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(2) Redaction HAS/~~HAS NOT~~ been done.

Clement Yong
District Judge
06 October 2021

IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE
[2021] SGFC 103

FC/OSG 116/2020
HCF/DCA 116/2021

Between

UKS

... Plaintiff

And

UKR

... Defendant

JUDGMENT / GROUNDS OF DECISION

[Guardianship] — [Welfare of child]

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**UKS
v
UKR**

[2021] SGFC 103

Family Justice Courts – FC/OSG 116 of 2020 (FC/SUM 3799 of 2020 and FC/SUM 4087 of 2020)

District Judge Clement Yong

27 May 2021 and 31 August 2021

06 October 2021

District Judge Clement Yong:

Introduction

1 This was a cross-summons case where the court effectively had to decide between (i) giving effect to the legitimate expectations of a father to have his child return to live with him in the UK, or (ii) maintaining status quo, which effectively keeps the child in Singapore with his mother.

2 Arriving at the answer was not easy. But in the end, having considered the matter carefully, I found that the balance tilted in favour of the mother’s case. As such, I made the finding that the child’s interests are best served by maintaining the current living arrangement. However, in also considering the mother’s conduct before the proceedings, I decided that the justice of the case necessitated an award of costs of \$16,000 to the father.

3 The father, being dissatisfied with my substantive orders, has filed an appeal.

4 I now set out below the grounds of my decision.

Facts

The parties

5 The plaintiff mother is 42 years old, a Singapore citizen with residency rights in the UK (the “**Mother**”). She is by profession, a trained veterinary surgeon.

6 The defendant father is 49 years old, an Irish citizen who operates his own veterinary practice in Ireland (the “**Father**”).

(collectively, the “**Parties**”)

7 The Parties are parents to a six-year-old child (the “**Child**”) born in Ireland and holding UK citizenship, who is now at the core of these proceedings.

Background to the dispute

8 The Parties are not married. They met in England and started dating in or around 2004. During the relationship, the Parties resided in the UK and/or Ireland at various points in time. The Child was born on 18 August 2015 in Ireland and is presently six years old.

9 After the birth of the Child, the Parties resided in Tralee, Ireland. All appeared to be well until sometime in February 2017, when the mother travelled out of Ireland with the Child. What was initially planned as a six-week overseas vacation has now panned into a long-term stay in Singapore for the Child¹. It transpired that during that fateful six-week period, the Father had also joined both Mother and Child in Thailand, but following a bad argument between the Parties, their relationship broke down. Thereafter, the Mother decided to head to Singapore with the Child instead of returning to Ireland.

10 Since then, the Father has been pursuing various remedies across different legal avenues for the Child to return to Ireland or the UK with him, albeit without much success. This spawned a series of cross boarder litigation between the Parties, effectively over the issues of which country the Child should live in, and with whom. Over time, starting from 2020, the Father's relationship with the Child also deteriorated, adding a further layer of complexity to this matter.

11 The Father first took out proceedings in November 2017 (FC/OSF 113/2017) under the International Child Abduction Act (Cap. 143C), seeking, *inter alia*, an order that the Child be returned to Ireland. This was granted at first

¹ Save for a six-week period in July 2019 which the Child spent with the Parties in Ireland.

instance in the Family Justice Courts (the “**FJC**”), where on this point it was ordered that the Child be returned to his place of habitual residence which is Tralee, Ireland.

12 The Mother then appealed the decision (HCF/DCA 11/2018), and the matter was heard in the High Court. In July 2018, Judicial Commissioner Tan Puay Boon ordered that under Article 15 of the Hague Convention on the Civil Aspects of International Child Abduction 1980 (the “**Convention**”), the Father was requested to apply to the Irish Courts for a decision or determination that the retention of the Child in Singapore was wrongful within Article 3 of the Convention.

13 In accordance with the High Court order, the Father then commenced legal proceedings in Ireland, where Parties were eventually able to reach an agreement in May 2019 following mediation. To this end, the agreement between the Parties was recorded by the Irish Court as an Order of Court (the “**Irish Order**”).

14 In August 2020, the Mother took out an application in the FJC to record a consent order (FC/ORC xxx5/2020) (the “**Mirror Order**”) that is *in pari materia* with the Irish Order. This Mirror Order was granted by the FJC and the same was extracted on 14 August 2020. Since then, both Parties have alleged non-compliance by the other party of the Mirror Order, and this has resulted in the present cross-summons applications which were heard before me.

