IN THE FAMILY JUSTICE COURTS OF THE REPUBLIC OF SINGAPORE

[2020] SGHCF 9

District Court Appeal No 124 of 2019

Between

UYK

… *Appellant*

And

UYJ

… *Respondent*

GROUNDS OF DECISION

[Family Law] — [Custody] — [Care and control] — [Relocation]

UYK
v
UYJ

[2020] SGHCF 9

High Court (Family Division) — District Court Appeal No 124 of 2019
Debbie Ong J
19, 26 February, 18, 29 June 2020

6 July 2020

Debbie Ong J:

1 The appellant ("the Father") and the respondent ("the Mother") are not legally married and have a child (whom I will refer to as "C") who is presently five years old. Both parties and C are British citizens. The central dispute in this case concerned the Mother's wish to relocate with C to the United Kingdom ("UK"). The learned District Judge ("DJ") awarded the Mother care and control of C and granted the Mother leave for C to relocate with her. Her reasons are set out in *UYJ v UYK* [2019] SGFC 132 (the "GD"). Dissatisfied, the Father appealed against that decision.

2 Having heard the parties and addressed the multiple applications brought in the context of this appeal, I dismissed the Father's appeal on 29 June 2020 and upheld the DJ's orders. These are the grounds for my decision.

Introduction

Context

3 This appeal concerns the main question of whether a child presently in Singapore should be allowed to relocate with his mother to the UK. Let me first put the present dispute in a broader context. The matter of where one wishes to live, to work or to raise children are personal decisions. Parents have their own personal aspirations for their child, and for themselves too. Whether a child should grow up in Country X which has, for example, a high incidence of racism or safety issues, or be raised elsewhere, is a matter for parents to decide. If Country X is home to the parents, they will have to deal with any issues arising there as responsible parents would. If the parents wish to move to Country Y, for example, a less developed country with undeveloped infrastructure but with lower incidence of racism and safety issues, it is their personal choice and they would have to make the necessary preparations to raise their child in that country.

4 In functioning families, the court would not be asked to make orders or give parenting advice on whether it is better for the child to be raised in Country X or Country Y. The court is asked to adjudicate a parenting dispute only because the parents' relationship has broken down, and the court is called on to protect the child's welfare and assist the family in moving forward.

5 In *UYT v UYU and another appeal* [2020] SGHCF 8, the High Court Family Division remarked at [5]:

> Family Law is a misnomer for a happy family generally has no need for law nor does law need to intrude into a happy family. Decisions such as sending a child of the family for tertiary education, whether at home or abroad, are discussed and settled within the family, sometimes with a tinge of regret, sometimes with great sacrifice, but always with the comforting

> feel of give and take. By the time the [law] is invoked to resolve domestic problems, it usually means that the family can no longer mediate within itself. … **It is one thing for a family to give and take within itself, and another for a third party to determine how they should do it**. [emphasis in bold]

Indeed when a third party, the court, steps in to assist the parties in a matter such as relocation, the focus is not on the breaches of legal rights, but on how best to protect the child's welfare and enable the parties to break out of deadlocks in order that the next phase of the family's life can continue in a positive way.

6 These are very important perspectives to bear in mind when we are addressing the specific issues in this dispute.

Applications related to this appeal

7 I begin by setting out the various applications filed in relation to this appeal. The hearing for the present appeal, HCF/DCA 124/2019 ("DCA 124/2019"), had been fixed for 19 February 2020. On 17 February 2020, the Father filed HCF/SUM 44/2020 ("SUM 44/2020"), which, in essence, was an application for a two-week adjournment of the hearing of DCA 124/2019. The application was made on the ground that the Mother had served the Respondent's Case on 17 February 2020, and not by 14 February 2020 as directed by the court.

8 As the Mother was late in serving her Respondent's Case, she filed HCF/SUM 47/2020 ("SUM 47/2020") on 18 February 2020, applying for leave to be heard at the hearing of DCA 124/2019. In her supporting affidavit for SUM 47/2020, she explained that her solicitors had inadvertently asked for service to be upon acceptance, instead of immediate service without acceptance, resulting in the late service.

9 I heard the parties' submissions on SUM 44/2020 and SUM 47/2020 on 19 February 2020. The Father's counsel submitted that an adjournment should be granted as he did not have sufficient time to prepare for the hearing as a result of the Mother's late filing. The Mother's counsel submitted that there was no need to adjourn the entire hearing, as DCA 124/2019 was the Father's appeal and he could proceed to present his case. I allowed SUM 47/2020 and dismissed SUM 44/2020, noting that there would be costs implications for the late filing. With respect to the Father's submission that he had insufficient time to prepare for the hearing of DCA 124/2019, I directed that HCF/SUM 5/2020 ("SUM 5/2020"), HCF/SUM 36/2020 ("SUM 36/2020") and HCF/SUM 41/2020 ("SUM 41/2020") be heard first at the same hearing on 19 February 2020.

10 The Father had filed SUM 5/2020 on 9 January 2020 applying for leave to adduce further evidence for the hearing of DCA 124/2019. The Mother filed an affidavit on 4 February 2020 in reply to the Father's affidavit. The Father then filed two other summonses: SUM 36/2020 on 11 February 2020 for leave to file a reply affidavit to the Mother's affidavit filed on 4 February 2020, and SUM 41/2020 on 14 February 2020 for leave to file a supplemental affidavit to his affidavit of 11 February 2020 to respond "more fully" to the Mother's affidavit and rebut her alleged accusations against him in her submissions in SUM 5/2020.

11 I heard SUM 5/2020, SUM 36/2020 and SUM 41/2020 on 19 February 2020 and delivered my decision through a Registrar's Notice (with the parties' consent) on 20 February 2020, dismissing all three summonses. I reminded parties that while the court has the discretion to admit new evidence, the evidence that may be adduced "should be that which is potentially relevant in that it may have a perceptible impact on the decision should it be admitted", and that it could be "distracting and less helpful to the determination of the actual

issues in the appeal if further evidence were to be admitted without restraint". Since SUM 5/2020 was dismissed, the related summonses SUM 36/2020 and SUM 41/2020 were also dismissed. As the submissions on the summonses took up the entire day on 19 February 2020, I directed that the substantive appeal in DCA 124/2019 be heard on 26 February 2020, which gave both parties more time to consolidate the latest directions and prepare for the hearing of the substantive appeal.

