TIG *v* TIH
[2015] SGHCF 12

Case Number : Divorce (Transferred) No [M]

Decision Date : 08 December 2015

Tribunal/Court : High Court

Coram : Valerie Thean JC

Counsel Name(s) : Ferlin Jayatissa and Chiu Hsu-Wee Bernard (LexCompass LLC) for the plaintiff; Conrad Campos, Lee Wei Qi and Charis Toh (RHTLaw Taylor Wessing LLP) for the defendant.

Parties : TIG — TIH

Family law – Maintenance – Wife

Family law – Matrimonial assets – Division

8 December 2015 Judgment reserved.

Valerie Thean JC:

Introduction

1 The Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter"), when enacted in 1961, wholly changed the prevailing marriage paradigm. In particular, where polygamy was once permissible through diverse customary practices, the Charter introduced a single statutory framework premised upon monogamy for non-Muslim Singaporeans.

2 Notwithstanding this new *status quo*, arising from s 93 of the Charter, the Court may still be required to consider the ancillaries in cases where polygamous marriages have been validly entered into, either because the marriage was entered into prior to 15 September 1961 (see s 181 of the Charter), or because parties were married under the laws of other countries which once permitted polygamous marriages or which presently still do.

3 In the present case, I am to determine the ancillaries arising out of a foreign polygamous marriage. The defendant ("the Husband"), formerly a Malaysian citizen but now a Singaporean citizen, married two wives in Malaysia in the 1970s. Parties do not dispute the validity of either marriage which, as is common ground, took place at a time when polygamy was still permitted in Malaysia for non-Muslims. The plaintiff ("the Wife") is the Husband's second wife.

4 Following upon their uncontested divorce, the ancillary issues in this case are the division of assets between the parties and maintenance for the Wife. The children of this family are over the age of majority. An interesting legal issue arises on the issue of asset division between the parties: *should* the valid prior and still subsisting marriage between the Husband and his first wife be taken into account in dividing the matrimonial assets between him and his second wife and, if so, *how*? This obligation also requires analysis in the context of determining maintenance for the Wife, albeit with an additional factor: the Husband's obligations to the child of another unmarried partner.

5 In addition to the above, this case also presented an opportunity for the Court to consider the

principles regulating the use of evidence in the specific context of family ancillary proceedings. I shall turn to address these issues after setting out the facts in greater detail.

Background facts

The families

6 The parties went through a customary marriage in Ipoh, Malaysia in 1978 followed by the registration of the marriage on 15 June 1983 in Malaysia. [note: 1] They have four children – three daughters and a son – none of whom are minors. The children were all born in Malaysia and are, namely: [note: 2]

(a) [A], born on 17 December 1980, now 35 years old;

(b) [B], born on 17 August 1982, now 33 years old;

(c) [C], born on 13 November 1984, now 31 years old; and

(d) [D], born on 18 March 1987, now 28 years old.

7 Central to the narrative in this case is the Husband's prior marriage to one Mdm [J], also in Ipoh, pursuant to a customary ceremony in 1973. [note: 3] The validity of this marriage is not in dispute although the Wife contends that she had no knowledge of it until these proceedings were commenced. The Husband has two children from this marriage who are also above the age of majority. Both children were born in Malaysia, namely: [note: 4]

(a) [E], born on 20 December 1975, now 40 years old;

(b) [F], born on 2 December 1977, now 38 years old.

8 While he was married to the Wife, the Husband also entered into a relationship with one Mdm [K] in Malaysia. [note: 5] They have a son, namely, [G], who was born in Malaysia on 12 March 1995. [note: 6] He is now 20 years old.

The business

9 The matrimonial assets in this case are those arising from the Husband's business.

10 The Husband first came to Singapore from Malaysia in 1972 when he was about 24 years old. He was accompanied by Mdm [J]. [note: 7] He started off working for a company known as [X] Construction and, about two years later, had risen to become a sub-contractor of the company. [note: 8] He returned to Malaysia with Mdm [J] around 1975 and 1976 but came back to Singapore alone to work after their second son was born in December 1977. [note: 9]

11 In 1977, the Husband partnered one Mr Tang in the construction business to build factories for foreign companies in Singapore. [note: 10] At around this time, he became acquainted with the Wife who was then about 23 years old and working as an odd-job labourer in Singapore. They cohabited in rented shophouses before getting married in Malaysia in 1978. [note: 11]

12 The Husband's business partnership with Mr Tang lasted for about four years before he left to set up his own sole proprietorship known as [Y] Construction Co ("[Y]") in 1981. [note: 12] [Y] mainly undertook construction and renovation projects. With time, the business grew.

13 The Wife's evidence was that she and the Husband were merely fellow labourers in the construction business when they met in 1977. She denied knowledge of Mr Tang and stated that [Y] was set up as the couple's joint effort in 1981. She acknowledged, though, that her participation in the Husband's construction business started reducing after she became pregnant with their first child, [A], in 1980 [note: 13] and that her involvement became even less when their second child, [B], was born in 1982. [note: 14] She also gave evidence that, following the birth of their youngest child, [D], in 1987, her "days [centred] primarily on the needs of the [children] and the family". [note: 15]

14 In 30 June 2003, the Husband converted [Y] into a private limited company known as [Z] Construction Pte Ltd ("[Z]") as [Y] began to take on bigger construction projects and therefore greater liability. [note: 16] According to the Husband, he had appointed himself and the Wife as directors of [Z] as the law then required each company to have two directors. He also claims that, as a full-time housewife by that time, the Wife did not contribute to the management or business of [Z] in any way, financial or otherwise. [note: 17] The Wife, however, contends that she took on an active role in [Z] as the children were largely grown up by then. She says that she made visits to various sites where she would supervise workers, that she bought and delivered meals to workers, and that, as not only a co-director of [Z] but also a co-signatory of its bank accounts, she often had to sign cheques and documents. [note: 18]

15 From 2006, [Z] shifted from a construction focus to that of property investment. [note: 19] The practice of the company was to finance the purchase of a property through the payment of an initial capital sum followed on by a bank loan. It would then either sell the property at a higher price after renovating or reconstructing the property, or rent it out and sell it after property prices had increased. [note: 20] As part of this practice, [D] and [B] would sometimes help to secure bank loans although the Husband would be the one guaranteeing these loans as they were young and did not have substantial income at the time. [note: 21] [Z] purchased 17 properties from 2006 to 2012 [note: 22] which were variously registered in the names of the Husband or the Wife and, in some cases, in the names of [D] or [B].

Circumstances leading to the litigation between the parties

16 On 27 March 2013, the Wife and [D] withdrew a total of $2.75m from their respective joint accounts with the Husband without his knowledge. [note: 23] They left the matrimonial home on the same day. [note: 24] According to the Wife, all this was precipitated by a disagreement over the Husband's intended purchase of a coffeeshop in Woodlands; the Wife and [D] thought that it was an unprofitable venture and tried to dissuade the Husband, but he thought that it was a good idea and proceeded to unilaterally exercise the option to purchase. [note: 25] In order to protect her own self-interest, the Wife says that she then decided to withdraw the sum of $2.7m from her joint account with the Husband. [note: 26] The remaining $50,000 was withdrawn by [D] from his joint account with the Husband. The Husband contends, on his part, that the monies were withdrawn at the instigation of [D] after the Husband had refused his request for $1m to start his own franchise business. [note: 27]

17 The Husband commenced Suit No [XY] against the Wife and [D] on 8 April 2013 to recover the sum of $2.75m. [note: 28] In that suit, he also applied for and obtained a *Mareva* injunction to enjoin the Wife's and [D]'s bank accounts, whether in their sole names or otherwise. [note: 29] Under the injunction, the Wife and [D] were allowed to withdraw from the enjoined accounts up to $3,000 a week for their living expenses and legal fees. [note: 30]

18 The commencement of Suit No [XY] was, in the Wife's words, "the proverbial straw that broke the camel's back" [note: 31] as it led to her filing for divorce on 10 July 2013 on grounds of the Husband's unreasonable behaviour. Interim judgment was granted on 2 July 2014.