Material and relevant paragraphs of the Mirror Order

15 It will be useful at this juncture to set out the relevant and material paragraphs of the Mirror Order before proceeding further, as it is the alleged

non-compliance with these orders that are at the heart of the present disputes between the Parties. The relevant orders read as follows:

[10] The Defendant Father intends to move to Singapore for a 12-month period either in late 2019 or early 2020 (with the 12 months to commence on the date of his arrival). During that 12-month period, the parties will make arrangements to move at the same time with the Child to live in the United Kingdom (the default arrangement) or such other third country as they may agree with the intention of moving to whichever country no later (unless agreed) than the expiration of the aforesaid 12-month period.

[11] Once the Defendant Father travels to live in Singapore for the 12 month period provided for above, the parties agree that the division of exclusive parenting time shall be approximately 60% with the Plaintiff Mother and approximately 40% with the Defendant Father. It is intended that the Father has exclusive parenting time on Thursday to Sunday (week one) and Tuesday to Thursday (week two). The parties may by agreement amend or alter the contact schedule.

[12] The parties and the Child will spend a 2-week summer vacation in Ireland in 2020. The Defendant Father will discharge the costs of the return flights of the parties and the Child.

Deterioration of Father-Child relationship and non-compliance with the Mirror Order

16 In accordance with the Mirror Order, the Father moved to Singapore some time in December 2019. It is not disputed that up until this point, the Child had a good relationship with the Father and there was no indication that he was hostile or resistant towards the Father.

17 In 2020 however, the relationship between Father and Child started to deteriorate. Specifically, in or around August 2020, the Child refused to see the Father during access. The exact causes of this are disputed, but by the time the Parties had taken out the present cross-applications in December 2020, it was collectively accepted that the Father and Child relationship was so strained that

a mental health professional or child psychologist should be appointed to help the Child cope with the situation and to restore the relationship between Father and Child.

18 As a result of the breakdown of the Father and Child relationship, it became impracticable for the Parties to comply strictly with the orders as set out in the Mirror Order above, since such a drastic breakdown was not envisaged nor were contingency agreements made in May 2019 when the terms of the Mirror Order were first agreed to by the Parties in Ireland. This unfortunate, yet unforeseen new set of circumstances thus compelled each Party to take out the present summons to move the matter forward.

FC/SUM 3799/2020 and FC/SUM 4087/2020

19 FC/SUM 3799/2020 was the Father's application for several orders, which I can broadly group into two categories as set out below:

(a) Prayers [1] to [7] are essentially orders for a psychologist to be appointed to facilitate the Child's access with the Father, and for the said psychologist to prepare a report for the Court's consideration. (respectively, the "**First Category**")

(b) Prayers [8] to [10] relates to the Mother having to do the necessary to give effect to paragraphs [10] and [11] of the Mirror Order, essentially sending the Child to the UK, or any third country that the Parties may agree. (respectively, the "**Second Category**")

20 FC/SUM 4087/2020 was the Mother's application for several orders which I can also broadly group into the following categories:

(a) Prayer [1] seeks the appointment of an expert to assist the Court in resolving the issues of custody and access in relation to the Child (respectively, the “**First Category**”).

(b) Prayer [2] seeks to substantively vary paragraphs [10] to [12] of the Mirror Order, wherein the result of where the Child lives should be guided by the recommendations of the appointed expert, and adjustments to be made where necessary to the access arrangements to the Child (respectively, the “**Second Category**”).

The hearing before me

21 I heard this matter over three days – 27 May 2021, 31 August 2021, and 21 September 2021.

22 At the first hearing, the Parties informed that they had jointly agreed for Dr. [K], a registered medical practitioner, of [R] Medical Centre (“**Dr. [K]**”) to be appointed under Rule 35 of the Family Justice Rules (“**FJR**”) to provide an expert report to Court for these proceedings. What Parties could not agree on were the exact terms of reference for Dr. [K]’s appointment. Having heard the Parties’ arguments, I made an order for Dr. [K] to be appointed and to provide an opinion on the following:

- (a) Why the Father and Child relationship broke down;
- (b) Why the Child is reluctant to be physically present with the Father;
- (c) Whether there is parental alienation and the cause of it;

(d) What living arrangements going forward will be in the best interests of the Child; and

(e) The recommended treatment for the Parties and the Child, if applicable.

