

**IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE**

**[2016] SGHCF 11**

Divorce Transfer No 5652 of 2008

Between

**TQH**

*... Plaintiff*

And

**TQI**

*... Defendant*

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**JUDGMENT**

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[Family law] — [Maintenance] — [Wife]

[Family law] — [Matrimonial assets] — [Division]

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**TQH  
v  
TQI**

**[2016] SGHCF 11**

High Court — Divorce Transfer No 5652 of 2008  
Valerie Thean JC  
10, 11, 13, 18–19 May, 11 July 2016

25 July 2016

Judgment reserved.

**Valerie Thean JC:**

### **Introduction**

1 This judgment deals with the parties' asset division and the Wife's claim for maintenance arising out of a judicial separation and subsequent divorce.

### **Facts**

2 The Husband, 61, and the Wife, 59, married on 16 November 1980. The parties have three children, all of whom have attained the age of majority. The children are at present 30, 27 and 24 years old respectively.

3 The couple started their married life in humble circumstances; both became very successful while married to each other. The Wife was a teacher with the Ministry of Education from 1984. In 1996, when the youngest child was about four years old, the Wife started a Montessori childcare centre. Her venture blossomed into a chain of Montessori training centres and preschools. This was sold in August 2005.<sup>1</sup> The Husband, on his part, started his working life as a sales assistant. He set up a company, [VS], in October 1983, and then, various other associated businesses, which from 1995, became successful. [VS] was liquidated by the Husband on 8 December 2006<sup>2</sup> after a tax investigation commenced on 12 October 2006. The Husband thereafter set up new companies in the same line of business.

4 The marriage was strained, according to the Husband, from the 1990s, with discord arising over the sale proceeds of a property held in the parties' joint names in 1995. On the Wife's case, the marriage "had deteriorated since 2001"<sup>3</sup> and by mid-2004, the Husband started living with one [C],<sup>4</sup> who is at present his wife.

5 The eldest child started high school in Canada in 2003. In December 2003, the Wife applied for Canadian permanent residency and opened various bank accounts there. She and the two younger children moved to Canada between 2007 and 2008.<sup>5</sup> The Wife and three children presently live there.

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<sup>1</sup> Agreed Bundle ("AB") Volume 18, pp 9735–9740.

<sup>2</sup> Plaintiff's submissions dated 6 May 2016, para 91.

<sup>3</sup> The Wife's Statement of Particulars, para 1(a).

<sup>4</sup> The Wife's Statement of Particulars, para 1(c).

<sup>5</sup> AB Volume 13, p 6717.

6 The Wife filed a petition of judicial separation (“JS”) on 11 July 2005. The decree of judicial separation (“JS Decree”) was obtained on 7 March 2006 (“JS Date”). Both parties subsequently filed for divorce. The Husband filed his writ on 20 March 2006 and the Wife filed hers on 14 November 2008. By consent, the Husband withdrew his suit and proceedings were consolidated under the Wife’s action. Interim Judgment (“IJ”) on the divorce was obtained on 10 July 2009 (“the IJ Date”) and Final Judgment was granted on 8 March 2012.

### **Division of assets**

7 The various steps to be taken in an asset division may be framed within the broad framework used by the Court of Appeal in *Tan Hwee Lee v Tan Cheng Guan and another appeal and another matter* [2012] 4 SLR 785 (“*Tan Hwee Lee*”) as follows:

- (a) Stage 1: delineating the pool of assets: Here the court must decide on the operative date, identify the items within the asset pool, assess their value and decide whether to use the global assessment methodology or classification approach.
- (b) Stage 2: dividing the assets: Here the court must apply the structured approach set out in *ANJ v ANK* [2015] 4 SLR 1043 (“*ANJ v ANK*”).
- (c) Stage 3: allocating the assets.

***Stage 1: Delineation of pool of matrimonial assets******Operative date for determining the pool of matrimonial assets***

8 In the case at hand, the operative date to be used for determining the pool of assets is central, as litigation has extended over many years.

9 This issue of the operative date was dealt with in *ARY v ARX* [2016] 2 SLR 686 (“*ARY v ARX*”), where the Court of Appeal decided that a starting point or default position in the exercise of the court’s discretion should be to use the date of interim judgment as the relevant operative date, explaining as follows:

31 ... In our judgment, while the court retains the discretion to select the appropriate operative date to determine the pool of matrimonial assets, there is much to be said that, unless the particular circumstances or justice of the case warrant it, the *starting point* or *default position* should be the date that interim judgment is granted.

32 There is a strong justification for this position as a matter of principle. The interim judgment “puts an end to the marriage contract and indicates that the parties no longer intend to participate in the joint accumulation of matrimonial assets ...” (*AJR v AJS* [2010] 4 SLR 617 (“*AJR*”) at [4]). The grant of interim judgment is a recognition by the court that there is “no longer any matrimonial home, no *consortium vitae* and no right on either side to conjugal rights” (*Sivakolunthu Kumarasamy v Shanmugam Nagaiah* [1987] SLR(R) 702 at [25]). The interim judgment “put[s] an end to the whole content of the marriage contract, leaving only the shell, that is, the technical bond” (*Fender v St John-Mildmay* [1936] 1 KB 111 at 115–117). In a general sense, it would be artificial to speak of any asset acquired *after* the interim judgment has been granted as being a matrimonial asset.

[emphasis in original].

10 In the light of this decision, the Husband contended that the court should use the JS Date as the operative date. In this regard, he pointed out that it is undisputed that the parties have been living separate lives and ceased to

have sexual relations since 2004.<sup>6</sup> The Wife applied for permanent residence in Canada in 2003. There were two sets of PPO applications brought by Husband and Wife against each other, in 2005 and 2006, both of which were withdrawn. The Husband pointed out that under s 112 of the Women's Charter (Cap 353, 2009 Rev Ed) ("the Charter"), the court is empowered "when granting or subsequent to the grant of a judgment of divorce, judicial separation or nullity of marriage, to order the division between the parties of any matrimonial asset". The Husband argued that the grant of judicial separation is therefore akin to the grant of interim judgment to the extent that the court recognises that the marriage has effectively come to an end and parties have begun living separate lives. Therefore, it is in keeping with the Court of Appeal's directive in *ARY v ARX* that the JS Date is used in the present case.

11 Counsel for the Wife, Mr Salem Ibrahim ("Mr Ibrahim"), argued that any default position espoused in *ARY v ARX* could only be a starting point, highlighting the observations of the Court of Appeal in *Yeo Chong Lin v Tay Ang Choo Nancy and another appeal* [2011] 2 SLR 1157 ("*Yeo Chong Lin*") (at [39]) that the court retains the direction to apply different categories of cut-off dates for different categories of assets depending on the circumstances of the case.<sup>7</sup> Mr Ibrahim's exact arguments as to the applicable operative date, however, were not very specific. In oral submissions, he first submitted that the date should be "floating". In this regard, he initially seemed to suggest the date of the ancillaries ("AM Date") should be used. Subsequently, he contended that the JS Date ought to be used for all the Husband's assets and

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<sup>6</sup> Husband's submissions dated 6 May 2016, para 21.

<sup>7</sup> Wife's submissions dated 6 May 2016, para 117.



the AM Date be used for all the Wife's assets, on the rationalisation that this would allow the Canadian family home to be added into the pool.<sup>8</sup>

12 In my judgment, it would not be fair to parties to use one date for the Husband, and a different date for the Wife. It is clear that the Wife preferred a later date to be used for her because the assets in her name at that date stood at a much lower figure. The live issue in this case is thus whether the JS Date or the AM Date should be used as the relevant operative date. The court in *ARY v ARX* was focused on using the date where the marriage contract can be said to have come to an end as the default operative date. This is in keeping with the general observation of the Court of Appeal in *Yeo Chong Lin* (at [39]) that the relevant operative date would, in most cases, be the date beyond which it would be “wholly unreal” to treat subsequent acquisitions as matrimonial assets.

13 In the case at present, I agree with the submissions made by counsel for the Husband that the marriage effectively came to an end on the date of the JS Decree. This was reflected in both the affidavits of means of Husband and Wife filed in June 2006 consequent upon the JS Date. Subsequently, both accountants used June 2006 as the reference point in their six reports.<sup>9</sup> Although the Wife's submission filed for the ancillary matters hearing attempted to suggest there might have been efforts at reconciliation post JS Date, this is at odds with the Wife's own affidavits which make clear that “[s]ince mid-2004, the [parties] have led separate lives ... [and] [t]he marriage had broken down irretrievably and there was no hope of reconciliation”.<sup>10</sup>

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<sup>8</sup> Transcript dated 10 May 2016, p 21.

<sup>9</sup> Transcript dated 10 May 2016.

Prior to that, the Wife indicated that the parties' relationship had deteriorated since 2001 and the Husband had started living with his girlfriend in mid-2004 in her Statement of Particulars.<sup>11</sup> Indeed her valuation of the Husband's company was as at December 2005; her case had been tailored to a determination of the matrimonial pool as at the JS Date for many of the years of this litigation. While the Court of Appeal in *ARY v ARX* did reserve a discretion for the court to depart from the default operative date where the facts and circumstances demanded, it emphasised (at [36]) that in such a situation, the court "must exercise care" and give reasons for so doing. In this case, I find no principled reason to depart from the JS Date.

14 I pause to note that the Court of Appeal observed (at [34]) that adopting the date of interim judgment as a starting point will better enable parties to a divorce to arrange their financial affairs. Additionally, "[i]t will give them the comfort of knowing when they will be taken as having moved into a different phase in their lives. It will also make it easier for their counsel to advise them." Indeed, the comments of the Court of Appeal are especially apt in this case where the parties have drawn out their litigation for so many years. The Wife filed her first affidavit of assets and means ("AOM") on 2 June 2006 and the defendant husband ("the Husband") filed his first AOM on 14 June 2006. Over the next *ten years* the parties filed various applications and affidavits. 137 affidavits were filed, 67 from the Wife and 70 from the Husband. The Wife changed counsel five times, and the Husband, nine times. Arguments have morphed over time: just as an example, the Wife valued the Husband's assets at \$30m in 2012, by JPTC in April 2016, his value was

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<sup>10</sup> AB Volume 1, pp 119–120.

<sup>11</sup> Statement of Particulars, para 1(a).

suggested to be \$44.3m. This case highlights the inappropriateness of a protracted adversarial approach to family cases, and underscores the importance of the new judge-led approach in case management brought in by the Family Justice Rules from 1 January 2015.

### *Valuation of asset pool*

15 On the direction of the court, parties filed a joint table of assets which the parties contended potentially formed part of the pool. Arguments at trial made an implicit assumption as to the use of the global assessment methodology. The potential asset pool comprised about 196 assets. Some were agreed; most were disputed. There were allegations and counter allegations of non-disclosure, squirrelling away of assets, and dissipation. Broadly, the Husband was accused of undervaluing the main company that he owned at the time, [VS], and making adjustments and arrangements to keep money out of the pool. The Wife, on her part, was accused of dissipating assets from around 2002, involving her family members in her scheme to do so, non-disclosure, and the tampering of documents.

16 The Husband, Wife and Wife's sister were cross-examined in relation to the areas in dispute. Two experts from both sides, the Wife's accounting expert, Mr Patel Anand Rameshchandra ("Mr Patel") from Raffles PAC and the Husband's accounting expert, Mr Chee Yoh Chuang ("Mr Chee") of Stone Forest Corporate Advisory Pte Ltd ("Stone Forest") were examined concurrently together on the witness stand. I shall deal with the witnesses' evidence where it is relevant to the determination of the assets.

17 There are no jointly held assets. Arising from the 1995 dispute over the sale of the parties' former matrimonial home held in joint names, the parties

thereafter purchased and held assets in their sole names. I deal with the parties' assets here under broad headers for ease of discussion. Within the Tables in the sections that follow, the values ascribed are those suggested either by Wife or Husband as the case may be, whereas Annex A records the conclusions in respect of whether those assets have been added to the pool.

#### The Husband's assets

18 Counsel for the Wife's contentions related to two main classes of assets. The first concerned [VS], set up in 1983, and its associated companies. The second related to the allegations of leakage and undisclosed income from [VS]. These two baskets of assets are dealt with first in view of their centrality to the case.

#### THE HUSBAND'S COMPANIES

Table 1: Husband's Companies  
(Wife's values have been reproduced below)

S/No.	Asset	Value
1	[M] Shares	S\$ ("\$\$") 187,450.00
2	[MS] Shares	\$2
3	[V] Shares	0
4	[VS] Shares	\$4,827,477.00
5	[VM] Shares	\$638,694.80
6	[V Thailand] Shares	\$836,438.22
7	[PTV] Shares	\$115,725.76

8	[V Hong Kong] Shares	\$101,242.02
9	[VH] Shares	0
10	[VHT] Shares	0
11	[VHM] Shares	0
12	[VHTM] Shares	0
13	[WT] Shares	Not known
14	[WKC] Shares	Not known
15	[VIC] Shares	Not known
16	[VN] Shares	Not known
17	Representative Offices	Not known
18	[VS] Representative Office	Not known
19	[VSH] Representative Office	Not known
20	[VIH] Shares	Not known
21	[YS] Shares	Not known
<b>Total</b>		<b>\$6,707,029.80</b>

19 The Husband's flagship company at the time of the JS was [VS], S/N 4. Related companies existed in Hong Kong, Thailand, China and elsewhere, during the time of the marriage and after.

20 [VS] was successful from the mid-1990s, up until 12 October 2006, when the company was raided by IRAS in a tax investigation. The Husband put [VS] into liquidation on 8 December 2006.<sup>12</sup> The books of [VS] were

destroyed after the liquidation was completed, on or about 16 June 2008 when the final proceeds were distributed.<sup>13</sup> Subsequently, the Husband started [VHT], which is in the same line of business.

21 Mr Ibrahim’s contention was that the business of [VS] was transferred to [VHT] owned by the Husband, which continues in the same business. On the first day of the hearing, Mr Ibrahim argued that the court should take the average of three years of [VHT]’s profit from 2003–2005 and apply a price-to-earnings ratio of six to that figure to derive a valuation of [VS].<sup>14</sup> This, he submitted, amounted to \$7.1m as the value of [VS]. This approach was a novel one; however, it was introduced on the first day of trial, and wholly at odds with his own expert’s reports and his client’s case over the preceding ten-year pre-trial period. Parties were re-directed to the evidence in the affidavits.

22 Parties’ two experts had filed three reports each. The Husband’s expert, Mr Chee, suggested that the amount disclosed by the Husband to have been received by him from the liquidation of [VS], viz, US\$960,000 (equivalent to \$1,365,012.60) should be used, as he received that sum. Mr Patel, on his part, elected to use the net asset value (“NAV”) of [VS] as at 31 December 2005, as the accounts dated that date were the closest to the JS Date. His report suggested that this value should be used instead of the liquidation value proposed by Mr Chee, as it was likely that the Husband liquidated [VS] so as to “reduce the value of the assets owned by the

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<sup>12</sup> Plaintiff’s submissions dated 6 May 2016, para 91.