12 Before DCA 124/2019 could be heard, however, the Father filed HCF/SUM 54/2020 ("SUM 54/2020") on 25 February 2020 for leave to appeal to the Court of Appeal against my decision to dismiss his applications in SUM 5/2020, SUM 36/2020 and SUM 41/2020, and for the proceedings in DCA 124/2019 to be stayed pending the outcome of the application in SUM 54/2020 and any subsequent appeal to the Court of Appeal thereafter. Notwithstanding SUM 54/2020, at the hearing on 26 February 2020, I directed that it was in the interests of the parties and the child that the substantive hearing for DCA 124/2019 should proceed on the basis of the evidence admitted. DCA 124/2019 was heard on 26 February 2020 and at the end of the hearing, I informed parties that I would not make a decision on DCA 124/2019 until I had dealt with SUM 54/2020.

13 I heard the parties' submissions on SUM 54/2020 on 6 March 2020 and dismissed the summons. I observed that the law on the grant of leave to appeal was elucidated by the Court of Appeal in *Lee Kuan Yew v Tang Liang Hong and another* [1997] 2 SLR(R) 862. On the question of whether there was a *prima facie* error of law made by this court, the parties made submissions on the legal principles on the adduction of new evidence under the Family Justice Rules 2014 (S 813/2014) ("FJR"). The starting point in family proceedings is r 831(2) of the FJR, which provides that in the case of an appeal from a judgment, "no

such further evidence (other than evidence as to matters which have occurred after the date of the decision from which the appeal is brought) may be given except on special grounds." I noted that the Court of Appeal in *Anan Group (Singapore) Pte Ltd v VTB Bank (Public Joint Stock Co)* [2019] 2 SLR 341 at [58] stated that even where the *Ladd v Marshall* [1954] 1 WLR 1489 ("*Ladd v Marshall*") test applied, the court should "proceed to the second stage of the analysis to determine if there are any other reasons for which the *Ladd v Marshall* requirements should be relaxed in the interests of justice". I was of the view that even though "special grounds" are required under the FJR, the court should relax the requirements if justice required it. I was acutely aware that DCA 124/2019 concerned the welfare of a child and took a less stringent approach – I had gone on to consider whether admission of further evidence would have a perceptible impact on the pertinent issues in DCA 124/2019 even if all the *Ladd v Marshall* conditions were not strictly satisfied. I observed that the finality of proceedings is an important consideration where the welfare of a child was involved, for the prolonged conflict of parents in litigious proceedings was harmful to the child. On that basis, I had considered the new evidence which the Father sought to adduce and exercised my discretion by considering the specific facts and issues of DCA 124/2019, and reached the view that the new evidence would not have a perceptible impact on the outcome of the appeal. I also held that the questions raised by the Father were not questions of general principle to be decided for the first time, or questions of importance upon which further argument and a decision of a higher tribunal would be to the public advantage. Thus, SUM 54/2020 for leave to appeal to the Court of Appeal was dismissed.

14 The Father then sought leave from the Court of Appeal in CA/OS 10/2020 to appeal against my decisions in dismissing SUM 5/2020, SUM

36/2020 and SUM 41/2020. On 14 April 2020, the Court of Appeal dismissed the Father's application in CA/OS 10/2020.

15 Finally, the Father filed HCF/SUM 97/2020 on 24 March 2020 ("SUM 97/2020") for the adduction of further evidence arising from recent developments due to the COVID-19 situation, and for parties to make further submissions for DCA 124/2019 in light of such evidence. I further held off making a decision on DCA 124/2019 pending the hearing of SUM 97/2020. After hearing SUM 97/2020 on 18 June 2020, I allowed the adduction of evidence related to the changed circumstances due to COVID-19. The parties were content to have the submissions made in SUM 97/2020 to be used as further submissions for DCA 124/2019 and I treated them accordingly.

Background facts

16 The parties met in London, UK, in 2004 and are not legally married to each other. The Mother conceived their child, C, in January 2014 on her fifth IVF attempt. C was born on 10 October 2014 and is presently five years old. The parties and their child, C, all hold British citizenship.

17 The Mother primarily lived and worked in London from 1997 to 2018, and C resided with her in London from 2014 till 2018. The Father left the United Kingdom to live in Monaco sometime in end March 2014 largely due to the tax benefits available there. The parties came to a decision in 2017 to move to Singapore in January 2018 with C, to live as a family unit in Singapore.

18 Prior to the move to Singapore, the parties signed a Joint Letter of Intention ("JLOI") dated 17 December 2017. The relevant sections of the JLOI are reproduced here:

> For the time being we have decided that from January 2018 we shall relocate as a family from our respective homes in England and in Monaco to Singapore for the purposes of continuing our relationship. We accept that in building a life together in Singapore our habitual residence may change to Singapore, as may [C]'s. We agree and accept that any change to our habitual residence or to [C]'s habitual residence by virtue of our relocation to Singapore now, will not be treated as predictive of the appropriate jurisdiction for either of us, or for [C], to remain in at any point in the future. We both recognise that whilst it is our shared wish to live in Singapore now, as a family, it is impossible to ever predict long term changes and circumstances. (Which might include the decease of one parent or serious illness.)
>
> …
>
> We wish to record the arrangements in the tragic event of a breakdown of our relationship:
>
> [The Father] has agreed that in the interests of [C]'s welfare, [the Mother] will be the primary carer and [the Father] will have access to his son. [The Mother] has made it clear to [the Father] that under such unfortunate circumstances [the Mother's] intention will be to return to the United Kingdom where [the Father] and [the Mother] will seek professional advice re contact arrangements relevant to [C]'s age.

19 The Father travelled to Singapore on 30 December 2017, while the Mother and C travelled here on 8 January 2018. The parties' relationship broke down when they were living together in Singapore. The Mother alleged that the Father had physically assaulted her in February 2018, screamed at her in front of C and threatened to evict her from the apartment on multiple occasions. It is not disputed that on 27 September 2018 (within a year of their move to Singapore), the Mother brought C to London on a planned family vacation, and that the Father joined them from 5 October 2018. The Father left London on 11 October 2018, and according to him, the Mother was expected to return with C on the same day. However, the Mother did not return to Singapore with C. The Father then commenced proceedings in the UK under the Child Abduction and Custody Act 1985 (c 60) (UK) which implemented the Hague Convention on the Civil Aspects of International Child Abduction 1980 (the "Hague

Convention"). The English High Court ordered that C should be returned to Singapore, and the Mother returned with C to Singapore in January 2019. Court proceedings in Singapore commenced soon after.

