IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2020] SGHCF 23

Divorce (Transferred) No 146 of 2017

Between

VMO

… *Plaintiff*

And

VMP

… *Defendant*

JUDGMENT

[Family Law] — [Matrimonial assets] — [Division]

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v
VMP

[2020] SGHCF 23

High Court Family Division — Divorce (Transferred) No 146 of 2017
Tan Puay Boon JC
15 January, 15 July 2020

31 December 2020 Judgment reserved.

Tan Puay Boon JC:

Introduction

1 The plaintiff ("Husband") and the defendant ("Wife") (collectively "the parties") were married in Australia. Their marriage was solemnised on 26 January 2002 and registered on 4 February 2002.[1] They have one son ("the Child") who was born in 2010.[2] The parties began living separately from 2012 onwards[3] and the Husband filed a writ of divorce on 13 January 2017.[4] Interim

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1 Husband's 1st Affidavit of Assets and Means dated 11 October 2018 ("HAAM1") at para 4.

2 HAAM1 at para 11.

3 HAAM1 at para 12.

4 HAAM1 at para 14.

Judgment ("IJ") was granted on 23 February 2018. It brought to an end a marriage of 16 years.

2 The parties have resolved a number of ancillary matters ("AM") by consent, including maintenance for the Wife and for the Child, as well as the custody, care and control of the Child and access. These consent orders have been recorded with the IJ and the consent order dated 8 October 2019 (FC/ORC 5208/2019). The only matter that remains for determination is the division of the matrimonial assets.

Background facts

3 The Husband is 47 years old this year. He is an Australian citizen. He has been working for various entities related to a firm, [X], for most of his career. He became a partner in the Singapore firm of [X], [X] LLP, in 2007 and continues to work there. [X] LLP performs accountancy as well as consulting services.

4 The Wife is 45 years old this year, and is also an Australian citizen. She is legally-trained, and is currently a full-time homemaker.

5 Soon after getting married in Australia in 2002, the parties moved to Tokyo, Japan. The Husband was already working for [X] in Australia and moved to Tokyo as part of an international placement as a senior manager in Tokyo. The Wife worked as an associate at a bank there. After two years, they moved to Singapore, where the Husband began working for [X] LLP. The Wife was offered a position with the bank she had worked for in Japan, but she chose

to work for a law firm instead.[5] Subsequently, she left the law firm and began working for another bank.[6] However, due to the working conditions and to assist their attempts at conceiving a child, the Wife resigned from her job in 2008.[7] In 2010, she tried to start a business, Company [Y], in 2010, selling bags, but this business did not ultimately succeed and stopped trading in early 2016.[8] Company [Y] was a loss-making business and the Wife did not receive income from the business at any point.[9]

6 From 2004 to 2007, the parties lived in rented units. In 2007, they purchased a property in Bukit Timah ("the Bukit Timah Property") as their matrimonial home, which was registered in the Wife's name.[10] Their Child was born in July 2010.

7 In 2012, the Wife discovered that the Husband had committed adultery and the parties then separated. The Husband moved out of the Bukit Timah Property in July 2012 and lived apart from the Wife and Child. It was not until 13 January 2017, however, that the Husband filed the writ of divorce, with IJ being granted on 23 February 2018. As noted above, the parties consented to a number of orders that were recorded with the IJ. I summarise the key consent orders on maintenance as follows:

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5 Wife's 1st Affidavit of Assets and Means dated 10 October 2018 ("WAAM1") at para 45.

6 WAAM1 at para 48.

7 WAAM1 at para 52.

8 WAAM1 at para 4.

9 WAAM1 at para 5.

10 HAAM1 at para 10; WAAM1 at para 7.

(a) The Husband is to pay the Wife a lump sum as maintenance for herself at S$17,500.00 per month for the next five years, amounting to a total of S$1,050,000.00.

(b) The Husband is to pay (i) a lump sum of S$180,000.00 as maintenance for the Child; (ii) periodic payments of $3,000.00 per month from 2023 onwards until the Child reaches 21 years of age or until he obtains an undergraduate degree or equivalent, whichever is later, which shall be made in lump sum payments of S$36,000.00 per year starting from 1 February 2023; and (iii) direct payments to various third parties for expenses like school fees, therapy and lessons.

Appointment of expert

8 Before turning to the substance of the dispute, I make some observations on the evidence provided by way of a report by AAG Corporate Advisory Pte Ltd ("AAG"). AAG was appointed as a joint expert to provide forensic investigation of the parties' finances for the purpose of the AM hearings. Although AAG's report was presented to court without an accompanying affidavit from AAG or its representative, neither party has raised any issue about the admissibility of the report. The report defined its "Scope of Works" as follows:[11]

> 1.1. The forensic expert will provide forensic accounting services to assess and investigate whether the parties had dissipated matrimonial funds during the course of the marriage up until the date of the Interim Judgment, i.e. 23 February 2018, or if the funds expended were ordinary business and living expenses. The forensic expert will primarily review all the specified documents and information relevant to the period from and

[11] Jolyn Khoo's 2nd Affidavit dated 11 December 2019 ("AAG Report") at p 25.

> including January 2012 and June 2018, i.e. the period of separation of parties between July 2012 and grant of Interim Judgement and the months surrounding that. This would include exhaustively reviewing entries in the parties' bank accounts and credit card statements (as set out in the Information and Document Request List at paragraph 1.2 below) to trace funds, with the $ threshold of each entry to be reviewed to be $1,000 for ad hoc expenses, and $500 for recurring expenses every quarter, i.e. S$500 per transaction occurring at least twice within a span of 3 months.
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> 1.2. The forensic expert will provide forensic accounting services to assess and investigate the [Wife's] business, [Company [Y]], including (a) all injections of monies into the business, including but not limited to matrimonial monies which were contributed by the parties towards the business, whether directly or indirectly from the [Husband], (b) whether the [Wife] dissipated or mismanaged monies in the business; (c) whether the [Wife] appropriately applied the monies and resources available towards the business; and (d) state at what point the business was not a going concern, if applicable.
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> …

9 The Wife raised various complaints about AAG's report. First, the Wife alleged that AAG had failed to comply with the "Scope of Works" by failing to make the inquiries that were relevant to its task,[12] specifically in failing to investigate or determine whether the Husband had misused or misapplied matrimonial assets or whether the Husband's expenditure was reasonable. Second, AAG had failed to respond to the concerns that she had raised through her counsel's letters. AAG had purportedly failed to analyse the Husband's credit card expenditures and the nature of the expenses, and omitted to trace all of the Husband's earnings. Third, the Wife also claimed that there were various errors and gaps in AAG's approach to its task. Hence, she submitted that the

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12 Wife's Written Submissions ("WWS") at para 16.

report should be "given little weight, if at all".[13] It bears noting that the Wife's complaints do not appear to be directed at the accuracy of the figures extracted and summarised by AAG.

10 I accept that the AAG report did not provide as much by way of analysis and conclusions as the parties may have hoped. But in that regard, the report was also largely neutral and did not aid either the Husband or the Wife significantly. In any event, the role of experts in courts is not to decide *for* the court. The questions of whether any of the grounds for drawing an adverse inference or returning assets to the pool of matrimonial assets have been made out in this case are for the court to answer. In the present case, I rely on the AAG report only insofar as it communicated figures and facts extracted from the bank and financial statements provided by the parties to AAG. Neither party has raised concerns about the accuracy of these figures, let alone showed that these figures were wrong. I therefore rely on the AAG report as a useful summary of these facts for my consideration.

Division of matrimonial assets

11 I first consider the division of the parties' matrimonial assets under s 112(1) of the Women's Charter (Cap 353, 2009 Rev Ed) ("WC").

12 There are two methodologies of dividing matrimonial assets, as set out in *NK v NL* [2007] 3 SLR(R) 743 ("*NK*") at [31]–[33]: the global assessment methodology and the classification methodology. The global assessment methodology comprises four distinct steps: identification, valuation, division and apportionment (of the matrimonial assets). On the other hand, the

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13 WWS at para 21.

classification methodology first divides the matrimonial assets into separate classes before applying the four steps above in relation to each class of assets. Both the Husband and the Wife accepted that the global assessment methodology should apply in this case.[14] As I see no reason to apply the classification methodology, I will adopt the global assessment methodology accordingly.

Dissipations and non-disclosure

13 A number of the arguments in this case relate to alleged dissipations, unreasonably incurred expenses, and adverse inferences drawn on the basis of non-disclosure. As these issues touch on a number of steps in the division exercise and also concern a number of different assets, it is convenient for me to deal with these concepts at the outset. The Court of Appeal has given guidance on these issues in the recent decision of *UZN v UZM* [2020] SGCA 109 ("*UZN*") which was handed down on 30 October 2020. I summarise the Court's guidance as follows:

(a) The court's duty is "to ensure that the matrimonial pool reflects the full extent of the material gains of the marital partnership": *UZN* at [59].

(b) One means of doing so is to draw adverse inferences against a party who has failed to make full and frank disclosure of assets. The drawing of an adverse inference is based on the notion that "there is concealment of matrimonial assets which should be included for a fair division under s 112 of the Women's Charter": *UZN* at [61].

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14 Husband's Written Submissions ("HWS") at para 8.

(c) Another conceptually different means of ensuring that the matrimonial pool reflects the material gains of the marriage is to add the values of certain assets into the pool on the basis that a party has expended substantial sums when divorce proceedings are imminent: *UZN* at [62]. This is based on the *dicta* in *TNL v TNK and another appeal and another matter* [2017] 1 SLR 609 ("*TNL*") at [24] (which the Court of Appeal referred to as the "*TNL dicta*").

(d) Further distinct from either of these two approaches is the wrongful dissipation provision in s 132(1) WC. It is distinct from the *TNL dicta* as the latter does not require "culpability" – the expenditure may be for entirely innocent reasons: *UZN* at [65]. It is distinct from adverse inference for non-disclosure because the latter is concerned with disclosure, whereas wrongful dissipation is concerned with the act of dissipation itself. The Court of Appeal recognised the possibility of drawing adverse inferences based on concealment of assets or wrongful dissipation, based on conduct even prior to when divorce proceedings are imminent: *UZN* at [66]. However, this would generally be difficult to justify – "it is difficult to believe that the parties would have intended to withdraw assets for the purpose of concealing or putting them out of reach of the other spouse during a time when their marital relationship was still functioning": *UZN* at [66]. Since this is a matter of proof, the possibility remains open nevertheless, but the facts must justify such an approach.

(e) These categories may overlap – one party may expend money in such a manner as to satisfy the requirements of the *TNL dicta* and also amount to wrongful dissipation, while also failing to disclose the

movement of these assets, thereby justifying an adverse inference. These categories are, however, also conceptually distinct: see *UZN* at [68].

(f) In general, therefore, the position in relation to expenditure of assets by one party can be summarised as follows (*UZN* at [70]):

> … The court is not concerned with the justifiability of expenses stretching indefinitely into the past, but rather with what assets there were at the relevant time (usually, at the IJ date). As we explained at [22]–[24] above, in respect of accounting for how a spouse's income has been expended, their expenses shed light on whether the earnings have in fact been used up, or have instead been concealed. Restrictions on the parties' disposal of large quantities of matrimonial assets, meanwhile, generally only come to the fore after divorce proceedings are imminent, as explained in the *TNL dicta* (see [62]–[65] above). On the other hand, if a party appears to be spending significant sums of money which the other spouse does not support (say, on gambling activities) *before* divorce proceedings are imminent, the argument is instead one of financial irresponsibility, which will impact the question of the parties' direct and indirect contributions to the marriage in applying the *ANJ* structured approach (see [67] above). This argument would have no impact on the identification or quantification of the matrimonial assets themselves.

14 With this guidance from the Court of Appeal, it is necessary to consider the specific bases for each party's contentions. As the parties did not have the benefit of this guidance during the AM hearings or submissions, it may be necessary to attempt a reconstruction of their cases according to the Court of Appeal's descriptions of these different ways of ensuring that the pool of matrimonial assets accurately reflects what was earned and obtained during the marriage. I deal with these issues as and when they arise in the following discussion.

Identification and valuation of the matrimonial assets

Operative dates for identification and valuation

15 The operative date for the identification of the matrimonial assets was a matter of some dispute between the parties. The Husband argued that this was an appropriate case to use the date on which the parties had agreed that they would be able to date other people outside of the marriage, *ie*, 23 September 2013,[15] which I will refer to as the "purported date of separation".

16 Both parties acknowledged that the starting position is that the IJ date is the starting point: *ARY v ARX and another appeal* [2016] 2 SLR 686 ("*ARY*") at [31]. In that case, the Court of Appeal held at [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. [emphasis in original in italics; emphasis added in bold]

17 The Court of Appeal gave essentially three justifications for this starting point. First, the IJ is what puts a substantial end to the marriage contract such that the parties are taken no longer to intend to jointly accumulate matrimonial assets: *ARY* at [32], citing *AJR v AJS* [2010] 4 SLR 617 at [4]. In other words, the IJ "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, cited in *ARY* at [32]). Second, division could well occur at the same time as the IJ if all the relevant material is before the court at the time: *ARY* at [33]. Third, adopting a starting point of the IJ date allows the parties to

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15 HWS at para 14.

arrange their financial affairs and to know when they are treated as "having moved into a different phase in their lives": *ARY* at [34]. Relatedly, it would enable counsel to better advise their clients.

18 In the Court of Appeal's reasoning, the IJ date is not simply a starting point from which the court should readily depart. The justifications stated above suggest that the IJ date should *generally* be used as the operative date, and the discretion to depart from that date is there to "ensure that justice is done in every case": *ARY* at [35]. The Court of Appeal emphasised that the court should depart from the starting point only in "deserving cases", where there are "cogent reasons" to do so, and that the court should "exercise care when it decides to depart from the starting point" and should provide reasons when doing so: *ARY* at [34]–[36].

19 The authorities have also provided the following further guidance as to how the court should assess an argument that the starting point of the IJ date should be departed from:

> (a) First, the court should pay attention to the relationship between the parties after the purported date of separation. Continued involvement and provision would suggest the existence of a "*continuous (albeit clearly attenuated) relationship*" [emphasis in original] between the parties: *Oh Choon v Lee Siew Lin* [2014] 1 SLR 629 ("*Oh Choon*") at [14], cited by *ARY* at [39]. This relationship would then only be brought to an end with the IJ, and there would be no reason to depart from the IJ date as a starting point.

(b) Second, the court should distinguish between exceptional features that would warrant a departure from the starting point and "the ordinary factual concomitants of a failed marriage": *ARY* at [40].

(c) Third, the court should be mindful of the fact that using the IJ date would enable the court to better account for any continuing contributions (direct or indirect) made by the parties to the marriage: *TEG v TEH and another matter* [2015] SGHCF 8 ("*TEG*") at [24].

(d) Finally, underlying many of these factors is a recognition that marriage continues to be a legal union even if the relationship has disintegrated: *ARY* at [40]; *TQU v TQT* [2020] SGCA 8 ("*TQU*") at [38]. In this regard, the use of the IJ date as the starting point is already a concession to the fact that, in reality, at the time of the IJ only the "technical bond" of marriage remains (see [17] above), while the actual bond of marriage is severed only upon final judgment. It is therefore not appropriate to push the operative date back even further than the IJ date simply on the basis that the relationship has fallen apart while the legal union remains. Some other exceptional circumstance must exist to justify using the date of separation as the operative date for identification of the matrimonial assets.

20 Having identified these factors, I turn to the Husband's argument in this case. The Husband emphasised that he had moved out of the matrimonial home on 8 July 2012. By January 2013, he had moved into his own leased apartment. In September 2013, the parties came to an agreement that they would be able to date other people, and agreed in writing that they would wait for six months

before introducing new partners to the Child.[16] The parties then, in fact, dated other people – the Husband dated someone in 2014, and then in 2015, and has remained in the latter relationship to date. Further, the Husband began crediting his salary into a separate account in October 2015.[17] The Husband described the Wife's conduct in that period as "retaliatory" and that "there was nothing left to the marriage".[18]

21 The Husband disagreed with the Wife's claim that they continued to have conjugal relations.[19] As for the occasional meals and trips, the Husband explained that he wished to maintain "cordial relations" with the Wife and that, despite the marriage being over, he wanted to take care of the Wife. Further, the Husband wished to spend time with the Child, and so went on one trip overseas and also spent time with the Wife and Child on festive and special occasions.[20] He attributed the delay in filing the writ of divorce to the Wife, since he claimed to have been engaging in negotiations for an uncontested divorce for a whole year "before he finally had no choice" but to file the writ in January 2017.[21]

22 The Wife argued that the parties maintained a relationship even after the purported date of separation. In particular, the Husband continued to express his love for the Wife and his remorse for his adultery, they had gone to see marriage counsellors, the Wife remained uneasy about the Husband seeing other people romantically, the Husband continued to send gifts and they had meals together,

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16 HWS at para 15.