23 Given that some time would have been needed for the preparation of the report, I stayed any intended move by the Parties with the Child out of Singapore until such time that these proceedings conclude or as the Court may order. The idea was to allow for the neutral assessment to first take place so that the Court can make an informed decision at the end of the day.

24 Following this hearing, the Order of Court in FC/ORC xxx4/2021 setting out the above was extracted by Parties and no appeal was filed against this order.

25 The second hearing took place on 31 August 2021. Having then had the benefit of reviewing Dr. [K]'s report and hearing Parties' further arguments, I made the orders which are now the subject matter of this appeal. I will set out below my reasons in full for finding substantively in favour of the Mother.

26 The third hearing took place on 21 September 2021. Primarily, it was to hear parties on costs. Notwithstanding that the Mother had succeeded substantively in these proceedings, I exercised my discretion to depart from the general rule that costs should follow the event. Accordingly, I awarded costs of \$16,000 inclusive of disbursements to the Father. My reasons for the cost order are set out further below.

The primary issue – whether relocation is in the Child’s best interests

27 Given the way in which the Parties had couched the prayers in their respective summons, seeking very precisely worded remedies, it would have been easy to miss the forest for the trees if the court only considered these in isolation. The correct starting point in my view, is to first identify whether relocation would be in the best interests of the Child in accordance with section 3 of the Guardianship of Infants Act (Cap. 122). Once the answer is established, the logical answers to all the prayers will flow naturally from thereon.

28 That said, the reality of the situation is that the issue of the Child’s relocation is tied to his short-term living arrangement, which in turn is undoubtedly dependant on those of his parents, who unfortunately, have considerably different views on this. It is thus necessary to first consider each Party’s present circumstances and plans going forward, before returning to the question above.

The Father’s circumstances

29 As an Irish national with an active veterinary practice in Ireland, it is understandable that the Father wishes to live with the Child in Ireland or the UK. The Mirror Order (based on the Irish settlement agreement) also suggests that the Mother herself had, at the time of the order, also intended to relocate to the UK together with the Father and Child, giving rise to the Father’s expectations that these arrangements will be followed through by the Mother.

30 Whilst the Father had entered Singapore in December 2019 in accordance with the terms of the Mirror Order, his stay here was not without difficulties. Initially, the Father was able to find employment as a vet. However, his employment was terminated on 1 March 2021 and it was not until 9 June

2021 that he was able to resume work with another employer due to a delay in approval of his Employment Pass. Resulting from a combination of low pay and inflexible working arrangements, the Husband informed that his stay in Singapore had been marred by financial hardship and employment difficulties, making his stay in Singapore untenable.

31 Meanwhile, on 30 June 2021, the Husband faced another set of difficulties with his veterinary clinic in Ireland, one which he took 12 years to build up. The vet which he had hired to work in his clinic had resigned, and his clinic was therefore left without a vet for five weeks. It was at risk of closing, and the Husband therefore made the decision to depart Singapore for Ireland on 5 August 2021. Clearly, it must have been a difficult one for him to make. Going forward, it is not clear on the evidence whether the Father intends to return to Singapore after settling his professional affairs in Ireland.

The Mother's circumstances

32 From the perspective of the Mother who is a Singapore Citizen, her present views are that she is unable to be in Ireland due to her medical condition. Where the relocation to the UK is concerned, the Mother believes that such a move should only be explored at a later juncture, after an opinion by the appointed mental health professional is made. After Dr. [K]'s report was released, the Mother filed a further affidavit to highlight that she is likely to have difficulties applying for a UK Visa as she has not secured employment in the UK as a vet and is likely to face housing and school placement difficulties in the UK for the Child. And to top it off, the Mother highlighted that due to the global COVID-19 pandemic, any move to the UK now would now result in a lack of family support for her since her parents may not be able to freely travel to the UK.

33 Dr. [K] has also reported that the Mother now has a new partner, whom she has since introduced into the Child's life in 2019. Considering the Mother's present station in life, it does appear that she would prefer to remain in Singapore for the foreseeable future with the Child, so that she may reap the benefits of job security and the family support available to her.

The Child's circumstances

34 The Child was born in August 2015 and lived in Ireland together with the Parties for approximately one and a half years until February 2017 when he travelled to Singapore with the Mother. Thereafter, the Child continued to live in Singapore with the Mother and her parents, save for a six-week period in July 2019 which he spent on holiday with the Parties in Ireland. The Child has recently turned six years old and has now spent more time growing up in Singapore than in Ireland.