20 The Mother explained that she viewed the move to Singapore as a trial to see if they could live together as a family. She stated in her affidavit that she perceived the JLOI as written assurance that she and C could return to the UK if things did not work out in Singapore, and as such, she was only willing to move to Singapore after the Father had signed the JLOI. In response, the Father cited the judgment delivered by the English High Court in support of his argument that the JLOI did not give the Mother any basis on which to remain in London. The Father also stated that the agreement to move to Singapore was unconditional, and that he only signed the JLOI under duress as the Mother would not otherwise agree to move.

21 Upon C's return to Singapore, a plethora of applications were filed. I summarise the key applications directly linked to the current orders for relocation and care arrangements for C. The Mother filed FC/OSG 12/2019 on 21 January 2019 for, amongst other prayers, joint custody of C, with sole care and control to the Mother and for the Mother to be granted the leave of court for C to relocate with her permanently to London, UK. The Father filed FC/OSG 15/2019 on 29 January 2019 for, *inter alia,* sole care and control of C and for the Mother to have access; and in the alternative, for the parties to have shared care and control of C. The decisions in FC/OSG 12/2019 and FC/OSG 15/2019 was issued by the DJ on 3 October 2019. Amongst other orders, the DJ granted the Mother care and control of C and also granted the Mother's application to allow C's relocation to London. The Father then filed FC/SUM 3421/2019 for a stay of part of the orders given by the DJ, and also appealed against part of the DJ's decision, which is the subject of the current appeal.

Decision of the Family Court

22 The DJ considered that the child was a British citizen, and prior to the move to Singapore, his permanent home was in London. The JLOI showed that the parties did not intend their move to Singapore to be permanent. The DJ noted that C was well-settled in Singapore, but was of the view that his relocation to the UK would be akin to a move back to his original home. C was still young and adaptable, and moving to the UK presented advantages for him. The ties he would make in London would be beneficial given that he was likely to stay in his home country in the long run. He would also be able to enjoy the benefits of his UK citizenship. The DJ recognised that relocation would impact the access of the left-behind parent; however, she found that the Father did not have any real reason to stay in Singapore and that the Father has the means to continue to have regular access to the child.

23 The DJ in granting care and control to the Mother considered that the Mother was the parent consistently caring for C, even though the Father also cared for C and spent time with him. The DJ held that the Mother was C's main caregiver, and that there were time periods when the Father was not physically with C and could not have taken care of him. The DJ found that the Mother did not alienate the Father from C, but made efforts to ensure that the Father and C had opportunities to bond. She further found that shared care and control was unsuitable in the circumstances of this case, as the parties were not able to resolve many parenting issues privately and had to resort to litigation. As they have shown themselves to be unable to work together even on minor issues, the DJ did not grant shared care and control.

Issues

24 The issues in the present appeal were whether the Mother should have care and control of C, and whether C should be allowed to relocate with her to the UK. As I have stated earlier, which country a child should live in and specifically whether a child should relocate to another country are personal decisions that should, ordinarily, be made by the parents. Unfortunately, these parents were unable to agree on the issues. The court was therefore called on to piece together the realities of this child's life, the pre- and post-breakdown wishes of the parents and assess the benefits and disadvantages of proposals which would have an impact on the child's welfare. It is not surprising that the law on the relocation of a child involves the balancing of many factors and each case must be decided on its own facts, bearing in mind that decisions on such matters inevitably touches on the very personal circumstances and preferences of both parties.

Relocation of the child

Legal principles and consideration of factors

25 Case law has set out the established legal principles applicable to the parental relocation of children. In deciding whether to allow relocation, the welfare of the child is the paramount consideration (see the Court of Appeal decision in *BNS v BNT* [2015] 3 SLR 973 ("*BNS")* at [3] and [19] and the High Court Family Division decision in *TAA v TAB* [2015] 2 SLR 879 ("*TAA*") at [7]). As observed in *BNS,* while the child's welfare is always the overriding consideration, relocation inevitably presents competing tensions between the interests of parents: if the court refuses the relocation application, the custodial parent is tied down to Singapore even if he or she no longer wishes to remain in Singapore, whereas if the court allows the relocation, the quantity and quality

of contact that the child has with the left-behind parent may be drastically reduced (see *BNS* at [2]).

26 Examining the history of case law in this area, the decisions in *BNS* and *TAA* are particularly significant. Prior to *TAA* and the High Court decision of *BNT v BNS* [2014] 4 SLR 859, the majority of reported decisions in Singapore have allowed relocation. This trend was a result of the courts seemingly placing greater focus on whether the custodial parent had reasonable reasons for relocation, and possibly placing less weight on the loss of relationship between the child and the left-behind parent (see *TAA* at [9]; see also *BNS* at [25]). The reasonableness of the custodial parent's wishes for relocation appeared to have the effect of being a dominant consideration. *TAA* and *BNS* emphasised, however, that the ultimate enquiry must be whether relocation is in the child's welfare, and in considering this question, sufficient recognition must also be accorded to the loss of relationship a child may experience with the left-behind parent. This, however, should *not* be read to mean that the loss of relationship in itself has become the dominant or determinant consideration (see *BNS* at [26]).

Cases where leave to relocate was not granted

27 I observe that, broadly, a common feature in the more recent cases where leave to relocate was *not granted* is that the parents and children had been either living in Singapore as their home for a substantially long period of time, or the parents had been away from the previous home country of one or both parents for a substantial part of their lives and raised their children largely in Singapore.

28 In the 2015 decision of *BNS* ([25] *supra*), the mother and father of the children were both Canadian citizens and were married in Canada in 2002. The

mother moved to Singapore in 2002 to be with the father who was working in Singapore. In 2004, the parties moved to Bangkok due to the father's work obligations, and their two children were born there in 2006 and 2007. In 2008, the parties and their children moved back to Singapore and had since been living in Singapore. The marriage broke down in 2011. The Court of Appeal upheld the decision of the High Court, which had rejected the mother's application in 2012 to relocate to Canada with the two children. The Court considered the various factors and circumstances in the case, and noted that it was important to the children's welfare to continue personal contact with both parents, with whom they had close relationships (*BNS* at [34]).

