China passports when in fact he could only have one passport due to the political sensitivities between the 2 countries.¹⁰

41 As a preliminary point, I note that the arguments and evidence she now relies on were not raised at the setting aside application. These matters were well within her knowledge at the material time. Despite having the assistance of counsel, the mother neither raised these issues in the earlier setting aside proceedings (“the setting aside proceedings”) nor did she appeal against my orders. She now seeks two bites of the cherry by raising matters which she omitted to raise earlier. I was of the view that she should be estopped from doing so.

¹⁰ Mother’s 1st affidavit (“D1A”) at [140]

VLO
v
VLP

[2020] SGFC 79

42 Be that as it may, even if the matter could be reconsidered, I did not think she can prove that the father had consented to her leaving the jurisdiction with the child nor that he was certain that the child only has one passport.

43 On the issue of the father's consent, whilst the correspondence submitted by the mother show that parties were in discussions and had plans for the mother to take the child to Taiwan¹¹, there is no evidence that the father had eventually consented to child leaving. There was no discussion or agreement on when the child would leave Singapore or what were his living arrangements moving forward. To the contrary, on 4 February 2018, upon discovering that the child's passport was missing, the father proceeded to lodge a police report the next day. The father stated in that report that he was afraid that the mother will be taking the child and leaving the country. In my view, the evidence shows that the father had the knowledge that they may leave the country but did not in fact consent to it.

44 Apart from that occasion when the mother left Singapore with the child, I also declined to set aside the injunction in the earlier proceedings as I found that the mother a flight risk for two further and distinct reasons. The first was her conduct before and after she returned to Singapore with the child on 25 December 2018 and the purchase of the 2 air tickets in March 2019 without the father's knowledge. I reproduce the material paragraphs of earlier decision here:¹²

¹¹ D1A at [106]

¹² Annex A at [22b.] and [22c.]

VLO
v
VLP

[2020] SGFC 79

“[22a.] Notwithstanding the Consent Orders 1 and 2, the Defendant has consistently threatened the Defendant *[sic]* (*should be read as Plaintiff*) that she would either not return from Taiwan or leave for Taiwan. This is amply supported by the text messages on 29 November 2018, 15 December 2018, 18 December 2018, 7 January 2019. Save for the disagreement on the child’s expenses which the Plaintiff was partly to blame, the mother was difficult as far as the accommodation was concerned, and she did not want to consider a preschool which required use of public transport of around 30 minutes. These were not justifiable reasons why she should be threatening to leave the jurisdiction so frequently.

[22b.] Finally, the mother informed the father on 17 March 2019 that she would be taking the Child to Taiwan but did not inform the Defendant that she had already booked the flight tickets on the 26 March 2019, and certainly did not seek his consent for the child to leave Singapore again. The mother’s assertion that she was bringing the child back for speech therapy was also unsupported by any evidence. The discovery of the air ticket was the main reason why the court had granted the injunction on an ex-parte basis. This showed that the wife would carry out her threat to leave Singapore even without the father’s consent and she had also did the same in February 2018. This was also despite the next ICA appointment being on 27 May 2019.

45 Thus, even if the mother’s act of bringing the child to Taiwan on the first occasion in February 2018 was inaccurately characterised as an abduction by the father, it was not a misrepresentation or mistake of fact sufficient to vary the injunction as she remained a flight risk.

VLO
v
VLP

[2020] SGFC 79

46 I also did not accept the mother's assertion that the father was aware that the child could not hold both passports of Taiwan and China. By the mother's own account, the child originally had a Chinese passport that was surrendered to the Taiwanese authorities on 2 March 2018 when she applied for a Taiwanese passport.¹³ The father was not involved in this and he could not have known for a fact that the child did not hold onto two passports at the material time. In any case, even if he knew that the child probably only had one passport at the time of the injunction, I did not think this was a misrepresentation that would be sufficient to vary the injunction as I found that the mother a flight risk for the reasons stated above.

47 I thus found that there was no misrepresentation or mistake that would support a variation of the injunction.

Issue 2: Material change of circumstances

48 I now turn to whether there is a material change of circumstances starting with the allegation that the father had unreasonably withheld his consent for the mother to travel with the child. As a preliminary point, I had in the setting aside application amended the original injunction of 25 March 2019 as it was appropriate to cater for the situation where the father consents to the travel. This did not change the default position that the injunction should remain in force given the mother's flight risk.