35 In Dr. [K]'s assessment of the Child, it was noted that the Child spoke highly of the Mother but spoke negatively about the Father. During the remote access sessions with the Father, the Child would only show his face (on the screen) and not speak, because he did not want to talk to the Father. Dr. [K] had appraised that the Child had a close attachment with the Mother and opined that the Child is reluctant to be physically present with the Father because of parental alienation effects, made worse by a considerable period of separation from the Father.

36 Dr. [K] also explained that in the face of ongoing parental conflict, a child may begin to cope with contradictory and/or ambivalent information with seeing the situation in black-and-white terms, believing one parent (mother) to be all (or mostly) good and the other (father) to be all (or mostly) bad at a sub-

conscious level ('splitting'). Dr. [K] opined that given the deterioration of the Child's relationship with the Father, the 'splitting' process had become more pronounced with the Child becoming more and more aligned to the Mother and her family (principally the grandparents), with a reverse process (misalignment) occurring with the Father.

37 As the Child had spent time exclusively under the care of the Mother with minimal contact with the Father over the last two years, the Mother's words and actions carry a disproportionate influence for any likely alienation occurring. On the flip side, and as the non-aligned parent, the Father is rather powerless and impotent at this stage to influence the Child. On the facts, Dr. [K] was of the opinion that there is parental alienation, and this had emanated from the Mother's side, through the form of statements that would have promoted negative perceptions of the Father in the Child's mind as well as indirectly being suggestive of the Child to 'choose sides'.

38 In the absence of any evidence which challenges Dr. [K]'s opinion on the above, I make the finding that parental alienation had occurred, and it was exclusively caused primarily by the Mother, and to a lesser extent, her other family members. The most obvious example of this happening could be seen in Dr. [K]'s interview with the Child, where the Child would occasionally mention (sometimes prompted, and other times spontaneously) statements with the preface: "My mum said...", "Mamma told me...". It is against this backdrop that I consider below whether relocation would be in the Child's best interests.

Whether relocation is in the Child's best interests

39 On a broader level, Dr. [K] states that it is in the best interest of children to have good relationships with both parents after a parental divorce whenever

possible. Even if there is hurt and anger in high-conflict divorces, there is an expectation that a parent rises above his or her negative emotions to affirm and encourage the relationship of the child with the other parents, in the best interest of the child. Following from this, Dr. [K] is of the opinion that parity of access is the ideal.

40 In the present case, even though parties are not married, their roles as parents remain, and the above applies to them equally. I accept Dr. [K]'s opinion that parity of access to the Parties is the ideal in this case.

41 Putting this into practice, however, is difficult for two reasons, as (i) the Child is far too estranged from the Father at the moment, and (ii) even if the estrangement eases, physical access as a matter of parity becomes difficult as the Parties are living in different countries at the moment, and there is no evidence to suggest a change in either party's living arrangements anytime soon.

42 It will also be helpful to note at this juncture that in Dr. [K]'s report, he had specifically considered the question of what living arrangements going forward will be in the best interests of the Child. His opinion, given that the Father is likely to return to Ireland (as at the time of writing, which has since materialised on 5 August 2021), was that *the current living conditions where the Child is living with the Mother and his grandparents, should continue.*

43 Dr. [K] also considers an eventuality where it is currently not possible for the Child to have more positive and frequent interactions with the Father. In this event, Dr. [K] notes that due consideration should be given to the relocation of the Child, together with the Mother. He opined that this will be a major upheaval which would cause significant stress to both Mother and Child, and the stress of such a move and the effect on the Child has to be counterbalanced

with the known effects of long-term parental alienation or a total breakdown in the Father-Child relationship. In the words of Dr. [K], he is *inclined to opine* that the risk and consequence of the former is less than the latter.

44 However, Dr. [K] also caveated that even if the relocation were to happen, *there would be no guarantee that the breach of the relationship between Father and Child could be restored*, and that *a forcible removal of the Child to the Father's care is not advocated*.

45 I accept the opinion of Dr. [K] above, as it is inherently coherent and sensible. Besides, neither of the Parties sought to challenge his opinion. To put this into practice, I therefore made the finding that a relocation of the Child at present is not in his best interest, as I did not want to destabilise the Child's current living situation at the risk of subjecting him to the significant stressors of relocation, whereby even then there is no guarantee that the Father and Child relationship can be restored to its former strength.