29 In *TAA* ([25] *supra*), the father of the children was a Singapore citizen, and the mother was an American citizen. They were married in 1997 and had three children. The parties subsequently divorced and the father married a woman who was from Spain and was a Singapore Permanent Resident. He applied to have the children relocate to Spain with him and his new wife. The children were well-settled in Singapore and had spent the majority of their lives in Singapore. The father had no clear plans on the relocation to Spain, save that he intended that "they would try living in Spain" (*TAA* at [21]). The High Court Family Division found that his plans would entail him having to find a new job in Spain and uprooting the two younger children from Singapore to an environment they were unfamiliar with, where English was not the main language of communication; moreover, the eldest child would not be relocating but would be continuing her studies in a polytechnic in Singapore. Their mother in Singapore continued to desire access with the children. It was not a case where the relocating parent was returning to his or her country of origin or where his or her home used to be. The High Court Family Division upheld the Family Court's decision not to grant the relocation application.

30 In *UXH v UXI* [2019] SGHCF 24 (*"UXH"*), the mother and father married in 2007 and had two children. The parties and the children were Portuguese citizens and Singapore Permanent Residents. The final judgment of divorce was granted in 2015. The mother subsequently had a new partner who was a British citizen, and she applied in 2019 to relocate to Danbury in the UK with the children. The children had lived in Singapore their entire lives. The High Court Family Division upheld the Family Court's decision to dismiss the mother's application. This case is elaborated on at [33] and [67] below.

31 In a more recent unreported decision in HCF/DCA 98/2019 (16 June 2020), relocation of the child was also not allowed. The mother was a Mauritian and French citizen, and the father was a British citizen who held an employment pass in Singapore. The parties had lived in Singapore since 2008. Their child was born in Singapore in 2011 and had lived in Singapore her entire life. Although neither party had permanent immigration status in Singapore, it was significant that the parties had lived in Singapore since 2008; the child was born and raised entirely in Singapore and was very close to both parents, enjoying an arrangement of staying with each parent on alternate weeks. The child was not only well-settled in Singapore, Singapore was her only home. It was noted there that while relocation was not in the child's interests at that time, it was not the case that relocation could never be allowed in future.

Cases where leave to relocate was granted

32 In the recent decisions where leave to relocate *was granted*, many of the cases involved a parent returning to his or her home country after the breakdown of the parents' relationship.

33 In *UXH*, the Court noted that the parties appeared to accept that the case did not involve a spouse who has no significant connection to the forum country after the divorce, feels or is isolated, and wishes to return to his or her home country (usually the country in which he or she grew up and where the extended family remains). Some lawyers have referred to this factual matrix as a case of a "trailing spouse". In such cases, depending on the precise facts, appropriate weight may be accorded to the possibility that denying the parent's wish to relocate may so deeply affect such a parent's well-being that this in turn has negative effects on the child (*UXH* at [16] and *BNS* ([25] *supra*) at [20]). I emphasize that this factor should *not* be treated as giving rise to a category of cases with a presumption in favour of relocation. There is no presumption for or against relocation (see [37] below).

34 In a recent unreported decision in HCF/DCA 53/2019 (21 January 2020), relocation of the children with their mother was allowed. In this case, the parties and their two children were all British citizens. The parties were married in August 2012 and at the time of the proceedings, there were divorce proceedings in the UK. The father moved to Singapore in October 2017 and started work in November 2017. The mother and the children came to Singapore at the end of December 2017. Five months later, the mother and the children left Singapore for the UK on 2 June 2018. After the father applied for the return of the children, by consent of the parties, the mother and children returned to Singapore in September 2018. The High Court Family Division remarked:

> [T]he changed circumstances from the time they moved to Singapore to that after the marriage broke down are highly relevant. We should not be overly focused on the initial intention reached *before* the breakdown of the marriage. This case does *not* involve an acquisition of domicile where the intention to remain in a country indefinitely is one of two key elements to determining where one is domiciled…][T]his is not a case where the family have lived in Singapore for many years. …

> The so-called 'trailing spouse' factor recognises that the situation before and after the marriage breakdown are so vastly different that we should not ignore the new realities – a spouse may 'sacrifice' the security and benefits of home to move to a foreign country with the children to support the other spouse taking on a new job, **her sacrifices are not misplaced because she is with her loving spouse everyday in that foreign country; it is what spouses do for their marriage and children. There is love and support and a whole family wherever the foreign land may be – home is where the family is, as [the father] submitted today. Take that intact relationship away and the main reason falls away.** Of course the interest of the children continue to need protection and hence sacrifices, but the situation is now very significantly different. Many more factors come into play. Indeed relocation cases are very fact-specific.
>
> [emphasis in original in italics; emphasis in bold]

35 In another decision, *UFZ v UFY* [2018] 4 SLR 1350 ("*UFZ"*), the parties' three children were allowed to relocate with their mother. The parties were married in 2000 and divorced in 2016. The family had lived in Singapore since 2008. The father acquired Singaporean citizenship in 2013, whereas the mother was a British citizen and a Singapore Permanent Resident since 2009. The children held dual British and Singapore citizenship. The High Court Family Division upheld the Family Court's decision to allow the mother to relocate with the children to the UK. The mother was the primary caregiver of the children while the father's work required him to travel frequently. This resulted in the mother having to take full responsibility for the three children in Singapore when the father travelled overseas. While the children were raised in Singapore for most or all of their young lives, they had encountered difficulties in school in Singapore. The eldest child stated that they and the mother had already been trying to move to the UK for the past few years, and this was supported by a previous relocation application. This had some bearing on the settledness of the children's present lives in Singapore, especially in terms of their mental and emotional states. Allowing relocation would enable the mother

and the family to receive support from extended family members in the UK. This would ease the pressure on the mother in taking care of the children, and she would also be able to join the workforce. The Court also considered that the family had moved to Singapore due to the father's work, but circumstances had changed by virtue of the breakdown in their relationship. While the mother's reasonable wishes were not determinative, it was a factor to be considered in the light of the tangible benefits relocation would have for her care of the children (*UFZ* at [42]). The post-relocation access plan could help to mitigate the loss of relationship between the father and the children by granting the father substantial time for access. The father, in any event, was already frequently away from the family due to his employment (*UFZ* at [45]).