The summons to file further affidavits and the application to cross-examine witnesses

19 On the first day of the ancillary hearing, I began by hearing a summons that had been filed just before the hearing and was thus fixed on the same day. Counsel for the Husband, Mr Conrad Campos ("Mr Campos"), sought leave to file two further affidavits. [note: 32] Mr Ferlin Jayatissa ("Mr Jayatissa") countered with objections or, in the alternative, a request to file affidavits in response. There were also requests for cross-examination from both sides.

General principles on adducing evidence in family proceedings

20 At this juncture, it would be useful to discuss the special nature of the provision of evidence in family cases.

21 The Court of Appeal's guidance in *Tan Chin Seng and others v Raffles Town Club Pte Ltd* [2002] 2 SLR(R) 465 ("*Tan Chin Seng*") in the context of discovery in ordinary civil proceedings provides a good starting point. Relevancy must relate to the type of discovery (*ie*, general or specific) being sought and this is subject to the overriding principle that such discovery must be "necessary either for disposing fairly of the cause or matter or for saving costs" (at [15]).

22 In *Tan Chin Seng*, the Court of Appeal advised that the determination of relevancy "must depend on the issues pleaded in the action" (at [18]). One fundamental difference between family ancillary matters and other kinds of civil proceedings is the lack of pleadings in family ancillary matters to guide discovery and the use of evidence. In family ancillary matters what guides the court's inquiry are the factors enumerated in ss 112(2) and 114(1) of the Charter which pertain to the division of the matrimonial assets and the award of post-divorce maintenance for the former wife respectively. These factors are numerous and, even then, they are explicitly provided to be non-exhaustive given that both statutory provisions contain the same direction to the court to "have regard to all the circumstances of the case". *Nevertheless*, this ought *not* to be a licence for parties to file multiple rounds of affidavits or to bring in through cross-examination a wide-range of accusations that, on a holistic view of the case, ultimately have only marginal relevance to the issues at hand.

23 Of relevance is *Parra v Parra* [2003] 1 FCR 97 ("*Parra*"), where Thorpe LJ astutely observed as follows at [22]:

> The judgment that emerged is a tribute to the judge's exhaustive investigation of a mass of detailed evidence. The result is painstakingly thorough. ***But the outcome of ancillary relief cases depends upon the exercise of a singularly broad judgment that obviates the need for the investigation of minute detail and equally the need to make findings on minor issues in dispute. The judicial task is very different from the task of the judge in the civil justice system whose obligation is to make findings on all issues in dispute relevant to***

outcome. *The* ***quasi-inquisitorial role*** *of the judge in ancillary relief litigation obliges him to investigate issues which he considers relevant to the outcome even if not advanced by either party. Equally he is not bound to adopt a conclusion upon which the parties have agreed.* ***But this independence must be matched by an obligation to eschew over-elaboration and to endeavour to paint the canvas of his judgment with a broad brush rather than with a fine sable.*** Judgments in this field need to be simple in structure and simply explained. [emphasis added in italics and bold italics]

24 In a later English Court of Appeal case of *Imerman v Tchenguiz and others* [2011] 2 WLR 592 at [35], Lord Neuberger of Abbotsbury MR (as he then was) explained Thorpe LJ's comment in *Parra* on the "quasi-inquisitorial role" of the family judge in ancillary proceedings by referring to the English court's overriding statutory obligation imposed by s 25(1) of the Matrimonial Causes Act 1973 (c 18) (UK) to have regard to all circumstances of the case when deciding on financial ancillary relief applications. This is the English statutory equivalent of our local ss 112(2) and 114(1) of the Charter.

25 Also instructive to the present discussion is the case of *LKW v DD (Ancillary Relief: Guidelines)* [2011] HKFLR 106, a decision of the Hong Kong Court of Final Appeal. In that case, Ribeiro PJ (who delivered the leading judgment of the court) described Thorpe LJ's comment in *Parra* as "illuminating" at [69]. This was preceded by much the same observation by Ribeiro PJ at [62], stated in the context of setting out guidelines for the conduct of ancillary proceedings as follows:

> … [T]he court should not countenance any attempt to engage in costly and often futile retrospective investigations of the failed marriage which tend to deplete the parties' (and the courts') resources and to increase antagonism and discourage settlement.

26 The following points may usefully be distilled from the three cases above:

(a) In assessing relevancy and whether more evidence is necessary for disposing fairly of the case or saving costs, the court looks to the factors in ss 112 and 114 of the Charter. Arising from the statutory context, the judge in an ancillary context has a more independent role than that of a judge in ordinary civil proceedings. The duty to ensure that evidence adduced is useful and relevant allows a wider remit.

(b) In exercising this mandate, the court ought to bear in mind the broad brush approach of the statutory context, and to eschew over-elaboration or trivial issues of minor relevance.

(c) In family proceedings, the costs of proceedings come out of the very assets sought to be divided. Protracted proceedings are detrimental to the financial well-being of the parties and the two separate households which would thereafter require support.

(d) The court ought also to balance the desirability for additional evidence against the need to avoid a course that further increases conflict unnecessarily among the various relationships within the family. These relationships continue to exist after the specific orders in the lawsuit have been given.

27 In our local context, these objectives of the family court are aided and empowered by Part 3 of the Family Justice Rules 2014 (S 813/2014), which is aptly titled "Judge-led approach in resolving family disputes". Rule 22, in particular, gives a wide discretion to the judge, as follows:

> **Power to make orders and give directions for just, expeditious and economical disposal of proceedings**

22.—(1) Despite anything in these Rules, the Court, when dealing with any cause or matter, is to adopt *a judge-led approach* —

(*a*) to identify the relevant issues in the cause or matter; and

(*b*) to ensure that the relevant evidence is adduced by the parties to the cause or matter.

(2) In adopting a judge-led approach, the Court may, at any time after the commencement or at the hearing of any proceedings, of its own motion or on an application by any party to the proceedings, direct any party or parties to those proceedings to appear before it, for the Court to make such order or give such direction as it thinks fit, ***for the just, expeditious and economical disposal of the cause or matter*** .