49 I now turn to the 7 occasions proper.

¹³ D1A at [133]

VLO
v
VLP

[2020] SGFC 79

1st Occasion (7 July 2019)

50 I found that the mother's request to leave jurisdiction which was made only 2 days after I had declined to set aside the injunction to be premature. Further, the mother's reasons for travelling was for her to spend Father's Day with the maternal grandfather and to use the opportunity to bring the child to the hospital for second assessment of his speech therapy. In my view, it was unreasonable for the mother to adopt such a position as the father was in Singapore and the child should be spending Father's Day with him and not the maternal grandparents. As for his speech therapy assessment, there is no evidence this cannot be done in Singapore. I also note that the father had offered to take care of the child from the very outset should she wish to travel to Taiwan on her own.¹⁴

2nd Occasion (25 August 2019 – 27 August 2019)

51 The mother wanted to travel to Taiwan to celebrate the mid-autumn festival.¹⁵ I did not think it was necessary for the Defendant to take the child out of jurisdiction given the injunction in force. The father's position was also reasonable as he had no issues taking care of the child or allowing the maternal grandparents to visit the child in Singapore.¹⁶

¹⁴ D1A at page 51

¹⁵ D1A at page 52-62

¹⁶ D1A at page 57

VLO
v
VLP

[2020] SGFC 79

3rd Occasion (29 September 2019 to 2 October 2019)

52 The mother wanted to travel to Taiwan to celebrate her birthday. Again, I did not think it was necessary of the child to leave the jurisdiction for such a purpose. It was also reasonable for the father to be uncomfortable given her flight risk. He had also offered to take care of the child if she needed to return to Taiwan.

4th Occasion (15 January 2020 to 16 January 2020)

53 The mother wanted to travel back to Taiwan during the Chinese New Year period. Given the concerns over her flight risk, I did not think the father's position was unreasonable.

5th Occasion (9 February 2020)

54 The mother wanted to travel due to the outbreak of the Covid-19 in Singapore. I did not think that the father's refusal given the evolving pandemic situation and her flight risk.¹⁷

6th Occasion (19 February 2020 to 23 February 2020)

55 This was an unfortunate incident where the mother's aunt had passed away. Considering the correspondence between the parties' carefully, I did not think that the father was unreasonable as he offered his condolences and agreed

¹⁷ D1A at page 76

VLO
v
VLP

[2020] SGFC 79

at the first instance to help take care of the child should the mother need to travel to Taiwan.¹⁸

56 The mother took issue with three requests made by the father in his message of 20 February 2020 before he would agree to care for the child.¹⁹ First, he wanted the mother to confirm that for the period of her travel, it was the mother who requested him to care for the son and she cannot change the time by taking the child back earlier or later. Second, the father wanted her to clarify with the child’s school that he will be fetching the child during this period. Third, since he was helping her to care for the child for 16 days, he will proportionately deduct the child’s living allowance.

57 Whilst the request to proportionately deduct maintenance payable for the period was unnecessary, it was not unreasonable given that the child was indeed to be cared for him for substantial periods of time in that month. As for the first two requests, they were merely to ensure that there would be certainty that he would care for the child during that period without any dispute. This was understandable given the disagreements between both parties in the past.

58 In my view, the mother had mistaken the father’s position in that she believed he was indirectly asking her to admit that she made a false police report in his messages. The father had merely to ask her to confirm the date of travel and the sentence which follows, “*this is to prevent you from making false police report*” was the reason behind that request. There is nothing in the text messages

¹⁸ D1A at page 86

¹⁹ D1A at page 85

VLO
v
VLP

[2020] SGFC 79

to suggest that he was actually asking her to admit directly or indirectly, that she had made a false police report.

59 Finally, as mentioned earlier, he did intend to help the mother so that she could travel back to Taiwan for the wake. He eventually offered to take care of the child for 7 days which she did not take up.²⁰

7th Occasion 22 April 2020

60 This was a request during the CB period and the mother wanted to travel with the child to Taiwan citing that it was safer there than Singapore and the child could catch up with his grandparents. I did not think it could be disputed that Taiwan had less infections than Singapore at the material time, but for the reasons I shall address in more detail below at [63] to [64], this does not mean Singapore is unsafe. I agreed with the father that in view of the uncertainty of the Covid-19 situation worldwide, there was no good reason for the mother to travel with the child.

Summary of the 7 Occasions

61 Considering the mother's requests in totality, she had made 7 request to leave Singapore with the child within a 9-month period since the injunction was upheld. This was nearly once a month. Given the injunction in force in view of my findings that she is a flight risk, I did not think that the father's conduct as a whole in withholding his consent was unreasonable.

²⁰ D1A at page 81

VLO
v
VLP

[2020] SGFC 79

62 I now turn to the other reasons given by the mother to travel with the child.

That Taiwan is safer than Singapore

63 I did not place much weight on the fact that Taiwan is safer than Singapore. On the evidence, I accepted that based on the number of infections at the material time, Taiwan appears to be safer than Singapore and their economy has opened up earlier. However, that alone is not sufficient as the main issue is whether it is unsafe in Singapore. By the time of the hearing, the CB period has ended and Singapore was embarking on a phased re-opening. The majority of infections remains cases of foreign work pass holders in dormitories, with the community numbers and fatality rates low. I did not think that the child is, without more, unsafe in Singapore.