36 The Court in *UFZ* also referred to two unreported decisions where relocation of the parties' children was allowed. In HCF/DCA 71/2015 (9 September 2015), the mother was granted leave to relocate with the children to her home country, Australia. In that case, relocation presented a "real possibility of settledness and kinship support for the children", as well as citizenship benefits for the mother and children. Due to the father's financial means, a real option was also available for the father to have access to the children relatively frequently (*UFZ* at [12] and [13]). In HCF/DT 4196/2012 (3 February 2017), the mother was granted leave to have the children relocate to her home country, New Zealand. The older child, already 17 years of age, had expressed his wishes and perceived better opportunities and fulfilment of his life goals in New Zealand. The High Court Family Division considered that the factors weighed in favour of allowing the children to relocate, but emphasised the importance of ensuring the father had liberal access to the children to mitigate the impact of being physically apart (*UFZ* at [14] and [15]).

No pigeonholing

37 There is no presumption for or against relocation. These cases provide guidance on the important factors that assist the court in determining relocation applications including how the court balances various factors to reach an outcome. Factors that the court can consider include "the child's age, the child's attachment to each parent and other significant persons in the child's life, the child's wellbeing in her present country of residence, as well as the child's developmental needs at that particular stage of life, including her cognitive, emotional, academic and physical needs" (*UXH* ([30] *supra*) at [28]).

38 As no two cases are exactly alike, it would be unhelpful and in fact, dangerous to pigeonhole cases into "categories" that would lead to prescribed outcomes. Deciding whether to allow relocation in each case is a fact-centric exercise. I reiterate what the Court of Appeal had said in *BNS* ([25] *supra*) at [22]:

> [T]here can be *no pre-fixed precedence or hierarchy* among the many composite factors which may inform the court's decision as to where the child's best interests ultimately lie: where these factors stand in relation to one another must depend, in the final analysis, on *a consideration of all the facts in each case.* [emphasis in original]

Application of legal principles to the present case

The parties' submissions

39 The Father sought to set aside the DJ's order allowing the relocation of C. He focused on the fact that C was settled and thriving in Singapore, and argued that it had not been shown that relocation is necessary for either C or the Mother. He submitted that if relocation was allowed, C would lose the close bond that he has with him, due to the reduced physical contact. The Father

asserted that the Mother has a tendency to alienate and exclude him from C, and argued that the Mother would not facilitate the Father's access to the child. In support of his contention, he cited the following episodes:

(a) the Mother kept C in London and only returned to Singapore after an order was given to return the child to Singapore pursuant to the Hague Convention proceedings in the UK (see [19] above);

(b) the Mother deprived the Father of access to C during the time she kept C in London prior to their return to Singapore;

(c) the Mother made it difficult for the Father to have access to C after she returned to Singapore with C until interim access orders were made; and

(d) the Mother presented an access proposal during the lower court proceedings that was allegedly "dismal", showing her lack of commitment to allowing the Father access to C.

40 According to the Father, the Mother's wishes to relocate were given too much weight in the proceedings below. He emphasised that the Mother was able to remain in Singapore, since she had admitted that she would not relocate on her own to the UK without C. He asserted that the Mother could find employment in Singapore, and moving to the UK was a matter of personal preference. She could make sacrifices for the child and remain in Singapore, so that C would not lose the benefit of being cared for by both parents. He submitted that her wish to relocate did not bear on the best interests of C, and should carry little weight in the court's analysis.

41 The Father also submitted that relocation would have an adverse impact on C's well-being as he was very well-settled in Singapore, and his stability should not be disrupted. C has had to travel so as to spend time with both his parents, and should not be made to move again as a result of this relocation order. The Father stated that it was speculative for the DJ to conclude that C would also thrive in the UK, whereas it was clear that he was doing well in Singapore. He submitted that the status quo should be kept in which C and the Mother would stay in Singapore.

42 The Father further submitted in SUM 97/2020 that the COVID-19 situation had an impact on whether C should relocate. First, it was not in C's best interests to be uprooted from a well-settled life in Singapore to an uncertain life in the UK. Compared to the UK, the COVID-19 situation was under control in Singapore. C had already returned to school here, whereas the earliest time at which C would be able to return to school in the UK would be in September 2020. Second, international travel posed risks of infection to the parties and C. Due to the Father's medical condition, travelling presented a high risk to his health, which would therefore impact on his ability to travel to the UK for access with C. Third, quarantine measures and travel restrictions that were in place would make it difficult for the Father to have access to C. Travelling could also jeopardise the Father's residence status in Singapore. Fourth, the Mother's plans which were made prior to the COVID-19 situation, such as finding employment in the UK, were now less viable. Fifth, the Father submitted that the Mother had admitted that relocation could not take place in the immediate future, which he claimed was an admission that relocation at the present time was not in C's best interests.

43 On the other hand, the Mother submitted that the COVID-19 situation was rapidly evolving, and should have no impact on the relocation decision

which concerns C's long-term welfare and best interests. On the point of access arrangements being affected by the pandemic, the Mother submitted that it remained open to the Father to stay in the UK for the long term to be with C, but he did not wish to do so. She also submitted that the Father had misinterpreted her case – if relocation was allowed, she intended to relocate to the UK as soon as possible, so as to allow C to prepare for the beginning of the school term in September. Her immigration status in Singapore was also a temporary one.

44 As for the parties' intentions, the Mother submitted that the parties had intended to raise C in the UK and had planned ahead for his life in the UK, including picking schools for him. For example, C had a confirmed place for primary (elementary) school at Eton House Belgravia, the school in which the parties had previously registered him. The Mother also owned an apartment in London which was still being maintained and in which C could live.

45 The Father submitted that the DJ had erred in considering the JLOI in reaching its decision to allow relocation, as the JLOI at best reflected the Mother's intentions at the time of signing the document, and it was made in her own interests and not that of C. Further, the English High Court had downplayed the importance of the JLOI by finding that it did not support the Mother's argument that the relocation to Singapore constituted a "trial" move, or that the Father had given his consent in advance for the Mother to return to the UK with C.

46 On the other hand, the Mother submitted that the DJ was entitled to look at the JLOI to consider the intentions of the parties at the time of signing the document. She pointed out that the JLOI (see [18] above) showed that the parties accepted that their move to Singapore was an arrangement made for the

time being. The parties had contemplated their intended plans for C in the event of a relationship breakdown and catalogued these in the JLOI, indicating that their move to Singapore was not necessarily intended to be permanent.

Decision

47 After careful consideration of all relevant circumstances, I was of the view that there was no error in the findings and reasoning of the DJ's decision to allow the relocation of C with his mother to the UK. I provide the reasons for my decision here.