(3) The directions that the Court may give under paragraph (2) include directions on one or more of the following matters:

(*a*) …

(*b*) subject to any written law relating to the admissibility of evidence, that a party or witness adduce any evidence relevant to the proceedings;

(*c*) the giving of evidence orally or by affidavit;

(*d*) despite any other provisions in these Rules, to limit the number of affidavits filed by a party or witness;

…

(*g*) the calling of a witness to give evidence with a view to assisting in the resolution or disposal of a cause or matter, whether or not any party to the proceedings will be calling that witness to give evidence for that party;

…

…

[emphasis added in bold italics]

28 In pursuing the object of achieving a "just, expeditious and economical disposal" of the ancillaries, much would depend upon the facts of each case and the matters on which the evidence is sought. Thus, in financial matters, where the evidence may be held closely by one party, the other party may in appropriate cases be given more latitude in seeking discovery, further evidence and cross-examination (see, in this regard, the observations by Dunn J in the English High Court case of *B v B (Matrimonial Proceedings: Discovery)* [1978] Fam 181 at 191). Matters relating to indirect contributions, on the other hand, may require a different approach where parties have lived for a long period of time together in the way that they have chosen to do. Seen from this broader perspective of their years together, the cross-examination of witnesses or the filing of a plethora of affidavits over minute events taking place many years ago for the purposes of assessing each party's indirect contribution is neither necessary for disposing fairly of the proceedings or for saving costs; indeed, often is the case that raking up the past in this way will lead to the real issues being obfuscated, the proceedings turning more protracted, and the parties becoming more embittered. The stage of

proceedings is also important. It is best for parties to set out issues in advance and seek to prepare their cases accordingly, rather than to wait until a late stage of proceedings. The practice of delayed and unexpected affidavits and requests increases costs, anxiety and uncertainty for litigants.

Requests for further evidence in this case

29 Coming then to this case, the summons filed by the Husband sought leave for two supplemental affidavits to be filed:

(a) The first was the Husband's reply to matters which he said were raised for the first time in the Wife's second Affidavit of Assets and Means filed on 27 May 2015. In this affidavit, the Wife had given evidence of her relationship with the parties' first and third daughters ([A] and [C]), evidence relating to the company's work which was relevant to the nature and extent of the Husband's business, and evidence in the form of property tax statements for the matrimonial home which were relevant to its value.

(b) The second was an affidavit by one [T] to rebut certain allegations raised by [B] and [D] in affidavits which they had filed on 3 July and 25 August 2015 respectively in connection with the Husband's intended purchase of a property at Jalan Labu Manis that was eventually aborted. [note: 33] The evidence of [B] and [D] was that they had helped to abort this unwise transaction which the Husband intended to embark on after receiving certain erroneous information from [T]. However, [T]'s response in the supplemental affidavit sought to be filed was that it was in fact the seller's property agent who had given the Husband the erroneous information. [note: 34]

30 I gave leave for these affidavits to be filed because they were responses to matters raised for the first time in the Wife's, [B]'s and [D]'s affidavits. Costs were ordered in the cause.

31 Mr Jayatissa, on his part, wanted to file affidavits to reply to the two affidavits. In particular, he sought to file an affidavit from [A] to reply to the Husband's contentions as to why she left home, and another to rebut [T]'s evidence on the Jalan Labu Manis transaction. Alternatively and in addition, he wanted to cross-examine three categories of witnesses. I disallowed these requests for the reasons that follow:

(a) First, Mr Jayatissa wished to cross-examine two of the Husband's witnesses, [EH] and [CB], who had filed affidavits asserting that the Wife was not the "lady boss" that she contended she was. I did not think this would be add very much to the affidavit evidence, from which it was clear that the Husband was the main mind behind the construction business and that the Wife did play an active role, such as delivering food, helping with stock, or helping when workers were sick. In its Chinese iteration, in any event, the phrase "lady boss" is also commonly used in local parlance to intend "wife of the boss".

(b) Secondly, there was a request to cross-examine Mdm [J] arising from an allegation made by the Husband that she had contributed to the pool of matrimonial assets by applying proceeds from a Malaysian coffeeshop, which was purchased by the Husband and ran by her, into the Husband's business in or about 1986. [note: 35] Again, this was during the earlier part of the Husband's business and so only of peripheral relevance to the question of division. Mdm [J] also lives in Malaysia.

(c) Thirdly, Mr Jayatissa sought to cross-examine [T] on two distinct areas. The first concerned the circumstances surrounding the aborted Jalan Labu Manis transaction as related in

[T]'s supplemental affidavit. The second concerned the Husband's intended purchase of the Woodlands coffeeshop and the family dispute arising therefrom, [T] had given evidence in an affidavit dated 3 July 2015 that he had acted as the Husband's real estate agent for the intended purchase. [note: 36] I did not think that the evidence given in [T]'s affidavits was crucial to either party's case: the point that the Wife was merely seeking to make was that the circumstances surrounding the abortion of the Jalan Labu Manis transaction demonstrated that it was a poorly thought out transaction and, in her view, the Woodlands coffeeshop was yet another. Whether [T] was responsible for the advice in relation to Jalan Labu Manis was not a critical point.

32 On Mr Campos' part, he asked to cross-examine the Wife on: (a) her indirect contribution, in particular, (i) on whether she knew Mdm [J] was married to the Husband at the time of her marriage to the Husband; (ii) the circumstances surrounding [A] leaving the family home when she was about 21 years old; [note: 37] (iii) the Wife's alleged mistreatment of [C]; [note: 38] and (b) regarding her direct contributions, to show that the Wife would not have been able to save $50,000 because she was an uneducated daily rated construction labourer, taking into account wages applicable in the 1970s.

33 I did not think that it was necessary for reply affidavits to be filed or for the Wife to be cross-examined on any of these issues to achieve a just and fair disposal of the ancillaries. First, the Husband's first marriage to Mdm [J] was not disputed. The more pertinent question was the extent of her contribution. Secondly, on the specific facts of this particular case, even if it was not explicit between the parties, it was clear, on the balance of probabilities, that the Wife knew the existence of Mdm [J]. The Husband went to Ipoh, the Wife's hometown, each Chinese New Year without her or her family for some 35 years. It is not disputed that Mdm [J]'s children stayed with them on visits to Singapore and the children of the two families played together. The Wife's contention that she thought Mdm [J] was an ex-girlfriend rings somewhat hollow.

34 In respect of the reasons for [A]'s departure from the home, this was detailed in an earlier affidavit by [A] in the divorce proceedings. Parties agreed this affidavit could be referred to as part of the evidence before me instead of lengthy cross-examination. [note: 39] [A]'s evidence was that she left home because of the father's objections to her Muslim boyfriend, who later became her husband. She and the Wife still maintain a cordial relationship.

35 As for [C]'s circumstances, the Husband's contention that the Wife mistreated her was raised for the first time in his final affidavit. In my view, it was sufficient to note that [C] was only with the family in Singapore between the ages of seven and 12 years old and that, during this time, her relationship with the Wife was not a happy one. [note: 40] It is not disputed that the Husband sent [C] to live with Mdm [K] and that [C] married early, leaving Mdm [K]'s home as well. I did not think it would have been useful to dredge up the past by picking apart this aspect of the family relationship some 20 years after their agreed course of conduct.

36 Lastly, the Wife's alleged $50,000 contribution early in the marriage would have amounted to a very small fraction of the parties' direct contributions across the 35 year marriage; in any event, Mr Campos also had other evidence on hand, such as the pay of workers in the same time period which, as will be seen (refer to [55] below), is more relevant to the determination of this factual dispute.

37 In short, in this case, further affidavits or cross-examination was not necessary for the fair disposal of matters; indeed adducing such evidence would in all likelihood have protracted proceedings, created further antagonism, and disproportionately increased costs for the parties.