17 HWS at para 16.

18 HWS at para 17.

19 HWS at para 18.

20 HWS at para 18.

21 HWS at para 19.

they occasionally engaged in conjugal relations, they vacationed together and spent special occasions together, and the Husband continued to support the Wife and Child financially, as well as supporting the Wife's application for a Dependent's Pass.[22] She also argued that she continued to make indirect contributions to the marriage after the Husband moved out of the matrimonial home.[23]

23 Having considered the parties' arguments, I am of the view that there is no reason to depart from the IJ date as the operative date for identification.

24 It appears that the Husband and Wife were largely in agreement as to the facts of how they conducted themselves after the Husband left the matrimonial home in 2012 – the Husband did continue to provide for the Wife and Child, they did spend time during holidays and special occasions together, and they had meals together. The Husband also spent a few days a week with the Child and some weekends. However, they disagreed about the significance of these acts. In addition, they also disagreed over the facts concerning whether they continued to have conjugal relations and their attitude towards each party seeing other people romantically. Nevertheless, even if I assume these facts in favour of the Husband (*ie*, that they did not continue to have conjugal relations and they had agreed that they would be able to date other people), I do not find that it is necessary to depart from the starting point in the interests of justice.

25 First, the Husband clearly continued to support the Wife and Child even after the purported date of separation: see *Oh Choon* ([19(a)] *supra*) at [12].

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22 WWS at para 33.

23 WWS at para 37.

26 Second, the Husband was involved in their lives and continued to be a presence. They spent time together as a family during special occasions, and the Husband took care of the Child for a few days a week. Even if the relationship between the Husband and Wife was no longer as close as it once was, there existed some relationship between them.

27 Third, whatever their decisions in relation to dating other people, it did not undermine the fact that they remained legally married and no attempts were made to dissolve that legal union. It was a marriage, even if it was a marriage between two people who had grown distant and who contemplated that they might become romantically or sexually involved with other people. Taken together with the facts that the Husband continued to provide and was present for some of their family life, I find that there was an ongoing, if attenuated, relationship: see *Oh Choon* at [12]. Indeed, even in a case as extreme as *TQU* ([19(d)] *supra*) where the marriage had broken down in 2001, and the Wife had already applied without success for divorce twice in 2001 and 2010 before the IJ was finally granted pursuant to a third application in 2016, the Court of Appeal did not consider it appropriate to depart from the starting point: see *TQU* at [4] and [38].

28 Although it was suggested to me that *TQU* could be distinguished,[24] I do not find the factors raised by the Husband's counsel to be weighty. It was first suggested that *TQU* could be distinguished because the wife in *TQU* had returned to the family home after making the first divorce application: see *TQU* at [8]. However, I find that the mere fact that the Husband never returned to the matrimonial home in this case to be less important than the fact that he continued

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[24] Notes of Evidence ("NE") 15 July 2020 at pp 129–130.

to provide for the family and to spend time with the Wife and Child. Counsel for the Husband then suggested that the fact that the two divorce applications were dismissed in *TQU* meant either that the husband had contested the divorce or that the court had found that there was no basis for the divorce, whereas in this case, both parties clearly wanted to end the relationship. Even assuming that this distinction between the cases exists, I do not accept it as material. The mere fact that both parties "want[ed] out" of the marriage,[25] even if true, must be weighed against the fact that no steps were taken to end the legal union and that they did continue to maintain some form of a family life, no matter how limited, disjointed, and unhappy. There, as here, the parties remained in a "legal albeit unhappy union" that was grounded in some reality: see *TQU* at [38].

29 I clarify here that I do not understand the Court of Appeal in *TQU* at [38] to mean that as long as the legal union is subsisting, there is no possibility of departing from the starting point, and that it is irrelevant to consider the factual union (in distinction to the legal union). There is nothing in the Court of Appeal's reasoning that suggests this absolute position, which would also be contradictory to the position taken in *ARY* ([16] *supra*). First, there are factors other than the breakdown of the factual union that may render it appropriate to depart from the starting point. One such situation is where one party "incurs a large amount of expenditure from having 'indulged in certain vices' such that the matrimonial assets have been 'unfairly or unjustly depleted by the unacceptable actions of that party'": *ARY* at [35]. The fact that the legal union subsists would not prevent the court from departing from the starting point where the facts justify it. Second, there may be instances where the extent of the breakdown of the factual union justifies a departure from the starting point.

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[25] NE 15 July 2020 at p 129, ln 18.

There are differing degrees of breakdown to which the court must remain sensitive. There may be cases where the relationship between parties has absolutely come to an end before the IJ, *eg*, where one party disappears completely, such that anything done by the parties cannot be attributed to the existence of a familial or matrimonial relationship. However – and this is related to the point below – where the relationship has broken down but there still remains a connection between the parties and some semblance of family life, the existence of the legal union would suggest that the marriage *does* subsist and the appropriate date for identification would remain the IJ date, when that legal union is brought to a (tentative) end. While the court retains the "flexibility to ensure that justice is done in every case": *ARY* at [35], what *TQU* does suggest is that the court should not readily depart from the starting point. To do so would undermine the three justifications identified by the Court of Appeal in *ARY* (summarised at [17] above).

30 Fourth, the various facts emphasised by the Husband appear to me to be the "ordinary factual concomitants of a failed marriage": see *ARY* at [40]. That one party moved out, grew distant, participated in family life in a limited way, and began seeing other people romantically appears, unfortunately, to be a reality in many relationships that have broken down. There is nothing so exceptional in this case that would warrant a departure from the usual starting point. Even the allegations that the Wife was smearing the Husband's reputation do not, in my view, constitute exceptional circumstances, since bad blood and even enmity can certainly exist between parties in a marriage. Finally, as the Wife continued to take care of the Child, I find that it is more appropriate to take the operative date as the IJ date to better account holistically for the contributions of the parties to the marriage: *TEG* ([19(c)] *supra*) at [24]. Therefore, having considered all of these factors, I conclude that there is no

reason to depart from the starting point, and find that the operative date of identification should be the IJ date, *ie*, 23 February 2018.

31 Given what I have heard of the parties' arguments, I find it necessary to remind parties that the selection of the operative date of identification is not intended, in most cases, to either reward or punish one or the other of the parties to the marriage. The concern, rather, is to achieve fairness between the parties. Further, the complexity of interpersonal relationships means that the court should be slow to assume that certain decisions would or would not have the effect of incentivising good conduct or disincentivising bad conduct. Finally, I observe that it is realistic for the court to acknowledge that relationships can both improve and disintegrate over time. The court should be cautious of dividing the relationship with an artificially clear line where one does not exist. Remaining with the IJ date as the operative date of identification serves to avoid this risk as it centres the exercise on a clearly identified juridical act that demarcates a break in the parties' relationship.

32 I turn then to consider the operative date for valuing the matrimonial assets. The Husband argued that the "latest available date" should be used for valuation,[26] but appeared to have agreed with the Wife that some of the assets should be valued as of 23 February 2018, *ie*, the IJ date.[27] The Wife submitted that the court should value the assets as at the date of the AM hearing, unless the parties have otherwise agreed in relation to particular assets.

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26 HWS at para 21.

27 HWS at para 23.

33 The default position is that the matrimonial assets should be valued at the date of the first AM hearing, *ie* 15 January 2020: *TDT v TDS and another appeal and another matter* [2016] 4 SLR 145 ("*TDT*") at [50]. I see no reason in principle to depart from this starting point. Where the parties have arrived at agreed valuations at the earlier IJ date, however, or proposed a choice between the purported date of separation and the IJ date, I choose not to disturb their agreement and will use the agreed valuations at the IJ date. I also note that because of how the parties have been content to run their cases, the evidence of valuations was largely focused on valuation *as of the IJ date* rather than as of the AM date. As such, given the state of evidence and how the parties have chosen to advance their claims, it is necessary to use the IJ date for many of the assets in this case.

34 Further, I observe that the date of valuation for assets like bank and Central Provident Fund ("CPF") accounts should be the IJ date. As the High Court Family Division held, "the [matrimonial assets] are the moneys and not the bank and CPF accounts themselves": *BUX v BUY* [2019] SGHCF 4 at [4]. It follows that the value of these accounts is in fact identical to the amount of money identified to be present at the IJ date.

Exchange rates

35 The parties have agreed to utilise the exchange rate of US$1.00 = S$1.13 for the purposes of these AM proceedings, for the assets denominated in US dollars. For assets denominated in Australian dollars, the exchange rate used is A$1.00 = S$0.96.[28] Where, however, the sums involve past figures, I simply

[28] NE 15 January 2020 at p 2, ln 28–31.

take the parties' own calculation of the equivalent currencies for the purposes of valuation, in the absence of any dispute.

Agreed assets with agreed valuations or for which the dispute over valuation is solely over the operative date

36 There are a number of assets whose inclusion into the pool of matrimonial assets is not disputed. Further, of those assets, the dispute over the valuation of some of these assets turned only on which date was used as the operative date for identification or valuation. For these assets, the parties agreed to use either the purported date of separation or the IJ date. As between the two, I find that the latter is more appropriate. Hence, these valuations can be easily determined and I deal with them summarily in the table below:

S/No	Description	Value
Joint Assets		
1.	Standard Chartered Bank ("SCB") Account No ending in 7331	S$93.97[29]
2.	SCB Account No ending in 2998	S$134.15[30]
3.	DBS Account No ending in 2407 ("DBS 2407")	N/A[31]
4.	DBS Account No ending in 2705 ("DBS 2705")	N/A[32]

29 Joint Summary of Relevant Information ("JSRI") at p 7.

30 JSRI at p 7.

31 JSRI at p 8.

32 JSRI at p 9.

S/No	Description	Value
5.	HSBC Account No ending in 7496	N/A[33]
Wife's Assets		
6.	Bukit Timah Property	Gross: S$3.2m Nett: S$1,750,511.87[34] (after deducting outstanding SCB mortgage loans as of January 2020)
7.	Artwork at Bukit Timah Property	S$79,613.00[35]
8.	DBS Account No ending in 9376 ("DBS 9376")	S$61.35[36]
9.	DBS Account No ending in 6978 ("DBS 6978")	S$714.67[37]
10.	DBS Account No ending in 7629 ("DBS 7629")	S$20.19[38]
11.	POSB Account No ending in 2496	S$0.00[39]
Husband's Assets		

33 JSRI at p 9.

34 Husband's 6th Affidavit of Asset and Means dated 18 March 2020 ("HAAM6") at para 5; NE 15 July 2020 at p 7, ln 24.

35 NE 15 January 2020 at p 22, ln 1–4.

36 JSRI at p 13.

37 JSRI at p 13.

38 JSRI at p 15.

39 JSRI at p 15.

S/No	Description	Value
12.	Audi Car	S$7,797.28[40]

37 For completeness, I note that the parties are not disputing that the BMW Car was sold in 2016 and therefore would not be a matrimonial asset as of the IJ date.[41] They have also agreed between themselves to exclude some personal effects like jewellery.[42] I do not include these in the table above or in the subsequent analysis.

Agreed asset with valuation disputed on other grounds

38 Of the assets agreed to be matrimonial assets, a dispute arose over the valuation of the [X] LLP Capital Account. This was one of two accounts that the Husband, as a partner of [X] LLP, maintained, the other being the [X] LLP Current Account addressed later below. The [X] LLP Capital Account consisted of the Husband's capital contributions to the partnership.[43]

39 There were two aspects to the dispute. First, there was a dispute over the operative date for valuation. As parties have agreed to use either the purported date of separation or the IJ date, and as I have found that the latter is more appropriate, I adopt the agreed gross value as of the IJ date, being S$495,000.00.[44] Second, there was a dispute over the net value of the [X] LLP Capital Account. The Husband argued that he had to take out a loan ("the SCB

40 JSRI at p 20.

41 JSRI at p 19.

42 JSRI at pp 2, 19.

43 See HAAM1 at p 345.

44 JSRI at p 18.

Personal Loan") of S$95,000.00 in order to make a contribution to the [X] LLP Capital Account, and the outstanding loan amount should be deducted from the gross value. Given that this is a standalone loan rather than a loan secured on the Capital Account, and it is disputed whether the Wife should share in the liability, I prefer to deal with this below under the Husband's disputed assets and liabilities (see [98] below). For present purposes, I conclude that the value of the [X] LLP Capital Account is S$495,000.00.

Disputed assets and liabilities

40 I turn to the remaining assets and liabilities. These are subject to dispute over their inclusion in the matrimonial pool. I deal first with the Wife's assets and liabilities before turning to the Husband's.

(1) Wife's assets and liabilities

(A) FRIENDS PROVIDENT INTERNATIONAL POLICY

41 The Friends Provident International ("FPI") policy was a policy held in the Wife's name.[45] The Wife surrendered the policy in October 2017, and the evidence present before the court shows that the Wife thereby incurred a surrender penalty of US$16,800.53[46] and obtained the surrender value of US$38,807.10. The surrender value was transferred to her account, DBS 7629. The Wife claimed that she needed to surrender the policy because the Husband had restricted her access to funds. First, she alleged, the Husband had transferred S$705,350.00 from the parties' joint account to his CitiGold Account ending in 1015 (for which, see below at [84]). Second, in early 2016, the Husband

45 HWS at para 84.

46 WAAM1 at p 124.

imposed a S$10,000.00 monthly credit limit on the Wife's Citibank supplementary Visa credit card ("the Citibank Supplementary Card"). She had raised concerns about her expenses to the Husband at around that time, for example, by way of an email dated 7 March 2016.[47] As a result of the Husband's actions, she had to obtain a loan from her parents to pay off various debts and expenses. In addition, she had to surrender the FPI policy for herself and the Child's expenses.[48] The surrender value has since been applied towards her and the Child's expenses.

42 The Husband argued that this sum should be returned to the pool of matrimonial assets as the Wife should not have incurred the surrender penalty at the time. Further, the surrender value should be returned to the pool as well because it was spent on legal fees, which expense should not be borne by the Husband.[49]

43 In my judgment, this is an appropriate case in which to return the surrender penalty to the pool of matrimonial assets. In this case, the writ of divorce was already filed in *January* 2017. The surrender of the FPI policy was in October 2017, after the filing of the writ. In this regard, the Court of Appeal held in *TNL* ([13(c)] *supra*) at [24]:

> … [T]he issue is how the court should deal with substantial sums expended by one spouse during the period: (a) in which divorce proceedings are imminent; or (b) after interim judgment but before the ancillaries are concluded. We are of the view that if, during these periods, and whether by way of gift or otherwise, one spouse expends a substantial sum, this sum must be returned to the asset pool if the other spouse is considered to

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47 WWS at para 44.

48 WWS at para 45.

49 NE 15 July 2020 at p 71, ln 4–12.

> have at least a putative interest in it and has not agreed, either expressly or impliedly, to the expenditure either before it was incurred or at any subsequent time. Furthermore, this remains the case regardless of whether: (a) the expenditure was a deliberate attempt to dissipate matrimonial assets; or (b) the expenditure was for the benefit of the children or other relatives. The spouse who makes such a payment must be prepared to bear it personally and in full. In the absence of consent, he or she cannot expect the other spouse to share in it. What constitutes a substantial sum is, of course, a question of fact and we do not propose to lay down a hard and fast rule in this regard, except to emphasise that it is not intended to include daily, run-of-the-mill expenses.

