Foo Ah Yan *v* Chiam Heng Chow
[2012] SGCA 15

Case Number	: Civil Appeal No 58 of 2011
Decision Date	: 20 February 2012
Tribunal/Court	: Court of Appeal
Coram	: Chao Hick Tin JA; Andrew Phang Boon Leong JA; Judith Prakash J
Counsel Name(s)	: Cheah Kok Lim (Cheah Associates LLC) for the appellant; Michael Moey Chin Woon (Moey & Yuen) for the respondent.
Parties	: Foo Ah Yan — Chiam Heng Chow

Family Law – Ancillary powers of court

Family Law – Maintenance – wife

[LawNet Editorial Note: This was an appeal from the decision of the High Court in [2011] SGHC 202.]

20 February 2012

Andrew Phang Boon Leong JA (delivering the grounds of decision of the court):

1 This was an appeal by the wife against a decision of the High Court ordering lump sum maintenance of $75,000, to be paid 14 days after the wife transfers a property back to the husband (see *Foo Ah Yan v Chiam Heng Chow* [2011] SGHC 202 ("the GD")). The order of the learned Judge ("the Judge") embodied the terms of the husband's offer, which was made in response to the wife's claim for lump sum maintenance of $292,000. We allowed the wife's appeal and now set out the detailed grounds for our decision.

The factual background

2 This case concerned the obligations of the respondent husband to maintain the appellant wife after the dissolution of their 13.5 year long marriage. The parties were married on 11 October 1995, and by the time the ancillary proceedings had commenced, the wife was 60 years old and the husband was 72 years old. As there were no children of the marriage, and the wife did not claim a share of the matrimonial assets, the only ancillary matter before this court was that of maintenance of the wife.

3 The parties resided in a double storey corner terrace house during the marriage. The husband retired in 1996, shortly after the marriage. He continued to receive an income of $2,600 per month, constituted by rental of $1,800, an annuity of $350 from his National Trades Union Congress ("NTUC") insurance policy [note: 1] and allowances from the children from his previous marriage. [note: 2] The wife, who was a full time accounts clerk and bookkeeper drawing a monthly salary of $2,550, [note: 3] also stopped working shortly after the marriage. [note: 4]

4 Several factual disputes took centre stage during the proceedings below. Firstly, there was a dispute over whether the husband had maintained the wife during the marriage. The wife claimed that maintenance had been provided, although, as the Judge noted, her position regarding the quantum of

maintenance allegedly provided had been inconsistent (see the GD at [6]–[8]). The husband, in contrast, insisted that he had not maintained the wife during the marriage. [note: 5] As was apparent during submissions (at least on the part of the husband), this insistence was thought to justify the position that a husband who had not maintained his wife during the course of the marriage need not do so after the marriage was dissolved. This was an unfortunate reading of a husband's obligation to maintain his former wife under the Women's Charter (Cap 353, 1997 Rev Ed) ("the Act"), which we shall elaborate on later. The second factual dispute concerned the wife's current financial position. According to her, she now earns $1,100 per month ($800 as a part time accounts clerk and bookkeeper, and $300 from multi level marketing sales). [note: 6] The husband alleged that she was earning more, [note: 7] given the sizable difference between her monthly income of $1,100 and her claimed monthly expenses of $6,344.50. [note: 8]

5 At a hearing before the Judge on 26 April 2011, the husband made an offer of a lump sum payment of $75,000 payable over three monthly instalments provided the wife re-transferred a property in Hainan, Republic of China, known as Unit 15B Lion City Apartment ("the Hainan property"), back to him. [note: 9] It was not disputed that the Hainan property, purchased in 2000 [note: 10] and registered in the wife's name, was wholly paid for by the husband. [note: 11] The wife did not argue that the Hainan property was a gift to her. [note: 12]

Decision of the High Court

6 The Judge found that the wife had been financially independent throughout the marriage (see the GD at [27]), and, as such, the only "loss" suffered by her following the dissolution of the marriage was the loss of accommodation (see the GD at [24]). The wife's financial independence was inferred from her failure to prove receipt of maintenance during the course of the marriage (see the GD at [17] and [27]), her failure to explain how she had bridged the difference between her monthly expenses of $6,344.50 and the monthly sums allegedly provided by the husband during the marriage (see the GD at [22]), as well as the fact that parties had kept their finances separate (see the GD at [19]).