My decision on FC/SUM 3799/2020 and FC/SUM 4087/2020

On FC/SUM 3799/2020

46 Prayers [8] to [10] relate to the relocation of the Child to the UK. As I had accepted Dr. [K]'s recommendation that the current living conditions where the Child is living with the Mother and his grandparents, should continue, and found that an order for relocation is not currently in the best interests of the Child, I accordingly made no orders on prayers [8] to [10] of FC/SUM 3799/2020.

47 As regards prayers [1] to [7] of FC/SUM 3799/2020, I made no final orders as these relate to the appointment of Dr. [K], his mode of clinical

assessment, and the report he is to furnish to Court. It bears highlighting that on 27 May 2021, I had made interim orders (in FC/ORC xxx4/2021) for the appointment of Dr. [K] under Rule 35 of the FJR, which in my view disposes of the need to make final orders in respect of prayers [1] to [7].

48 For completeness, I should add that after the release of Dr. [K]'s report, the Father also made written submissions on the issue of treatment, which Dr. [K] had also recommended. Examples of these submissions included asking for the Child should be placed under the care and control of the Father for the duration of the treatment, and to limit the Child's exposure to the Mother during such time. The Father had also submitted for an order for the Parties' relocation to the UK with the Child.

49 Even though I was minded to consider making the necessary orders relating to treatment, I was not able to do so under this summons because a treatment order was not specifically prayed for by the Father. The High Court in *Edmund Tie & Company (SEA) Pte Ltd v Savills Residential Pte Ltd* [2018] SGHC 84 had made clear that a court cannot grant an order which a party did not seek. This theme of discipline in pleadings was again repeated by the High Court in *USC v USD* [2021] SGHCF 4, wherein it was held that:

[7] Pleadings perform the important function of delimiting the litigation before the court. *The court is not a free for all, no holds barred, combat zone.* Fairness and discipline require parties to state clearly what cause it is that they wish to pursue before the court, and the opposing party to state what his defence is. This important function is also a straightforward and simple one. It does not require the parties to set out evidence nor the law. But they must state the facts upon which the cause they choose can be founded. *They must set out what reliefs they hope the court would grant.* That is all, but if that simple procedure is not followed, the only remedy, so long as there is still time, is to pray for the court to allow an amendment to rectify the error or omission. Otherwise, *the party must stand or fall by the claim they plead.*

[emphasis added]

50 Regarding the Father's application for a relocation order to be made, this was also not something that the Father had prayed for in FC/SUM 3799/2020. Notably, the Father did not include in his summons any prayer for this court to make any order or grant any relief it deems it, or any such prayer to this effect. Even after Dr. [K]'s report was released and the Father had every opportunity to do so, he did not seek leave to amend the summons to include prayers for treatment or relocation. In the absence of such an application, I was not able to consider the Father's further submissions on the necessity of a treatment or relocation order, and the form it should take, if any, under FC/SUM 3799/2020.

On FC/SUM 4087/2020

51 I made no final order on prayer [1] as it was no longer in issue, especially since parties had already jointly agreed on the appointment of Dr. [K], which was comprehensively reflected in the interim orders I made on 27 May 2021 in FC/ORC xxx4/2021.

52 As regards prayer [2], which was the mother's application for a variation of orders 10, 11, and 12 of the Mirror Order, I agreed that such a variation is necessary, given the material change in circumstances from the time the Mirror Order was made to the time I heard this matter. These chiefly encompasses the further deterioration of the Father and Child relationship and the Father's departure from Singapore on 5 August 2021 for Ireland, with no indication of a proposed return, if any at all.

53 Order 10 of the Mirror Order requires the Parties to make arrangements for their relocation with the Child to the UK during the 12-month period that the Father spent in Singapore. As I had explained that the best interests of the

child would not be served by a present relocation to Ireland or the UK, it is therefore not necessary for order 10 of the Mirror Order to remain in its present form. I therefore varied this order as follows:

- (a) Any intended move by the Parties with the child to the UK or any other such third country that Parties may agree upon, shall be stayed until such time that this order is varied or set aside.

54 At present, I note that there is a great deal of factual uncertainty as to whether the Father will even be returning to Singapore. Had the facts relating to the Father's plan to return to Singapore, if any, been placed before me, I might well have come to a different conclusion on this issue.