<sup>13</sup> AB Volume 36, p 19740.

<sup>14</sup> Transcript dated 10 May 2016, pp 5–6.

[Husband]” and destroy its records. The NAV of [VS] as at this date was \$4,827,477.

23 The experts met prior to their appearance in court. During that meeting, Mr Patel conceded that certain tax liabilities, *viz*, outstanding taxes and penalties, that were paid by [VS] to the Comptroller of Income Tax had to be deducted from the NAV of \$4,827,477, if this value was used. The total amount of the liabilities stood at \$2,424,505.97 *viz*, \$1,740,201.83 plus \$684,304.14.<sup>15</sup> The adjusted valuation of the [VS] Shares based on the NAV would therefore be \$2,402,971.03.

24 In addition, the Wife’s submissions contended that the value of [VS] should in addition to \$4,827,477 include “unvalued” goodwill.<sup>16</sup> This issue was not covered in Mr Patel’s report, although he mentioned its omission when the experts met in preparation for their concurrent evidence. While on the stand, in response to a question from the Court, Mr Patel stated in relation to goodwill that he was “[u]nable to point a value right now”.<sup>17</sup> This response came before the court adjourned for lunch. At the close of the experts’ evidence in the afternoon, Mr Patel suddenly stated that he was able to put a value on goodwill by looking at future earnings. He said that he “would put about five years of earnings as goodwill”.<sup>18</sup> He valued the goodwill to be in the region of \$5m, well above the NAV of [VS].

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<sup>15</sup> AB Volume 8, p 4413.

<sup>16</sup> Wife’s submissions dated 6 May 2016, para 93.

<sup>17</sup> Transcript dated 18 May 2016, p 22.

<sup>18</sup> Transcript dated 18 May 2016, p 118.

25 Mr Chee gave this new development in Mr Patel's evidence short shrift. He said that if future earnings are used, only the difference between the valuation arising from using future earnings and the NAV may be considered to be goodwill.<sup>19</sup> There were different modes of valuation which ought not to render markedly different results in most cases; and NAV was one method. I agree with Mr Chee that Mr Patel's evidence misrepresents the use of future earnings to value the amount of goodwill. Additionally, this method of valuation was not selected by Mr Patel in his expert report. The change of Mr Patel's evidence at the close of the day and his misrepresentation of very basic aspects of valuation left me doubtful of his reliability as an expert witness.

26 A related query relates to the extent of the Husband's shareholding in [VS]. The Husband owned 98% of the [VS] shares. Mr Chui Vui Long ("Mr Chui"), who was the Husband's employee owned 2%. The Wife contended that Mr Chui was simply a nominee of the Husband. I note that the Husband on his part attempted to "use his best effort" to get Mr Chui to confirm that he was not holding shares on behalf of the Husband.<sup>20</sup> The Husband was not successful in obtaining such confirmation.<sup>21</sup> I find in the Wife's favour on this point.

27 Following from this, the value to be used for [VS] would be either the liquidation sum, adjusted to include the nominee's value, or the NAV, adjusted after tax and penalties. I am of the view that the adjusted valuation of the [VS] Shares based on the NAV of \$2,402,971.03 should be used as the

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<sup>19</sup> Transcript dated 18 May 2016, p 120.

<sup>20</sup> AB Volume 38, p 20906.

<sup>21</sup> AB Volume 38, p 20906.



value of the [VS] Shares. The liquidation value would be an inaccurate reflection of the value of the company at JS Date, which was before the tax investigation started. The NAV, based on 31 December 2005 accounts, would be a better indication of the company as a going concern.

28 It should be mentioned that both parties accepted that the value of the company could be attributed as the Husband's share in it. Although Mr Ibrahim did not explicitly argue that the corporate veil should be lifted, his contention was that [VS] was the alter ego of the Husband's. This ground has been accepted by our Court of Appeal in *Alwie Handoyo v Tjong Very Sumito and another and another appeal* [2013] 4 SLR 308 (at [96]) where the following guidance was given "... the key question that must be asked whenever an argument of alter ego is raised is whether the company is carrying on the business of its controller". The Husband did not dispute this fact; indeed his expert, Mr Chee, mentioned, in the context of a discussion on goodwill, that in companies such as [VS] where the founder was so dominant, the goodwill attributable to the company could be that of the founder which would no longer feature in the value of the company on a sale if the founder did not continue operating the company.

29 It follows then that the NAV of [VS] would thus be a proxy for the value of the shares the Husband held in [VS]. It is therefore fair to ascribe the value of the company, viz, \$2,402,971.03, as the value of the Husband's share in [VS].

30 It could be apposite, at this juncture, to mention a contention of Mr Ibrahim's which recurred at various junctures of the case whenever the value of [VS] was in play. This is that the Husband's current flagship company,

[VHT] is a highly successful one, and appears to be in the same line of business as [VS] was. While [VHT] has the same founder as [VS] and is in the same line of business, [VS] was liquidated. There appeared no evidence that the assets from the first company had been transferred to the second; there was no contention that the liquidator, whose duty would have been to realise [VS]’s assets, somehow gave [VHT] the benefit of those assets. Mr Chee thought [VHT] could have been set up sometime later after the demise of [VS], and no argument was made otherwise. He was also unwilling to extrapolate the value of [VHT] into the past value of [VS], as [VS] was a different company, one which was burdened with a tax investigation. In my view, there is no logical nexus to assume the value of the present [VHT] is in any way, *ten years on*, a reflection of [VS]’s value.

31 Coming to the other associated companies, the Wife’s contentions as to the use of nominee directors by the Husband was made in respect of several other companies: [M] Shares (S/No.1), [MS] Shares (S/No. 2), [VM] Shares (S/No 5); [V Thailand] Shares (S/No 6); and [PTV] Shares (S/No.7).

32 Starting first with [M] Shares, the Husband owned 50%. The other 50% of the [M] Shares were held by Foo Yong Hong (“Mr Foo”), one of the Husband’s employees.<sup>22</sup> As for the [MS] Shares, they were held by Mr Foo and Mr Chui, the same person who held 2% of [VS].<sup>23</sup> One per cent of the [VM] Shares<sup>24</sup> and 15% of the [PTV] Shares were held by Mr Foo.<sup>25</sup> I accept the Wife’s submissions that the Husband’s employees, viz, Mr Foo and Mr

<sup>22</sup> AB Volume 3, p 1220.

<sup>23</sup> AB Volume 3, pp 1283–1286.

<sup>24</sup> AB Volume 6, p 3148.

<sup>25</sup> AB Volume 3, pp 1448–1449.

Chui, were holding the shares for him as nominees. The fact that Mr Foo held a substantial stake in some of the companies evidences that the Husband habitually used employees as nominees in his shareholding structure.

33 The Thai company, however, was on a different footing. The Husband only owned about 44% of these shares and a block of 51% of the said shares were held by his Thai business partners.<sup>26</sup> There was no evidence that these persons were his employees. Apart from the company's copy of shareholders which listed three Thai individuals as holding 51% of the shares in [V Thailand], I also note that the two of the three Thai business partners (who cumulatively owned 40.5% of the shares in [V Thailand]) signed notarised statements on 3 September 2015 to confirm their full ownership of their shares in [V Thailand]. For this reason, I use the value put forth by the Husband in relation to the [V Thailand] Shares, and accept that the Husband only held 44% of the shares.

34 Regarding the remainder companies, at the hearing before me, counsel for the Husband Ms Rina Kalpanath Singh ("Ms Singh") and Ms Tan Siew Kim ("Ms Tan") confirmed that the Wife's value was to be used in relation to the [V Hong Kong] Shares (S/No. 8). Both parties assigned a nil value to the [V] Shares (S/No. 3). I also agree with the Husband's submission that S/No 9 should be assigned a nil value as it was incorporated on 2 October 2006, after the operative date. In any case, the Wife had not pinned a value on these shares. The other shares running from S/No 10 to 21 of Table 1 either arose from companies incorporated after the operative date or have not been shown by the Wife to be owned by the Husband.

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<sup>26</sup> AB Volume 12, pp 6201–6202.

## CONTENTIONS REGARDING THE HUSBAND'S UNDISCLOSED INCOME

35 The largest class of assets that the Wife alleged should be included in the pool is the Husband's undisclosed income. I set out the values ascribed to the various allegations by the Wife in Table 2 below.

Table 2: the Husband's undisclosed income  
(Wife's values have been reproduced below)

S/No.	Asset	Value
22	Undisclosed fixed deposits based on interest income of \$115,984 received in the books of [VS]	\$13,180,000
23	Directors Fees and Remuneration	\$2,092,205.82
24	Adjustments to Husband's account in the books of [VS] for the year ended 31 December 2002	\$182,420
25	Adjustments to Husband's account in the books of [VS] for the year ended 31 Dec 2001	\$1,903,481.20
26	Adjustments to profit and to Husband's account in the books of [V Thailand] for the year ended 31 March 2000 to 1 December 2001	\$612,967.64
27	Adjustments to profit before tax in the accounts of [VS] for the year ended 31 December 1999 from SGD 2,584,771.44 to 403,851.68	\$2,180,919.78
28	Adjustments to profit before tax in the accounts of [VS] for the year ended 31 December 1999 from SGD 2,513,326.77 to 311,148.23	\$2,202,178.54
29	Adjustments to profit and to Husband's account in the accounts of [VM] for the year ended 31 March 2000	\$380,265.01
30	DBS fixed deposit offered as security for [VH]	0

31	Variance in Net Assets	\$1,115,410
32	Security given by [VS] to GE Toshiba Silicones	\$613,440
33	Canadian Property – XX Burnaby BC	\$605,594
34	DBS fixed deposit offered as security for [VH]	0
35	Director's fee to the Husband by [V Hong Kong]	\$140,995.70
36	Citibank Unfixed Time Deposits in Account No XXXXX005	0
37	DBS Fixed Deposit	\$341,493.19
38	Transfer from Citibank to UOB Account No. XXXXX854	\$344,200.87
39	Withdrawal of Citibank Fixed Deposit in Account No. XXXXX005	\$296,893.22
40	Provision for marketing expenses	\$420,000
41	DBS fixed deposit offered for [VH]	\$14,612.27
<b>Total</b>		<b>\$26,627,077.24</b>

36 The first of these disputed assets, the fixed deposit, arose from Mr Patel's observation in his expert report that in [VS]'s financial statements as at 7 December 2006, there was interest of \$115,984 earned by [VS]. He then applied a prescribed interest rate of the Monetary Authority of Singapore ("MAS rate") and suggested that this interest income must be attributed to there being fixed deposits worth \$13,180,000 (S/No 22). He then assumed that this amount must have been dissipated from [VS] and placed in the Husband's accounts.<sup>27</sup> Mr Chee explained that the use of the USD fixed deposit rate might

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<sup>27</sup> AB Volume 30, pp 15972–15973.

lead to a potential principle sum over \$2m. He also submitted that the lower cash balance in [VS]'s cash accounts could be attributed to payments made by [VS] to its creditors, as there was a decrease in trade creditors from \$7,187,306 in 2005 to \$160,499 in 2006.<sup>28</sup> It is noted that the existence of fixed deposits worth \$13,180,000 was not recorded in any of [VS]'s accounts in the previous years.

37 It is relevant to note that despite various discovery applications by the Wife, there appears to have been no undisclosed accounts discovered on the part of the Husband. Ms Tan put it to Mr Patel that he did not discover any undisclosed accounts on the part of the Husband in cross-examination. Mr Patel agreed to this save for his discovery of a transfer from an account in Citibank to one in UOB (S/No 38).<sup>29</sup> This alleged discovery by Mr Patel was flawed, however, as the said monies in S/No 38 had in fact been remitted into the accounts of [VS]. This was evidenced by bank statements that were annexed to Mr Chee's expert report that showed that the monies had been remitted to the accounts of [VS].<sup>30</sup> Mr Patel conceded that this was the case during cross-examination.<sup>31</sup>

38 In view of the above, I accept Mr Chee's position on S/N 22 as they are sensible. Indeed, there was a decrease in trade creditors between 2005 and 2006. The value of the fixed deposit must therefore be found in [VS]'s existing cash balance. In any case, because there are no undisclosed accounts

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<sup>28</sup> AB Volume 38, p 20929.

<sup>29</sup> Transcript dated 18 May 2016, pp 84–85.

<sup>30</sup> AB Volume 38, pp 21036–21038.

<sup>31</sup> Transcript dated 18 May 2016, p 85

on the part of the Husband, any alleged dissipation would already be counted as part of the Husband's bank accounts.

39 I turn next to S/No 23. This is an entirely curious item that arose from an affidavit filed by the Wife. The Wife put together a table where she allegedly calculated the director's fees paid in relation to all the Husband's companies (see Table 1 above).<sup>32</sup> This tally included salaries paid to foreign personnel from one of the Husband's companies in Shanghai. Mr Patel suggested in his report that this entire amount was wrongfully alleged by the Husband to be paid to one Ms Low Kim Gek ("Ms Low") – they had in fact been dissipated by the Husband.<sup>33</sup> This is incorrect. An affidavit filed by the Husband showed that only \$140,000 had been paid to Ms Low.<sup>34</sup> In cross-examination, Mr Patel conceded that the amount paid to foreign personnel should not have been included in this item. Ms Patel clarified that the Wife's case was that these monies, which were said to be paid to the other directors, were siphoned by the Husband.<sup>35</sup> In my judgment, there appears to be no evidence to substantiate this assertion. In any case, if the Wife is correct that the monies have been siphoned by the Husband then it would likely already be found in the Husband's accounts which have been included in the pool of matrimonial assets.

40 The accounting adjustments noted at S/No 24–29, which the Wife wishes to include in the pool of matrimonial assets, are for the period of 1999 to 2002. Apart from the fact that the Wife was still benefiting from the

<sup>32</sup> AB Volume 16, pp 8386–8387.

<sup>33</sup> AB Volume 30, p 15971.

<sup>34</sup> AB Volume 8, p 4488.

<sup>35</sup> Transcript dated 18 May 2016, pp 59–60.