7 The Judge held that, but for the husband's offer, he would have awarded the wife a lump sum of no more than $48,300 (see the GD at [27]), based on a multiplicand of $575 per month (the monthly rental for a room in a Housing and Development Board ("HDB") flat) and a multiplier of 7 years, *ie*, $575 x 12 x 7. In the light of this, the Judge found the husband's offer to be generous and thus ordered him to pay $75,000 in three monthly instalments of $25,000, commencing within 14 days after the wife transferred the Hainan property back to him (see the GD at [4] and [28]).

The issues on appeal

8 The issues which arose before this court were as follows:

(a) Whether the Judge was correct in finding that lump sum maintenance of $75,000 was fair and reasonable in the circumstances ("Issue 1").

(b) Whether the maintenance order should be conditional upon the transfer of the Hainan property back to the husband ("Issue 2").

9 As alluded to at [4] above, an interesting question that arose in connection with Issue 1 (and which will be dealt with below) was whether a husband who had not maintained his wife during the course of the marriage was entitled to raise this in divorce ancillary proceedings in order to avoid

having to maintain his former wife *post* dissolution of the marriage.

Parties' respective arguments on appeal

10 Counsel for the wife, Mr Cheah Kok Lim ("Mr Cheah"), argued that proof of maintenance during the marriage should not be the chief focus since the Act does not require a wife to produce such proof before she may claim maintenance *post* dissolution of the marriage. [note: 13] Mr Cheah argued that, since a husband is under a duty to maintain his wife during the marriage, the provision of maintenance during the marriage is, at best, *one* of the many factors that the court should consider when ordering maintenance to be paid after the divorce. [note: 14] He also took issue with the Judge's inference that the wife was financially independent, arguing that the sum of $6,344.50 represented her current estimated expenses, which included anticipated medical expenses of $500 and rental of $1,500 which she would now have to pay. [note: 15] Finally, Mr Cheah argued that the court should take into account the wife's old age, [note: 16] the husband's financial resources, as well as the fact that the wife had not received any share of the matrimonial assets. [note: 17] In the circumstances, he argued that a lump sum payment of $292,000 in favour of the wife, based on a multiplicand of $1,800 per month (*ie*, the rental of an HDB flat) and a multiplier of 13.5 years, being the length of marriage, would be the appropriate order.

11 In response, counsel for the husband, Mr Michael Moey ("Mr Moey"), argued that as the husband had never maintained the wife during the course of the marriage, there was no reason why he had to do so now. [note: 18] Mr Moey argued that the husband was, in any case, only obliged to provide the wife with rental of a *room* in an HDB flat because parties had shared a bedroom in the matrimonial home and the wife was usually away for most part of the day, treating the home like a hotel. [note: 19] Mr Moey argued that providing more maintenance to the wife would be tantamount to giving her a share of the matrimonial assets *via* the back door. [note: 20]

Our decision

Issue 1

The general law on maintenance of a former wife

12 The court derives its power to order maintenance from s 113 of the Act. Section 114 of the Act was modelled on s 25 of the Matrimonial Causes Act 1973 (c 18) (UK) ("the 1973 UK Act"). The 1973 UK Act is a consolidating act, which repealed and re-enacted s 5 of the Matrimonial Proceedings and Property Act 1970 (c 45) (UK) ("the 1970 UK Act"), prior to the amendment in 1984 referred to below (at [15]). Section 114 of the Act sets out a non-exhaustive list of factors to be considered as well as the guiding principle of financial preservation, as follows:

> 114.—(1) In determining the amount of any maintenance to be paid by a man to his wife or former wife, the court shall have regard to all the circumstances of the case including the following matters:
>
> (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future;
>
> (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;

(c) the standard of living enjoyed by the family before the breakdown of the marriage;

(d) the age of each party to the marriage and the duration of the marriage;

(e) any physical or mental disability of either of the parties to the marriage;

(f) the contributions made by each of the parties to the marriage to the welfare of the family, including any contribution made by looking after the home or caring for the family; and

(g) in the case of proceedings for divorce or nullity of marriage, the value to either of the parties to the marriage of any benefit (for example, a pension) which, by reason of the dissolution or annulment of the marriage that party will lose the chance of acquiring.