(1) Parties' intentions prior to breakdown

48 I agreed with the DJ that the JLOI was one piece of evidence that the court could consider in ascertaining the parties' intentions when they chose to move to Singapore as a family. While it was not a binding document and not dispositive of the issue of whether relocation should be granted, the JLOI shed light on the circumstances that the parties were in and their considerations at the relevant point in time. The wording of the JLOI suggests that the parties had decided to move to Singapore to be together as a family at that particular juncture, but whether they stayed in Singapore for the long term was subject to how circumstances developed. It was not necessary for the Mother to rely on the JLOI as an effective contract governing the parties' "rights", for the usefulness of the JLOI related to objective indications of where this family's home was or would be.

49 Insofar as the Father sought to rely on the findings of the English High Court, it should be noted that the purview of the English High Court in the Hague Convention proceedings was narrow. It pertained only to deciding the habitual residence of the child for the sole purpose of selecting the country with

the jurisdiction to decide issues relating to the custody and care of that child: Leong Wai Kum, *Elements of Family Law in Singapore* (LexisNexis, 3rd Ed, 2018) at para 7.143. A return order is merely an order to return the child to the most appropriate forum to decide matters relating to his care and custody. Article 16 of the Hague Convention makes clear that the courts of the country in which the child is wrongfully retained "shall not decide on the merits of rights of custody" (unless certain conditions are met). The Singapore court, as the court with substantive jurisdiction to hear custody and care matters, has the jurisdiction to decide the relocation application in the light of the principles discussed above. The English High Court's determination that Singapore was C's habitual residence was only relevant for the purposes of forum selection under the Hague Convention, and its findings in relation to the JLOI should also be read in that context.

50 The Father submitted that he only signed the JLOI under duress as the Mother would not have otherwise agreed to move. Ironically, this submission appeared to support the Mother's case, for it showed that she would not have moved to Singapore if the Father had not signed the JLOI. As she had relied on the JLOI to assuage her concerns over the move to Singapore, it would be quite understandable that she later sought to rely on the JLOI to return to London when the relationship broke down. The significance of this was that Singapore could not be said to be this family's home, and the DJ was correct to find that C's relocation to the UK would be akin to a move back to his original home.

(2) Well-settledness

51 The Father's case heavily emphasised C's well-settledness in Singapore. I agreed that whether a child is well-settled in Singapore is a relevant factor that should be given appropriate weight. It was also important, however, to bear in

mind that in a globalised world, families are geographically mobile and adaptable, and the weight to be placed on well-settledness will depend on other related circumstances including how many years the child has lived in that country, the age of the child, and whether that country has been the family's home for many years.

52 Well-settledness in a country is also not an immutable circumstance that can never change. The passage of time and support from a loving parent can enable a child to adapt well to transitions in life. In fact, if the Mother had obtained a court order swiftly after her return from London to Singapore with C that allowed her relocation application, this factor of well-settledness in Singapore would have been diluted. This brings to mind the concept of settledness in proceedings under the Hague Convention, which has as one of its key objectives to "secure the prompt return of children wrongfully removed to or retained in any Contracting State" (Article 1).

53 The regime of prompt return of the child seeks to prevent the abducting parent from availing herself of the advantages brought about by a scenario which she had created. As elucidated in Elisa Pérez-Vera, *Explanatory Report on the 1980 Hague Child Abduction Convention* (HCCH Publications, 1982) at para 14:

> It frequently happens that the person retaining the child tries to obtain a judicial or administrative decision in the State of refuge, which would legalize the factual situation which he has just brought about. However, if he is uncertain about the way in which the decision will go, he is just as likely to opt for inaction, leaving it up to the dispossessed party to take the initiative. Now, even if the latter acts quickly, that is to say manages to avoid the consolidation through lapse of time of the situation brought about by the removal of the child, the abductor will hold the advantage, since it is he who has chosen the forum in which the case is to be decided, a forum which, in principle, he regards as more favourable to his own claims.

54 While the present appeal does not involve child abduction, I make reference to the Hague Convention to illustrate the interplay of "well-settledness" with deeper and broader concerns within the parties' disputes. The argument of well-settledness, in protracted litigation proceedings, will tend to favour the party objecting to relocation: the longer the child is kept in Singapore, the more well-settled he is likely to be in the country. In some situations, a party who prolongs proceedings may thereby seek to benefit from that contrivance by advancing the argument that the child is now well-settled in Singapore and thus should not be relocated. The court should give appropriate consideration and weight to this factor of well-settledness in the context of other relevant factors and overall setting of the case.

55 This was not a case where a child and her family have lived in Singapore for many years with strong ties to Singapore, or at least ties which are not merely transient. It is perfectly reasonable for a family desiring to live in Singapore to set up a home here, but the intentions of parties would no longer be the same after their relationship has broken down. In the present case, disallowing relocation was in effect compelling the Mother to live permanently or indefinitely in a country which was not her home, and a country where her immigration status was tenuous and uncertain. In this regard, the Father argued that the Mother's wishes should not be taken into account as it is the child's welfare that should be the court's concern. However, I was of the view that to wholly disregard the life circumstances that the primary carer will be confronted with was simply out of touch with the realities of life and was also inconsistent with the welfare of the child.

56 The Father submitted that the UK would now be a "brand new environment" for C, but it appears that C had spent some time in the UK when

he was younger, and to some extent, had a life planned out for him in the UK before the relationship breakdown.

57 The DJ was also not wrong to find that C was young and adaptable, and would be able to settle down in the UK with a loving parent by his side.

(3) Alienation

58 The Father argued that the DJ had erred in not considering the Mother's alienating behaviour when she unlawfully kept C in London, and since her return with C to Singapore. He relied on incidents as listed at [39] above to evidence the Mother's attempts to alienate C from him.

59 I accepted that the parties had difficulties in their relationship and had disputes involving when each party should have time with their child. However, I did not think there is sufficient evidence of parental alienation, and I noted that (as was also pointed out by the DJ) the child's relationship with the Father remains a positive one. Prior to the relationship breakdown, the Mother had agreed to move to Singapore with the Father in an attempt to live together as a family unit despite the arguments between parties (even though this attempt was ultimately unsuccessful). As for the difficulties that have arisen after breakdown, it is not unusual for parties to have challenges cooperating with each other after a relationship breakdown, and particularly in the course of litigation proceedings. While the court should remain astute to identify conduct by either parent that would be detrimental to the child's welfare, the conduct in this case did not appear sufficiently serious to warrant concern.