Division of assets

Division of assets

38 In dividing the matrimonial assets between the parties, the pool of assets must first be delineated.

Table of assets

39 The parties' assets and their corresponding valuations are as reflected in the table below which has been prepared with the aid of a joint summary tendered by counsel on 11 August 2015. For the bank accounts that were subject to the earlier *Mareva* injunction, the values are as at the date of the injunction. For the other properties, values as near to the date of the hearing of the ancillary matters as practicable are used:

S/No	Asset	Net Value	Remarks
1.	Matrimonial home – [Property A]	$2,569,830	
2.	Other immoveable properties, namely – (a) [Properties B and C] (b) [Property D]	$2,850,257	
3.	Other matrimonial assets, being monies in the parties' various bank accounts, Central Provident Fund accounts, motor vehicles, and shares in [Z] [note: 41]	$952,945	The original amount agreed was excluded the value of the Wife's motor vehicle. The value of the motor vehicle in the Wife's name was later clarified in submissions dated 21 October 2015 to be $3,111 (to the nearest dollar).
ADD			
4.	Monies withdrawn by the Wife and [D] on or about 27 March 2013	$2,750,000	
5.	The Husband's gifts to his two other families, loans to friends, and shortfall of balances in his sole bank accounts [note: 42]	$722,318	
LESS			

6.	The Husband's expenses as of 30 September 2015	$164,459	
	TOTAL	$9,680,891	

40 Regarding the Husband's expenses in S/N 6 of the table above, the original figure proposed by him was in fact $720,596. [note: 43] However, I deducted $106,137 as this sum related to gifts made to Mdm [K]'s and Mdm [J]'s families. [note: 44] I also deducted another $450,000 because these were claimed by the Husband as payments made to sub-contractors with respect to the development of a certain property located in Joo Chiat. [note: 45] There is no evidence to support this last figure, and I found somewhat unconvincing the Husband's contention that he did not have the relevant accounts because [D] had charge of the finances of [Z]. At the minimum, withdrawals from the relevant bank accounts ought to have been shown.

Just and equitable division

41 In *ANJ v ANK [2015] 4 SLR 1043 ("ANJ"),*, the Court of Appeal set out a structured approach to the division of assets (at [22]–[27]) which was later summarised in *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 at [17] as follows:

> (a) express as a ratio the parties' direct contributions relative to each other, having regard to the amount of financial contribution each party made towards the acquisition or improvement of the matrimonial assets;
>
> (b) express as a second ratio the parties' indirect contributions relative to each other, having regard to both financial and non-financial contributions; and
>
> (c) derive the parties' overall contributions relative to each other by taking an average of the two ratios above, keeping in mind that, depending on the circumstances of each case, the direct and indirect contributions may not be accorded equal weight and one of the two ratios may be accorded more significance than the other.

Effect of the prior marriage to Mdm [J]?

42 It would be appropriate, at this juncture, to discuss the effect of the Husband's first marriage to Mdm [J] and how *ANJ* should be applied on the special facts of this case. As I highlighted at the outset of this judgment, the historical context of s 112 was as a mechanism for monogamous marriages. It follows, then, that *ANJ* makes the same assumption. It is important to consider how s 112 and *ANJ* may be modified for use in the present circumstances. I begin by setting out the parties' respective submissions on this issue.

(1) The parties' submissions

43 The crux of Mr Jayatissa's submission for the Wife is that the Husband's marriage to Mdm [J] is not relevant in the present proceedings, both as a matter of fact and as a matter of law. On the *facts*, his position is that since Mdm [J] resided in Malaysia, she was at all times "isolated" from the Husband's businesses and so neither made any contribution (either directly or indirectly) towards it

nor to the matrimonial assets so acquired; [note: 46] furthermore, Mr Jayatissa also points out that the bulk of the matrimonial assets were accumulated after [Z] had turned its focus from construction works to property investment but there had been "absolutely no participation from [Mdm [J]] whatsoever" in such investments that were undertaken. [note: 47]

44 Mr Jayatissa further contends that even if he is wrong on the facts, on the *law*, the plain wording of s 112(2) of the Charter empowers the court to order a division of the matrimonial assets only "between the parties" to the divorce proceedings and no one else. [note: 48] Therefore, notwithstanding that Mdm [J] may have contributed to the acquisition of the matrimonial assets, the court still could not make an order awarding her a share of the matrimonial assets – that would be beyond the court's statutory power. Indeed, Mr Jayatissa also argues, by extension, that the court is further precluded from taking into account Mdm [J]'s contribution by subsuming it as a part of (and thereby augmenting) the Husband's share of the matrimonial assets because that would "effectively" produce the same result as awarding Mdm [J] her quantified share. [note: 49]

45 Mr Campos, on the other hand, submits on behalf of the Husband that the facts clearly bear out that Mdm [J] has indirectly contributed to the acquisition of the matrimonial assets in a manner that is not inconsiderable. Mr Campos points out that Mdm [J]'s indirect contributions consisted of the following: (a) first, Mdm [J] had taken care of her household since 1973 and almost single-handedly raised two children, thus allowing the Husband to carry on his business in Singapore; (b) second, Mdm [J] had helped the Husband in his construction business in the early years between 1972 and 1977 such that, with the earnings that were made, the Husband was able to further his construction business and acquire the matrimonial assets; and (c) third, Mdm [J] applied the sale proceeds of a coffeeshop in Malaysia which she had operated for three years between 1983 and 1986 towards the Husband's construction business in Singapore. [note: 50]

46 As to the Wife's argument based on s 112 of the Charter, Mr Campos accepts that this court could not directly order a division of the matrimonial assets to Mdm [J] as a non-party to these proceedings but, in his submission, the broad direction to the court in s 112(2) to "have regard to all the circumstances of the case" clearly allows the court to take into account the polygamous family arrangement when exercising its power of division between the parties. [note: 51] In this regard, Mr Campos advances two possible methods that could be used to account for Mdm [J]'s indirect contributions:

(a) The first method is Mr Campos' preferred method and what he calls the "qualitative" approach. [note: 52] This involves putting aside Mdm [J]'s contributions at the start of the inquiry and following the first two steps of the structured *ANJ* approach (see above at [41]) to arrive at an average ratio which expresses the total direct and indirect contributions of the Husband relative to that of the Wife. Once this is done, Mdm [J]'s contributions can then be worked into the equation at the third stage of the *ANJ* approach (which is where an adjustment of the average ratio between the parties may be made by taking into account the circumstances of each case). This depends on quantifying Mdm [J]'s contribution in the first place and, according to Mr Campos, this should be done by referencing Mdm [J]'s contribution against the Husband's contribution from which a second average ratio can be derived. This second ratio (between the Husband and Mdm [J]) should then be "merged" with the first ratio (between the Husband and the Wife) by subtracting equal proportions of Mdm [J]'s quantified share from the Husband's share and the Wife's share respectively. [note: 53] Essentially, this will leave a final ratio expressed as between the Husband and the Wife only, but with Mdm [J]'s share incorporated within.