(2) In exercising its powers under this section, *the court shall endeavour so to place the parties, so far as it is practicable and, having regard to their conduct, just to do so, in the financial position in which they would have been if the marriage had not broken down and each had properly discharged his or her financial obligations and responsibilities towards the other.*

[emphasis added]

13 Generally, assessment of the appropriate monthly multiplicand begins with the wife's financial needs as derived from her particulars of expenditure, scaled down for reasonableness: see the Singapore High Court decision of *Quek Lee Tiam v Ho Kim Swee (alia Ho Kian Guan)* [1995] SGHC 23 ("*Quek Lee Tiam*") at [16]. The overarching principle embodied in s 114(2) of the Act is that of financial preservation, which requires the wife to be maintained at a standard, which is, to a reasonable extent, commensurate with the standard of living she had enjoyed during the marriage. A clear application of this principle was found in *Quek Lee Tiam* (at [19]), where Lai Kew Chai J held that:

[T]he principle of financial preservation means that she should have accommodation commensurate with 26 Lynwood Grove in standard though not in size because she is single. She should be provided a car, not the Honda Concerto which was used to ferry the dogs, but a Mercedes 200. She should have food, sartorial, cosmetic and other usual allowances as if she remained as Mrs Ho. He has to provide her with a membership in a golf club as she was a very keen golf player at his request, if not insistence. What would be wrong and contrary to the principle of preservation is to award her a sum of maintenance which would relegate her to the standard of living before the marriage.

14 The statutory directive in s 114(2) has, however, been criticised for ignoring the very fact that triggered the application for maintenance, *viz*, termination of the marriage, and for restricting the court to the sole consideration of parties' conduct when reflecting upon the justice of the order: see *Halsbury's Laws of Singapore* vol 11 (LexisNexis, 2006 Reissue) ("*Halsbury's*") at para 130.853. The first criticism was articulated in the following terms by Lord Hailsham of St Marylebone LC during the parliamentary debates on the UK Matrimonial and Family Proceedings Bill (which was subsequently enacted as the Matrimonial and Family Proceedings Act 1984 (c 42) (UK) ("the 1984 UK Act")) (see *Parliamentary Debates (Hansard) - House of Lords* (21 November 1983) vol 445 at col 35):

[T]he last words of the old subsection (1) [*ie*, s 25(1) of the1973 UK Act]…limited the discretion of the court by enacting that, in exercising its powers, the court should place the parties, so far as it is practical, and, having regard to their conduct, just to do so, in the financial position in

> which they would have been had the marriage not broken down. This is to set the court an impractical and wholly undesirable objective. The basis of divorce being the irretrievable breakdown of the marriage, it is neither practicable nor desirable to attempt to put the financial eggs back in their shells. This would involve the courts in a miracle worthy of my reputed predecessor, Saint Swithin, who is reported to have done just that on a famous occasion. It is this which has led to the most anomalous of decisions and given rise to the legitimate element in the "meal ticket for life" complaint.

References may also be made to the following publications by the Law Commission for England and Wales: *The Financial Consequences of Divorce: The Basic Policy – A Discussion Paper* (Law Com No 103, 1980), especially at paras 21–22, 42–44 and 66–69 and *The Financial Consequences of Divorce – The Response to the Law Commission's Discussion Paper, and Recommendations on the Policy of the Law* (Law Com No 112), especially at para 17.