44 Although the FPI policy was in the Wife's name, both the Husband and the Wife were the lives assured under the policy. I also agree with the Husband that there were other options available to the Wife, and that her unilateral decision to surrender the FPI policy at that time resulted in a reduction of the pool of matrimonial assets available for division. While I recognise that the Wife may have felt that she needed to surrender the policy at that time, I also note that the correspondence with the Husband concerning her expenses which the Wife referred to was earlier in 2016. The Wife has not pointed to any contemporaneous correspondence around the time of the surrender of the FPI policy in which the issue of expenses was discussed. Further, as the Husband has highlighted, even though the credit limit was reduced from S$40,000.00 to S$10,000.00 in early 2016, the credit card statements show that the Wife did not regularly reach beyond S$10,000.00.[50] In all the circumstances, I do not think that the loss of US$16,800.53 was reasonably incurred. Given that the surrender occurred after the filing of the writ of divorce, I find that this sum should be returned to the pool of matrimonial assets.

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50 NE 15 July 2020 at p 78, ln 6–14.

45 As for the balance of the surrender value, however, I disagree with the Husband that it needs to be added into the pool of matrimonial assets. I do not find that there is sufficient evidence to conclude that the surrender value was not used for her expenses. The table referred to in the forensic accountant's report (at Appendix 7C)[51] is of limited utility as it does not show the balance of the account and the other transactions. Finally, although the sum taken as a whole is significant, it is more accurate to see this as one withdrawal that is then spent on various purchases and payments. None of those purchases and payments has been shown by the Husband to be substantial within the meaning of the *TNL dicta*. Where, however, there is evidence of specific sums that *should* be added back into the pool of matrimonial assets, I deal with these apart from the FPI policy, since the payments could have come from other sources. I deal specifically with the Husband's contention concerning legal fees[52] below at [100]–[103].

46 Therefore, I choose to add S$18,984.60 (being US$16,800.53 at the agreed exchange rate) into the pool of matrimonial assets. I will treat this sum as an advance to the Wife in coming to the appropriate apportionment.

(B) LOAN FOR COMPANY [Y]

47 Various shareholder loans were given to the Wife's business, Company [Y]. The Husband argued that of these loans, a sum of S$300,000.00 should be added back into the pool of matrimonial assets.[53] In effect, he argued that Company [Y] ought to have been wound up earlier – if the Wife had done so,

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51 Jolyn Khoo's 1st Affidavit dated 11 December 2019 at p 84.

52 NE 15 July 2020 at p 71, ln 8–12.

53 HWS at para 90.

they would have saved S$200,000.00 to S$300,000.00. Since she did not, the sum should be returned to the pool of assets as a loss that should not have been incurred. I note that while the Husband also raised an allegation of a breach of the obligation to make full and frank disclosure,[54] those allegations pertained to the Wife's failure to provide information about Company [Y]'s business *before* matrimonial proceedings were brought. His real concern was with the expenditure of matrimonial assets for the sake of Company [Y] without his consent.[55] As the Court of Appeal has clarified in *UZN* ([13] *supra*) at [68], the concepts of non-disclosure and dissipation are conceptually distinct. I deal with this issue on the basis of whether the sums expended for Company [Y] should be returned to the pool of matrimonial assets.

48 The last injections of money into Company [Y] occurred in 2016, and Company [Y] has lain dormant since then. I note that the Husband had already commenced negotiations with the Wife throughout 2016 to reach an agreement on an uncontested divorce.[56] Further, in 2015, when the Wife disclosed the extent of the losses suffered by Company [Y] to the Husband, the Husband asked the Wife to shut the business down to avoid incurring further losses and debts.[57] The Wife went on, however, to inject S$64,000.00 and S$22,000.00 into Company [Y] in 2015 and 2016 respectively.

49 In my judgment, the amounts injected into Company [Y] in 2016 by the Wife should be returned to the pool of matrimonial assets and treated as an

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54 HWS at para 93.

55 HWS at paras 95 and 98.

56 HWS at para 19.

57 HAAM1 at para 68.

advance to the Wife out of her share of the pool. In 2016, the divorce proceedings were imminent given the existing negotiations. This also came after the Husband made clear that the decision to continue Company [Y]'s business was her "solo" decision.[58] Her business decisions in 2016 were therefore unilateral, and expended resources that the Husband could claim a putative interest in. Given that Company [Y] is now dormant, I prefer to treat the money as expended rather than being the subject of a loan (which would be treated as an existing asset held by the Wife against Company [Y]). This, in my view, is the only realistic option.

50 However, I do not see a basis in principle for returning money expended *before* 2016 into the pool of matrimonial assets. Although the parties were separated, divorce proceedings were not yet imminent. That there was on-going disagreement between the Husband and the Wife over Company [Y] is not, in and of itself, sufficient to suggest that the funds put into the company should be returned. Losses incurred by one party to the marriage are generally to be borne by the couple. This follows from the fact that marriage is "in part an economic union in which each spouse's financial well-being is entwined with the other": *ATT v ATS* [2012] 2 SLR 859 ("*ATT*") at [11]. There, the Court of Appeal held at [11]–[12]:

> 11 … Just as gains are shared, so should the losses. It cannot be the case that appreciating assets fall to be divided as part of the common pool whilst depreciating assets or liabilities incurred in seeking to enhance the wealth of the family are attributed entirely to the investing spouse. Adopting such a stance would unfairly penalise the breadwinning party for every financial loss incurred. …

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58 Husband's 2nd Affidavit of Asset and Means dated 21 October 2019 ("HAAM2") at p 280.

> 12 … The passive spouse must take the good as well as the bad, unless that spouse can show that the losses were not incurred *bona fide* or for some other good reasons should not be treated as a loss of the family. …

51 This must be considered together with the recent pronouncement of the Court of Appeal in *UZN* ([13] *supra*) at [70]:

> … Restrictions on the parties' disposal of large quantities of matrimonial assets, meanwhile, generally only come to the fore after divorce proceedings are imminent, as explained in the *TNL dicta* (see [62]–[65] above). On the other hand, if a party appears to be spending significant sums of money which the other spouse does not support (say, on gambling activities) *before* divorce proceedings are imminent, the argument is instead one of financial irresponsibility, which will impact the question of the parties' direct and indirect contributions to the marriage in applying the *ANJ* structured approach (see [67] above). **This argument would have no impact on the identification or quantification of the matrimonial assets themselves**. [emphasis in original in italics; emphasis added in bold]

52 In other words, losses incurred by one spouse should generally be borne by both parties to the marriage. Losses, however, can take different forms in different cases, and what form the loss takes in a particular case may affect how it is treated. In the present case, the dispute is over sums expended in a loss-making enterprise, which the Husband wants to be returned to the pool of matrimonial assets. This is not a case where there is a debt and the question is who should bear it and in what proportions. Where the issue is whether sums of money should be *returned* to the pool of matrimonial assets, the court is guided by the authorities at two levels: (a) whether there is a reason to depart from the usual principle that the family should bear the loss together: see *ATT*; and (b) if so, whether the sum of money should be returned to the pool of matrimonial assets: see *UZN*. According to *UZN*, it is only if the divorce proceedings are imminent that sums of money should be returned to the pool of matrimonial assets. Otherwise, if (a) is answered in the affirmative but divorce proceedings

are not imminent, the court deals with the issue in terms of contributions rather than identification of assets.

53 Hence, in this case, given my finding that the divorce proceedings were imminent in 2016, I choose only to return the sum injected into Company [Y]'s business by the Wife in 2016, *ie*, S$22,000.00, to the pool of matrimonial assets.

(C) CREDIT CARD DEBTS

54 The Wife urged the court to deduct liabilities that she had incurred from the pool of matrimonial assets. These were a credit card debt for her HSBC Credit Card No ending in 3723 ("HSBC Card 3723") and a personal loan in SCB CreditOne Account No ending in 4318 ("SCB Account 4318"), with debts of S$27,894.16 and S$34,365.08 as of the IJ date respectively. The Husband argued that the Wife should be made to bear these liabilities herself. In substance, his argument was that the Wife should not have incurred these liabilities, and, as such, these liabilities should not be deducted from the pool of matrimonial assets.

55 In my view, the principles to apply to such an argument are the same as those found in *TNL* ([13(c)] *supra*) at [24]. A decision not to allow liabilities to be deducted from the matrimonial assets is, in substance, the same as a decision to return sums expended into the pool of matrimonial assets. The only difference is whether the expenses were paid for up-front with cash, or whether credit was used for the purchases.

56 In relation to HSBC Card 3723, the transactions worth more than S$1,000.00 were helpfully extracted in the report by AAG.[59] In my view, there was nothing so exceptional in any of these transactions such that the amounts should be borne by the Wife herself. Although there was expenditure for luxury goods and apparel, as well as travel, around 2016 and 2017, I do not find that any of these are "substantial" in the manner referred to in the *TNL dicta*, especially given the lifestyle to which the Husband and Wife were accustomed to. I therefore find that it is appropriate to include this liability in the pool of matrimonial assets, as this sum would otherwise have had to been paid by cash. In relation to SCB Account 4318, I take the same approach as the Husband's arguments in relation to this account were largely the same. I also include this liability in the pool of matrimonial assets. Therefore, I account for these two liabilities in arriving at the value of the pool of matrimonial assets.

(D) LOAN FROM FAMILY

57 The Wife's parents had provided money to her by way of various bank transfers through the years. The Wife argued that these were loans that she had to repay, and asked for these sums to be deducted from the pool of matrimonial assets.[60] The Husband argued instead that these were gifts that did not have to be repaid, and asked that these sums not be deducted from the pool.[61]

58 These sums were provided *before* the IJ date. I summarise the transfers made by the Wife's parents to her as follows:

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59 Jolyn Khoo's Affidavit dated 11 December 2019 at p 88.

60 WWS at para 79.

61 HWS at para 107.

S/N	Date	Receiving Account	Amount
1.	23 November 2015	DBS 9376	S$30,264.00[62]
2.	8 January 2016	DBS 9376	S$19,578.78[63]
3.	1 February 2016	DBS 9376	S$39,848.00[64]
4.	29 March 2016	DBS 9376	S$20,434.00[65]
5.	14 September 2016	DBS 9376	S$30,300.00[66]
6.	6 February 2017	DBS 9376	S$31,980.00[67]
7.	20 March 2017	DBS 9376	S$10,666.00[68]
		Sub-total	S$183,070.78
8.	22 May 2017	DBS 6978	A$40,000.00[69]
9.	14 July 2017	DBS 6978	A$20,000.00[70]
10.	4 October 2017	DBS 6978	A$10,000.00[71]
11.	24 November 2017	DBS 6978	A$15,000.00[72]

62 Wife's 4th Affidavit (Discovery) dated 6 August 2019 ("WA4") at p 378.

63 WA4 at p 379.

64 WA4 at p 380.

65 WA4 at p 381.

66 WA4 at p 382.

67 WA4 at p 383.

68 WA4 at p 384.

69 WA4 at p 385.

70 WA4 at p 386.

71 WA4 at p 387.

72 WA4 at p 388.

S/N	Date	Receiving Account	Amount
		Sub-total	A$85,000.00 (~S$88,400.00)
		Total	S$271,470.78

59 As this alleged loan involves non-parties, I first consider the appropriate approach to take. The Husband urged the court to disregard the alleged loan on the basis that the Wife's parents are strangers to the matrimonial proceedings, citing *UTL v UTM* [2019] SGHCF 10 ("*UTL*") at [53]. In that case, the husband had alleged that the wife had borrowed money from his mother, and that the loans were still outstanding and should be deducted from the pool of matrimonial assets. The wife's main contention was that any money taken from the husband's mother had already been repaid: *UTL* at [52]. The dispute, therefore, was whether the wife *still owed money* to the husband's mother, which was an issue primarily to be determined between the wife and the husband's mother, not between the wife and the husband. The High Court Family Division was therefore the view that the alleged loan should not be dealt with in the matrimonial proceedings, and declined to deduct the loan amount from the pool of matrimonial assets: *UTL* at [53]. It bears noting that in *UTL*, the argument does not appear to have been that the loans were to be considered as matrimonial liabilities, but that the outstanding sums should be deducted from the pool as some kind of set-off. Such an argument clearly could not be sustained if the alleged creditor was not a party to the proceedings. In my view, *UTL* can be distinguished given the particular nature of the argument run by the husband in that case. In the present instance, the Wife argued instead that the loans from her parents were in the nature of debts incurred for her expenses, and that the debts should be borne by both parties.

60 I take reference from the jurisprudence surrounding non-party claims to interests in matrimonial properties, usually by way of a resulting trust: see *UDA v UDB and another* [2018] 1 SLR 1015 ("*UDA*"). In those cases, where the property is in the name of one of the parties and no order is sought by or against the non-party, *ie*, where the non-party is a "'shadowy' figure in the wings", the position is that the court is entitled to make an order under s 112 WC in relation to that property because that order would only bind the parties to the matrimonial proceedings: *UDA* at [58]. The difference between those category of cases and the present dispute is that the interests in the former are proprietary interests, whereas in the present dispute, I am concerned with a personal obligation allegedly owed by the Wife. However, in the final analysis, the principles to be applied are similar, since the key question is whether the court in hearing matrimonial proceedings should make any orders that may affect a non-party's interests (whether proprietary or personal). It follows that the court continues to be able to make findings in relation to assets or obligations involved in the matrimonial proceedings even if it might touch on a non-party's interests, but with the concomitant risk that one or the other party may be prejudiced if the non-party subsequently disputes the conclusion: *UDA* at [57]–[58].

61 I therefore proceed to consider if the transfers should be treated as gifts or as loans, rather than to disregard the issue entirely. In my judgment, there is insufficient evidence to show that the transfers were intended as loans. The Wife has referred to two letters from the Wife's mother, one dated 15 May 2019[73] and one dated 19 November 2019.[74] She has also pointed to a WhatsApp conversation with her mother dated 6 February 2017 in which she thanked her

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73 WA4 at p 377.

74 Wife's 7th Affidavit dated 4 December 2019 ("WA7") at p 104.

mother for "lending [her] the money".[75] In my view, the evidence was not sufficiently clear to show that all of the sums transferred were intended as loans. First, the only relatively contemporaneous evidence was dated 6 February 2017. However, the message in that instance did not discuss any details of the loan arrangement, and in the context, it is possible that the word "lending" was used loosely. In any event, that message only pertained to one out of 11 transfers. Even if it is accepted that this sum was a loan, this did not indicate that the rest of the transfers were also loans. Second, the other evidence concerning the *details* of the loan arrangement are not contemporaneous and can only be found in the letters in May and November 2019. It is also worth noting that the 15 May 2019 letter did not contain any details as to the loan arrangement, which details are suddenly present in the 19 November 2019 letter. This did not inspire confidence that there was a loan arrangement from the outset.

62 Therefore, I do not deduct the alleged loan amount from the pool of matrimonial assets. Further, while gifts are not to be treated as matrimonial assets under s 112(10) WC, there is no evidence that the sums in the various accounts were derived from these sums transferred by the Wife's parents.

(2) Husband's assets and liabilities

(A) AIRLINE MILES

63 The Wife claimed that the "miles" that the Husband had earned in the frequent flyer program ("Airline Miles") were matrimonial assets that should be divided.[76] Based on a document disclosed by the Husband, he had 177,851

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75 Wife's 6th Affidavit dated 21 November 2019 ("WA6") at p 33.

76 WWS at para 111.

Airline Miles as of 19 June 2019.[77] The Husband argued that he did not have access to the exact number of miles as of the IJ date and that there was no evidence as to when they were accumulated. His position was that they should be disregarded as the Wife already had enjoyed the benefit of the miles redeemed at an earlier period.[78] Both parties appeared to proceed on the assumption that Airline Miles amounted to assets that could be divided.

64 Assuming for present purposes that Airline Miles can be divided as matrimonial assets under s 112 WC, I am of the view that it is not appropriate to do so in this case. Neither party has presented any satisfactory way to value the Airline Miles, given that these are, effectively, concessions given by the airline company to reward loyalty. The parties have not provided the contracts between the Husband and the airline company to show how these Airline Miles operate. While *in specie* division was also mooted by the parties, no evidence has been put before me about whether such Airline Miles can be transferred or assigned to give effect to an order for *in specie* division. As neither party has provided sufficient basis for valuation or division, and there is no indication that their value would be significant in the context of the entire pool of matrimonial assets, I decline to include the Airline Miles into the pool of matrimonial assets.