Husband's wealth (and these adjustments) during this period, these amounts should not be included as they would in any case be captured in the values included as part of the Husband's bank accounts in the matrimonial pool if there has indeed been any siphoning on the part of the Husband. When queried by Ms Tan, Mr Patel confirmed this in evidence; he further confirmed that the items noted at S/No 24 and 28 were not covered by him as part of his expert evidence at all.<sup>36</sup>

41 The parties agreed that S/Nos 30<sup>37</sup>, 31<sup>38</sup>, 34<sup>39</sup>, 36,<sup>40</sup> 40<sup>41</sup> and 41 should be excluded from the pool of matrimonial assets. As for the security given by [VS] to GE Toshiba Silicones (S/No 32), Mr Patel submitted that the fact that there was a banker's guarantee of US\$400,000 provided by [VS] suggested that the guarantee was provided using the Husband's undisclosed assets. The value of the undisclosed assets was estimated to be \$613,440.<sup>42</sup> This argument lacked cogency. I agree with Mr Chee that there would be no need for the Husband to use his (undisclosed) assets to secure the guarantee as [VS] had an adequate cash balance (of \$5.8m) to do so at the relevant time.<sup>43</sup>

42 I turn next to the Canadian Property (S/No 33). Acting on the Wife's instructions that there were remittances by the Husband to his sister, nephew

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<sup>36</sup> Transcript dated 18 May 2016, pp 76–77.

<sup>37</sup> AB Volume 39, p 25997.

<sup>38</sup> Transcript dated 18 May 2016, pp 50–51.

<sup>39</sup> AB Volume 39, p 25997.

<sup>40</sup> Transcript dated 18 May 2016, p 87.

<sup>41</sup> Transcript dated 18 May 2016, pp 57.

<sup>42</sup> AB Volume 30, p 15970.

<sup>43</sup> AB Volume 38, p 20924.



and one other person to purchase the said property, Mr Patel included the value of the said property as a matrimonial asset belonging to the Husband.<sup>44</sup> However, during the hearing it was found that the evidence that was relied on to prove a remittance from the Husband to the nephew of an amount of US\$49,993 was in fact a remittance from the nephew to the Husband. Mr Patel conceded this.<sup>45</sup> As there is no evidence that remittances were made by the Husband so that he could purchase the Canadian Property, this asset should not be included in the pool of matrimonial assets.

43 As for the director's fee to the Husband by [V Hong Kong] (S/No 35), the Husband gave evidence that these were not fees paid to him. He suggested that these were reimbursements made to him after he initially advanced the fees to the directors.<sup>46</sup> In this regard, it was argued that the said amount was paid to one Ms Judy Chia. I was not convinced by this explanation. His counsel was able to show, however, that the said director's fee went into a POSB account that was disclosed by the Husband.<sup>47</sup> Therefore, there is no need to include this additional amount into the pool of matrimonial assets.

44 As for the DBS fixed deposit (S/No 37), as rightly pointed out by Ms Tan and Mr Chee,<sup>48</sup> these amounts were not to be added to the matrimonial pool as they were already accounted for under the Husband's bank accounts (see S/Nos 78 and 79 of Table 6 below).<sup>49</sup> The transfer from Citibank to UOB

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<sup>44</sup> AB Volume 30, p 15970.

<sup>45</sup> Transcript dated 18 May 2016, p 55.

<sup>46</sup> Transcript dated 13 May 2016, p 60.

<sup>47</sup> Transcript dated 19 May 2016, p 61.

<sup>48</sup> Transcript dated 19 May 2016, p 63.

<sup>49</sup> AB Volume 38, p 20933.

noted at S/No 38 is not to be included in the pool of matrimonial assets as the said amount was transferred by the Husband to [VS].<sup>50</sup> The amount would have already been taken into consideration as part of the NAV of [VS] (see [56] where this item has also been duplicated). Similarly, the withdrawal from the Citibank fixed deposit account (S/No 39) was in fact shown to be a remittance to VSPL.<sup>51</sup> Mr Patel accepted this.<sup>52</sup>

45 I therefore do not add any of the items in this section to the pool of matrimonial assets.

#### THE HUSBAND'S REAL ESTATE

Table 3: Husband's Properties  
(Husband's valuation prices have been reproduced below)

S/No.	Asset	Value
42	Hume Avenue Property, Singapore	\$760,000
43	Fernwood Property, Singapore	\$1,500,000
44	JB Property	\$217,200
45	Shanghai Property	\$454,469.60
46	Summit Gardens, Shanghai	Unable to ascertain
47	Vistana Condominium, KL	Unable to ascertain
48	2 Bedroom Apartment, Suzhou	Unable to ascertain

<sup>50</sup> AB Volume 38, p 21038.

<sup>51</sup> AB Volume 38, p 21033.

<sup>52</sup> Transcript dated 18 May 2016, p 83.

<b>Total</b>	<b>\$2,931,669.60</b>
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46 I comment on S/No 42 above. It was noted that this property at Hume avenue (“the Hume Property”) was purchased at a price of \$1,251,000 in 1997. The Husband provided a valuation report from Knight Frank Pte Ltd (“the Knight Frank Report”) that valued the Hume Property at \$760,000 on 7 August 2006.<sup>53</sup> The said valuation was conducted for the purposes of divorce proceedings. While the Wife did not have a valuation report in relation to any of the properties noted at S/No 42–45 above, her expert, Mr Patel argued that the Husband’s valuation for the Hume Property should not be used as it was below the purchase price. He applied an annual rate of increase of 1.864% (purportedly based on the linear increase in the value of the property between 1997 and 2013) and determined the value of the Hume Property to be \$1,477,215.<sup>54</sup>

47 As rightly pointed out by the Husband’s expert, Mr Chee, Mr Patel’s approach used in his suggested valuation was baseless. It was unclear how such an annual rate could be used to value the Hume Property as at the JS Date when it is known that property prices fluctuate. In this regard, the price index of property in April 1997, viz, 98.60 was higher than that in June 2006, viz, 78.70.<sup>55</sup> I accept Mr Chee’s expert evidence. Since the Wife decided not to appoint a valuer, I use the valuation set out in the Knight Frank Report.

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<sup>53</sup> AB Volume 30, pp 15982–15987.

<sup>54</sup> AB Volume 30, pp 15953.

<sup>55</sup> AB Volume 38, pp 20901–20902.

48 For the Fernwood property, the value was an agreed one. For S/N 44 and 45, the Husband adduced valuation reports. These are accepted as more reliable than the suggestions of the Wife's expert. I note also that the Wife did not adduce any evidence to show that the Husband owned the properties listed by her at S/No. 46–48 above.

49 The total value of assets under this section for the purpose of determining the matrimonial pool is therefore \$2,931,669.60.

#### THE HUSBAND'S MOTOR VEHICLES

50 I turn next to the Husband's motor vehicles, set out in Table 4 below.

Table 4: the Husband's motor vehicles  
(Wife's values have been reproduced below)

S/No.	Asset	Value
49	Car XX6 X	\$47,000.00
50	Car XX86 J	\$58,000
51	Car XX86 M	\$140,000.00
52	Car XX69 K	\$49,000.00
53	Car XX98 M	0
54	Car XX 01 G	0
55	Malaysia – Car XX68	Not known
56	Malaysia – Car XX86	Not known
57	Malaysia – Car XX86	Not known

58	Malaysia – Car XX86	Not known
59	Malaysia – Car XX68	Not known
60	Malaysia – Car XX51	Not known
61	Malaysia – Car XX74	Not known
<b>Total</b>		<b>\$294,000</b>

51 The parties agreed that Car XX86 J (S/No.50) was a matrimonial asset that should be valued at \$58,000. While the Wife assigned values to Car XX6 X (S/No.49), Car XX86 M (S/No.51) and Car XX69 K (S/No. 52), these are not matrimonial assets. These vehicles, while registered in the Husband's name, were paid for by [VS] for use by its staff. I accept the Husband's submission, as it is supported by evidence that shows that the said motor vehicles sold off by the liquidator during the liquidation of [VS].<sup>56</sup> No evidence was provided to show that the motor vehicles listed at S/Nos 53–61 existed and/or had an ascertainable value that should be included in the computation of the pool of matrimonial assets. The total value of assets for this section for the purposes of division is therefore \$58,000.

#### THE HUSBAND'S MISCELLANEOUS ASSETS

52 I turn next to a miscellaneous category of the Husband's assets. I set these assets out in Table 5 below.

Table 5: Miscellaneous assets  
(Wife's values have been reproduced below)

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<sup>56</sup> AB Volume 38, p 20964

S/No.	Asset	Value
62	AIA Life Insurance Policy No. XXXXXXXX85	0
63	NTUC Income Education Policy No. XXXXX86-8	\$63,213.00
64	NTUC Insurance Policy	\$120,000.00
65	SIA shares (4,000)	\$49,600
66	Singtel shares (27,860)	\$72,714.60
67	[D] shares(5,000)	\$7,960.82
68	Corporate Membership with Starhill, JB, Malaysia	Unable to ascertain
69	Membership – The Legends, Fort Canning, Singapore	Unable to ascertain
70	CPF	\$374,848.64
71	EPF	\$101,596.45
72	CPF Investment Scheme	\$32,051.28
73	Claim on Jonathan Tiong	\$3,240,000.00
74	[VP]	Not known
<b>Total</b>		<b>\$4,061,984.79</b>

53 The values assigned to the insurance policies at S/Nos 62–63 above, the shares noted at S/Nos 65–67 and the funds noted at S/Nos 70–72 above were undisputed by the parties. As for the insurance policy noted at S/No 64 above, it became clear in the hearing before me that this policy was the same as that noted at S/No. 63, except that the policy at S/No 64 was not valued at

or about the JS Date.<sup>57</sup> I exclude this amount as there had been a double-counting on the Wife's part.

54 Mr Chee pointed out in his expert report that the club memberships noted at S/Nos 68–69 were sold by the liquidator of [VS].<sup>58</sup> These memberships were thus excluded. The amount noted at S/No 73 related to a successful suit that was brought by [VS] against a former employee, Mr Jonathan Tiong (“Mr Tiong”). The Husband's evidence showed that Mr Tiong was bankrupt and that no monies had been recovered from him as a result.<sup>59</sup> This amount is therefore further excluded. No evidence was adduced by the Wife or her expert to show that the Husband owed shares in [VP] (S/No. 74). The total value of assets in this section for the purposes of division is therefore \$701,984.79.

#### THE HUSBAND'S BANK ACCOUNTS

55 I set out the Husband's alleged bank accounts in Table 6 below.

Table 6: The Husband's bank accounts  
(Husband's values have been reproduced below)

S/No.	Asset	Value
75	UOB Singapore Current Account No. XXXXX918-6	\$58,780.03
76	UOB Singapore Fixed Deposit Account No. XXXXX 180-3	\$634,358.40

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<sup>57</sup> Transcript dated 10 May 2016, pp 96–98.

<sup>58</sup> AB Volume 38, p 20920.

<sup>59</sup> AB Volume 36, pp 19747–19748.

77	DBS/POSB Bank Current Account No. XXXXX 74-3	0
78	DBS/POSB Bank Passbook Account No. XXXXX 66-0	\$285,993.60
79	DBS/POSB Bank Passbook Account No. XXXXX 72-0	\$139,176.12
80	Bank of China Singapore Savings Account No. XXXXX67-2	\$6,909.51
81	Standard Chartered Bank Savings Account No. XXXXX 69-6	\$20,701.47
82	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Account No. XXXXX 40-2	\$33,864.71
83	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Fixed Deposit Certificate No. XXXXX 301	0
84	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Fixed Deposit Certificate No XXXXX 302	0
85	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Fixed Deposit Certificate No. XXXXX 303	\$79,760.86
86	HSBC HK Power Vantage Savings Account No. XXXXX 833	\$197,489.22
87	UOB Malaysia Bhd Current Account No. XXXXX 72-7	\$63,363.90
88	Maybank Savings Account No. XXXXX 952	\$320,848.78
89	Bank of China (Suzhou) Account No. XXXXX 155	\$585.66
90	Bank of China (Suzhou) Account No. XXXXX 002	\$20,618.96
91	UOB Shanghai Current Account No. XXXXX 273	\$17,648.02
92	DBS Account No. XXXXX 031	0



93	Bank of China (Suzhou) Account No. XXXXX 677	0
94	Bank of China (Suzhou) Account No. XXXXX 155	0
95	HSBC Hong Kong Power Current Account – XXXXX -001	0
96	Bank of Asia Public Company Ltd Thailand XXXXX 40-2	0
97	Bank of Asia Thailand Fixed Deposit XXXXX 303	0
98	Citibank	0
99	Citigold Unfixed Time Deposit (XXXXX 1/2/3)	0
<b>Total</b>		<b>\$1,880,099.24</b>

56 In relation to accounts in S/Nos 75–91, the values provided by the Husband, which are as at 31 March 2006, should be used. This is because the Wife was not able to put a figure on certain accounts, and there remains a concern that there may have been transfers between the Husband’s accounts that have not been captured in the Wife’s valuation.<sup>60</sup> The Wife’s valuations included some double-counting and some sums without supporting documents. In this regard, it was shown that the account noted at S/No 93 was in fact the same account as S/No 90, with an error in numbering. In the same vein the account noted at S/No 94 was that noted at S/No 89.<sup>61</sup> As noted by Mr Chee, the account in relation to S/No 95 was actually already included in S/No 86, albeit mislabelled by Mr Patel.<sup>62</sup> S/Nos 96 and 97 were the same accounts as S/Nos 82 and 85 respectively – Bank of Asia merged with United Overseas

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<sup>60</sup> Transcript dated 19 May 2016, pp 37–38.

<sup>61</sup> Transcript dated 19 May 2016, 33–35.

<sup>62</sup> AB Volume 38, p 20916.

Bank and the Wife double-counted the accounts.<sup>63</sup> The Wife assigned a value of \$288,317.50 to an alleged account in Citibank (S/No 98) in her submissions. However, she never alleged the existence of such an account by the Husband on affidavit. I therefore do not include this account in the pool of assets. The Wife assigned a figure of \$344,221.01 to the account in S/No 99. However, the Husband provided evidence to show that the monies in these accounts were deposited in [VS]’s accounts on 4 October 2005.<sup>64</sup> These monies were therefore already included in the pool of matrimonial assets as part of his [VS] Shares. The total value of assets in this section for the purposes of division is therefore \$1,880,099.24.

#### SUMMARY OF THE VALUE OF THE HUSBAND’S ASSETS

57 I summarise in Table 7 below, the value of the Husband’s assets in relation to various categories discussed above.

Table 7: Husband’s assets

Category of assets	Value
The Husband’s properties	\$2,931,669.60
The Husband’s companies	\$3,820,759.58
The Husband’s motor vehicles	\$58,000
The Husband’s miscellaneous assets	\$701,984.79
The Husband’s bank accounts	\$1,880,099.24

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<sup>63</sup> Transcript dated 19 May 2016, p 34.

<sup>64</sup> AB Volume 38, pp 21036–21038.

The Husband's undisclosed income	0
<b>Total</b>	<b>\$9,392,513.21</b>

#### The Wife's assets

58 Counsel for the Husband contended that the Wife had planned the divorce and her approach to the asset division for a long time, in view of their troubled marriage. There were contentions that she withdrew the sale proceeds from the parties' matrimonial property in Pasir Ris in 2002 and 2003. From 2003, when the parties' eldest son moved to Canada to study there, bank accounts were opened and money transferred to Canada by the Wife. The Wife, it was said, was a sophisticated investor, who had hidden various accounts, some in her own name, others in the names of her family members, and dissipated matrimonial assets in the process. The Wife and the Wife's sister were cross-examined in relation to these issues. The two accountants were also examined in relation to the same.