64 Further, the global pandemic situation remains uncertain and the situation in any country may change rapidly. In the recent decision of *UYK v UYJ* [2020] SGHCF 9, the Learned Justice Debbie Ong observed that:

“[70] ... evidence relating to the Covid-19 pandemic could not be given inordinate weight. The Covid-19 situation is fast-evolving, and depending on whether the situation improves or deteriorates, travel may or may not be allowed in the near future. The court should not be making orders on relocation depending on the covid-19 situation at each specific point in time, as these orders would quickly become outdated as the global situation changes.”

65 Although these observations were made in a case on relocation, they are in my view apposite in the present case.

VLO
v
VLP

[2020] SGFC 79

That the father has placed the child at an increased risk of infection due to his conduct

66 Next, the mother claims that the father had spent time with an alleged girlfriend who was in fact residing with him, thereby exposing the child to a heightened risk of infection. She relies on the incidence of 28 March 2020 and 18 April 2020 in support. The mother also asserts that the father had conceded this by way of his solicitor's letter of 30 April 2020.²¹

67 At the outset, the mother's claim that there was a concession by the father was entirely misconceived and contrary to the plain and ordinary meaning of the solicitor's letter. This was clearly explained by the father in his affidavit.²²

68 Turning now to the incident of 28 March 2020, this was prior to the CB measures and the issue was whether the father had lied to the mother and cancelled access to the child for that day to spend time with the alleged girlfriend. This was because the father had sent her a photograph of a thermometer which was held up by a woman wearing a skirt.²³

69 I disagree that the father was lying about his illness as he was on medical leave since 25 March 2020²⁴ and the photo of the thermometer indicate that he was running a fever. I also accepted his evidence that he only informed the

²¹ Mother's submissions at [95]

²² Father's 1st affidavit ("P1A") at [12.4] and page 72

²³ D1A at page 33

²⁴ D1A at page 32

VLO
v
VLP

[2020] SGFC 79

mother belatedly as he was trying to see if he can still make it for the access with the child.²⁵ This is supported by the text messages.²⁶

70 At the same time, I did not accept the father's account that he had 2 friends come over to send him food and bring him a thermometer. If this were really the case, he would have said so in the text messages on the same day and clearly set out what had happened when the mother confronted him. Alternatively, he could have denied. Instead, his immediate response was to criticise the mother's character and ask her not to interfere in his private life.²⁷ Likewise in the letter sent by his solicitors on 21 April 2020,²⁸ it was mentioned that he had several friends came to check on him on that day as he was ill but on affidavit he then said that he had 2 friends had come over to pass him food and a thermometer. There was inconsistency in his positions.

71 In my judgment, I found that a woman was with the father on 28 March 2020 but this was insufficient to prove that she was living with him. I note that the woman did not appear to be wearing home clothes but rather a denim skirt. I also did not agree that the father had given up access to spend time with a woman. If he intended to do so, he would have texted the mother earlier when he obtained the 5 days of medical leave which covered the access period. Finally, I did not think that the father was disregarding the safety of the child. He was ill at the time and needed some support. In fact, his refusal to take the

²⁵ P1A at [20.1]

²⁶ D1A at page 31

²⁷ D1A at page 29

²⁸ D1A at page 69

VLO
v
VLP

[2020] SGFC 79

child for access suggests that he was concerned about spreading his illness to the child.

72 I now turn to the incident of 18 April 2020 during the CB period. The mother alleges that the child had told her that the father had brought him out to take the train during access and an auntie was present at his residence.²⁹ She also submitted a video recording of the child purportedly made at the material time in support.³⁰

73 Having perused the recording, I was of the view that it must be viewed with great circumspection for the following reasons:

(a) The existence of such a video was never mentioned prior to the filing of her reply affidavit. It was not raised in her supporting affidavit when the original allegation was made. Importantly, this was also not raised in any of the correspondence between lawyers and between the parties at the material time on or around 18 April 2020 and even after. Further, when the father replied her text message on 19 April 2020 that the child could have been mistaken, the mother’s response which was equivocal do not appear to support that she had in her possession a video recording.

(b) Second, the video clip was recorded squarely for the purposes being used in evidence. It starts and ends with the very same allegation

²⁹ D1A at [29]-[30]

³⁰ Mother’s 2nd affidavit (“D2A”) at [27]

sort to be made by the mother. It is unclear what happened before or after the video was taken.

(c) Many of the key questions posed by the mother to the child in the video were leading questions save for where the child and father went, who they took the train with and where did the auntie sleep.³¹ The key allegation that there was a woman staying with the father was a leading one. This was when she asked, “whether papa and auntie living together”. The son’s response was also unclear although he said yes eventually.