65 I note here that I leave open the question whether Airline Miles can be treated as matrimonial assets until it can be considered with full arguments from counsel. I observe that the power of the court in these proceedings is governed by s 112 WC. Under s 112(1) WC, this is the power to "order the division between the parties of any matrimonial asset" or the sale of such asset and

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77 Husband's Affidavit (Discovery Supplementary) dated 5 November 2019 at p 624.

78 NE 15 January 2020 at p 19, ln 17–18.

division of the proceeds of sale. As a preliminary point, it must be shown that what the parties intend for the court to divide is an *asset* within the meaning of s 112(1) WC. The only decision which appears to have dealt with the question of Airline Miles is *TLY v TLZ* [2016] SGFC 35, a decision of the Family Court, to which the Wife referred. At [14], the learned District Judge considered Airline Miles as matrimonial assets to be divided. I note though that no reasons were provided for why they were included.

66 The Court of Appeal has observed in *Chan Teck Hock David v Leong Mei Chuan* [2002] 1 SLR(R) 76 ("*Chan Teck Hock*") at [17] that:

> … [T]he term "matrimonial asset" has been given a very wide meaning by the legislature to include any asset of any nature, subject only to the specific exception [*ie,* in s 112(10)(*b*) WC, concerning gifts and inheritance]. …

While the term is broad, it still must refer to an "asset". It is not entirely clear to me that points in a loyalty programme, even though governed by contract, which secure concessions and discounts towards purchases when used, can be treated as assets. There is also the question of how the term "assets", as it is used in s 112(10) WC, relates to "property". A decision on this point may have implications for whether other things (to use a neutral term) like points in a loyalty programme or virtual objects like items in video games (which may have a real-world monetary value) may or may not fall within the scope of matrimonial assets. However, as this is not necessary in this case given my conclusion above, I do not come to a decision on this question.

(B) [X] LLP CURRENT ACCOUNT

67 As noted above, the Husband, as a partner of [X] LLP, maintained two accounts with [X] LLP, a Capital Account and a Current Account. The dispute in relation to the [X] LLP Current Account is whether the sum recorded in the

Current Account as the Husband's profit share is a matrimonial asset to be divided. The Wife's argument was that the balance of the Current Account represents the undisbursed amounts to which the Husband remains entitled, and is therefore a matrimonial asset that can be divided.[79] In particular, she sought a division of the balance of the Current Account as of 30 June 2017, valued at S$588,192.00.[80] The Husband disagreed and claimed that the Current Account was a merely notional account (in his words, "a mere statement") and that it did not represent any assets. When the Current Account was in credit, these amounts would have been paid to the Husband as earnings or drawings, and when the Current Account was in debit, that sum represents over-drawings by the Husband which would have to be repaid or set-off.[81] Hence, since the amounts have been disbursed, accounting for the Current Account in addition to the Husband's other assets would be double counting.[82]

68 To support his argument, the Husband tendered a letter from [X] LLP dated 9 July 2020 which sets out the working definition of "Current Account" as follows:[83]

> Current Account – a notional account which is personal to each Singapore Shareholder and maintained and administered by the Firm in respect of such Singapore Shareholder. It is a record of the net profits allocated to such Singapore Shareholder (*ie* his earnings) and drawings made by such Singapore Shareholder. The drawings are made in accordance with prevailing practice (which is currently paid as 1/12th each month in the following financial year). For the avoidance of doubt, the Singapore Shareholder is not entitled to draw out

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79 WWS at para 47.

80 WWS at para 46.

81 HWS at para 32.

82 HWS at para 33.

83 Exhibit H2; see correspondence from Husband dated 21 July 2020.

> any of the allocated net profits, except in accordance with the prevailing practice.

69 Insofar as the Wife was claiming the balance of the Current Account as of 30 June *2017*, I agree with the Husband that this claim must fail entirely. The balance of the Current Account as of that date was clearly all withdrawn by 23 February 2018, *ie*, the IJ date. Those sums would be accounted for in identifying the assets as of 23 February 2018, and there is no basis for further adding the balance as of 30 June 2017 into the pool of matrimonial assets. This would constitute double counting.

70 The more accurate submission on the evidence would be that the balance of the Current Account as of 30 June *2018* (or at least a part thereof), which has not yet been disbursed to the Husband as of the IJ date, should be included in the pool of matrimonial assets. I proceed to consider whether that balance should treated as matrimonial assets. I deal with this issue in two parts. First, I determine the significance of the balance of the Current Account. Second, in that light, I consider what part of that should be treated as a matrimonial asset to be divided.

71 In my view, the balance of the Current Account as of 30 June 2018 represents the Husband's entitlement to be paid that sum in the following year by way of drawings from the Current Account.

72 First, this can be seen from the various Current Account statements tendered by the Husband. I summarise these statements from Financial Year ("FY") 2013 to FY 2018. Based on these statements, the FYs are taken as 1 July

of one year to 30 June of the following year, hence, *eg*, FY 2018 is from 1 July 2017 to 30 June 2018.[84]

Years	Opening balance (S$)	Total drawings (S$)	Balance before FY profit (S$)	Profit share for FY (S$)	Balance after FY profit and adjustments (S$)
2012-2013 (FY 2013)	317,089	684,835	-367,746	754,232	370,028
2013-2014 (FY 2014)	370,028	772,383	-402,355	902,231	478,699
2014-2015 (FY 2015)	478,699	897,340	-418,641	1,045,119	607,961
2015-2016 (FY 2016)	607,961	1,068,709	-460,748	1,134,682	642,063
2016-2017 (FY 2017)	642,063	1,162,028	-519,965	1,117,837	588,192
2017-2018 (FY 2018)[85]	588,192	1,121,149	-532,957	1,279,262	711,895

73 I make a few observations about these statements. First, at the end of each FY, the balance is carried over as the opening balance of the next FY. Second, the drawings from the current account are taken out of that opening balance, but always *exceed* that opening balance, leading to a debit in the balance prior to the addition of the profit for that FY. Third, the profit share for that FY (after various adjustments, for example, for tax) is added to that balance, resulting in the closing balance for the FY, and the cycle continues again to the

84 HAAM1 at pp 346–351.

85 Husband's 5th Affidavit of Assets and Means dated 10 January 2020 ("HAAM5") at p 28.

following FY. In effect, what happens in each FY is that the profit share for that FY is "split" between making up for the deficit after the drawings in that FY and then being drawn down in the following FY, before being depleted and then running the Current Account into a deficit again.

74 Taking FY 2018 for illustration, the opening balance was S$588,192.00. The drawings from the Current Account for 1 July 2017 to 30 June 2018 totalled S$1,121,149.00, leaving a deficit of S$532,957.00. When the profit share for FY 2018 was added (and other adjustments made), that brought the Current Account into credit again, and the balance as of 30 June 2018 (including profit share and adjustments) was S$711,895.00. Based on the practice shown in the statements, that sum would then be drawn down from 1 July 2018 onwards. The total profit share for FY 2018 (after adjustments) was therefore split between (a) paying down the deficit of S$532,957.00; and (b) a balance of S$711,895.00 which is drawn down from 1 July 2018 onwards.

75 Furthermore, the profit share stated is the profit share for *that* FY, meaning that it is the share of profits generated from 1 July of the prior calendar year to 30 June of the present calendar year. In other words, it was a profit *already earned* in that FY which was then disbursed in the following year after making up for any deficit in the Current Account. This is in contrast to a "salary", strictly speaking – the Husband as a partner appears, on the evidence, to share in the partnership's profit, which can only be determined retrospectively *after* the profit has been earned.

76 Second, this is consistent with the letter from [X] LLP tendered by the Husband. The fact that it is a "notional" account does not mean that there is no real entitlement to the money. "Notional" merely means that there is no direct correspondence to any particular money in any given bank account. It is an

account kept independently of any particular asset, but which records a real entitlement to money. The letter also states that it records the allocation of net profits – these profits have already been earned in that FY and are then shared among the partners. The balance is then drawn down monthly in the following FY (*ie*, the prevailing practice), and the profits cannot be accessed in any way other than through this prevailing practice. In other words, the net profit is to be drawn down by the partner in the following FY. This is consistent with my description of the Current Account above.

77 It follows that the balance as of 30 June 2018 represents the Husband's entitlement to the profits of the partnership as of that date. In other words, this is money that he had *already earned* because it was generated in that FY. It is not a prospective prediction of future profits, or simply an expression of future income. I therefore do not accept the Husband's claim that these sums are simply "income" to be earned in the future.

78 I turn then to the second step in this analysis, which is to consider what part of the Current Account should be treated as matrimonial assets. I draw an analogy to the treatment of stock options by the Court of Appeal in *Chan Teck Hock* ([66] *supra*). In that case, the Court held that unvested stock options, *ie,* "a contract to grant an option upon fulfilment of a condition", were choses in action that could be treated as matrimonial assets under s 112(10) WC. In the present case, the entitlement to the profit share is even more clearly an *asset*, as it exists as a right that the Husband has to that share as a partner. In *Chan Teck Hock*, while one category of stock options had already vested as of the date of the decree *nisi* (*ie,* the IJ date), there were some that had not yet vested in the husband as of that date. Similarly, in the present case, the profit share for FY 2018 had not yet "vested" in the Husband as it was only included in the Current Account at the *end* of FY 2018, whereas the IJ date was in February 2018. The

question in both *Chan Teck Hock* and the present case is how to deal with the "unvested" entitlement. The Court of Appeal in *Chan Teck Hock* took the following approach (at [37]):

> We would hasten to add that even as between the second and third categories of stock options, there is a need to differentiate between them. Whereas, in respect of the second category stock options, they were already vested (*ie* already earned), the same is not so in respect of the third category stock options. The husband had to continue rendering services to Dell beyond the date of the decree *nisi* to acquire the options. So in respect of these third category stock options, they were given not just for services rendered prior to the decree *nisi* but also for services to be rendered post the decree. Otherwise there would have been no necessity to postdate the vesting of options. In this regard, we would adopt the "time rule" advocated in *Hug* ([19] *supra*) by the Court of Appeal of California. *The effect of that rule is to treat only that portion of the stock options as matrimonial assets as is obtained by multiplying the stock options in question by the fraction obtained between the period in months between the commencement of the husband's employment with Dell and the date of the decree nisi as the numerator and the period in months between his commencement of the employment with Dell and the date when the stock option was exercisable by him as the denominator.* ***Only that portion of the third category stock options as so computed would be reckoned as matrimonial assets***. [emphasis added in italics and bold italics]

79 In my view, a similar approach can be taken to the Husband's share in the FY 2018 profit. It would be inappropriate for the whole of that share to be treated as matrimonial assets as what the Husband earned for his work after February 2018 (*ie,* the month of the IJ date) would not be correctly identified as matrimonial assets based on the operative date of identification. At the same time, it is not possible to identify, on the evidence, how exactly the profit share was earned that year. Therefore, I choose to make a broad estimation in terms of months – assuming a constant earning of the profit share throughout the year, I identify only that part of the profit share that can be attributed to work done before February 2018 as matrimonial assets. Further, as there were various

adjustments made to the profit share before it was added to the Current Account, I use the sum of S$1,244,852.00, being the *net* profit share indicated in the relevant statement which already incorporates those adjustments, .[86]

80 I first determine what portion of the net FY 2018 profit share can be attributed (approximately) to work done between July 2017 and February 2018 (including February 2018 itself as the IJ date was towards the end of that month). The portion of the FY 2018 profit share that can be attributed to work done prior to the IJ date would be $\frac{7}{12}$, as seven months of work was done before the IJ date. Multiplying that by the FY 2018 profit share, S$1,244,852.00, gives S$726,163.67.

81 I then deduct from that sum the amount that has *already* been paid out in 2017–2018 up to the IJ date. This would leave the amount of the profit share that is a matrimonial asset and has not yet been paid out and accounted for in the other assets as of the IJ date. For this, I consider the drawings in FY 2018 in detail, as tabulated:[87]

S/N	Month	Drawing (S$)
1.	July 2017	76,678.00
2.	August 2017	76,678.00
3.	September 2017	76,678.00
4.	October 2017	106,846.00
5.	November 2017	102,846.00

86 HAAM5 at p 28.

87 HAAM5 at p 28.

S/N	Month	Drawing (S$)
6.	December 2017	97,346.00
7.	January 2018	97,346.00
8.	February 2018	97,346.00
9.	March 2018	97,346.00
10.	April 2018	97,346.00
11.	May 2018	97,346.00
12.	June 2018	97,346.00
	Total	1,121,149.00

The opening balance as of 1 July 2017 was S$588,192.00. Up to and including the January 2018 drawing, the Husband had withdrawn a total of S$634,418.00. That left a deficit of S$46,226.00 (being S$634,418.00 − S$588,192.00). This sum, together with all the subsequent drawings, would have been paid out of the Husband's share of the FY 2018 profit. Specifically, as of the IJ date, the sum of S$143,572.00 (being the sums of the remainders for January and February 2018, S$46,226.00 + S$97,346.00) would already have been paid out. The Husband's share of the FY 2018 profits earned up to February 2018 that remain to be paid out would therefore be S$582,591.67 (being S$726,163.67 − S$143,572.00).

82 I therefore add the sum of S$582,591.67 to the pool of matrimonial assets, being the Husband's share of the FY 2018 profits that have not yet been paid out and which can, on the approach I have taken, be approximately attributed to his work up to the IJ date.

(C) [X] SERVICES LLP CURRENT AND CAPITAL ACCOUNTS

83 The Wife had initially contended that the Husband had two other current and capital accounts with another partnership of which he was partner, [X] Services LLP. However, the Wife subsequently withdrew this contention and no longer pursued it before me.[88] I therefore do not need to say anything more about this. It also follows that the Wife's submission that an adverse inference should be drawn against the Husband for failing to disclose these accounts was no longer pursued.

(D) CITIGOLD ACCOUNT NO ENDING IN 1015

84 The Husband had opened a CitiGold Account No ending in 1015 ("CitiGold 1015") in March 2014. The dispute over whether this account should be included in the pool of matrimonial assets turned entirely on the operative date of identification. As I have held that the operative date is the IJ date, CitiGold 1015 is clearly a part of the pool of matrimonial assets. As this is a bank account, I also value it at the IJ date. The balance as of 23 February 2018 was S$27,974.95,[89] which I take to be the value of this account.

(E) JAGUAR CAR/VOLKSWAGEN CAR

85 The Husband had owned the Jaguar Car which he purchased on 28 September 2016. This car was later sold in January 2019 when the Husband purchased the Volkswagen Car. The Husband argued that neither of these were matrimonial assets as they were purchased after the purported date of separation. The Wife argued that the Jaguar Car was an asset as it was purchased

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88 See Exhibit W1 dated 15 January 2020; NE 15 July 2020 at p 13, ln 1–11.

89 HAAM1 at p 163.

before the IJ date and was owned by the Husband as of the IJ date, and the Volkswagen Car was an asset as well as it was purchased with funds from the pool of matrimonial assets, even if it had been purchased after the IJ date.

86 I agree with the Wife that the Jaguar Car should be included in the pool of matrimonial assets. It was purchased before the IJ date and was owned by the Husband as of the IJ date. It was agreed by the parties that the gross value of the Jaguar Car as of the IJ date was S$186,000.00, and the Wife identified S$108,173.32 as being due under the car loan which was used to finance the purchase of the Jaguar Car as of 21 January 2019. Deducting the outstanding loan amount from the gross value gives S$77,826.68 and I value the Jaguar Car accordingly as it is the valuation supported by the best evidence and the parties' agreement even if it is not the AM date (see [33] above).[90]

87 The Volkwagen Car, however, is not a matrimonial asset. It was purchased after the IJ date. Although it would likely have been funded by what *were* matrimonial assets, to include it in the pool would double count the value of the Jaguar Car that was converted into sale proceeds, as well as any cash used that would have been found in the bank accounts valued as of the IJ date. Therefore, I could not accept Wife's argument that it should be added because the Husband would have used matrimonial assets to purchase the car.

(F) VARIOUS SHARES

88 The Husband owned shares in three companies: Company [A], Company [B], and Company [C].

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90 JSRI at p 38; NE 15 July 2020 at p 41, ln 16–17.