59 After I reserved judgment, counsel for the Wife wrote to the court on 20 June 2016 to inform of evidence not raised during the hearing of the ancillary matters on five items regarding the Wife's various accounts. At the court's request, the Husband responded to the Wife's letter on 1 July 2016, and I heard the parties on 11 July 2016. In view of *SIC College of Business v Yeo Poh Siah and others* [2016] 2 SLR 118 at [41], I allowed the new arguments and evidence, awarding the Husband the costs (with quantum to be decided when I hear parties on the costs of these ancillaries). These items are dealt with in the context of the analysis below.

60 The Wife's bank accounts and the amounts which the Husband contends were dissipated are dealt with first, in view of their significance within the asset pool.

#### THE WIFE'S BANK ACCOUNTS

61 The Wife has many bank accounts. In the course of discovery, it was found that the Wife had as many as 55 undisclosed accounts. For present purposes, I first set out in the Table 8 below, the accounts where the Husband adopted the Wife's valuation and/or position.

Table 8: Wife's bank accounts with agreed valuation  
(valuation agreed by parties reproduced below)

S/No.	Asset	Value
101	DBS Savings Plus Account No XXXXX079	\$1,101.29
102	DBS Fixed Deposit Currency Account No. XXXXX031	\$514,663.12
103	DBS Foreign Currency Fixed Deposit Account No. XXXXX031	\$161,100.00
104	DBS Foreign Currency Fixed Deposit Account No. XXXXX022	\$15,385.83
105	Maybank (Singapore) Savings Account No. XXXXX99-4	\$28,829.16
106	Maybank (Singapore) Savings Account No. XXXXX78-8	\$68,961.88
107	Maybank (Singapore) Savings Account No. XXXXX77-1	\$55,190.30
108	OCBC Savings Account No. XXXXX00-6	\$5,445.98
109	POSB Savings Account No. XXXXX85-8	\$9,373.26
110	UOB Time/Fixed Deposit Account No. XXXXX02-8	\$324,234.61

<b>111</b>	UOB Uniplus Savings Account No. XXXXX51-5	\$10,306.15
<b>112</b>	POSB Current Account No. XXXXX36-6	0
<b>113</b>	POSB Savings Account No. XXXXX17-0	\$46.56
<b>114</b>	Maybank (Berhad) Savings Account No. XXXXX274	\$727.96
<b>115</b>	DBS SGD Fixed Deposit Account No. XXXXX4-15	Unable to ascertain
<b>116</b>	Hong Leong Islamic Bank Account No. XXXXX985	\$5,199.26
<b>117</b>	HSBC CAD Account No. XXXXX-150	\$11,092.65
<b>118</b>	HSBC CAD Term Deposit Account No. XXXXX350	\$5,451.86
<b>119</b>	HSBC CAD Term Deposit Account No. XXXXX553	\$27,708.86
<b>120</b>	Hong Leong Bank Berhad Account No. XXXXX876	\$164,999.16
<b>121</b>	OCBC Account No. XXXXX67-4	\$22,112.43
<b>122</b>	UOB Account No. XXXXX05-5	No such account
<b>123</b>	HSBC Canada Account No. XXXXX233	0
<b>Total</b>		<b>\$1,431,930.32</b>

62 I next set out in Table 9 below the accounts that were opened after the JS Date, which, in my judgment, are to be excluded from the pool of matrimonial assets.

Table 9: Accounts opened after JS Date

<b>S/No.</b>	<b>Asset</b>	<b>Date opened</b>
<b>124</b>	HSBC CAD Term Deposit Account No. XXXXX554	18 April 2006

<b>125</b>	HSBC Canada Account No. XXXXX306	24 February 2010
<b>126</b>	CIBC Chequing Account No. XXXXX383	16 February 2009
<b>127</b>	CIBC TSFA Tax Advantage Savings Account No. XXXXX03-3	16 February 2009
<b>128</b>	CIBC Savings USD Account No. XX10937	6 May 2008
<b>129</b>	OCBC Bank (Malaysia) Account No. XXXXX0-7	24 June 2006
<b>130</b>	Maybank Account No. XXXXX316 (joint with son)	17 October 2006
<b>131</b>	HSBC Saving Account No 151-XXXXX060	16 April 2009
<b>132</b>	NAB Account No: XXXXX39 in joint names with daughter	March 2007
<b>133</b>	POSB eSavings Account No. XXXXX44-3	After 2012

63 I set out in Table 10 below the accounts which were disputed. I will then discuss my decision in relation to these accounts.

Table 10: Disputed accounts  
(Husband's values have been reproduced below)

<b>S/No.</b>	<b>Asset</b>	<b>Value</b>
<b>134</b>	OCBC Malaysia Account No. XXXXX79-6	\$1,005.08
<b>135</b>	OCBC Fixed Deposit Account No. XXXXX34-1	\$17,807.54
<b>136</b>	DBS Currency Linked Investment Account No. XXXXX815	\$50,451.89
<b>137</b>	UCO Bank Account No. XXXXX3/00	\$20,200
<b>138</b>	Unknown fixed deposit account with OCBC	\$135,370.66

<b>139</b>	Unknown Bank Account No. XXXXX9-70	Unable to ascertain
<b>140</b>	OCBC Account No. XXXXX81-9	\$2,476.08
<b>141</b>	DBS Account No. XXXXX031	\$372,000
<b>142</b>	HSBC CAD Term Deposit Account No. XXXXX134 (in the son's name)	\$465,724.86
<b>143</b>	Wife's sister's DBS account	\$579,571.60
<b>144</b>	Daughter's Maybank Account No XXXXX48-4	Unable to ascertain
<b>145</b>	OCBC Current Account No. XXXXX87-8	Unable to ascertain
<b>146</b>	OCBC Esteem Savings Account No. XXXXX05-8	\$4,594.32
<b>147</b>	OCBC Easi-Save Account No. XXXXX49-8	\$479.82
<b>148</b>	OCBC FD Account No. XXXXX755-0	\$76,834.28
<b>149</b>	Scotia Bank Account No. XXXXX1-84	0
<b>150</b>	UOB Current Account No. XXXXX15-0	0
<b>Total</b>		<b>\$1,726,516.13</b>

64 The Wife had a one-third share in the account noted at S/No 134. The other co-owners of the account were her father and brother. It was noted that the Wife made payments in relation to her Malaysian properties with this account (see S/Nos 162–163 of Table 12 below at [84]). For this reason, the Wife's share in the account was to be included as a matrimonial asset.<sup>65</sup> In the same vein, the account noted at S/No 135 was a joint account between the Wife and her father. The Wife takes the position that the monies belonged to

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<sup>65</sup> AB Volume 18, pp 9653–9654.

her father. However, even on this analysis, as suggested by Mr Chee,<sup>66</sup> the Wife is entitled to one-third the monies in the account as a beneficiary of her late father's estate. For this reason, one third of the value of the account, that is, \$17,807.54, should be included in the pool of matrimonial assets.

65 The funds in the joint account held by the Wife and her sister at S/No 136 came from an account held by the Wife. Mr Patel conceded the source of these funds in the stand.<sup>67</sup> The account should therefore be included in the pool of matrimonial assets.

66 On the other hand, the accounts noted at S/Nos 137, 145–148 did not belong to the Wife. They were in the names of her father and/or her father and brother jointly and were not listed in the father's will and grant of probate. Mr Chee's report indicated that some accounts were listed in the father's will and grant of probate while others not. Thus a logical inference would be that the father intended for those listed to be distributed upon death, while for those not listed he must have intended for the joint holder to benefit upon his death. These accounts are therefore not to be included in the pool of matrimonial assets as it is thus inferred that the money belongs to her brother.

67 No value was ascribed by the Husband to the accounts noted at S/Nos 139, 144 and 149 –150. As there are no submissions on how these accounts should be valued, I decline to include them in the pool of matrimonial assets.

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<sup>66</sup> AB Volume 38, p 20827.

<sup>67</sup> Transcript dated 18 May 2016, p 109.



68 In relation to the account at S/No 140, I am of the view that it should be included in the pool of matrimonial assets, as it was jointly held by the Wife and her mother, who has since passed away.<sup>68</sup>

69 The Wife did not disclose the source of interest received in relation to one of her accounts with OCBC. Due to the incomplete documentation provided by the Wife, Mr Chee estimated that the interest must service from a fixed deposit valued at about \$135,370.66 from an undisclosed account (S/No 138).<sup>69</sup> The same methodology was adopted by Mr Chee to estimate the value of the account at S/No 141<sup>70</sup>. I accept Mr Chee's estimate in relation to S/No 141. I include this amount into the pool of matrimonial assets. I would have been minded to similarly add the amount in relation to S/No 138; however, fresh evidence was tendered on this at the hearing on 11 July 2016. Ms Iman Ibrahim ("Ms Ibrahim"), counsel for the plaintiff, showed new evidence in the form of bank statements that showed the source of the interest. As highlighted by Ms Tan, it is indeed surprising that the Wife refrained from producing such an important piece of evidence until well after I worked through the asset table with counsel on 19 May 2016, at which point it was clear how I would likely deal with the assets within the table. Based on the new evidence, it emerged that the source of the interest was from a disclosed account noted at S/No 135 of Table 10 at [63] above. Turning back to the present analysis, I hold that because the source of interest has been ascertained, S/No 138 should be assigned a nil value.

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<sup>68</sup> AB Volume 18, p 9671.

<sup>69</sup> AB Volume 18, p 9670.

<sup>70</sup> AB Volume 18, p 9672.

70 In relation to S/No 142, I am satisfied on the evidence that the monies in these accounts came from the Wife's accounts, although they were eventually held in the son's name.<sup>71</sup> They were therefore to be included in the pool of matrimonial assets. Similarly, while the account noted at S/No 143 was in the Wife's sister's name, the monies in the account could be related to a transfer from one of the Wife's accounts to her sister.<sup>72</sup> This account should therefore be included in the pool of matrimonial assets as it contains the Wife's funds. The total value to be ascribed to this category is \$2,920,967.37, viz, derived from adding the sum of \$1,489,037.05 and \$1,431,930.32.

71 In this case, in relation to money the Wife transferred to her sister, Mr Chee's report had traced the amounts, and thus the evidence was clear. I would mention additionally that when the Wife's sister was called to give evidence, she could not give a convincing explanation as to why her account statements were sent to the Wife's home rather than her own. Her contention that she was renovating her home was not persuasive. She still lived in Singapore at the time: a change of address with the post office would occasion as much trouble whether the new address was hers or her sister's, and the latter solution would create a further need for collection.

#### THE CONTENTIONS REGARDING THE WIFE'S DISSIPATION OF ASSETS

72 The Husband's contentions regarding the Wife's dissipation is summarised in Table 11 below.

Table 11: The Wife's Alleged Dissipation

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<sup>71</sup> AB Volume 19, p 9900.

<sup>72</sup> AB Volume 18, pp 9679–9680.

(Husband's values have been reproduced below)

S/No.	Asset	Value
151	Withdrawal from DBS Savings Plus Account No. XXXXX079	\$130,000
152	Withdrawal from DBS Fixed Deposit Foreign Currency Account No. XXXXX-031	\$70,000
153	Withdrawal from Maybank (S) Savings Account No. XXXXX99-4	\$48,610
154	Withdrawal from OCBC Bank (Malaysia) Berhad Savings Account No. XXXXX00-6	\$74,086.05
155	Withdrawal from POSB Savings Account No. XXXXX85-8	\$194,717.94
156	Withdrawal from DBS SGD Fixed Deposit Account No. XXXXX4-15	\$50,383.42
157	Withdrawal from Hong Leong Bank (M) Account No. XXXXX985	\$53,865.60
158	Withdrawal from UOB Fixed Deposit Foreign Currency Account no. XXXXX02-8	\$14,736.83
159	Withdrawal from OCBC Current Account No. XXXXX79-6	\$153,099.28
160	Fixed deposit placed in Hong Leong Bank Berhad Account No XXXXX876 in May 2006	\$21,720
161	Withdrawal of RM50,000 from OCBC Bank Account no. XXXXX00-7 to Account No. XXXXX316/XXXXXX324 in December 2006	\$21,720
<b>Total</b>		<b>\$832,939.12</b>

73 Mr Patel confirmed during cross-examination that the \$130,000 withdrawn from the DBS Account noted at S/No 151 above was re-deposited into the same account on the same date.<sup>73</sup> Ms Tan accepted that this was the

position.<sup>74</sup> The documentary evidence confirmed this as well.<sup>75</sup> This item was therefore to be excluded. As for the amount noted at S/No 152 above, the Wife adduced evidence to show that the amount was initially transferred from her mother's account to her on 10 August 2004.<sup>76</sup> The subsequent withdrawal was carried out on the mother's instructions. As the Wife had adduced evidence to show that the money came from her mother, the subsequent withdrawal on the mother's instructions should not be considered a dissipation of assets. I therefore do not add this item into the pool of matrimonial assets. It was confirmed in the hearing by Mr Ibrahim with evidence that the withdrawal noted at S/No 153 was already part of a disclosed account with Maybank.<sup>77</sup> This amount therefore need not be added to the pool of matrimonial assets.

74 I now turn to the withdrawal noted at S/No 154. The amount of \$74,086.05 was made out of three withdrawals, *viz*, RM32,828<sup>78</sup> on 12 November 2004, RM27,720<sup>79</sup> on 23 February 2005 and RM 110,000 on 7 April 2005.<sup>80</sup> In her affidavit, the Wife asserted that RM32,828 was withdrawn towards payment for properties in Malaysia (which are noted at S/Nos 100–101 above).<sup>81</sup> Similarly, she stated that RM110,000 was withdrawn for payments in relation to the same properties.<sup>82</sup> In her expert's report however,

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<sup>73</sup> Transcript dated 18 May 2016, p 91.

<sup>74</sup> Transcript dated 19 May 2016, p 72.

<sup>75</sup> AB Volume 39, p 21297.

<sup>76</sup> AB Volume 9, p 4860.

<sup>77</sup> Transcript dated 19 May 2016, p 73.

<sup>78</sup> AB Volume 7, p 3856.

<sup>79</sup> AB Volume 7, p 3856.

<sup>80</sup> AB Volume 7, p 3857.