(d) The child is a 3-year-old boy with speech developmental issues. However, in the video, he was answering the questions with relative ease despite him being distracted by the interactive book he was reading. I found this improbable.

74 I therefore did not agree, on a balance of probabilities, that the mother can prove that there is a woman staying with the father. For completeness, I also did not think that the father taking the child on the MRT with necessary precautions when he took over the child for access was something that endangered the child.³²

75 I therefore disagreed that the father had placed the child at risk of contracting the virus.

³¹ D2A at [page 62]

³² D1A at [8e.]

VLO
v
VLP

[2020] SGFC 79

That the child is cooped up at home, with increased costs from purchase of toys and use of online delivery services

76 This assertion was moot by the time of the hearing as the CB period as the country had embarked on a phased re-opening. Further, the issue of increased living costs is a maintenance issue.

The need to visit his maternal grandparents, resume speech therapy assessment and vaccinations

77 I agreed with the mother that there is some reason to return to Taiwan as her father had undergone a spinal injury, but this was overstated by the mother. I note that the father had undergone surgery on 27 February 2020 but she did not cite this as a reason to return in any of the 7 occasions discussed above. Even in her email to the father on 22 April 2020, she merely states that “*my dad had spine surgery in end-February and my elder sister has given birth, and I can’t return*”. If the grandfather’s condition were serious, she would have returned alone. I did not think this was a strong factor in allowing the child to leave the jurisdiction with her.

78 As for the spending time with the grandparents, I note the child can interact with the grandparents through online communication platforms. The father has also made it clear in the text messages that he has no issues for the maternal grandparents to visit the child in Singapore.

79 On the issue of the child’s speech therapy assessment and vaccinations, there was no compelling reason why the child needs to have these performed in Taiwan instead of Singapore

VLO
v
VLP

[2020] SGFC 79

That she was not a flight risk as she would effectively be giving up her rights to ancillary relief if she did not return

80 This was not an issue relating to a change of circumstances and I was also not persuaded by the mother's argument as the marriage is an extremely short one with no significant matrimonial assets to be divided. The main issue, which parties have been fighting over at length, is the custody, care and control of the child. It is also of concern that the mother has stated in her supporting affidavit that after 1 year, seeing the father's unreasonable conduct, she believes it is not in the best interest of the child to stay in Singapore but to return to Taiwan with her.³³

81 In summary, I did not think that the mother had proven a material change of circumstances to vary the injunction.

Whether the variation sought is in the welfare of the child

82 Finally, I did not think that the variation sought was in the welfare of the child for the following reasons.

(a) First, it is not in the child's welfare to participate in non-essential travel during the Covid-19 pandemic. I also found above that there were insufficient reasons why the child had to travel to Taiwan with the mother.

(b) Second, the mother remains a flight risk and the father would have to take up proceedings in Taiwan to secure the return of the child.

³³ D1A at 143

VLO
v
VLP

[2020] SGFC 79

In this regard, I note that Taiwan is not a signatory to the Hague Convention on Child Abduction.

(c) Third, the divorce proceedings are already at the ancillary stage and should be completed expeditiously with final orders made on the child's custody including his permanent place of residence. In the meantime, with the injunction in force, the child would still have both parents to care for him in a stable environment in Singapore with minimal risk of him being uprooted unilaterally. Conclusion

83 For the foregoing reasons, I dismissed the mother's application.

84 As costs should follow the event, I ordered her to pay the costs fixed at \$2,000 all-in.




██████████

District Judge

Teo Jin Huang (I.R.B. Law LLP)
for the Plaintiff father;

████████████████████
for the Defendant mother

VLO
v
VLP

[2020] SGFC 79

Annex A

Brief Grounds of Decision³⁴

1. These are my brief grounds of decision in respect of FC/SUM 1111/2019, FC/SUM 1267/2019 and FC/SUM 1344/2019 in FC/OSG 162/2018, without prejudice to supplement with further grounds, if necessary.

Background facts

2. Parties were married in Singapore on 26 July 2016. Plaintiff father is a Singapore PR (“SPR”) and the Defendant mother is a Taiwanese Citizen. The child of the marriage, [Child 1], was born in 2017. He is at the time of the hearing, around 2 years-old.

Procedural History

3. It is helpful to set out the procedural history of this matter and the summary of the orders that have been made.

4. First was the consent order recorded on 14 August 2018 (“the first consent order”) which provided that:

- a. Plaintiff would withdraw the injunction application;
- b. Defendant agrees to participate in FC/OSG 162/2018;
- c. The Defendant agrees to bring the child back to Singapore by 15 December 2018;
- d. Defendant agrees to bring the child back to Singapore by 15 December 2018;
- e. While in Singapore, Plaintiff agrees to bear all the child’s expenses, to provide for the Defendant’s reasonable accommodation, to provide for the Defendant’s reasonable living costs up to \$1,500 per month for a period of 1 year or until parties agree otherwise, or until the Defendant finds a job, whichever earlier;

³⁴ These brief grounds are for parties’ reference only. For an official court record, please file a request for certified notes of evidence.