(b) The second method proposed by Mr Campos is what he calls the "quantitative" or "common factor" approach. [note: 54] To be clear, Mr Campos has included this approach in his written submissions only because it makes *theoretical* sense but, as a matter of *practical application* on the facts of this case, he concedes that it is unsuitable and so should *not* be used. [note: 55] With that caveat in mind, Mr Campos elaborates that the "quantitative" approach mirrors the "qualitative" approach up to the point that the court arrives at the two average ratios, *viz*, one expressed as between the Husband and the Wife (as per the first two steps of the *ANJ* approach) and the other expressed as between the Husband and Mdm [J]. It is only at the point of "merging" these two ratios that the "quantitative" and "qualitative" approaches diverge. Under the "quantitative" approach, the Husband is essentially used as a focal point for achieving standardisation between two incommensurable objects, *viz*, the Wife's contributions and Mdm [J]'s contributions respectively. According to Mr Campos, this is mathematically possible because the Husband is, so to speak, the "common factor" in each marriage; hence the contributions which he made to each marriage provide a convenient basis for comparing the contributions of the Wife against that of Mdm [J]. As a result of this "quantitative" approach, the respective contributions of the Husband, the Wife and Mdm [J] may ultimately be expressed in a ratio consisting of three parts although Mdm [J]'s contribution would, in the final analysis, be incorporated as part of the Husband's contribution in a ratio expressed only between the Husband and the Wife for the purposes of division.

(2) Analysis

47 Turning to analyse the parties' submissions, I do not accept Mr Jayatissa's argument that Mdm [J] did not contribute anything – not even *indirectly* – to the acquisition of the matrimonial assets. True it is that Mdm [J] lived in Malaysia and was thereby physically removed from the Husband's business; however, the whole point of taking into account the *indirect* contributions of parties is to look beyond a party's direct involvement in the acquisition of matrimonial assets to acts which might have a less apparent, but no less causal, connection with the acquisition itself. In the present case, there is no dispute that Mdm [J] was solely responsible for the homemaking aspect of the Husband's marriage with her. These efforts are not insignificant given that Mdm [J]'s marriage with the Husband is a long (indeed, ongoing) one of more than 35 years with two children who were cared for mainly by her while the Husband was in Singapore. There is no doubt that the Husband's businesses in Singapore generated the income that went into the acquisition of the matrimonial assets; but that he was able to focus his energies on growing those businesses is due in no small part to the fact that Mdm [J] was taking care of the children and the home in Malaysia.

48 This leads me squarely, then, into Mr Jayatissa's further objection that *even if* it is recognised that Mdm [J] had contributed to the acquisition of the matrimonial assets, the court has no power to divide the matrimonial assets in a way that takes this into account. I agree with Mr Jayatissa's submission to the extent that the court does not have any power to directly award a non-party a certain share of the pool of matrimonial assets that is subject to the court's power of division: the court's power of division is capable of being exercised only as between the parties to the ancillary proceedings and cannot be used to confer a proprietary interest on a non-party notwithstanding that the latter may, as in this case, have contributed to the acquisition of those assets. This is clear both on a plain reading of s 112 of the Charter and as a matter of logic and common sense. After all, the court's power to divide matrimonial assets is an *ancillary* power that flows pursuant to a divorce and so the only persons in respect of whom the court can order a division of the matrimonial assets must be limited to the divorcing parties themselves.

49 That said, I do not accept Mr Jayatissa's broader submission that the court should not even

take into account Mdm [J]'s contributions as part of the Husband's share of the matrimonial assets. As Mr Campos submits, correctly in my view, the direction in s 112(2) of the Charter to "have to regard to all the circumstances of the case" is clearly wide enough to permit the court to give proper recognition to the contributions made by Mdm [J] in the acquisition of the matrimonial assets. To shut one's eyes to the realities of a polygamous marriage such as this would be to see the accumulation of the assets through a narrow, artificial lens in so far as only the contributions of the Husband and the Wife enter into view. At this juncture, it may be asked whether it will in fact be the Husband, then, who benefits unduly from having Mdm [J]'s contributions incorporated as a part of his own. In my view, however, this question overlooks the fact that the family unit between the Husband and Mdm [J] remains intact and, therefore, whatever assets are ordered to be divided to the Husband in these proceedings remains within the pool of matrimonial assets of this valid and subsisting marriage; how the Husband subsequently decides to hold these assets with Mdm [J] *inter se* is not something that the court is asked to interfere with. I would add that the Husband remains under an obligation to maintain Mdm [J] as his wife.

50 Having established that the court can and should take into account Mdm [J]'s contributions as a part of the Husband's, the focus turns to how her contributions may be *quantified* relative to the contributions made by the Husband and the Wife respectively.

51 In my view, the "quantitative" approach as described by Mr Campos (see above at [46(b)]) is not an attractive one: it is quite apparent that the "quantitative" approach is premised on a false equivalent. What it attempts to do, in theory, is to make the indirect contributions of Mdm [J] measureable against that of the Wife by using the Husband's contributions in both households as a perceived common yardstick or denominator. But this assumes that the Husband had the same (or almost the same) day-to-day influence or presence in each household such as to enable a meaningful comparison to be made between the households. This was not the case. There is nothing to suggest that the Husband had split his time equally between Mdm [J] in Malaysia and the Wife in Singapore; he spent most of his of time in Singapore where his business was and only travelled sporadically to visit Mdm [J]. The strains, demands, obligations and benefits experienced by Mdm [J] and the Wife in each of their respective households therefore varied greatly as a result of the absence or presence of the Husband. To put it in a different way, the Husband's involvement in each household, far from being a "common" yardstick for comparison, was in fact a factor that significantly differentiated the two such as to make them incomparable. Accordingly, I do not adopt the "quantitative" approach.

52 The "qualitative" approach preferred by Mr Campos (see above at [46(a)]) is also not without its problems. As presented by Mr Campos, this approach requires the court to first derive two separate average ratios – the first ratio is intended to express the contributions of the Husband against that of the Wife while the second ratio is intended to express his contributions against that of Mdm [J]. Both average ratios are then to be "merged" into a third and final average ratio by incorporating the percentage of Mdm [J]'s contribution (as expressed in the second ratio) into the first ratio between the Wife and the Husband. This "qualitative" approach shares an underlying similarity with that of the earlier "quantitative" approach – in both approaches, there seems to be an implicit assumption that it is permissible to compare the contributions made in one household against the other. But, as I said, the two households are very different. As a result, I do not see how Mdm [J]'s contributions, viewed solely within the confines of her own household and with its own specific circumstances, could be merged into the first ratio between the Husband and the Wife. Furthermore, there is no reason to deduct part of Mdm [J]'s share out of the Wife's. Mr Campos had two reasons. The first was that the Wife simply took the place of Mdm [J] and enjoyed the life that would have otherwise accrued to Mdm [J]. This assumption that the two women are interchangeable objects is not appropriate. The second rested on his argument that the Wife knew about the first marriage. In effect this argument penalises the Wife for her knowledge, which is also not appropriate: polygamy

was the accepted cultural backdrop against which the Husband married the Wife.