<sup>81</sup> AB Volume 10, p 5419.

the sum of RM32,828 was explained as a repayment to her father made on 12 November 2004.<sup>83</sup> It was also highlighted that the RM110,000 went into an account owned by the Wife with OCBC bank on 7 April 2005.<sup>84</sup> However, it was confirmed by both experts in the course of cross-examination that the Wife did not disclose this account in her first affidavit of assets and means.<sup>85</sup> As for the RM27,720, Mr Patel explained that Wife acted somewhat like a “money changer” and transferred the said amount to her father in return for \$12,000, which was deposited into one of the Wife’s accounts with POSB.<sup>86</sup>

75 The Husband submitted that the Wife’s change of position buttresses his argument that she dissipated matrimonial assets by transferring monies to her family members. It must be highlighted that there the Wife had not disclosed about 55 bank accounts in these proceedings. While her counsel took pains to highlight that she was an ex-teacher living from “hand to mouth” in Canada with a set of unrecognised qualifications,<sup>87</sup> in my judgment, the Wife was and is extremely capable. Her detailed explanations of forex trading mechanisms in the course of her evidence showed me that she was a well-informed investor.<sup>88</sup> I observed the Wife to be quite a defensive witness. For example, when Ms Tan confronted her with evidence that the copy of the statements provided by her in discovery had been tampered with through the photocopying of select portions and that certain mortgage documents supplied

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<sup>82</sup> AB Volume 10, p 5420.

<sup>83</sup> AB Volume 38, 20769–20771.

<sup>84</sup> AB Volume 38, p 20795.

<sup>85</sup> Transcript dated 18 May 2016, p 103.

<sup>86</sup> Transcript dated 18 May 2016, p 104.

<sup>87</sup> Wife’s submissions, para 39.

<sup>88</sup> Transcript dated 11 May 2016, p 89–90.

by the Wife allegedly from the Scotia Bank in Canada were not part of the original mortgage documents, the Wife became evasive.<sup>89</sup> Further, at various points, she contended that she only knew of the Husband's affair in 2005; however, her Statement of Particulars filed much earlier had explained that he was living with [C] from mid-2004. I doubt the Wife's overall credibility as a witness.

76 Regarding \$74,086.05 (S/No 154), the Wife adduced evidence, *viz*, bank statements, at the hearing on 11 July 2016 to show that the RM110,000 (which the parties valued at \$47,784) had been taken into account as part of the account at S/No 120 (see Table 8 at [61] above). Save for \$47,784 that should be excluded, in my judgment, the rest of the \$26,302.05 is likely to have been dissipated by the Wife from her transfers. She had no hesitation to confirm on oath in her affidavit that these monies were applied to the properties in Malaysia (when her expert eventually took a contrary position). This illustrated a lack of regard for being accurate in her evidence to the court.

77 I next deal with the withdrawal of \$194,717.94 noted at S/No 155 above. This withdrawal was a consolidated amount, which comprised of the following: \$19,481.52 on 15 August 2004, \$50,000 on 17 March 2005, \$100,000 on 1 June 2005 and \$25,236.42 on 12 February 2006.<sup>90</sup> In her submissions, the Wife contended that these amounts were used by her for her expenses. She however did not provide any evidence of this, and Mr Patel confirmed this lack of evidence during cross-examination.<sup>91</sup> It was also

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<sup>89</sup> Transcript dated 11 May 2016, pp 63–70.

<sup>90</sup> AB Volume 40, pp 21627–21629.

<sup>91</sup> Transcript dated 18 May 2016, pp 104–105.

confirmed by both counsel that the \$100,000 was deposited into an account held by the sister, which had not yet been considered as part of the matrimonial pool.<sup>92</sup> Once again, the Wife adduced evidence, *viz*, bank statements, on 11 July 2016 to show that the \$50,000 withdrawn on 17 March 2005 went towards the purchase of investments noted at S/Nos [182]–[183] of at Table 14 at [87] below. I allowed this new evidence and hold that that \$50,000 has not been dissipated. I am satisfied that the \$144,717.94 (being \$194,717.94 less \$50,000) was dissipated by the Wife so that it would not be part of the matrimonial pool – the transfer of monies to her sister was in keeping with her general *modus operandi* of dissipating assets by transfers to her sister.

78 It was agreed in the hearing that the withdrawal noted at S/No 156 went into an account that was already included in the pool of matrimonial assets, *viz*, the DBS account noted at S/No 136 above.<sup>93</sup> This amount is therefore not to be considered separately as a dissipation from the pool.

79 I now turn to the withdrawal at S/No 157. There was no evidence of where the \$53,865.60 went to; however, the Wife alleged that she distributed the said amount to her siblings.<sup>94</sup> The amount was a “health fund” that was constituted by her father. As pointed out by Mr Chee, such distributions were not evidenced by the Wife.<sup>95</sup> This amount should be thus added to the pool.

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<sup>92</sup> Transcript dated 18 May 2016, pp 106–107.

<sup>93</sup> Transcript dated 18 May 2016, pp 109–110.

<sup>94</sup> AB Volume 38, p 20449.

<sup>95</sup> AB Volume 38, p 20858

80 The amount noted at S/No 158 was withdrawn in July 2005. Mr Patel explained in his report that the withdrawn amount was used by the Wife to purchase a “HSBC US China Bonus Fund” (which is a reference to the unit trust noted at S/No 179 of Table 14 at [87] below). Therefore, he argued it should not be included in the pool of matrimonial assets as a dissipated amount.<sup>96</sup> However, it was shown by Mr Chee that the said fund was purchased on 13 May 2004, well before the withdrawal.<sup>97</sup> Mr Patel stated that he had nothing further to add to Mr Chee’s observations.<sup>98</sup> At the hearing dated 11 July 2016, Ms Ibrahim showed documents to locate this withdrawal in the account at S/No 110 of Table 8 (see [61] above). I therefore do not add any amount for this item into the pool.

81 Ms Tan argued that the withdrawal at S/No 159 should be included in the pool of matrimonial assets, as the Wife had not explained why the amount of \$153,099.28, which she transferred to her father to an account in his sole name, was not included in the father’s grant of probate.<sup>99</sup> When it was highlighted to Ms Tan that it was odd that the Wife would transfer the monies to her father for the purposes of dissipation when she was content with using her sister to effect transfers, and that the transfer to the father took place around the time of the mother’s death, Ms Tan, on behalf of the Husband, left the decision in the hands of the court.<sup>100</sup> In my judgment, this amount should not be included in the pool of matrimonial assets. It appears that this money,

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<sup>96</sup> AB Volume 38, p 20451.

<sup>97</sup> AB Volume 38, pp 20861–20862.

<sup>98</sup> Transcript dated 18 May 2016, p 113.

<sup>99</sup> AB Vol 38, p 20586–20587.

<sup>100</sup> Transcript dated 19 May 2016, pp 77–78.



which was transferred to the father at around the time of the mother's death, was genuinely a return of funds to the father by the Wife.

82 As rightly noted by Mr Patel, the amount noted at S/No 160 was sourced from a disclosed account on 7 April 2006 and withdrawn on 19 May 2006 for redeposit into that account.<sup>101</sup> This amount should therefore not be further included into the pool of matrimonial assets. In a similar vein, the withdrawal from the account noted at S/No 161, which was only opened on 24 May 2006, was sourced from the Wife's existing bank account (see S/No 116 above).<sup>102</sup> It therefore should not be included in the pool of assets. The total amount ascribed to the Wife's dissipation is therefore \$224,885.59 (derived from adding the sums derived from my findings in relation to S/Nos 154, 155 and 157).

83 The short hearing on 11 July 2016 dealt with four items in these last two sections regarding the Wife's bank accounts and sums contended to have been dissipated, *viz*, S/Nos 141, 154, 155 and 158, and one other item (s/No 165) in relation to her Montessori business and noted below. As a result of the new evidence, \$247,891.49 was deducted from the value of the assets held by the Wife. I make a reference here, because, collectively, the new evidence reinforced the Husband's contentions made in these last two sections in two respects: first, that Mr Patel was not a credible witness; and second, that the Wife dissipated marital assets into accounts shared with her children.

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<sup>101</sup> AB Vol 38, p 20450.

<sup>102</sup> AB Vol 38, p 20440.

## THE WIFE'S REAL ESTATE

84 The Wife owned three properties. I set them out in Table 12 below.

Table 12: the Wife's properties  
(Husband's values have been reproduced below)

S/No.	Asset	Value
162	Unit [A] Bandar Utama, Malaysia	\$150,303.26
163	Unit [B] Bandar Utama, Malaysia	\$149,427.62
164	British Columbia property	\$738,309.56
<b>Total</b>		<b>\$1,038,040.44</b>

85 The parties agreed that the values provided by the Wife should be used in relation to the properties noted at S/No 162 and 163. The British Columbia property was only purchased on 9 September 2007 after the operative date.<sup>103</sup> It should therefore not be included in the pool of matrimonial assets. Ms Singh agreed in the hearing that the total value ascribed by the Wife for this category of assets, viz, \$296,499.68 should be used.<sup>104</sup>

## THE WIFE'S COMPANIES

Table 13: Wife's Companies  
(Husband's values have been reproduced below)

S/No.	Asset	Value
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<sup>103</sup> AB Volume 38, p 20443.

<sup>104</sup> Transcript dated 19 May 2016, p 65.

165	[KW] Montessori	\$51,030
166	[A] Montessori	Unable to ascertain
167	[HK] Montessori	Unable to ascertain
168	[KWK] Montessori	Unable to ascertain
169	Montessori [SE]	Unable to ascertain
170	Montessori [TTA]	Unable to ascertain
171	Montessori [M]	Unable to ascertain
172	Montessori [DLM]	Unable to ascertain
<b>Total</b>		<b>\$51,030</b>

86 Mr Patel suggested that [KW] Montessori (S/No 165) should be assigned a loss of \$40,034 to reflect the fact that it had net liabilities to that extent after discounting the relevant amount owing to a director.<sup>105</sup> Mr Chee submitted that the sale proceeds from the sale of [KW] Montessori of \$118,000 had not been taken into consideration by Mr Patel in assigning a value to that business. The value of the business after taking into account this sale proceeds would be \$51,030.<sup>106</sup> At the hearing on 11 July 2016, Ms Ibrahim adduced evidence, *viz*, bank statements to show that the sale proceeds of \$118,000 were found in the account of [KW] Montessori and the accounts noted at S/Nos 106–107 of Table 8 at [61] above. I note that counsel for the Husband was prepared to let the court decide on the matter. Ms Ibrahim submitted that [KW] Montessori should be assigned a nil value. As the sale

<sup>105</sup> AB Volume 29, p 15629.

<sup>106</sup> AB Volume 38, p 20872.

proceeds were accounted for, I assign [KW] Montessori a nil value in this section of the assets. As for the other businesses noted at S/Nos 166–172, there was no evidence that these had any value as at the JS Date, and therefore, I do not include them either. A nil value is to be ascribed to this category.

#### THE WIFE'S MISCELLANEOUS ASSETS AND LIABILITIES

87 The Wife's other miscellaneous assets and liabilities are set out in Table 14.

Table 14: Miscellaneous assets and liabilities  
(Wife's values have been reproduced below)

S/No.	Asset	Value
<b>Insurance policies</b>		
<b>173</b>	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/XXXXXX9/2	\$5,329.95
<b>174</b>	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/XXXXXX20/5	\$31,918.51
<b>175</b>	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/XXXXXX19/4	\$31,673.91
<b>176</b>	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/XXXXXX21/6	\$31,722.62
<b>Sub-total</b>		<b>\$100,644.99</b>
<b>177</b>	Motor vehicles	0
<b>Investments</b>		

<b>178</b>	Shares in [Gt], [TS], [EO], [IGB], [Ks] and [Met]	\$5,073
<b>179</b>	HSBC US\$ China Bonus FD (unit trust) – HSBC	\$40,604.63
<b>180</b>	Aberdeen Global Opportunities Fund (unit trust) – Maybank	\$44,060.91
<b>181</b>	First State Asia Innovation & Technology Fund (unit trust) – Maybank	\$53,208.16
<b>182</b>	DBS Shenton Income Fund	\$50,124.02
<b>183</b>	DBS Shenton Income Fund (US\$)	\$4,835.17
<b>184</b>	Account with Interactive Brokers	0
<b>185</b>	Account with Dukascopy (brokers)	0
<b>186</b>	Retirement Fund	0
<b>187</b>	Global House Investments Pty Ltd (in children's names)	0
<b>Sub-total</b>		<b>\$197,905.89</b>
<b>Provident funds</b>		
<b>188</b>	EPF	\$383.33
<b>189</b>	CPF	\$587,497.39
<b>Sub-total</b>		<b>\$587,880.72</b>
<b>190</b>	Loan from sister	0
<b>191</b>	Loan from brother	(\$43,900.00)
<b>192</b>	Loan from father	(\$135,343.48)
<b>193</b>	Harry Elias Partnership	0

<b>194</b>	Bih Li & Lee	0
<b>195</b>	SH Ong & Co	0
<b>196</b>	Salem Ibrahim LLC	0
<b>Sub-total</b>		<b>(\$179,243.48)</b>

88 The parties agreed on the value to be ascribed to the insurance policies noted at S/Nos 173–176. The Husband also accepted that the Wife’s values are to be used in relation the provident funds noted at S/Nos 188–189. Of the Wife’s investments, the parties agreed on the values to be ascribed to the investments noted at S/Nos 176–183 and 187. While the Husband ascribed values to the investments noted at S/Nos 184–186, I am of the view that these investments should not be included in the pool of matrimonial assets. The Husband’s own evidence showed that the investment account noted at S/No 184 was only active from April 2007, one year after the JS Date, to October 2009.<sup>107</sup> The asset was thus acquired after the operative date and there was no basis for this asset to be included in the pool. The account with Dukascopy noted at S/No 185 on the other hand had a nil value between 1 January 2006 and 02 December 2006.<sup>108</sup> It should therefore be assigned a nil value as at the JS Date. While the Husband provided evidence that allegedly showed the existence of the retirement fund noted at S/No 186, that evidence fell short of establishing that the fund had any value as at the JS Date.<sup>109</sup>

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<sup>107</sup> AB Volume 18, pp 9777–9781.

<sup>108</sup> AB Volume 42, p 23041–23042.

<sup>109</sup> AB Volume 38, 20568.

89 Turning to the Wife's liabilities, in her joint table of assets, the Wife only listed two liabilities, *viz*, loans from her brother (S/No 191) and father (S/No 192) respectively. However, no documentary evidence had been provided by the Wife to support the existence of these loans. They should therefore not be deducted from the pool of matrimonial assets. Having considered the Wife's miscellaneous assets and liabilities, I set the value for this category at \$886,431.60 (derived from a summation of S/Nos 173–176, 178–183 and 188–189).

#### SUMMARY OF THE VALUE OF THE WIFE'S ASSETS

90 I summarise in Table 14 below the Wife's assets available for division

Table 14: Wife's assets

Category of assets	Value
The Wife's real estate	\$296,499.68
The Wife's companies	\$0
The Wife's bank accounts	\$2,920,967.37
The Wife's miscellaneous assets	\$886,431.60
The Wife's dissipation	\$224,885.59
<b>Total</b>	<b>\$4,328,784.24</b>

91 Based on the above, the total pool of matrimonial assets available for division, subject to my findings on adverse inference below, is \$13,721,297.45.