VLO
v
VLP

[2020] SGFC 79

- f. From now until 15 December 2018, if the Plaintiff wishes to see the child in Taiwan, he is at liberty to do so by giving the Defendant one-week notice; and
- g. If Defendant breaches any of the above terms, the Plaintiff is at liberty to do all that is necessary to enforce or give effect to this order in Taiwan.

5. Second was the consent order (“the second consent order”) recorded on 25 October 2018 which provided that:

- a. When the child returns to Singapore pursuant to order of court dated 13 August 2018, the child shall reside with the Defendant pending further orders, and the Plaintiff shall be able to spend time with the child liberally. The timings shall be arranged with the Defendant and subject to a minimum 3 times per week, out of which 1 shall be a weekend;
- b. Plaintiff shall apply for SPR for the child and the Defendant shall render her co-operation in relation to the application;
- c. Parties shall take steps to enrol the child in childcare/kindergarten in Singapore; and
- d. For avoidance of doubt, all other clauses in the order shall remain in force.

6. Third, the court had made an ex-parte interim injunction order to restrain the Defendant from removing the child out of jurisdiction on 25 March 2019 (“The injunction order”). The injunction order further provided that the Defendant shall handover the child’s passport to the Plaintiff and the Plaintiff undertakes to reimburse the Defendant any costs.

7. Fourth, the court on 2 April 2019 made further orders on the child’s visit pass as follows:

- a. The Defendant shall handover the child to the Plaintiff at the solicitor office on 2 April 2019, and the Plaintiff shall return the child to the Defendant on 4 April after completion of the Immigration and Checkpoint Authority (“ICA”) appointment and on confirmation that the application process for Long Term Visit Pass (“LTVP”) is completed;

VLO
v
VLP

[2020] SGFC 79

- b. Plaintiff shall facilitate Defendant's access to the child when the child with the Plaintiff; and
- c. Plaintiff shall be entitled and at liberty to solely make decisions on, as well as execute all relevant documents for the purpose of applying for an extension of the child's short-term pass, a LTVP for the child as well as for SPR status.

The Present Applications

8. The present applications are the father's application to seek care and control of the child, interim access to the child and the mother's application to set aside the injunction order. I will first deal with the mother's setting aside application, followed by the father's care and control application and finally his interim access application.

My Findings on the Mother's Setting Aside Application

9. The mother's setting aside application is premised on the father's material non-disclosure in respect of 5 matters³⁵, namely:

- a. the Defendant's difficulties and inconvenience during her stay in Singapore which the father had did little to assist;
- b. the Plaintiff paid the \$1,400 per month for her maintenance which was insufficient for her daily expenses;
- c. the Plaintiff failed in his duty to bear for all the child's expenses as ordered by the court;
- d. there were acts of family violence committed the Plaintiff against the Defendant during her stay in Singapore; and
- e. The son's passport was taken away by the Plaintiff prior to the ex-parte application hearing on 25 March 2019.

³⁵ Mother's written submissions at paragraph 6

VLO
v
VLP

[2020] SGFC 79

10. The father denies the foregoing and further argues that the injunction should not be set aside and is further necessary to safeguard the child's interest as the Defendant remains a flight risk.³⁶

11. I turn now to my findings on these arguments.

The Defendant's Difficulties and Inconvenience During Her Stay in Singapore

12. The father was obliged under the order of court to provide the mother with reasonable accommodation in Singapore. The mother had alleged that the father had put them up in a hotel instead of an apartment, however the father has provided evidence to show that the mother had told him by way of text messages on 29 November that she was sure she would not be coming back to Singapore because she was dissatisfied with the proposed accommodation and she will ask her lawyer to contact him³⁷, neither did she want to show him any tickets of the flight back.³⁸ It was reasonable for the father to doubt whether she would return in those circumstances. However, she did in fact return on 15 December 2015, and the evidence shows that the father was taken by surprise. He thus arranged for a hotel stay for the Defendant on a temporary basis and subsequently scrambled to look for an apartment.³⁹ He had acted reasonably in those circumstances.