55 For completeness, I note that little or no prejudice is caused to the Father as it is open to him to take out fresh summons if his personal circumstances change, if there is an improvement in the relationship between Father and Child, or if the Father decides to relocate or return to Singapore after settling his professional affairs in Ireland. The court can revisit this issue again in future, where appropriate to do so.

56 As regards orders 11 and 12 of the Mirror Order, I note that the gist of these orders is:

- (a) Whilst the Father is in Singapore, he is to have 40% of the exclusive parenting time with the Child, alternating between Thursday to Sunday, and Tuesday to Thursday every week; and
- (b) The Parties and the Child were to spend a two-week summer vacation in Ireland in 2020.

57 Due now to a material change in circumstances, I deemed it fit to vary the above orders. Specifically, at the time I made the final orders on 31 August 2021, the Father was no longer in Singapore, so order 10 has become unworkable. Likewise, given the deterioration of the Father and Child relationship, it is no longer feasible to expect the Parties to spend two weeks on holiday in Ireland. I therefore made the following orders to give effect to the spirit of the Mirror Order:

- (a) The access arrangements referred to in paragraphs [11] and [12] of the 7 August 2020 order be stayed until such time that this order is varied or set aside.
- (b) The Father shall have remote access to the Child at 7 p.m. daily (Singapore time):
 - (i) Remote access may be through video calls on skype or zoom;
 - (ii) The Father shall inform the Mother four hours in advance of each call, the mode of communication he intends to exercise in order for the Mother to set up the necessary to facilitate the said access;
 - (iii) On notice given by the Father, the Mother shall facilitate or ensure that the call takes place, and arrange for the Child to take the call in a room by himself that is quiet and conducive; and
 - (iv) The Mother shall not be present during the call or interrupt or intervene in the call between the Father and the Child.

58 However, my orders above do not quite dispose of the matter entirely. Unlike the Father, the Mother in her application in FC/SUM 4087/2020 did pray for such further of other relief this Honorable Court deems fit. This therefore allowed me to deal with the issue of treatment for the Parties which Dr. [K] addressed in his report. Specifically, he recommended that intervention should occur without delay. To this end, Dr. [K] recommended that a therapist be appointed to work with the Parties, and for the Father and Child to increase their time spent together significantly at a neutral venue. Notably, Dr. [K] also recommended that the Court should regularly monitor the progress of the above until such time that the Child's relationship with the Father improves significantly.

59 In line with Court of Appeal's remarks in *VDZ v VEA* [2020] SGCA 75 on therapeutic justice at [75], I hope to make an order which aids the Parties and the Child to move forward as positively as possible with their lives under a process where their entire journey should allow for the healing, restoring, and recasting of a positive future. A good starting point would be for treatment to take place, and the Mother to cease her negative influence on the Child which may lead to further parental alienation with the Father. To this end, I also accounted for the fact that the Father had since left Singapore (as at the time of my order) and that treatment by remote means is better than no treatment at all. My orders are therefore as follows:

- (a) Within three weeks of this order, the Parties shall jointly agree on a trained therapist in the UK or Singapore to be appointed by the Father to carry out treatment with a view towards improving the Father's relationship with the Child. If no agreement is reached by the Parties by

the stipulated time, the Father shall have the right to appoint a trained therapist in the UK or Singapore for the purposes stated above.

(b) The Mother shall not obstruct any such attempts at therapy by the Father and shall do her best to cooperate, and this includes but is not limited to ensuring that the child attends the therapy sessions virtually or physically (if conducted in Singapore) and comply with any requests made by the said therapist in furtherance of the said treatment.

(c) Costs of the abovementioned treatment are to be borne by the Father wholly, unless otherwise agreed between parties.

(d) With immediate effect, the Mother shall refrain from discussing any matters relating to the Father with the Child, even if such discussions are initiated by the Child, unless the Mother is talking about the Father positively. The Mother shall take all necessary steps to ensure that none of her family members and/or partner discuss any matters relating to the Father with the Child as well, even if such discussions are initiated by the Child, unless they are talking about the Father positively.

60 In the event that further orders or clarifications are required from the court, I gave Parties the liberty to apply.

On Costs

61 To recap, I made no orders as to the Father's application in FC/SUM 3799/2020 and granted most, if not all of the substantive prayers that the Mother sought in FC/SUM 4087/2020. Effectively, the Father had not succeeded whilst the Mother succeeded in her application for a stay of relocation to the UK as well as a stay of the access orders.