Contentions on both sides on adverse inferences to be drawn

92 The Wife argued that an adverse inference ought to be drawn against the Husband for the destruction of the books after liquidation. The Husband argued that an adverse inference ought to be drawn against the Wife for hiding bank accounts and tampering with documents.

93 In this regard, I highlight that two requirements must be established by the party seeking to draw an adverse inference against the other in relation to, *inter alia*, undisclosed assets (see *Koh Bee Choo v Choo Chai Huah* [2007] SGCA 21 (at [28]) and *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 (“*Chan Tin Sun*”) (at [62])):

- (a) a substratum of evidence that establishes a *prima facie* case against the person against whom the inference is to be drawn; and
- (b) that person must have had some particular access to the information he is said to be hiding.

94 In relation to the Wife, the Husband argued that an adverse inference should be drawn against the Wife, with an increase to her assets of 20%.<sup>110</sup> In his submissions, he highlighted that the Wife had 55 undisclosed bank accounts in the proceedings. He also highlighted that the Wife had dissipated sums from the pool of matrimonial assets and retained the sale proceeds of the parties’ matrimonial home in Pasir Ris. The Husband also highlighted that the proceedings were “unduly protracted for 11 years by the Wife” and the Wife’s “tampering of documents” reflected her “lack of respect” for the court.<sup>111</sup> He

<sup>110</sup> H’s submissions dated 6 May 2016, para 255.

<sup>111</sup> H’s submissions dated 6 May 2016, para 256.



argued that the court should for these reasons be inclined to draw an adverse inference against the Wife. I would mention that in family proceedings, the purpose of an adverse inference is to draw an inference that there are *missing* sums of money omitted from the pool. In this particular case, it appears the Husband has ferretted out all the Wife's undisclosed bank accounts. One cannot assume that simply because he has located some undisclosed accounts, that a conclusion would follow that *there must be more* undisclosed accounts that he has failed to find. In my judgment, it is likely that all of the Wife's bank accounts and dissipated sums are before the court in lieu of the protracted discovery in these proceedings and the diligence of Mr Chee. I therefore do not augment the sum attributed to her further.

95 As for the Husband, the Wife's request for an adverse inference to be drawn rests on the Husband's immediate instruction to destroy the books of [VS] upon the completion of liquidation. While such destruction was a common consequence of liquidation, the Husband was aware he was under a continuing duty of disclosure.

96 What conclusion should we draw from this, however? In *Chan Tin Sun* (at [64]), the Court of Appeal reiterated that there were at least two alternative approaches to give effect to the adverse inference drawn against a spouse, both of which it had endorsed in *NK v NL* [2007] 3 SLR (R) 743 ("*NK v NL*"). One approach is for the court to add a specific sum based on the value of the undisclosed assets on the available evidence. The other was to award a higher proportion of the known assets to the other party, an uplift approach.

97 In this case, neither approach may be particularly apt. As the books have been destroyed, there is no concrete sum to add back to the pool. At the

same time, in relation to his *assets*, there was no general non-disclosure: thus, an uplift should not be made in relation to *all* his assets. I am also cognisant of the fact that it is entirely unclear if the documents of [VS] would have lent much assistance to the valuation of the [VS] Shares as at the JS Date. The Wife herself had chosen a December 2005 date, prior to [VS]’s liquidation. Thus it was valued as a successful going concern, prior to the seizure of documents by IRAS. Despite many applications for discovery, she had not asked for any of the books used in the liquidation prior to their destruction in May 2008. While an inspection of the books *may* have lent assistance to an analysis of goodwill, Mr Patel had not at any point raised it prior to taking the stand. Nevertheless, Mr Chee did appear to accept that some sum could potentially be added to the NAV figure for goodwill if alternate methods of valuation had been done (such as the use of a discount method) and then the different conclusions compared. Context, industry and risk had to be considered in such an exercise.

98 Viewing all the circumstances in their entirety, I find it sufficient to add only a further 10% *of the [VS] Shares*, to the value of his assets. With this additional 10%, rounded up to \$241,000, added, the total asset pool comes to \$13,962,297.45, of which \$9,633,513.21 is held in the Husband’s name (see Annex A: Pool of Matrimonial Assets).

### ***Stage 2: Division of the pool***

99 The Court of Appeal set out the structured approach in *ANJ v ANK* (at [22]–[26]) to work out a just and equitable division of matrimonial assets. This approach, may be summarised, with reference to *Twiss, Christopher James*

*Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 at [17] and *ANJ v ANK* at [28], 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 (the derived ratio shall be referred to as "the average ratio"), 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. Adjustments could also be made in respect of other relevant factors under s 112 or 114(1) of the Charter.

I shall hereinafter refer points (a)–(c) above as "Step 1" to "Step 3".

*Step 1: Direct contributions*

100 In Step 1, one assesses direct financial contributions. While this analysis, on occasion, might lend itself to a determination based on "hard" documentary evidence, as noted in *ANJ v ANK* (at [23]), it not infrequently paints an equivocal picture. Where the documentary evidence falls short of establishing the contributions of the parties with a degree of precision, the

court must exercise its discretion to make a “*rough and ready approximation*” based on the evidence before it (*ANJ v ANK* (at [23]) citing *NK v NL* (at [28])).

101 The Wife’s submissions in the ancillaries commence by noting that “the documentary evidence of the financial contributions made by the Husband and Wife is not perfect.”<sup>112</sup> The Wife asked that the court applies the broad brush approach to make approximations based on the available documentary evidence. The Wife then argued that her contributions to one of the largest assets in the pool, viz, [VS], should be taken into consideration. In this regard, she highlighted that she contributed the \$15,000 of the initial \$19,600 invested by the Husband in [VS] on 3 October 1983.<sup>113</sup> She also highlighted that she made the following direct financial contributions to [VS]: (1) providing cash of \$50,000 to [VS] in April 1992;<sup>114</sup> (2) twice providing memorandums of deposit for \$50,000 to HSBC Bank for [VS] in February 1985 and August 1986;<sup>115</sup> (3) allowed the parties’ matrimonial home to be cross collateralised to secure banking facilities of \$2,550,000 for [VS] in April 1993;<sup>116</sup> and (4) lifted a caveat on the parties’ property at Hume avenue so as to provide collateral for bank facilities to [VS].<sup>117</sup> The Wife argued that she paid the rent and provided support to the Husband in the early days of the parties’ marriage, as she was on an MOE bursary and came from a more affluent family.

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<sup>112</sup> Wife’s submissions dated 6 May 2016, para 1.

<sup>113</sup> AB Volume 2, p 417.

<sup>114</sup> AB Volume 2, p 868.

<sup>115</sup> AB Volume 2, pp 863–866.

<sup>116</sup> AB Volume 2, pp 870–874

<sup>117</sup> Wife’s submissions dated 6 May 2016, para 75.

102 Having raised the above points, the Wife asked that there be an equal division of the matrimonial assets.<sup>118</sup> In her first affidavit for ancillary matters, the Wife similarly submitted that there should be an equal division of the matrimonial assets.<sup>119</sup> During oral submissions, Mr Ibrahim suggested that the Wife's submission on an equal division hinged on the value of the pool of matrimonial assets,<sup>120</sup> and that he could not quantify the Step 1 ratio as the parties' assets were "mixed up".

103 The Husband started by highlighting that "all properties owned by [him] in his sole name were purchased and financed by him solely, with no contributions by the Wife."<sup>121</sup> In this regard, the Husband argued that the Wife's alleged contributions to the initial capital of [VS] was untrue, as the Husband borrowed \$20,000 from his friend, [LWT], to fund his investment in [VS]. The Husband provided an undated letter from [LWT] that suggested the same.<sup>122</sup> The Husband also pointed out in his closing submission that the Wife's arguments that she contributed to [VS] is unbelievable in light of the Wife's own evidence that she was a teacher on scholarship earning a low income.<sup>123</sup>

104 Be that as it may, the Husband had a clear position on the division of matrimonial assets. In his view, the parties had separated their assets from 1995 when they had a dispute over their respective shares in the sale proceeds

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<sup>118</sup> Wife's submissions dated 6 May 2016, para 118.

<sup>119</sup> AB Volume 2, p 423.

<sup>120</sup> Transcript dated 18 May 2016, p 127.

<sup>121</sup> Husband's submissions dated 6 May 2016, para 229.

<sup>122</sup> AB Volume 8, p 4409.

<sup>123</sup> Husband's closing submissions dated 19 May 2016, para 51.

of a joint property they owned. Based on this, he argued that the court should treat the each party as not having financially contributed towards the acquisition of assets held in each other's names.<sup>124</sup> Ms Singh repeated this point in her oral closing submissions. She highlighted that the value of the parties' assets held in their own names should be treated as their direct contributions to the pool.<sup>125</sup>

105 I agree with Ms Singh's submissions that it would be appropriate in this case to treat the parties' as having contributed solely to the assets in their sole names, in light of the evidence that parties had kept their respective assets in separate names from after 1995. As highlighted by both counsel, the documentary evidence on the parties' contributions to the pool of matrimonial assets was very "thin". It was undisputed that the Husband earned his wealth from his successful business ventures. In the same vein, the Wife had run successful pre-school business ventures and had traded actively during parts of the marriage. Given these circumstances, it is plausible that the parties would have contributed substantially (if not solely) to the assets in their sole names. The value of the assets in the Husband's sole name amounts to \$9,633,513.21. The value of the assets in the Wife's sole name amounts to \$4,328,784.24. The value of the pool of matrimonial pool stands at \$13,962,297.45. On a "*rough and ready approximation*", I determine that the Step 1 ratio should be set at 69:31 in favour of the Husband.

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<sup>124</sup> Husband's submissions dated 6 May 2016, para 240.

<sup>125</sup> Transcript dated 19 May 2016, p 86.

*Step 2: Indirect contributions*

106 The Wife contended that she brought up three children and looked after the home. The marriage in the present case lasted some 26 years up to the JS Date. The Wife highlighted that she made the indirect financial contributions to the household expenses as a working mother. The Wife also highlighted that apart from being the primary caregiver of the children in the marriage, she took no-pay leave after the birth of the two younger children to take care of them. She also started her childcare and pre-school business in 1996 so that her children could be with her.<sup>126</sup> During cross-examination, the Wife pointed out once again that she started the childcare business so that she could look after the youngest child while working.<sup>127</sup> She contended she only closed down her childcare businesses in 2003 because the Husband wanted her to do so, as he wanted her to focus on the home.<sup>128</sup> Additionally, the Wife highlighted that she helped out in the Husband's business in the early years. She was also close to the Husband's family members and, in particular visited (and on occasion, took care) of his mother who had suffered from a stroke and lived in Johor Bahru, Malaysia.<sup>129</sup> The Wife did not however suggest a Step 2 ratio.

107 In an affidavit filed on 12 September 2006 in relation to her application for interim maintenance *vide* Summons No 13242 of 2006 ("Sum 13242"), the Wife broadly suggested that the Husband paid for most of the family's expenses. She made the point that she also paid for some the household

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<sup>126</sup> AB Volume 2, p 421.

<sup>127</sup> Transcript dated 11 May 2016, pp 8–9.

<sup>128</sup> AB Volume 8, pp 1172–1173.

<sup>129</sup> AB Volume 2, p 421.

expenses while she was working.<sup>130</sup> Based on the Wife's own evidence, it can be seen that the Husband paid for household expenses, including utilities, telephone and conservancy charges for one of the parties' property, road tax for the Wife's car, the children's education expenses and, in the case of the parties' daughter and youngest son, their pocket monies. The Husband also paid for the family holidays, and provided the family with a luxurious lifestyle.

108 The Husband, on his part, repeated the Wife's evidence on his indirect financial contributions. He then pointed out instances where he played his part in taking care of the children in the absence of the Wife.<sup>131</sup> The Husband however focused on showing that the Wife was not the dutiful mother she portrayed herself to be because she left the care of the children to the maid. He highlighted that the Wife left for Canada from August 2007 to November 2007 when the parties' daughter was having her GCE A Level examinations.<sup>132</sup> The Husband also highlighted that the Wife was occupied with her business pursuits. This took away from the time she could have spent with the children. He also pointed out that the Wife did not heed his advice to reduce the time she spent away from the family.<sup>133</sup> On the whole, the Husband highlighted that the parties should be assigned equal contributions under Step 2.

109 No analytical tool can fully capture the non-financial or indirect financial contributions of the parties. The diverse factual circumstances that change over the course of a marriage would affect these indirect contributions.

<sup>130</sup> AB Volume 3, pp 1172–1174.

<sup>131</sup> Husband's submissions dated 6 May 2016, para 236.

<sup>132</sup> Husband's submissions dated 6 May 2016, para 237.

<sup>133</sup> Husband's submissions dated 6 May 2016, para 238.



These contributions are therefore to be ascertained as “a matter of impression and judgment” (see *ANJ v ANK* (at [24])). In this long marriage, while the Wife’s indirect financial contributions were far greater than the Husband, the Husband made significant indirect financial contributions to the household and the welfare of the children. While the parties both took time to focus on their businesses, the Wife had integrated her care for the children with her business ventures. On the whole, I am of the view that the Step 2 ratio should be set at 65:35 in favour of the Wife.

*Step 3: Adjustment of the average ratio*

110 I derive the average ratio from Step 1 and Step 2 before considering the exercise of my discretion under Step 3.

	<b>Husband</b>	<b>Wife</b>
Step 1 Ratio	69	31
Step 1 Ratio (50% weight)	34.5	15.5
Step 2 Ratio	35	65
Step 2 Ratio (50% weight)	17.5	32.5
The average ratio	52	48

111 In *ANJ v ANK* (at [27]), the Court of Appeal set out the following non-exhaustive circumstances where the court could shift the average ratio in favour of one party:

- (a) The length of the marriage. Indirect contributions in general tend to feature more prominently in long marriages.
- (b) The size of the matrimonial assets and its constituents, *viz*, whether the pool of assets available for division is extraordinarily large.
- (c) The extent and nature of indirect contributions made. Not all indirect contributions carry equal weight. For instance, the engagement of a domestic helper naturally reduces the burden of homemaking and caregiving responsibilities undertaken by the parties, and to that extent, the weight accorded to the parties' collective indirect contributions in the homemaking and caregiving aspects may have to be correspondingly reduced.

112 The Husband highlighted that the weightage of the Step 1 and Step ratios in relation to Step 3 should be 60:40 in favour of direct contributions. He submitted that the length of the parties' marriage should be viewed in the context where they started having disagreements since 1995 (14 years after the marriage). In relation to the size of the matrimonial assets, it was suggested that the pool of matrimonial assets is "extraordinarily large" and hence direct contributions are to be given greater weight. The weightage given to the Wife's indirect non-financial contributions should be reduced in light of the assistance she received from the maid in caring for the children.<sup>134</sup>

113 As noted, the Wife's submission in the ancillaries was that the court should order an equal division.

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<sup>134</sup> Husband's submissions dated 6 May 2016, para 249.