13. The father had secured a 388 square feet apartment which was a condominium with a bedroom, a study, a living room and a kitchen which was a reasonable accommodation. As for her allegation that the apartment was in a poor condition, the father has also tendered evidence to show that he had arranged for the housing agent to conduct repairs but she did not take it up.⁴⁰ In any event, I did not think that because there were certain aspects of the apartment that were unsatisfactory meant that the father had failed to provide

³⁶ Father's written submissions at paragraph 20

³⁷ F3 at page 35

³⁸ F3 at page 34

³⁹ F3 at paragraph 12.2.1- 12.2.10

⁴⁰ H3 at page 99

VLO
v
VLP

[2020] SGFC 79

reasonable accommodation or that he had failed to make full and frank disclosure of material facts. I therefore did not agree before me that this allegation by the mother was made out and it could be a basis to set aside the injunction.

The Plaintiff Failing to Pay the Sum of \$1,500

14. I could not accept the mother's allegations on this for the reasons that follow. First, the father has explained that there was a deduction of \$100 monthly to the \$1,500 because of the loan that was extended to the mother for the purchase of insurance in Taiwan.⁴¹ Second, this was accepted by the mother by way of text messages which she told him it can be regarded as a loan⁴². More importantly, the monthly receipts which she had signed also indicated her acceptance of the deductions.⁴³

Plaintiff's Failure to Bear All the Child's Expenses

15. The dispute here primarily centres on whether the father had complied with the order to bear all the child's expenses. Based on the list of receipts produced by the mother,⁴⁴ there were many items that the mother did have an explanation that the expenditure was for the child, and there were items such as baby wipes which were clearly for the child.⁴⁵ On the other hand, the father stated that the mother had included items in the receipts such as taxi, limousine hotel booking and restaurant expenses, which were not the child's expenses. The father had therefore asked the mother to provide a list of expenses.⁴⁶

⁴¹ H6 at paragraph 8.3

⁴² W3 at page 16

⁴³ H4 at page 27-30

⁴⁴ M1 exhibit CYW-2 TAB A

⁴⁵ M1 at page 28 and 30

⁴⁶ M1 at page 25, M1 at page 46

VLO
v
VLP

[2020] SGFC 79

16. In my judgment, I thought that the father should have at least made part payment in cash towards some of the expenses as the mother was clearly in need of financial help for the upkeep of the child given that she was not working and could not work in Singapore. This sum could always be subsequently offset against final receipts produced by the mother. The father had only produced one receipt which was purchase of groceries at the supermarket of around \$84.70.⁴⁷ He had eventually offered the mother a sum \$300 per month for the child's expenses.⁴⁸ I found that the Defendant had not adequately complied with his obligation under the 1st consent order – which was clearly stated for him to provide *all the expenses* of the child.

17. This was a factor which supported the setting aside of the injunction. However, this factor does not weigh heavily as it was not entirely unreasonable for the father, in circumstances where the mother's claims were unclear and mixed with her own, to ask the mother to particularise what are the child's expenses as she is the one making those purchases.

The Allegations of Family Violence

18. The mother alleged 2 incidents of family violence against her, on 23 December 2018 and 21 March 2019. In respect of the 23 December 2018, there was clearly no family violence as the scuffle between parties were caused by the Defendant herself. The Defendant even apologised for the said incident on 23 December 2019 by saying – sorry I was too emotional... can you come back now.⁴⁹ As for the 21 March 2019 incident, apart from two close up photos which are unclear (Whether they are injuries on the shoulder or the chest, the Defendant did not submit any other further evidence such as medical reports to support the serious allegation that the father had pushed her violently and threw punches on her back and chest. Further based on the parties' text messages exchanged on the incident, the father had also maintained his position that it

⁴⁷ H6 at page 23

⁴⁸ H5 at page 31

⁴⁹ H3 at page 70

VLO
v
VLP

[2020] SGFC 79

was the mother who had pushed and hit him.⁵⁰ I did not agree with the mother that that the allegation of family violence was made out.

The Defendant had Obtained the Child's Passport from the Apartment Prior to the Hearing of the Ex-Parte Injunction Application

19. This was clearly a material non-disclosure by the father. Father's counsel has conceded that he was aware at the ex-parte hearing before me that the Taiwanese passport had been taken by the father. Whilst I did not think that there was a deliberate attempt to mislead the court, this was clearly a material non-disclosure which was innocent. This should have been brought to the court's attention, alongside the argument that there was a China passport which he did not obtain. I thus found that there was a material non-disclosure.

Whether It was Just and Convenient to Lift the Injunction

20. Given that I have found that there was material non-disclosure, I had to consider whether to exercise my discretion in determining if it was just and convenient to lift the injunction. The court must determine whether the punishment imposed by way of the discharge would outweigh the culpability of the material non-disclosure.⁵¹

21. Having considered the full facts, before me, I come to the conclusion that the injunction should not be discharged for the following reasons.