(4) Immigration status and ties to countries

60 Both parties and C have British citizenship, with guaranteed permanent residence status in the UK. By relocating, the Mother and C would also be able to enjoy the benefits of British citizenship, which was a factor that the DJ had taken into account.

61 In contrast, the parties did not have any permanent immigration status in Singapore. The Father was staying in Singapore on an Employment Pass, while the Mother was in Singapore on a short term visa. I noted the Father's submission at the hearing of SUM 97/2020 that should he leave Singapore to have access with C in UK, his re-entry into Singapore during these difficult times of the global pandemic would be "de-prioritised" as he only had an Employment Pass and no permanent residence status in Singapore. C was in Singapore on a Dependent's Pass linked to the Father's Employment Pass. The Mother submitted that the Father has not shown whether he intended to stay in Singapore permanently, and that he has shown a propensity for moving between countries for personal reasons such as tax benefits. The Father stated in response that he had made efforts to integrate into Singapore. The pertinent point here is that neither party had any roots in Singapore, or any secure basis on which to remain here in the longer term.

62 In *TSF v TSE* [2018] 2 SLR 833 ("*TSF*"), the Court of Appeal reversed the High Court's order allowing the child to be relocated to the UK to live with his mother. Amongst a number of other reasons, the Court of Appeal also noted that the mother's immigration status in the UK was not permanent which resulted in uncertainty of a long-term stay in the UK for both the child and herself (*TSF* at [93]). In the present case, based on the evidence available before the court, the situation appeared to be reversed – relocating to the UK would be

the option that granted C long-term stability in this context, while C did not have a secure basis for residing in Singapore.

(5) Loss of relationship

63 The Father emphasised that relocation would cause the loss of the close relationship that C has with him. I fully accept that the loss of relationship with the left-behind parent is an important factor and I have noted this at [25] and [26] above.

64 We must not forget that the loss of relationship in such situations is an unfortunate consequence of family breakdown. If the parents' desired countries of residence do not coincide and neither parent makes a "sacrifice", a child would, inevitably, be physically separated from one parent. Good access arrangements can mitigate the loss of time and relationship with the left-behind parent. These may comprise physical access which will involve international travel as well as virtual access. Understanding these perspectives should lead us to appreciate that the loss of relationship is a result of the parents being unable to agree on a common country of residence, and if one parent is willing to live in the country chosen by the other, the loss of relationship will not be an issue – such an option remains open even now to the present parties. The willingness and ability of both parents to support substantial access will also mitigate the trauma of such a loss for the child.

65 If it was in the child's welfare to have close relationships with both parents by being able to enjoy substantial physical time with both parents – and there is no reason to doubt that it was in this case – the pertinent question was: in which country should this child be able to have such an arrangement? The options presented were: in Singapore or in the UK. The Father argued that it

should be in Singapore because C was very well-settled in Singapore, and he would like to carry on with his plans to live and do business in Singapore. The Mother's position was that it should be in the UK, as that was C's home; parties had intended to raise C in the UK, and had planned ahead for his life in the UK. Further, the parties and C also hold British citizenship. The Mother had left Singapore with C to the UK less than a year after they moved to Singapore in January 2018. When she returned to Singapore in January 2019, she did not return with the desire to live in Singapore as her home, but sought to be allowed to have C relocated to UK by filing applications in court soon after. Indeed, given the scope of the English High Court's role in the Hague Convention proceedings (see [49] above), the return to Singapore could be understood as being for the purpose of determining the issues of custody and care in Singapore, rather than any intention to continue living here. The Mother highlighted that the Father had failed to answer why he could not move to London or nearer to London in order to be closer to C.

66 If the Father still prefers to remain in Singapore after C relocates, he has the financial means and flexibility to travel to London for access if he does not wish to permanently relocate to the UK. The Father disputed that he was physically able to travel extensively at this stage of his life. His more recent submissions present another reason – that the global pandemic has made travelling for access unworkable and even if the restrictions are eased, he has medical conditions which put him at a higher risk of suffering complications should he be infected with the COVID-19 virus. However, looking at the past history of where he had lived and worked, I think more can be expected of him. This expectation arises from parental responsibility. The discharge of parental responsibility often involves what a party will see as "sacrifices", but if moving to live in London or nearer to London in a European country enables the

relationship between the father and child to be maintained, the Father should seriously consider these options available to him. I note that the Father expected the Mother to make the same sacrifices by remaining in Singapore. To describe this expectation as "forcing" him to relocate misses the point. If he has medical issues that result in difficulties in frequent travelling, a one-off move back to UK should be manageable with good planning involving medical advice and preparations.

(6) Must relocation be "necessary"?

67 The Father highlighted that the Mother has failed to show why relocation to London was "necessary". His submission appeared to be that the Mother needed to show that the relocation was "necessary", citing the case of *UXH* ([30] *supra*) where the Court mentioned that the mother in that case had not given any information regarding why she and her new partner needed to move to Danbury in the UK. The Court's comment in *UXH* should be understood in the context of that case, involving facts rather different from the present. As I have set out at [30] above, the mother in that case had a new British partner and wished to relocate to Danbury with her children. The parties and the children were Singapore Permanent Residents, and the children had spent their entire lives in Singapore. The Court there observed (*UXH* at [23]):

> … [I]t was not clear what were the Mother's partner's reasons or intentions for moving to Danbury. To what extent had the Mother and her partner discussed the reason or necessity to relocate to Danbury and the impact of relocation on the welfare of the Children? Were there other options discussed? I did not think the DJ was wrong to find that the Mother had a choice in whether to relocate; she "has a real option of staying put and thriving in Singapore … [she] is a Singapore PR which means she can choose to stay on and continue to work in Singapore for as long as she wants" (GD at [41]) …

It was not apparent if Danbury was chosen because the new partner had a particular reason to move there or because of some other reason. In contrast, Singapore had been the children's home their entire lives. The mother's reasons for her wish to move to Danbury were not clear.

68 The factual matrix of the present case is entirely different from that in *UXH*: the parties and C in this case do not have strong ties to Singapore, C had spent part of his time in the UK and the Mother's home is in the UK. The Mother had left with C to the UK less than a year after they moved to Singapore and only returned as a result of the English High Court's order.

69 Showing that the relocation is "necessary" is not a requirement but is a factor to be balanced against other factors. For example, if the children have been born and raised in Singapore their entire lives, a "necessity" to relocate may provide a strong reason why, despite those circumstances, relocation may have to be allowed.