89 The Husband had purchased 100,000 shares in Company [A] on 3 November 2016 for S$100,000.00.[91] The parties' dispute over the inclusion of these shares was based entirely on the operative date of identification. Since I have found that the IJ date is the operative date, it follows that these shares are matrimonial assets to be divided. As for the valuation of the shares, the Husband has tendered evidence to show that, as of May 2019, Company [A] was planning on selling its intellectual property, with no funds left over for the shareholders of the company.[92] Counsel for the Wife conceded before me that the shares in Company [A] were "actually worth nothing".[93] I am satisfied that the shares in Company [A] should be valued at S$0.00.

90 The Wife's argument, however, is that the sums used to purchase the 100,000 shares in Company [A] should be returned to the pool of matrimonial assets as it constituted an expenditure under *TNL* ([13(c)] *supra*). The Wife characterised this as a "gamble" that the Husband took on his own accord without consulting with the Wife.[94] I do not accept that argument. As counsel for the Wife candidly accepted, if the investment had turned a profit, the Wife would naturally have sought a share of the profits.[95] This was not simply an expenditure, but an investment – the Husband expected a return on his investment, and any increase in the value of the shares would be shared between the Husband and the Wife. Taking reference from *ATT* ([50] *supra*) at [11]–[12], I choose not to add back the sum expended for these shares into the pool

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91 JSRI at p 40.

92 HAAM2 at p 124.

93 NE 15 July 2020 at p 48, ln 26–27.

94 NE 15 July 2020 at p 48, ln 8–9.

95 NE 15 July 2020 at p 48, ln 11–14.

of matrimonial assets. I clarify that this decision is fact-specific, and, in an appropriate case, the court may choose to add back in the sums spent on a purported investment when the divorce proceedings are imminent.

91 The Husband had purchased 1,777 shares in Company [B] on 22 December 2016.[96] Similar to the shares in Company [A], since I have found that the operative date for inclusion is the IJ date, it follows that these shares are matrimonial assets. The parties have agreed on a valuation of S$100,000.00 for these shares, being the sum invested into that company.[97] I therefore value the 1,777 shares in Company [B] at S$100,000.00.

92 As for the shares in Company [C], these were purchased in September 2018, *after* the IJ date.[98] Therefore, I do not treat these as matrimonial assets.

(G) SCB BONUSSAVER ACCOUNT

93 The Husband had a SCB BonusSaver Account No ending in 2554 ("SCB 2554"). The account was opened in November 2017.[99] Given that this was before the IJ date, I find that this account is a matrimonial asset.

94 As this is a bank account, the operative date of valuation is also the IJ date. Here, however, there is the added complication that some sums in SCB 2554 were, purportedly, used to pay for the Wife's maintenance. The parties had agreed (which agreement was recorded as a consent order in the IJ) that the Husband would pay to the Wife a total of S$1,050,000.00 as maintenance (being

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96 HAAM1 at p 276.

97 HAAM2 at para 31.

98 JSRI at p 41.

99 HAAM1 at p 227.

a lump sum of S$17,500.00 per month for five years).[100] In addition, the Husband was to pay lump sum maintenance for the Child. The total amounts were to be paid to the Wife in instalments – relevant for our purposes is the sum of S$330,000.00 to be paid by 26 February 2018, just a few days after the IJ date. Further, the Husband alleged that he had to take out a loan from SCB to finance this first instalment of the lump sum maintenance.

95 The parties have agreed to take the sum of S$330,000.00 which was paid out to the Wife as the starting point for the value of SCB 2554. They have then deducted the loan amount of S$244,801.00,[101] leaving S$85,199.00 which the Husband admits came from his income.[102] Although the Husband had initially raised the argument that the Wife would already have received the benefit of the sum by way of maintenance, before me, counsel for the Husband agreed with the Wife's counsel that the only issue was the operative date of identification.[103] If the court was with the Wife that the operative date was the IJ date, then the sum of S$85,199.00 should be included in the pool of assets. Given the parties' agreement on this approach, and given my finding that the operative date was the IJ date, it follows that SCB 2554 valued at S$85,199.00 is a matrimonial asset to be divided.

(H) ARTWORKS

96 Apart from the artwork in the Wife's possession, the Husband also had some pieces of artwork in his possession. Again, a significant issue here was the

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100 IJ at para 3.a.

101 HAAM1 at p 235.

102 HWS at para 61.

103 NE 15 July 2020 at p 50, ln 3–11.

operative date of identification – the Husband argued that of the artwork in his possession, he only had S$840.00 worth of that artwork as of the purported date of separation. As I have found that the operative date of identification is the IJ date, however, I cannot accept that submission. Further, there is no evidence that any of the artwork was purchased after the IJ date. As such, I accept the Wife's contention that the Husband had S$77,763.00 worth of artwork in his possession that constitute matrimonial assets, as being the valuation of these assets best supported by the evidence.[104]

(I) SCB PERSONAL LOAN

97 As I have noted above at [39], the Husband contended that a loan he had taken from SCB for S$95,000.00 should be deducted from the pool of matrimonial assets as that money had been used in relation to the [X] LLP Capital Account. In effect, it was a transfer into the Capital Account and if the Wife claimed the value of that account, she also had to recognise the loan.[105] The Wife's contention was, in effect, that the Husband had a variety of ways to finance the payment into the Capital Account, and as it was not appropriate for him to have incurred the loan, the Wife should not have to share in that burden.[106]

98 Given that the loan from SCB was used to top up the Capital Account, I find that the outstanding loan amount should be deducted from the pool of matrimonial assets. As counsel for the Husband noted, the loan simply meant that there was a deferred payment of the sum into the Capital Account. If the whole of the value of the Capital Account is to be added to the pool, it would

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104 WWS at para 102.

105 NE 15 July 2020 at p 109.

106 NE 15 July 2020 at p 111, ln 26–29.

only be just for the loan which was used to finance part of the Capital Account to be deducted from the pool. The Husband identified the outstanding loan amount as of the IJ date as S$69,896.25.[107] I therefore deduct this outstanding sum from the pool of matrimonial assets.

Alleged dissipations and adverse inferences

99 I turn to the various arguments concerning dissipation and adverse inferences in the light of the clarifications made by the Court of Appeal in *UZN* ([13] *supra*). While adverse inferences can be considered more generally and not just under the heading of identification and valuation of matrimonial assets, I deal with these contentions together here for convenience.

(1) Legal costs

100 I deal first with the issue of legal costs for the divorce up to the IJ date. As the Court of Appeal summarised in *UZN* at [45], the courts have generally taken the approach that such costs "should be settled by the parties out of their own share of the matrimonial assets after division, and not taken out of the matrimonial pool". In this case, the Husband has contended that he should not be made to share in the Wife's legal costs. I agree, but also note that the same should then be applied to the Husband. The basis for this seems to be the *TNL dicta*.

101 I estimate that the Wife has paid out the following in legal costs, based on the summary of transactions provided by AAG:

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107 JSRI at p 47.

S/N	Date	Amount (S$)
1.	22 January 2016	16,050.00
2.	19 September 2016	20,154.76
3.	19 September 2016	1,146.67
4.	23 November 2016	1,648.66
5.	7 February 2017	4,320.35
6.	7 February 2017	13,000.00
7.	9 February 2017	1,327.66
8.	3 July 2017	4,000.00
9.	11 July 2017	20,000.00
10.	18 July 2017	5,369.27
11.	1 November 2017	31,129.62
12.	1 November 2017	7,841.86
	Total	125,988.85

102 I do the same for the Husband:

S/N	Date	Amount (S$)
1.	28 March 2016	10,000.00
2.	22 August 2016	5,863.48
3.	22 August 2016	10,000.00
4.	20 April 2017	6,300.02
5.	11 May 2017	6,300.02

S/N	Date	Amount (S$)
6.	29 July 2017	7,531.83
7.	29 July 2017	10,000.00
8.	29 July 2017	10,000.00
9.	22 February 2018	10,000.00
	Total	75,995.35

103 I add these sums of S$125,988.85 (for the Wife) and S$75,995.35 (for the Husband) back into the pool of matrimonial assets using a separate line item from the specific assets, since these appear to have been paid from different accounts at various times.

(2) Sums allegedly dissipated by the Wife

104 The Husband alleged that the Wife had dissipated a total of S$234,995.92,[108] which she withdrew from the Husband's earnings. These withdrawals were allegedly done in the following manner:

(a) a number of cheque withdrawals drawn on the parties' joint DBS account (*ie,* DBS 2407) after 2012;[109]

(b) a number of large cash withdrawals between 2012 and 2018 of S$2,000.00 or more per withdrawal from her own bank accounts.[110]

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108 NE 15 July 2020 at p 101, ln 6.

109 HWS at para 100.

110 HWS at para 101.

105 There are a few clarifications that must first be made before I address the substance of the issue. First, as the Court of Appeal stated in *UZN* ([13] *supra*), the court is not concerned with assessing the reasonableness or otherwise of expenses throughout the marriage. It is generally only when divorce proceedings are imminent that "[r]estrictions on the parties' disposal of large quantities of matrimonial assets … come to the fore": *UZN* at [70]. In this case, the Husband's complaints about the Wife's expenses from 2012 onwards would mostly fall before the period when divorce proceedings were imminent. However, here, there was the added factor that the parties had separated in 2012, and even if divorce proceedings were not imminent, the facts may justify the inference that there was wrongful dissipation (as opposed to dissipation that could be returned pursuant to the *TNL dicta*). Further, there were allusions to non-disclosure as well as dissipation in the Husband's submissions. Since the submissions were not made with the benefit of the Court of Appeal's guidance in *UZN*, I consider it fair to consider the contentions from the perspectives of all the categories articulated by the Court of Appeal. Hence, in the following, I consider *wrongful* dissipation, non-disclosure for the majority of the alleged withdrawals, and also the *TNL dicta*.

106 I begin with wrongful dissipation. Although divorce proceedings were not imminent between 2012 and 2015, as negotiations for the divorce began only in 2016 and the writ was filed on 13 January 2017, this was also not a case where the alleged dissipation occurred when the marriage was fully functioning. The parties had already separated in 2012 after the Husband's adultery, and they were living a large part of their lives separately. While it may be hard to believe that sums of money withdrawn by one party early in the marriage was for the purpose of concealment or putting the assets out of the reach of the other party

(*UZN* at [67]), this is less so in the present case given the state of the relationship.

107 However, despite these circumstances, I am not convinced that there was wrongful dissipation of the sum of S$234,995.92. First, in relation to the cheques, the Husband's claim was that the Wife had sole possession of the cheque book and it was the Wife withdrawing the sums in question. I do not find that this has been sufficiently established on the evidence. The Wife has shown an example of a cheque signed by the *Husband* as well.[111] Second, also in relation to the cheques, I note that this was a joint account – the Husband would have had access to these statements, but he did not follow up with the Wife at the time. This suggests that either the Husband would also have known about the purpose of the cheque withdrawals, or that he accepted these payments without confronting the Wife, or that these claims were afterthoughts. Third, the Husband's general arguments on these withdrawals were essentially that the Wife had failed to explain why these withdrawals were made. However, the Wife had given explanations for most of them – the issue was only that the Husband refused to accept these explanations in the absence of documentary evidence. The problem with this was that many of the explanations given by the Wife were that the monies were used for general expenses. It would be unreasonable to expect the Wife to have kept receipts and documentary records of such expenditure over a six-year period from 2012 to 2018. Finally, I do not see any basis to suggest that the Wife was concealing these assets or putting them beyond the Husband's reach. There was little reason for the Wife to have needed money from her parents (see [58] above) or incurred debts (see [54] above) if she had already siphoned significant sums of money out of these

111 Wife's 8th Affidavit dated 20 January 2020 ("WA8") at p 49.

accounts. Unless that was an elaborate scheme to hide the fact that she was doing so (of which there is again no evidence), this suggests that she was spending rather than siphoning money. I do not find that there was any wrongful dissipation in the sense of transfers to conceal or put assets beyond the Husband's reach. I also am unable to see how the evidence shows that she intended to deplete the pool of matrimonial assets.

108 I turn then to the issue of adverse inferences. In this regard, there is a link between wrongful dissipation and adverse inferences, where the assets allegedly hidden and not disclosed are also allegedly the proceeds of wrongful dissipation. In order to draw an adverse inference, a necessary condition is that there is a "substratum of evidence that establishes a *prima facie* case against the person against whom the inference is to be drawn": *UZN* at [18], citing *BPC v BPB and another appeal* [2019] 1 SLR 608 ("*BPC*") at [60]. Specifically, there must be a *prima facie* case of *concealment*: *AZZ v BAA* [2016] SGHC 44 at [107]. Where the assets purportedly concealed are the proceeds of dissipation by withdrawals from other assets, a logical first step must be that there must have been such dissipation. Where there is no evidence of that dissipation (as opposed to mere expenditure), it becomes harder to show that there was non-disclosure of those assets, as there is a question even as to whether those assets exist. This is a different situation from where there are clearly assets that *should* be present, but are not, *eg*, where the income of one party is substantially higher than the assets present at the time of the AM hearing. In this case, given that there is no evidence of such dissipation, I am not able to find that there is a *prima facie* case that the Wife has concealed such assets.

109 I turn finally to the *TNL dicta*. In this case, there were withdrawals from 2015 onwards, which would be when divorce proceedings were imminent. In order for the *TNL dicta* to apply, however, it must be shown that the sums

expended were substantial. Considering the sums highlighted by the Husband, and taking only those sums expended after the second half of 2015 (as a rough cut-off date for when the divorce proceedings could be considered to be imminent, given that negotiations surrounding the divorce occurred in 2016) but before the IJ date (as the balance of the accounts as of the IJ date would already account for these sums), the withdrawal sums range from S$2,400.00 (on 15 December 2017 from DBS 7629) to S$21,000.00 (on 19 February 2018 from DBS 6978). The largest sum of S$21,000.00 appears, however, to be a composite sum in that it was used for the repayment of credit card loans, which would have been expenses incurred in discrete parts – it would be more appropriate to look at the individual expenses charged to the credit card rather than the use of cash to repay part of the debt. In view of the parties' lifestyle, I do not think that any of these sums can be considered substantial for the purposes of the *TNL dicta*. Further, while they may be substantial if *taken together*, there is no indication that these withdrawals were done pursuant to any overarching plan and that they can be treated as being one withdrawal. In the absence of such evidence, they should be taken as separate withdrawals, each of which are not substantial enough for the purposes of the *TNL dicta*.

110 Therefore, for these reasons, I do not accept the Husband's arguments and choose not to add back in any of the S$234,995.92 to the pool of matrimonial assets, whether on the basis of wrongful dissipation, adverse inferences drawn for non-disclosure, or the *TNL dicta*.

(3) Sums spent on the Husband's extra-marital relationships

111 I turn to the Wife's argument that sums allegedly expended by the Husband on his extra-marital relationships should be returned to the pool of matrimonial assets. In advancing this argument, the Wife alluded to wrongful

dissipation, the *TNL dicta*, and adverse inferences based on non-disclosure. The substance of the Wife's argument, however, is that these were monies *expended* by the Husband when they should not have been, and that this reduced the pool of matrimonial assets available for division. There was no argument that there were, in reality, assets that the Husband had failed to disclose or which he had put out of the Wife's reach. I therefore focus on wrongful dissipation and the *TNL dicta*.

112 I begin with the facts. It is not disputed that the Husband had a number of extra-marital relationships. It cannot also be seriously disputed that the Husband had spent money on those relationships. As the Husband admitted in his affidavit, for example, he shared in expenses for meals and drinks, as well as travel expenses, with one of his partners.[112] However, the extent of that expenditure is not entirely clear. The Wife pointed to at least S$88,961.25 spent on hotel and air travel between 2014 and 2018 (part of which, she claimed, would have been used for the Husband's relationships) and also argued that the absence of any other quantified expenses was due to the Husband's failure to disclose all those expenses. At the hearing before me, counsel for the Wife clarified that the claim was for half of that sum to be returned to the pool of matrimonial assets.[113]

113 With respect to wrongful dissipation, the Court of Appeal in *UZN* ([13] *supra*) at [68] identified the principle that the wrongful dissipation had to be "carried out with the intention of depleting the matrimonial pool". The mere fact that the Husband had used these assets during the subsistence of the

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112 WWS at para 69; HAAM1 at para 50.