15 Yet, whilst England and Wales have abandoned their equivalent of the s 114(2) directive after amendments *vide* the 1984 UK Act (see, in particular, s 3), with the result that s 25 of the UK Matrimonial Causes Act 1973 now only directs the court to consider a non-exhaustive list of relevant factors, our legislature has not followed suit (see Leong Wai Kum, *Elements of Family Law in Singapore* (Singapore: LexisNexis, 2007) ("*Elements of Family Law in Singapore*") at p 796 and *Halsbury's* at para 130.853). Our courts have, however, applied s 114(2) *purposively* to achieve a commonsense response to the requirements of justice in each case – a point which has been acknowledged by the work just mentioned (see *Halsbury's* at para 130.853). As this court noted in *BG v BF* [2007] 3 SLR(R) 233 ("*BG v BF*") at [74]–[75]:

> The High Court in *Wong Amy v Chua Seng Chuan* [1992] 2 SLR(R) 143 made some crucial observations in relation to these powers: (a) adequate provision must be made to ensure the support and accommodation of the children of the marriage; (b) provision must be made to meet the needs of each spouse; and (c) *at the end of the day, it is the court's sense of justice which demands and obtains a just solution to many a difficult issue*: see also *Quek Lee Tiam v Ho Kim Swee [1995] SGHC 23*. These principles were recently endorsed by V K Rajah J (as he then was) in *NI v NJ* [2007] 1 SLR(R) 75.
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> … In *Tan Sue-Ann Melissa v Lim Siang Bok Dennis [2004] 3 SLR(R) 376*, this court held that the rationale behind the law imposing a duty on a former husband to maintain his former wife is *to even out any financial inequalities between the spouses, taking into account any economic prejudice suffered by the wife during marriage*.
>
> [emphasis added]

16 The *purposive* approach to the s 114(2) directive recognises that there could be an infinite number of reasons why the applicant should not get all she asks for, and requires s 114(2) to be applied in *a commonsense holistic manner* that takes into account the new realities that flow from the breakdown of a marriage: see the Singapore High Court decision of *NI v NJ* [2007] 1 SLR(R) 75 ("*NI v NJ*") at [15]–[16]. Indeed, Lord Gardiner LC referred to instances of the possible pitfalls which might occur (and which the commonsense holistic approach adopted by the Singapore courts *avoids*) during the debate in the House of Lords on clause 5 of the UK Matrimonial Proceedings and Property Bill (which was later enacted as s 5 of the 1970 UK Act that was, in turn, and as noted above at [12], the provision upon which s 114 of the Act was modelled), as follows (see *Parliamentary Debates (Hansard) - House of Lords* (4 December 1969) vol 306 at cols 267–268):

> In its present form, Clause 5(1) requires the court, first, to consider the relevant factors set out

in paragraphs (a) to (f) and then so far as it is practicable and, having regard to the conduct of the parties, "just to do so", to put the party in whose favour the order is to be made in the position he or she would or should have been had the marriage not broken down. *This formula could lead to the conclusion that, where no question of penalising misconduct arises, and where there is enough money to do so, the court must put the payee in his "pre-breakdown" position, regardless of the effect on the payer. This could produce a most unfortunate result. If one takes a case where there is a decree granted to a wife petitioner on the grounds of five years' separation and no question arises of misconduct by either husband or wife, the wife may be receiving an appreciable income of her own—for example from practice as a doctor or from the profits of a business—which is much greater than that of her husband. From the way the parties behaved before the breakdown, it may be clear that, but for the breakdown, the wife would have continued to be the financial mainstay of the family. It would hardly be right for the husband to claim that, on divorce, he was entitled to be put back in his financial status quo, even if this meant the wife's paying him more than half her income.*

It is notoriously true that two separate homes are much more expensive to run than one. It will, therefore, in almost every case be impracticable so to reallocate the resources of the parties as to put one spouse in his or her pre-breakdown financial position without drastically reducing the standard of living of the other. In some cases, for example where that other's conduct is the more blameworthy, this may be a fair result. But where there is no question of one being more to blame than the other, it will not be fair. The principle underlying the Amendment is that the court should aim at getting as near as possible to putting both parties in their pre-breakdown financial position, so that, where some reduction in the standard of living is inevitable (as it usually will be), that reduction is shared and not borne entirely by one party—save where his own bad conduct makes it just that he should be the one to suffer the greater financial loss.