(7) Risks and restrictions due to the COVID-19 pandemic

70 As stated at [15], I had allowed the application in SUM 97/2020 to admit evidence in relation to the COVID-19 situation. However, evidence relating to the COVID-19 pandemic could not be given inordinate weight. The COVID-19 situation is fast-evolving, and depending on whether the situation improves or deteriorates, travel may or may not be allowed in the near future. The court should not be making orders on relocation depending on the COVID-19 situation at each specific point in time, as these orders would quickly become outdated as the global situation changes.

71 I have considered the evidence in relation to the COVID-19 issues, and weighed them together with all the other factors to decide whether relocation

should be granted. Where the balancing of all the circumstances led to the conclusion that relocation is the best step for the child and family, the COVID-19 situation in itself should not hold C back from relocating. I accepted the Mother's submission that relocation ultimately concerned the child's long-term interests with ramifications that would last far beyond this pandemic. Each state seeks to protect its people from the risk of COVD-19 in the way it thinks appropriate, bearing in mind the swiftly evolving state of affairs. As British citizens, C and his parents have benefits in the UK that will ensure that they have the state's protection. This was the more relevant consideration than one that involved this court assessing and comparing the sufficiency and quality of policies and systems of the two states, UK and Singapore, which, in any case, the court was not in a position to do. In relation to the Father's contention that it would be difficult for him to have access with C, I have noted at [66] that there are other options available to the Father to maintain access with C after C relocates.

(8) Balancing all considerations

72 Making a decision on whether to allow relocation requires the court to consider all relevant circumstances, and this involves a balancing exercise. As I have pointed out at [5], [24] and [25] above, relocation necessarily presents competing interests, and involves a court intervening to make a personal decision that parents should, in the ordinary course of things, themselves make. As the parties have reached a deadlock, I have focused on the welfare of the child and balanced the interests of the parties to reach a decision to assist this family in moving forward.

73 The Father's line of arguments downplayed other important circumstances and factors that have an important bearing on C's welfare. While

there were factors submitted by the Father that favoured his case that C should remain in Singapore, there were also multiple factors that indicated that relocation would be in C's best interests.

74 Of importance was the fact that neither the Father nor the Mother had any permanent immigration status in Singapore. This was somewhat connected to the other circumstance of importance – Singapore was not this family's home.

75 I accepted the Father's submission that the loss of relationship should C relocate and he remain in Singapore was an important factor. But I was unable to see any good reason why, between the two parties, it should be the Mother who should be kept in Singapore when this family's home, in a more permanent sense, was not in Singapore. The brevity of the Father's explanation on his ties to Singapore or why he should live in Singapore and not return to his country of origin as a British citizen stood in stark contrast to his voluminous submissions on the other factors.

76 I have explained how the factor of well-settledness needed to be approached in this case. A child, especially a young one, can be expected to go about his daily routine in whichever country he is living in – going to school, interacting with people around him, going for playdates and so forth. If there are no particular issues of concern faced by the child, then it would appear that he is well-settled. However, this appearance of well-settledness, as presented in the Father's submissions, then appeared simply to be a function of the length of time a child is physically in that country. This cannot be the sole determinant and the court must consider all the facts of the case in assessing the importance of this factor.

77 I have made clear at [66] above the options available to address the possible loss of relationship even when C relocates to the UK. I will not repeat them here, save to say that being a parent is not easy and having to make difficult choices for the sake of the child is part of parental responsibility. I clarify that the Father is not compelled by any order to relocate; it is for him to make this decision. However, his refusal to do so could not prevent the court from ultimately coming to a decision allowing C to relocate.

78 After carefully considering the circumstances, I upheld the DJ's decision to grant leave for the relocation of C to the UK with the Mother.

Care and Control

79 The Father also appealed against the DJ's orders on care and control. He argued that in the event that relocation was not granted, he should have sole care and control of C, and in the alternative, shared care and control should be granted to the parties.

80 There appears to be no dispute that prior to the move to Singapore, the Mother was C's primary caregiver. This was necessarily the case when the Father moved to the Monaco and was not physically in the same country as C.

81 I note that the Father submitted that during the time when the parties were living in Singapore together, his care for C "[went] beyond the typical 'hands-on father'", and that he was an "effective co-parent who is deeply bonded to the child and understands his needs". I accepted that the Father and the child share a close relationship, which should be maintained through access arrangements. I also accepted, however, that the Mother has been the parent who has consistently cared for C throughout his life, and has also been the one primarily caring for him in recent times.

82 The DJ found that shared care and control was not appropriate in the circumstances, as parties have not displayed the high level of cooperation needed for shared care and control to be effective. The Father submitted that it was the Mother's litigation tactic to orchestrate disagreements such that the court would not grant parties shared care and control. However, considering the procedural history and parties' conduct during proceedings, I did not think that the acrimony could be attributed solely to the Mother. The Father has showed little restraint in resorting to litigation by filing many applications. The Mother submitted that there is extensive evidence of her dedication to taking care of C, such as negotiating a four-day work week and arranging his activities. I did not see any reason to doubt the Mother's ability to care for C.

83 I found no error in the DJ's decision to grant care and control to the Mother.

Conclusion

84 DCA 124/2019 was therefore dismissed.

85 The access orders made by the DJ were reasonable and afforded the Father liberal access to C after the relocation. As the situation relating to the global COVID-19 pandemic is a fast-evolving one, I did not disturb the orders on the Father's access made by the DJ. Travel restrictions and measures imposed are constantly reviewed by the each state; it may well be that the access ordered will be workable with some adjustments in the near future; it may also be that the Father can find a way to stay on for much longer periods in the UK or fully relocate to where C will be residing.

86 To be clear, there is no restriction on the date on which C may be relocated to the UK. I leave it to the Mother to exercise reasonable care in

making the travel plans and setting up home in the UK. She should, within a reasonable time of firming up her plans, inform the Father of the date of relocation.

Debbie Ong
Judge

Cheong Zhihui Ivan, Koh Tien Hua, Ho Jin Kit Shaun (Eversheds Harry Elias LLP), Loo Ming Nee Bernice, Khoo Seok Leng Sarah-Anne (Qiu Shuling) (Allen & Gledhill LLP) (instructed), Khoo Boo Teck Randolph, Hoon Shu Mei Sumathi (Hong Shumei), Sharon Ki Su Jon and Shawn Teo Kai Jie (Drew & Napier LLC) for the appellant;
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