The Defendant is a Flight Risk

22. Based on the evidence before me, I found that the mother is a flight risk for the following reasons:

- a. First, although the parties were married in Singapore and the child was born in Singapore, the mother had unilaterally, without obtaining the consent of the father took the child out of

⁵⁰ W1 at page 54-55

⁵¹ *Bahtera Offshore (M) Sdn Bhd v Sim Kok Beng* [2009] 4 SLR (R) 365

jurisdiction in February 2018, when the child was around 7 months old. Whilst the mother had informed the father that they will be leaving the jurisdiction, it was clear from the police report lodged by the father on 5 February 2019 – which documented the missing passport and his fear that the mother will be taking the child and leaving the country – that the father did not consent to them leaving the jurisdiction.⁵² I could not agree with the mothers allegation this was agreed between parties.⁵³ The child ended up being in Taiwan until August 2018, some 6 months later.

- b. Notwithstanding the Consent Orders 1 and 2, the Defendant has consistently threatened the Defendant that she would either not return from Taiwan or leave for Taiwan. This is amply supported by the text messages on 29 November 2018⁵⁴, 15 December 2018⁵⁵, 18 December 2018⁵⁶, 7 January 2019⁵⁷. Save for the disagreement on the child's expenses which the Plaintiff was partly to blame, the mother was difficult as far as the accommodation was concerned, and she did not want to consider a preschool which required use of public transport of around 30 minutes. These were not justifiable reason why she should be threatening leaving the jurisdiction so frequently.
- c. Finally, the mother informed the father on 17 March 2019 that she would be taking the child to Taiwan⁵⁸ but did not inform the Defendant that she had already booked the flight tickets on the 26 March 2019, and certainly did not seek his consent for the child to leave Singapore again. The mother's assertion that she

⁵² H1 at page 27

⁵³ W1 at paragraph 41

⁵⁴ H3 at page 35

⁵⁵ H3 at page 44; 46

⁵⁶ H3 at page 58

⁵⁷ H3 at page 84

⁵⁸ H3 at page 112

was bringing the child back for speech therapy was also unsupported by any evidence. The discovery of the air ticket was the main reason why the court had granted the injunction on an ex-parte basis. This showed that the mother would carry out her threat to leave Singapore even without the father's consent and she had also done the same in February 2018. This was also despite the next ICA appointment being on 27 May 2019.

It is Also Not in the Child's interest for the Injunction to be Set Aside

23. As held in the case of *BNS v BNT*, the welfare of the child is the golden thread which runs through all child-related proceedings, and this consideration would also be relevant in my determination whether to discharge the injunction.

24. In the present case, I was also of the view that it would not be in the best interest of the child for the injunction to be set aside. Apart from my finding that the mother is a flight risk above, the mother has also substantially failed to comply with her obligations under the consent order to allow the father access to the child *liberally* for 3 days a week including 1 weekend when the child is in Singapore. The father has submitted evidence to show that between 15 December 2018 till 25 March 2019 (save for the times parties had to go to ICA) the father only had exercised access around 4-5 times which were all *under the supervision of the mother*. The father did not have any unsupervised access let alone liberal access until the 4th order of court was made on 2 April 2019. I also accepted the father's evidence the mother had unduly restricted him from spending quality time with the child.⁵⁹ I could not accept the mother's tenuous argument that the reason why she did not allow the father to take the child out is because he might bring the child to see the lady whom the father was allegedly having an intimate relationship with. There is no evidence to support this allegation at all and the exhibit of the third party discloses no connection to the Plaintiff. I note that, even with a Singapore court order in place, the mother has made it difficult for the father to have access liberally to the child, the father would have an even harder time having regular access to the child if the mother takes the child back to Taiwan.

⁵⁹ H3 at page 115 and 116

VLO
v
VLP

[2020] SGFC 79

25. Finally, the evidence also suggest that it was parties' intention to have the child in Singapore, that was first proposed by the mother herself and it's clear from the 2 consent orders of court. I agreed that given the mother's conduct and her consistent threats to take the child out of jurisdiction back to Taiwan, and having done so without his consent in 2018, and attempting to do so in 2019, it would be in his interest and stability for him to remain in Singapore rather than in Taiwan rather than be constantly subject to the possibility of being uprooted.

26. For the foregoing reasons above, I was of the view that it would not be just and convenient, nor was it in the child's best interest for the injunction to be set aside. I therefore dismissed the mother's application to set aside the injunction.

27. However, would order that clause 2 of the order of court dated 25 March 2018 by adding a sentence as follows at the end of clause 2: The Defendant may leave the jurisdiction with [Child 1] if the Plaintiff gives written consent to the proposed travel dates. This is to cater to the situation where there is a reason for the mother to bring the child back to Taiwan, and this is consented to by the father, she should not be stopped from leaving.