53 In my view, the most appropriate way to divide the matrimonial assets in a polygamous marriage such as this is a pragmatic one of simply using the accumulated pool of matrimonial assets as the starting point. The search for a suitable basis of comparison need only extend this far. What the court then has to do is ascertain, in a broad-brush manner, how each of the parties *and Mdm [J]* had contributed to this accumulated pool of assets, both directly and indirectly, following in this regard the first two stages of the *ANJ* structure save that the analysis is modified to accommodate three persons instead of two. In this exercise, mathematical precision cannot be attained and it is, in any event, to be eschewed even in the ordinary case of a monogamous divorce (see, for example, *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 at [81]). Importantly, in this exercise, the court should also not seek to elide or overlook the differences between the households maintained by Mdm [J] and the Wife respectively so that these can be made more comparable with one another; instead, what the court should do is acknowledge the differing circumstances in each household and duly account for them in weighing the contributions of each of the parties. Once the respective direct and indirect contributions of the Husband, the Wife and Mdm [J] have been ascertained, further adjustments may still be made on an overall analysis of the facts of the case in accordance with the third stage of the *ANJ* approach.

Direct contributions

54 I start with the direct contributions. Here, Mdm [J]'s is negligible. While there is some allegation that the proceeds from a coffeeshop she managed in Malaysia were put into the Singapore business, there was no evidence of any sort. The affidavit of [F], Mdm [J]'s son, suggests the proceeds may have been used to purchase a flat for Mdm [J]'s family and also towards the rental of a hawker stall which Mdm [J] ran until 1997.

55 As for the Wife, her direct contributions – particularly in respect of the acquisition of the parties' matrimonial home at [Property A] – require some elucidation. When the parties first met, they initially lived in rented premises. [note: 56] In 1982, they purchased their first property in [Property E] for $280,000 (there appears to be a typographical in the Wife's submissions using $380,000 as she did not dispute the Husband's use of $280,000 in his affidavit). This property was rented out in order to service the mortgage from 1982 up to 1987, which was when the parties moved in. [note: 57] In 2000, [Property E] was sold in an *en bloc* sale for about $1.14m and, with the proceeds obtained, [Property A] was subsequently purchased. The Wife contended that she contributed $50,000 from her savings to the total purchase price. However, the Husband contests this on the basis that she would not have been able to save $50,000, given her modest salary as a labourer then. In this regard, both he and [CB] – who also worked in the construction business in the 1970s – gave evidence that a labourer in those days would be paid at a rate of about $7 per day. [note: 58] This assertion that the Wife could not have had much savings at the material time is also supported to some extent by her own statement in her affidavit dated 11 April 2014 where she said that she came to Singapore in 1977 with only RM8,000. [note: 59] The Wife also gave evidence that she had stopped working sometime in 1987 after [D]'s birth (see above at [13]). Although this means that she could have accumulated more earnings during the 10 year window between 1977 and 1987, the *highest* that one could put her total savings at the time [Property A] was purchased is still perhaps only in the region of $25,000 (by using the rate of about $7 a day), which is 9% of [Property A].

56 Nevertheless, I am mindful of a separate factor which should be weighed in favour of the Wife, which is that between 1982 and 1987, the family had lived in rented premises, enabling [Property E] to be rented out. The rental proceeds thus "earned", so to speak, were used to service the loan. The

Wife should benefit equally from the rental proceeds because it was the parties' joint decision to rent out the premises and the family's joint sacrifice in living in rented premises that enabled the servicing of the loan. There was no specific figure attributed by the parties to the rental, although the loan which it serviced formed 60% of the total purchase price of [Property E]. Adopting a "rough and ready approximation" (see *ANJ* at [23], endorsing *NK v NL* [2007] 3 SLR(R) 743 at [28]), I added an extra 5% to her share of the direct contributions, representing the five years of rental proceeds which were accumulated. This brings her share of [Property E] up to 14%. Transposing this 14% of [Property E] into 14% of [Property A], this would form a 4% share (rounded to the nearest percentage) of the entire pool of matrimonial assets.

57 I should deal at this juncture with Mr Jayatissa's arguments premised on two lines of reasoning which arise out of the Court of Appeal's decision in *Tan Bee Giok v Loh Kum Yong* [1996] 3 SLR(R) 605 ("*Tan Bee Giok*"), a case which dealt with the proceeds of sale of successive properties. In *Tan Bee Giok* the husband paid solely for the first property and used its sale proceeds to purchase the second property. Notwithstanding that the wife did not make any financial contributions towards the purchase of the first property, the Court of Appeal held that she was entitled to a share of the proceeds generated from its sale by virtue of her indirect contributions in the years leading up to the purchase of the second property; hence this was in fact taken as representing her direct contribution towards the acquisition of the same. The approach in *Tan Bee Giok* was subsequently followed by the High Court in *Chan Yuen Boey v Sia Hee Soon* [2012] 3 SLR 402 ("*Chan Yuen Boey*") where it was explained at [52] that in such cases where spouses have sold their first home and ploughed those proceeds into their second home, the respective shares to be attributed to the spouses should take into account their indirect contributions – as reflected in the sale proceeds – that had been made up to that point in time. Similar views may be found expressed in the High Court cases of *BNH v BNI* [2013] SGHC 283 and *Goh Cheok Yean v Lum Sai Gek* [2014] SGHC 91.

58 These cases ought now to be viewed together with the Court of Appeal's decision in *AYQ v AYR and another matter* [2013] 1 SLR 476 ("*AYQ*") (and recently affirmed by the same court in *Thery Patrice Roger v Tan Chye Tee* [2014] SGCA 20 at [24]) that indirect contributions should only be considered at the *end* of the marriage. This is a significant observation because what it means is that it would be to *undervalue* a spouse's indirect contribution towards the acquisition of a successive property if that indirect contribution is treated as being crystallised (prematurely) at the point that the sale proceeds from the previous property are ploughed into the second property. As the Court of Appeal in *AYQ* explained at [23], indirect contributions are "by their *very nature* … part of the very warp and woof of the *entire* marriage and must therefore be reflected consistently throughout each class of assets" [emphasis in original]. The Court of Appeal went on to observe thus (at [23]):

> … To hold otherwise would, in our view, be contrary to this approach and would invariably lead to **undesirable anomalies**. If … the asset concerned was acquired by, for example, a husband very shortly after the marriage, there would, *ex hypothesi*, be little or no indirect contributions by his wife which could be taken into account when that particular asset is being considered by the court with regard to division between the parties pursuant to s 112. Simply put, the anomaly would be that for matrimonial assets acquired very early on in the marriage, for instance immediately after the marriage, the indirect contributions concerned would more likely than not be given very little weight. In contrast, for matrimonial assets acquired later on during the marriage, the indirect contributions concerned would likely be accorded heftier weight. However, the fallacy in such an approach is the fact that **indirect contributions can only be assessed and applied at the *end* of the marriage and, by their very nature**, ***relate back and impact the entire marriage to date* . The court's assessment of a spouse's indirect contribution should thus be performed with retrospective lenses, looking back and fully appreciating the entire context and circumstances of the marriage. It should not be done in a time-specific**

> **manner**, ***ie*** **, assessing the extent of indirect contributions of a spouse as at that specific point in time when a particular matrimonial asset was acquired.** Further, this assessment should not be done in a blinkered fashion where the court focuses on each individual class of assets and decides the weightage of a spouse's indirect contribution as regards that particular asset class, resulting in a situation where varying weights are accorded for indirect contributions in different matrimonial asset classes. This approach would accord with the view of the marital enterprise being a partnership of efforts of both spouses and that, during the course of marriage, the spouses contribute to the betterment of it in ways that they can without consciously accounting with mathematical precision as regards the quantum and type of their respective contributions. … [original emphasis in italics; emphasis added in bold]

59 The approach set out in *AYQ* is clear. In dividing the matrimonial assets of the parties, the court is not to slice up their indirect contributions according to the time of acquisition or the nature of the assets in question. To do so would be to invite "undesirable anomalies" from time to time as the straightforward examples provided by the Court of Appeal amply bear out. This approach also rules out Mr Jayatissa's argument that the Wife must have contributed to 40% of businesses [Y] and [Z]: her contribution there is also indirect in nature. In my judgment, the indirect contributions of the Wife in this case should not be seen as being converted (so to speak) into direct contributions, in the sense that the indirect contributions are reflected in the form of the sale proceeds from [Property E] which were later ploughed into [Property A]. In accordance with *AYQ*, her indirect contributions in respect of the acquisition of the entire pool of matrimonial assets should be assessed only at the end of the entire marriage, in order for the court to be able to give her indirect contributions their due recognition.