[emphasis added]

Consequently (and in accordance with this commonsense holistic approach), our courts have held, *inter alia*, that a former wife must, where possible, exert reasonable efforts to secure gainful employment and contribute to preserve her pre-breakdown lifestyle: see, for example, *Quek Lee Tiam* at [22] and *NI v NJ* at [14]–[16].

17 The court must also consider the husband's financial ability to meet the maintenance order. Thus, although the husband is *prima facie* obliged to maintain his former wife beyond his retirement and up to the former wife's remarriage or the death of either party, the former wife who has assets of her own should not expect a full subsidy for her lifestyle: see, for example, the Singapore High Court decision of *Yow Mee Lan v Chen Kai Buan* [2000] 2 SLR(R) 659 ("*Yow Mee Lan*") at [93].

18 As for the period over which maintenance is to be paid, this court, in *Ong Chen Leng v Tan Sau Poo* [1993] 2 SLR(R) 545 ("*Ong Chen Leng*") at [35]–[36], applied a multiplier of 17 years to the multiplicand of $600 per month as a compromise between the average life expectancy of a woman (70 years) and the usual retirement age of a Singapore male worker (65 years), less the wife's present age (50 years). This was however not a hard and fast rule: see *Rosaline Singh v Jayabalan Samidurai (alias Jerome Jayabalan)* [2004] 1 SLR(R) 457 ("*Rosaline Singh*") at [13] and *Yow Mee Lan* at [97], where the High Court in the latter case held as follows:

> The wife in this case was aged 51 at the time of the hearing…If I were to apply the quantification adopted in *Ong Chen Leng*'s case, I would take a multiplier of 16 years on the same reasoning as used there. In this case, however, the monthly quantum of maintenance awarded is considerably higher than that at issue in [*Ong Chen Leng*] and I am sensible of the point made by the district

> judge that the wife cannot expect to be maintained at the same standard after the husband retires…. In the circumstances, I consider that the fairer way of dealing with the problem would be to award the wife a lump sum based on full maintenance for eight years (*ie[,]* up to the husband reaching the age of 60) and on half maintenance for a further eight years. Accordingly, I allow the wife's appeal in relation to maintenance and vary the lump sum awarded to $259,200.

19 In the final analysis, it is the reasonableness of the maintenance claim *vis-à-vis* the husband's ability to pay, which guides the court's application of the principle of financial preservation (see also the recent decision of this court in *AQS v AQR* [2012] SGCA 3 at [52] ("*AQS*")). As factors leading up to the breakdown of marriages are varied and often incommensurable, no single formula can ensure a just result in each and every case. Consequently, courts have accepted that the exercise of assessing maintenance must be undertaken flexibly, with "a commonsense dose of realities" (see *Quek Lee Tiam* at [21]).

Can a husband who has not maintained his wife during the course of the marriage raise this fact in divorce ancillary proceedings in order to avoid providing maintenance post dissolution of the marriage?

20Before us, counsel for the wife, Mr Cheah, argued that the Judge was wrong to hold that the wife was not entitled to maintenance unless she could prove that she was maintained during the course of the marriage. [note: 21] Counsel for the husband, Mr Moey argued, naturally, that such an approach was correct. [note: 22] It was unfortunate that both parties had not given the Judge's decision a fair reading: It was quite clear, in our view, that the Judge had rightly looked at maintenance during the marriage as an *indicator* of the wife's financial independence, rather than as a *pre-requisite* for claiming post-divorce maintenance (see the GD at [16]–[17]).

