

HONG KONG / JUDGMENT

GY v. YJ

[2020] HKFC 71

COURT

Family Court

DECIDED

3 March 2020

CASE / FILE NUMBER

FCMC7727/2018

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bjbj FCMC 7727/2018

[2020] HKFC 71 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION MATRIMONIAL CAUSES NO 7727 OF 2018 BETWEEN GY Petitioner and YJ Respondent Before: HH Judge I Wong in Court Date of Hearing: 3 March 2020 Date of Ruling: 3 March 2020 R U L I N G This is a defended petition by the wife on the ground of two years separation. In her petition it is pleaded that the parties have separated as from 31 March 2015. The fact that the parties have separated from each other by living in separate households and each has been leading separate lives as from 31 March is not in disputed. In any event, there is ample evidence on the separation issue. In this regard, it is worthy to note that the respondent husband also stated the separation date to be as from 31 March 2015 in his Form E, and the judgment given by myself on the custody, care and control of the child of the family was on the basis that the parties had separated from each other as from that time. Despite this incontrovertible fact, this petition still requires a trial because the respondent has in his Form 4 (Acknowledgement of Service) indicated his opposition to the granting of the decree nisi, on the ground that the dissolution of the marriage will result in grave financial or other hardship to him and that it would, in all the circumstances, be wrong to dissolve the marriage pursuant to section 15B(1) of the Matrimonial Causes Ordinance, Cap 179, and has filed an Answer on 15 August 2018. At the same time, the respondent has also filed a Form A, making his application for ancillary relief. The law, ie section 15B(2)(b) of the Matrimonial Causes Ordinance, enjoins the court to consider all the circumstances of the case, including the conduct of the parties to the marriage and the interest of those parties and of any children or other persons concerned. As the docket judge who has been dealing with these proceedings since 2016 and who has handed down a full judgment on the arrangement of the child of the family after a six-day trial, I can say I am well familiar with this family. This case is not one, as is usually the case, where a respondent spouse opposes to the grant of a decree on the ground that he would lose any pension benefit if he ceases to be a spouse of the petitioner. In his Answer, and in his opening submission today as well, the respondent

stated he opposes to the grant of the decree because he wants to have the ancillary relief matter to be dealt with by the court first. For some reasons, the petitioner chose not to apply to have the Answer struck out. As I have explained to the respondent in the previous hearings, the court would not be able to make any order on ancillary relief before the granting of a decree nisi. This is expressly provided for in section 25(1)(a) of the Matrimonial Proceedings and Property Ordinance. Yet, the respondent did not take heed of my explanation. As the docket judge who has been overseeing this case for the last four years, I am not aware nor am I told of any circumstances or any conduct of the parties or any special feature in this case which suggests that in all circumstances it will be wrong to dissolve the marriage. As a matter of fact, the respondent has been receiving monthly rental receipts from some family properties in the Mainland and it appears that, at least during the time when the child's matter was heard, he was a frequent traveller around the world. This suggests that he had no financial problem. Though it would appear that, from the parties Form E, the present case is not a big money case, there are substantial matrimonial assets to be divided in order to satisfy the parties financial needs after the divorce. In the circumstances, it is only right that a decree nisi should be granted, and I do so. This would clear the way for the parties to deal with their ancillary relief without delay, and I trust this is also the respondent's wishes. So I grant the decree nisi. This trial could have been avoided. The respondent unreasonably insisted on having the ancillary relief matter to be determined first before the decree nisi being pronounced. It is unsupported by any legal basis. I see no reason why costs should not follow the event. I make an order that the respondent do pay the petitioner the costs of the main suit, including all costs reserved, with counsel's certificate, and to be taxed if not agreed. (I Wong) District Judge Mr Felix Li, instructed by Ip & Heathfield, for the petitioner The respondent appeared in person PAGE - PAGE CRT9/3.3.2020/ML FCMC 7727/2018(1)/Ruling A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V A B C D E F G H I J K L M N O P Q R S T U V yncXnM hBWC h~0 hD(U hc(> hc(> hBWC hc(> hc(> hc(> hD(U hD(U hD(U hD(U hBWC hc(> gdD(U gdD(U hc(> hBWC hc(> hBWC hc(> hc(> hc(> hD(U hc(> gd54^ gdBWC gdD(U gdDp hhE3 h54^ hD(U hd|w hD(U hD(U hBWC hD(U h)=y hBWC gdqRR gdD{ gdzu gdhE3 yncyXyc h54^ hD(U h54^ hD(U hD(U hD(U hD(U h54^ yncXNA hc(> hc(> hBWC h54^ h54^ gd;* uh`\\`\\`\\R hc(> hBWC hc(> hc(> hBWC l\_R\_l\_lEl h%Mg h n5 gd n5 gd n5 gd n5 &`#\$ h n5 h n5 h n5 h%Mg gd;* [Content_Types].xml _rels/.rels theme/theme/themeManager.xml K Y, sQ}# theme/theme/theme1.xml \$O}) Xp90 +PHI| PP yu 9xu5 fs+W VF7H q=. 8}d- qyI@ j! Q_ jyV` |PZ+ T ""p < 4V O&x\$ A8>v ;EUC n 8r *~P(5 .}x E /,EE\} theme/theme/_rels/ themeManager.xml.rels 5 6? \$Q K(M&\$R(.1 [Content_Types].xmlPK _rels/.relsPK theme/ theme/themeManager.xmlPK theme/theme/theme1.xmlPK theme/theme/_rels/ themeManager.xml.relsPK <?xml version="1.0" encoding="UTF-8" standalone="yes"?> <a:clrMap xmlns:a="http://schemas.openxmlformats.org/drawingml/2006/main" bg1="lt1" tx1="dk1" bg2="lt2" tx2="dk2" accent1="accent1" accent2="accent2" accent3="accent3" accent4="accent4" accent5="accent5" accent6="accent6" hlink="hlink" folHlink="folHlink"/ > urn:schemas-microsoft-com:office:smarts tags place DCCJ643/2003 setup Normal.dotm

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