60 The second line of reasoning which appears in *Tan Bee Giok* is that it may be possible for one spouse to rely on a presumption of advancement arising from the property in question being held under a joint tenancy (which was how [Property E] was, and [Property A] is, held). However, it is clear that this suggestion was made only as a passing comment by the Court of Appeal in *Tan Bee Giok* (at [36]). In any event, it seems to have now been clearly ruled out by the approach of the Court of Appeal in *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520, where the Court of Appeal made clear (at [40]) that the focus of s 112 of the Charter is to treat all matrimonial assets as community property to be divided in accordance with the principles set out therein, rather than those of conventional property law.

61 To summarise, the parties' respective direct contributions may be expressed in the following ratio:

Husband and Mdm [J]	**Wife**
96%	4%

Indirect contributions

62 The Wife's contribution to the marriage was mainly indirect. She bore the brunt of raising the children. In this regard, the Husband made various allegations that the Wife had mistreated the children. He said that she forced [A] out of the home when she was 21 years old and mistreated [C]. The various contentions did not add much to the dispute, save for flavour. What is clear is that the parties had four children and the Wife had been the main caregiver of three of these children until adulthood. While she might not have spent as much time bringing up [C], she had still looked after [C] for at least four to five years. For many years, there was no domestic helper to ease the Wife's

burden of taking care of the household.

63 The Wife also, at various times, helped in the Husband's business. This contribution ebbed and flowed with her childcare duties; she contributed more at the beginning of their marriage and after the children had grown up. She had a single share in [Z] and was also a director. She signed cheques as needed and five of the investment properties were held in her name. The funds for the purchase of these properties were also funnelled through various joint accounts with the Husband. While the Husband was the controlling mind of the business, the Wife did help to facilitate the business especially in the latest phase of its growth as a property investment vehicle. The Wife was also the mainstay of [D] and [B]'s participation in the business (and that of [A] until she left home). Both the Husband and Wife are not highly educated. [A], [B] and [D] helped with various aspects of the business such as accounts, logistics and documentation. The fact that the company largely ground to a halt after the Wife and [D] left the home belies the Husband's contention that his family's participation was not integral to his business.

64 As for Mdm [J], her indirect contribution in the context of the total pool of assets is less than the Wife's. On the home front, she had two children. While she may have helped the Husband run a coffeeshop in Malaysia from 1983 to 1986, this was many years ago and it is not clear how this was connected to his Singapore business. Her indirect contribution into the Husband's ventures was also minimal compared to the assistance rendered by the Wife and her children.

65 As for the Husband, it was clear that he contributed minimally on the homemaking front in respect of both his families. The accounts provided by [A], [B], [D] and [F] were consistent in this regard. The Husband's role was mainly that of the fee earner in his various relationships. I also bear in mind the fact that, for some 20 years, he had diverted a proportion of his time to Mdm [K] and the son he had with her, [G].

66 In the light of the above, I consider that a just and equitable allocation of the parties' respective indirect contributions is as follows:

Husband and Mdm [J]	**Wife**
10% (Husband)	60%
30% (Mdm [J])	
40%	**60%**

Adjustment?

67 An average of the two ratios together gives the Wife a 32% share of the pool of matrimonial assets. Should any adjustment be made? In this regard, I considered that the marriage was a long one, thus the Wife's indirect contribution ought to be given due weight. While the asset pool was not insubstantial, the Wife's indirect contribution had helped to build that up. I am also mindful that, throughout the duration of the marriage, the Husband would also have, from time to time, made provision out of the pool of assets for Mdm [J] and her children and for Mdm [K] and her son, [G]: [F]'s affidavit and the Husband's admitted transactions post-July 2013 lead to the inference that he is a financially responsible partner and father to his various families. Therefore, in all the circumstances, I find that a slight adjustment ought to be made to put the ratio at 35%, giving the Wife just over a third of the pool of assets. Applying the ratio to the pool of $9,680,891, the amount obtained was $3,388,312 (to the nearest dollar). This sum was, in my judgment, a just and equitable division for the

Wife.

68 For completeness, I should mention that Mr Campos seeks to argue that a negative deduction ought to be made because the Wife had withdrawn $2.7m before leaving the matrimonial home. On her part, she explained that she withdrew the money to prevent the Husband dissipating the sum in the proposed transaction involving the Woodlands coffeeshop (see above at [16]). In *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195, the Court of Appeal made clear at [27] that in order to ascribe such a negative contribution, the misconduct must fundamentally undermine the co-operative partnership and harm the welfare of the other spouse. The Court of Appeal also emphasised at [25] that the conduct had to be extreme (*ie*, manifestly serious). In this case, communication between the parties having broken down, the Wife explained that she wanted to stop the Husband from spending her part of their money on the unwise Woodlands venture. The Wife did not dissipate the sum, which is now factored into the asset pool. Given these circumstances, I find that this is not an appropriate case for the use of a negative deduction.

Maintenance

69 Turning to the issue of maintenance, both parties asked for a lump sum order in this case. This is appropriate in accordance with the Court of Appeal's guidance in *AYM v AYL and another appeal* [2014] 4 SLR 559 (at [18]) that a lump sum should be allowed whenever feasible to allow for a clean break in the marriage. I shall therefore proceed to determine the appropriate multiplicand and multiplier for arriving at the total lump sum maintenance to be awarded to the Wife.

Multiplicand

70 In respect of the multiplicand, the Wife listed her expenses as $8,248 each month. However, I found that $4,500 was reasonable, as follows:

Item	Wife's Estimate	Court's summary of items	Court's Estimate
Housing rental	$2,000.00	Housing/utilities/phone charges	$1,800
Utilities	$350.00		
Mobile phone charges	$50.00		
Food expenditure	$550.00	Food/groceries/toiletries, medical expenses	$1,500
Sundries, groceries	$700.00		
Tonics	$1,475.00		
Medicine	$100.00		
Medical check-ups	$200.00		
Toiletries	$100.00		
Hair and beauty	$138.00	Clothes, beauty, books	$500
Clothes, handbags	$300.00		
Books and newspapers	$200.00		

Repayment for car	$712.56	Car expenses (a lower sum is given on the assumption [C] must contribute. The car is in her name even if [C] is driving her; if sold she would require taxi transport.)	$700
Car Insurance	$217.01		
Road tax	$145.83		
[Properties B and C]'s property tax	$820.00	No longer applicable	-
[Property D]'s tax	$190.00	No longer applicable	
Total	$8,248.40		$4,500

71 In coming to this amount, I considered the Husband's ability to support his first wife, Mdm [J], and his youngest son with Mdm [K], [G], whom I note is very near the age of majority. The Husband's other children are working adults.