114 In the present case, I do not accept the Husband's submission that I should accord the weightage of 60:40 in favour of the Step 1 ratio. In my judgment, while the pool of matrimonial assets is large and a large part of those assets belong to the Husband, this is to be balanced against the length of the marriage and the evidence that the Wife cared for three children. Therefore, there is no reason to adjust the weightage assigned in the manner that Husband urged the court to.

115 I am of the view that the average ratio in the present case should be shifted to an equal division. It is clear that, with the passing of time and the contentions made to and fro, it is not possible to ascertain with exactitude the financial contribution each party made prior to 1995. It was clear though that the Wife had contributed both in the financial and non-financial sphere, and was the principal caregiver to their children. This was also a moderately long marriage, where the parties' contributions have varied over time. There was merit in Mr Ibrahim's contention that it is likely that, over time, the parties would have contributed to the marriage equally in their respective domains and in accordance with how they set out to organise their family unit. To use his frame, this is "an old fashioned case of a rough and ready estimate on the big picture".<sup>135</sup> I therefore hold that the ratio of 50:50 should be used for the division of the pool of matrimonial assets.

116 Of relevance is the decision of the Court of Appeal in *Tan Hwee Lee*, where the parties were married for 28 years and the husband was the sole bread winner throughout the marriage. The High Court awarded the wife 50% of the matrimonial assets, explaining as follows:

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<sup>135</sup> Transcript, 10 May 2016.

85 Although it has been stated by this court that equality in division is not the starting point or the norm in the division of matrimonial assets between spouses (see *Lock Yeng Fun v Chua Hock Chye* [2007] 3 SLR(R) 520 (“*Lock Yeng Fun*”) at [57]), it also remains true that the “courts would nevertheless not hesitate to award half (or even more than half) of the matrimonial assets if such a decision is justified on the facts” (*Lock Yeng Fun* at [58]). This is especially so in long marriages where “the law acknowledges the equally important contributions of the homemaker to the partnership of marriage” (see *NK v NL* at [41]), as the academic commentators above (at [82]–[83]) have helpfully observed.

117 The husband in *Tan Hwee Lee* argued on appeal that the wife should be awarded merely 14.3% of the overall total assets, as she was a home-maker. The Court of Appeal disagreed (at [82]) with the husband’s contention that the wife should be awarded merely 14.3%. While the wife did not work and therefore provided no direct financial contributions, the Court of Appeal upheld the High Court’s equal division. In this regard, the court took into account the marriage having lasted 28 years, over which the wife made significant non-financial contributions to the household. She managed the household and took care of the children, especially when the husband was at work or away. The court found this to be so even though the family had a maid. On the other hand, the Court of Appeal found that there was little to show that the husband made significant non-financial contributions at all.

118 In this case, it is clear that the Husband was extremely busy with work and the Wife was the primary care-giver to the children and responsible for the management of the household. While their marriage is slightly shorter than that of the couple in *Tan Hwee Lee*, the Wife, in the case at hand, had assisted to build up the financial assets as well, albeit not quite in the manner envisaged by the Husband. An equal division was fair in all the circumstances of the case.

***Stage 3: Mechanics of allocation***

119 The Wife's share of the matrimonial assets amounts to \$6,981,148.73. The amount payable by the Husband to the Wife after deducting the assets held in the Wife's name, viz, \$4,328,784.24, is \$2,652,364.49.

***Orders to give effect to division***

120 Some of the assets are real property, which value has risen in the ten years since the operative date of the JS. Arising from this, I think it just to make an award that will allow the Wife to benefit, as would the Husband, from that rise in property values. I therefore order that the Husband does all that is necessary to transfer his rights, title and interest in the Fernwood Property to the Wife within four months from the date of this judgment. Whilst this was the more valuable of the two Singapore properties, it was the home that she stayed in with the children prior to the move to Canada, and would afford her a local base if there is reason that she should want one; the Husband is also living with his new family at the other Singapore property, viz, the Hume Avenue Property (see S/No 42 in Table 3 at [45] above), in any event. After accounting for this transfer, which is valued at \$1,500,000 as at the JS Date, the Husband is to pay the Wife a further amount of \$1,152,364 (to the nearest dollar) within four months from the date of this judgment. The costs of the transfer are to be borne by the Wife.

121 Save for the above, the parties shall retain respectively the assets held in their sole names.

*A note on the Canadian properties*

122 I should mention the Canadian properties, which were part of the potential asset pool when parties first came before me. There were allegations on both sides and related proceedings in Canada. The Wife had purchased a property in British Columbia in September 2007. The Wife, moreover, contended that the Husband, prior to the JS date, had dissipated the matrimonial pool by remitting money to his relatives in Canada for a second Canadian property held in their names. The Canadian proceedings were stayed pending the matrimonial proceedings in Singapore, which was followed by a consent order in the then District Courts for the matter to be dealt with in the ancillary proceedings.

123 In the light of my finding that the JS Date would be the operative date for determining the asset pool, the Wife's British Columbia home, together with various bank accounts opened after the operative date, are excluded from the pool. Further, as highlighted at [42], I find the Wife's contentions as to the Husband's remittances for his relatives' Canadian property to be without merit. In view of these findings, it is not necessary to make any orders regarding any Canadian property, and counsel should follow up as necessary in Canada in respect of the proceedings and property sited there.

**Maintenance for the Wife***Interim maintenance history*

124 The history as to the Husband's payment of interim maintenance has relevance to the issue of maintenance requested by the Wife in these ancillary proceedings.

125 The Wife applied for interim maintenance *vide* Sum 13242 on 12 September 2006. In her affidavit, she asked for a total amount of \$16,407.83 for, *inter alia*, the household expenses, her personal expenses and the expenses of the two younger children.<sup>136</sup> The court ordered that the Husband pay the Wife \$10,000 per month as maintenance for the Wife and the two younger children with effect from (and backdated to) 1 January 2006.<sup>137</sup>

126 On 9 March 2009, the Husband applied for a variation of the maintenance awarded to the Wife and children *vide* Summons No 3888 of 2009. The Husband alleged that there were material changes in circumstances, such as the children moving to Canada and the Wife's non-disclosure of assets. On 7 May 2009, the court ordered that the maintenance be varied downwards from the date of the order.<sup>138</sup>

127 On 26 October 2009, the Wife applied for an upward variation of maintenance *vide* Summons No 17915 of 2009 ("Sum 17915"), while the Husband applied on 16 December 2009 for a further downward variation of maintenance *vide* Summons No 21069 of 2009 ("Sum 21069"). Both Sum 17915 and Sum 21069 were heard together. On 29 April 2010, the court ordered that the Husband pay CAD\$5,972.89 as interim maintenance for the Wife and the two younger children with effect from 7 May 2009. In arriving at the figure, the court considered that the Husband was liable for 70% of the household expenses, car expenses, the Wife's personal expense and the two younger children's personal expenses. Above this, the court ordered that the

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<sup>136</sup> AB Volume 3, 1174–1188.

<sup>137</sup> Order of court no 764 of 2007.

<sup>138</sup> Order of court no 7488 of 2009.

Husband pay 70% of the costs incurred for the holidays and travels (up to an amount of \$20,000) of the Wife and the children and the two younger children's insurance policies.<sup>139</sup> The Wife appealed this decision vide RAS 73 of 2010. Upon appeal, the High Court ordered on 18 October 2010 that with effect from 7 May 2009, an additional sum of CAD\$2,000 be paid by the Husband as costs of housing and that the clothing allowance for each of the two younger children be increased by the sum of CAD\$140.<sup>140</sup>

128 The Husband applied for a further downward variation of maintenance *vide* Summons No 13483 of 2012 ("Sum 13483"). On 27 September 2012, the court ordered a reduced amount for the household expenses (from CAD\$2793.74 to CAD\$1862). It ordered that the Husband continue paying the housing costs of CAD\$2,000, the car expenses, the expenses of the daughter (until December 2012), the personal expenses of the younger son, 70% of the costs of travel incurred by the younger son (subject to a limit of \$6,700) and amounts payable for the insurance policies of the children. The court revoked the amount payable to the Wife as personal expenses with liberty for her to apply for maintenance in the final ancillary hearing.<sup>141</sup> The youngest son turned 21 on 28 January 2013. The Husband ceased paying the expenses related to the younger son from 1 November 2013. The Husband to date continues to pay the Wife her housing costs of CAD\$2,000.

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<sup>139</sup> AB Volume 17, pp 8991–8995.

<sup>140</sup> AB Volume 18, pp 9400–9401.

<sup>141</sup> AB Volume 22, pp 11659–11662.



*The parties' submissions*

129 The Wife contended that she is in dire circumstances, given the context and history of the maintenance she has received. She explained that she has survived to date by (1) opting to withdraw her CPF of \$544,288.72 on 5 October 2012; (2) selling one of her properties in Kuala Lumpur on 8 April 2015; (3) opening equity accounts against her property in Vancouver, Canada; and (4) making use of the CAD\$2,000 given to her by the Husband for housing.<sup>142</sup> She submitted that she is not employable at the age of 59 and has to care for the unmarried children and provide them companionship.<sup>143</sup> She suggested that her teaching qualifications were not recognised in Canada.<sup>144</sup>

130 The Wife submitted that while she asked for maintenance of \$16,407.83 in Sum 13242 for herself and the two younger children, that application was made in 2006. She pointed out that in Sum 17915, which she filed on 26 October 2009, she asked for personal expenses of \$4,392, household expenses of \$18,511 (for herself and the children) and expenses for the car at \$2,483.<sup>145</sup> After dividing the amount for household expenses by four to take into account only her share of the expenses and adding a monthly allowance of \$416 for holidays and the CAD\$2,000 paid by the Husband to her for housing, the Wife asked for monthly maintenance of \$14,395.<sup>146</sup> The Wife asked for lump sum maintenance so that a “clean break” might be achieved in the divorce. She did not, however, use the figure of \$14,395 to

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<sup>142</sup> Wife's submissions dated 6 May 2016, paras 30–32.

<sup>143</sup> Wife's submissions dated 6 May 2016, para 37.

<sup>144</sup> Wife's submissions dated 6 May 2016, para 38.

<sup>145</sup> AB Volume 13, p 6748.

<sup>146</sup> Wife's submissions dated 6 May 2016, para 47.

calculate the maintenance. She applied a multiplier of nine years to the monthly amount of \$15,000 and derived a figure of \$1.62m. To this amount, she added a further \$550,000 as maintenance payable from August 2012 to the date of the hearing at a monthly rate of \$13,000, to reflect the fact that she has been receiving CAD\$2,000 from the Husband throughout the proceedings. The Wife therefore asked for \$2.17m as lump sum maintenance.<sup>147</sup>

131 The Husband submitted that no maintenance should be ordered in favour of the Wife. The nub of the Husband's case is that the Wife is a woman of means. She is an investor who had monies deposited in many accounts. She is therefore capable of maintaining herself.<sup>148</sup> The Husband also highlighted that he has more than fulfilled his obligations to the family over the years. In this regard, he pointed out that he had paid the expenses of the eldest son and most of the expenses relating to the younger children till slightly past the time they attained majority.<sup>149</sup> His case is that the Wife also benefitted from these sums and the Vancouver home was partly financed from some \$350,000 sent to the eldest son at his request in the context of University accommodation, transport and expenses that were later not borne out. The Husband, who is now 61 years old, has a new family with a young child to support and contended that he should be allowed to move on.<sup>150</sup>

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<sup>147</sup> Wife's submissions dated 6 May 2016, para 53.

<sup>148</sup> Husband's submissions dated 6 May 2016, paras 43, 46.

<sup>149</sup> Husband's submissions dated 6 May 2016, paras 54–57.

<sup>150</sup> Husband's submissions dated 6 May 2016, paras 68.

*My decision*

132 As highlighted by the Court of Appeal in *ATE v ATD and another appeal* [2016] SGCA 2 (“*ATE v ATD*”) (at [33]), the power of the court to order maintenance is *supplementary* to that to order a division of matrimonial assets. Therefore, apart from the Wife’s income, her share of the division of the assets and the size of the matrimonial pool will be relevant considerations in deciding if maintenance should be awarded. In this regard, the Court of Appeal also observed that nominal maintenance is not to be ordered as a matter of course:

28 What seems to us to be clear is this: ***The courts cannot – and ought not to – order nominal maintenance automatically or as a matter of course.*** As already alluded to above, the court must examine closely all the facts and circumstances of the case before deciding whether or not to award nominal maintenance in order to preserve the wife’s right to apply for maintenance in the future.

29 Another (related) principle is that ***it will not suffice for the wife to argue – without more – that she is entitled to an order of nominal maintenance simply because her situation might change in the future.*** ... More importantly, accepting such an argument would not only result in the ***blanket*** order of nominal maintenance in virtually every case, it would also result (in substance and effect) in making ***the husband a general insurer of sorts.***

[emphasis in italics and bold italics in original].

133 On the facts of that case, the Court of Appeal rescinded the order of the judge below to award nominal maintenance because the wife “could not articulate any reason why [she] should be entitled to nominal maintenance save for the possibility that something untoward might happen to her” (*ATE v ATD* at [44]).

134 Similarly, as observed from the decision on the facts before the Court of Appeal in *Tan Hwee Lee* (at [110]), where the wife has qualifications that would allow her to gain employment, “[s]he should do so if she intends to preserve, or even enhance, the lifestyle she enjoyed prior to the breakdown of the marriage”. In every case, the court must remember that the statutory directive in s 114 of the Charter, which the court considers in awarding maintenance, had to be applied in “a commonsense holistic manner that accords with and takes into account the new realities that follow a failed marriage” (see the decision of the Court of Appeal in *Foo Ah Yan v Chiam Heng Chow* [2012] 2 SLR 506 (at [16]) citing the decision of the High Court in *NI v NJ* [2007] 1 SLR(R) 75 at [15]–[16]).

135 In my judgment, the Wife is not to be awarded any maintenance. The Husband has paid the Wife maintenance with effect from 1 January 2006, some ten and a half years to date. I considered whether the Wife would require a sum to aid her in transition. The Wife, however, has been resident in Canada for at least eight years.<sup>151</sup> From her current spread of assets, it seems the Husband’s contributions over the years to the Wife and children as maintenance have already allowed the Wife to settle comfortably. I agree with the Husband’s submission that the Wife is a woman of means. A cursory review of her assets shows that she has, *inter alia*, amounts in her bank accounts in excess of \$3m. Her portfolio and evidence on the stand also showed that she is an able investor, well assisted by financial advisors. With my orders in relation to the division of assets, the Wife would have at hand the Fernwood Property and a further cash amount in excess of \$1m.