21 In any event, we were unable to locate authorities in support of the husband's broad – indeed, sweeping – proposition to the effect that one who has not maintained his wife during the course of the marriage need not do so after the divorce. Indeed, s 69(1) of the Act imposes an obligation on a husband to provide maintenance to his wife during the course of the marriage. Of course, what is reasonable depends on all the circumstances of the case; that a wife is financially capable does not *per se* excuse a husband from his duty to maintain her, although it may affect the quantum of maintenance deemed to be reasonable: see Tan Cheng Han, *Matrimonial Law in Singapore and Malaysia* (Butterworths Asia, 1994) at pp 205–206. While non-provision of maintenance during subsistence of the marriage could therefore be justified in some situations, a husband's reliance on his failure to provide maintenance during the marriage *per se*, in order to evade his duty to maintain his former wife after divorce, cannot possibly sit well with the court's sense of justice.

22 Furthermore, the duty of a husband to maintain his wife during the marriage, as provided by s 69(1) of the Act, and the obligation to provide maintenance to a former wife under s 113 of the Act are driven by separate forces. As Prof Leong Wai Kum pointed out in *Elements of Family Law in Singapore* at p 476:

> In the former situation, the objective is to provide modest maintenance, namely, to help her overcome her immediate financial need which may well be the same objective when ordering maintenance for a dependent child. In the latter situation, maintenance ordered for a former wife, however, serves the far more ambitious objective of giving her a fair share of the surplus wealth that had been acquired by the spouses during the subsistence of the marriage.

Indeed, while the court must have regard to all circumstances of the case when ordering maintenance in both contexts, the matters that the Act specifically directs the court to consider under ss 69(4)

and 114 of the Act are not identical. It is thus conceivable that one who justifiably fails to maintain his wife during the course of their marriage may nevertheless be obliged to do so after the marriage has ended.

The present appeal

23 We have emphasised that while non-provision of maintenance during the course of the marriage may point towards the wife's financial independence, it is not a factor that should be given conclusive weight. In any event, we were mindful that, despite his claims that no maintenance had been provided to the wife, the husband had admitted to providing her with accommodation and related outgoings during the marriage itself. [note: 23]

24 Although the wife did not produce evidence of payment of rental to her nephew with whom she is currently residing, the Judge decided to give her the benefit of doubt as it was unclear whether she would be able to stay with her nephew indefinitely (see the GD at [25]). This was a sensible approach, which accorded with the following observations made (albeit in a slightly different context) by this court in *Tan Bee Giok v Loh Kum Yong* [1996] 3 SLR(R) 605 ("*Tan Bee Giok*") (at [24]):

> The wife is 49 years old. She has no career or skill to speak of and does not appear to have any other means to support herself. Shutting her out from maintenance would leave her vulnerable in her present relationship with the party cited or other friends which carries with it none of the obligations of marriage on their part. In other words, there is no obligation on the part of the party cited or her other friends to continue to provide funds for her subsistence.

25 We were however of the view that it would be more reasonable to provide the wife with rental of an HDB *flat*, rather than that of a *room* in an HDB flat. When applying the principle of financial preservation, the standard of living against which the wife's current maintenance entitlement should be gauged is that which she enjoyed *prior to the breakdown of the marriage*, instead of that *prior to the marriage*: see s 114(1)(*c*) of the Act and *Quek Lee Tiam* at [19]. Bearing in mind that parties had resided in a double storey terrace house during the marriage, a rented room in an HDB flat fell too far short of the standard of accommodation commensurate with that of the matrimonial home. Indeed, this view is wholly consistent with – and serves, in fact, to illustrate – the commonsense holistic approach which has been endorsed by our courts (as to which see above at [16]).

26As the power to order maintenance is supplementary to the power to order division of matrimonial assets, courts regularly take into account each party's share of the matrimonial assets when assessing the appropriate quantum of maintenance to be ordered: see, for example, *BG v BF* at [75]–[76], *Rosaline Singh* at [13]; *Tan Bee Giok* at [27] and *AQS* at [51]. Indeed, this inquiry falls within the matters to be considered under s 114(1)(*a*) of the Act (see above at [12]). However, the husband argued that since the wife did not claim a share of the matrimonial assets, and since he would have to sell the matrimonial home in order to provide her with rental of an HDB flat, the wife would effectively be obtaining a share of the matrimonial assets *via* the backdoor. [note: 24] We did not agree with this contention. Firstly, it was apparent that the husband had an interest in several properties, shares and overdraft facilities [note: 25] and would be able to meet the maintenance order. Secondly, requiring the husband to pay for *rental* of an HDB flat was eminently reasonable in the circumstances, given the type of accommodation the wife had been accustomed to during the marriage. It would perhaps have been a different matter had the wife requested the purchase price of an HDB flat, or if parties had lived in an HDB flat prior to the breakdown of their marriage.