My Findings on the Father's Application for Interim Care and Control

28. I turn now to the father's application for interim care and control. The ultimately has to consider the best interest of the child. In this regard, the mother has been the primary caregiver of the child for the past 2 years since the child was born and has provided evidence of the same.⁶⁰ The only known condition that the child has which appears undisputed is his delayed speech. However, there is no evidence to show that this is directly attributable to the mother's care over him, rather than him naturally being slower.

29. As for the father, I found that it was only more recently that he begun to take a keener interest in having care of the child. Even as parties were drafting

⁶⁰ W1 at paragraph 50-51

VLO
v
VLP

[2020] SGFC 79

the deed of separation in April 2018⁶¹ after the mother, it was envisaged that the mother would have care and control of the child. Crucially, he also has not rebutted the mother's allegation during their first stay in Taiwan in 2018, the Plaintiff would rarely ask about the well-being of the child and that he only visited the child once in Taiwan to celebrate the child's first birthday.⁶² Further I was not persuaded that the father had played a significant role in the first few months of the child's life. Apart from his assertions, he has no evidence to support his caregiving role. Objectively, he was quite content for the mother and child to be placed in a confinement centre, and later on with help from his mother and the domestic worker.

30. I do however accept that the father has clearly been much more involved since mid-2018 and he has and has been mostly handling the plans for the child's immigration related documents and his pre-school. However, it must be recognised that ultimately that the father does work long hours on weekdays 7.00 am – 7.00 pm whereas the mother would still be the one who will be primarily involved in the care of the child as she is not working.

31. As for the mother's conduct in Singapore for the since 15 December 2018, I could accept that she was having difficulties in so far as the child's expenses are concerned. I have found above that the father did not also comply with the order of court to pay for all the child's expenses when he was in Singapore. This was despite it being clear that the mother is not able to work whilst she is here. Further, her conduct at the ICA in refusing to extend the child's LTVP whilst unjustified, was an extraordinary but one-off incident.

32. In my judgment, her conduct while volatile, was insufficient to warrant the child to be placed in the care of the father when the mother has been in the primary care of the mother for the past two years. Much of the disagreements and disputes parties stemmed from the lack of clarity in the various court orders passed, which was open to interpretation. I would not say the mother was totally at fault in this case.

⁶¹ H1 at paragraph 22

⁶² W1 at paragraph 59-60

VLO
v
VLP

[2020] SGFC 79

33. In this regard, many of the points of dispute between the parents could be substantially addressed by:

- a. The injunction which will ensure that the child continues to remain in Singapore;
- b. Fixed access arrangements instead of the “liberal access” clause, will lend certainty to parties’ obligations and reduced the scope for argument. This will be dealt with below; and
- c. Fixing the child’s expenses – this has been raised in these summonses and in a further application for interim maintenance by the mother.

34. For these reasons, I dismissed the father’s application for interim care and control for the child.

My Findings on the Access Issue.

35. I turn finally to the father’s request for fixed access. I am substantially in agreement with the father’s position that access should be fixed given my findings above of the difficulties the father has had exercising his rights of access to the child.

36. I therefore agreed to fix access 3 times a week which was essentially what parties had agreed to pursuant to the 2nd consent order.

Weekday Access

37. I agreed with the mother that the child has a routine wherein he has to sleep earlier. At the same time, there should be some compromise on both sides. I was of the view that it would be fair for the Defendant to be given access from 6.30-8.30 pm on Wednesdays and Thursdays. He should make an effort to reschedule his work time if he wishes to have longer access, there is no evidence that he can’t nor has he made an effort to do so.

VLO
v
VLP

[2020] SGFC 79

Overnight Access

38. As for overnight access, I think it was fair for the overnight weekend access to be on an alternate week basis once, first Friday from 8 pm to 8 pm, and the subsequent week, from Saturday 12 pm to Sundays 12 pm. For the aforementioned access, the Plaintiff shall pick up and return [Child 1] to the Defendant's place of residence.

Summary of Orders Made

39. Clause 2 of the order of court dated 25 March 2018 be amended by adding the following sentence at the end of clause 2: "The Defendant may leave the jurisdiction with [Child 1] if the Plaintiff gives written consent to the proposed travel dates"

40. The Plaintiff shall have unsupervised access to the child from 6.30-8.30 pm on Wednesdays and Thursdays. Further the Plaintiff shall have unsupervised overnight access to the child on an alternate week basis – starting first on Friday from 8.00 pm to Saturday 8.00 pm, and subsequent week, from Saturday 12.00 pm to Sundays 12.00 pm. For the aforementioned access, the Plaintiff shall pick up and return [Child 1] to the Defendant's place of residence.

Conclusion

41. Both parents obviously love [Child 1] very much, they have to put aside their differences, comply with relevant court orders not only on access but on maintenance, so that there can be certainty for all parties involved, and the child can grow up with stability and in a healthy environment.