113 NE 15 July 2020 at p 56, ln 18–19.

marriage for his extra-marital relationships does not, in and of itself, suggest any intention to deplete the matrimonial pool. Based on the evidence, I am unable to conclude that the Husband had intended to deplete the matrimonial assets by this expenditure.

114 With respect to the *TNL dicta*, the issue that the Wife faced was that the sums expended were not quantified. The Wife has not shown that the sums expended were "substantial". It is not every expense, even if made without consent, that would qualify to be returned to the pool of matrimonial assets. The burden lies with the Wife to point to any particular expenditure or transaction which she claims ought to be returned to the pool of matrimonial assets. It is also not clear that the Husband had spent anything more than he would otherwise have spent on himself, since he apparently *shared* in the expenses with his partners rather than just paid for his partners' expenses as well. In my view, the *TNL dicta* cannot be relied upon in this case to return unquantified expenditure over a number of years into the pool of matrimonial assets.

115 I acknowledge that it *seems* unfair, on the face of things, that the Husband should not be made to bear the expenses that he had made for his romantic partners on his own. However, on closer inspection, this is not so. The court is not ultimately concerned with examining each expenditure made by the parties and determining if the expense is justified. Neither is it ultimately concerned with punishing one or the other party for their actions during the marriage. What the court is concerned with is ensuring that its division of the matrimonial assets is just and equitable, which requires that it identifies the matrimonial assets with as much accuracy as possible as of the operative date of identification. Assets that have been hidden can be dealt with by way of adverse inferences and wrongful dissipation. Assets that should be a part of the pool of matrimonial assets but were taken out when divorce proceedings were

imminent can also be added back in, but the court will only do so for substantial sums that can be identified. As these sums would have been *spent*, returning them to the pool has a negative impact on the party against whom that finding is made. Even in such an emotive context, it is important that *both* parties are treated fairly. Further, allowing such claims for small sums spent on numerous occasions would risk turning AM proceedings into "an acrimonious excavation of the past": *UZN* at [73]. There is also no indication that these sums would have a significant impact on the final division of matrimonial assets. However, in the appropriate case, money spent on extra-marital relationships may be returned to the pool of matrimonial assets. This is, in the end, an extremely fact-sensitive question and requires close attention to the extent and nature of the purported dissipation.

116 For these reasons, I do not return any of the sums allegedly spent by the Husband on his extra-marital relationships to the pool of matrimonial assets.

(4) Adverse inference against the Husband

117 The Wife's second argument concerns material non-disclosure of savings that were missing from the Husband's disclosure of assets ("the Missing Savings"). She claimed that the Husband had hidden these assets and failed to provide full and frank disclosure in these proceedings. I first consider whether the conditions for drawing an adverse inference have been satisfied in this case. If so, I then consider how the adverse inference should be given effect to in this case.

118 In order to draw an adverse inference against the Husband, there must be a substratum of evidence that establishes a *prima facie* case of concealment against the Husband, and that person must have had particular access to the

information he is said to be hiding: *BPC* ([108] *supra*) at [60]. The central issue here is whether such a *prima facie* case can be made out.

119 The Wife's argument can be summarised as follows. The Husband had responded to an interrogatory asking him to "confirm that [he] has saved the balance amounts of his income for the period of 1 Jan 2012 to 23 Feb 2018 after deducting tax and his monthly expenses". The Husband replied that he had saved that balance amount. On that basis, the Wife claimed that the Husband had S$1,449,621.68 in Missing Savings. First, she identified the total income generated as S$4,954,101.00 between 1 July 2012 and 30 June 2017 as set out in [X] LLP's letter dated 8 October 2018.[114] Second, she identified the total tax liabilities for Years of Assessment 2013 to 2018 as S$913,679.62.[115] Third, based on the Husband's own claim, his monthly expenses were S$43,180.00, including the Child's expenses of S$5,875.00. This gave a total of S$2,590,800.00 between 1 January 2012 and 23 February 2018.[116] Fourth, deducting the total tax liabilities and the monthly expenses from the total income, the Wife arrived at the sum of S$1,449,621.68. She argued that this sum was not recorded in any of the Husband's disclosed bank accounts.[117] For convenience, I refer to this as the "Primary Calculation".

120 In addition, the Wife had also provided calculations based on a different methodology to support the same submission, albeit with a different quantum of Missing Savings alleged (the "Alternative Calculation"). Instead of relying

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114 WWS at para 89.1.

115 WWS at para 89.2.

116 WWS at para 89.3.

117 WWS at para 90.

on the Husband's declaration of his expenses, this calculation focused on the expenses that were evidenced by various documents provided during the discovery process. Here, the calculated expenses from January 2012 to February 2018 were found to be S$3,195,393.02.[118] Deducting this sum and the tax liability from the total income in that period, the Wife arrived at the sum of S$845,028.36 as the Missing Savings.

121 The Husband argued the following in response. First, while the methodology proposed by the Wife was sound as "a matter of logic", it sets a dangerous precedent as it suggests that litigants would have to account for every expenditure over the course of the marriage.[119] Second, the Wife's calculations were incorrect as it omitted certain purchases. On a related point, the calculations also omitted to include big-ticket purchases. Once these are accounted for, there are no longer any "missing" savings and, hence, no *prima facie* case has been made out against the Husband that would justify an adverse inference for non-disclosure.

122 As between the Wife's Primary and Alternative Calculation, I find it difficult to accept them as "alternative" submissions as counsel for the Wife suggested.[120] Rather, it appears to me that the Alternative Calculation were simply more *precise* and more *accurate* in that they were based on actual expenditure rather than the broad estimate of monthly expenses found in the Husband's affidavit evidence. Such estimates, even if grounded on evidence and a history of expenditure, are not intended to provide a basis for calculating the

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118 See Exhibit W3.

119 NE 15 July 2020 at p 58, ln 2–8.

120 NE 15 July 2020 at p 56, ln 25–26.

actual expenses incurred during any given period. Further, such estimates may not account for one-off, occasional or irregular purchases. Neither would the estimate appear to account for the *Wife's* expenses which were paid out of the same accounts. Hence, where there is more specific and precise evidence of expenditure, that should be followed. Further, there is no indication that the expenses included in the Alternative Calculation led to concealed assets as compared to the Primary Calculation – in other words, the Wife appeared to accept that the difference between the Primary and Alternative Calculation was due to real expenditure rather than concealment. Since the Wife herself has put forward the Alternative Calculation as being justified by the evidence, I assess the Wife's contention against the Husband on the basis of the Alternative Calculation.

123 Having considered the parties' submissions, I do not find that the Wife has shown that there is a substratum of evidence that gives rise to a *prima facie* case of concealment against the Husband. In principle, the approach taken by the Wife appears to be logically sound. As the Court of Appeal observed in *UZN* ([13] *supra*) at [24], where the parties approached the issue in a similar manner:

> In general, using a broad-brush approach, a party's income over the years of marriage is usually reflected in the value of her assets in the pool (whether immovable property, shares or cash balances in bank accounts), after living expenses are taken into account. Most cases thus do not take on the approach that the present case did – totalling the income in question and examining if the use of the income has been accounted for. ***The present case concerns a spouse who earned a substantial income during the marriage over a good number of years and yet has negligible assets at the time of divorce.*** *In such a situation, there ought to be some explanation for this discrepancy. Was it because the family had a disproportionately high standard of living and the spouse was not a prudent saver or investor? Was it due to a major financial crisis that caused great losses? Was the spouse in a habit of giving massive donations to various causes?* [emphasis added in italics and bold italics]

124 The Court of Appeal then made an observation that addresses the concern raised by counsel for the Husband that such an approach would needlessly complicate the approach of the courts to the division of matrimonial assets (*UZN* at [25]):

> We would caution that such a detailed analysis of the parties' earnings and expenditure for the purposes of determining the extent of the matrimonial assets should not be taken as a matter of course. This would not be in keeping with the principles we have reiterated at [20]–[21] above. *Instead, such an approach may be used in cases where there is already good reason to suspect, upon a preliminary overview, that there is a mismatch between a party's assets and their means.* [emphasis added]

The present case is a similar one, where the disclosed cash balance in the Husband's own account and the joint accounts was minimal compared to the Husband's income of over S$4m from 2012 to 2018. This gives a good reason to inquire further into the parties' expenses. However, in this case, the evidence does not support the Wife's contention that the discrepancy should be attributed to the existence of assets which have not been disclosed.

125 I note that the Alternative Calculation does not appear to be complete. There were a number of expenses that were not accounted for in the Alternative Calculation. For example, counsel for the Husband contended that the Husband had paid S$131,908.44 for the Jaguar Car using a credit card. However, that sum was not reflected in the Alternative Calculation, as counsel for the Wife accepted.[121] The Husband tabulated such purchases which were not included in the Wife's Alternative Calculation in the period from 2012 to 2018 as follows:[122]

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121 NE 15 July 2020 at p 66, ln 3–5.

122 See H4.

S/N	Item	Time of Payment	Mode	Amount (S$)
1.	Child's school fees	2012 to 2018	Transfer from CitiGold 1015	98,695.00
2.	Payment of HSBC loan	26 June 2014	Transfer from CitiGold 1015	88,756.62
3.	Citibank loan	June 2014 to June 2015	Transfer from CitiGold 1015	28,500.00
4.	Art purchase	18 October 2014	Amex Credit Card	11,577.89
5.	Legal fees	28 March 2016	Transfer from CitiGold 1015	10,000.00
6.	Art purchase	28 May 2016	Citibank credit card	15,301.09
7.	Legal fees	22 August 2016	Transfer from Citigold 1015	15,863.48
8.	Jaguar Car	12 September 2016	Amex Credit Card	20,000.00
9.	Jaguar Car	20 September 2016	Amex Credit Card	111,908.44
10.	Company [A] shares	17 November 2016	Transfer from Citigold 1015	100,000.00
11.	[X] LLP Capital Account contribution	23 November 2016	Transfer from Citigold 1015	32,000.00
12.	Company [B] shares	5 December 2016	Transfer from Citigold 1015	100,000.00
			Total	632,602.52

In submissions, the Wife did not contest the accuracy of these figures. Most of these payments were not captured in the Wife's calculations as she had focused on the credit card payments and had not accounted for transfers out of the Husband's bank accounts, specifically CitiGold 1015. I observe that I have considered legal fees in the above analysis – this is because the issue here is not the quantification of what should be added into the pool to give effect to the adverse inference (which was the issue in *UZN* that the observations at [45] were directed towards), but whether there is a *prima facie* case of concealment in the first place. Money used for legal fees would not amount to concealed assets, as they would have been transferred to pay the lawyers. It is therefore relevant as evidence of what monies the Husband should be expected to have in his accounts for division.

126 In addition to the payments made by the Husband that were not reflected in the Alternative Calculation, the *Wife's* own withdrawals were not included in the calculations. The Husband had deposited his income into DBS 2705 and DBS 2407, which were joint accounts operated by both the Husband and the Wife, until October 2015.[123] Even though the Husband's income was later deposited in other accounts, there is nothing to suggest that the Wife had any significant income entering DBS 2705 and DBS 2407 during the material period. The amounts withdrawn from the DBS 2705 and DBS 2407 joint accounts would naturally result in a reduction in the overall balance of cash. It is therefore necessary to also account for these withdrawals and transfers in this analysis. The following withdrawals were identified:[124]

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123 AAG Report at paras 3.3.2, 3.3.5 and 3.3.9.

124 H4.

S/N	Description	Time	Amount (S$)
1.	Cheque withdrawals from DBS 2407	2013–2014	35,095.92
2.	Cash transfers from DBS 2705 to Wife's DBS 9376	November 2013–December 2015	112,000.00
3.	Cash transfers from DBS 2407 to Wife's DBS 9376	November 2013–December 2015	16,000.00
4.	Payments for Wife's HSBC Card 3723	2015	2,975.35
		Total	166,071.27

It bears noting here that these sums extracted from the bank statements by AAG were only for transactions with a value of S$1,000.00 and above, or S$500.00 if appearing twice within three months.[125]

127 Taking these withdrawals together, it appears that the Alternative Calculation under-calculated the expenses of the parties in the period from 2012 to 2018 by S$798,673.79 (being S$632,602.52 + S$166,071.27). Including this sum into the Wife's calculations, the difference between the income and expenditure is only S$46,354.57 (being S$845,028.36 − S$798,673.79). Given that the Wife's approach is just an approximation of income and expenditure over six years, I do not find that the sum of around S$46,000.00 would warrant a finding that there is a *prima facie* case of concealment based on this analysis. Indeed, there would have been multiple transactions from Citibank 1015, for

125 AAG Report at para 2.1.4.

example, that would not have met the threshold for inclusion in the AAG Report, but which were entirely left out of the Alternative Calculation. As such, I find that the requirements for drawing an adverse inference have not been met in this case.

Conclusion on the pool of matrimonial assets

128 I summarise the pool of matrimonial assets in the following table:

S/No	Description	Value (S$)
Joint Assets		
1.	SCB Account No ending in 7331	93.97
2.	SCB Account No ending in 2998	134.15
3.	DBS 2407	N/A
4.	DBS 2705	N/A
5.	HSBC Account No ending in 7496	N/A
	Sub-total (A)	228.12
Wife's Assets		
6.	Bukit Timah Property	1,750,511.87
7.	Artwork at Bukit Timah Property	79,613.00
8.	DBS 9376	61.35
9.	DBS 6978	714.67
10.	DBS 7629	20.19
11.	POSB Account No ending in 2496s	0.00
12.	FPI policy	18,984.60

S/No	Description	Value (S$)
13.	Sums injected into Company [Y]	22,000.00
14.	Liability: HSBC Card 3723	(27,894.16)
15.	Liability: SCB Account 4318	(34,365.08)
16.	Legal costs returned to the pool	125,988.85
	Sub-total (B)	1,935,635.29
Husband's Assets		
17.	Audi Car	7,797.28
18.	[X] LLP Capital Account	495,000.00
19.	[X] LLP Current Account	582,591.67
20.	CitiGold 1015	27,974.95
21.	Jaguar Car	77,826.68
22.	Company [A] shares	0.00
23.	Company [B] shares	100,000.00
24.	SCB 2554	85,199.00
25.	Artwork in Husband's possession	77,763.00
26.	Liability: SCB personal loan	(69,896.25)
27.	Legal costs returned to the pool	75,995.35
	Sub-total (C)	1,460,251.68
	Total	3,396,115.09

Division of the pool of matrimonial assets

129 Having identified and valued the pool of matrimonial assets, I turn to the division of these assets. The parties agreed that the structured approach described in *ANJ v ANK* [2015] 3 SLR 1043 ("*ANJ*") would apply. Under this approach, the court first arrives at "a ratio that represents each party's direct contributions relative to that of the other party, having regard to the amount of financial contribution each party has made towards the acquisition or improvement of the matrimonial assets": *ANJ* at [22]. Next, the court considers the parties' indirect contributions and ascribes a second ratio which represents the contributions of each party to the family's well-being relative to the other. The court then derives an average percentage contribution for each party, at which point further adjustments may be made to account for other considerations: see *ANJ* at [27].

Direct contributions

(1) Parties' incomes

130 Given the state of the evidence and the fact that both parties were earning money at some point during the marriage, their respective incomes take on a very important role in the determination of their direct contributions. I first set out my findings on their respective incomes during the course of the marriage.

131 I begin with the parties' income while they were in Japan from 2002 to 2004, shortly after they were married. I make the following points:

(a) The Husband commenced work in Japan in February 2002. His contract stated that his base salary plus bonus was to be A$101,852.00 per annum, before tax. In the absence of any other evidence, I take the Husband's net income to be the net compensation stated in the

"International Assignment Compensation Notice", *ie*, A$9,737.33 per month.[126] However, as the Wife does not have evidence of how much tax she paid, I find that a fair comparison would require me to use the Husband's monthly salary without deducting tax, *ie*, A$12,688.41, which I accept is equal to S$12,037.91 per month in the absence of other evidence.[127]

(b) Contrary to the Husband's claim, I do not see any evidence that he was given an A$10,000.00 monthly rental allowance during this period. As the contract states, housing was dealt with by way of a "housing differential" which was made out of any housing allowance and a deduction reflecting the housing costs in their home country of Australia.[128] In the "International Assignment Compensation Notice", the housing differential was negative, meaning that the housing costs in the home country were taken to be higher than the housing costs in Japan. No allowance was stated to be provided.