27 In the circumstances, we were of the view that an order for lump sum maintenance of $126,000

would be fair and reasonable, based on a multiplicand of $1,500, being the monthly rental of an HDB flat, and a multiplier of 7 years. The husband submitted that *Yow Mee Lan* should be applied to halve the multiplicand in order to account for his status as a retiree. However, the fact that the husband is already retired served to distinguish this case from *Yow Mee Lan*, where the court took into account the husband's *prospective* retirement by halving maintenance for the relevant post-retirement period. Since the multiplicand of $1,500 was arrived at after considering the parties' age and the wife's relative self-sufficiency, the husband's retirement has already been accounted for.

Issue 2

28 Although we appreciated the Judge's concern that the wife should take necessary steps to transfer the Hainan property back to the husband, we saw merit in the wife's argument that this could prejudice her if the transfer takes a long time, [note: 26] especially since it was unclear how long such transfers typically took in Hainan. In the circumstances, we ordered that maintenance payments should not be linked to the transfer of the Hainan property. However, we ordered the wife to provide her fullest cooperation for the transfer to be effected. The husband would bear the costs of the transfer.

Conclusion

29 For the reasons set out above, we allowed the appeal and awarded the wife lump sum maintenance of $126,000, to be paid within three months from the date of order. We also ordered the wife to cooperate fully with the husband with respect to the transfer of the Hainan property back to him. Taking into account all the circumstances of the case, we ordered costs of the appeal in favour of the wife to be fixed at $10,000 plus reasonable disbursements.

[note: 1] Appellant's Core Bundle vol 2 ("2ACB"), Part A, at p 132 (Chiam Heng Chow's Affidavit of Assets and Means dated 11 June 2009).

[note: 2] Respondent's Case ("RC") at p 36, [4.2.2(c)].

[note: 3] Appellant's Case ("AC") at p 7, [3.5.1]; RC at p 6, [3.5.1].

[note: 4] AC at p 7, [3.5.2]; RC at p 6, [3.5.2].

[note: 5] RC at p 11, [3.9.1].

[note: 6] AC at p 11, [3.13], 2ACB, Part A, at p 33 (Foo Ah Yan's Affidavit of Assets and Means dated 9 June 2009).

[note: 7] RC at p 13, [3.13].

[note: 8] RC at p 40, [4.3.4].

[note: 9] 2ACB, Part B, at p 157 (Notes of Arguments).

[note: 10] AC at p 26, [3.21.6].

[note: 11] 2ACB, Part B, at p 157 (Notes of Arguments).

[note: 12] 2ACB, Part B, at p 157 (Notes of Arguments).

[note: 13] AC at p 29, [4.5].

[note: 14] AC at p 29, [4.6].

[note: 15] AC at p 67, [8.20].

[note: 16] AC at p 58, [8.5]–[8.6].

[note: 17] AC at pp 63–67, [8.12]–[8.19].

[note: 18] RC at p 30, [4.1.3].

[note: 19] RC at p 48, [4.3.6(b)].

[note: 20] RC at pp 34–35, [4.1.13]–[4.1.14].

[note: 21] AC at p 26, [4.1].

[note: 22] RC at p 29, [4.1.1]–[4.1.3].

[note: 23] 2ACB, Part A, at p 137 (Chiam Heng Chow's Affidavit of Assets and Means dated 11 June 2009).

[note: 24] RC at pp 34–35, [4.1.13]–[4.1.14].

[note: 25] 2ACB, Part A, at pp 132–135 (Chiam Heng Chow's Affidavit of Assets and Means dated11 June 2009).

[note: 26] AC at p 69, [9.4].