62 It is trite that costs should follow the event, and this was precisely what the Mother's counsel submitted, seeking costs of \$12,000 plus disbursements for both applications. However, this principle is just the general rule, and the High Court in *JBB v JBA* [2015] 5 SLR 153 at [27] had held that whilst costs should generally follow the event, the court is free to depart from this guiding principle whenever the court considers that the circumstances of the case warrant some other cost order. Rule 854 of the FJR also allows the court to exercise its discretion in making a costs order by taking into account, amongst other things, the conduct of all the parties, including conduct before the proceedings.

63 Counsel for the Father cited both the abovementioned case law and the FJR, and urged me to consider that the justice of the case warrants the award of a costs order for both applications in his favour. Namely the Father's counsel argued that:

- (a) The court cannot ignore the behaviour of the Mother. She has done acts leading to the alienation of the Child. She engineered the alienation and benefited from it. This is unfair to the Father.
- (b) From the perspective of equity, the Father had a legitimate expectation for the relocation to take place, which is not impossible because of the Mother's actions. Such expectation now cannot be met because the Child's best interests require that any plans for relocation be stayed.
- (c) To cure this injustice, it can be addressed at the stage of costs.

64 Whilst I would not go as far to find that the Mother had engineered the alienation, I do accept that the cause of alienation between Father and Child was

caused primarily by the Mother, and by such actions she had made it impossible for the Parties to relocate to the UK with the Child, which was a breach of the Father's legitimate expectations arising from the Mother's agreement as crystallised in the Irish Order and the Mirror Order.

65 In reliance on the Irish Order, the Father had come to Singapore in 2019 with a view towards staying for 12 months in order to make arrangements with the Mother for their relocation to the UK. He had incurred much costs and time away from his veterinary practice in Ireland, and all that eventually for nought as the Mother's action had made it no longer viable for the relocation to take place. In the interests of justice, the Father ought to be placed, as much as possible, in the same financial position had the Mother not breached the spirit of the Irish Order. I therefore saw it fit that costs be awarded to the Father.

66 When asked to submit, the Father's counsel asked for \$25,000 on an indemnity basis given the amount of work done which excluded time spent on client meetings. In the alternative, the Father's counsel (of 19 years PQE) submitted for costs in the range of \$15,000 to \$18,000 on a standard basis. In total, she had spent 62 hours on this matter and her Associate (of 4 years PQE) had spent 120 hours on this matter.

67 I did not agree that costs on an indemnity basis were warranted in this case. The chief reason for departing from the general rule that costs should follow the event was due to the Mother's pre-hearing conduct of alienating the Child from the Father and causing the latter's legitimate relocation expectations to be thwarted. However, by her alienating behaviours alone, it was insufficient to shift the costs against the Mother into the realm of indemnity costs, as this would usually warrant something more, such as if she had behaved oppressively or vexatiously at the hearing, which was not the case here. I therefore find that

a well-struck balance lay in ordering costs on a standard basis against the Mother.

68 To this end, I note that a total of eight affidavits and three sets of submissions were filed by each of the parties, and the substantive hearings (excluding the one for costs) took place over two half days. Given the seniority of the Father's counsel and the work which she and her Associate had put into the file, I find it just and equitable to award all-in costs of \$16,000 to the Father, inclusive of disbursements. I did not make an order for the cost of Dr. [K]'s report as Parties had earlier agreed to share the cost of this report.

Conclusion

69 This case essentially came down to the legitimate expectations of the father (to relocate the Child), against that of the best interests of the Child (to remain in Singapore).

70 Having carefully weighed the above, I accept that the Child's best interests take precedence, so I made a substantive order for the Child to remain in Singapore with the Mother. On the other hand, the Father should not go without remedy for having his legitimate expectations thwarted by the Mother. This was cured by way of the cost order I made against the Mother as his interests cannot be placed above that of the Child's in this context.

71 To conclude, I would urge the Parties to seriously consider putting in the effort to go for treatment (whether remotely or otherwise) with a view towards helping the Child mend his relationship with the Father. I also caution that the Parties will do well to remember that should the matter return to court, the court is duty-bound to place paramount consideration on the welfare of the Child.



Clement Yong
District Judge



Yap Teong Liang (T L Yap Law Chambers LLC)
for the plaintiff;

Linda Joelle Ong and Wong Chooi Teng,
Sarah (Engelin Teh Practice LLC)
for the defendant.