(c) Based on her contract, the Wife commenced work in September 2002 in Japan.[129] It is therefore inappropriate to take her whole year's salary. Parties have adopted the figure of S$11,760.00[130] as the equivalent of her salary which was paid in Japanese Yen.

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126 Husband's 4th Affidavit of Assets and Means dated 4 December 2019 ("HAAM4") at p 168.

127 HAAM4 at para 15.

128 HAAM4 at p 164.

129 WAAM1 at p 148

130 WAAM1 at para 33; HWS at para 121.

The same issues with the Husband's calculation of his income arise in relation to the years 2003 and 2004. As for the Wife's income, the Husband accepted that there was an increase in her salary after 2002.

132 The parties' respective incomes after 2004, when they moved to Singapore, do not appear to be in dispute. While part of the Wife's income in 2005, when she began working at a bank, was not disclosed at first, counsel for the Wife managed to secure documents to show the Wife's income that year after the AM hearing, for which I granted leave to be put before the court. I adopt that figure but pro-rate it according to the number of months left after April 2005. I do not include the housing allowance, as it only pertained to her employment with the law firm,[131] which ended in April 2005.[132] However, based on the new information, I added the sum of S$58,800.00 (being S$4,200.00 × 14 months from March 2004 to April 2005) to the income for March 2004 to April 2005 when the Wife was working for the law firm. Although the rental allowance could only be used for the rental, it should be treated as income as it freed up both parties to use that equivalent sum for other things. Finally, for these purposes, for the sake of consistency, I use the parties' pre-tax income for this assessment.

133 I therefore summarise the figures as follows:[133]

S/N	Period	Husband's income (S$)	Wife's income (S$)
1.	2002	120,379.10	35,280.00

131 See Correspondence dated 29 July 2020 at p 2.

132 WAAM1 at para 48.

133 See HWS at para 121.

S/N	Period	Husband's income (S$)	Wife's income (S$)
2.	2003	144,454.92	187,053.00
3.	January–February 2004	24,075.82	31,175.50
4.	March 2004–April 2005	91,078.37	177,303.00
5.	Remainder of 2005	91,078.37	101,553.65
6.	2006	114,627.00	315,000.00
7.	2007	94,019.00	315,000.00
8.	2008	354,911.00	N/A
9.	2009	448,690.00	N/A
10.	2010	569,018.00	N/A
11.	2011	639,656.00	N/A
12.	2012	557,327.00	N/A
13.	2013	670,388.00	N/A
14.	2014	792,690.00	N/A
15.	2015	897,921.00	N/A
16.	2016	1,294,287.00	N/A
17.	2017	942,139.00	N/A
18.	2018	1,054,833.00	N/A

(2) The Bukit Timah Property

134 The Bukit Timah Property was purchased by the parties in 2007 for around S$1,820,000.00.[134] They had taken out a loan of S$1.53m from HSBC, which was re-financed in 2014. Together with any renovations to the property, these are the contributions to the value of the Bukit Timah Property:[135]

S/N	Description	Amount (S$)
1.	Joint account	141,347.00
2.	Joint line of credit	30,000.00
3.	Joint provident policy	29,000.00
4.	Australian bank account ("ING Account")	190,000.00
5.	Wife's bonus	150,000.00
6.	Loan repayments (as of IJ date)	553,500.00

135 While the Husband included a sum for renovations in his calculations of the contributions to the Bukit Timah Property in his submissions, I note that in his earlier affidavit for the AM hearings, the Husband had stated that the renovation sum was funded from the joint account, joint line of credit, and joint provident policy referred to above.[136] This seems to be correct, since the S$190,000.00 and S$150,000.00 from the ING Account and the Wife's bonus were more than adequate to cover the cash portion of the purchase price, given

134 HAAM1 at para 53.

135 HWS at para 116.

136 HAAM1 at para 53.

that the loan amount was S$1,530,000.00. I therefore do not count the renovations as a separate item.

136 In my view, the first three items should be apportioned between the parties in the ratio of their respective incomes up to but not including 2007. However, as the Husband conceded, they did not have substantial savings after their time in Japan. He acknowledged that it would only be realistic to calculate their contributions based on their income after they had moved to Singapore. I accept this concession by the Husband. This would provide a broad-brush estimate of their direct financial contribution in the form of these three items. Based on the figures above at [133], the total income of the parties from March 2004 to 2006 was S$890,640.10, with the Husband earning S$296,783.74 and the Wife earning S$593,856.36. Hence, I find that 33.32% of the value of the first three items should be attributed to the Husband, and 66.68% should be attributed to the Wife.

137 As for the payment from the ING Account, I accept the Husband's contention that the whole of the S$190,000.00 is to be attributed to him. The ING Account was in his sole name, and he was paid partly in Australian dollars. The Wife has not provided any evidence that her income in Japan was also transferred to Australia. Further, her employment in Japan was unrelated to Australia, so there was no reason to assume that the income would have been deposited in or transferred to an Australian bank account. In the absence of evidence from the Wife, I am not prepared to find that she had contributed to the S$190,000.00 used towards the purchase of the Bukit Timah Property.

138 As for the loan repayments, the Husband divided the repayments into two periods, one when the Wife was still working, and the second when the Wife had stopped earning an income. I accept that this division makes sense.

For the second period, it is clear that all the direct contributions came from the Husband. For the first period, the Husband proposed a ratio of 32:68 in favour of the Wife. Having regard to my findings on the parties' respective incomes at [133] above, and using the total income from the beginning of the marriage to 2008 (when the Wife stopped working) as the basis, I find that the ratio should be 36.9:63.1 instead.

139 I summarise the direct financial contributions to the Bukit Timah Property as follows:

S/N	Description	Amount (S$)	Ratio (H:W)	Husband's Contribution (S$)	Wife's Contribution (S$)
1.	Joint account	141,347.00	33:32:66.68	47.096.82	94,250.18
2.	Joint line of credit	30,000.00		9,996.00	20,004.00
3.	Joint provident policy	29,000.00		9,662.80	19,337.20
4.	Australian bank account ("ING Account")	190,000.00	100:0	190,000.00	0.00
5.	Wife's bonus	150,000.00	0:100	0.00	150,000.00
6.	Loan repayments (up to mid-2008)	49,500.00	36.9:63.1	18,265.50	31,234.50
7.	Loan repayments	504,000.00	100:0	504,000.00	0.00

S/N	Description	Amount (S$)	Ratio (H:W)	Husband's Contribution (S$)	Wife's Contribution (S$)
	(up to IJ date)				
			Respective Totals	779,021.12	314,825.88
			Aggregate Total		1,093,847.00
			Ratio (percentage)	71.22%	28.78%

140 Taking the net value of the Bukit Timah Property, S$1,750,511.87, and applying the ratios identified, I find that the Husband has contributed S$1,246,714.55 and the Wife S$503,797.32 to the present net value of the Bukit Timah Property which has been included in the pool of matrimonial assets.

(3) Artwork

141 The Wife argued that the direct financial contributions to the artwork in the Bukit Timah Property, with a value of S$79,613.00, should be found to be in the ratio of 20:80 in favour of her.[137] The Husband was willing to have the direct financial contributions determined on the basis of the artwork in each party's possession.[138] I find that the Husband's proposal to be a suitable solution, as each party kept the artwork that they wished to in their own possession. I therefore treat the value of the artwork in the respective party's possession as that party's direct financial contribution to the pool of matrimonial assets.

137 WWS at para 126.

138 JSRI at p 52; NE 15 July 2020 at p 151, ln 21–23.

(4) [X] LLP Capital Account

142 The last dispute over direct contributions concerns the Husband's [X] LLP Capital Account. The Wife argued that the ratio of contributions for this asset should be 20:80 in her favour,[139] as the Husband had become a partner in mid-2007 and required money for an initial equity contribution. Further, the loan that was taken out for the remaining contributions was funded by the parties' savings.[140]

143 The Husband argued that the only amount that was paid into the Capital Account was S$200,000.00, which was raised by way of a loan taken out in 2007. The Husband conceded that part of the loan was paid back while the Wife was still working, and that some part of that repayment could be attributed to the Wife. However, nothing more than that could be treated as the Wife's direct contribution.

144 I agree with the Husband. He has given evidence that the Capital Account began with S$200,000.00 in 2007[141] and that this sum was financed by way of a loan.[142] As that loan was taken in 2007, it was around the same time that the Wife stopped working. However, while the Husband assumed that the only payments made were for around S$350.00 per month,[143] I note that the statement of account exhibited by the Husband shows that that was likely the *interest* due rather than any capital repayment. In the absence of further

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139 WWS at para 129.

140 WWS at para 130.

141 HAAM1 at para 25.

142 See HA (Discovery Supplement) at p 370.

143 HWS at para 133.

evidence, I take as a rough gauge of the repayment the sum of S$12,000.00 which was repaid in 2013, apparently the only capital repayment that year. This rough estimate even appears to be on the lower side, since at the end of 2012, there was a balance of S$96,000.00 remaining to be repaid, meaning that S$104,000.00 had been repaid between 2007 and 2012. Hence, of that S$12,000.00 repaid between 2007 and 2008, I take the same ratio of income as above (*ie,* 36.9:63.1; see [138] above) and find that the Wife had contributed S$7,572.00. The remainder of the amounts in the [X] LLP Capital Account, S$487,428.00, would have been contributed by the Husband.

(5) Other assets

145 The Husband also submitted that the whole of the sum injected into Company [Y] should be attributed to him. I find that this made sense given that the sum was spent in 2016, long after the Wife had ceased working. I therefore attribute the S$22,000.00 that is returned to the pool of assets as the Husband's contribution.

146 As for the FPI policy, the Husband applied the ratio of income between the parties.[144] Although I differ from the Husband on the precise ratio, this approach seems sensible to me since the asset was jointly purchased. I apply the ratio of 36.9:63.1 based on the parties' income up until 2008 when the Wife ceased working. As I have returned S$18,984.60 to the pool of matrimonial assets, I divide this sum in the ratio of 36.9:63.1 in favour of the Wife, giving S$7,005.32 and S$11,979.28 in direct contributions.

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144 HWS at para 136.

147 As for the remaining assets, in the absence of submissions by the parties, I am content to attribute the value of each of the assets in the Husband's and Wife's names to the respective parties as direct financial contributions. As for the joint bank accounts as well as the sums returned for legal costs incurred up to the IJ date, I am satisfied that they should be attributed to the Husband as he was the only one earning an income in recent years.

(6) Summary of direct contributions

148 I now summarise the direct financial contributions as follows:

S/No	Description	Husband's Contribution (S$)	Wife's Contribution (S$)
Joint Assets			
1.	SCB Account No ending in 7331	93.97	0.00
2.	SCB Account No ending in 2998	134.15	0.00
3.	DBS 2407	N/A	0.00
4.	DBS 2705	N/A	0.00
5.	HSBC Account No ending in 7496	N/A	0.00
	Sub-total (A)	228.12	0.00
Wife's Assets			
6.	Bukit Timah Property	1,246,714.55	503,797.32
7.	Artwork at Bukit Timah Property	0.00	79,613.00

S/No	Description	Husband's Contribution (S$)	Wife's Contribution (S$)
8.	DBS 9376	0.00	61.35
9.	DBS 6978	0.00	714.67
10.	DBS 7629	0.00	20.19
11.	POSB Account No ending in 2496s	0.00	0.00
12.	FPI policy	7,005.32	11,979.28
13.	Sums injected into Company [Y]	22,000.00	0.00
14.	Liability: HSBC Card 3723	N/A	(27,894.16)
15.	Liability: SCB Account 4318	N/A	(34,365.08)
16.	Legal costs returned	125,988.85	0.00
	Sub-total (B)	1,401,708.72	533,926.57
Husband's Assets			
17.	Audi Car	7,797.28	0.00
18.	[X] LLP Capital Account	487,428.00	7,572.00
19.	[X] LLP Current Account	582,591.67	0.00
20.	CitiGold 1015	27,974.95	0.00
21.	Jaguar Car	77,826.68	0.00

S/No	Description	Husband's Contribution (S$)	Wife's Contribution (S$)
22.	Company [A] shares	0.00	0.00
23.	Company [B] shares	100,000.00	0.00
24.	SCB 2554	85,199.00	0.00
25.	Artwork in Husband's possession	77,763.00	0.00
26.	Liability: SCB personal loan	(69,896.25)	0.00
27.	Legal costs returned	75,995.35	0.00
Sub-total (C)		1,452,679.68	7,572.00
Total		2,854,616.52	541,498.57
Ratio (%)		84.06	15.94

Indirect contributions

149 I turn to the indirect contributions. The Husband argued that the ratio of indirect contributions should be 60:40 in his favour. The Wife claimed that the ratio was 20:80 in her favour. I deal with the various arguments under different headings for ease of analysis.

(1) Financial indirect contributions

150 I begin by considering the financial indirect contributions. It is clear that the Husband had, over the course of the marriage, earned more money than the Wife did. However, the Wife also earned a significant income for some years

during the marriage. Both of them would have contributed to the expenses and payments in the course of the marriage, although the Husband would have done so to a greater extent. But as the Court of Appeal cautioned in *TNL* ([13(c)] *supra*) at [47], the court should not assign a ratio for the indirect financial contributions as a separate element from the non-financial contributions. I only seek to take this into account in the broad-brush approach to identifying the parties' respective indirect contributions to the marriage.

(2) Mutual care and support

151 The Husband claimed that he had "shouldered" most of the household's needs in the first six years of their marriage, as the Wife's various jobs were very demanding. He had taken the lead in arranging their move from Japan to Singapore. The decisions that they made to move were all made jointly.[145] His participation in triathlons was also a joint decision.

152 The Wife argued that she was a "trailing spouse" who followed the Husband to support him in his career and his interest in triathlons.[146] The decision to move to Tokyo in 2002 was for the Husband's benefit – she had to give up a position in a top-tier law firm in Australia to do so. When the Husband began facing difficulties at work, she then looked for and obtained a job in Japan. She would support the Husband's interests in triathlons using her free time. When the opportunity came to move to Singapore, the Husband felt that he would be in a better position there to make partner at [X] LLP. Despite her preference to remain in Japan, she decided to follow the Husband to Singapore, which required her to find a new job. When she began working in Singapore in

145 HWS at para 149.

146 WWS at para 134.

2004, she continued to bear the brunt of managing the household, while the Husband pursued his own interests in triathlons.[147]

153 It is clear to me that the Wife was the one who had moved positions more often than the Husband. The Husband had moved to Japan and then to Singapore with jobs in view, while the Wife looked for work after each move. Although this did not conclusively prove either way that the Wife was just following the Husband or that these were mutual decisions to move, I took into account that the transitions would have been harder for the Wife as she had to take the risk of not finding work and had to re-acclimatise herself to new workplaces regularly. By contrast, the Husband was working within the umbrella of [X] firms, allowing his career to progress smoothly between transitions.[148] However, I am not able to characterise these as "sacrifices" of the Wife's career as, by all accounts, she was successful at her work and obtained ever-increasing salaries from position to position.

154 Further, I am of the view that their respective support of each other would have been fairly limited in the years since 2012. While the marriage was still subsisting, they had an acrimonious relationship and it was unlikely that they would have given each other mutual support in that time. The period for which the Wife could be said to have supported the Husband in his endeavours, and *vice versa* would have been limited to the period from 2002 to 2012.

155 Finally, I also consider that the Wife did not appear to have any interest or pursuit that corresponded with the Husband's interest in triathlons. This

147 WWS at paras 134–135.

148 WAAM1 at para 43.

activity, which took up significant time and required travel, is therefore another area in which the Wife supported the Husband's pursuits.