72 I should mention a point on the housing rental raised by Mr Campos. Mr Campos submitted that this ought not to be provided post-divorce because the division of assets would provide her with a sufficient sum for her to buy a new home. However, I did not think my maintenance order ought to make any assumption about how the Wife would invest her money for her longer term welfare.

Multiplier

73 Both counsel relied on *Chan Yuen Boey* in arguing what the appropriate multiplier in this case should be. Mr Jayatissa submitted that applying the criteria used by the High Court in that case, the Wife should be provided for until she is 71; hence a multiplier of 10 years was appropriate. Mr Campos, on the other hand, noted that the High Court in *Chan Yuen Boey* provided until the wife was 68; hence he suggested that I should use a multiplier of seven years. I find Mr Campos' approach reasonable in view of the age of the Husband (68) and the sizable proportion of assets awarded to the Wife. I so adopt a multiplier of seven years.

74 Taking the multiplier of seven years and the multiplicand of $4,500 per month together, the total lump sum maintenance comes up to $378,000. Calculated on the basis of an annual effective interest rate of 2%, the present value of this lump sum which is to be payable to the Wife is, rounded to the nearest dollar, $353,285.

75 No interim maintenance has been paid by the Husband during the litigation. The Wife has been drawing down on the joint bank account, and the agreement is that she will be paying back into the account. Thus, deduction should be made for the interim period of 32 months, beginning from the time that the accounts were enjoined under the *Mareva* injunction obtained by the Husband in April 2013. This sum amounts to $144,000. Mr Campos suggested a formula to work out the present day sum of the 32 months of maintenance. However, in this case, the entire lump sum should be used because money has been used up over the course of the period and the excess is to be returned to the bank account by the Wife. The total sum of maintenance payable is thus $497,285.

Conclusion

76 In the result, I make the following orders:

(a) The Wife's share of the matrimonial assets is 35% which, given the size of the pool of

assets, amounts to $3,388,312.

(b) The lump sum to be paid for the Wife's maintenance is $497,285.

77 In ascertaining the final sum owing to the Wife, information is needed on the bank accounts and expenditure from those accounts. Counsel are requested to jointly work out how these sums at [76] may best be paid to the Wife. I shall hear counsel in respect of any consequential orders needed and on the question of costs.

[note: 1] 2nd Affidavit for Ancillary Matters of [TIG] dated 27 May 2015 at para 11.

[note: 2] 2nd Affidavit for Ancillary Matters of [TIG] dated 27 May 2015 at para 12.

[note: 3] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 17.1.

[note: 4] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 17.3.

[note: 5] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 17.2.

[note: 6] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 16.1.

[note: 7] Affidavit of Mdm [J] dated 3 July 2015 at para 6.

[note: 8] 1st Affidavit of Assets and Means of TIH dated 30 October 2014 at para 19.1(a).

[note: 9] Affidavit of Mdm [J] dated 3 July 2015 at paras 19–21.

[note: 10] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.1(c).

[note: 11] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.1(e).

[note: 12] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.1(g).

[note: 13] 2nd Affidavit of Assets and Means of [TIG] dated 27 May 2015 at para 54.

[note: 14] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.1(l).

[note: 15] 2nd Affidavit of Assets and Means of [TIH] dated 27 May 2015 at para 55.

[note: 16] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.2(d).

[note: 17] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.2(d).

[note: 18] 2nd Affidavit for Ancillary Matters of [TIG] dated 27 May 2015 at para 56.

[note: 19] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.2(e)

[note: 20] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.2(f).

[note: 21] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.2(h).

[note: 22] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 19.2(g).

[note: 23] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at paras 23(f) and (g).

[note: 24] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 23(h).

[note: 25] 2nd Affidavit for Ancillary Matters of [TIG] dated 27 May 2015 at paras 43–48.

[note: 26] Plaintiff's Submissions dated 30 September 2015 at para 36.

[note: 27] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 23(j).

[note: 28] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 23.1(a).

[note: 29] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 23.1(b).

[note: 30] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2014 at para 23.1(c).

[note: 31] 2nd Affidavit for Ancillary Matters of [TIG] dated 27 May 2015 at para 25.

[note: 32] Summons No [YZ] filed on 2 October 2015.

[note: 33] Affidavit of [TIH] filed on 2 October 2015 in SUM 465/2015 at paras 7–8.

[note: 34] Affidavit of [TIH] filed on 2 October 2015 in SUM 465/2015 at p 44, para 5.

[note: 35] 2nd Affidavit of Assets and Means of [TIH] dated 6 July 2015 at para 16.

[note: 36] Affidavit of [T] dated 3 July 2015 at para 4.

[note: 37] Defendant's submissions dated 30 September 2015 at para 63.

[note: 38] Defendant's submissions dated 30 September 2015 at para 64.

[note: 39] Affidavit of Evidence-in-Chief of [A] dated 13 December 2013.

[note: 40] Defendant's written submissions dated 30 September 2015 at paras 64–66.

[note: 41] Parties's Joint Summary of Relevant Information dated 11 August 2015 at pp 4–8, S/Ns 4–18.

[note: 42] Defendant's written submissions dated 30 September 2015 at paras 125(b) and (c).

[note: 43] Defendant's written submissions dated 30 September 2015 at para 125(a).

[note: 44] Defendant's written submissions dated 30 September 2015 at Annex E, pp E105–E106 at S/Ns 9–11 ($20,902.24 + $59,107.63 + $26,127.57).

[note: 45] Defendant's written submissions dated 30 September 2015 at Annex E, p E106 at S/N 12.

[note: 46] Plaintiff's Submission dated 30 September 2015 at para 61.

[note: 47] Plaintiff's Reply to the Defendant's Further Submissions dated 21 October 2015 at para 11.2.

[note: 48] Plaintiff's Submissions dated 30 September 2015 at para 57; see also Plaintiff's Supplementary Submissions dated 19 October 2015 at para 17.

[note: 49] Plaintiff's Submission dated 30 September 2015 at para 60.

[note: 50] Defendant's Submissions dated 30 September 2015 at paras 94–98.

[note: 51] Defendant's Reply to Plaintiff's Further Submissions dated 21 October 2015 at para 6.

[note: 52] Defendant's Further Submissions dated 19 October 2015 at para 6.

[note: 53] Defendant's Further Submissions dated 19 October 2015 at paras 6–9.

[note: 54] Defendant's Further Submissions dated 19 October 2015 at para 6.

[note: 55] Defendant's Further Submissions dated 19 October 2015 at para 16.

[note: 56] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2015 at para 19.1(e).

[note: 57] 1st Affidavit of Assets and Means of [TIH] dated 30 October 2015 at paras 19.1(m)–(n).

[note: 58] 2nd Affidavit of Assets and Means of [TIH] dated 6 July 2015 at para 50; see also Affidavit of [CB] dated 3 July 2015 at para 5.

[note: 59] Affidavit of [TIG] dated 11 April 2014 at para 5.3.5.