**Conclusion**

136 I therefore make the following orders:

- (a) The Husband is to do all that is necessary to transfer his rights, title and interest in Fernwood Property to the Wife within four months from the date of this judgment.
- (b) The Husband is to pay the Wife a further amount of \$1,152,364 within four months of today.
- (c) Aside from the above, parties are to keep properties held in their own respective names.
- (d) The Wife is to receive no maintenance.
- (e) Liberty to apply.

137 I shall hear parties on costs.

Valerie Thean  
Judicial Commissioner

Salem bin Mohamed Ibrahim, Iman Ibrahim and Kulvinder Kaur  
(Salem Ibrahim LLC) for the plaintiff;  
Rina Kalpanath Singh, Tan Siew Kim and Michelle Ng (Kalco Law  
LLC) for the defendant.

**Annex A: Pool of Matrimonial Assets**

<b><u>Husband's Assets</u></b>		
<b>S/No.</b>	<b>Asset</b>	<b>Value</b>
<b><u>Husband's Companies</u></b>		
1	[M] Shares	\$187,450.00
2	[MS] Shares	\$2
3	[V] Shares	0
4	[VS] Shares	\$2,402,971.03
5	[VM] Shares	\$638,694.80
6	[V Thailand] Shares	\$374,673.97
7	[PTV] Shares	\$115,725.76
8	[V Hong Kong] Shares	\$101,242.02
9	[VH] Shares	0
10	[VHT] Shares	0
11	[VHM] Shares	0
12	[VHTM] Shares	0
13	[WT] Shares	0
14	[WKC] Shares	0
15	[VIC] Shares	0
16	[VN] Shares	0
17	Representative Offices	0
18	[VS] Representative Office	0
19	[VSH] Representative Office	0
20	[VIH] Shares	0
21	[YS] Shares	0
<b>Sub-Total</b>		<b>\$3,820,759.58</b>
<b><u>Contentions Regarding The Husband's Undisclosed Income</u></b>		
22	Undisclosed fixed deposits based on interest income of \$115,984 received in the books of [VS]	0
23	Directors Fees and Remuneration	0
24	Adjustments to Husband's account in the books of [VS] for the year ended 31 December 2002	0
25	Adjustments to Husband's account in the books of [VS] for the year ended 31 Dec 2001	0

26	Adjustments to profit and to Husband's account in the books of [V Thailand] for the year ended 31 March 2000 to 1 December 2001	0
27	Adjustments to profit before tax in the accounts of [VS] for the year ended 31 December 1999 from SGD 2,584,771.44 to 403,851.68	0
28	Adjustments to profit before tax in the accounts of [VS] for the year ended 31 December 1999 from SGD 2,513,326.77 to 311,148.23	0
29	Adjustments to profit and to Husband's account in the accounts of [VM] for the year ended 31 March 2000	0
30	DBS fixed deposit offered as security for [VH]	0
31	Variance in Net Assets	0
32	Security given by [VS] to GE Toshiba Silicones	0
33	Canadian Property – XX Burnaby BC	0
34	DBS fixed deposit offered as security for [VH]	0
35	Director's fee to the Husband by [V Hong Kong]	0
36	Citibank Unfixed Time Deposits in Account No XXXXX005	0
37	DBS Fixed Deposit	0
38	Transfer from Citibank to UOB Account No. XXXXX854	0
39	Withdrawal of Citibank Fixed Deposit in Account No. XXXXX005	0
40	Provision for marketing expenses	0
41	DBS fixed deposit offered for [VH]	0
<b>Sub-Total</b>		0
<b><u>Husband's Properties</u></b>		
42	Hume Avenue Property, Singapore	\$760,000.00
43	Fernwood Property, Singapore	\$1,500,000.00
44	JB Property	\$217,200.00

45	Shanghai Property	\$454,469.60
46	Summit Gardens, Shanghai	0
47	Vistana Condominium, KL	0
48	2 Bedroom Apartment, Suzhou	0
<b>Sub-Total</b>		<b>\$2,931,669.60</b>
<b><u>Husband's motor vehicles</u></b>		
49	Car XX6 X	0
50	Car XX86 J	\$58,000
51	Car XX86 M	0
52	Car XX69 K	0
53	Car XX98 M	0
54	Car XX 01 G	0
55	Malaysia – Car XX68	0
56	Malaysia – Car XX86	0
57	Malaysia – Car XX86	0
58	Malaysia – Car XX86	0
59	Malaysia – Car XX68	0
60	Malaysia – Car XX51	0
61	Malaysia – Car XX74	0
<b>Sub-Total</b>		<b>\$58,000.00</b>
<b><u>Husband's miscellaneous assets</u></b>		
62	AIA Life Insurance Policy No. XXXXXXXX85	0
63	NTUC Income Education Policy No. XXXXX86-8	\$63,213.00
64	NTUC Insurance Policy	0
65	SIA shares (4,000)	\$49,600
66	Singtel shares (27,860)	\$72,714.60
67	[D] shares(5,000)	\$7,960.82
68	Corporate Membership with Starhill, JB, Malaysia	0
69	Membership – The Legends, Fort Canning, Singapore	0
70	CPF	\$374,848.64
71	EPF	\$101,596.45
72	CPF Investment Scheme	\$32,051.28
73	Claim on Jonathan Tiong	0



74	[VP]	0
<b>Sub-Total</b>		\$701,984.79
<b><u>Husband's bank accounts</u></b>		
75	UOB Singapore Current Account No. XXXXX918-6	\$58,780.03
76	UOB Singapore Fixed Deposit Account No. XXXXX 180-3	\$634,358.40
77	DBS/POSB Bank Current Account No. XXXXX 74-3	0
78	DBS/POSB Bank Passbook Account No. XXXXX 66-0	\$285,993.60
79	DBS/POSB Bank Passbook Account No. XXXXX 72-0	\$139,176.12
80	Bank of China Singapore Savings Account No. XXXXX67-2	\$6,909.51
81	Standard Chartered Bank Savings Account No. XXXXX 69-6	\$20,701.47
82	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Account No. XXXXX 40-2	\$33,864.71
83	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Fixed Deposit Certificate No. XXXXX 301	0
84	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Fixed Deposit Certificate No XXXXX 302	0
85	UOB Thailand (formerly Bank of Asia Public Company Limited, Thailand) Fixed Deposit Certificate No. XXXXX 303	\$79,760.86
86	HSBC HK Power Vantage Savings Account No. XXXXX 833	\$197,489.22
87	UOB Malaysia Bhd Current Account No. XXXXX 72-7	\$63,363.90
88	Maybank Savings Account No. XXXXX 952	\$320,848.78
89	Bank of China (Suzhou) Account No. XXXXX 155	\$585.66
90	Bank of China (Suzhou) Account No. XXXXX 002	\$20,618.96

91	UOB Shanghai Current Account No. XXXXX 273	\$17,648.02
92	DBS Account No. XXXXX 031	0
93	Bank of China (Suzhou) Account No. XXXXX 677	0
94	Bank of China (Suzhou) Account No. XXXXX 155	0
95	HSBC Hong Kong Power Current Account – XXXXX -001	0
96	Bank of Asia Public Company Ltd Thailand XXXXX 40-2	0
97	Bank of Asia Thailand Fixed Deposit XXXXX 303	0
98	Citibank	0
99	Citigold Unfixed Time Deposit (XXXXX 1/2/3)	0
<b>Sub-Total</b>		<b>\$1,880,099.24</b>
<b>Total from S/Nos 1 to 99</b>		<b>\$9,392,513.21</b>
<b>Adverse inference</b>		<b>\$241,000</b>
<b>Total Assets of Husband</b>		<b>\$9,633,513.21</b>
<b><u>Wife's Assets</u></b>		
<b>S/No.</b>	<b>Asset</b>	<b>Value</b>
<b><u>Wife's bank accounts with agreed valuation</u></b>		
101	DBS Savings Plus Account No XXXXX079	\$1,101.29
102	DBS Fixed Deposit Currency Account No. XXXXX031	\$514,663.12
103	DBS Foreign Currency Fixed Deposit Account No. XXXXX031	\$161,100.00
104	DBS Foreign Currency Fixed Deposit Account No. XXXXX022	\$15,385.83
105	Maybank (Singapore) Savings Account No. XXXXX99-4	\$28,829.16
106	Maybank (Singapore) Savings Account No. XXXXX78-8	\$68,961.88
107	Maybank (Singapore) Savings Account No. XXXXX77-1	\$55,190.30
108	OCBC Savings Account No. XXXXX00-6	\$5,445.98
109	POSB Savings Account No. XXXXX85-8	\$9,373.26

110	UOB Time/Fixed Deposit Account No. XXXXX02-8	\$324,234.61
111	UOB Uniplus Savings Account No. XXXXX51-5	\$10,306.15
112	POSB Current Account No. XXXXX36-6	0
113	POSB Savings Account No. XXXXX17-0	\$46.56
114	Maybank (Berhad) Savings Account No. XXXXX274	\$727.96
115	DBS SGD Fixed Deposit Account No. XXXXX4-15	0
116	Hong Leong Islamic Bank Account No. XXXXX985	\$5,199.26
117	HSBC CAD Account No. XXXXX-150	\$11,092.65
118	HSBC CAD Term Deposit Account No. XXXXX350	\$5,451.86
119	HSBC CAD Term Deposit Account No. XXXXX553	\$27,708.86
120	Hong Leong Bank Berhad Account No. XXXXX876	\$164,999.16
121	OCBC Account No. XXXXX67-4	\$22,112.43
122	UOB Account No. XXXXX05-5	0
123	HSBC Canada Account No. XXXXX233	0
<b>Sub-Total</b>		<b>\$1,431,930.32</b>
<b><u>Wife's bank accounts opened after JS Date</u></b>		
124	HSBC CAD Term Deposit Account No. XXXXX554	0
125	HSBC Canada Account No. XXXXX306	0
126	CIBC Chequing Account No. XXXXX383	0
127	CIBC TSFA Tax Advantage Savings Account No. XXXXX03-3	0
128	CIBC Savings USD Account No. XX10937	0
129	OCBC Bank (Malaysia) Account No. XXXXX0-7	0
130	Maybank Account No. XXXXX316 (joint with son)	0
131	HSBC Saving Account No 151- XXXXX060	0
132	NAB Account No: XXXXX39 in joint names with daughter	0

133	POSB eSavings Account No. XXXXX44-3	0
<b>Sub-Total</b>		0
<b><u>Wife's disputed bank accounts</u></b>		
134	OCBC Malaysia Account No. XXXXX79-6	\$1,005.08
135	OCBC Fixed Deposit Account No. XXXXX34-1	\$17,807.54
136	DBS Currency Linked Investment Account No. XXXXX815	\$50,451.89
137	UCO Bank Account No. XXXXX3/00	0
138	Unknown fixed deposit account with OCBC	0
139	Unknown Bank Account No. XXXXX9-70	0
140	OCBC Account No. XXXXX81-9	\$2,476.08
141	DBS Account No. XXXXX031	\$372,000
142	HSBC CAD Term Deposit Account No. XXXXX134 (in the son's name)	\$465,724.86
143	Wife's sister's DBS account	\$579,571.60
144	Daughter's Maybank Account No XXXXX48-4	0
145	OCBC Current Account No. XXXXX87-8	0
146	OCBC Esteem Savings Account No. XXXXX05-8	0
147	OCBC Easi-Save Account No. XXXXX49-8	0
148	OCBC FD Account No. XXXXX755-0	0
149	Scotia Bank Account No. XXXXX1-84	0
150	UOB Current Account No. XXXXX15-0	0
<b>Sub-Total</b>		\$1,489,037.05
<b><u>Wife's dissipation</u></b>		
151	Withdrawal from DBS Savings Plus Account No. XXXXX079	0
152	Withdrawal from DBS Fixed Deposit Foreign Currency Account No. XXXXX-031	0
153	Withdrawal from Maybank (S) Savings Account No. XXXXX99-4	0
154	Withdrawal from OCBC Bank (Malaysia) Berhad Savings Account No. XXXXX00-6	\$26,302.05
155	Withdrawal from POSB Savings Account No. XXXXX85-8	\$144,717.94

156	Withdrawal from DBS SGD Fixed Deposit Account No. XXXXX4-15	0
157	Withdrawal from Hong Leong Bank (M) Account No. XXXXX985	\$53,865.60
158	Withdrawal from UOB Fixed Deposit Foreign Currency Account no. XXXXX02-8	0
159	Withdrawal from OCBC Current Account No. XXXXX79-6	0
160	Fixed deposit placed in Hong Leong Bank Berhad Account No XXXXX876 in May 2006	0
161	Withdrawal of RM50,000 from OCBC Bank Account no. XXXXX00-7 to Account No. XXXXX316/XXXXX324 in December 2006	0
<b>Sub-Total</b>		\$224,885.59
<b><u>Wife's properties</u></b>		
162	Unit [A] Bandar Utama, Malaysia	\$147,730.49
163	Unit [B] Bandar Utama, Malaysia	\$148,769.19
164	British Columbia property	0
<b>Sub-Total</b>		\$296,499.68
<b><u>Wife's companies</u></b>		
165	[KW] Montessori	0
166	[A] Montessori	0
167	[HK] Montessori	0
168	[KWK] Montessori	0
169	Montessori [SE]	0
170	Montessori [ TTA]	0
171	Montessori [M]	0
172	Montessori [DLM]	0
<b>Sub-Total</b>		0
<b><u>Wife's miscellaneous assets and liabilities</u></b>		
173	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/XXXXX9/2	\$5,329.95
174	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/ XXXXX20/5	\$31,918.51
175	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/XXXXX19/4	\$31,673.91

176	Hong Leong Assurance Berhad, Malaysia, Insurance Policy No. IL/XXXXXX21/6	\$31,722.62
177	Motor vehicles	0
178	Shares in [Gt], [TS], [EO], [IGB], [Ks] and [Met]	\$5,073
179	HSBC US\$ China Bonus FD (unit trust) – HSBC	\$40,604.63
180	Aberdeen Global Opportunities Fund (unit trust) – Maybank	\$44,060.91
181	First State Asia Innovation & Technology Fund (unit trust) – Maybank	\$53,208.16
182	DBS Shenton Income Fund	\$50,124.02
183	DBS Shenton Income Fund (US\$)	\$4,835.17
184	Account with Interactive Brokers	0
185	Account with Dukascopy (brokers)	0
186	Retirement Fund	0
187	Global House Investments Pty Ltd (in children's names)	0
188	EPF	\$383.33
189	CPF	\$587,497.39
190	Loan from sister	0
191	Loan from brother	0
192	Loan from father	0
193	Harry Elias Partnership	0
194	Bih Li & Lee	0
195	SH Ong & Co	0
196	Salem Ibrahim LLC	0
Sub-Total		\$886,431.60
<b>Total Assets of Wife (S/No 100 to 196)</b>		<b>\$4,328,784.24</b>
<b>Value of pool of matrimonial assets</b>		<b>\$13,962,297.45</b>