(3) The Child

156 The Child was conceived in October 2009. The Wife had given up her work as it was affecting her ability to conceive. The Wife pointed out that the pregnancy was "fraught with complications" and she had to be hospitalised on a number of occasions.[149] Despite these complications, the Husband continued to train for a competition in 2010. After the Child was born, she dedicated herself to raising the Child and managing the household. She alleged that the Husband's extra-marital relationships had a detrimental effect on the Child.[150] She was the Child's primary caregiver, was an active parent, and provided the structure and stability that the Child needed, while the Husband was engaged in his affairs and pursued his own interests in triathlons.

157 The Husband claimed instead that his continued involvement in triathlons was a mutual decision. Further, he did accompany the Wife to as many medical appointments as he could.[151] The Husband argued that he was an involved father, and that both he and the Wife were co-parents. Before separation, the Husband ensured that he left work early to spend time with the Child and took care of him on the weekends when the Wife was busy. After the separation, the Husband continued to adjust his work schedule to spend time with the Child from Friday evenings to Monday mornings.[152] The Husband had

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149 WWS at para 136.

150 WWS at para 137.4.

151 HWS at para 151.

152 HWS at para 152.

never let his extra-marital relationships affect the Child's life. Further, the parties always had the assistance of a full-time helper, and the Child attended childcare in the morning since he was two years old.[153]

158 In my view, it is clear that the Wife bore the majority of the burden of caring for the Child. Even if there was a full-time helper and the Child was sent to childcare, she was clearly the Child's primary caregiver. I acknowledge that the Husband was an involved father, based on the evidence, but also took into account the fact that he had a number of other pursuits, and by moving out of the house from 2012 onwards, left the Wife primarily in charge of the Child.

(4) Parties' conduct

159 Both parties raised aspects of the other's conduct in an attempt to downplay that party's contributions to the marriage. I do not wish to deal with each of these allegations in detail. It suffices for me to note that insofar as there are allegations that affect specific circumstances in the marriage, these can be adequately accounted for in relation to those specific facts. More generally, mere misconduct is not sufficient to warrant an adjustment of the division. The Court of Appeal summarised the approach in *Chan Tin Sun v Fong Quay Sim* [2015] 2 SLR 195 at [22]–[25]:

> 22 … Put simply, the court is not precluded by the [WC]from considering the conduct of the parties in exercising its power to order the division.
>
> 23 However, it is *not* the case that the conduct of parties should *always* be taken into account in determining what would be a just and equitable division of the matrimonial assets. As this court observed in *NK v NL* (at [12]):

153 HWS at para 154.

> In light of our current 'no fault' basis of divorce law, *it would serve no purpose to dwell on the question of who did what, save where there might be a direct impact on the legal issues proper* … The salutary objectives sought to be achieved by the ancillary orders of division of matrimonial assets … remain paramount in guiding our review of the Judge's ancillary orders. [emphasis added]

This court further observed thus (at [28]):

> … *[I]t is essential that the courts resist the temptation to lapse into a minute scrutiny of the conduct and efforts of both spouses* … It would be counterproductive to try and particularise each party's respective contribution … [emphasis added].

24 The question of when a spouse's misconduct could be taken into consideration came before this court in *AQS v AQR* [2012] SGCA 3 …

25 The aforementioned cases emphasise and reiterate the point that the hearing of the ancillaries is *not* intended to be another forum for parties to dredge up accusations and allegations relating to each other's conduct. The court is not equipped to scrutinise the conduct of the parties to assign blame, nor should it be so in light of the no-fault basis of divorce embodied within the Act. In the premises, **the court only ought to have regard to conduct that is both *extreme* (*ie*, manifestly serious) and *undisputed* in exercising its powers under s 112(1) of the [WC]**.

[emphasis in original in italics; emphasis added in bold]

While these remarks are relevant for the division exercise as a whole, I state them here because of how the parties' submissions dealt with these issues. As none of the allegations, in my view, deal with extreme and undisputed misconduct, I do not deal with them further.

(5) Conclusion on indirect contributions

160 The Wife cited the cases of *Twiss, Christopher James Hans v Twiss, Yvonne Prendergast* [2015] SGCA 52 ("*Twiss*") and *ARY* ([16] *supra*) to support her submissions of a ratio of 80:20 in her favour. In *Twiss*, the Court of Appeal found (at [20]) that the husband's and wife's contributions were roughly

equal in the first decade of marriage, but that in the second decade, the wife contributed significantly more than the husband, who was absent from the family for substantial lengths of time. The court therefore found that the ratio was 75:25 in the wife's favour. In *ARY*, the court emphasised (at [61]–[62]) that the wife had given up her career for the children and the husband, the wife moved to Asia with the husband, and the wife was an active participant in the children's activities, finding that the ratio was 70:30 in the wife's favour. While comparisons with cases are sometimes difficult given the fact-specific nature of the inquiry, these are helpful guides in the exercise of the court's discretion.

161 The Husband's submission that the ratio should be 70:30 in *his* favour was not justifiable. That would suggest that he was not just the financial provider for the family, but also took on a greater role with the Child than the Wife did (see *BUX v BUY* [2019] SGHCF 4 which the Husband cited). Neither of the two other High Court authorities cited by the Husband (*ie, THL v THM* [2015] SGHCF 11 and *UGG v UGH (M.W.)* [2017] SGHCF 25) justified shifting the ratio of indirect contributions in the Husband's favour in this case.

162 In my judgment, taking a broad-brush approach, a ratio of 60:40 in favour of the Wife is appropriate. In contrast to *Twiss*, the Husband here continued to be a physical presence in the Child's life even after separation. The present case was similar to *ARY*, but I also give credit for the Husband's significant involvement in the Child's life even after the separation. This was a marriage of 16 years (from 2002 to 2018). However, in reality, for six of those years from 2012 to 2018, the parties were living separately even though the marriage was subsisting. The Husband had earned a significant sum of money throughout the marriage, although the Wife earned more than the Husband in the first six years or so. The parties had moved multiple times, with the Husband remaining with [X] LLP throughout, while the Wife had to seek out different

jobs. The Husband had a significant interest outside of work as well, which the Wife also shared in the costs of. The Wife chose to give up her work so that she could conceive. She suffered through a complicated pregnancy and, after the Child was born, was the primary caregiver for the Child. In these circumstances, a ratio of 60:40 in favour of the Wife is fair.

Average percentage contributions and adjustments

163 I summarise the ratios identified above as follows:

Contributions	Husband (%)	Wife (%)
Direct	84.06	15.94
Indirect	40.00	60.00
Average (unadjusted)	62.03	37.97

164 The Husband argued that a further adjustment was needed to account for the money that the Wife had received during the course of the marriage, and to account for the lump sum of S$1.05m that she would receive as maintenance. He pointed to s 112(2)(*b*) and (*g*) WC, which read:

> **112.**—…
>
> (2) It shall be the duty of the court in deciding whether to exercise its powers under subsection (1) and, if so, in what manner, to have regard to all the circumstances of the case, including the following matters:
>
> …
>
> (*b*) any debt owing or obligation incurred or undertaken by either party for their joint benefit or for the benefit of any child of the marriage;
>
> …
>
> (*g*) the giving of assistance or support by one party to the other party (whether or not of a material kind), including the giving of assistance or support which aids

> the other party in the carrying on of his or her occupation or business …

165 The Husband referred to *ANX v ANY* [2015] 1 SLR 728 ("*ANX*") at [74]–[76] where the High Court had considered the sums received by the wife from the husband as well as the assets she would receive under a Deed of Separation to reject the Wife's submission that she should be awarded 50% of the assets that remained to be divided. The High Court then awarded the wife 8% of the remaining assets, which it found was just in light of the amount obtained from the sale of a property that was granted to her under the Deed of Separation and the financial benefit she received during the marriage.

166 In my view, there are no grounds for modifying the division of assets based on what the Wife had received *during* the marriage. The mere fact that the Wife did not work from 2008 onwards is not sufficient, in and of itself, to require an adjustment – her lack of contribution of income from 2008 onwards would be accounted for in terms of direct and indirect contributions. The fact that the Husband had supported Company [Y] financially is also not ultimately persuasive – that should be treated as an investment, for which the Husband would naturally have sought a share of the gains if the company had been profitable. This is a loss that both parties bear. As for the subsequent withdrawals from the joint accounts, that was part and parcel of married life, and I do not see any basis for suggesting that the expenditure was grossly excessive when considered against their lifestyle and standard of living.

167 As for the maintenance of S$1.05m, I do not think that it is ultimately appropriate to take this into account. This case is different from the usual run of cases where division of assets and maintenance are both in issue and awaiting the court's determination. In the usual case, the court first considers division and then *supplements* that with a maintenance order if necessary: *TNL* ([13(c)]

supra) at [63]. In the present case, the parties have agreed on a maintenance sum as well as a mode of payment and registered this in a consent order. The question is whether the agreed maintenance sum should be accounted for when arriving at a just and equitable division of matrimonial assets.

168 I first distinguish the present case from *ANX*. In that case, the High Court was faced with a deed of separation that already divided some of the matrimonial assets, but which did not touch on the remaining assets. There was no issue of taking into account the maintenance sum in the division exercise.

169 Next, I consider this from first principles. The guiding principle behind the grant of maintenance is that of financial preservation: *Foo Ah Yan v Chiam Heng Chow* [2012] 2 SLR 506 ("*Foo Ah Yan*") at [12]. In that sense, it is forward-looking – it "requires the wife to be maintained at a standard which is, to a reasonable extent, commensurate with the standard of living she had enjoyed during the marriage": *Foo Ah Yan* at [13]. The division of matrimonial assets, however, is a backward-looking exercise, in the sense that it seeks to divide what *has* been accumulated in the marriage, *ie*, "the material gains of the marital partnership" (*UZN* ([13] *supra*) at [59]. There is some amount of interaction between the two matters: the backward-looking decision on division may affect the forward-looking decision on maintenance where the court decides that what is given to the wife as part of division is sufficient for her financial preservation going forward. That makes sense, since if the goal is financial preservation, the court should consider what needs to be done to ensure that goal is met, and if financial preservation is met by the result of the division, there is no need for a further order to be made. This logic, however, does not apply the other way. The fact that the parties have agreed on a sum for financial preservation does not affect the determination of what share of the fruits of the marriage the wife should be entitled to. The sum received as part of an agreed

maintenance does not satisfy the requirement that the matrimonial assets that *have* been accumulated should be divided in a just and equitable manner. Money received in division may be relevant to maintenance because the latter is concerned only with the financial position of the wife after the divorce, but money received in maintenance is not the same as a divided pool of matrimonial assets since the emphasis in the division exercise is a determination of a just and equitable share of what has been gained through the economic union of marriage. This is so even though a lump sum maintenance payment may be agreed between parties, because that payment is, in principle, a question of financial preservation going forward. Further, the agreed maintenance was to be paid *after* the IJ date, that is, after the point at which the pool of matrimonial assets was to be determined. Therefore, I choose not to account for the agreed sum of S$1.05m payable as maintenance to the Wife in this division of matrimonial assets.

170 I do not see any reason to adjust the relative weight between the direct and indirect contributions in this case. Neither party submitted for such an adjustment either.[154] Even including the period of separation, this was a marriage of around 16 years, which is of moderate length. It cannot be said that the Wife has raised the Child to adulthood. The other factors identified by the Court of Appeal in *ANJ* ([129] *supra*) at [27] do not appear to apply.

171 I round the numbers to the nearest integers, and arrive at 62% and 38% for the Husband and Wife respectively. The division of the matrimonial assets is therefore as follows:

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154 NE 15 July 2020 at pp 196–197.

(a) For the Husband, S$2,105,591.36 (being 62% of S$3,396,115.09).

(b) For the Wife, S$1,290,573.73 (being 38% of S$3,396,115.09).

Apportionment

172 I turn now to the apportionment of the assets. As the Bukit Timah Property raises different concerns and is a significant asset, I deal with it separately from the other assets.

173 In relation to the Bukit Timah Property, the asset is to be divided between the Husband and Wife in the ratio of 62:38. The Husband submitted that the Bukit Timah Property should be sold, or, in the alternative, the Wife is to purchase the Husband's share.[155] He does not appear to want to purchase the Bukit Timah Property. The Wife has indicated that she would like to keep the Bukit Timah Property.[156]

174 The remaining assets in the pool are valued at S$1,645,603.22 (being S$3,396,115.09 − S$1,750,511.87). Of these, the Husband and Wife are entitled to S$1,020,274.00 and S$625,329.22 respectively (being 62% and 38% respectively of the value of the remaining assets). I deduct the sums that are treated as advances from the Wife's and Husband's shares. Those sums are S$18,984.60 (see [46] above), S$22,000.00 (see [53] above), and S$125,988.85 (see [103] above) for the Wife, and S$75,995.35 (see [103] above) for the Husband. This leaves the Husband's and Wife's entitlements as S$944,278.65

155 HWS at para 178.

156 NE 15 January 2020 at p 3, ln 27.

(being S$1,020,274.00 − S$75,995.35) and S$458,355.77 (being S$625,329.22 − S$18,984.60 − S$22,000.00 − S$125,988.85) respectively. I also deduct those sums from their respective assets to gain an accurate picture of what assets are available for apportionment. This gives the Husband's and Wife's assets (other than the Bukit Timah Property) remaining as S$1,385,223.67 (being S$1,460,251.68 − $75,995.35) and S$18,149.97 (S$1,935,635.29 − S$1,750,511.87 − S$18,984.60 − S$22,000.00 − S$125,998.85) respectively.

175 The difference between the Wife's assets and her entitlement upon division is therefore S$440,205.80 (being S$458,355.77 − S$18,149.97). The Husband is to pay this sum to the Wife as part of the apportionment of assets.

176 To give effect to this division, I order as follows:

(a) In relation to the Bukit Timah Property:

(i) Within three months of the date of this judgment, the Wife is to decide if she wishes to keep the Bukit Timah Property and to communicate this to the Husband.

(ii) If the Wife wishes to keep the Bukit Timah Property, she is to obtain an updated valuation of the market value of the said property within six months of the date of judgment. The property is to be valued as of this judgment. The net equity of the property is to be determined by deducting the outstanding mortgage sum due as of the date of this judgment from the valuation of the property. The Wife is then to pay 62% of the net equity to the Husband, not later than nine months after the date of this judgment. The Wife is to bear all the expenses of the valuation and transfer. In keeping with *TIC v TID* [2019] 1 SLR 180, the

Wife is also to reimburse the Husband for any mortgage payments (including repayment of capital and payments of interest and any redemption sums) made between the date of this judgment and the date of payment of the required sum to the Husband, by paying to the Husband a sum equivalent to the said mortgage payments.

(iii) If the Wife does not wish to keep the Bukit Timah Property, the Bukit Timah Property is to be sold by the parties within 12 months of the date of this judgment. The net sales proceeds are to be apportioned in the ratio of 62:38 to the Husband and Wife respectively. As the Bukit Timah Property is in the Wife's name, the Wife is to transfer the Husband's share of the sale proceeds to the Husband within one month of the completion of the sale of the Bukit Timah Property, or to make the necessary arrangements for the Husband to receive his share by that time.

(b) As for the remaining assets:

(i) The Husband is to transfer a sum of S$440,205.80 within three months of the date of this judgment. This is without prejudice to any agreement the parties may come to as to the use of this sum in a set-off against what the Wife must pay to the Husband in the event she wishes to retain the Bukit Timah Property. If such an agreement is forthcoming, the timeline for payment will be subject to that agreement.

(ii) The parties are to close all joint accounts within three months of the date of this judgment, except insofar as necessary

to give effect to any agreement or other order of court. The Husband is entitled to keep the balance of any joint accounts.

Costs

177 If parties are unable to agree on costs, they are to file and exchange written submissions on costs, limited to ten pages (but excluding exhibits, list of disbursements, and case authorities), within three weeks of this judgment.

Conclusion

178 In conclusion, I divide the matrimonial assets between the Husband and Wife in the ratio of 62:38, to be given effect to in the manner described at [176] above. The parties are to have liberty to apply within three months of this judgment if further directions are required to give effect to the orders above.

Tan Puay Boon
Judicial Commissioner

Sim Bock Eng, Chan Yu Xin and Khoo Kiah Min Jolyn
(WongPartnership LLP) for the plaintiff;
Khoo Boo Teck Randolph, Tricia Ho, Shawn Teo Kai Jie and
Liu Chenghan Aloysius (Drew & Napier LLC) for the defendant.