

## Re R (A Child – Relocation) [2015]

**[2015] EWHC 456 (Fam)**

04/03/2015

### Court

High Court Family Division

The mother was born and brought up in Hong Kong until she attended boarding school in England. She returned to Hong Kong but relocated to England in 1995 due to work where she has remained. The parents met in 2007 and separated in 2013. The child was born in America following IVF treatment of a donor egg and the father's sperm. The mother applied to remove the child, a two and half year old, permanently to Hong Kong. The mother was made redundant in 2013 and stated that she needed to return to Hong Kong as she had had only one job offer, this being in Hong Kong. During the final hearing she also stated that she wished to return to Hong Kong to be able to spend time with her adult daughter who had recently returned to Hong Kong for work. The father opposed the application and applied for a child arrangement order for the child to spend three nights each week with him.

Mr Justice Wood refused the mother's application and granted the father's application for the following reasons:

- Due to the father's work commitments and the complex arrangements that were needed when he was absent, Wood J found that it was almost impossible for the father to leave for even "short-ish" periods which had real implications for his ability to visit Hong Kong if the mother were to be granted permission to relocate.
- No argument was made, nor would the court have accepted such an argument on the evidence, that the mother was isolated or lonely in England.
- Wood J did not accept that the mother had intended to remain and work in England, nor that the plan to return to Hong Kong was only as a result of the financial proceedings and the urgency to find work.
- He was not persuaded that the mother would be unable to find work in England. He accepted the father's evidence that there were a number of agencies that the mother could have approached for work but had failed to do so.
- Wood J found that the mother's finances could be rearranged to enable her to live in England and would not lead to a life of comparative hardship as stated on her behalf.
- He concluded that the mother had presented barriers to the father spending time with the child, some of which disappeared without any explanation and she had been disdainful of the father when making holiday arrangements. Although there had been recent increases in contact allowed by the mother, Wood J had no confidence that she had changed her view of the father.
- The mother's proposals for contact between the child and father following relocation were insufficient to make up for the loss in the relationship. Wood J doubted that the mother would adhere to a contact regime and in any event such a regime would soon collapse. This harm to the child would be compounded by the likely sense of abandonment upon the child finding out, as he will in the future, that the father was his only natural parent.
- The CAFCASS

officer's conclusion that this was an evenly balanced case was not accepted by Wood J.  
Wood J considered mirror orders which could be obtained in Hong Kong. Although giving some confidence as to enforceability, he did not consider that they would provide sufficient certainty for the father. Wood J approved the father's application for contact three nights a week, this having been the level of time the child had spent with the father in the months leading up to the final hearing. No issues were raised about the father's ability to care for the child and the CAFCASS Officer reported a close bond between the child and father.

Consideration of a mother's application to relocate the child to Hong Kong. Application refused.

Permission

**Permission**

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